

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

_____	)	
IN THE MATTER OF:	)	
	)	
Aberdeen Contaminated Groundwater Site	)	
Aberdeen, Moore County, North Carolina	)	CERCLA Docket No. 04-2024-7011
	)	
LPC Holdings, Inc.	)	PROCEEDING UNDER SECTION
SETTLING PARTY	)	122(h)(1) OF CERCLA,
_____	)	42 U.S.C. § 9622(h)(1)

**CASHOUT SETTLEMENT AGREEMENT**

TABLE OF CONTENTS

I. JURISDICTION ..... 1

II. BACKGROUND ..... 1

III. PARTIES BOUND ..... 2

IV. STATEMENT OF PURPOSE ..... 2

V. DEFINITIONS..... 2

VI. PAYMENT OF RESPONSE COSTS..... 4

VII. FAILURE TO COMPLY WITH SETTLEMENT AGREEMENT ..... 6

VIII. COVENANTS BY EPA ..... 7

IX. RESERVATIONS OF RIGHTS BY EPA ..... 7

X. COVENANTS BY SETTLING PARTY ..... 8

XI. EFFECT OF SETTLEMENT/CONTRIBUTION ..... 9

XII. PROPERTY REQUIREMENTS ..... 10

XIII. ACCESS TO INFORMATION ..... 12

XIV. RETENTION OF RECORDS ..... 13

XV. NOTICES AND SUBMISSIONS ..... 14

XVI. INTEGRATION/APPENDICES ..... 15

XVII. PUBLIC COMMENT ..... 15

XVIII. EFFECTIVE DATE..... 15

## **I. JURISDICTION**

1. This Settlement Agreement is entered into pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. § 9622(h)(1), which authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders) through the Director, Superfund Division (now known as the Superfund and Emergency Management Division), through the Deputy Director, Superfund Division, to the Chief, Superfund Enforcement and Information Management Branch (known in Region 4 as the Enforcement Branch). This Settlement Agreement is also entered into pursuant to the authority of the Attorney General of the United States to compromise and settle claims of the United States, which authority, in the circumstances of this settlement, has been delegated to the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice.

2. This Settlement Agreement is made and entered into by EPA and LPC Holdings, Inc. (“Settling Party”). Settling Party consents to and will not contest the authority of the United States to enter into this Settlement Agreement or to implement or enforce its terms.

## **II. BACKGROUND**

3. This Settlement Agreement concerns the Aberdeen Contaminated Groundwater Site (“Site”) located in Aberdeen, Moore County, North Carolina. EPA alleges that the Site is a facility as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4. In response to the release or threatened release of hazardous substances at or from the Site, EPA undertook response actions at the Site pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and may undertake additional response actions in the future.

5. In performing its response actions at the Site, EPA has incurred response costs and will incur additional response costs in the future.

6. EPA alleges that Settling Party is a responsible party pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is jointly and severally liable for response costs incurred and to be incurred at the Site.

7. EPA has reviewed the Financial Information submitted by Settling Party to determine whether Settling Party is financially able to pay response costs incurred and to be incurred at the Site. Based upon this Financial Information, EPA has determined that Settling Party has limited financial ability to pay for response costs incurred and to be incurred at the Site.

8. EPA and Settling Party recognize that this Settlement Agreement has been negotiated in good faith and that this Settlement Agreement is entered into without the admission or adjudication of any issue of fact or law. The actions undertaken by Settling Party in accordance with this Settlement Agreement do not constitute an admission of any liability. Settling Party does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the facts or allegations contained in this Section.

### **III. PARTIES BOUND**

9. This Settlement Agreement shall be binding upon EPA and upon Settling Party and its successors and assigns. Any change in ownership or corporate or other legal status of Settling Party, including but not limited to any transfer of assets or real or personal property, shall in no way alter Settling Party's responsibilities under this Settlement Agreement. Each signatory to this Settlement Agreement certifies that he or she is authorized to enter into the terms and conditions of this Settlement Agreement and to bind legally the party represented by him or her.

### **IV. STATEMENT OF PURPOSE**

10. By entering into this Settlement Agreement, the mutual objective of the Parties is to avoid difficult and prolonged litigation by allowing Settling Party to make a cash payment to address its alleged civil liability for the Site as provided in the Covenants by EPA in Section VIII, subject to the Reservations of Rights by EPA in Section IX.

### **V. DEFINITIONS**

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

“Affected Property” shall mean all real property at the Site, owned or controlled by Settling Party, where EPA determines, at any time, that access or land, water, or other resource use restrictions are needed to implement response actions at the Site, including, but not limited to the parcel owned by Lee Paving Company c/o LPC Holdings, Inc., located on or near Lee Paving Road in the vicinity of Lockey Drive and Lee Paving Drive, Sanford, Moore County, North Carolina, that is approximately 20 acres in size and designated with Moore County PIN 847902981921 and Parcel ID 00051756.

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

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

“Effective Date” shall mean the effective date of this Settlement Agreement as provided by Section XVIII.

“EPA” shall mean the U.S. Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

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

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

“Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. Rates are available online at <https://www.epa.gov/superfund/superfund-interest-rates>.

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

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

“Parties” shall mean EPA and Settling Party.

“Property” shall mean that portion of the Site that is owned by Lee Paving Company c/o LPC Holdings, Inc., as of February 5, 2024. The Property is located on or near Lee Paving Road in the vicinity of Lockett Drive and Lee Paving Drive, Sanford, Moore County, North Carolina, that is approximately 20 acres in size and designated with Moore County PIN 847902981921 and Parcel ID 00051756.

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

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

“Settlement Agreement” shall mean this Settlement Agreement and any attached appendices. In the event of conflict between this Settlement Agreement and any appendix, the Settlement Agreement shall control.

“Settling Party” shall mean LPC Holdings, Inc., formerly known as Lee Paving Company.

“Site” shall mean the Aberdeen Contaminated Groundwater Superfund Site, including OU1 and OU2, encompassing approximately 1.3 square miles, located east of U.S. Highway 1 in Aberdeen, Moore County, North Carolina and generally shown on the map included in Appendix A.

“Aberdeen Contaminated Groundwater Site Special Account” shall mean the special account, within the EPA Hazardous Substance Superfund, established for the Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3).

“State” shall mean the State of North Carolina.

“Transfer” shall mean to sell, assign, convey, lease, mortgage, or grant a security interest in, or where used as a noun, a sale, assignment, conveyance, or other disposition of any interest by operation of law or otherwise.

“United States” shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

## VI. PAYMENT OF RESPONSE COSTS

12. **Payment of Response Costs.** Settling Party shall pay to EPA the principal amount of \$600,000. The payment shall be made within 30 days after the Effective Date and, if timely paid, shall include no Interest.

13. Settling Party’s payment shall be made to EPA at <https://www.pay.gov> in accordance with the following payment instructions: enter “sfo 1.1” in the search field to access EPA’s Miscellaneous Payment Form – Cincinnati Finance Center. Complete the form including the Site Name, docket number, and Site/Spill ID Number A4QH. Settling Party shall send notice, including these references, that such payment has been made: (a) to EPA, in accordance with Section XV (Notices and Submissions); and (b) to Paula Painter at EPA Region 4 by email at:

Paula Painter  
U.S. Environmental Protection Agency  
Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
[painter.paula@epa.gov](mailto:painter.paula@epa.gov)

14. **Deposit of Payment.** The total amount to be paid pursuant to Paragraph 12 (Payment of Response Costs) and Paragraph 15 (Payment of Net Proceeds of Sale of Property) shall be deposited by EPA in the Aberdeen Contaminated Groundwater Site Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

### 15. Payment of Net Proceeds of Sale of Property

a. **Appraisal of Property.** Prior to any sale of the Property, Settling Party shall submit to EPA the names of one or more appraisers. The appraisers identified shall be certified to meet the Uniform Standards of Professional Appraisal Practice by a nationally recognized organization of professional real estate appraisers. EPA may, within 30 days thereafter, disapprove the proposed appraiser(s). If all proposed appraiser(s) are disapproved by EPA, Settling Party shall, within 15 days after such disapproval, submit names of additional appraisers, which shall be subject to EPA’s disapproval as provided above. Any appraisers not disapproved by EPA shall be deemed to be approved. Settling Party, shall, within 60 days after the deadline for EPA’s disapproval of the proposed appraisers, obtain an appraisal of the Property. The appraisal shall be performed by any appraiser deemed to be approved. Settling Party shall be responsible for all appraisal fees. Settling Party shall submit a copy of the appraisal to EPA.

b. **Maintenance of the Property.** Until the Property is sold, Settling Party shall, at its own expense: (i) maintain and make necessary repairs to the Property; (ii) keep the Property insured against loss from casualty and liability; (iii) timely pay or cause to be paid all real property taxes; and (iv) timely pay all water and sewer bills regarding the Property.

c. **Marketing of the Property.** Within 30 days after the date of the appraisal, Settling Party shall use best efforts to sell the Property. “Best efforts” for purposes of this Paragraph includes: (i) entering into a listing agreement, for the purpose of marketing and selling the property, with a real estate broker, dealer, or agent licensed in the State of North Carolina who customarily deals with real property similar to the Property; (ii) advertising the Property for sale in appropriate publications; (iii) listing the Property with appropriate real estate listing services; (iv) maintaining the Property in a condition suitable for showing to prospective buyers; and (v) providing access to the Property, at reasonable times, to real estate brokers, dealers, or agents and prospective buyers. Settling Party shall submit to EPA reports regarding Settling Party’s efforts to market the property. The first such report shall be due three months after commencement of efforts to sell the Property, and successive reports shall be due quarterly thereafter.

d. If the proposed contract for the sale of the Property provides for Settling Party to receive all cash, is for at least 90% of the appraised value of the Property, and provides for the property sale to occur within 60 days after the date of execution of the sales contract, then Settling Party may execute the contract without EPA’s prior written approval. Otherwise, Settling Party shall provide to EPA a copy of the proposed Property sales contract, and must obtain EPA’s written approval before executing the contract. Settling Party shall provide to EPA a copy of the executed contract within 7 days after signing the contract.

e. Settling Party shall submit to EPA, at least 10 days prior to the date of the sale of the Property, a notice of the sale, Settling Party’s calculation of the net sale proceeds, and all documentation regarding the values used in the calculation, including: (i) copies of all documents to be executed regarding the sale; (ii) documentation of the amounts of closing costs to be paid; (iii) documentation of any broker’s fees regarding the sale; and (iv) documentation of the amounts of State and/or municipal transfer taxes to be paid regarding the sale of the Property. Settling Party may request that EPA approval the calculation of net sales proceeds prior to the sale. In that event, EPA’s approval shall be binding in any subsequent dispute between the United States and Settling Party regarding whether Settling Party has complied with Paragraph 15.g.

f. If within one year after commencement of efforts to market the Property, Settling Party has not executed a contract for the sale of the Property, upon receipt of notice from EPA, Settling Party shall commence best efforts to sell the Property to the highest bidder at a public auction. For purposes of this Paragraph, “best efforts” shall mean engaging the services of a professional auctioneer who will advertise the auction in at least two local newspapers for at least 30 days prior to the auction and who will conduct other marketing activities, as appropriate. The agreement with the professional auctioneer shall be provided to EPA for review and approval. Sale of the Property at auction shall be in conformance with Paragraph 15.d.

g. At the time of the sale, Settling Party shall pay to the United States 100% of the net sales proceeds of the sale of the Property. “Net sales proceeds” shall mean, for purposes of this Paragraph, all consideration received by Settling Party from the sale of the Property, not including: (i) any reasonable closing costs paid regarding the sale; (ii) any reasonable broker’s fees regarding the sale; and (iii) any State and/or municipal transfer taxes regarding the sale. Settling Party shall make payment to EPA by official bank check made payable to “EPA Hazardous Substance Superfund,” which will be deposited into the Aberdeen

Contaminated Groundwater Site Special Account. Provided that the amount of “net sales proceeds” is acceptable, EPA shall arrange for the execution or delivery, at the time of the sale, of a release of any federal lien regarding the Property.

h. Settling Party shall not be required to comply with this Paragraph with respect to the Property or a portion of the Property, in the event the Property or such portion thereof is transferred involuntarily by operation of law, or is transferred by deed or other assignment in lieu of foreclosure due to a default on indebtedness secured by the Property or such portion thereof.

i. In the event of a sale or other transfer of the Property or any portion thereof, Settling Party shall continue to be subject to all terms, conditions and benefits of this Settlement Agreement, except for Section XII (Property Requirements), to the extent it requires Settling Party to provide access to, or to abide by any land, water, or other resource use restrictions regarding the Property or portion thereof that was sold or transferred. Settling Party shall continue to be subject to the requirement to enforce any agreements, pursuant to Section XII, for the new owner to provide access to the Property or portion thereof that was sold.

## **VII. FAILURE TO COMPLY WITH SETTLEMENT AGREEMENT**

16. **Interest on Payments.** If Settling Party fails to make the payment required by Paragraph 12 (Payment of Response Costs) by the required due date, Interest shall accrue on the unpaid balance from the Effective Date through the date of payment. If Settling Party fails to make the payment required by Paragraph 15 (Payment of Net Proceeds of Sale of Property) by the required due date under Paragraph 15.g, Interest shall continue to accrue on the unpaid balance from the date payment was due through the date of payment.

### **17. Stipulated Penalty**

a. If any amounts due to EPA under Paragraph 12 (Payment of Response Costs) and Paragraph 15 (Payment of Net Proceeds of Sale of Property) are not paid by the required date, Settling Party shall be in violation of this Settlement Agreement and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 16 (Interest on Payments), \$1,000 per violation per day that such payment is late.

b. If Settling Party fails to use best efforts to sell the Property in accordance with Paragraph 15 (Payment of Net Proceeds of Sale of Property), Settling Party shall be in violation of this Settlement Agreement and shall pay, as a stipulated penalty, \$1,000 per day for each day of failure to use best efforts to sell the Property.

c. All penalties accruing under this Section shall be due and payable to EPA within 30 days after Settling Party’s receipt from EPA of a demand for payment of the penalties. Settling Party shall make all payments required by this Section to EPA by <https://www.pay.gov> using the following instructions: enter “sfo 1.1” in the search field to access EPA’s Miscellaneous Payment Form - Cincinnati Finance Center. Complete the form including the Site Name, docket number, and Site/Spill ID Number A4QH, and indicate in the comment field that the payment is for stipulated penalties. Settling Party shall send notice, including these references, that such payment has been made: (a) to EPA, in accordance with Section XV (Notices and Submissions); and (b) to Paula Painter at EPA Region 4 by email at:



Paula Painter  
U.S. Environmental Protection Agency  
Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
painter.paula@epa.gov

d. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Party of the violation or made a demand for payment but need only be paid upon demand. All penalties shall begin to accrue on the day after payment or performance is due, or the day a violation occurs, and shall continue to accrue through the date of payment or the final day of correction of the noncompliance or completion of the activity. Nothing in this Settlement Agreement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

18. In addition to the Interest and Stipulated Penalty payments required by this Section and any other remedies or sanctions available to the United States by virtue of Settling Party's failure to comply with the requirements of this Settlement Agreement, if Settling Party fails or refuses to comply with any term or condition of this Settlement Agreement, it shall be subject to enforcement action pursuant to Section 122(h)(3) of CERCLA, 42 U.S.C. § 9622(h)(3). If the United States brings an action to enforce this Settlement Agreement, Settling Party shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

19. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Settlement Agreement. Settling Party's payment of stipulated penalties shall not excuse Settling Party from payment as required by Section VI (Payment of Response Costs) or from performance of any other requirements of this Settlement Agreement.

#### **VIII. COVENANTS BY EPA**

20. Except as specifically provided in Section IX (Reservations of Rights by EPA), EPA covenants not to sue or to take administrative action against Settling Party pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), with regard to the Site, including Operable Units 1 and 2. With respect to present and future liability, these covenants shall take effect upon the Effective Date. These covenants are conditioned upon the satisfactory performance by Settling Party of its obligations under this Settlement Agreement, including but not limited to, payment of all amounts due under Section VI (Payment of Response Costs) and any Interest or stipulated penalties due thereon under Section VII (Failure to Comply with Settlement Agreement). These covenants are also conditioned upon the veracity and completeness of the Financial Information provided to EPA by Settling Party and the financial, insurance, and indemnity certification made by Settling Party in Paragraph 47. These covenants extend only to Settling Party and do not extend to any other person.

#### **IX. RESERVATIONS OF RIGHTS BY EPA**

21. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Settling Party with respect to all matters not expressly included within Paragraph 20

(Covenants by EPA). Notwithstanding any other provision of this Settlement Agreement, EPA reserves all rights against Settling Party with respect to:

- a. liability for failure of Settling Party to meet a requirement of this Settlement Agreement;
- b. criminal liability;
- c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- d. liability, based on the ownership or operation of the Site by Settling Party when such ownership or operation commences after signature of this Settlement Agreement by Settling Party;
- e. liability based on Settling Party's transportation, treatment, storage, or disposal, or arrangement for transportation, treatment, storage, or disposal of a hazardous substance or a solid waste at or in connection with the Site, after signature of this Settlement Agreement by Settling Party; and
- f. liability arising from the past, present, or future disposal, release or threat of release of a hazardous substance, pollutant, or contaminant outside of the Site.

22. Notwithstanding any other provision of this Settlement Agreement, EPA reserves, and this Settlement Agreement is without prejudice to, the right to reinstitute or reopen this action, or to commence a new action seeking relief other than as provided in this Settlement Agreement, if the Financial Information provided by Settling Party, or the financial, insurance, or indemnity certification made by Settling Party in Paragraph 47, is false or, in any material respect, inaccurate.

23. Nothing in this Settlement Agreement is intended to be nor shall it be construed as a release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which EPA may have against any person, firm, corporation or other entity not a signatory to this Settlement Agreement.

## **X. COVENANTS BY SETTLING PARTY**

24. Settling Party covenants not to sue and agrees not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Site and this Settlement Agreement, including but not limited to:

- a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
- b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the North Carolina Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, or at common law; or

c. any claim pursuant to Sections 107 or 113 of CERCLA, 42 U.S.C. §§ 9607 or 9613, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law, relating to the Site.

25. Except as provided in Paragraph 27 (claims against other PRPs) and Paragraph 32 (res judicata and other defenses), these covenants shall not apply in the event EPA brings a cause of action or issues an order pursuant to any of the reservations in Section IX (Reservations of Rights by EPA), other than in Paragraph 21.a (liability for failure to meet a requirement of the Settlement Agreement) or 21.b (criminal liability), but only to the extent that Settling Party's claims arise from the same response action or response costs that EPA is seeking pursuant to the applicable reservation.

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

27. Settling Party agrees not to assert any claims and to waive all claims or causes of action (including but not limited to claims or causes of action under Sections 107(a) or 113 of CERCLA) that it may have for response costs relating to the Site against any other person who is a potentially responsible party under CERCLA at the Site. This waiver shall not apply with respect to any defense, claim, or cause of action that Settling Party may have against any person if such person asserts a claim or cause of action relating to the Site against Settling Party.

## **XI. EFFECT OF SETTLEMENT/CONTRIBUTION**

28. Except as provided in Paragraph 27 (claims against other PRPs), nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement Agreement. Except as provided in Section X (Covenants by Settling Party), each of the Parties reserves any and all rights (including, but not limited to, under Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action that it may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Settlement Agreement diminishes the right of the United States, pursuant to Sections 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613 (f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

29. The Parties agree that this Settlement Agreement constitutes an administrative settlement pursuant to which Settling Party has, as of the Effective Date, resolved liability to the United States within the meaning of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, or as may be otherwise provided by law, for the "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are all response actions taken or to be taken and all response costs incurred or to be incurred, at or in connection with the Site, by the United States or any other person, except for the State; provided, however, that if EPA exercises rights under the reservations in Section IX (Reservations of Rights by EPA), other than in Paragraphs 21.a (liability for failure to meet a requirement of the Settlement Agreement) or 21.b

(criminal liability), the “matters addressed” in this Settlement Agreement will no longer include those response costs or response actions that are within the scope of the exercised reservation.

30. The Parties further agree that this Settlement Agreement constitutes an administrative settlement pursuant to which Settling Party has, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

31. Settling Party shall, with respect to any suit or claim brought by it for matters related to Settlement Agreement, notify EPA in writing no later than 60 days prior to the initiation of such suit or claim. Settling Party also shall, with respect to any suit or claim brought against it for matters related to this Settlement Agreement, notify EPA in writing within 10 days after service of the complaint or claim upon Settling Party. In addition, Settling Party shall notify EPA within 10 days after service or receipt of any Motion for Summary Judgment and within 10 days after receipt of any order from a court setting a case for trial, for matters related to this Settlement Agreement.

32. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Party shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been addressed in this Settlement Agreement; provided, however, that nothing in this Paragraph affects the enforceability of the Covenants by EPA set forth in Section VIII.

33. Effective upon signature of this Settlement Agreement by Settling Party, Settling Party agrees that the time period commencing on the date of its signature and ending on the date EPA receives from Settling Party the payment(s) required by Section VI (Payment of Response Costs) and, if any, Section VII (Failure to Comply with Settlement Agreement) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States related to the “matters addressed” as defined in Paragraph 29, and that, in any action brought by the United States related to the “matters addressed,” Settling Party will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If EPA gives notice to Settling Party that it will not make this Settlement Agreement effective, the statute of limitations shall begin to run again commencing 90 days after the date such notice is sent by EPA.

## **XII. PROPERTY REQUIREMENTS**

34. **Agreements Regarding Access and Non-Interference.** Settling Party shall, with respect to its Affected Property:

a. Provide the United States, potentially responsible parties who have entered or may enter into an agreement with the United States for performance of response actions at the Site (hereinafter “Performing Parties”), and their representatives, contractors, and subcontractors with access at all reasonable times to its Affected Property to conduct any activity relating to response actions at the Site including the following activities:

- (1) Verifying any data or information submitted to the United States;
- (2) Conducting investigations regarding contamination at or near the Site;
- (3) Obtaining samples;
- (4) Assessing the need for, planning, implementing, or monitoring response actions;
- (5) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Party or its agents, consistent with Section XIII (Access to Information);
- (6) Assessing Settling Party's compliance with the Settlement Agreement;
- (7) Determining whether the Affected Property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted under the Settlement Agreement; and
- (8) Implementing, monitoring, maintaining, reporting on, and enforcing any land, water, or other resource use restrictions regarding the Affected Property.

b. Refrain from using its Affected Property in any manner that EPA determines will (i) pose an unacceptable risk to human health or to the environment due to exposure to hazardous substances or (ii) interfere with or adversely affect the implementation, integrity, or protectiveness of response actions at the Site, including the following restrictions:

- (1) Prohibiting use of contaminated groundwater;
- (2) Prohibiting the drilling of wells or other activities which could result in exposure to contaminants in groundwater; and
- (3) Ensuring that any new structures on the Affected Property will be constructed in a manner which will minimize potential risk of inhalation of contaminants.

35. If EPA determines in a decision document prepared in accordance with the NCP that institutional controls in the form of state or local laws, regulations, ordinances, zoning restrictions, or other governmental controls or notices are needed regarding the Affected Property, Settling Party shall cooperate with EPA's efforts to secure and ensure compliance with such institutional controls.

**36. Notice to Successors-in-Title**

a. Settling Party shall, within 60 days after the Effective Date, submit for EPA approval a notice to be filed regarding the Affected Property in the appropriate land records. The notice must: (1) include a proper legal description of the Affected Property; and (2) provide notice to all successors-in-title that the Affected Property is part of, or related to, the

Site. Settling Party shall record the notice within 10 days after EPA's approval of the notice and submit to EPA, within 10 days thereafter, a certified copy of the recorded notice.

b. Settling Party shall, prior to entering into a contract to Transfer its Affected Property, or 60 days prior to Transferring its Affected Property, whichever is earlier:

- (1) Notify the proposed transferee that EPA has performed a response action regarding the Site and has selected an additional response action regarding the Site, and that a potentially responsible party has implemented a response action at the Site, including information identifying the document requiring such implementation; and
- (2) Notify EPA of the name and address of the proposed transferee and provide EPA with a copy of the above notice that it provided to the proposed transferee.

37. In the event of any Transfer of the Affected Property, unless EPA otherwise consents in writing, Settling Party shall continue to comply with its obligations under the Settlement Agreement.

38. Notwithstanding any provision of this Settlement Agreement, EPA retains all of its access authorities and rights, as well as all of its rights to require institutional controls, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statute or regulations.

### **XIII. ACCESS TO INFORMATION**

39. Settling Party shall provide to EPA, upon request, copies of all records, reports, documents, and other information (including records, reports, documents and other information in electronic form) (hereinafter referred to as "Records") within its possession or control or that of its contractors or agents relating to activities at the Site, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information regarding the Site.

#### **40. Privileged and Protected Claims**

a. Settling Party may assert that all or part of a Record is privileged or protected as provided under federal law, provided it complies with Paragraph 40.b, and except as provided in Paragraph 40.c.

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

- c. Settling Party may make no claim of privilege or protection regarding:
  - (1) any data regarding the Site, including but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological, or engineering data, or the portion of any other Record that evidences conditions at or around the Site; or
  - (2) the portion of any Record that Settling Party is required to create or generate pursuant to this Settlement Agreement.

41. **Business Confidentiality Claims.** Settling Party may assert that all or part of a Record submitted to EPA under this Section or Section XIV (Retention of Records) is business confidential to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Settling Party shall segregate and clearly identify all Records or parts thereof submitted under this Settlement Agreement for which Settling Party asserts a business confidentiality claim. Records that Settling Party claims to be confidential business information will be accorded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies Records when they are submitted to EPA, or if EPA has notified Settling Party that the Records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2 Subpart B, the public may be given access to such Records without further notice to Settling Party.

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

#### **XIV. RETENTION OF RECORDS**

43. Until 5 years after the Effective Date, Settling Party shall preserve and retain all non-identical copies of Records now in its possession or control, or that come into its possession or control, that relate in any manner to its liability under CERCLA with respect to the Site, provided, however, that if Settling Party is potentially liable as an owner or operator of the Site, Settling Party must retain, in addition, all Records that relate to the liability of any other person under CERCLA with respect to the Site. Each of these requirements shall apply regardless of any corporate retention policy to the contrary.

44. At the conclusion of the document retention period, Settling Party shall notify EPA at least 90 days prior to the destruction of any such Records, and, upon request by EPA, and except as provided in Paragraph 40 (Privileged and Protected Claims), Settling Party shall deliver any such Records to EPA.

45. Settling Party certifies that, to the best of its knowledge and belief, after thorough inquiry, it has:

- a. not altered, mutilated, discarded, destroyed or otherwise disposed of any Records (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by the United States or the State and that it has fully complied with any and all EPA and State requests for information regarding the Site and Settling Party's financial circumstances, including but not limited to insurance and indemnity information,

pursuant to Sections 104(e) and 122(e)(3)(B) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e)(3)(B), Section 3007 of RCRA, 42 U.S.C. § 6927, and state law;

b. submitted to EPA financial information that fairly, accurately, and materially sets forth its financial circumstances, and that those circumstances have not materially changed between the time the financial information was submitted to EPA and the time Settling Party executes this Settlement Agreement; and

c. fully disclosed any information regarding the existence of any insurance policies or indemnity agreements that may cover claims relating to cleanup of the Site, and submitted to EPA upon request such insurance policies, indemnity agreements, and information.

## **XV. NOTICES AND SUBMISSIONS**

46. Whenever, under the terms of this Settlement Agreement, notice is required to be given or a document is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Party in writing. Except as otherwise provided, notice to a Party by email in accordance with this Section satisfies any notice requirement of this Settlement Agreement regarding such Party.

### **As to EPA:**

Amber Arnette Bell  
Associate Regional Counsel  
U.S. Environmental Protection Agency  
Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
bell.amber@epa.gov

Ann Mayweather  
Enforcement Project Manager  
Superfund and Emergency Management Division  
U.S. Environmental Protection Agency  
Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
mayweather.ann@epa.gov

### **As to Settling Party:**

Roy Markham Stewart  
Melissa S. Woodell  
Anthony Woodell  
LPC Holdings, Inc.  
c/o Stanley B. Green  
Green Mistretta Law, PLLC  
1752 Heritage Center Drive, Suite 101  
Wake Forest, North Carolina 27587  
sgreen@gmlawyers.org



## **XVI. INTEGRATION/APPENDICES**

47. This Settlement Agreement and its appendices constitute the final, complete, and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Settlement Agreement. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement:

“Appendix A” is the map of the Site.

“Appendix B” is a list of the financial documents submitted to EPA by Settling Party.

## **XVII. PUBLIC COMMENT**

48. This Settlement Agreement shall be subject to a public comment period of at least 30 days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, the United States may withhold its consent or seek to modify this Settlement Agreement if comments received disclose facts or considerations that indicate that this Settlement Agreement is inappropriate, improper, or inadequate.

## **XVIII. EFFECTIVE DATE**

49. The effective date of this Settlement Agreement shall be the date upon which EPA issues written notice that the public comment period pursuant to Paragraph 48 has closed and the United States has determined not to withhold its consent or seek to modify this Settlement Agreement based on the comments received, if any.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES.]

IT IS SO AGREED:

**U.S. ENVIRONMENTAL PROTECTION AGENCY:**

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Maurice L. Horsey, IV  
Chief, Enforcement Branch  
Superfund and Emergency Management Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Signature Page for Settlement Agreement Regarding Aberdeen Contaminated Groundwater  
Superfund Site

**U.S. DEPARTMENT OF JUSTICE:**

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Ellen M. Mahan  
Deputy Section Chief  
U.S. Department of Justice  
Environment and Natural Resources Division  
Environmental Enforcement Section  
P.O. Box 7611  
Washington, D.C. 20044-7611

\_\_\_\_\_  
Patricia L. Hurst  
Senior Counsel  
U.S. Department of Justice  
Environment and Natural Resources Division  
Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington, DC 20044-7611

Signature Page for Settlement Agreement Regarding Aberdeen Contaminated Groundwater  
Superfund Site

**LPC HOLDINGS, INC.:**

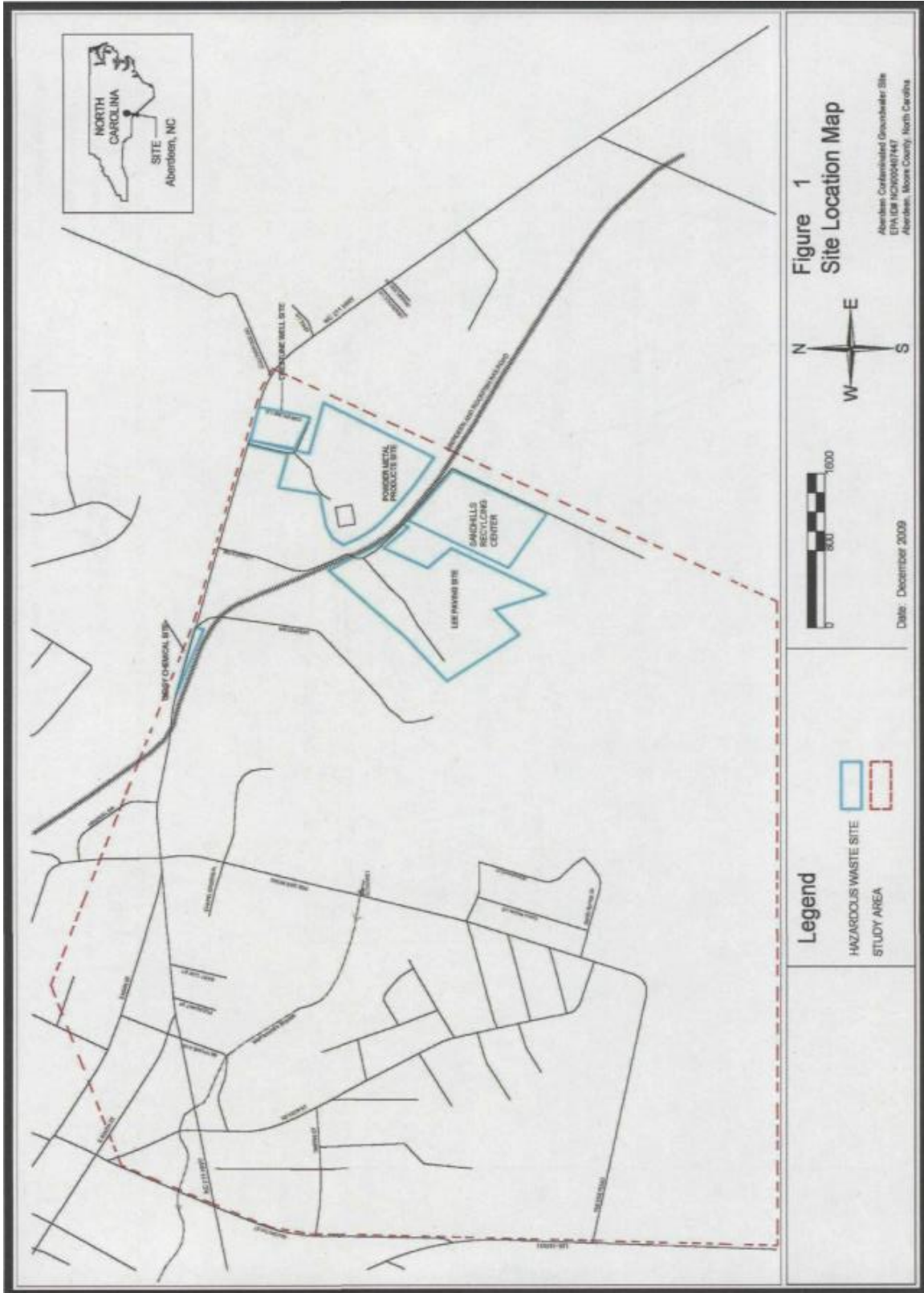
---

Dated

---

Roy Markham Stewart  
President  
LPC Holdings, Inc.  
442 Tobacco Rd.  
Sanford, NC 27332

APPENDIX A



## APPENDIX B

### List of Financial Documents Submitted by Settling Party

LPC Holdings, Inc. Balance Sheets for 2018 through 2022

LPC Holdings, Inc. Profit & Loss Statements for 2018 through 2022

State and Federal Tax Returns for LPC Holdings, Inc. for 2018 through 2022

Financial Statement of Corporate Debtor signed July 5, 2023