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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

NEW ENGLAND REGION

AND THE

UNITED STATES DEPARTMENT OF THE ARMY

IN THE MATTER OF:

THE U.S. DEPARTMENT
OF THE ARMY

ARMY MATERIALS TECHNOLOGY LABORATORY
WATERTOWN, MA

FEDERAL FACILITY AGREEMENT UNDER CERCLA SECTION 120

TABLE OF CONTENTS

I.	PURPOSE	1
II.	PARTIES AND SCOPE OF AGREEMENT	4
III.	DEFINITIONS	7
IV.	JURISDICTION	14
V.	STATEMENT OF FACTS	15
VI.	WORK TO BE PERFORMED	19
VII.	CONSULTATION WITH EPA	21
VIII.	PROJECT MANAGERS.	30
IX.	ACCESS	33
X.	DATA AND DOCUMENT AVAILABILITY	36
XI.	PERMITS	37
XII.	REMOVAL AND EMERGENCY ACTIONS	39
XIII.	DISPUTE RESOLUTION	43
XIV.	DEADLINES AND SCHEDULES	46
XV.	EXTENSIONS	50
XVI.	FORCE MAJEURE	53
XVII.	SELECTION OF REMEDIAL ACTION	54
XVIII.	EXEMPTIONS	58
XIX.	EPA CERTIFICATION	59
XX.	STATUTORY COMPLIANCE/RCRA, CERCLA INTEGRATION	61
XXI.	ENFORCEABILITY	63
XXII.	STIPULATED PENALTIES	65
XXIII.	OTHER CLAIMS	67
XXIV.	TERMINATION AND SATISFACTION	68

XXV.	FUNDING	69
XXVI.	COMMUNITY RELATIONS	71
XXVII.	PUBLIC COMMENT ON THIS AGREEMENT	72
XXVIII.	PRESERVATION OF RECORDS	74
XXIX.	AMENDMENT OR MODIFICATION OF AGREEMENT	75
XXX.	EFFECTIVE DATE	76
XXXI.	NOTICES AND SUBMISSIONS	77
XXXII.	QUARTERLY PROGRESS REPORTS	78
XXXIII.	FIVE YEAR REVIEW	79
XXXIV.	RESERVATION OF RIGHTS FOR RECOVERY OF EPA EXPENSES.	80
XXXV.	QUALITY ASSURANCE	81
XXXVI.	RELEASE OF RECORDS	82
XXXVII.	TRANSFER OF REAL PROPERTY	83
XXXVIII.	INSTALLATION CLOSURE	87
XXXIX.	SEVERABILITY	88
XL.	APPENDICES	89
XLI.	SIGNATURE PAGES	90

APPENDICES

- I. SCHEDULE OF WORK TO BE PERFORMED
 - II. LIST OF INSTALLATION RESTORATION PROGRAM (IRP) DOCUMENTS
 - III. A MAP OF THE ARMY MATERIALS TECHNOLOGY LABORATORY SITE AND LIST OF AREAS OF CONTAMINATION (AOC) AND STUDY AREAS (SA)
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Based on the information available to the Parties on the effective date of this Federal Facility Agreement (Agreement), and without trial or adjudication of any issues of fact or law, the Parties agree as follows:

I. PURPOSE

1.1 The general purposes of this Agreement are to:

- (a) Ensure that the environmental impacts associated with the past and present activities at the Site are thoroughly investigated, and to ensure that the appropriate Removal and Remedial Action is taken as necessary to protect human health and the environment;
 - (b) Establish a procedural framework and timetable for developing, implementing, and monitoring appropriate Response Actions at the Site in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (collectively CERCLA), the National Contingency Plan (NCP), CERCLA guidance and policy, the Resource Conservation and Recovery Act, as amended (RCRA), and RCRA guidance and policy; and
 - (c) Facilitate the cooperation, the exchange of information and participation of the Parties in such actions.
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1.2 Specifically, the purposes of this Agreement are to:

- (a) Identify Operable Unit (OU) alternatives which are appropriate to address the release or threatened release of Hazardous Substances, pollutants, or contaminants at the Site. OU alternatives shall be identified and proposed to the EPA as early as possible, prior to formal proposal of an OU to EPA, pursuant to CERCLA and this Agreement. This Agreement process is designed to promote cooperation among the Parties in identifying OU alternatives prior to selection of a final Remedial Action;
- (b) Establish requirements for the performance of Preliminary Assessment(s) (PA), Site Inspections(s) (SI) and Remedial Investigation(s) (RI) (to the extent not yet conducted) to determine fully the nature and extent of the threat to human health and the environment caused by the release or

threatened release of Hazardous Substances, pollutants, or contaminants at the Site, and to establish requirements for the performance of Site Feasibility Studies (FS) to identify, evaluate and select alternatives for the appropriate Remedial Action(s) at the identified Areas of Contamination (AOC) to prevent, mitigate or abate the release or threatened release of Hazardous Substances, pollutants, or contaminants at the Site in accordance with CERCLA and this Agreement;

- (c) Identify the nature, objective, and schedule of Response Actions to be taken at the Site, and to ensure that Remedial Actions at the Site shall attain that degree of cleanup of Hazardous Substances, pollutants, or contaminants mandated by CERCLA, RCRA, and this Agreement;
- (d) Implement and maintain the selected Remedial Action(s) in accordance with CERCLA and this Agreement; and to meet the requirements of CERCLA § 120(e)(2) for this Agreement between the Parties;
- (e) Ensure compliance, through this Agreement, with RCRA and other Federal hazardous waste laws and regulations for matters covered herein;
- (f) Coordinate Response Actions at the Site with the mission and support activities at the federal facility known as the Army Materials Technology Laboratory located in Watertown, Massachusetts;
- (g) Expedite the cleanup process to the extent consistent with the protection of human health and the environment;
- (h) Provide for the Operation and Maintenance of any Remedial Action selected and implemented pursuant to this Agreement;
- (i) Provide for the Commonwealth's appropriate involvement, as defined by CERCLA and the NCP, in the initiation, development, selection and enforcement of Response Actions to be undertaken at the federal facility known as the Army Materials Technology Laboratory, including the review of all applicable data as it becomes available and the development of studies, reports, and action plans; and to identify and integrate State ARARs into the Remedial Action process; and

- (j) Identify Removal Actions which are appropriate for the Site, and provide timely notice to the other Party of such proposed actions.
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II. PARTIES AND SCOPE OF AGREEMENT

- 2.1 The Parties to this Agreement are EPA and the Army, and ~~this Agreement shall apply to and be binding upon EPA and the Army.~~ The Commonwealth and the Department of Defense have entered into a Department of Defense and State Memorandum of Agreement dated October 1991. The Commonwealth elected not to be a Party to this Agreement at the time the Agreement was negotiated and executed. However, consistent with CERCLA and the NCP, EPA and the Army have agreed to allow the Commonwealth a participatory role in the Site remediation as defined in this Agreement, and an opportunity to enter into the Agreement, should they choose to, at a later date. Accordingly, the Parties intend provisions in this Agreement which state that the Commonwealth or DEP "should", "shall" or "will" perform a certain task to mean that the Commonwealth or DEP may, at its option, perform the task. It is also recognized that since the Commonwealth is not a Party to this Agreement, it has no rights or responsibilities that are established under this Agreement. Failure by the Army to provide a document in a timely manner to the Commonwealth or DEP shall not in and of itself constitute a breach of this Agreement, unless such failure substantially delays or otherwise compromises the Response Action which is the subject of this Agreement. It is also recognized by the Parties that the Commonwealth has rights and responsibilities under CERCLA that are separate and distinct from this Agreement.
- 2.2 In selecting contractors to perform Work associated with the Site, the Army will comply with the Federal Acquisition Regulation (FAR), 48 C.F.R., and 40 C.F.R. Part 32, Defense Federal Acquisition Regulations, and Army Federal Acquisition Regulations.
- 2.3 Each Party shall be responsible for ensuring that its contractors comply with the terms and conditions of this Agreement. Failure of a Party to provide proper direction to its contractors and any resultant noncompliance with this Agreement by a contractor shall not be considered a force majeure event or other good cause for extensions under Section XV, (Extensions), unless the Parties so agree. The Parties, upon contractor selection, shall notify the other Party of the identity and the assigned tasks of each of its contractors performing Work under this Agreement.

- 2.4 This Agreement shall apply to and be binding upon the Army and EPA, their respective officers, successors in office, agents and employees and shall not be construed as an agreement to indemnify any person. The Army shall notify its members, employees, agents, lessees and response ~~action contractors of the existence of this Agreement.~~ This Agreement shall also be binding upon any subsequent owners, lessees and operators of the Army Materials Technology Laboratory. The Army agrees to include notice of this Agreement in any document transferring ownership or control to any subsequent owners and operators of any portion of the facility in accordance with CERCLA § 120(h), 40 C.F.R. § 264.119 and § 264.120.
- 2.5 The scope of this Agreement extends to the entire Site, as defined at Section III, herein. The Parties agree that Army Materials Technology Laboratory is listed as an EPA CERCLA NPL Site, and therefore it cannot be removed from the NPL until EPA determines, in accordance with CERCLA, and this Agreement, that the Site no longer poses a threat to human health and the environment. Further, the Parties agree that remediation activities at the Site shall occur in discrete locations called Areas of Contamination (AOC). Contamination that has migrated off the facility, or commingled amongst AOCs will be remediated in accordance with this Agreement. The acceptable level of remediation will be based on both an individual AOC and its collective impact upon the entire Site. For each Area of Contamination, or portion thereof, (Operable Unit (OU)) identified at the Site pursuant to this Agreement, the ~~Army shall perform the work identified in Paragraphs 2.6, 2.7, and 2.8 below, where required in accordance with the requirements of this Agreement.~~
- 2.6 The Army shall develop, implement and report upon Preliminary Assessments (PA) and Site Inspections (SI) at the Site for each Study Area (SA) in accordance with Section VI, (Work to be Performed) of this Agreement, the NCP, and applicable EPA policy and guidance. All PA and SI activities, conducted after the effective date of this Agreement, at the Site shall be conducted in accordance with the requirements and Deadlines set forth in Section XIV, (Deadlines and Schedules), of this Agreement. All PA and SI activities shall be designed to meet the purposes set forth in Section I, (Purpose), of this Agreement.
- 2.7 The Army shall develop, implement and report upon Remedial Investigations (RI) and Feasibility Studies (FS) for each AOC or OU at the Site where required in accordance with Section VI, (Work to be Performed) of this Agreement, the NCP, and applicable EPA regulations, policy and guidance. All RI/FS activities shall be conducted in accordance with

the requirements and time Schedules set forth in Appendix I and Section XIV, (Deadlines and Schedules), of this Agreement. All RI/FS activities shall meet the purposes set forth in Section I, (Purpose), of this Agreement.

2.8 The Army shall perform Remedial Design, Remedial Action (RD/RA) and Operation and Maintenance (O & M) activities at the Site in accordance with CERCLA § 120(e)(2), Section XVII, (Selection of Remedial Action), of this Agreement, CERCLA, the NCP, RCRA and applicable regulations thereunder.

2.9 This Agreement shall apply to all releases and threatened releases of Hazardous Substances, pollutants, or contaminants at or from the Army Materials Technology Laboratory, including such releases and threatened releases at or from Areas of Contamination at the Army Materials Technology Laboratory to which CERCLA and RCRA or CERCLA alone applies.

III. DEFINITIONS

3.1 The terms used in this Agreement shall have the same definition as the terms defined in CERCLA and the National Contingency Plan (NCP), unless specifically otherwise defined in this Agreement. The following terms used in this Agreement are defined as follows:

- (a) "Additional Work" shall mean all activities, in addition to the Work specified in this Agreement, which are required pursuant to the terms of Paragraphs 7.8 and 7.9 (Consultation with EPA), Section XIX (EPA Certification), and Section XXXIII (Five Year Review), herein;
- (b) "Agreement" shall refer to this document and shall include all Appendices to this Agreement. All such Appendices shall be appended to and made part of this Agreement as covered under Section XL, (Appendices);
- (c) "ARARs" shall mean Federal and State Applicable or Relevant and Appropriate Requirements, standards, criteria, or limitations, identified pursuant to CERCLA § 121. ARARs shall apply under this Agreement in the same manner and to the same extent that ARARs are applied in a non-federal facility context pursuant to CERCLA § 120(a)(1);
- (d) "Area(s) of Contamination" or "AOC(s)" shall mean (1) any of the areas listed or described in Section V (Statement of Facts) and in Appendix III of this Agreement, which indicates that a release or threatened release of Hazardous Substances, pollutants, or contaminants has occurred, (2) any area or group of areas to or under which investigations document that a release of Hazardous Substances, pollutants, or contaminants has occurred, migrated, or threatens to migrate from any of the above listed areas or locations; and (3) any area or location or group of areas or locations where a Hazardous Substance has been deposited, stored, disposed of, or placed, or otherwise come to be located within the Site boundaries and identified by any of the Parties, or their agents, or authorized representatives and added to this Agreement pursuant to Section VI (Work To Be Performed) of this Agreement;
- (e) "Army" shall mean the United States Department of the Army, its employees, members, agents, and authorized

representatives to the extent necessary to effectuate the terms of this Agreement, including, but not limited to, appropriations and Congressional reporting requirements;

- (f) "Army Materials Technology Laboratory" or "AMTL" shall mean real property comprising 47.5 acres on the north bank of the Charles River in Watertown, Massachusetts, which consists of two parcels: (i) a 36.5-acre tract containing an active materials testing installation and (ii) an 11-acre tract of land between North Beacon Street and the Charles River containing a park and yacht club upon which the Commonwealth has held an easement since 1920;
- (g) "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499;
- (h) "Cleanup Standard(s)" shall mean the numerical criteria representing the degree of cleanup to be achieved at an AOC or OU as set forth in the relevant Record of Decision (ROD);
- (i) "Commonwealth" shall mean the Commonwealth of Massachusetts and its employees, agents, authorized representatives, successors and assigns. For purposes of the implementation of this Agreement, the DEP shall be considered the designated representative of the Commonwealth;
- (j) "Contingency Plan" shall mean a written plan for the purpose of protecting the local affected population in the event of an accident or emergency related to CERCLA cleanup activities. It may include an Air Monitoring Plan and a Spill Control Countermeasures Plan, if applicable, for the Site. The following is a list of items to be considered for inclusion in such a plan: the name and telephone number of person(s) responsible for responding in the event of an emergency; a plan and date for meeting with the local community, local, state, and federal agencies involved in the cleanup, as well as local emergency squads and hospitals; first aid and medical information including names of personnel trained in first aid and HAZMAT Response, a map with locations of medical facilities, and emergency phone numbers; an Air Monitoring Plan; a Site Evacuation Plan; and a Spill Control and Countermeasures Plan;

- (k) "Day" or "Days" means calendar day(s), unless business day(s) are specified. However, any submittal or written statement of dispute which under the terms of this Agreement would be due on a Saturday, Sunday, or a holiday shall be due on the next occurring business day;
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- (l) "Deadline" shall be the time limitation applicable to issuance by the Army of documents and performance of activities for which a limitation has been specifically established under the terms of this Agreement as set forth in Sections VII, XIV and XVII and Appendix I hereto;
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- (m) "DEP" shall mean the Commonwealth of Massachusetts' Department of Environmental Protection, its employees, agents, authorized representatives, successors and assigns. For purposes of the implementation of this Agreement, the DEP shall be considered the designated representative of the Commonwealth;
- (n) "EPA" shall mean the United States Environmental Protection Agency, its employees, agents, authorized representatives, successors and assigns;
- (o) "Feasibility Study" or "FS" shall mean a study conducted pursuant to CERCLA, the NCP and relevant guidance, which fully develops, screens and evaluates, in detail, Remedial Action alternatives to prevent, mitigate, or abate the migration or the release or threatened release of Hazardous Substances, pollutants, or contaminants at and from the Site. The Army shall conduct and prepare the FS in a manner to support the intent and objectives of Section XX, (Statutory Compliance/RCRA-CERCLA Integration);
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- (p) "Hazardous Substance(s)" shall mean all those substances which are included under CERCLA § 101(14), 42 U.S.C. § 9601(14); hazardous waste under RCRA § 1004(5), 42 U.S.C. § 6903(5); and hazardous constituents under RCRA § 3008(h) and 40 C.F.R. Part 261 Appendix VIII;
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- (q) "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan and any subsequent amendments, promulgated pursuant to CERCLA and found at 40 C.F.R. Part 300;

- (r) "Operable Unit" or "OU" shall mean a discrete Response Action that comprises an incremental step towards comprehensively addressing an AOC or Hazardous Substance migrating from an AOC. Each AOC may be divided into one or more OUs, at any phase of the Response Action, depending on the type and complexity of contamination associated with the AOC;
- (s) "Operation and Maintenance" or "O & M" shall have the meaning provided in Section 300.5 of the NCP, 40 C.F.R. §300.5;
- (t) "Parties" shall mean the Army and EPA;
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- (u) "Performance Standard(s)" shall mean the criteria representing the degree and method of cleanup to be achieved at an AOC, including all location, chemical, and action-specific ARARs identified in the ROD, or by the EPA, prior to certification of the completion of the Work; and all other health or environmentally related numerical standards in the ROD. Performance Standards include all Cleanup Standards;
- (v) "Person" shall mean an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, U.S. Government, State, municipality, commission, political subdivision of a State or interstate body;
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- (w) "Preliminary Assessment" or "PA" shall mean a complete review of existing information, including but not limited to, on-Site reconnaissance and off-Site reconnaissance to determine if a release or threatened release may require additional investigation or Response Action. Such PA shall be performed in accordance with CERCLA, CERCLA guidance and the NCP, as supplemented by the substantive provisions of EPA RCRA Facilities Assessment guidance;
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- (x) "Primary Document" shall mean any document listed in Paragraph 7.2(b), hereof;
- (y) "RCRA" shall mean the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et. seq., as amended by the Hazardous and Solid Waste Amendments of 1984, Public Law 98-616, and any subsequent amendments;
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- (z) "Record of Decision" or "ROD" shall mean a public document that describes the Remedial Action alternative(s) selected to be implemented at one or more Operable Units at Areas of Contamination and

that documents the basis for the selection. The ROD shall be based on information and technical analysis generated during the RI/FS;

- (aa) "Remedial Action Completion Report" shall mean that ~~report that, upon completion of all construction~~ activities for each Operable Unit and correction of all punch list (deficiency list) items, shall be prepared by the Army. The report shall follow EPA guidance for a Remedial Action Report, OSWER Directive 9355.0-39FS, June 1992 and shall include, at a minimum: (a) data and information necessary to demonstrate compliance; (b) certification that the ~~remedy is operational and functional as designed and~~ that no further modifications are necessary; (c) a detailed explanation as to how the remedy, as constructed, has met or will meet each ARAR identified in the ROD; (d) a description of the methods (i.e., statistical analysis) utilized to evaluate the data; and (e) the conclusions of the data evaluation. The Project Managers shall review the Remedial Action Completion Report and verify that all changes and variations from the original contract drawings have been made on "Record of Drawings";
- (bb) "Remedial Design" or "RD" shall mean the technical analysis and procedures which follow the selection of a remedy for a Site, and result in a detailed set of plans, specifications or other suitable documentation for implementation of the Remedial Action;
- (cc) "Remedial Investigation" or "RI" shall mean that investigation conducted pursuant to CERCLA and the NCP, as supplemented by the substantive provisions of the EPA RCRA Facilities Assessment guidance. The RI serves as a mechanism for collecting data for site and waste characterization and conducting treatability studies as necessary to evaluate performance and cost of the treatment technologies. The data gathered during the RI will also be used to conduct a baseline risk assessment, including characterization of risk of harm to the human health and environment, to perform a Feasibility Study, to evaluate the natural resources damaged by the ~~releases or threatened releases of Hazardous~~ Substances, and to support the design of a selected remedy. The Army shall conduct and prepare all RIs in a manner to support the intent and objectives of Section XX; (Statutory Compliance/RCRA-CERCLA Integration);

- (dd) "Remedy" or "Remedial Action" or "RA" shall have the same meaning as provided in CERCLA § 101(24), 42 U.S.C. § 9601(24), and the NCP, and may consist of one or more OUs;
- ~~(ee) "Remove" or "Removal" shall have the same meaning as provided in CERCLA § 101(23), 42 U.S.C. § 9601(23);~~
- (ff) "Response Action(s)" shall mean all Removal and Remedial Actions including enforcement activities related to the Site;
- (gg) "Schedule" shall mean the collective term for all ~~Deadlines established for the performance of the Work~~ or a portion of the Work required under this Agreement and any subsequent amendments hereto, as set forth in Appendix I (Schedule of Work to be Performed) or other timetable agreed to by the Parties in accordance with the terms of this Agreement;
- (hh) "Secondary Document" shall mean any document listed in Paragraph 7.3(b), hereof;
- (ii) "Site" shall mean land owned, operated, controlled, leased, used by right of easement, or licensed by any department or agency of the United States Government or other owners or operators, in the past, present or at a future time at the federal facility known as the Army Materials Technology Laboratory (as defined in ~~Section 3.1(f), above~~) or any area off the facility to or under which a release of Hazardous Substances has migrated, or threatens to migrate, from a source on or at AMTL. For purposes of obtaining permits, the term "On-Site" shall include areas within AMTL, the areal extent of contamination and all areas necessary for implementation of Response Actions;
- (jj) "Site Inspection" or "SI" shall mean an on-Site investigation to determine whether a release or ~~potential release exists and the nature of the~~ associated threats to human health and the environment. Sampling and other field data shall be used to augment the SI, and to determine if further ~~investigation or Response Action maybe required.~~ If EPA determines that a Response Action may be required, then the area shall be designated an Area of Contamination. If, however, the SI fails to conclusively establish the need for an AOC designation, the area shall remain a Study Area which shall require no Additional Work pursuant to this Agreement. Such SI work shall be conducted in

accordance with CERCLA, CERCLA guidance and the NCP, as supplemented by the substantive provisions of EPA RCRA Facilities Assessment guidance and this Agreement;

~~(kk) "State" shall mean the Commonwealth of Massachusetts~~
and its employees, agents, authorized representatives, successors and assigns. For purposes of the implementation of this Agreement, the DEP shall be considered the designated representative of the State;

(ll) "Study Area" or "SA" shall mean a discrete area or areas within the Site that, based upon objective evidence, previous data gathering, interviews or the mutual agreement of the Parties, has been identified as a potential Area of Contamination. If a threat or potential threat to human health or the environment is determined to exist, an RI/FS shall be conducted and the area henceforth shall be designated an AOC. If such a threat or potential threat is determined not to exist, the SI shall so indicate that the area has been removed from further study or consideration, unless it is subsequently determined that a threat or potential threat to human health or the environment exists at the area; and

(mm) "Work" shall mean activities or obligations required by this Agreement and any amendments hereto, including but not limited to PA/SI, RI/FS, RD/RA, and O & M.

IV. JURISDICTION

4.1 Each Party is entering into this Agreement pursuant to the following authorities:

- (a) The EPA enters into those portions of this Agreement that relate to the PA/SI, RI/FS and RD/RA pursuant to CERCLA § 120(e)(1) and RCRA §§ 6001, 3008(h); 3004(u) and (v), 7003, and Executive Orders 11735 and 12580;
- (b) EPA enters into those portions of this Agreement that relate to Operable Units, and final Remedial Actions pursuant to CERCLA § 120(e)(2), RCRA §§ 6001, 3008(h), 3004(u) and (v), 7003, and Executive Orders 11735 and 12580;
- (c) The Army enters into those portions of this Agreement that relate to the PA/SI, RI/FS, Operable Unit and the final Remedial Actions pursuant to CERCLA § 120(e)(1) and (2), RCRA §§ 6001, 3008(h) and 3004(u) and (v), 7003, Executive Orders 11735 and 12580, and the Defense Environmental Restoration Program (DERP), 10 U.S.C. § 2701 et. seq.

V. STATEMENT OF FACTS

- 5.1 AMTL was listed on the National Priorities List (NPL) update of May 31, 1994, 59 Fed. Reg. 27989, and is therefore subject to the special provisions for federal facility NPL sites in CERCLA § 120, 42 U.S.C. § 9620, and the Superfund Amendments and Reauthorization Act (SARA) § 211, 10 U.S.C. § 2701, Defense Environmental Restoration Program et seq.
- 5.2 AMTL is a facility under the jurisdiction, custody, or control of the Department of Defense within the meaning of Executive Order 12580, 52 Fed. Reg. 2923, January 29, 1987, and within the meaning of DERP, 10 U.S.C. § 2701 et seq. The Department of the Army is authorized to act on behalf of the Secretary of Defense for all functions delegated by the President through Executive Order 12580 which are relevant to this Agreement.
- 5.3 The Watertown Arsenal, now AMTL, was established in 1816. The mission, staff, and facilities expanded until after World War II when the installation occupied 131 acres and employed 10,000 people. The site was used for small arms maintenance and ordnance supplies; ammunition and pyrotechnics production; paint, lubricant, and cartridge testing and experimentation; manufacture of guns and cartridges; and development of advanced metallurgical processes used in the casting, welding, and machining of artillery pieces. A nuclear research reactor was used for molecular and atomic structure research activities from 1960 to 1970. Although the reactor was deactivated in 1970, it was only decommissioned under the jurisdiction of the Nuclear Regulatory Commission in 1992 and the structure demolished in 1994.

The Watertown Arsenal went through operational phasedown in 1967 when excess property was transferred to the General Services Administration (GSA). In 1968, approximately 55 acres were sold to the Town of Watertown. This property has since been used for the construction of apartment buildings, a shopping mall, a public park, and a playground, which are all east of the current facility. Of the 47.5 acres retained by the Army, 36.5 acres became the Army Materials and Mechanical Research Center (AMMRC).

In 1976, the Commander's House was placed on the National Register of Historic Places. During the 1980's, the gun carriage complex was nominated for the Historic Register, but was not selected. However, the AMMRC was designated an historical landmark by the American Society of Metals

in 1983. In 1985, the AMMRC became the Materials Technology Laboratory. In 1991, the 36.5-acre parcel was designated an historical district under the Base Closure and Realignment Commission (BRAC) Memorandum of Agreement between the Army and the National Advisory Council on Historic Preservation.

- 5.4 AMTL is currently owned and operated and has been owned and operated by the United States through the United States Department of the Army at all times relevant to this Agreement. AMTL currently employs approximately 300 people and contains 30 buildings and structures. The current mission of AMTL includes material testing, lightweight armor research and development, and manufacturing testing technology.
- 5.5 In 1988, Congress passed the Defense Authorization Amendments and Base Realignment and Closure Act (Public Law 100-526). In December 1988, the Secretary of Defense's ad hoc Commission on Base Realignment and Closure issued its final report that included a recommendation, subsequently approved by Congress, for the closure of 81 Department of Defense installations, including AMTL. AMTL is slated for closure in September 1995.
- 5.6 There are locations within AMTL where Hazardous Substances have been deposited, stored, placed, or otherwise come to be located in accordance with 42 U.S.C. § 9601(9) and (14). Additionally, there have been or may be releases into the environment of Hazardous Substances, pollutants, or contaminants at or from the Federal Facility within the meaning of 42 U.S.C. § 9601 (22), §§ 9604, 9606, and 9607 and 42 U.S.C. § 6973.
- 5.7 The Army, under the Installation Restoration Program (IRP), completed several studies at AMTL and produced many supporting documents prior to AMTL's listing on the NPL. A complete list of IRP documents is included in Appendix II. ~~Some of the major IRP studies and documents are~~ discussed below.

In 1987, the U.S. Army Toxic and Hazardous Materials Agency (THAMA) contracted with EG&G Idaho to perform a PA/SI. ~~EG&G also conducted a soil/sediment and~~ groundwater sampling program in 1988. The data obtained from this sampling could not be verified or validated by the THAMA Quality Assurance Program and was considered insupportable. Sampling was repeated in 1990 by the Arthur D. Little Corporation under contract to EG&G. Under contract to THAMA, Roy F. Weston Incorporated submitted a draft final Phase I RI report in April 1991

and a Phase 2 RI in October 1992. The RI report was finalized in December 1993 under the oversight of the DEP. A draft final FS was completed in February 1994.

Two AOCs have been identified to date at AMTL. The first AOC addresses soil and groundwater contamination. The RI report concluded that there are Hazardous Substances, pollutants or contaminants in soils and groundwater at AMTL. However, since the RI report did not sufficiently characterize whether Hazardous Substances, pollutants or contaminants emanating from AMTL have come to be located in or are affecting the Charles River, the river will be investigated as a second Area of Contamination. The Army has agreed to further evaluate the sediments and surface water for potential impacts by Site-related contaminants.

These two areas constitute the currently identified Areas of Contamination as defined in Section III, (Definitions) of this Agreement. New AOCs or SAs may be added to this Agreement as they are identified in accordance with Paragraph 6.5.

5.8 There are other areas at AMTL which are/will be undergoing investigation/cleanup under other authorities. These areas include:

- a) Chemical contamination within various buildings;
- b) Underground Storage Tanks (USTs) and other associated petroleum-related actions; and
- c) Radiological contamination and radiological decommissioning.

Items (a) and (b) above are being addressed by the Army under DEP oversight. Radiological decommissioning and associated remediation are being addressed under the jurisdiction of the Nuclear Regulatory Commission.

5.9 Appendix III of this Agreement includes a map of AMTL and a list of AOCs and SAs.

5.10 Pursuant to Executive Order 12088, 43 Fed. Reg. 47707, October 13, 1978, the EPA Administrator is required to provide technical advice and assistance to the Secretary of Defense.

5.11 The Army is the authorized delegate of the President under Executive Order 12580 for receipt of notification of Commonwealth ARARs required by CERCLA Section 121(d)(2)(A)(ii).

DETERMINATIONS

- 5.12 The authority of the Army to exercise the delegated Removal authority of the President pursuant to CERCLA § 104, 42 U.S.C. § 9604 is not altered by this Agreement.
- 5.13 The actions to be taken pursuant to this Agreement are reasonable and necessary to protect the human health and the environment.
- 5.14 On the basis of the facts described above, EPA has determined that:
- (a) The Site is a federal facility pursuant to CERCLA § 120(a), 42 U.S.C. § 9620;
 - (b) The Site is a facility within the meaning of CERCLA § 101(9), 42 U.S.C. § 9601(9);
 - (c) Hazardous Substances, pollutants, and contaminants within the meaning of CERCLA §§ 101 (14) and 104 (a)(2), 42 U.S.C. §§ 9601 (14) and 9604 (a)(2) are located at the Site;
 - (d) There have been releases of Hazardous Substances, pollutants, or contaminants into the environment and these releases continue to cause releases and threatened releases of Hazardous Substances, pollutants, or contaminants into the environment (exclusive of releases consistent with permits) within the meaning of CERCLA §§ 101 (22), 104, 106, and 107, 42 U.S.C. §§ 9601 (22), 9604, 9606, and 9607, at and from the Site; and,
 - (e) With respect to those releases and threatened releases at the Site, the Army is the responsible person within the meaning of CERCLA § 107, 42 U.S.C. § 9607.

VI. WORK TO BE PERFORMED

6.1 The Parties agree to perform the tasks, obligations and responsibilities described in this Agreement in accordance with ~~CERCLA, CERCLA guidance and policy, the NCP, RCRA and RCRA guidance and policy, Executive Orders 12580 and 11735, and all terms and conditions of this Agreement~~ including documents prepared and incorporated in accordance with Section VII, (Consultation with EPA). For the purposes of this Agreement only, the Army shall be considered the lead agency. The Army shall be primarily responsible for investigation, design, construction, and ~~Operation and Maintenance (O & M) of all Response Actions~~ at the Site.

6.2 With respect to integration of past or ongoing Work into Work required by this Agreement, it is the intent of the Parties that documents completed and data generated prior to the effective date of this Agreement be utilized as elements of the RI/FS documents required under this Agreement to the maximum extent practicable without violating CERCLA, CERCLA guidance and policy, the NCP, Federal and State ARARS; and without jeopardizing the technical integrity of any RI/FS based upon such data. The Army need not halt currently ongoing Work, but may be obligated to modify or supplement Work previously done to produce a final product which meets the requirements of this Agreement.

~~6.3 The Army agrees to undertake, fully implement and report on the following tasks, if required, with participation of EPA as set forth in this Agreement:~~

- (a) Preliminary Assessment and Site Inspection of any new Study Areas added to this Agreement pursuant to Section 6.5;
- (b) Remedial Investigations of the Charles River and any new AOCs added to this Agreement pursuant to Section 6.5;
- (c) Feasibility Studies for all Areas of Contamination;
- ~~(d) Proposed Plans and RODs for all Areas of Contamination;~~
- (e) All Remedial Actions, Removals and Remedial Designs for all Areas of Contamination; and
- (f) Operation and Maintenance (O & M) of Remedial Actions at the Areas of Contamination.

6.4 The Army shall:

- (a) Make its best efforts to expedite the initiation of Remedial Actions for the Areas of Contamination; and
- (b) Carry out all activities under this Agreement so as to protect human health and the environment.

6.5 Any location on the Site which is identified by a Party as an AOC or SA after the effective date of this Agreement shall be added to the list of AOCs and SAs in Appendix III as an additional AOC or SA to be investigated and remediated pursuant to all requirements pertaining to AOCs and SAs under this Agreement.

6.6 The Army agrees that it shall conduct and be responsible for completion of all Work activities required at the Site pursuant to this Agreement. However, the Army reserves any rights it might otherwise have to seek reimbursement from any Person if that Person has contributed to contamination at the Site.

VII. CONSULTATION WITH EPA

Review and Comment Process for Draft and Final Documents

7.1 Applicability:

The provisions of this Section establish the procedures that shall be used by the Parties to provide each other with appropriate notice, technical support, review, comment, and responses to comments regarding documents and reports, specified herein as either Primary or Secondary Documents. In accordance with CERCLA § 120, 42 U.S.C. § 9620, and 10 U.S.C. § 2705, the Army shall be responsible for issuing Primary and Secondary Documents to EPA and the Commonwealth, unless otherwise agreed to by both Parties in writing. As of the effective date of this Agreement, unless otherwise provided in Section XIV (Deadlines and Schedules) or Section XVII (Selection of Remedial Action), all draft and final reports for any deliverable document(s) identified herein, including any PA/SI, RI/FS and RD/RA documents relating to this Site, shall be prepared, distributed and subject to dispute in accordance with Paragraphs 7.2 through 7.9 below. The designation of a document as "draft" or "final" is solely for purposes of consultation with EPA in accordance with this Section. Such designation does not affect the obligation of the Parties to issue documents, which may be referred to herein as "final," to the public for review and comment as appropriate and as required by law and this Agreement.

7.2 Process for Primary Document Review:

Primary Documents:

- (a) Primary Documents include those reports specified in Paragraph 7.2(b). Primary Documents shall be initially issued by the Army in draft form subject to review and comment by EPA and the Commonwealth. In issuing draft documents to the Commonwealth, the Army shall notify the Commonwealth of the duration of the review period corresponding to such document as established in this Agreement. If comments are not received within the review period, the Commonwealth's concurrence shall be assumed and the Army shall proceed to issue the document in draft final form. Following timely receipt of comments on a particular draft Primary Document, the Army shall respond to the comments received, and issue a draft final Primary Document subject to dispute resolution. Unless otherwise provided in Section XIV (Deadlines and Schedules) or Section XVII (Selection of Remedial

Action), the draft final Primary Document will become the final Primary Document either forty-five (45) days after issuance, if dispute resolution is not invoked, or as modified by decision of the dispute resolution process.

In the event of a dispute, the Project Managers shall initially use the informal dispute process referred to in Paragraph 13.2. With the concurrence of the Parties, a Schedule or Deadline affected by the decision of the informal dispute resolution may be extended by providing written notice to both Parties. If, however, no informal decision is reached, the formal dispute resolution process shall occur.

(b) As appropriate, the Army shall, for each AOC or SA, complete and transmit draft reports for the following Primary Documents in accordance with the provisions of this Section:

- (i) SI Work Plan;
- (ii) SI Report;
- (iii) RI/FS Work Plan (Health and Safety Plan, Quality Assurance Project Plan, Standard Operating Procedures, Sampling and Analysis Plan);
- (iv) RI Reports (including Risk Assessment);
- (v) FS Report (including Initial Screening of Alternatives, Detailed Analysis of Alternatives);
- (vi) Terrestrial Assessment for the Soil and Groundwater AOC;
- (vii) Proposed Plan;
- (viii) Record of Decision (ROD) (including No Action Decision);
- (ix) Pre-Remedial Design Work Plan;
- (x) 90% Design of Remedial Action; and
- (xi) Remedial Action Completion Report (including Long-Term Operations and Maintenance Plan).

(c) Only the draft final reports for the Primary Documents identified above shall be subject to

dispute resolution. The dispute resolution process is restricted to the Parties (EPA and the Army). The Army shall complete and transmit draft Primary Documents in accordance with the Deadlines established in Appendix I and any Schedule established pursuant to Section XIV, (Deadlines and Schedules) of this Agreement.

7.3 Secondary Documents:

- (a) Secondary Documents include those reports that are discrete portions of the Primary Documents and are typically input or feeder documents. ~~Secondary Documents shall be issued by the Army in draft subject to review and comment by EPA and the Commonwealth. In issuing draft documents to the Commonwealth, the Army shall notify the Commonwealth of the duration of the review period corresponding to such document as established in this Agreement. If comments are not received within the review period, the Commonwealth's concurrence shall be assumed and the Army shall proceed to issue the document in draft final form. Although the Army shall respond to comments received in a timely manner, the draft Secondary Documents may be finalized in the context of the corresponding Primary Documents;~~
- (b) The Army shall complete and transmit draft reports for the following Secondary Documents in accordance with the provisions of this Section. However, as an ~~alternative, the Army may submit Secondary Documents as part of other documents in order to better facilitate the review process. The Secondary Documents shall include:~~
 - (i) Preliminary Assessment;
 - (ii) Risk Assessment Work Plans;
 - (iii) Ecological Assessments (except Terrestrial for the Soil and Groundwater AOC);
 - (iv) Initial Screening of Alternatives;
 - ~~(v) Detailed Analysis of Alternatives;~~
 - (vi) Sampling and Data results;
 - (vii) Treatability and Pilot Study Work Plans and Reports;

- (viii) Remedial Design Work Plan (including sampling plan and RD schedule);
 - (ix) Draft (60%) Design;
 - (x) Final Design; and
 - (xi) Remedial Action Work Plan.
- (c) Although the EPA and the Commonwealth may comment on the draft reports for the Secondary Documents listed above, such documents shall not be subject to dispute resolution, except as provided by Paragraph 7.2, hereof. Target dates shall be submitted by the Army to EPA for the completion and transmission of draft Secondary Documents. The purpose of the target dates is to assist the Army in meeting Deadlines for Primary Documents.

7.4 Meetings of the Project Managers on Development of Reports:

The Parties' Project Managers shall meet or confer as necessary approximately every ninety (90) days, except as otherwise agreed to by the Parties, to review and discuss the progress of Work being performed at the Site, including progress on the Primary and Secondary Documents. Base Closure Team (BCT) meetings may satisfy this requirement. The Army shall provide the Commonwealth's Project Manager with advance notice of meetings of the Parties' Project Managers and of the BCT. Prior to the BCT meeting, the Army and EPA shall provide each other with an informal progress report. These progress reports will serve as the basis for the BCT meeting agenda. Prior to preparing any draft report specified in Paragraphs 7.2 and 7.3 above, the Parties' Project Managers shall meet to discuss the report results in an effort to reach a common understanding, to the maximum extent practicable.

7.5 Identification and Determination of Potential ARARs:

- (a) For those Primary or Secondary Documents that consist of, or include ARAR determinations, the Parties' Project Managers shall, prior to the issuance of a draft report, meet to identify and propose, to the best of their ability, all potential ARARs pertinent to the report being addressed. Draft ARAR determinations shall be prepared by the Army in accordance with CERCLA § 121(d)(2), 42 U.S.C. § 9621(d)(2), the NCP and pertinent guidance issued by EPA that is consistent with CERCLA and the NCP. At a minimum, the Army's proposed list of ARARs shall be

chemical specific, location specific, and action specific for each AOC, and may serve as a resource for all Primary and Secondary Documents. The Army shall then forward a request to the Commonwealth to identify all potential State ARARs as early in the remedial process as possible. The Army shall consider the interpretation of State ARARs provided by the Commonwealth. Any dispute concerning the applicability of ARARs may be resolved by the Army and EPA, through the dispute resolution procedures described in Section XIII, (Dispute Resolution);

- (b) The Parties recognize that ARAR identification is necessarily an iterative process and that potential ARARs must be reexamined throughout the RI/FS process until a ROD is issued.

7.6 Review and Comment on Draft Reports:

- (a) The Army shall complete and transmit each draft Primary Document to EPA and the Commonwealth on or before the corresponding Deadline established for the issuance of such reports set forth in Appendix I or established pursuant to Section XIV;
- (b) The Army shall complete and transmit each draft Secondary Document in accordance with the dates established by the Project Managers for the issuance of such reports;

- (c) Unless the Parties mutually agree in writing to another time period, all draft reports shall be subject to the review periods in this Section (with the exception of the draft TA and the FS for the Soils and Groundwater AOC, for which separate review periods are established in Section XIV, and the draft Proposed Plan, ROD and responsiveness summary, for which separate review periods are established in Section XVII). Under the circumstances specified in Section XV, (Extensions), this time period may be further extended. Review of any document by the EPA and the Commonwealth may concern all aspects of the report (including completeness) and should include, but not be limited to, a technical evaluation of any aspect of the document and consistency with CERCLA, the NCP, or any pertinent guidance or policy issued by the EPA. At the request of the EPA Project Manager, to expedite the review process, the Army shall make an oral presentation of the report to EPA and the Commonwealth at the next scheduled meeting of the Project Managers following the transmittal of the draft report, or within fourteen (14) days following

the request, whichever is sooner. Comments by the EPA and the Commonwealth shall be provided with adequate specificity so that the Army may respond to the comments and, if appropriate, make changes to the draft report. Comments shall refer to any pertinent sources of authority or references upon which the comments are based; and upon request of the Army, the EPA and the Commonwealth shall provide a copy of the cited authority or reference. On or before the close of the comment period, EPA and the Commonwealth shall transmit by next day mail, hand delivery or facsimile their written comments to the Army;

- (d) Representatives of the Army shall make themselves, and their contractors, if appropriate, readily available to EPA and the Commonwealth during the comment period for purposes of informally responding to questions and comments on draft reports; oral comments made during such discussions need not be the subject of written responses by the Army on the close of a comment period;
- (e) In commenting on a draft report which contains a proposed ARAR determination, EPA and the Commonwealth shall include a statement of whether they object to any portion of the proposed ARAR determination. To the extent that EPA or the Commonwealth objects, it shall explain in detail the basis for the objection(s) and shall identify any ARARs which it believes were not properly addressed in the proposed ARAR determination. If the Army rejects an EPA or State ARAR determination, the Army shall explain in detail the basis for its rejection;
- (f) With the exception of the draft TA and the FS for the Soils and Groundwater AOC, the reviews of which are detailed in Section XIV (Deadlines and Schedules), and the draft Proposed Plan, ROD and Responsiveness Summary, the reviews of which are detailed in Section XVII (Selection of Remedial Action), the review and comment period for all draft Primary Documents developed and submitted by the Army to the EPA and DEP shall be as follows:
 - (1) EPA/DEP Review - forty-five (45) days (with a thirty (30) day extension);
 - (2) Army response letter- forty-five (45) days (with a twenty (20) day extension);
 - (3) EPA/DEP review responses - fifteen (15) days;

- (4) Army revises and issues draft final report - thirty (30) days (with a twenty (20) day extension).

These time periods commence upon receipt of the documents or comments.

- (g) Following the close of the comment period for a draft report, the Army shall give full consideration to all written comments on the draft report submitted by EPA and the Commonwealth during the comment period. The Army shall transmit to EPA and the Commonwealth, its written response to the comments received within the comment period. While the resulting draft final report shall be the responsibility of the Army, it shall be the product of consensus between the Parties to the maximum extent possible.
- (h) With the concurrence of EPA, the Army may extend the thirty (30) day period for issuing the draft final Primary Document for an additional twenty (20) days by providing written notice to EPA and the Commonwealth prior to the end of the thirty (30) day period. Under the circumstances specified in Section XV, (Extensions), of this Agreement, this time period may be further extended.

7.7 Availability of Dispute Resolution for Draft Final Primary Documents:

- (a) Dispute resolution shall be available to the Parties for draft final Primary Documents as set forth in Section XIII, (Dispute Resolution);
- (b) When dispute resolution is invoked on a draft final Primary Document, Work may be stopped in accordance with the procedures set forth in Section XIII, (Dispute Resolution).

7.8 Finalization of Report

Unless otherwise provided in Section XIV (Deadlines and Schedules) or Section XVII (Selection of Remedial Action), the draft final report shall serve as the final Primary Document, shall be deemed incorporated into this Agreement, and shall become an enforceable part hereof if, after a forty five (45) day period for review and comment by EPA and the Commonwealth, neither EPA, the Commonwealth, nor the Army provides comments. If comments are received, and dispute resolution is not invoked by the Army or EPA, the Army shall give full consideration to the written comments, and shall submit a revised final

document to the EPA and Commonwealth within thirty-five (35) days of receipt of said comments.

If dispute resolution is invoked by the Army or EPA, and the Army's position is sustained, the document shall serve as the final Primary Document, shall be deemed incorporated herein, and shall become an enforceable part hereof. If the Army's position is not sustained in the dispute resolution process, the Army shall, within thirty-five (35) days, prepare a revision of the draft final report which conforms to the results of dispute resolution. Under the circumstances specified in Section XV, (Extensions), of this Agreement, the time period for this revision may be extended.

If dispute resolution results in Additional Work, the Army shall develop a scope of work to address said Additional Work within ninety (90) days, following the dispute resolution decision, for review and comment by EPA and the Commonwealth.

7.9 Subsequent modifications of Final Reports and Additional Work:

Following finalization of any Primary Document pursuant to Paragraph 7.8 above, any Party may seek to modify a report, including seeking additional field work, pilot studies, computer modeling or other supporting technical work, only as provided in Subparagraphs (a), (b) and (c) below:

- (a) A Party may seek to modify a report after acceptance as a final report by the other Party, if a Party determines, based on significant new information (i.e., information that became available, or conditions that became known, after the report was finalized) that the requested modification is necessary. A Party may seek such a modification by submitting a concise written request to the Project Managers. The request shall specify the nature of the requested modification; and the new information upon which the request is based;
- (b) In the event that a consensus is not reached by the Project Managers on the need for a modification, only a Party to this Agreement may invoke dispute resolution to determine if such modification shall be conducted. Modification of a report shall be required only upon showing that (1) the requested modification is based on significant new information; and, (2) the requested modification could be of significant assistance in evaluating the selection of

remedial alternatives, or in protecting human health or the environment;

- (c) Nothing in this Section shall alter EPA's right to require the performance of Additional Work which was ~~not contemplated by this Agreement.~~ The Army's obligation to perform such Work must be established by either a modification of a report or document, or by amendment to this Agreement. Any Additional Work which is determined by the Parties to be of significant assistance in evaluating the selection of remedial alternatives or in protecting human health or the environment shall be subject to the authority and obligations established in this Agreement concerning Response Actions.

VIII. PROJECT MANAGERS

- 8.1 Prior to the effective date of this Agreement, the Parties shall each designate a Project Manager for the purpose of overseeing the implementation of this Agreement. The Commonwealth should also designate a Project Manager in order to insure compliance with whatever rights the Commonwealth might otherwise have under CERCLA for purposes of remediating the Site. The Project Managers shall be responsible for ensuring implementation of the PA/SI, RI/FS and RD/RA in accordance with CERCLA and this Agreement. Communications on all documents among both Parties and the Commonwealth, including reports, comments, and other correspondence concerning the activities performed pursuant to this Agreement to the extent practicable, shall be directed through the Parties' and Commonwealth's Project Managers consistent with Section XXXI, (Notices and Submissions).
- 8.2 The Parties and Commonwealth may change their respective Project Managers. Such change shall be accomplished by notifying the other Party and the Commonwealth, if appropriate, in writing, five (5) days in advance of the change.
- 8.3 The Parties' and Commonwealth's Project Managers shall meet or confer to discuss progress as described in Paragraph 7.4. Although the Army has ultimate responsibility for meeting its respective Deadlines, the EPA and DEP Project Managers shall endeavor to assist in this effort by scheduling meetings to address documents, reviewing reports, overseeing the performance of environmental monitoring at the Site, reviewing PA/SI, RI/FS or RD/RA progress, and attempting to resolve disputes informally. At least one (1) week prior to each scheduled progress meeting, the Army will provide EPA and the Commonwealth a draft agenda and summary of the status of the Work subject to this Agreement. The minutes and agenda of each progress meeting, and all documents discussed during the meeting (which were not previously provided as attachments), may constitute the Quarterly Progress Report, and shall be sent to the Project Managers within thirty (30) days after the meeting's close. If an extended period occurs between Project Manager progress meetings, the Project Managers may agree that the Army shall prepare an interim progress report and provide it to the EPA and the Commonwealth. The report shall include the information that would normally be discussed in a progress meeting of the Project Managers. Other meetings

shall be held more frequently upon request of the EPA or the Army Project Managers.

8.4 The Parties and the Commonwealth's Project Managers may recommend and request minor field modifications to the ~~Work performed pursuant to this Agreement, or in~~ techniques, procedures or designs utilized in carrying out this Agreement, which are necessary to the completion of the project. However, minor field modifications proposed under this Section may be approved orally by each Parties' Project Managers. If agreement cannot be reached on the proposed minor modifications to Work, the dispute resolution provisions of Section XIII, hereof, shall be invoked by the Party requesting such modification. The Party requesting the modification shall submit a written statement to the other Party in accordance with Section XIII, (Dispute Resolution). Within five (5) business days following an oral agreement of both Parties to a modification made pursuant to this Section, the Party requesting the modification shall prepare a memorandum detailing the modification and the reasons therefore, and shall provide or mail a copy of the memorandum to the other Project Manager for signature and return. In addition, a copy of the modification memorandum shall be sent to the Commonwealth's Project Manager.

8.5 Modifications of Work not provided for in Paragraph 8.4 of this Section, must be approved in accordance with Paragraph 7.9 of this Agreement. If agreement cannot be reached on the proposed modification to Work, the dispute resolution provisions of Section XIII, shall be invoked by the Party requesting the modification by submitting a written statement to the other Party in accordance with Section XIII, (Dispute Resolution). If the Parties agree to the modification, within five (5) business days following a modification made pursuant to this Section, the Party requesting the modification shall prepare a memorandum detailing the modification and the reasons therefore and shall provide or mail a copy of the memorandum to the other Party for signature and return. In addition, a copy of the modification memorandum shall be sent to the Commonwealth's Project Manager.

8.6 The Army Project Manager shall be responsible for the day to day field activities at the AOC or SA. ~~The Army~~ The Army Project Manager or other designee(s) shall be physically present at the AOC or SA, or reasonably available to supervise Work performed at the AOC or SA during implementation of the Work pursuant to the Agreement. For all the times that such Work is being performed, the Army Project Manager shall inform the EPA and Commonwealth Project Managers of the name and telephone number of the

designated employee responsible for supervising Work. The absence of the EPA or Commonwealth Project Managers from the Site shall not be cause for Work stoppage or delay. Upon EPA's request, the Army designee shall immediately cause the Army's contracting officer to issue a stop Work order, if an emergency or threat of an emergency exists. EPA will only request such a stoppage pursuant to the NCP. After the request for a work stoppage, the Army Project Manager shall be notified by EPA immediately, but not later than two (2) hours after the stop Work request.

- 8.7 Both Parties' Project Managers shall be responsible for ensuring that all communications received from the other Project Managers are appropriately disseminated to and processed by the Party which each represents.
- 8.8 The Parties shall transmit Primary and Secondary Documents and all notices required herein by next day mail, hand delivery, or facsimile to the Project Managers specified in Paragraph 31.1, (Notices and Submissions). Time limitations shall commence upon receipt. The Army shall provide EPA and the Commonwealth each with six (6) copies of the Primary Documents and six (6) copies of the Secondary Documents.
- 8.9 Nothing in this Section shall be construed to interfere with or alter the internal organization or procedures of a Party, including, without limitation, signature authority.
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IX. ACCESS

9.1 Without limiting any authority conferred on EPA or the Commonwealth by Federal law, including without limitation ~~statutes, regulations and common law~~, EPA and the Commonwealth shall have access to the Site and any property to which access is required for the implementation of this Agreement, to the extent the access to the property is controlled by or available to the Army, for the purposes of conducting activities consistent with this Agreement, including but not limited to:

- (a) ~~inspecting records, operating logs, contracts and other documents relevant to implementation of this Agreement;~~
- (b) monitoring field activities of the Army and its contractors, lessees, assigns, and employees to assure that such activities are carried out in compliance with the terms of this Agreement;
- (c) verifying data or information submitted by the Army to the EPA and the Commonwealth;
- (d) conducting such tests as the EPA Project Manager deems necessary; and
- (e) assessing the need for planning additional Remedial Actions at the Site.

The Army shall honor all reasonable requests for such access by the EPA or the Commonwealth conditioned upon the presentation of proper credentials as agreed upon by the Project Managers. The Army Project Manager or designee shall provide briefing information, coordinate access and escort to restricted or controlled access areas, arrange for installation passes and coordinate other access issues that may arise. However, such access shall be obtained in conformance with all applicable statutes and regulations, including but not limited to regulations respecting national security, and in a manner minimizing interference with military regulations at the Site.

9.2 ~~Upon denying any request for access made pursuant to~~ Paragraph 9.1, herein, the Army shall provide an oral explanation within twenty-four (24) hours, and a written explanation within seventy-two (72) hours indicating the reason for the denial, and to the extent possible, provide a recommendation for accommodating the requested access in an alternate manner.

- 9.3 The Parties agree that this Agreement is subject to CERCLA § 120(j), 42 U.S.C. § 9620(j), regarding the issuance of site specific Presidential Orders as may be necessary to protect the national security.
- 9.4 If EPA, or the Commonwealth requests access in order to observe a sampling event or other Work being conducted pursuant to this Agreement, and access is denied or limited to protect the health and safety of EPA's or the Commonwealth's personnel, contractors or their agents, the Army agrees to reschedule or postpone such sampling or Work if the EPA so requests, until such mutually agreeable time when the requested access is allowed, unless such a delay would create an endangerment to human health or the environment. If such a delay would create an endangerment, the Army will provide the EPA and the Commonwealth with all information obtained in such a sampling event or other Work conducted. The Army shall not restrict the access rights of the EPA to any greater extent than the Army restricts the access rights of its contractors performing Work pursuant to this Agreement.
- 9.5 If EPA or DEP obtains any samples it shall, upon request and before leaving the Site, give the Army Project Manager, or his/her designated representative, a receipt describing the sample obtained, and, if requested, a portion of each such sample. A copy of the results of any analysis made of such samples shall be provided to the Project Managers within the time limits specified in Paragraph 10.1 of this Agreement. In addition, if EPA observes a sampling event or other Work being conducted pursuant to this Agreement and a trip report or other documentation is prepared, EPA will provide a copy of such documentation to the Army within thirty (30) days.
- 9.6 To the extent that access is required to areas presently owned by or leased to persons or entities other than the Army, including other branches of DOD, the Army agrees to exercise its best efforts and authorities to obtain access from the present owners and/or lessees within sixty (60) calendar days after identification of the need for such access when necessary. "Best efforts" for the purposes of this Paragraph shall include, but not be limited to, attempts to identify and locate the owner(s) and lessee(s) of property onto which access is required and, if appropriate, seeking judicial assistance to obtain access agreements from the owner(s) or lessee(s) of all property onto which access is required under this Agreement.
- 9.7 In the event that Site access is not obtained within the sixty (60) day time period set forth above, within fifteen (15) days after the expiration of the sixty (60) day

period, the Army shall notify EPA in writing and the Commonwealth regarding the lack of access agreements, and describe the efforts undertaken to obtain such access agreements. EPA may thereafter, consistent with its authority, assist the Army in obtaining access. At the request of the EPA, the Army shall submit for approval, within fifteen (15) days of such request, appropriate modifications to any Response Action affected by an inability to obtain access.

9.8 With respect to property referred to in Paragraph 9.6, upon which monitoring wells, pumping wells, or treatment facilities are to be located, or other Response Actions are to be taken pursuant to this Agreement, any access agreement shall state that:

- (i) conveyance of title, easement, or other interest in the property shall provide for the continued operation of such wells, treatment facilities, or other Response Actions on the property;
- (ii) the owners or lessees of any such property should notify the Army, EPA and the Commonwealth at least thirty (30) days prior to any conveyance of an interest in the property of the property owner's or lessee's intent to convey, and of the provisions made to allow the continued operation of the monitoring wells, treatment facilities, or other Response Actions pursuant to this Agreement; and,
- (iii) the EPA has identical access as the Army.

9.9 In the event that the Army transfers title or transfers any other interest in real property relating to AMTL or any structures located thereon, the Army shall ensure that the Parties, and their agents, employees and contractors, shall have the rights of access to and over such property which are set forth in Paragraph 9.1 above and shall provide for such continued access in any deed, lease or other instrument as provided in Section 37.3 of this Agreement.

9.10 All Parties with access to the Site under this Section shall comply with all applicable Health and Safety Plans. Implementation of Health and Safety Plans during activities under this Agreement shall be the responsibility of the Army and its contractors.

X. DATA AND DOCUMENT AVAILABILITY

- 10.1 The Army shall make all sampling results, test results or other data generated through the implementation of this Agreement available to EPA and the Commonwealth within ninety (90) days. If data validation is not completed within ninety (90) days, preliminary data or results shall be made available within the ninety (90) day period, and quality assured data or results shall be submitted as they become available, but in no event later than one-hundred and twenty (120) days after the date of the sampling event. A sampling event, for the purposes of data availability only, shall not exceed two weeks. These periods can be extended upon the mutual agreement of the EPA and Army Project Managers.
- 10.2 At the request of EPA, the Army shall allow, to the extent practicable, split or duplicate samples to be taken by EPA or the Commonwealth, or their authorized representatives, of any samples collected by the Army pursuant to the implementation of this Agreement. The Army shall notify the EPA and the Commonwealth not less than ten (10) days in advance of any scheduled sample collection activity, well drilling or other monitoring activity conducted pursuant to this Agreement. The ten (10) day notification may be waived with the agreement of the EPA Project Manager.
- 10.3 If preliminary analysis indicates a potential imminent and substantial endangerment to human health or the environment, EPA and the Commonwealth Project Managers shall be immediately notified, and confer as to the Response Action necessary in accordance with this Agreement.

XI. PERMITS

11.1 The Army shall be responsible for obtaining all Federal, Commonwealth and local permits which are necessary for the performance of Work under this Agreement.

11.2 The Parties recognize that pursuant to CERCLA § 121(e)(1), 42 U.S.C. § 9621(e)(1), and the NCP, portions of the Remedial Actions called for by this Agreement and conducted entirely on the Site are exempt from the procedural requirement to obtain Federal, State, or local permits. All activities must, however, comply with the substantive standards, requirements, criteria, or limitations which otherwise would have to be met to obtain each such permit. However, as to Work that cannot be so implemented, any corresponding Deadlines or Schedules shall be subject to Section XV, (Extensions), of this Agreement.

11.3 When the Army proposes a Remedial Action to be conducted entirely on the Site, which in the absence of § 121(e)(1) of CERCLA and the NCP would require a Federal or State permit, and for which the Army does not seek a permit, the Army shall include in the relevant submittal to the EPA and the Commonwealth:

- (a) Identification of each permit which would be required;
- (b) Identification of the substantive standards, requirements, criteria, or limitations which otherwise would have to be met to obtain each such permit; and,
- (c) Explanation of how the proposed Response Action will meet the substantive standards, requirements, criteria or limitations identified in Subparagraph (b).

Upon request of the Army, EPA or the Commonwealth will provide their respective positions and assistance with respect to Subparagraphs (b) and (c) in a timely manner.

11.4 Paragraph 11.2 above is not intended to relieve the Army of the requirement(s) of obtaining a permit whenever it proposes a Response Action involving the shipment or movement of a hazardous waste off the Site, or in any other circumstances where the exemption provided for at 42 U.S.C. § 9621(e) does not apply.

11.5 The Army shall notify EPA and the Commonwealth in writing of any permits required for any activities it plans to

undertake as soon as it becomes aware of the requirement. The Army shall apply for any such permits and provide EPA and the Commonwealth with copies of all completed applications and permits.

- 11.6 During any appeal by the Army of any permit required to implement this Agreement, or during review of any proposed modification(s) to the permit, the Army shall continue to implement those portions of this Agreement which can be reasonably implemented, independent of final resolution of the permit issue(s) under appeal. However, as to Work that cannot be so implemented, any corresponding Deadlines or Schedules shall be subject to Section XV, (Extensions), of this Agreement.

XII. REMOVAL AND EMERGENCY ACTIONS

12.1 Discovery and Notification

If any Party discovers or becomes aware of an emergency or other situation that may present an imminent and substantial endangerment to human health or the environment at or near the Site which is related to or may affect the Work performed under this Agreement, that Party shall immediately orally notify the other Party and the Commonwealth and provide written notice within forty-eight (48) hours of discovery of such emergency. Upon such discovery or notification, the Army shall take immediate action to notify the appropriate Federal, State and local agencies and affected members of the public.

12.2 Work Stoppage

In the event a Party determines that activities conducted pursuant to this Agreement will cause or otherwise be threatened by a situation described in Paragraph 12.1, the Party may require the termination of such activities for such period of time as the Project Managers determine is needed to abate the danger. Any unilateral Work stoppage for longer than twenty-four (24) hours requires a written notice to the other Party. Any dispute under this Paragraph shall be referred to the EPA Region I, Waste Management Division Director for a Work stoppage determination in accordance with Section XIII, (Dispute Resolution) of this Agreement.

12.3 Removal Actions

- (a) The provisions of this Section shall apply to all Removal Actions as defined in CERCLA § 101(23), 42 U.S.C. § 9601(23), including all modifications to, or extensions of, the ongoing Removal Actions, and all new Removal Actions proposed or commenced following the effective date of this Agreement;
- (b) Any Removal Actions conducted at the Site shall be conducted in a manner consistent with this Agreement, CERCLA, the NCP and Executive Orders 12580 and 11735;
- (c) If a Party determines that there may be a threat to human health or the environment, because of an actual or threatened release of a Hazardous Substance, the Army shall perform a Removal Site Evaluation as required by § 300.410 of the NCP. This evaluation shall investigate the source and nature of the release, the magnitude of the threat, and shall

include an evaluation of factors necessary to make a determination of whether a Removal is necessary;

- (d) Nothing in this Agreement shall alter the Army's authority with respect to Removal Actions conducted pursuant to CERCLA § 104, 42 U.S.C. § 9604, and Executive Orders 12580 and 11735;
- (e) If a Party makes a determination, based on the Removal Site Evaluation, that there is a threat, the Army must take any appropriate Removal Action to abate, prevent, minimize, stabilize, mitigate, or ~~eliminate the release or the threat of release.~~ Section 300.415 of the NCP describes the factors to be considered when determining whether a Removal Action is necessary;
- (f) If a Party determines that a Removal Action is appropriate, Removal Actions shall begin as soon as possible. Whenever a planning period of at least six (6) months exists before on-Site activities must be initiated, an Engineering Evaluation/Cost Analysis (EE/CA) shall be conducted. The EE/CA is an analysis of Removal alternatives for a Site. In addition, if sampling is to be performed, Sampling and Analysis Plans shall be prepared and submitted to EPA for review;
- (g) If the Army determines that the Removal Action will ~~not fully address the threat posed by the release and the release may require Remedial Action,~~ the Army shall ensure an orderly transition from Removal to Remedial Response activities; and,
- (h) In the event the Army fails to take the necessary Removal Actions to abate such threat and protect human health and the environment, the EPA may take such Removal Actions as are necessary to protect ~~human health and the environment.~~ The Army shall reimburse the EPA, to the extent allowed by law, for all costs involved in abating any danger or threat to human health and the environment.

12.4 Notice and Opportunity to Comment

- (a) In the case of all Removal Actions, the Army shall designate a spokesperson, who shall inform the community of actions taken, respond to inquiries and provide information concerning the release. The spokesperson shall notify, at a minimum, immediately affected citizens, and State and affected local officials;

- (b) For actions where the Army determines that a Removal is appropriate and less than six (6) months exist before on-Site Removal will commence, the Army shall:

~~(i) Publish a notice of availability of the Administrative Record in a major local newspaper within sixty (60) days of initiation of an on-Site Removal; and,~~

(ii) Provide a public comment period of not less than thirty (30) days from the time the Administrative Record is made available; and ~~develop a written response to significant comments;~~

- (c) If a Removal Action will extend beyond one hundred and twenty (120) days from the initiation of on-Site Removal activities, the Army shall by the end of the one hundred and twenty (120) day period:

(i) Conduct interviews with local officials, community residents, and other interested or affected parties to solicit their concerns;

(ii) Prepare a formal Community Relations Plan (CRP) which specifies the activities the Army expects to undertake during the Removal activity; and,

~~(iii) Establish at least one (1) local information repository at or near the location of the Response Action, which should contain items made available for public information, as well as the Administrative Record;~~

- (d) If a planning period of at least six (6) months exists prior to initiation of on-Site Removal activities, the Army shall at a minimum:

(i) Comply with the requirements of subparagraph 12.4(c)(i), (ii) and (iii) prior to the completion of EE/CA. In addition, the information repository and Administrative Record shall be established no later than when the EE/CA approval memorandum is signed;

(ii) Publish a notice of availability, and a brief description of the EE/CA in two local major newspapers;

(iii) Provide a reasonable opportunity, not less than thirty (30) calendar days, for submission of written and oral comments; and,

(iv) Prepare a written response to significant comments.

(e) All activities related to ongoing Removal Actions shall be reported by the Army in the progress reports as described in Section VIII, (Project Managers).

12.5 Notwithstanding any other provision of this Agreement, the Army retains the rights consistent with Executive Orders 12580 and 11735 to conduct such emergency actions as may be necessary to alleviate immediate threats to human health or the environment from the release or threatened release of Hazardous Substances, pollutants, or contaminants at or from AMTL. Such actions may be conducted at any time, either before or after the issuance of a ROD.

12.6 Any dispute among the Parties as to whether a non-emergency Response Action proposed under Section XII, (Removal and Emergency Actions), is properly considered a Removal Action, as defined by 42 U.S.C. § 9601(23), or as to the consistency of such a Removal Action with the final Remedial Action, shall be resolved pursuant to Section XIII, (Dispute Resolution). Such dispute may be brought directly to the Dispute Resolution Committee (DRC) or the Senior Executive Committee (SEC) at the EPA's request.

XIII. DISPUTE RESOLUTION

- 13.1 Except as specifically set forth elsewhere in this Agreement, if a dispute arises under this Agreement, the procedures of this Section shall apply.
- 13.2 Prior to any Party's issuance of a written statement of dispute, the disputing Party shall engage the other Party in informal dispute resolution at the Project Manager or the Project Managers' immediate supervisor level. During this informal dispute resolution period, the Parties shall meet as many times as is necessary to discuss and attempt resolution of the dispute. If resolution cannot be achieved informally prior to the expiration of the 45-day period specified in Paragraph 13.3 below or an extension of such period mutually agreed to by the parties, the procedures of Paragraphs 13.3 through 13.12 shall be implemented to resolve a dispute.
- 13.3 Within forty-five (45) days after: (1) the issuance of a draft final Primary Document pursuant to Section VII, (Consultation with EPA), or (2) any action which generates a dispute, the disputing Party shall submit to the other Party a written statement of dispute setting forth the nature of the dispute, the Work affected by the dispute, the disputing Party's position with respect to the dispute and the technical, legal or factual information the disputing Party is relying upon to support its position.
- 13.4 The Dispute Resolution Committee (DRC) is hereby established for the purpose of resolving disputes arising under this Agreement. The DRC will serve as a forum for resolution of disputes for which agreement has not been reached through informal dispute resolution. The Parties shall each designate one individual and an alternate to serve on the DRC. The individuals designated to serve on the DRC shall be employed at the policy level (Senior Executive Service (SES) or equivalent) or be delegated the authority to participate on the DRC for the purposes of dispute resolution under this Agreement. The EPA representative on the DRC is the Waste Management Division Director of EPA's Region I (EPA Division Director). The Army's designated member is AMTL's Installation Commander or designee. Written notice of any delegation of authority from the Parties' designated representative on the DRC shall be provided to the other Party pursuant to the procedures of Section VIII, (Project Managers).
- 13.5 Following the submittal of a dispute to the DRC, the DRC shall have twenty-one (21) days to unanimously resolve the dispute and issue a written decision signed by the

Parties. If the DRC is unable to unanimously resolve the dispute within this twenty-one (21) day period, the written statement of dispute shall be forwarded to the Senior Executive Committee (SEC) for resolution within seven (7) working days after the close of the twenty-one (21) day resolution period.

- 13.6 An SEC is hereby established for the purpose of resolving disputes for which agreement has not been reached by the DRC. The EPA representative on the SEC is the Regional Administrator of EPA's Region I. The Army representative on the SEC is the Deputy Assistant Secretary of the Army for Environment, Safety and Occupational Health. The SEC members shall, as appropriate, confer, meet and exert their best efforts to resolve the dispute and issue a unanimous written decision signed by both Parties. If unanimous resolution of the dispute is not reached within twenty-one (21) days, EPA's Regional Administrator shall issue a written position on the dispute. The Army may, within twenty-one (21) days of the Regional Administrator's issuance of EPA's position, issue a written notice elevating the dispute to the Administrator of EPA for resolution in accordance with all applicable laws and procedures. In the event that the Army elects not to elevate the dispute to the Administrator within the designated twenty-one (21) day period, the Army shall be deemed to have agreed with the Regional Administrator's written position with respect to the dispute.

- 13.7 Upon submittal of a dispute for resolution to the Administrator of EPA pursuant to Paragraph 13.6 above, the Administrator will review and resolve the dispute within twenty-one (21) days. Upon request, and prior to resolving the dispute, the EPA Administrator shall meet and confer with the Army Secretariat Representative to discuss the issue(s) under dispute. Upon resolution, the Administrator shall provide the Parties with a written final decision setting forth the resolution of the dispute, and a statement of the information upon which the decision is based. The duties of the Administrator set forth in this Section shall not be delegated.

- 13.8 The EPA Region I Division Director may request, in writing, that Work affected by a dispute in the dispute resolution process be discontinued, if EPA believes such Work is inadequate or defective and would adversely impact human health or the environment; or that such Work would substantially affect the process of Remedial Action selection or implementation. To the extent possible, EPA shall consult with the Army prior to initiating a Work stoppage request. After stoppage of Work, if a Party believes the Work stoppage is inappropriate or may have

potential significant adverse impacts, the Party may meet with the other Party to discuss the Work stoppage. Following this meeting, and after further consideration of the issues, the EPA Division Director will issue, in writing, a final decision with respect to the Work stoppage. The final written decision of the EPA Division Director may immediately be subjected to formal dispute resolution. Such dispute may be brought directly to either the DRC or the SEC, at the discretion of the Party requesting dispute resolution.

- 13.9 The pendency of any dispute under this Section shall not affect the Army's responsibility for timely performance of the Work required by this Agreement, except that the time period for completion of Work affected by such dispute shall be extended for a period of time usually not to exceed the actual time taken to resolve any good faith dispute in accordance with the procedures specified herein. All elements of the Work required by this Agreement, which are not affected by the dispute, shall continue and be completed in accordance with the applicable Schedule.
- 13.10 As soon as possible, and no later than within twenty-one (21) days of resolution of a dispute pursuant to the procedures specified in this Section, the Army shall incorporate the resolution and final determination into the appropriate plan, Schedule or procedures and proceed to implement this Agreement according to the amended plan, Schedule or procedures.
- 13.11 Resolution of a dispute pursuant to this Section of the Agreement constitutes a final resolution of any dispute arising under this Agreement. The Parties shall abide by all terms and conditions of any final resolution of dispute obtained pursuant to this Section of this Agreement.
- 13.12 A timely and good faith request for dispute resolution shall toll any assessment of stipulated penalties or application for judicial enforcement of the affected issue. If the dispute resolution process is rejected by the dispute resolution process, stipulated penalties may be assessed and accrue from the date of the original dispute, but will not be payable until a final decision is rendered by the dispute resolution process. Following an affirmative decision for the Army, no stipulated penalties will be due and owing.
- 13.13 Since the Commonwealth is not a Party to this Agreement, it shall not be entitled to initiate or participate in the dispute resolution process.

XIV. DEADLINES AND SCHEDULES

14.1 The Parties agree that all Deadlines and Schedules shall conform to the requirements set forth in CERCLA § 120.

14.2 The Parties agree to the Deadlines (and the procedure for establishing Deadlines) set forth in Appendix I for completion of the following draft Primary documents:

- (a) Terrestrial Assessment for Soils and Groundwater AOC;
- (b) RI/FS Workplan for the Charles River Sediments and Surface Water AOC;
- (c) RI Reports (including Risk Assessment);
- (d) FS Reports (including Initial Screening of Alternatives and Detailed Analysis of Alternatives);
- (e) Proposed Plans; and
- (f) Records of Decision.

14.3 The Army submitted a Draft Terrestrial Assessment to EPA and the Commonwealth on March 31, 1995. EPA and the Commonwealth shall, within thirty (30) days of receipt of the Army's draft Terrestrial Assessment, each submit to the Army written comments on the draft Terrestrial Assessment. This period may be extended by EPA for an additional fifteen (15) days. In issuing the draft Terrestrial Assessment to the Commonwealth, the Army shall notify the Commonwealth of the 30-day review period. If EPA or the Commonwealth submits comments on the draft Terrestrial Assessment in a timely manner, the Army shall submit to EPA and the Commonwealth a written response to each comment, together with a draft final Terrestrial Assessment within forty (40) days from receipt of the comments. If comments are not received from the Commonwealth within the review period, its concurrence shall be assumed and the Army shall proceed to issue the Terrestrial Assessment in draft final form. The period for issuance of the draft final Terrestrial Assessment may be extended by the Army with the concurrence of EPA for an additional seven (7) days. EPA and the Commonwealth shall, within thirty (30) days of receipt of the Army's draft final Terrestrial Assessment, each submit to the Army written comments on the draft final Terrestrial Assessment. The Terrestrial

Assessment shall be finalized pursuant to Section 7.8 hereof.

14.4 The Army submitted a draft final FS for the Soils and Groundwater AOC in February 1994. This FS, however, was prepared to meet the requirements of the Massachusetts Contingency Plan. The Army is in the process of revising this document to comply with the requirements of CERCLA and the NCP. The Draft Final FS shall be submitted to EPA and the Commonwealth forty-five (45) days after EPA has provided comments on the Draft Final Terrestrial Assessment.

14.5 EPA and the Commonwealth shall, within forty-five (45) days of receipt of the Army's draft final Feasibility Study for Soils and Groundwater, each submit to the Army written comments on the draft final Feasibility Study. This period may be extended by EPA for an additional fifteen (15) days. In issuing the draft final Feasibility Study to the Commonwealth, the Army shall notify the Commonwealth of the 45-day review period. If EPA or the Commonwealth submits comments on the draft final Feasibility Study in a timely manner, the Army shall submit to EPA and the Commonwealth a letter responding to each comment within forty-five (45) days from receipt of the comments. If comments are not received from the Commonwealth within the review period, its concurrence shall be assumed and the Army shall proceed to issue the response to EPA's comments. EPA and the Commonwealth shall, within fifteen (15) days of receipt of the Army's response to comment letter, submit to the Army any comments on the draft final Feasibility Study response to comment letter. The Army shall have thirty (30) days from receipt of these comments to prepare the final Feasibility Study for the Soils and Groundwater AOC.

14.6 Within twenty-one (21) days of issuance of each ROD issued pursuant to this Agreement, the Army shall propose deadlines for the completion of the following draft Primary Documents:

(a) Pre-remedial Design Work Plan; and

(b) 90% of Remedial Design.

If the Parties fail to agree on the Deadlines proposed pursuant to this Paragraph, the dispute shall be subject to dispute resolution in accordance with Section XIII, hereof.

- 14.7 The Army shall submit the draft RI/FS Report for each AOC or OU within six hundred and sixty (660) days after the finalization of the RI/FS Work Plan for such AOC or OU in accordance with the procedures of Section 7.8 hereof.
- 14.8 The Army shall submit a draft Proposed Plan for each AOC or OU (with the exception of the Soils and Groundwater AOC) within thirty (30) days following finalization of the RI/FS in accordance with the procedures of Section 7.8 hereof. The Army shall submit a draft Proposed Plan for the Soils and Groundwater AOC seventy-five (75) days after receipt of EPA's comments on the draft final Feasibility Study.
- 14.9 The Army shall submit the draft ROD and Responsiveness Summary for each AOC or OU within thirty (30) days of the close of the public comment period on the final Proposed Plan.
- 14.10 The Army shall, no later than fifteen (15) months after the completion of the investigation and study (ROD) commence substantial continuous on-site Remedial Action at each AOC or OU, consistent with CERCLA § 120(e).
- 14.11 Within twenty-one (21) days of the addition of an AOC or SA to the list in Appendix III of this Agreement, the Army shall propose Deadlines for an SI Work Plan and SI Report for any SA and Deadlines for all other documents listed in Paragraph 14.2 for any AOC. The proposed Deadlines shall be consistent with the time frames set forth in Paragraphs 14.5, 14.6, 14.7, 14.8, 17.2 and 17.3, hereof. Within fifteen (15) days following receipt of comments from EPA on the proposed Deadlines, the Army shall, as appropriate, make revisions and reissue the proposal. The Parties shall meet as necessary to discuss and finalize the proposed Deadlines. If the Parties agree on proposed Deadlines, the finalized Schedule shall be incorporated into the corresponding workplans. If the Parties fail to agree within thirty (30) days on the proposed Deadlines, the matter shall immediately be submitted for dispute resolution pursuant to Section XIII, (Dispute Resolution), of this Agreement. The final Schedule established pursuant to this Paragraph shall be published by EPA, and shall be added to Appendix I of this Agreement.
- 14.12 The Deadlines and Schedules set forth in this Section, or to be established, as set forth in this

Section, after the effective date of this Agreement, may be extended pursuant to Section XV, (Extensions), of this Agreement.

- ~~14.13~~ ~~The Army Project Manager shall prepare and distribute~~ to the EPA's and the Commonwealth's Project Managers a current Working Schedule for each AOC within 30 days of the effective date of this Agreement and shall update this Working Schedule quarterly, if necessary, to reflect any changes resulting from the early completion of any deliverable or the granting of an extension in accordance with the terms of ~~Sections VII, XV or XVII, hereof.~~ The Working Schedule shall set forth the projected due dates for the submittal of all deliverables required under this Agreement, including, but not limited to, the dates for submittal of draft and draft final Primary Documents, comment on Primary Documents, and issuance of Final Primary Documents. These due dates shall reflect those dates which take into consideration all past early completions and extensions, but which do not assume any future completions ahead of schedule or the granting of any future extensions or other delay resulting from dispute resolution. The Working Schedule shall be included in the Quarterly Progress Report and shall also be updated and provided at the Monthly Project Managers' Meeting, if requested by EPA at least seven (7) days prior to the meeting.
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XV. EXTENSIONS

15.1 A Deadline or Schedule may be extended by the Parties upon receipt of a timely request for extension and when good cause for the requested extension exists. Any request for extension by a Party shall be submitted in writing to the other Party and shall specify:

- (a) The Deadlines or Schedules that are sought to be extended;
- (b) The length of the extension sought;
- (c) The good cause(s) for which the extension is sought; and,
- (d) Any related Deadlines or Schedules that would be affected if the extension were granted.

15.2 Good cause exists for an extension when sought in regard to:

- (a) An event of force majeure;
- (b) A delay caused by the other Party's failure to meet any requirement of this Agreement;
- (c) A delay caused by the Commonwealth's submittal of substantive comments on a Primary or Secondary Document after the expiration of the relevant review period established in accordance with Sections 7 or 17 hereof;
- (d) A delay caused by the good faith invocation of dispute resolution, or the initiation of judicial action;
- (e) A delay caused, or which is likely to be caused, by the grant of an extension in regard to another Deadline or Schedule;
- (f) A delay caused by the need to perform Additional Work;
- (g) Any other event or series of events mutually agreed to by the Parties as constituting good cause;
- (h) Any Work stoppage within the scope of Section XII, (Removal and Emergency Actions);

- (i) A delay caused by material and previously unknown circumstances, acts, omissions or occurrences that could not have been reasonably uncovered and which materially alter the AOC such that it would require a modification of the RI/FS; and,
- (j) A proposal which will expedite the cleanup process, to the extent such proposal is consistent with (1) the protection of human health and the environment, and (2) this Agreement.

15.3 Denial of a request for extension is subject to the dispute resolution procedures of Section XIII (Dispute Resolution), hereof.

15.4 Within twenty (20) days of receipt of a request for an extension of Deadlines or Schedules, the receiving Party shall advise the requesting Party, in writing, of its position on the request. Any failure by a Party to respond within the twenty (20) day period shall be deemed to constitute concurrence in the request for extension. If the receiving Party does not concur with the requested extension, it shall include in its statement of nonconcurrence an explanation of the basis for its position.

15.5 If there is a consensus among the Parties that the requested extension is warranted, the Army shall extend the affected Deadlines or Schedules accordingly and distribute a new Schedule to the EPA Project Manager. If the extension results in the modification of Deadlines set forth in Section XIV hereof or Appendix 1 hereto, this Agreement shall be modified in accordance with Section XXIX hereof. If there is no consensus among the Parties as to whether all or part of the requested extension is warranted, the Deadlines or Schedules shall not be extended, except in accordance with the determination resulting from the dispute resolution process.

15.6 A Party must invoke dispute resolution within seven (7) days of receipt of a statement of nonconcurrence with the requested extension.

15.7 A timely and good faith request for an extension shall toll any assessment of stipulated penalties, or application for judicial enforcement of the affected Deadline or Schedule until a decision is reached on whether to approve the requested extension. If dispute resolution is invoked, and the requested extension is denied, stipulated penalties may be assessed and may accrue from the date of the original Deadline, or Schedule, but will not be payable until a final decision

is rendered by the dispute resolution process. Following the grant of an extension, an assessment of stipulated penalties or an application for judicial enforcement may be sought only to compel compliance with the Deadline or ~~Schedule most recently extended, and no stipulated~~ penalties will be due and owing as a result of a grant of extension.

XVI. FORCE MAJEURE

16.1 A force majeure shall mean any event arising from causes beyond the control of a Party that causes a delay in, or prevents the performance of, any obligation under this Agreement, including but not limited to: acts of God; fire; war; insurrection; civil disturbance; explosion; unanticipated breakage or accident to machinery, equipment or lines of pipe despite reasonably diligent maintenance; unusual delay in transportation; adverse weather conditions that could not be reasonably anticipated; inability to obtain at a reasonable cost and after exercise of reasonable diligence, any necessary authorizations, approvals, permits or licenses due to action or inaction of any non-DOD governmental agency or authority; restraint by court order or order of a public authority; delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence; and, insufficient availability of appropriated funds if the Army shall have made a timely request for such funds as part of the budgetary process set forth in Section XXV, (Funding) of this Agreement. Force majeure shall not include increased costs or expenses of Response Actions, whether or not anticipated at the time such Response Actions were initiated; or non-attainment of the Cleanup or Performance Standards set forth pursuant to Section VI, (Work to be Performed), of this Agreement.

16.2 If a force majeure event occurs which may delay or prevent the completion of any obligation of the Agreement, the Army shall notify the EPA orally of the circumstances within forty-eight (48) hours after the Army's Project Manager first knew of such event. If the EPA Project Manager is unavailable, the Army shall immediately thereafter notify the Director of the Waste Management Division, EPA Region I. Within fourteen (14) working days after the Army's Project Manager first becomes aware of such event, the Army shall supply to EPA, in writing, an explanation of the cause(s) of any actual or expected delay, the anticipated duration of any delay, and the measures taken and to be taken by the Army to prevent or minimize the delay. The Army shall exercise best efforts to avoid or minimize any delay, and any effects of a delay.

XVII. SELECTION OF REMEDIAL ACTION

- 17.1 This Section shall apply to the selection of Remedial Action(s) and any disputes relating thereto.
- 17.2 As appropriate for each AOC or OU (with the exception of the Soils and Groundwater AOC, the procedures for which are outlined in Section 17.3 below), the Army shall submit a draft Proposed Plan within 30 days of finalization of the FS in accordance with the procedures of Section 7.8, hereof. ~~EPA and the Commonwealth shall, within thirty~~ (30) days of receipt of the Army's draft Proposed Plan, each submit to the Army written comments on the draft Proposed Plan. This period may be extended by EPA for an additional fifteen (15) days. In issuing the draft Proposed Plan to the Commonwealth, the Army shall notify the Commonwealth of the 30-day review period. If EPA or the Commonwealth submits comments on the draft Proposed Plan in a timely manner, the Army shall submit to EPA and the Commonwealth a written response to each comment, together with a draft final Proposed Plan, within twenty-one (21) days from receipt of the comments. If comments are not received from the Commonwealth within the review period, its concurrence shall be assumed and the Army shall proceed to issue the Proposed Plan in draft final form. The period for issuance of the draft final Proposed Plan may be extended by the Army with the concurrence of EPA for an additional seven (7) days. ~~The Army and EPA shall have twenty-one (21) days (with a seven (7) day extension) from receipt by EPA and the Commonwealth of the draft final Proposed Plan to reach agreement on the final Proposed Plan.~~
- 17.3 The Army shall submit a draft Proposed Plan for the Soils and Groundwater AOC seventy-five (75) days after receipt of EPA's comments on the draft final Feasibility Study in accordance with Section 14.8 hereof. ~~EPA and the Commonwealth shall, within twenty-one (21) days of receipt of the Army's draft Proposed Plan, each submit to the Army written comments on the draft Proposed Plan. This period may be extended by EPA for an additional seven (7) days. In issuing the draft Proposed Plan to the Commonwealth, the Army shall notify the Commonwealth of the 21-day review period. If EPA or the Commonwealth submits comments on the draft Proposed Plan in a timely manner, the Army shall submit to EPA and the Commonwealth a written response to each comment, together with a draft final Proposed Plan, within thirty (30) days from receipt of the comments. If comments are not received from the Commonwealth within the review period, its concurrence~~

shall be assumed and the Army shall proceed to issue the Proposed Plan in draft final form. The period for issuance of the draft final Proposed Plan may be extended by the Army with the concurrence of EPA for an additional seven (7) days. Within twenty-one (21) days of receipt of the draft final Proposed Plan, EPA and the Commonwealth shall provide written comments on the draft final Proposed Plan to the Army. Within twenty-one (21) days of receipt of comments on the draft final Proposed Plan, the Army shall prepare the final Proposed Plan.

17.4 The Proposed Plan shall contain a statement of the preferred Remedial alternative(s). The RI/FS and Proposed Plan shall be distributed to the public, and the Army will hold a public information meeting to discuss the preferred alternative for each AOC or OU. A public comment period will be announced, and a public hearing will be held by the Army to receive comments on the RI/FS and Proposed Plan for each AOC or OU. Copies of all written and oral public comments received shall be provided to EPA and the Commonwealth. Following public comment, the Army, in consultation with EPA and the Commonwealth, may modify the FS or Proposed Plan based on the comments received. Upon request by EPA, modifications may be made by the Army, and the modified documents will be reviewed by EPA and the Commonwealth.

17.5 Based on the RI/FS, Proposed Plan and comments received from EPA, the Commonwealth and the public, the Army shall draft and submit to EPA and the Commonwealth, a draft ROD for each AOC or OU within thirty (30) days of the close of the public comment period. The draft ROD will include a Responsiveness Summary in accordance with applicable EPA guidance.

17.6 For each AOC or OU (with the exception of the Soils and Groundwater AOC, the procedures for which are provided in Section 17.7 below), EPA and the Commonwealth shall, within forty-five (45) days of receipt of the Army's draft Record of Decision, each submit to the Army either (i) written comments on the draft Record of Decision or (ii) a letter indicating that they will concur in the document. In issuing the draft ROD to the Commonwealth, the Army shall notify the Commonwealth of the 45-day review period. If EPA or the Commonwealth submits comments on the draft Record of Decision in a timely manner, the Army shall submit to EPA and the Commonwealth a written response to each comment, together with a revised draft Record of Decision, within thirty (30) days from receipt of the comments. If comments are not received from the Commonwealth within the review period, its concurrence shall be assumed and the Army shall proceed to issue the

ROD in draft final form. The Army and EPA shall have thirty (30) days from receipt by EPA and the Commonwealth of the revised draft Record of Decision to reach agreement on the draft final Record of Decision. If agreement is reached on the draft final ROD within thirty (30) days, the Army shall have an additional thirty (30) days to submit a final executed ROD to EPA for signature. If the Parties are unable to reach agreement on the draft final ROD, selection of a Remedial Action shall be made by the EPA Administrator, and EPA shall then prepare the final ROD after consultation with the Commonwealth consistent with CERCLA § 104(c)(2).

- 17.7 Upon receipt of the Army's draft Record of Decision for the Soils and Groundwater AOC, EPA and the Commonwealth shall, within thirty (30) days of receipt of the Army's draft Record of Decision, each submit to the Army either (i) written comments on the draft Record of Decision or (ii) a letter indicating that they will concur in the document. In issuing the draft ROD to the Commonwealth, the Army shall notify the Commonwealth of the 30-day review period. If EPA or the Commonwealth submits comments on the draft Record of Decision in a timely manner, the Army shall submit to EPA and the Commonwealth a written response to each comment, together with a revised draft Record of Decision, within thirty (30) days from receipt of the comments. If comments are not received from the Commonwealth within the review period, its concurrence shall be assumed and the Army shall proceed to issue the ROD in draft final form. Within twenty-one (21) days of receipt of the draft final Record of Decision, EPA and the Commonwealth shall each submit comments on the draft final Record of Decision to the Army. The Army shall, within twenty-one (21) days from receipt of comments on the draft final Record of Decision, submit the final Record of Decision to EPA for signature. If the Parties are unable to reach agreement on the draft final ROD, selection of a Remedial Action shall be made by the EPA Administrator, and EPA shall then prepare the final ROD after consultation with the Commonwealth consistent with CERCLA § 104(c)(2).
- 17.8 After consultation with the Commonwealth, EPA shall issue the ROD for the selected Remedial Action, and the RI/FS phase shall be deemed completed.
- 17.9 The selection of Remedial Action(s) by the EPA Administrator shall be final, and not subject to dispute by the Army.
- 17.10 Following issuance of each ROD, the Army shall submit all workplans, other plans or documents described in

Paragraph 14.4 hereof, and shall perform all Remedial Design (RD) requirements, in compliance with the Schedule agreed to by the Parties pursuant to Paragraph 14.4 hereof.

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- 17.11 Once the ROD is approved by EPA, the Army shall implement the Remedial Action(s) in accordance with the requirements of this Agreement.
- 17.12 The Pre-Remedial Design Work Plan and the ninety percent (90%) Remedial Design are Primary Documents subject to the review and comment process in Section VII, (Consultation with EPA). The Army shall implement the Remedial Design in accordance with the requirements and Schedules set forth in CERCLA, CERCLA guidance and policy, and the Schedule agreed to by the Parties pursuant to Paragraph 14.4 hereof.
- 17.13 Upon approval by EPA, all terms, conditions, Deadlines, Schedules, proposed Work, and RODs relating to any AOC or OU required by this Section shall be incorporated into this Agreement and become an enforceable part hereof.
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XVIII. EXEMPTIONS

18.1 The obligation of the Army to comply with the provisions of this Agreement may be relieved by (i) a Presidential Order or exemption issued pursuant to the provisions of CERCLA § 120(j)(1), 42 U.S.C. § 9620(j)(1), or RCRA Section § 6001, 42 U.S.C. § 6961; (ii) a determination rendered pursuant to the dispute resolution procedures set forth in Section XIII, hereof; or (iii) the order of an appropriate court.

XIX. EPA CERTIFICATION

19.1 When the Army determines that all Remedial Actions at the Site have been completed in accordance with the requirements of this Agreement, it shall so advise EPA in writing, and shall request certification from EPA that the Remedial Actions have been completed in accordance with the requirements of this Agreement. The Army shall schedule and conduct a pre-certification inspection to be attended by the Army, EPA and the Commonwealth. Such inspection shall be followed within thirty (30) days by a written report signed by the Army's Project Manager, and by a Registered Professional Engineer certifying that all Remedial Actions have been completed in full satisfaction of the pertinent requirements of this Agreement. Within ninety (90) days of receipt of the Pre-certification Inspection Report, EPA, in consultation with the Commonwealth, shall, in writing:

- (a) Certify that all Remedial Actions have been completed in accordance with this Agreement based on conditions known at the time of certification and limited by Section XXIII, (Other Claims); or,
- (b) Deny the Army request for certification, stating in full, the basis of the denial.

19.2 If EPA denies the Army request for certification that all Remedial Actions have been completed in accordance with this Agreement, the Army may invoke dispute resolution to review EPA's determination. If EPA denial of certification is upheld in dispute resolution, EPA shall describe the Additional Work needed to bring the Remedial Action into compliance with the requirements of this Agreement. After performing such Additional Work, the Army shall resubmit a request for certification to EPA. EPA, in consultation with the Commonwealth, shall then grant or deny certification pursuant to the process set forth in this Section.

19.3 In the event that EPA determines that Additional Work, including Additional Work identified in Paragraph 19.2 and during the CERCLA § 121(c) review process, is necessary to meet the Performance and Cleanup Standards described in any ROD, or is necessary to protect human health and the environment, the Army shall complete such Work in accordance with the standards, specifications, and Schedules approved or established by EPA. Unless otherwise stated by EPA, within ninety (90) days of the Army's receipt of notice that Additional Work is necessary, or otherwise agreed to by the Parties, the Army shall submit

for EPA's approval, a supplemental RA Workplan for the Additional Work. The Plan shall conform to the requirements of this Agreement, the National Contingency Plan, Superfund Remedial Design and Remedial Action Guidance and any additional guidance documents provided by EPA. Upon approval pursuant to the procedures set forth in Section VII, (Consultation with EPA), the Army shall implement the Plan for Additional Work in accordance with the Schedule contained therein.

XX. STATUTORY COMPLIANCE/RCRA, CERCLA INTEGRATION

- 20.1 The Parties intend to integrate the Army's CERCLA response obligations and RCRA corrective action obligations which relate to the release(s) of Hazardous Substances, hazardous wastes, pollutants, or contaminants covered by this Agreement. Therefore, the Parties intend that activities covered by this Agreement will achieve compliance with CERCLA, 42 U.S.C. § 9601 et. seq, and satisfy the corrective action requirements of RCRA § 3004(u) and (v), 42 U.S.C. § 6924(u) and (v), for RCRA permits, and § 3008(h), 42 U.S.C. § 6928(h) for interim status facilities; RCRA § 7003, 42 U.S.C. § 6973; and meet or exceed all Applicable or Relevant and Appropriate Federal and State laws and regulations to the extent required by CERCLA § 121, 42 U.S.C. § 9621.
- 20.2 Based upon the foregoing, the Parties intend that any Remedial Action selected, implemented and completed under this Agreement will be protective of human health and the environment such that there shall be no further need for corrective action under RCRA for remediation of releases covered by this Agreement. The Parties agree that with respect to releases of Hazardous Substances covered by this Agreement that are associated with the Site, RCRA shall be considered an Applicable or Relevant and Appropriate Requirement pursuant to CERCLA § 121. Any releases or other hazardous waste activities not covered by this Agreement remain subject to all applicable State and Federal environmental requirements.
- 20.3 The Parties recognize that the requirement to obtain permits for Response Actions undertaken pursuant to this Agreement shall be as provided for in CERCLA and the NCP. The Parties further recognize that ongoing hazardous waste management activities at AMTL require the issuance of permits under Federal and State law. This Agreement does not affect the requirement to obtain such permits. When a permit is issued to AMTL for ongoing hazardous waste management activities, the EPA shall reference and incorporate any appropriate provisions, including appropriate Schedules (and the provision for extension of such Schedules), of this Agreement into such permit. With respect to those portions of this Agreement incorporated by reference into permits, the Parties intend that judicial review of the incorporated portions shall, to the extent review is authorized by law, only be reviewed under the provisions of CERCLA.
- 20.4 Nothing in this Agreement shall alter the Army's authority with respect to Removal Actions conducted pursuant to

CERCLA Section 104, 42 U.S.C. Section 9604, consistent with Section XII, (Removal and Emergency Actions) of this Agreement. .

XXI. ENFORCEABILITY

- 21.1 Upon the effective date of this Agreement, any standard, regulation, condition, requirement or order which has become effective under CERCLA and is incorporated into this Agreement is enforceable by any Person pursuant to CERCLA § 310, and any violation of such standard, regulation, condition, requirement or order will be subject to civil penalties under CERCLA §§ 310(c) and 109.
- 21.2 All Schedules, Deadlines, terms and conditions associated with the PA/SI, RI/FS, and RD/RA shall be enforceable by any Person pursuant to CERCLA § 310, and any violation of such Schedule or Deadlines will be subject to civil penalties under CERCLA §§ 310(c) and 109.
- 21.3 All terms, conditions, and Schedules of this Agreement which relate to Areas of Contamination, Operable Units or final Remedial Actions, including corresponding Deadlines or Schedules, and all Work associated with the Areas of Contamination, Operable Units or final Remedial Actions, shall be enforceable by any Person pursuant to CERCLA § 310(c), and any violation of such terms or conditions will be subject to civil penalties under CERCLA §§ 310(c) and 109.
- 21.4 Any final resolution of a dispute pursuant to Section XIII, (Dispute Resolution), of this Agreement which establishes a condition, requirement, order, Deadline or Schedule shall be enforceable by any Person pursuant to CERCLA § 310(c), and any violation of such term, condition, Deadline or Schedule will be subject to civil penalties under CERCLA §§ 310(c) and 109.
- 21.5 Nothing in this Agreement shall be construed as authorizing any Person to seek judicial review of any Remedial Action or Work where review is barred by any provision of CERCLA, including CERCLA § 113(h).
- 21.6 Nothing in this Agreement shall be construed as a restriction or waiver of any rights EPA may have under CERCLA, including but not limited to any rights under CERCLA §§ 113 and 310, 42 U.S.C. §§ 9613 and 9659. The Army does not waive any rights it may have under CERCLA § 120, SARA § 211 and Executive Orders 12580 and 11735.
- 21.7 The Parties agree to exhaust their rights under Section XIII, (Dispute Resolution) prior to exercising any rights to judicial review that they might otherwise have.

21.8 The Parties agree that both Parties shall have the right to enforce the terms of this Agreement.

XXII. STIPULATED PENALTIES

- 22.1 In the event that the Army fails to submit a Primary Document set forth in this Agreement to EPA pursuant to the appropriate Schedules or Deadlines in accordance with the requirements of this Agreement, or fails to comply with a term or condition of this Agreement which relates to an interim or final Remedial Action, EPA may assess a stipulated penalty against the Army. However, the EPA shall notify the Army of any request for stipulated penalties within thirty (30) days of the violation. A stipulated penalty may be assessed in an amount not to exceed \$5,000 for the first week (days one (1) through seven (7), or part thereof) and \$10,000 for each additional week (or part thereof) for which the violation described in this Paragraph occurs.
- 22.2 Upon determining that the Army has violated the Agreement as described in Paragraph 22.1, EPA shall so notify the Army in writing. If the violation in question is not already subject to dispute resolution at the time such notice is received, the Army shall have fifteen (15) days after receipt of the notice to invoke dispute resolution on the question of whether the violation did in fact occur. The Army shall not be liable for the stipulated penalty assessed by the EPA, if the violation is determined, through the dispute resolution process, not to have occurred. No assessment of a stipulated penalty shall be final until the conclusion of dispute resolution procedures related to the assessment of the stipulated penalty.
- 22.3 The annual reports required by CERCLA § 120(e)(5), 42 U.S.C. § 9620(e)(5), shall include, with respect to each final assessment of a stipulated penalty against the Army under this Agreement, each of the following:
- (a) The facility responsible for the failure;
 - (b) A statement of the facts and circumstances giving rise to the failure;
 - (c) A statement of any administrative or other corrective action taken at the facility, or a statement of why such measures were determined to be inappropriate;
 - (d) A statement of any additional action taken by or taken at the facility to prevent recurrence of the same type of failure; and,

- (e) The total dollar amount of the stipulated penalty assessed for the particular failure.

- 22.4 Stipulated penalties assessed pursuant to this Section shall be payable to the Hazardous Substances Response Trust Fund only in the manner and to the extent expressly provided for in Acts authorizing funds for, and appropriations to the DOD. Any stipulated penalty paid on behalf of AMTL shall be distributed to the Hazardous Substance Response Trust Fund.
- 22.5 In no event shall this Section give rise to a stipulated penalty in excess of the amount set forth in CERCLA § 109, 42 U.S.C. § 9609.
- 22.6 This Section shall not affect the Army's ability to obtain an extension of a Deadline or Schedule pursuant to Section XV, (Extensions), of this Agreement.
- 22.7 Nothing in this Agreement shall be construed to render any officer or employee of the Army personally liable for the payment of any stipulated penalty assessed pursuant to this Section.
- 22.8 In the event that the Army fails to pay any stipulated penalty, as provided hereunder, based upon the lack of appropriated or authorized funds, the Army shall inform the EPA of the specific basis for failure to pay.

XXIII. OTHER CLAIMS

- 23.1 Subject to the limitations set forth in Section XX, ~~(Statutory Compliance/CERCLA/RCRA Integration)~~, nothing in this Agreement shall restrict EPA from taking any action under CERCLA, RCRA, or other Federal statutes for any matter not specifically part of the Work performed under CERCLA which is the subject matter of this Agreement.
- 23.2 Nothing in this Agreement shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership, agent or corporation not a signatory to this Agreement for any liability it may have arising out of, or relating to the generation, storage, treatment, handling, transportation, release, or disposal of any Hazardous Substances, hazardous wastes, pollutants, or contaminants found at, taken to, taken from, or emanating from the Site. EPA shall not be held as a party to any contract entered into by the Army to implement the requirements of this Agreement.
- 23.3 This Agreement does not constitute any decision or pre-authorization by EPA of funds under CERCLA § 111(a)(2), 42 U.S.C. § 9611(a) for any person, agent, contractor or consultant acting for the Army.
- 23.4 This Agreement does not affect any claim for:
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- (a) ~~Natural resources damage assessments, or for damage to natural resources;~~
 - (b) Claims based on a failure or refusal by the Army to meet a requirement of the Agreement;
 - (c) Liability arising from the past, present, or future disposal, release, or threatened releases of Hazardous Substances, pollutants, contaminants, or waste material outside of the Site and not attributable to the Site; and,
 - (d) Liability for the disposal of any Hazardous Substances, pollutants, contaminants, or waste material taken from the Site.
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- 23.5 The Army reserves the right to raise or assert any defense, whether procedural or substantive, in law or in equity, or to raise any issue as to jurisdiction or standing of any Party, or any other matter outside the scope of this Agreement, which the Army might otherwise be entitled to raise or assert.

XXIV. TERMINATION AND SATISFACTION

24.1 The provisions of this Agreement shall be deemed satisfied upon a consensus of the Parties that the Army has completed its obligations under the terms of this Agreement. Following EPA certification of the Remedial Actions at the Site pursuant to Paragraphs 19.1 and 19.2 of Section XIX, (EPA Certification), any Party may propose, in writing, the termination of this Agreement upon a showing that the objectives of this Agreement have been satisfied. A Party opposing termination of this Agreement shall serve its objections upon the proposing Party within thirty (30) days of receipt of the proposal.

24.2 Upon termination of this Agreement, the Party which proposed termination shall place a public notice announcing termination in two (2) major local newspapers of general circulation and in the Federal Register.

XXV. FUNDING

- 25.1 The Parties to this Agreement expect that all obligations of the Army arising under this Agreement will be fully funded. The Army agrees to seek sufficient funding through the Department of Defense (DOD) budgetary process to fulfill its obligation under this Agreement.
- 25.2 In accordance with CERCLA § 120(e)(5)(B), 42 U.S.C. § 9620(e)(5)(B), the Army shall include in its annual report to Congress the specific cost estimates and budgetary proposals associated with the implementation of this Agreement.
- 25.3 The source of funds for activities required by this Agreement will be the Department of Defense "Base Closure Account," Pub. L. No. 100-526, pursuant to Pub. L. No. 101-510, §2923, or other accounts authorized and appropriated by Congress to be used for these purposes, and allocated by the Department of Defense to the Army. Should the Base Closure Account appropriation for these activities or other accounts authorized and appropriated by Congress to be used for these purposes be inadequate in any year to meet the total Army Base Closure Account environmental restoration requirements, the DOD shall follow a standardized DOD prioritization process which allocates that year's appropriations in a manner which maximizes the protection of human health and the environment at the military facilities that are then scheduled for closure. The standardized prioritization model shall be developed and utilized with the assistance of EPA and the States, based on the example of the prioritization model which is utilized for the "Environmental Restoration, Defense" ("DERA") appropriation for CERCLA activities at other non-closing military facilities. In the event that the DERA is ever an authorized and appropriated source of funds for activities required by this Agreement, its standardized prioritization model shall be followed in allocating funding for these activities.
- 25.4 Any requirement for the payment or obligation of funds, including stipulated penalties, by the Army, established by the terms of this Agreement shall be subject to the availability of appropriated funds, and no provision herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341. In cases where payment or obligation of funds would constitute a violation of the Anti-Deficiency Act, the dates established requiring the payment or obligation of such funds shall be appropriately adjusted.

25.5 If appropriated funds are not available to fulfill the Army obligations under this Agreement, EPA reserves the right to initiate an action against any other person, or to take any Response Action, which would be appropriate absent this Agreement.

XXVI. COMMUNITY RELATIONS

- 26.1 The Parties agree to comply with all EPA public participation requirements in accordance with CERCLA, the NCP and other applicable guidance. Community Relations activities shall be conducted by the Army in consultation with EPA during activities conducted at AMTL, as outlined in Section VII, (Consultation with EPA).
- 26.2 The Army has developed a Community Relations Plan (CRP) and is in the process of revising the CRP to comply with CERCLA, the NCP and EPA policy and guidance. The Army shall have primary responsibility for implementation of the CRP, subject to oversight by EPA. EPA will be provided the opportunity to review and comment on any revision or amendment to the CRP. A copy of the revised CRP will be available for review at the information repository described in Paragraph 26.3, below.
- 26.3 In accordance with requirements of CERCLA § 117(d), 42 U.S.C. § 9617(d), a public information repository has been established at the Watertown Public Library for public inspection. The Army shall place all Primary Documents as listed in Section XIV, (Deadlines and Schedules), in the information repository upon finalization and release for comment. This repository may be maintained at the same location as the Administrative Record which will be located at or near AMTL pursuant to Paragraph 26.4.
- 26.4 The Army shall establish and maintain an Administrative Record at or near AMTL, in accordance with CERCLA § 113(k), 42 U.S.C. § 9613. The Administrative Record developed by the Army shall be available to the public and regularly updated. A copy of the Index to the Administrative Record and its update will be provided to EPA and the Commonwealth.
- 26.5 EPA may furnish documents to the Army which they shall place in the Administrative Record file to ensure that the Administrative Record includes all documents that form the basis for the selection of the Response Action.

XXVII. PUBLIC COMMENT ON THIS AGREEMENT

- 27.1 Within fifteen (15) days after the date the last Party executes this Agreement, the Army shall announce the availability of this Agreement to the public for a thirty (30) day review and comment period, including notice of such availability to be published in at least two (2) major local newspapers of general circulation. The procedures of 40 C.F.R. Parts 124.10(c) and 124.10(d) shall apply. Comments received shall be promptly transmitted to the other Party and the Commonwealth after the end of the comment period. The Parties shall review such comments and shall determine within thirty (30) days whether or not modifications to the Agreement should be made.
- 27.2 If the Parties agree that the Agreement shall be made effective without any modifications, EPA shall transmit a copy of the signed Agreement to the Army and the Commonwealth, and shall notify the Army and the Commonwealth in writing that the Agreement is effective as of the date of the notification.
- 27.3 If the Parties agree that modifications are needed, they shall modify the Agreement by mutual consent within sixty (60) days after the expiration of the public comment period. EPA shall determine whether the modified Agreement requires additional public notice and comment pursuant to any provision of CERCLA. If EPA determines that no additional notice and comment is required, EPA shall transmit a copy of the modified Agreement to the Army and shall notify the Army in writing that the modified Agreement is effective as of the date of the notification. If the Parties amend the Agreement within the sixty (60) day period, and if EPA concludes that such modifications require that the public receive additional opportunity for notice and comment, such additional notice and comment shall be provided consistent with the provisions stated in Paragraph 27.1 above. If the Parties agree, after such additional notice and comment has been provided, that the Agreement does not require any further modification, EPA shall send a copy of the agreed upon Agreement to the Army and the Commonwealth, and shall notify the Army and the Commonwealth that the Agreement is effective as of the date of the notification.
- 27.4 If, sixty (60) days after the expiration of the thirty (30) day comment period, the Parties have not reached an agreement on:
- (a) Whether modifications to the Agreement are needed;

(b) What modifications to the Agreement are required;

(c) Any language, provisions, Schedules, Work to be Performed or context of the Agreement or any Appendices to the Agreement; or,

(d) Whether additional public notice and comments are required,

then the matters which are in dispute shall be resolved by the dispute resolution procedures of Section XIII, (Dispute Resolution). For the purpose of this Section, ~~the Agreement shall not be effective while the dispute resolution proceedings are underway.~~ The Parties reserve the right to withdraw from the Agreement by providing written notice to the other Party within twenty (20) days after receiving the notice of the resolution of the matters in dispute. Failure by a Party to provide such a written notice of withdrawal within this twenty (20) day period shall act as a waiver of the right of the Party to withdraw from the Agreement. If no Party withdraws from the Agreement within this twenty (20) day period, EPA shall thereafter send a copy of the final Agreement to the Army and the Commonwealth, and shall notify the Army and the Commonwealth that the Agreement is effective. The effective date of the Agreement shall be the date that the Army receives notice from EPA.

XXVIII. PRESERVATION OF RECORDS

28.1 Despite any document retention policy to the contrary, the Parties shall preserve, during the pendency of this Agreement and for a minimum of ten (10) years after its termination, or the conclusion of any litigation relating to the Agreement, whichever is later, all records and documents in their possession of whatever kind, nature or description retained in the ordinary course of business which relate to the actions carried out pursuant to this Agreement. The Army agrees to require its contractors, assigns and agents to turn over, as part of the contract, the above described records to the Army at the completion of the contract. After this ten (10) year period, each Party shall provide the other Party with a list of documents to be destroyed at least ninety (90) days prior to destruction of any such documents. Upon request by either Party, the requested Party shall make available such records or copies of such records, unless withholding is authorized and determined appropriate by law.

XXIX. AMENDMENT OR MODIFICATION OF AGREEMENT

- 29.1 Except as provided in Section VIII, (Project Managers), and Paragraph 8.4, (regarding minor field modifications), this Agreement can be amended or modified solely upon the written consent of the Parties. Such amendments or modifications shall have as the effective date that date on which they are signed by both Parties, and notice thereof is provided to each signatory pursuant to Section VII, (Consultation with EPA).
- 29.2 The Party initiating the amendment of this Agreement shall propose in writing the amendment for distribution and signature of the other Party.
- 29.3 Notice and a summary of any amendment or modification to this Agreement relating to a Remedial Action which the Parties mutually agree will not significantly effect the authority or obligations established under this Agreement, shall be published in two (2) major local newspapers of general circulation. Any amendments or modifications to this Agreement which the Parties mutually agree will significantly effect authority or obligations established under this Agreement, shall be published in two major local newspapers of general circulation and the public shall be given an opportunity to comment in a manner consistent with Section XXVII (Public Comment On This Agreement). In the event the Parties cannot mutually agree, the amendments or modifications shall be treated as significant changes.

XXX. EFFECTIVE DATE

30.1 This Agreement shall become effective in accordance with
~~Section XXVII, (Public Comment On this Agreement).~~

30.2 Any Deadline, Schedule, or ROD required by this Agreement
is effective upon finalization pursuant to Section XIV,
(Deadlines and Schedules) and Section XVII, (Selection of
Remedial Action) hereof, and is hereby incorporated into
this Agreement upon such finalization.

XXXI. NOTICES AND SUBMISSIONS

31.1 Whenever, under the terms of this Agreement, written ~~notice is required to be given or a report or other~~ document is required to be sent by one Party to another, it shall be directed to the Parties' and the Commonwealth's Project Managers at the addresses specified below, unless those individuals or their successors give written notice of a change to the other Parties. Written notice as specified herein and in accordance with Sections XIV, (Deadlines and Schedules) of this Agreement shall ~~constitute complete satisfaction of any written notice~~ requirement of the Agreement with respect to the EPA, the Commonwealth, and the Army, respectively.

As to the EPA:

Meghan F. Cassidy
Environmental Protection Agency
Region 1
JFK Federal Building
Boston, MA. 02203-2211
Mailstop: HAN-CAN1

As to the Commonwealth:

Anne Malewicz
Branch Chief
Federal Facilities Section
Bureau of Waste Site Cleanup
Department of Environmental Protection
One Winter Street
5th Floor
Boston, MA 02108

As to the Army:

U.S. Army Materials Technology Laboratory
Attn: AMSRL-OP-RK-WT (Mr. Chase)
405 Arsenal Street
Watertown, MA 02172-0001

XXXII. QUARTERLY PROGRESS REPORTS

32.1 The Army shall provide written Quarterly Progress Reports to EPA and the Commonwealth, unless otherwise agreed to by the Parties. At a minimum these progress reports shall:

- (a) Include all results of sampling (including screening data), tests, and all other data (or summary thereof) received or generated and verified by the Army during the reporting period;
- (b) Include all activities completed pursuant to this Agreement during the past quarter as well as such actions and plans which are scheduled for the next quarter;
- (c) Include the updated Working Schedule as provided in Section 14.11, hereof;
- (d) Describe any delays; the reasons for such delays; anticipated delays; concerns over possible Schedule implementation or problems that arise in the execution of the Workplan during the quarter; and any steps that were taken to alleviate the delays or problems; and
- (e) Detail permit(s) status.

If any of the information set forth in subparagraphs (a) through (d) above has been submitted by the Army to EPA in the context of other reports or deliverables within the three months preceding the submittal of the progress report, the Army may simply reference the relevant deliverable rather than resubmitting the information in the progress report.

32.2 Each previous quarter's report(s) shall be submitted to EPA and the Commonwealth by the 20th day of each month following the last day of each quarter (February 20, May 20, August 20, and November 20).

XXXIII. FIVE YEAR REVIEW

- 33.1 Consistent with 42 U.S.C. § 9621(c), and in accordance with this Agreement, ~~if a selected Remedial Action results~~ in any Hazardous Substance, pollutants, or contaminants remaining at an AOC, the Parties shall review each such Remedial Action at least every five (5) years after the initiation of the selected Remedial Action at each such AOC or OU to assure that human health and the environment are being protected by the Remedial Action.
- 33.2 If, upon such review, it is the conclusion of the Parties that Additional Work for any Remedial Action is appropriate at the AOC in accordance with 42 U.S.C. §§ 9604 or 9606, the Army shall implement such Additional Work pursuant to Paragraph 19.3 herein, except for emergency actions which shall be governed by Section XII, (Removal and Emergency Actions).
- 33.3 ~~Any Parties' dispute regarding the need for or the scope~~ of Additional Work to a Remedial Action shall be resolved under Section XIII, (Dispute Resolution), of this Agreement and enforceable hereunder.
- 33.4 Any Additional Work agreed upon pursuant to this Section shall be made a part of this Agreement.
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XXXIV. RESERVATION OF RIGHTS FOR RECOVERY OF EPA EXPENSES

34.1 The Parties agree to amend this Agreement at a later date in accordance with any subsequent Federal legislation or Presidential Orders concerning the issue of EPA cost reimbursement. Pending such resolution, EPA reserves any rights it may have with respect to cost reimbursement.

XXXV. QUALITY ASSURANCE

35.1 In order to provide Quality Assurance and maintain Quality Control regarding all field Work and sample collection performed pursuant to this Agreement, the Army agrees to follow EPA criteria, guidance and policy with respect to Quality Assurance and Quality Control (QA/QC), or to submit equal or more rigorous Army QA/QC requirements for EPA review. Review of proposed alternative QA/QC procedures shall be accomplished in accordance with Paragraph 7.6 of this Agreement. The Army agrees to designate a Quality Assurance Officer (QAO), who will ensure that all Work is performed in accordance with EPA approved Work Plans, Sampling Plans and QAPPs. The QAO shall maintain for inspection a log of Quality Assurance field activities and provide copies to EPA and the Commonwealth upon request.

35.2 To ensure compliance with the QAPP, the Army, upon request by EPA, shall arrange for access to all laboratories performing analysis on behalf of the Army pursuant to this Agreement.

XXXVI. RELEASE OF RECORDS

- 36.1 The Parties may request of one another access to any record or document. If the Party that is the subject of the request (the receiving Party) has the record or document, that Party shall provide access to the record or document. However, no access to or copies of records or documents need be provided, if the record or document is subject to claims of attorney-client privilege, attorney work product, or properly classified for national security under law or executive order. If a requested document is subject to any Federal nondisclosure statute, release of that document shall be processed in accordance with said Federal nondisclosure statutes and appropriate regulations.
- 36.2 Subject to CERCLA § 120 (j)(2), 42 U.S.C. § 9620 (j)(2), any document required to be provided by Section VII, (Consultation with EPA), and analytical data showing test results will always be releasable in final draft form and no exemption shall be asserted by either Party.
- 36.3 A determination to withhold a document for one of the reasons specified above shall not be subject to Section XIII, (Dispute Resolution). Any Party objecting to the other Party's determination may pursue the objection through the determining Party's appeal procedures.
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XXXVII. TRANSFER OF REAL PROPERTY

37.1 It is understood that the Army is required to close AMTL under the Defense Authorization Amendments and Base Realignment and Closure Act, Pub. L. No. 100-526, and in connection therewith may be transferring real property at the Site.

37.2 (a) The Army shall not enter into any contract for the sale or other transfer of real property owned by the United States at AMTL unless:

(i) such transaction is completed in accordance with the requirements of Section 120(h) of CERCLA, 42 U.S.C. 9620(h), as amended by the Community Environmental Response Facilitation Act (CERFA), Pub. L. No. 102-426, any amendments thereto, and regulations thereunder, to the extent applicable, or in accordance with the requirements of Public Law 103-160, section 2903, and applicable regulations thereunder; and

(ii) the Army complies with the requirements of Paragraphs 9.9 and 37.3 of this Agreement in connection with such transaction.

(b) In cases where the Army enters into a contract for the sale or other transfer of real property owned by the United States at AMTL, the Army recognizes and acknowledges a continuing obligation under CERCLA and this Agreement to ensure that all Remedial Action necessary to protect human health and the environment due to past or future releases of Hazardous Substances, contaminants or pollutants resulting from Army activities at AMTL will be taken on such property, except to the extent transfer of property is to a redevelopment authority in accordance with Public Law 103-160, section 2903, and applicable regulations thereunder. Such obligations exist where:

(i) the transaction involves a sale of real property completed in accordance with CERCLA Section 120(h), 42 U.S.C 9620(h), where such property includes all or a portion of an AOC; or

(ii) the transaction involves a sale of real property which does not include an AOC at the time of the transaction, if such property or any portion of it later becomes an AOC under this Agreement.

- (c) The Army recognizes and acknowledges that where it has the obligation to take Remedial Action pursuant to its obligations under CERCLA and this Agreement, as provided in Paragraph 37.2(b) above, the party to whom the Army transfers an interest, including successors in interest and lessees and sublessees, will not assume, as between the parties to such transfer, any liability or responsibility for Remedial Actions which are necessary due to releases of Hazardous Substances, pollutants or contaminants resulting from Army activities at AMTL.

37.3 The Army shall include, in any deed or lease made by the Army evidencing any transaction involving an interest or right in real property relating to AMTL, provisions:

- (i) notifying the transferee of the existence of this Agreement;
- (ii) notifying the transferee that the Army, the EPA and the State, and their agents, employees and contractors, shall have the rights of access which are set forth in Section 9.1 hereof to and over the transferred property, including such rights of access as may be necessary to implement any Response Action on the transferred property or at the AMTL site, including any additional Response Action found to be necessary after the date of such transaction;
- (iii) requiring that the transferee not use the property in a way that would interfere with or impede the Response Action at the AMTL site and on the transferred property, and that the transferee give prior notice to the Army, the EPA and the State of any construction, alterations or similar work taking place before the Remedial Action is complete (as determined below), that may affect the Response Action at the AMTL site;
- (iv) requiring that the provisions of (i)-(iii), above, be included in the documents evidencing a subsequent transaction relating to such property taken prior to completion of the Remedial Action (as determined below); and
- (v) requiring that all transferees involved in transactions relating to such property prior to completion of the Remedial Action (as determined below), provide copies of the instrument evidencing such transaction to the State and the EPA (and to the Army, in those transactions where

the Army is not a party) by certified mail within fourteen (14) days after the effective date of such transaction.

Completion of the Remedial Action, for purposes of subsections (iii) - (v) above, shall mean that time when a Remedial Action Completion Report (as defined in Section 3.1 (aa), above) has been made final with respect to the property being transferred, or any other time mutually agreed to between EPA and the Army.

The Army shall provide to EPA and the State a copy of the generic form of these deed or lease provisions that it will use in any deed or lease transferring an interest or right in real property relating to AMTL at least thirty (30) days prior to the first use of a deed or lease. Such generic form shall include provisions which meet the requirements of Section 37.3 (i) through (v) above. If there is a question concerning whether the provisions included in the generic form meet the requirements of this Section 37.3, a dispute can be raised within fourteen (14) days after the generic form is received by EPA. For disputes under this Section 37.3 only and without expectation of application to any other disputes raised pursuant to this Agreement, the dispute resolution procedures of Section XIII of this Agreement shall not apply. Instead, the dispute will be submitted to the Regional Administrator of EPA-New England and the Deputy Assistant Secretary of the Army for Environment, Safety and Occupational Health, who will confer and exert their best efforts to resolve the dispute and issue a unanimous written decision signed by both Parties. If unanimous resolution of the dispute is not reached within twenty-one (21) days of such submittal, the Regional Administrator of EPA-New England shall provide the Parties with a final decision setting forth the resolution of the dispute and a statement of the information upon which the decision is based. In the event of such a dispute, the Army will not execute a deed or lease to which the generic form relates, until the completion of the dispute resolution process.

The substance of the generic form of deed or lease provisions agreed to by the Parties or arrived at pursuant to the dispute resolution procedures set forth in this Section 37.3 shall be included in each individual deed or lease negotiated by the Army in connection with real property at AMTL. The Army will determine when the substance of the generic form of deed or lease provisions has been included in a particular deed or lease and, accordingly, may make determinations on a tract by tract basis that modifications to the exact language of the generic form are appropriate. The dispute resolution

86

XXXVIII. INSTALLATION CLOSURE

38.1 Closure of AMTL will not affect the Army's obligation to
~~comply with the terms of this Agreement.~~

XXXIX. SEVERABILITY

39.1 If any provision of this Agreement is ruled invalid, illegal, or unconstitutional, the remainder of the Agreement shall not be affected by such ruling.

XL. APPENDICES

40.1 Appendices shall be an integral and enforceable part of ~~this Agreement. They shall include the most current~~ versions of:

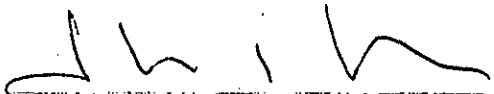
- (a) The Schedule of Work to be Performed at the Site;
- (b) List of Installation Restoration Program Documents;
and
- (c) Map of AMTL and a list of AOCs and SAs for the Site.

XLI. SIGNATURE PAGES

The undersigned representative of EPA certifies that he is fully
authorized to enter into the terms and conditions of this
Agreement, and to legally bind EPA to this Agreement.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BY:


John P. DeVillars
Regional Administrator

4/24/95
DATE

Each undersigned representative of the Army certifies that he/she is fully authorized to enter into the terms and conditions of this Agreement, and to legally bind the Army to this Agreement.

UNITED STATES DEPARTMENT OF THE ARMY

BY:

Lewis D. Walker

Lewis D. Walker

Deputy Assistant Secretary

of the Army for Environment,

Safety and Occupational Health

5/5/95

DATE

BY:

Jeffrey I. Stiefel

Jeffrey I. Stiefel

MAJOR/CM

Commanding

U.S. Army Materials Technology

Laboratory, Watertown, Massachusetts

4/27/95

DATE

APPENDIX I

SCHEDULE OF WORK TO BE PERFORMED

The following Schedule addresses all Areas of Contamination identified as of the effective date of this Agreement.

AOC/Document

Deadline

AMTL Soils and Groundwater

Draft Terrestrial Assessment (TA) March 31, 1995

Draft Final FS 45 days after receipt of EPA comments on draft final Terrestrial Assessment

Draft Proposed Plan 75 days after receipt of EPA comments on draft final Feasibility Study

Draft ROD 30 days after close of public comment period on Final Proposed Plan

Charles River Sediments and Surface Water

Draft RI/FS Work Plan July 31, 1995

Draft RI Report* 660 days after finalization of RI/FS Work Plan

* This Draft RI Report shall include a proposed schedule for submittal of the Draft FS, Draft Proposed Plan and Draft ROD to be prepared in connection with the Charles River AOC, if appropriate. The schedule shall incorporate the review and submittal periods set forth in Sections VII, XIV and XVII of this Agreement and shall be subject to the approval of EPA. Once finalized, the schedule shall be incorporated into this Appendix I in accordance with the provisions of Section XXIX (Amendment or Modification of Agreement), hereof.

APPENDIX II

List of Installation Restoration Program Documents

LIST OF INSTALLATION RESTORATION PROGRAM DOCUMENTS
4/28/94

<u>Document</u>	<u>Month</u>	<u>Year</u>	<u>Preparer</u>
MTL Closure Study	2	86	Mayer
Realignment Study	12	86	AMC
MTL Refocus Briefing	—	86-87	LABCOM/AMC
Preliminary Assessment	3	88	EG&G for THAMA (AEC)
Remedial Investigation (draft)	7	89	THAMA (AEC)
Resampling Plan	1	90	Arthur D. Little
Cistern and Reactor Area Sampling and Analysis Plan	3	90	Idaho Nat'l Engineering Lab
Engineering Report	8	90	Idaho Nat'l Engineering Lab
Reactor Characterization Study (draft)	8	90	THAMA (AEC)
Decision Analysis Report for Reactor (draft)	7	90	Idaho Nat'l Engineering Lab for THAMA (AEC)
Reactor Characterization Study (final)	8	90	Weston
Decision Analysis Report for Reactor (final)	11	90	Idaho Nat'l Engineering Lab for THAMA (AEC)
Decommissioning Plan (draft)	2	91	Idaho Nat'l Engineering Lab
Preliminary Project Management Plan	4	91	NED/COE
Phase One Remedial Investigation/Facility Study Task Order One (draft final)	4	91	COE
Final EIS	8	91	COE
EIS for Closure	8	91	NED/COE
Demolition & Reclamation Plan for Reactor (draft)	9	91	THAMA (AEC)
Draft Final Environmental Assessment for Decommissioning of Reactor	10	91	ABB
Environmental Assessment Demolition of Reactor (draft final)	10	91	ABB
Final Decommissioning Plan	10	91	THAMA (AEC)
Reactor NEPA Environmental Assessment (draft final)	10	91	ABB

LIST OF INSTALLATION RESTORATION PROGRAM DOCUMENTS

4/28/94

Reactor Decommissioning Scope of Work Design (SWEC) (draft)	10	91	Stone and Webster
DSMOA	10	91	Army/State
Environmental Assessment for Reactor Decommissioning/Demolition (draft final)	10	91	ABB
Assessment of Hazardous Materials in Proposed Demolition Area	12	91	Stone and Webster
Walkdown Plans and Reports Reactor	12	91	Stone and Webster
Demolition & Reclamation Plan for Reactor (final)	1	92	THAWA (AEC)
Federal Register Notice of Proposed Decommissioning of Reactor	2	92	NRC
HABS/HAER (final)	3	92	COE
Public Involvement & Response Plan	4	92	Weston
Facility Decommissioning Plan (draft final)	4	92	Weston
Quality Assurance/Quality Control Plan for Decommissioning/Demolition & Site Restoration of Reactor	4	92	MK
100% Design Package for Reactor	4	92	Stone and Webster
General Contractor Spec for Decommissioning & Demolition of Reactor	4	92	Stone and Webster
Basis for Design/Design Package of Decommissioning & Demolition of Reactor	4	92	Stone and Webster
Phase Two Remedial Investigation Radiological Field Survey Report (final)	5	92	AEC
Revised Preliminary Submittal for Review Remediation Plan	5	92	MK
Reactor Survey	6	92	Weston
Remediation Plan for Reactor	6	92	MK
RADFAC Schedule Analysis	7	92	Stone & Webster
100% Design Package for Facilities	8	92	Stone and Webster
Cost Estimate for Decommissioning and Demolition of Facilities	8	92	Stone and Webster
Basis for Design/Design Analysis of Decommissioning and Demolition of Facilities	8	92	Stone and Webster

LIST OF INSTALLATION RESTORATION PROGRAM DOCUMENTS

4/26/94

Mixed Waste Management Guide (draft)	9	92	Weston
General Contractor Spec Decommissioning & Decontamination of Facilities	9	92	Stone and Webster
Draft 1 Proposed Plan	11	92	THAMA (AEC)
Mixed Waste Management Guide (final)	11	92	Weston
Final MOA	12	92	Army/State
Geophysical Investigation (draft)	12	92	Geotechnical Laboratory for THAMA (AEC)
Feasibility Study (draft)	12	92	Weston
Results of Split Sampling-Chemical Characterization	1	93	MDEP (Wehran Umwelttech)
Mass Dept of Public Health Radiological Quantitative Sample Data Comparison Program	1	93	MDEP (Interlink Group LTD)
Watertown Reuse Plan	2	93	Goody Clarence
Program for Treatment of Mixed Waste	2	93	WK
Reactor Term Survey Report	3	93	SEG
Preliminary Draft EIS Reuse for Reuse & Disposal	4	93	AMC
NPL Scoring Package	4	93	Haliburton Nur
Final Hazard Ranking System	4	93	Haliburton Nur
Lead Paint and Asbestos Policy and Guidance	4	93	AMC
Building 111 Historic Preservation Report	5	93	SPNEA Conservation Center
Geophysical Investigation (draft)	5	93	AEC
Environmental Assessment Demolition of Reactor (draft)	6	93	ABB
Order Authorizing Dismantling of Reactor	8	93	NRC
Mixed Waste Consent Order	8	93	MDEP
Facility Decommissioning Plan (final)	8	93	Weston
RI Additional Sampling (AWQC)	8	93	AEC

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LIST OF INSTALLATION RESTORATION PROGRAM DOCUMENTS

4/26/94

Phase Two Remedial Investigation/Feasibility Study	9	93	AEC
Preliminary Draft EIS Reuse for Disposal & Reuse	10	93	AMC
Final Environmental Report for Decommissioning of Reactor	10	93	ABB
EIS for Reuse Draft	12	93	AMC
CERFA (draft)	12	93	AEC
Phase Two Remedial Investigation/Feasibility Study	12	93	AEC
Baseline Risk Assessment of Human Health Effects	12	93	Lifsystems for Weston
Baseline Risk Assessment of Environmental Evaluation	12	93	Lifsystems for Weston
Industrial Radiation Study Facility License Termination Verification Study	12	93	USAESA
Human Health Radiological Risk Assessment (draft)	2	94	PRC Environmental Mngt
Scope of Work to Perform Sampling and Analysis for Interim Remedial Actions (draft)	3	94	Weston
Scope of Work to Perform Sampling & Analysis for Interim Remedial Actions (final)	3	94	Weston
Final Report for Mixed Waste Treatment	3	94	MK
CERFA (final)	4	94	AEC
Tank Farm Remediation	4	94	COE
NRC Approval	4	94	NRC
Final Submittal Design Analysis	4	94	The Benham Group
Well C-2 Remediation	5	94	NED/COE
Phase Two Remedial Investigation/Feasibility Study Task Order One (final)	5	94	AEC
NPL List	5	94	EPA
Outdoor Feasibility Study	6	94	Weston
Facility Decommissioning Survey Report	8	94	Weston

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LIST OF INSTALLATION RESTORATION PROGRAM DOCUMENTS
4/26/94

BRAC Clean-Up Plan	7	94	Earth Tec for AEC
EIS for Reuse	7	94	AMC
Chemical Data Acquisition Plan Pre-design Investigation	7	94	ABB
Site Safety & Health Plan 9/Pre-design Investigation	8	94	ABB
Charles River Follow-Up Sampling Program Conceptual Plan (draft)	8	94	Weston
Terrestrial Ecological Risk Assessment Conceptual Plan (draft)	8	94	Weston
Human Health Evaluation of Exposures to Indoor Bldg Surfaces	8	94	Weston
Chemical Data Acquisition Plan Pre-design Investigation	9	94	ABB
Chemical Data Acquisition Plan Pre-design Investigation	10	94	ABB
DOPAA	10	94	AMC
FFA (draft)	10	94	EPA/Army
Draft Engineering Report Pre-Design Investigation (Bldgs 60/227 & Well C-2 areas)	11	94	ABB
MTL Project Procedures Manual	on-going	on-going	MX
Community Relations Plan Draft	1	95	Weston
Reactor Final Survey Report	various dates	various dates	MX
Draft BOP Version 2	2	95	Earth Tech
Draft EIS	2	95	Jaycor
Facility Decommissioning Rpt Bldg 312	3	95	SEG
Draft Final Indoor RAP	3	95	Weston
Building 111 Plans & Specs	4	95	NEDCOE
Draft Terrestrial Assessment	4	95	Weston
Draft Floor Plans Chemical	4	95	ABB
Fiscal Impact Analysis	4	95	Hammer, Siler George Assoc

LIST OF INSTALLATION RESTORATION PROGRAM DOCUMENTS
4/26/94

Facility Decommissioning Rpt Bldg 43

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SEG

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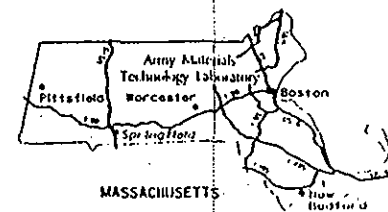
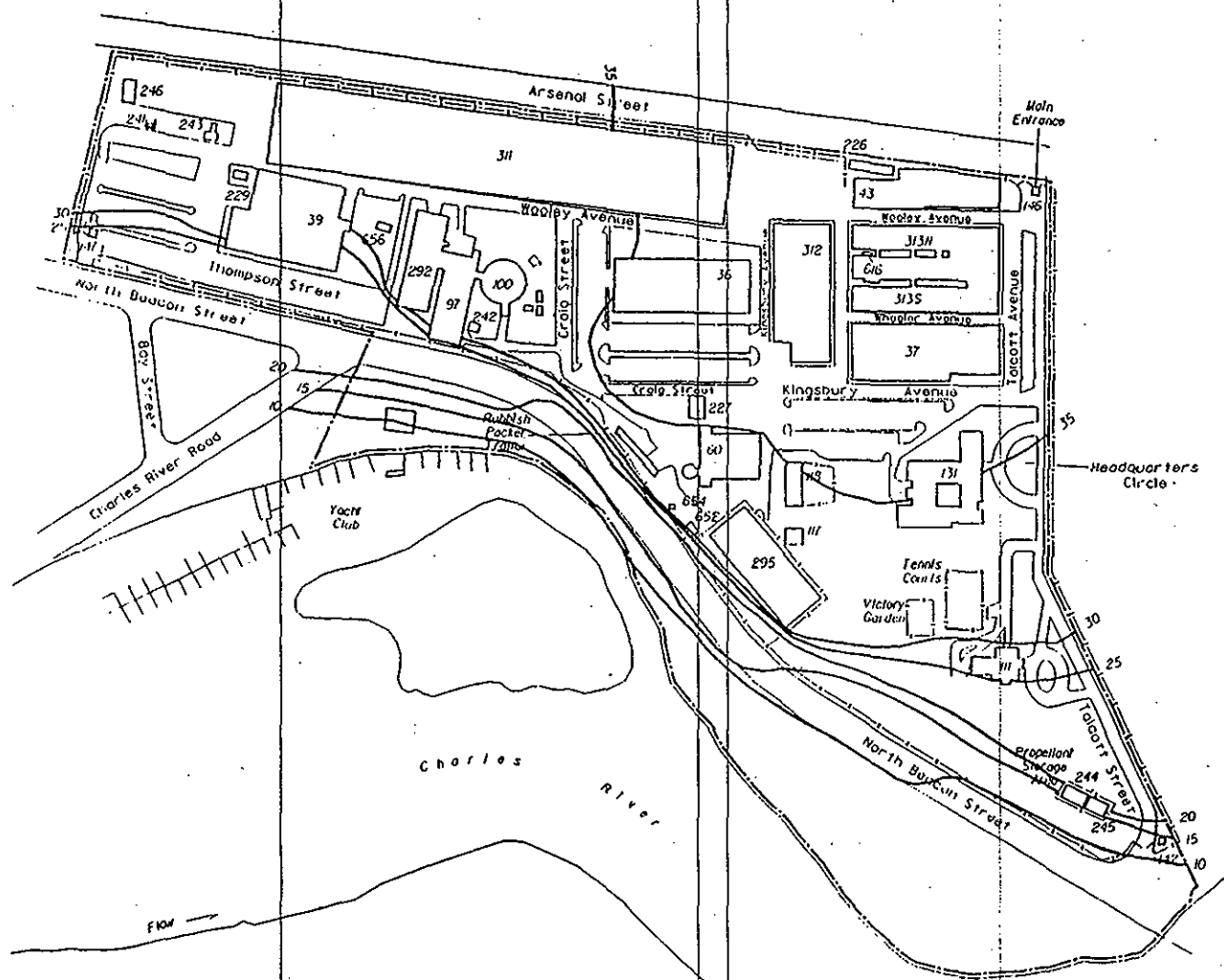
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APPENDIX III

Map of AMTL

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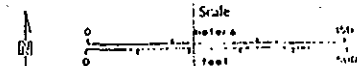


Army Materials
Technology Laboratory
Watertown, MA

Figure 3-1
Topographic Profile

Elevation in feet
(Above Mean Sea Level)

Source: E.C. & C., June 1990



07-OCT-1992

WATER

THAMA

Technology Materials Agency

List of AOCs and SAs at AMTL

AOCs:

- 1) AMTL Soils and Groundwater
- 2) Charles River Sediments and Surface Water

Study Areas:

None identified to date.