

[[____. "Record of Decision" or "ROD" shall mean the EPA Record of Decision relating to the [Site or ____ operable Unit at the Site] signed on [insert date] by the Regional Administrator, EPA Region ____, or his/her delegatee, and all attachments thereto.]]

k. "Plaintiff[s]" shall mean the United States [and the State].

l. "Section" shall mean a portion of this Consent Decree identified by a roman numeral.

m. "Settling Defendants" shall mean [insert names of settling parties, or only if very numerous, "those parties identified in Appendix A."]

n. "Site" shall mean the ____ Superfund site, encompassing approximately ____ acres, located at [insert address or description of location] in [insert City, County, State], and [insert either "depicted more clearly on the map included in Appendix B" or "designated by the following property description: ____."]

[[____. "State" shall mean the State [or Commonwealth] of ____].

[[____. "State Past Response Costs" shall mean all costs, including but not limited to direct and indirect costs, together with accrued interest, that the State of ____ has paid through [insert date] in response to the release or threatened release of hazardous substances at or in connection with the Site, but not including amounts reimbursed to the State by EPA.]]

o. "United States" shall mean the United States of America, including its departments, agencies and instrumentalities.

V. Reimbursement of Response Costs

[Note: If the amount to be paid is \$10,000 or greater, payment should be made by electronic funds transfer using the following Paragraph 4.]

being paid for or compromised, such as: "... for the response action described in the Record of Decision for the First Operable Unit at the Site dated ____" or "for the removal action described in the action memorandum for the Site dated ____." Exercise care in describing the activities covered, as this description may affect the scope of the covenant not to sue and contribution protection. For clarity, the description of the past response action may need to indicate which response actions are not included within the definition of Past Response Costs. Check to be sure that the date used in the definition of Past Response Costs does not inadvertently include costs that are outside the scope of the definition. In some cases, it may be useful to attach a standard, Regionally-prepared cost summary listing the costs that are within the scope of the definition. This may be done: 1) to be sure that no confusion arises as to which costs are being compromised; or 2) to indicate which outstanding past cost claims are being resolved through the settlement, i.e., to indicate that the recovered costs are to be applied to particular portions of the debt.

4. *Payment of Past Response Costs to the EPA Hazardous Substance Superfund.* Within 30 days of entry of this Consent Decree, Settling Defendants shall pay to the EPA Hazardous Substance Superfund \$____ in reimbursement of Past Response Costs, plus an additional sum for Interest on that amount calculated from the date set forth in the definition of Past Response Costs through the date of payment.⁶ Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with current EFT procedures, referencing USAO File Number ____, the EPA Region and Site Spill ID Number ____ [insert 4-digit number, first 2 numbers represent the Region (01-10), second 2 numbers represent the Region's Site/Spill Identification number], and DOJ Case Number _____. Payment shall be made in accordance with instructions provided to Settling Defendants by the Financial Litigation Unit of the U.S. Attorney's Office in the District of ____ following lodging of the Consent Decree. Any payments received by the Department of Justice after 4:00 p.m. Eastern Time shall be credited on the next business day. Settling Defendants shall send notice to EPA and DOJ that payment has been made in accordance with Section XI (Notices and Submissions) and to [insert names and mailing addresses of the Regional Financial Management Officer and any other receiving officials at EPA].

[Note: If the amount to be paid is less than \$10,000, payment should be made by check using the following alternative Paragraph 4.]

4. *Payment of Past Response Costs to the EPA Hazardous Substance Superfund.* Within 30 days of entry of this Consent Decree, Settling Defendants shall pay to the EPA Hazardous Substance Superfund \$____ in reimbursement of Past Response Costs, plus an additional sum for Interest on that amount calculated from the date set forth in the definition of Past Response Costs through the date of payment. Payment shall be made by certified check or checks or cashier's check or checks made payable to "U.S. Department of Justice," referencing the name and address of the party making payment, the EPA Region and Site Spill

⁶As an alternative to calculation and payment of interest from the Past Response Costs date through the date of payment, settling defendants may agree to place the amount agreed upon into an interest-bearing escrow account to be disbursed to EPA upon entry of the consent decree. If this method is used, accrued interest from the Past Response Costs date through the date the escrow account is created should be calculated and included in the escrow deposit.

ID Number ____ [insert 4-digit number, first 2 numbers represent the Region (01-10), second 2 numbers represent the Region's Site/Spill Identification number], USAO File Number ____, and DOJ Case Number _____. Settling Defendants shall send the check[s] to:

[Insert address of Financial Litigation Unit of U.S. Attorney's Office for the District in which the Consent Decree will be entered]

Settling Defendants shall send notice that such payment has been made to EPA and DOJ in accordance with Section XI (Notices and Submissions) and to [insert names and mailing addresses of the Regional Financial Management Officer and any other receiving officials at EPA].

[Note: If payment is to be made to a State, insert the following optional paragraph.]

[[____. *Payment of Past Response Costs to the State.* Within 30 days of entry of this Consent Decree, Settling Defendants shall pay to the State \$____, in the form of a certified check or checks or cashier's check or checks, in reimbursement of State Past Response Costs. The check[s] shall be made payable to ____ and shall reference [insert name of case]. Settling Defendants shall send the check[s] to: Insert address provided by State]]

VI. Failure to Comply With Requirements of Consent Decree

5. *Interest on Late Payments.* In the event that any payment[s] required by Section V (Reimbursement of Response Costs) or Section VI, Paragraph 6 (Stipulated Penalty), are not received when due, Interest shall continue to accrue on the unpaid balance through the date of payment.

6. *Stipulated Penalty.*

a. If any amounts due to EPA [or to the State] under this Consent Decree are not paid by the required date, Settling Defendants shall pay to EPA [, or to the State if the delayed payment is for State Past Response Costs,] as a stipulated penalty, in addition to the Interest required by Paragraph 5, \$____ per violation per day that such payment is late. [[____. If Settling Defendants do not comply with Section ____ (Site Access), Section ____ (Access to Information), or Section ____ [insert cross-reference to any other non-payment requirements for which a stipulated penalty applies], Settling Defendants shall pay to EPA, as a stipulated penalty, \$____ per violation per day of such noncompliance.]]

[Note: Escalating payment schedules may be used in Paragraph 6(a) and in the optional