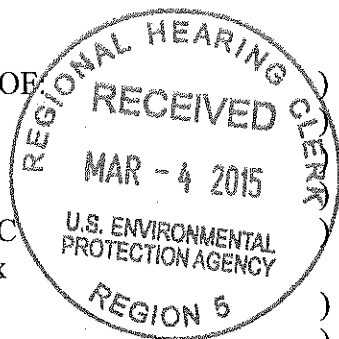


**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF



ADMINISTRATIVE ORDER ON CONSENT

EPA Docket No. **RCRA-05-2015-0006**

General Motors LLC
Van Slyke Complex
Flint, Michigan

EPA ID# MID005356951
RESPONDENT

) Proceedings under Section 3008(h) of the
) Resources Conservation and Recovery Act
) as amended, 42 U.S.C. § 6928(h).
)

I. JURISDICTION

1. The United States Environmental Protection Agency ("EPA") is issuing this Administrative Order on Consent ("Order") to General Motors LLC ("Respondent") under Section 3008(h) of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6928(h). The authority vested in the Administrator to issue orders under Section 3008(h) of RCRA, 42 U.S.C. § 6928(h), has been delegated to the Regional Administrators, and further delegated to the Director, Land and Chemicals Division, EPA Region 5.

2. Respondent owns and operates a manufacturing facility at and around G-3100 Van Slyke Road, Flint, Michigan commonly known as the Van Slyke Complex. The facility lies on the southwestern edge of Flint, Michigan, south of Interstate Highway I-69 and east of Interstate Highway I-75. The facility includes three currently active manufacturing operations: Flint Assembly, Flint Metal Center, and Flint Engine Operations. The facility also includes the former Powertrain V8 Engine Plant, which General Motors Corporation operated from 1953 until 1999 and which was demolished in 2000 leaving only a concrete slab floor. This Order does not relate to the Powertrain V8 Engine Plant portion of the facility, which is addressed under a separate Order (No. RCRA-05-2009-004). For purposes of this Order, the Flint Assembly, Flint Metal Center, and the Flint Engine Operations, as depicted in more detail in Exhibit 1, will be referred to as the "Facility". General Motors LLC (GM LLC) refers to the company formed on July 10, 2009 as a result of the 363 Asset Sale pursuant to the bankruptcy. Any reference in this Order to historical documents or to the property or work prior to July 10, 2009 refers to the work performed by General Motors Corporation (GMC).

3. Respondent agrees not to contest EPA's jurisdiction to issue this Order, to enforce its terms, or to impose sanctions for violations of the Order.

4. Respondent waives any rights to request a hearing on this matter pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and 40 C.F.R. Part 24, and consents to the issuance of

this Order without a hearing under Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), as a Consent Order issued pursuant to Section 3008(h) of RCRA, 42 U.S.C. § 6928(h).

II. DEFINITIONS

5. This Order incorporates the definitions in RCRA, 42 U.S.C. §§ 6901 - 6922k, and the regulations promulgated under RCRA unless otherwise specified.

III. PARTIES BOUND

6. This Order applies to and binds EPA, Respondent and its agents, successors, assigns, trustees, receivers, and all persons, including but not limited to contractors and consultants, acting on behalf of Respondent. Respondent will be responsible for and liable for any violations of this Order, regardless of Respondent's use of employees, agents, contractors, or consultants to perform Work required by this Order.

7. No change in ownership or corporate or partnership status relating to the Facility will alter Respondent's obligations under this Order. Any conveyance of title, easement, or other interest in the Facility, or a portion of the Facility, will not affect Respondent's obligations under this Order. Respondent will give written notice of this Order to any successor in interest prior to transferring ownership or operation of the Facility or a portion thereof and will notify EPA in writing within five days of the transfer. This written notice will describe how Respondent has assured that, despite the transfer, all institutional controls required now or in the future for the Facility will be implemented and maintained. This Paragraph will not apply if EPA and Respondent agree that this Order has terminated as to the Facility or any relevant portion of the Facility.

IV. BACKGROUND

RCRA Corrective Action at the Former Flint V8 Engine Plant area at the Facility had previously been implemented pursuant to an Administrative Order on Consent (RCRA-05-209-004). Therefore, the Former Flint V8 Engine Plant area is not covered under this Order covering the remainder of the Facility.

The Respondent provided to EPA on December 17, 2013 a Current Conditions Report that included any recent sampling data from the Facility, and a summary of the historic operations and physical setting of the Facility. The Current Conditions Report described conditions at all locations specified and any other past or present locations at the Facility for which Respondent knows of past treatment, storage, or disposal of hazardous waste or hazardous constituents.

V. DETERMINATIONS

8. After consideration of the Administrative Record, the Director, Land and Chemicals Division, EPA Region 5, has made the following conclusions of law and determinations:

- a. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).
- b. Respondent is the owner or operator of a facility that has operated under interim status subject to Section 3005(e) of RCRA, 42 U.S.C. § 6925(e).
- c. Certain wastes and constituents found at the Facility are hazardous wastes and/or hazardous constituents pursuant to Sections 1004(5) and 3001 of RCRA, 42 U.S.C. §§ 6903(5) and 6921, and 40 C.F.R. Part 261.
- d. There is or has been a release of hazardous wastes or hazardous constituents into the environment from the Facility.
- e. The actions required by this Order are necessary to protect human health or the environment.

VI. PROJECT MANAGER

9. EPA and Respondent must each designate a Project Manager and notify each other in writing of the Project Manager selected within 14 days of the effective date of this Order. Each Project Manager will be responsible for overseeing the implementation of this Project. The parties must provide prompt written notice whenever they change Project Managers.

VII. WORK TO BE PERFORMED

10. Pursuant to Section 3008(h) of RCRA, 42 U.S.C. § 6928(h), Respondent agrees to and is hereby ordered to perform the actions specified in Section VII (hereinafter, the "Work"), in the manner and by the dates specified here. Respondent represents that it has the technical and financial ability to carry out corrective action at the Facility. Respondent must perform the Work undertaken pursuant to this Order in compliance with RCRA and other applicable federal and state laws and their implementing regulations, and consistent with all relevant EPA guidance documents as appropriate to the Facility. This guidance includes, but is not limited to, the Documentation of Environmental Indicator Determination Guidance, relevant portions of the Model Scopes of Work for RCRA Corrective Action, and EPA's risk assessment guidance.

11. Respondent must identify and define the nature and extent of releases of hazardous waste and hazardous constituents at or from the Facility as follows:

a. Using the Current Conditions Report as a basis, prepare a RCRA Facility Investigation (RFI) Work Plan and Quality Assurance Project Plan for EPA approval to perform a RFI to identify the nature and extent of any releases of hazardous waste and hazardous constituents at or from the Facility which may pose an unacceptable risk to human health and the environment. Provide an RFI Report to EPA for review and approval no later than 120 days upon completion of the activities specified in the RFI Work Plan and any subsequent Addendums. The RFI report must also describe the nature and extent of any releases of hazardous waste and hazardous constituents at or from the Facility which do not pose an unacceptable risk to human health and the environment, and provide the basis for those conclusions, including an evaluation of the risks. Respondent may prepare and submit the report in two phases to provide timely support for the demonstrations described in Paragraph 14, below, and for the determinations and proposal described in Paragraph 15, below.

12. Respondent must timely submit for EPA review and approval any proposed interim measures necessary to control current human exposures to contamination or to stabilize the migration of contaminated groundwater as required under Paragraph 15.c., d., or e. at least 90 calendar days prior to the planned initiation of construction work, unless a shorter time period is approved by EPA in writing. The proposed interim measures must contain a workplan and a project schedule. Any required sampling documentation, construction completion documentation and/or confirmatory sampling results necessary for the interim measures report supporting the Environmental Indicators ("EI") demonstration should be scheduled to be available in advance of the EI demonstration date. The EPA Project Manager will determine whether any public participation activities are appropriate prior to acting on the request for approval.

13. Nothing herein shall be construed as restricting Respondent from performing an immediate or emergency response to a release or threat of a release as may be necessary to protect human health or the environment. Upon the discovery of a release or threat of a release of hazardous wastes or hazardous constituents to the environment from the Facility requiring an immediate or emergency response in accordance with the preceding sentence, Respondent must provide EPA with prompt oral notification and written notification within 7 days, summarizing the immediacy and magnitude of the potential threats to human health and the environment and the immediate or emergency response performed.

14. Respondent must demonstrate by July 1, 2018, using an Environmental Indicators Report as a guide, and by performing any other necessary activities, consistent with this Section, that:

a. All current human exposures to contamination at or from the Facility are under control. That is, significant or unacceptable exposures do not exist for all media known or reasonably suspected to be contaminated with hazardous wastes or hazardous constituents above risk-based levels, for which there are complete pathways between contamination and human receptors.

b. Migration of contaminated groundwater at or from the Facility is stabilized. That is, the migration of all groundwater known or reasonably suspected to be contaminated with hazardous wastes or hazardous constituents above acceptable levels is stabilized to remain within any existing areas of contamination as defined by monitoring locations designated at the time of the demonstration. In addition, any discharge of groundwater to surface water is either insignificant or currently acceptable according to an appropriate interim assessment. Respondent must collect monitoring and measurement data in the future as necessary to verify that migration of any contaminated groundwater is stabilized.

15. To prepare for and provide the demonstrations required by Paragraph 14, above, Respondent must:

a. Determine appropriate risk screening criteria under current use scenarios and provide the basis and justification for the use of these criteria.

b. Determine any current unacceptable risks to human health and the environment and describe why other identified risks are acceptable.

c. Control any unacceptable current human exposures that Respondent identifies. This includes performing any interim measures approved by EPA necessary to control current human exposures to contamination to within acceptable risk levels.

d. Stabilize the migration of contaminated groundwater. This includes implementing any interim measures approved by EPA necessary to stabilize the migration of contaminated groundwater.

e. Conduct groundwater monitoring to confirm that any contaminated groundwater remains within the original area of contamination.

f. Prepare and submit to EPA an interim measures report, by the date of demonstrations required by Paragraph 14, that describes any interim measures performed to meet the requirements of this Section, including, any required sampling documentation, construction completion documentation and/or confirmatory sampling results. To the extent that there are unanticipated delays with respect to any of these requirements, EPA shall entertain reasonable requests for extensions of the interim measures report deadline.

16. Within 120 days (unless a pilot study is required and more time is necessary) after EPA notifies the Respondent of approval of the RFI Report, Respondent must propose to EPA final corrective measures necessary to protect human health and the environment from all current and future unacceptable risks due to releases of hazardous waste or hazardous constituents at or from the Facility (the "Final Corrective Measures Proposal"). The proposal must describe all corrective measures implemented at the Facility since the effective date of this Order. It must

also include a description of all other final corrective measures that Respondent evaluated, a detailed explanation of why Respondent preferred the proposed final corrective measures, and cost estimates for the final corrective measures evaluated. The proposal must also include a detailed schedule to construct and implement the final corrective measures, and provision to submit a Final Remedy Construction Completion Report. The proposed schedule must provide for Respondent to complete as much of the initial construction work as practicable within one year after EPA selects the final corrective measures and that Respondent complete all final corrective measures within a reasonable period of time to protect human health and the environment.

17. As part of developing its Final Corrective Measures Proposal, Respondent must propose appropriate risk screening criteria, cleanup objectives, and points of compliance under current and reasonably expected future land use scenarios and provide the basis and justification for these decisions.

18. EPA may request supplemental information from Respondent if EPA determines that any submission required under this Order does not provide an adequate basis to select final corrective measures that will protect human health and the environment from the release of hazardous waste and hazardous constituents at or from the Facility. Respondent must provide timely any supplemental information that EPA requests in writing.

19. EPA will provide the public with an opportunity to review and comment on its proposed final corrective measures, including a detailed description and justification for the proposal (the "Statement of Basis"). Following the public comment period, EPA will select the final corrective measures, and will notify the public of the decision and rationale in a "Final Decision and Response to Comments" ("Final Decision").

20. Except as provided for in Paragraph 55 of Section XIII (Dispute Resolution), upon notice by EPA, Respondent must implement the final corrective measures selected in EPA's Final Decision according to the schedule in the Final Decision.

21. Reporting and other requirements:

a. Respondent must establish a publicly accessible repository for information regarding site activities and conduct public outreach and involvement activities until two years after the Final Remedy Construction Completion Report is approved by EPA.

b. Respondent must provide quarterly progress reports to EPA by the fifteenth day of the month after the end of each quarter until the Final Remedy Construction Completion Report is approved by EPA, and then annually thereafter. The report must list Work performed to date, data collected, problems encountered, project schedule, and percent project completed.

c. The parties will communicate frequently and in good faith to assure successful

completion of the requirements of this Order, and will meet on at least a semi-annual basis until the Final Remedy Construction Completion Report is approved by EPA to discuss the Work proposed and performed under this Order. Thereafter, the parties will determine the appropriate frequency of ongoing communication not otherwise specified by this Order. Consistent with the attached EPA letter, dated September 9, 2013, (Exhibit 2), the parties will use best efforts to identify, discuss, and resolve potential issues as early as possible regarding deliverables through the use of informal meetings, conference calls and e-mail, with the goal that the Respondent's submitted deliverables may be approved by EPA under Section VIII (EPA Approval of Deliverables) without significant additional comment or revision. However, any failure by either EPA or Respondent to comply with the informal process described in Exhibit 2 shall not excuse Respondent from performance in compliance with and by the deadlines required by this Order.

d. Respondent must provide a Final Remedy Construction Completion Report documenting all Work that it has performed pursuant to the schedule in EPA's Final Decision. The Final Remedy Construction Completion Report must provide a description of the environmental results of the final remedy and any interim corrective measures including, but not limited to, (1) the volume for each of the following that were treated or removed, as appropriate for the corrective measures performed: soil, sediment, vapor, groundwater, surface water, and materials in containers addressed or to be addressed by the response actions; and (2) an estimate of the mass of contaminants mitigated as part of those materials addressed.

e. If ongoing monitoring or operation and maintenance is required after construction of the final corrective measures, Respondent must include an operations and maintenance plan in the Final Remedy Construction Completion Report. Respondent must revise and resubmit the report in response to EPA's written comments, if any, by the dates EPA specifies. Upon EPA's written approval, Respondent must implement the approved operation and maintenance plan according to the schedule and terms of the plan.

f. Any risk assessments Respondent conducts must estimate human health and ecological risk under reasonable maximum exposure for both current and reasonably expected future land and resource use scenarios. In conducting the risk assessments, Respondent will follow the EPA's Risk Assessment Guidance for Superfund (RAGS) or other appropriate EPA guidance. Respondent will use appropriate screening values when screening to determine whether further investigation is required. Appropriate screening values may be derived from Federal Maximum Contaminant Levels, EPA Regional Screening Levels, EPA Region 5 Ecological Screening Levels, Michigan Part 201 generic screening levels, or RAGS. Respondent may develop remedial goals utilizing site-specific information such as soil type, exposure frequency (e.g., snow-ice surface cover) or exposure scenario. Respondent may propose to use peer reviewed scientific literature where necessary information is not readily available through EPA guidance.

g. All sampling and analysis conducted under this Order must be performed in accordance with the Region 5 RCRA Quality Assurance Project Plan Policy (April 1998) as appropriate for the site, and be sufficient to identify and characterize the nature and extent of all releases as

required by this Order. EPA may audit laboratories Respondent selects or require Respondent to purchase and have analyzed any performance evaluation samples selected by EPA which are compounds of concern. Respondent must notify EPA in writing at least 14 days before beginning each separate phase of field work performed under this Order. At the request of EPA, Respondent will provide or allow EPA or its authorized representative to take split or duplicate samples of all samples Respondent collects under this Order.

h. Respondent shall provide cost estimates in any investigation and/or remedial measure work plan submittal.

22. The EPA Project Manager may extend any deadline in this Section for 90 days or less with written notice to the Respondent. Extensions of greater than 90 days require written approval from the Chief of the Remediation and Reuse Branch, Land and Chemicals Division.

VIII. EPA APPROVAL OF DELIVERABLES

23. Respondent must submit deliverables required by Paragraphs 11.a, 12, 14, 16, 21.d and 21.e of this Order to EPA for approval or modification. All deliverables must be received at EPA by the dates specified pursuant to this Order.

24. For all deliverables described in Paragraph 23 that require EPA review and approval, EPA will make good faith efforts to act pursuant to this Section within 60 days of receipt of the deliverables required by Paragraphs 11.a, 12, 14, 16, 21.d and 21.e. If EPA fails to act within this 60-day period, EPA will grant Respondent's reasonable request for an extension of any subsequent deadline that is affected.

25. After review of any deliverable that is required to be approved pursuant to this Order, EPA will: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that Respondent modify the submission; or (e) any combination of the above. However, EPA will not modify a submission without first providing Respondent with a notice of deficiency and an opportunity to cure within 45 days or such longer time as specified by EPA, except where EPA determines that to do so would cause serious disruption to the Work or where EPA has previously disapproved that particular submission due to a material defect and EPA determines that the deficiencies in the resubmission indicate a bad faith lack of effort to submit an acceptable deliverable.

26. In the event of approval, approval upon specified conditions, or modification by EPA, pursuant to Paragraph 25(a), (b), or (c), Respondent must proceed to take any action required by the deliverable, as approved or modified by EPA subject only to Respondent's right to invoke the Dispute Resolution procedures set forth in Section XIII (Dispute Resolution) relating to the modifications or conditions made by EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to Paragraph 25(c) and EPA determines the submission has a

material defect, EPA retains its right to seek stipulated penalties, subject to the provisions set forth in Section XII (Stipulated Penalties).

27. Resubmission of Deliverable. Upon receipt of a notice of disapproval, in whole or in part, pursuant to Paragraph 25(d), Respondent must, within 45 days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the deliverable for approval. Any stipulated penalties applicable to the submission, as provided in Section XII (Stipulated Penalties), shall accrue during the 45 day opportunity to cure period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraph 25.

28. Notwithstanding the receipt of a notice of disapproval pursuant to Paragraph 25(d), Respondent must proceed, at the direction of EPA, to take any action required by any non-deficient portion of the submission. Implementation of any non-deficient portion of a submission shall not relieve Respondent of any liability for stipulated penalties for the deficient portion of the deliverable under Section XII (Stipulated Penalties).

29. In the event that a resubmitted deliverable, or portion thereof, is disapproved by EPA, EPA may again require Respondent to correct the deficiencies, in accordance with the preceding Paragraphs. EPA also retains the right to modify or develop the plan, report or other item subject to the conditions set forth in Paragraph 25. Respondent must implement any action as required in a deliverable which has been modified or developed by EPA, subject only to Respondent's right to invoke the procedures set forth in Section XIII (Dispute Resolution).

30. If upon resubmission, a deliverable is disapproved or modified by EPA due to a material defect, Respondent shall be deemed to have failed to submit such deliverable timely and adequately unless Respondent invokes the dispute resolution procedures set forth in Section XIII (Dispute Resolution) and EPA's action to disapprove or modify a deliverable is overturned pursuant to that Section. The provisions of Section XIII (Dispute Resolution) and Section XII (Stipulated Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is upheld, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XII (Stipulated Penalties).

31. All deliverables required to be submitted to EPA under this Order, shall, upon approval or modification by EPA, be incorporated into and be enforceable under this Order. In the event EPA approves or modifies a portion of a deliverable required to be submitted to EPA under this Order, the approved or modified portion shall be enforceable under this Order.

IX. ACCESS

32. For any purpose related to this Order, upon reasonable notice, and at reasonable times, EPA, its contractors, employees, and any designated EPA representatives may enter and freely move about the Facility to, among other things: interview Facility personnel and contractors with respect to the requirements set forth in this Order; review Respondent's progress in carrying out the terms of this Order; conduct tests, sampling, or monitoring as EPA deems necessary to verify compliance with the Order; use a camera, sound recording, or other documentary equipment to document compliance with the Order; and verify the reports and data Respondent submits to EPA. Respondent will permit such persons to inspect and copy all non-privileged photographs and documents, including all sampling and monitoring data, that pertain to Work undertaken under this Order and that are within the possession or under the control of Respondent or its contractors or consultants. Respondent may request split samples, or copies of all photographs, tapes, videos or other recorded evidence created by EPA and releasable under the Freedom of Information Act.

33. If Respondent must go beyond the Facility's boundary to perform Work required by this Order, Respondent must use its best efforts to obtain the necessary access agreements from the present owner(s) of such property within 30 days after Respondent knows of the need for access. Any such access agreement must provide for access by EPA and its representatives. Respondent must submit a copy of any access agreement to EPA's Project Manager. If it does not obtain agreements for access within 30 days, Respondent must notify EPA in writing within 14 additional days of both the efforts undertaken to obtain access and the failure to obtain access agreements. EPA may, at its discretion, assist Respondent in obtaining access. If Respondent in good faith cannot obtain timely access, the pertinent deadlines may be adjusted accordingly.

34. Nothing in this Section limits or otherwise affects EPA's right of access and entry under applicable law, including RCRA and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675.

X. COST ESTIMATES AND ASSURANCES OF FINANCIAL RESPONSIBILITY FOR COMPLETING THE WORK

35. Estimated Cost of the Work:

a. Respondent must submit to EPA detailed written estimates, as described in Paragraph 35, in current dollars, of the cost of hiring a third party to perform the Work (Cost Estimate). A third party is a party who (i) is neither a parent nor a subsidiary of Respondent and (ii) does not share a common parent or subsidiary with Respondent. The Cost Estimate shall not incorporate any salvage value that may be realized from the sale of wastes, Facility structures or equipment, land or other assets associated with the Facility.

b. Respondent has submitted, and EPA has approved, an initial Cost Estimate consistent with Paragraph 35.a. which covers the cost of performing the Work required under Paragraphs 11.a. and 14.

c. Within 30 days of receipt by Respondent of the Final Decision under Paragraph 19, Respondent must submit to EPA for review and approval a revised Cost Estimate accounting for the costs of all remaining Work, including, but not limited to, all remaining investigations and reports, construction work, implementation, monitoring, and other long term care work.

d. Respondent must annually adjust the Cost Estimate for inflation and for changes in the scope of the Work. By November 16 each year Respondent must submit the annually adjusted Cost Estimate to EPA for review and approval.

e. EPA will review each Cost Estimate submitted by Respondent and will notify Respondent of EPA's approval, approval with modifications, or disapproval of the Cost Estimate. EPA shall review and either approve or disapprove Respondent's annual Cost Estimate no later than January 15 of each year to provide Respondent with sufficient time to satisfy its obligations as set forth in Paragraph 36.b, below. EPA's disapproval of any Cost Estimate must be consistent with Paragraph 35.f, below.

f. If at any time EPA determines that a Cost Estimate provided pursuant to this Paragraph is inadequate, EPA shall notify Respondent in writing, stating the basis for its determination. If at any time Respondent becomes aware of information indicating that any Cost Estimate provided pursuant to this Section is inadequate, Respondent must notify EPA in writing of such information within ten (10) days. Within 30 days of EPA's notification Respondent must submit a revised Cost Estimate to EPA for review.

36. Assurances of Financial Responsibility for Completing the Work:

a. In order to secure the full and final completion of the Work in accordance with this Order, Respondent shall establish and maintain financial assurance for the benefit of EPA in the amount of the most recent approved Cost Estimate. Respondent has selected as initial financial assurance a surety bond pursuant to Paragraph 36.d. i – vi., below, in the amount of the approved initial Cost Estimate and in the form attached hereto as Exhibit 3. The initial financial assurance as set forth in Exhibit 3 is satisfactory to EPA in form and substance. Within 45 days after the effective date of this Order, Respondent shall execute or otherwise finalize all instruments or other documents required in order to make the selected financial assurance legally binding in a form substantially identical to the documents attached hereto as Exhibit 3, and such financial assurance shall be fully effective. Respondent shall submit all executed and/or otherwise finalized instruments or other documents to EPA within 60 days after the effective date of this Consent Order.

b. Respondent must annually adjust the financial instrument or financial test demonstration as necessary to reflect the most recent Cost Estimate approved by EPA by April 1 of each calendar year. Respondent must use one or more of the financial assurance forms described in

Paragraphs 36.d.i. – vi., below. If the annual adjustment is insignificant (a cumulative increase of less than 5%), Respondent may propose no adjustment is necessary.

c. Any and all financial assurance documents provided pursuant to this Order must be submitted to EPA for review in draft form, without the inflation adjusted Cost Estimate amount if such information is not yet available to Respondent, at least 45 days before they are due to be filed and must be compliant with 40 CFR Part 264, Subpart H, and this Order, as determined by EPA. Respondent must maintain adequate financial assurance until EPA releases Respondent from this requirement under Paragraph 37.c, below.

d. To fulfill any financial assurance obligation pursuant to this Order, Respondent shall select and implement one or more of the mechanisms specified in i-vi below that are substantially equivalent to 40 C.F.R. Part 264, Subpart H.

- i. A trust fund established for the benefit of EPA, administered by a trustee who has the authority to act as a trustee under Federal or State law and whose trust operations are regulated and examined by a Federal or State agency, and that is acceptable in all respects to the EPA. The trust agreement must provide that the trustee must make payments from the fund as the Director, Land and Chemicals Division, EPA Region 5, shall direct in writing to (1) reimburse Respondent from the fund for expenditures made by Respondent for Work, or (2) to pay any other person whom the Director, Land and Chemicals Division, EPA Region 5, determines has performed or will perform the Work. The trust agreement must further provide that the trustee must not refund to the grantor any amounts from the fund unless and until EPA has advised the trustee that the Work has been successfully completed.
- ii. A surety bond guaranteeing performance of the Work, or guaranteeing payment at the direction of EPA into a standby trust fund that meets the requirements of the trust fund in Paragraph 36.d.i, above. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal Bonds as set forth in Circular 570 of the U.S. Department of Treasury.
- iii. An irrevocable letter of credit, payable at the direction of the Director, Land and Chemicals Division, EPA Region 5, into a standby trust fund that meets the requirements of the trust fund in Paragraph 36.d.i , above. The letter of credit must be issued by a financial institution (i) that has the authority to issue letters of credit, and (ii) whose letter-of-credit operations are regulated and examined by a Federal or State agency.

- iv. An insurance policy that (i) provides EPA with rights as a beneficiary; and (ii) is issued by an insurance carrier that (a) has the authority to issue insurance policies in the applicable jurisdiction, and (b) whose insurance operations are regulated and examined by a Federal or State agency. The insurance policy must be issued for a face amount at least equal to the Cost Estimate, except where costs not covered by the insurance policy are covered by another financial assurance instrument, as permitted in Paragraph 36.d . The policy must provide that the insurer shall make payments as the Director, Land and Chemicals Division, EPA Region 5, shall direct in writing (i) to reimburse Respondent for expenditures made by Respondent for Work performed in accordance with this Order, or (ii) to pay any other person whom the Director, Land and Chemicals Division, EPA Region 5, determines has performed or will perform the Work in accordance with this Order, up to an amount equal to the face amount of the policy. The policy must also provide that it may not be canceled, terminated or non-renewed and the policy shall remain in full force and effect in the event that (i) the Respondent is named as a debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or (ii) EPA notifies the insurer of Respondent's failure to perform, under Paragraph 38 of this Section.
 - v. A corporate guarantee, executed in favor of the EPA by one or more of the following: (1) a direct or indirect parent company, or (2) a company that has a "substantial business relationship" with Respondent (as defined in 40 C.F.R. § 264.141(h)), to perform the Work or to establish a trust fund as permitted by Paragraph 36.d.i., above; provided, however, that any company providing such a guarantee must demonstrate to the satisfaction of the EPA that it satisfies the financial test requirements of 40 C.F.R. § 264.143(f) with respect to the portion of the Cost Estimate that it proposes to guarantee.
 - vi. A demonstration by Respondent that it meets the financial test criteria of 40 C.F.R. § 264.143(f) with respect to the Cost Estimate, provided that all other requirements of 40 C.F.R. § 264.143(f) are satisfied.
- e. Respondent must submit all original executed and/or otherwise finalized instruments to EPA's Regional Comptroller (MF-10J), 77 W. Jackson Blvd., Chicago, IL 60604-3590, within 30 days after date of execution or finalization. A transmittal letter stating the name and RCRA ID number of the Facility, Respondent's name and address, and the EPA docket number of this Order must accompany the instruments. Respondent must also provide copies to the EPA Project Manager.

f. If at any time Respondent provides financial assurance for completion of the Work by means of a corporate guarantee or financial test, Respondent must also comply with the other relevant requirements of 40 C.F.R. § 264.143(f), 40 C.F.R. § 264.151(f), and 40 C.F.R. § 264.151(h)(1) relating to these methods, and will promptly provide any additional information requested by EPA from Respondent or corporate guarantor at any time.

g. For purposes of the corporate guarantee or the financial test described above, references in 40 C.F.R. § 264.143(f) to “the sum of current closure and post-closure costs and the current plugging and abandonment cost estimates” shall mean “the sum of all environmental remediation obligations” [including obligations under CERCLA, RCRA, Underground Injection Control (UIC), the Toxic Substances Control Act (TSCA) and any other state or tribal environmental obligation] guaranteed by such company or for which such company is otherwise financially obligated in addition to the Cost Estimate.

h. Respondent may combine more than one mechanism to demonstrate financial assurance for the Work, except mechanisms guaranteeing performance rather than payment may not be combined with other instruments.

i. Respondent may satisfy its obligation to provide financial assurance for the Work by providing a third party who assumes full responsibility for the Work and otherwise satisfies the obligations of the financial assurance requirements of this Order; however, Respondent shall remain responsible for providing financial assurance in the event such third party fails to do so and any financial assurance from a third party must be in one of the forms provided in Paragraphs 36.d.i. - iv., above.

j. If at any time EPA determines that a financial assurance mechanism provided pursuant to this Section is inadequate, EPA shall notify Respondent in writing specifying the basis of its determination. If at any time Respondent becomes aware of information indicating that any financial assurance mechanism(s) provided pursuant to this Section is inadequate, Respondent must notify EPA in writing of such information within ten (10) days. Within 90 days of receipt of notice of EPA's determination, or within 90 days of Respondent's becoming aware of such information, Respondent must establish and maintain adequate financial assurance for the benefit of the EPA which satisfies all requirements set forth in this Section. Any and all financial assurance documents provided pursuant to this Order must be submitted to EPA for review in draft form at least 45 days before they are due to be filed and must be compliant with 40 CFR Part 264, Subpart H, and this Order, as determined by EPA.

k. Respondent's inability or failure to establish or maintain financial assurance for completion of the Work shall in no way excuse performance of any other requirements of this Order.

37. Modification of Amount and/or Form of Performance Guarantee:

- a. Reduction of Amount of Financial Assurance. If, at any time other than when the annual adjustment is due, Respondent believes that the Cost Estimate has diminished below the amount covered by the existing financial assurance provided under this Order and it is not expected to increase prior to the next annual adjustment, Respondent may submit a written proposal to EPA for approval to reduce the amount of the financial assurance to equal the proposed new Cost Estimate.
- b. Change of Form of Financial Assurance. If, at any time other than when the annual adjustment is due, Respondent desires to change the form or terms of financial assurance, Respondent may submit a written proposal to EPA for approval to change the form of financial assurance. The written proposal must specify all proposed instruments or other documents required in order to make the proposed financial assurance satisfy all requirements set forth in this Section. Upon EPA acceptance Respondent must execute and/or otherwise finalize all instruments or other documents required in order to make the selected financial assurance legally binding. Respondent must submit all executed and/or otherwise finalized instruments or other documents required in order to make the selected financial assurance legally binding to the EPA Comptroller's Office, with a copy to EPA's Project Manager, with a transmittal letter, as provided in Paragraph 36, above.
- c. Release of Financial Assurance. Respondent may submit a written request to the Director, Land and Chemicals Division, EPA Region 5, that EPA release Respondent from the requirement to maintain financial assurance under this Section once EPA and Respondent have both executed an "Acknowledgment of Termination and Agreement to Record Preservation and Reservation of Right" pursuant to Section XX (Termination and Satisfaction) of the Order. The Director, Land and Chemicals Division, EPA Region 5, shall notify both Respondent and the provider(s) of the financial assurance within 30 days of determining that Respondent is released from all financial assurance obligations under this Order.
- d. Return of Letter of Credit or Surety Bond. EPA shall coordinate with the Respondent for the prompt return of any original letter of credit or surety bond for the Work in EPA's possession that is substituted by other financial assurances as approved by EPA consistent with Section X (Cost Estimates and Assurances of Financial Responsibility for Completing the Work).
- e. Cancellation of Surety Bond. EPA shall coordinate with the Respondent for the prompt cancellation of any surety bond for the Work in EPA's possession that is substituted by other financial assurances as approved by EPA consistent with Section X (Cost Estimates and Assurances of Financial Responsibility for Completing the Work).

38. Performance Failure:

a. If EPA determines that Respondent (i) has ceased implementing any portion of the Work, (ii) is significantly or repeatedly deficient or significantly or repeatedly late in its performance of the Work, or (iii) is implementing the Work in a manner that may cause an endangerment to human health or the environment, EPA may issue a written notice (“Performance Failure Notice”) to the Respondent of Respondent’s failure to perform. The notice issued by EPA will specify the grounds upon which such a notice was issued and will provide Respondent with a period of 45 days, or longer if EPA agrees in writing (Remedy Period), within which to remedy the circumstances giving rise to the issuance of such notice. If the circumstances giving rise to the issuance of such notice are not remedied within the Remedy Period, EPA may then issue written notice to the financial assurance provider of Respondent’s failure to perform.

b. Failure by Respondent to remedy the relevant Performance Failure to EPA’s satisfaction before the expiration of the Remedy Period specified in Paragraph 38.a shall trigger EPA’s right to have immediate access to and benefit of the financial assurance provided pursuant to Paragraphs 36.d.i, 36.d.ii, 36.d.iii, 36.d.iv, or 36.d.v. If EPA is unable after reasonable efforts to secure payment of funds or performance of Work from the financial assurance provider, then upon written notice from EPA, Respondent must within 30 days deposit into a trust fund approved by EPA, a cash amount equal to the most recent Cost Estimate approved by EPA.

c. In the event that Respondent initiates dispute resolution as provide in Section XIII (Dispute Resolution) with respect to EPA’s decision to declare a performance failure and prevails, EPA shall refund to Respondent any such unspent funds obtained by EPA pursuant to Paragraph 38(b), consistent with the final EPA Dispute Decision and 40 C.F.R. Part 264, Subpart H. Such refund shall be contingent upon EPA’s acceptance of Respondent’s proposal to establish substitute financial assurance under this Section. Respondent shall then establish and maintain the substitute financial assurance in accordance with the requirements of this Section so that there is no gap in financial assurances. In the event of a dispute, Respondent may release, cancel, or terminate the financial assurance required hereunder only in accordance with the final EPA Dispute Decision resolving such dispute, this Section, and 40 C.F.R. Part 264, Subpart H.

XI. RECORD PRESERVATION

39. Respondent must retain, during the pendency of this Order and for at least six years after the Order terminates, all data and all final documents now in its possession or control or which come into its possession or control which relate to this Order. Respondent must notify EPA in writing 90 days before destroying any such records, and give EPA the opportunity to take possession of any non-privileged documents. Respondent’s notice will refer to the effective date, caption, and docket number of this Order and will be addressed to:

Director
Land and Chemicals Division

EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604-3590

Respondent will also promptly give EPA's Project Manager a copy of the notice.

40. Respondent will not assert any privilege claim concerning any data gathered during any investigations or other actions required by this Order.

XII. STIPULATED PENALTIES

41. Respondent must, at EPA's sole discretion, pay the following stipulated penalties to the United States for violations of this Order:

- a. For failure to submit an investigation report by the date required in Paragraph 11.a: \$1,000 per day for the first 14 days and \$2,000 per day thereafter.
- b. For failure to adequately demonstrate that all current human exposures to contamination at or from the Facility are under control by July 1, 2018 as required in Paragraph 14.a: \$3,000 per day.
- c. For failure to adequately demonstrate that migration of contaminated groundwater at or from the Facility is stabilized by July 1, 2018 as required by Paragraph 14.b: \$3,000 per day.
- d. For failure to submit the Final Corrective Measures Proposal within 120 days (unless a pilot study is required and more time is necessary) after EPA notifies the Respondent of approval of the RFI Report as required by Paragraph 16: \$1,000 per day for the first 14 days and \$2,000 per day thereafter.
- e. For failure to implement according to the approved schedule, the selected final corrective measures as described in Paragraphs 19 and 20: \$3,000 per day for the first 14 days and \$6,000 per day thereafter.
- f. For failure to submit quarterly progress reports by the dates scheduled in Paragraph 21, above: \$1,000 per day for the first 14 days and \$2,000 per day thereafter.
- g. For failure to submit the Final Remedy Construction Completion Report as scheduled in Paragraph 21.d: \$1,000 per day for the first 14 days and \$2,000 per day thereafter.

h. For failure to timely submit the Cost Estimate or establish or maintain the Assurances of Financial Responsibility for Completing the Work as required under Section X (Cost Estimates and Assurances of Financial Responsibility for Completing the Work) of the Order: \$1,000 per day for the first 14 days and \$2,000 per day thereafter.

42. Whether or not Respondent has received notice of a violation, stipulated penalties will begin to accrue on the day a violation occurs, and will continue to accrue until Respondent complies. Separate stipulated penalties for separate violations of this Order will accrue simultaneously. However, stipulated penalties shall not accrue: (a) with respect to a deficient submission under Section VII (Work to Be Performed) and VIII (EPA Approval of Deliverables), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondent of any deficiency; (b) with respect to a decision by EPA's Director of the Land and Chemicals Division designated in Paragraph 52 of Section XIII (Dispute Resolution), until the period, if any, beginning on the 21st day after the Negotiation Period begins until the date the EPA Dispute Decision is issued, and (c) during the period beginning on the 31st day after any party initiates mediation as provided for in Paragraph 50 of Section XIII (Dispute Resolution).

43. Respondent must pay any stipulated penalties owed to the United States under this Section within 60 days of receiving EPA's written demand to pay the penalties, unless Respondent invokes the dispute resolution procedures under Section XIII (Dispute Resolution). A written demand for stipulated penalties will describe the violation and will indicate the amount of penalties due.

44. Interest will begin to accrue on any unpaid stipulated penalty balance beginning 31 days after Respondent receives EPA's demand letter. Interest will accrue at the current value of funds rate established by the Secretary of the Treasury. Under 31 U.S.C. § 3717, Respondent must pay an additional penalty of six percent per year on any unpaid stipulated penalty balance more than 90 days overdue.

45. Respondent must pay all penalties by certified or cashier's check payable to the United States of America, or by wire transfer, and will send the check to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 79077
St. Louis, MO 63197-9000

A transmittal letter stating the name of the Facility, Respondent's name and address, and the EPA docket number of this action must accompany the payment. Respondent will simultaneously

send a copy of the check and transmittal letters to the EPA Project Manager.

46. Respondent may dispute EPA's assessment of stipulated penalties by invoking the dispute resolution procedures under Section XIII (Dispute Resolution). Except as provided for in Paragraphs 42, 54, and 55, the stipulated penalties in dispute will continue to accrue, but need not be paid, during the dispute resolution period. Respondent must pay stipulated penalties and interest, if any, according to the dispute resolution decision or agreement. Respondent must submit such payment to EPA within 60 days after receiving the resolution according to the payment instructions of this Section.

47. Neither invoking dispute resolution nor paying penalties will affect Respondent's obligation to comply with the terms of this Order not directly in dispute.

48. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA for Respondent's violation of any terms of this Order. However, EPA will not seek both a stipulated penalty under this Section and a statutory penalty for the same violation.

XIII. DISPUTE RESOLUTION

49. The parties will use their best efforts to informally and in good faith resolve all disputes or differences of opinion.

50. If either party disagrees, in whole or in part, with any decision made or action taken under this Order, that party will notify the other party's Project Manager of the dispute. The Project Managers will attempt to resolve the dispute informally. Either party may propose the use of nonbinding mediation to facilitate informal dispute resolution. Both parties must agree in writing to the selection of a neutral mediator and to the initiation of mediation. The mediator selected by the parties must not have any past, present, or future business relationships with the parties, other than for mediation activities; must be provided with a copy of this Order; and must agree to the terms and conditions for mediation contained in this Order. Either party may terminate mediation at any time. The parties agree that they will share equitably the costs of mediation, subject to the availability of EPA funds authorized for this purpose as determined by EPA in its sole discretion. The parties agree that participants in mediated discussions, including the mediator, shall execute a confidentiality agreement.

51. If the Project Managers cannot resolve the dispute informally, either party may pursue the matter formally by placing its objections in writing. A written objection must state the specific points in dispute, the basis for that party's position, and any matters which it considers necessary for determination.

52. EPA and Respondent will in good faith attempt to resolve the dispute through formal

negotiations within 21 days, or a longer period if agreed in writing by the parties (the “Negotiation Period”). During the Negotiation Period, either party may request a conference with appropriate senior management to discuss the dispute.

53. If the parties are unable to reach an agreement during the Negotiation Period, within 14 business days after completion of the Negotiation Period, Respondent and EPA’s Project Manager may submit additional written information to the Director of the Land and Chemicals Division, EPA Region 5. EPA will maintain a record of the dispute, which will contain all statements of position and any other documentation submitted pursuant to this Section. EPA will allow timely submission of relevant supplemental statements of position by the parties to the dispute. Based on the record, EPA will respond to Respondent’s arguments and evidence and provide a detailed written decision on the dispute signed by the Director of the Land and Chemicals Division, EPA Region 5 (“EPA Dispute Decision”). The parties agree that in issuing the EPA Dispute Decision, the Director of Land and Chemicals Division, EPA Region 5, may take into consideration the course of conduct of the parties under Paragraph 21.c.. Respondent agrees not to judicially contest any action or decision by EPA pursuant to this Order prior to EPA’s initiation of a judicial action to enforce this Order, including an action for penalties or an action to compel Respondent’s compliance with the terms and conditions of this Order.

54. Disputes over final corrective measures. If Respondent disputes EPA’s selection of final corrective measures, relating to EPA’s Final Decision, penalties will not accrue or be assessed on matters directly in dispute for 6 months following EPA’s selection of these final corrective measures.

55. If, within 30 days after the EPA Dispute Decision regarding disputed final corrective measures is provided to Respondent, Respondent notifies EPA in writing that Respondent refuses to implement EPA’s selected final corrective measures, EPA agrees that Respondent shall have no further obligations to perform the disputed selected final corrective measures under this Order and the Order shall be terminated with respect Respondent’s obligation to perform the disputed selected final corrective measures and with respect to stipulated penalties for implementation of the final corrective measures. Provided, however, that nothing in this Paragraph should be read to in any way limit EPA’s authority to take further enforcement action with respect to the site, including, but not limited to, a separate Order or judicial action against the Respondent to implement the disputed selected final corrective measures.

XIV. FORCE MAJEURE AND EXCUSABLE DELAY

56. Force majeure, for purposes of this Order, is any event arising from causes not foreseen and beyond Respondent’s control that delays or prevents the timely performance of any obligation under this Order despite Respondent’s best efforts.

57. If any event occurs or has occurred that may delay the performance of any obligation

under this Order, whether or not caused by a force majeure event, Respondent must notify EPA within two business days after learning that the event may cause a delay. If Respondent wishes to claim a force majeure event, within 15 business days thereafter Respondent must provide to EPA in writing all relevant information relating to the claim, including a proposed revised schedule.

58. If EPA determines that a delay or anticipated delay is attributable to a force majeure event, EPA will extend in writing the time to perform the obligation affected by the force majeure event for such time as EPA determines is necessary to complete the obligation or obligations.

59. If EPA disagrees with Respondent's assertion of a force majeure, then Respondent may invoke the Dispute Resolution provision and shall follow the procedures set forth in Section XIII (Dispute Resolution). In any such proceeding, Respondent shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that Respondent employed reasonable to avoid and mitigate the effects of the delay, and that Respondent complied with the requirements of this Section. If Respondent satisfies this burden, then EPA shall extend the time for performance as EPA determines is necessary.

XV. MODIFICATION

60. This Order may be modified only by mutual agreement of EPA and Respondent, except as provided in Section VII (Work to Be Performed). Any agreed modifications will be in writing, will be signed by both parties, will be effective on the date of signature by EPA, and will be incorporated into this Order.

XVI. RESERVATION OF RIGHTS

61. Nothing in this Order restricts EPA's authority to seek Respondent's compliance with the Order and applicable laws and regulations. For violations of this Order, EPA reserves its rights to bring an action to enforce the Order, to assess penalties under Section 3008(h)(2) of RCRA, 42 U.S.C. § 6928(h)(2), and to issue an administrative order to perform corrective actions or other response measures. In any later proceeding, Respondent shall not assert or maintain any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon a contention that the claims raised by the United States in the later proceeding were or should have been raised here. This Order is not a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, or authorities of EPA.

62. EPA reserves all of its rights to perform any portion of the Work consented to here or

any additional site characterization, feasibility study, and remedial work as it deems necessary to protect human health or the environment.

63. If EPA determines that Respondent's actions related to this Order have caused or may cause a release of hazardous waste or hazardous constituent(s), or a threat to human health or the environment, or that Respondent cannot perform any of the Work ordered, EPA may order Respondent to stop implementing this Order for the time EPA determines may be needed to abate the release or threat and to take any action that EPA determines is necessary to abate the release or threat.

64. Respondent does not admit any of EPA's factual or legal determinations. Except for the specific waivers in this Order, Respondent reserves all of its rights, remedies and defenses, including without limitation all rights and defenses it may have: (a) to challenge EPA's performance of Work; (b) to challenge EPA's stop Work orders; (c) regarding liability or responsibility for conditions at the Facility, except for its right to contest EPA's jurisdiction to issue or enforce this Order; and (d) arising from any order of the United States Bankruptcy Court issued in the matter of *In re General Motors Corp. et al.*, Chapter 11 Case No. 09-50026 (REG). Respondent has entered into this Order in good faith without trial or adjudication of any issue of fact or law. Respondent reserves its right to seek judicial review of EPA actions taken under this Order, including a proceeding brought by the United States to enforce the Order or to collect penalties for violations of the Order.

XVII. OTHER CLAIMS

65. Respondent waives any claims or demands for compensation or payment under Section 106(b), 111, and 112 of CERCLA only against the United States or the Hazardous Substance Superfund established by 26 U.S.C. § 9507 for, or arising out of, any activity performed or expense incurred under this Order. Additionally, this Order is not a decision on preauthorization of funds under Section 111(a)(2) of CERCLA.

XVIII. INDEMNIFICATION OF THE UNITED STATES GOVERNMENT

66. Respondent indemnifies, saves and holds harmless the United States, its agencies, departments, agents, and employees, from all claims or causes of action arising from or on account of acts or omissions of Respondent or its officers, employees, agents, independent contractors, receivers, trustees, and assigns in carrying out activities required by this Order. This indemnification will not affect or limit the rights or obligations of Respondent or the United States under their various contracts. This indemnification will not create any obligation on the part of Respondent to indemnify the United States from claims arising from the acts or omissions of the United States.

XIX. SEVERABILITY

67. If any judicial or administrative authority holds any provision of this Order to be invalid, the remaining provisions will remain in force and will not be affected.

XX. TERMINATION AND SATISFACTION

68. Respondent may request that EPA issue a determination that Respondent has met the requirements of the Order for all or a portion of the Facility. Respondent may also request that EPA issue a “corrective action complete” or “corrective action complete with controls” determination for all or a portion of the Facility as described at 67 Fed. Reg. 9176, dated February 27, 2002.

69. The provisions of the Order will be satisfied upon Respondent’s and EPA’s execution of an “Acknowledgment of Termination and Agreement on Record Preservation and Reservation of Rights”, consistent with EPA’s Model Scope of Work.

70. Respondent’s execution of the Acknowledgment will affirm its continuing obligation to preserve all records as required by Section XI (Record Preservation), to maintain any necessary institutional controls or other long terms measures, and to recognize EPA’s reservation of rights as required in Section XV (Reservation of Rights).

71. It is the intent of the parties, in the event that EPA’s Final Decision requires any long term operation and maintenance activities, that such activities be conducted pursuant to a separate Order to be negotiated by the parties and that this Order would then be terminated consistent with this Section once agreement is reached on a separate Order for long term operation and maintenance activities.

XXI. EFFECTIVE DATE

72. This Order is effective on the date that EPA signs the Order.

IT IS SO AGREED:

DATE: 02-04-2015

BY: 
William J. McFarland, Director
Remediation Services
General Motors LLC

IT IS SO ORDERED:

DATE: 3/3/2015

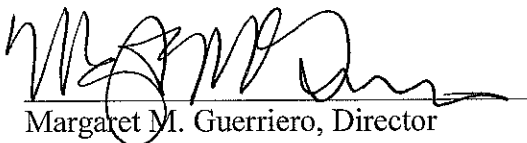
BY: 
Margaret M. Guerriero, Director
Land and Chemicals Division
U.S. Environmental Protection Agency
Region 5

EXHIBIT 1

Aerial Image Source: Bing Aerial Imagery, ArcGIS Online Services, Access date: 09/04/2012, via ArcGIS v. 10. This image is not for re-sale or distribution outside of the use of this PDF.



SWARTZ CREEK STORMWATER DISCHARGE LOCATION

Swartz Creek

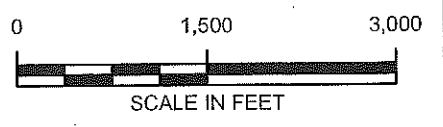
SITE LOCATION

FORMER FLINT V8 ENGINE PLANT PROPERTY*

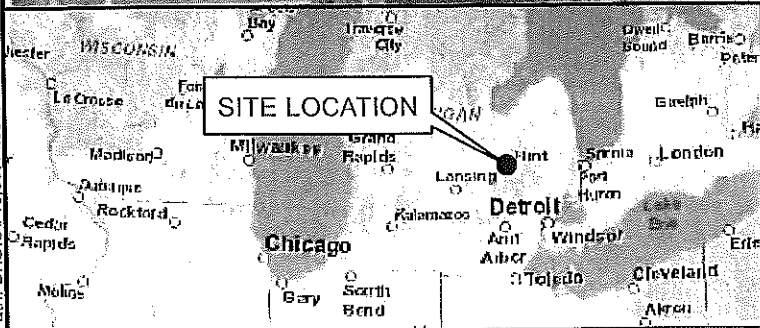
CALL DRAIN STORMWATER DISCHARGE LOCATION

CALL DRAIN

*NOTE: The Former Flint V8 Engine Plant is covered under a separate Administrative Order on Consent, is not part of the Site and is not covered under this CCR or any separate order covering the rest of the Van Slyke Complex.



CITY: Novi DIV: ENV J: TRY PIC: PM: TM: TR: PROJECT NUMBER: B0064437.0000.00143 Path: D:\GIS\Project Files\GeneralMotors\VanSlyke\Documents\SiteLocation Aerial.mxd User: T.Yarborough



GENERAL MOTORS LLC
VAN SLYKE COMPLEX - FLINT, MICHIGAN
CURRENT CONDITIONS REPORT

SITE LOCATION MAP



FIGURE
1

EXHIBIT 2



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP -9 2013

REPLY TO THE ATTENTION OF:

Mr. Edward Peterson
General Motors LLC
Global Environmental Compliance & Sustainability
30200 Mound Road
MC: 480-111-1N
Warren, Michigan 48090-9010

Dear Mr. Peterson:

GM has worked cooperatively with EPA Region 5 on its RCRA corrective action facilities in the region. Substantial progress has been made at a number of GM's facilities in the RCRA 2020 Universe. In addition, GM has demonstrated the attainment of Environmental Indicators at a number of GM's RCRA Corrective Action facilities in an expeditious manner. Finally, GM has worked with Region 5 to develop common processes and techniques (e.g., Health-Based Evaluation of Data to Streamline RCRA Facility Investigations at General Motors Facilities, Quality Assurance Project Plan, Databox Figures) to increase the speed of RCRA Facility Investigations.

An important component of the progress made at the GM sites has been the practice of the EPA Region 5 and GM project managers to use informal meetings, conference calls and e-mails to identify, discuss, and resolve potential issues as early as possible with respect to documents submitted by GM to EPA Region 5. It is that process that has allowed both GM and EPA to achieve this substantial progress. EPA Region 5 recognizes GM's willingness to agree to the formal review and approval process, as set forth in the executed Orders on Consent for GM's RCRA Corrective Facilities, to which this letter forms an attachment, is premised in part on EPA's intent as set forth in this letter, with GM's agreement, that any failure by either EPA or GM to comply with the informal process described herein does not excuse GM from performance in compliance with and by the deadlines required by any applicable Order.

EPA acknowledges that it is the intent of both GM and EPA Region 5 that GM and EPA Region 5 project managers will continue to use best efforts to implement this process as corrective action work proceeds at various GM facilities in Region 5; the overall goal is timely submission by GM of deliverables that are approvable by EPA, without significant additional comments or revision. EPA will focus on the most substantive site issues while providing timely input on deliverables to GM. The key elements of this process include the following:

1. In advance of submission of a deliverable to EPA Region 5, the GM project manager should notify the EPA Region 5 project manager of the anticipated date of submission. The project managers should then develop a schedule for the review and revision of the deliverable consistent with the timelines set forth below.
2. Upon initial submittal of a deliverable, the EPA Region 5 and GM project managers should have an initial face-to-face meeting or teleconference, generally within 21 business days of submittal of the deliverable, or such shorter or longer timeframe as may be appropriate depending on the complexity of the site or deliverable. GM should provide EPA Region 5 with a written agenda, which may be modified by EPA, at least two business days in advance of the initial meeting.
3. The EPA Region 5 and GM project managers should ensure that all appropriate personnel are in attendance for the initial meeting and each are well prepared to identify any questions, seek clarifications and discuss any anticipated issues relevant to their project role in order to maximize the productivity of the meeting. The project managers should identify the attendees in advance and strive to ensure that the attendees have each reviewed the document as appropriate to their role in the initial meeting. Follow up discussions may be arranged as necessary to facilitate additional input from personnel unable to attend the initial meeting.
4. The EPA Region 5 and GM project managers should, in good faith, identify, discuss and attempt to resolve all issues in a straightforward and thorough manner with the intent that both EPA Region 5 and GM project managers gain consensus on the content of the submission.
5. At the end of the initial meeting, the project managers for EPA Region 5 and GM should endeavor to reach consensus as to specific EPA Region 5 comments that need to be addressed by GM in any subsequent re-submittal of the document. At the end of this meeting, GM and EPA Region 5 should agree to a list of comments, along with any preliminary GM response or action, all of which GM will incorporate into a meeting summary document and provide to EPA Region 5 within approximately five business days of the initial meeting.
6. Upon receipt of the meeting summary document, the EPA Region 5 project manager should indicate to GM if corrections to the meeting summary document are necessary or if additional comments on the deliverable are anticipated, and, if so, should endeavor to provide those corrections or comments within 60 days of receipt of the deliverable, or as soon thereafter as reasonably possible. Upon receipt of the EPA Region 5 project manager's comments, the GM project manager should promptly inform the EPA Region 5 project manager of the anticipated schedule to address those comments. The GM project manager should address the EPA Region 5 project manager's comments as soon as reasonably possible.

7. The EPA Region 5 and GM project managers should strive to complete the comment and review process as efficiently and expeditiously as practical. GM shall provide written responses to the EPA Region 5 comments in a manner intended to satisfy completely the issues and questions raised by EPA Region 5 so that EPA approval is possible without significant comment.
8. EPA acknowledges that site specific facts and circumstances should be taken into consideration with respect to this process.

This process has been shared with the EPA Region 5 project managers working on GM sites with the general expectation that it be followed. I trust that GM will share this letter with GM's project managers and instruct them likewise. Please note, however, that nothing in this letter is intended to create a legally binding obligation nor does it supplant any requirement in any order.

Although EPA acknowledges that the process set forth above reflects EPA's current intent with respect to the future course of dealing of the parties, EPA Region 5 may deviate from this process without GM's consent in the event that EPA determines that it is in the public interest to do so. In the unlikely event of such a circumstance, the Chief of the Remediation and Reuse Branch will provide GM with written notice and afford GM an opportunity to meet with EPA Region 5 to discuss.

Please feel free to contact me if you have any questions or concerns. We look forward to working cooperatively with GM.

Sincerely,



Jose G. Cisneros, Chief
Remediation and Reuse Branch
Land and Chemicals Division

EXHIBIT 3

PERFORMANCE BOND

Date bond executed:

Effective date:

Principal: General Motors LLC, 300 Renaissance Center, Detroit, MI, 48265-3000

Type of organization: Limited Liability Company

State of incorporation: Delaware

Surety(ies):

EPA Identification Number, name, address, and corrective action amount(s) for each facility guaranteed by this bond:

EPA Identification Number: MID005356951

Site: GM – Van Slyke Complex, G-3100 Van Slyke Road, Flint, MI 48551

Corrective Action Amount: \$1,044,000

Total penal sum of bond: \$1,044,000

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the U.S. Environmental Protection Agency (hereinafter called EPA), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required to provide financial assurance for corrective action, as a condition of the Administrative Order on Consent #_____, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, Therefore, the conditions of this obligation are such that if the Principal shall faithfully perform corrective action, whenever required to do so, of each facility for which this bond guarantees corrective action, in accordance with the Administrative Order on Consent #_____, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

Or, if the Principal shall provide alternate financial assurance as specified in the Administrative Order on Consent #_____, and obtain the EPA Regional Administrator's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the EPA Regional Administrator(s) from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by an EPA Regional Administrator that the Principal has been found in violation of the corrective action requirements of the Administrative Order on Consent #_____, for a facility for which this bond guarantees performance of corrective action, the Surety(ies) shall either perform corrective action in

accordance with the Administrative Order on Consent # _____ or place the corrective action amount guaranteed for the facility into the standby trust fund as directed by the EPA Regional Administrator.

Upon notification by an EPA Regional Administrator that the Principal has failed to provide alternate financial assurance as specified in the Administrative Order on Consent # _____, and obtain written approval of such assurance from the EPA Regional Administrator(s) during the 90 days following receipt by both the Principal and the EPA Regional Administrator(s) of a notice of cancellation of the bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the EPA Regional Administrator.

The surety(ies) hereby waive(s) notification of amendments to the Administrative Order on Consent # _____, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the EPA Regional Administrator(s) for the Region(s) in which the facility(ies) is (are) located, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the EPA Regional Administrator(s), as evidenced by the return receipts.

The principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the EPA Regional Administrator(s) of the EPA Region(s) in which the bonded facility(ies) is (are) located.

In Witness Whereof, The Principal and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is substantially equivalent to the wording specified in 40 CFR 264.151(c) as such regulation was constituted on the date this bond was executed.

Principal

[Signature(s)]

Alan G. Gier

Director, Corporate Risk Management

[Corporate seal]

Corporate Surety(ies)

State of incorporation:
Liability limit: \$

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: \$

TRUST AGREEMENT FOR CORRECTIVE ACTION

Trust Agreement, the "Agreement," entered into as of [date] by and between General Motors LLC, a Delaware Limited Liability Company, the "Grantor," and [name of corporate trustee], [insert "incorporated in the State of _____" or "a national bank"], the "Trustee."

Whereas, the United States Environmental Protection Agency, "EPA," an agency of the United States Government, has established certain regulations applicable to the Grantor, requiring that an owner or operator of a hazardous waste management facility shall provide assurance that funds will be available when needed for corrective action of the facility,

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facilities identified herein,

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

Now, Therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facilities and Cost Estimates. This Agreement pertains to the facilities and cost estimates identified on attached Schedule A.

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of EPA. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by EPA.

Section 4. Payment for Corrective Action. The Trustee shall make payments from the Fund as the EPA Regional Administrator shall direct, in writing, to provide for the payment of the costs of corrective action of the facilities covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the EPA Regional Administrator from the Fund for corrective action expenditures in such amounts as the EPA Regional Administrator shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the EPA Regional Administrator specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the

circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; *except that*:

(i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or a State government;

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 *et seq.*, including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the appropriate EPA Regional Administrator a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the EPA Regional Administrator shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the EPA Regional Administrator, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the EPA Regional Administrator to the Trustee shall be in writing, signed by the EPA Regional Administrators of the Regions in which the facilities are located, or their designees, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or EPA hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or EPA, except as provided for herein.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor and the appropriate EPA Regional Administrator, by certified mail within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the appropriate EPA Regional Administrator, or by the Trustee and the appropriate EPA Regional Administrator if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the EPA Regional Administrator, or by the Trustee and the EPA Regional Administrator, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the EPA Regional Administrator issued in accordance with this Agreement.

The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of Michigan.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written: The parties below certify that the wording of this Agreement is substantially equivalent to the wording specified in 40 CFR 264.151(a)(1) as such regulations were constituted on the date first above written.

[Signature of Grantor]

[Title]

Attest:

[Title]

[Seal]

[Signature of Trustee]

Attest:

[Title]

[Seal]

State of
County of

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

Schedule A

EPA Identification Number: MID005356951

Site: GM – Van Slyke Complex, G-3100 Van Slyke Road, Flint, MI 48551

Corrective Action Cost Estimate: \$1,044,000

Schedule B

Funding not required for Standby Trust unless directed by EPA.