

**U.S. EPA REGION 3
HEARING CLERK**

PROCEEDING UNDER
SECTION 122(h)(1) OF CERCLA
42 U.S.C. § 9622(h)(1)

Settlement Agreement for Recovery of Past Response Costs

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I. JURISDICTION

1. This Settlement Agreement is entered into pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), which authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders) and redelegated to the Director of the Superfund and Emergency Management Division for EPA, Region 3.

2. This Settlement Agreement is made and entered into by EPA and by FDP Virginia, Inc. ("Settling Party"). The Settling Party consents to and will not contest EPA's authority to enter into this Settlement Agreement or to implement or enforce its terms.

II. BACKGROUND AND EPA FINDINGS OF FACT

3. This Settlement Agreement concerns the Desha Road Superfund Site ("Site") located near the intersection of Carver Lane and Desha Road in Tappahannock, Essex County, Virginia. EPA alleges that the Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4. In response to the release or threatened release of hazardous substances at or from the Site, EPA undertook various response actions at the Site pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, including, but not limited to, the following response activities:

a. EPA and its contractor conducted a removal site evaluation of the Site in November 2021 after learning that waste belonging to FDP Virginia, Inc. had been disposed of at the Site by FDP Virginia, Inc.'s employee, Benjamin Gathercole.

b. EPA's removal site evaluation included excavation of two burial pits at the Site where EPA discovered buried drums, some of which were leaking. Other drums in the pits appeared to have been previously crushed, and their contents appeared to have spilled or leaked into the pits. EPA also discovered torn bags of asbestos in one of the pits.

c. At least one of the drums that was buried at the Site and removed from a burial pit by EPA was labeled "FDP Brakes, 1076 Airport Rd, Tappahannock, VA 22560 – N. Butyl Acetate." This drum was leaking a clear liquid. Samples obtained by EPA from the contents of this drum showed that it contained tert-Butyl acetate, a designated hazardous substance under CERCLA. FDP Virginia, Inc. had previously identified n-Butyl acetate and tert-Butyl acetate as the contents of certain drums that inspectors from the Virginia Department of Environmental Quality (DEQ) observed during their January 30, 2019 inspection of FDP Virginia Inc.'s facility in Tappahannock, Virginia.

d. Another buried drum EPA excavated at the Site was labeled "Ethylene glycol," which is a hazardous substance, as defined by CERCLA. FDP Virginia, Inc. had previously identified Ethylene glycol as the contents of at least one drum that was observed by DEQ inspectors during their January 30, 2019 inspection of FDP Virginia's Airport Road facility.

e. A limited number of soil samples were also collected during EPA's removal site evaluation. Volatile organic compounds ("VOCs") detected in soil samples at the Site included acetone at a concentration of 47 parts per million ("ppm") and xylene at 200 ppm. Phenol, a semi-volatile organic compound ("SVOC"), was detected in one of the pits at a concentration of 200 milligrams/kilogram ("mg/kg"). Acetone, xylene, and phenol are all designated hazardous substances under 40 C.F.R. § 302.4.

f. Based on conditions at the Site, the OSC initiated an emergency removal action under CERCLA and the National Contingency Plan. Early on, the removal action included, among other things, excavation, staging, and overpacking of buried drums and other containers or materials. On January 20, 2022, EPA issued an Action Memorandum, selecting a time-critical removal action for the Site.

g. Exercising its enforcement authorities under CERCLA, EPA sent General Notice Letters to the Settling Party and two other potentially responsible parties. In response to the General Notice Letter it received, FDP Virginia, Inc. voluntarily agreed to negotiate with EPA and, on May 1, 2022, entered into an administrative settlement agreement and order on consent ("ASAOC") with EPA for a removal action at the Site. Under that ASAOC, FDP Virginia, Inc. conducted the removal action and paid for EPA's future response costs, including the costs EPA incurred for overseeing FDP Virginia, Inc.'s performance of the removal action. On May 31, 2023, EPA sent FDP Virginia, Inc. a Notice of Completion, stating that the removal action to be performed under Section VIII of the ASAOC was complete.

5. In performing response actions, including those described above, EPA has incurred response costs at or in connection with the Site.

6. EPA alleges that Settling Party is a responsible party pursuant to Section 107(a) of CERCLA.

7. [Reserved.]

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

III. PARTIES BOUND

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

IV. DEFINITIONS

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

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675.

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

“DOJ” shall mean the U.S. Department of Justice and its successor departments, agencies, or instrumentalities.

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

“EPA” shall mean the United States Environmental Protection Agency.

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

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

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

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

“Parties” shall mean EPA and the Settling Party.

“Past Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that EPA or the U.S. Department of Justice on behalf of EPA has paid at or in connection with the Site through the Effective Date, plus accrued Interest on all such costs through such date.

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

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

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

“Settling Party” shall mean FDP Virginia, Inc.

“Site” shall mean the Desha Road Superfund Site, encompassing approximately 32 acres, located at and near the intersection of Carver Lane and Desha Road in Tappahannock, Essex County, Virginia.

“State” shall mean the Commonwealth of Virginia.

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

V. PAYMENT OF RESPONSE COSTS

11. **Payment by Settling Party for Past Response Costs.** Settling Party shall pay EPA a total of \$96,000.00 in three equal installments of \$32,000.00, as described below:

- a. Within 60 days after the Effective Date, Settling Party shall pay to EPA \$32,000.00.
- b. On or before the six-month anniversary of the Effective Date, Settling Party shall pay to EPA an additional amount of \$32,000.00.
- c. On or before the one-year anniversary of the Effective Date, Settling Party shall pay to EPA an additional amount of \$32,000.00

12. **Payment Instructions.** Settling Party shall make the payments described Paragraph 11.a-c at <https://www.pay.gov> in accordance with the following payment instructions: (i) Enter “sfo 1.1” in the search field to access EPA’s Miscellaneous Payment Form – Cincinnati Finance Center; and (ii) Complete the form including: (a) the Site Name (Desha Road Superfund Site), (b) docket number (CERCLA-03-2026-0020CR), and (c) Site/Spill ID Number (B3BA). Settling Party shall send to EPA in accordance with Section XIV (Notices and Submissions), a notice of each payment including the references listed immediately above.

13. **Deposit of Payments.** The total amounts to be paid pursuant to Paragraph 11 shall be deposited by EPA in the Desha Road Site Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

14. [Reserved.]

VI. FAILURE TO COMPLY WITH SETTLEMENT AGREEMENT

15. **Interest on Late Payments.** If Settling Party fails to make any payment required by Paragraph 11 (Payment by Settling Party for Past Response Costs) by the required due date, Interest shall continue to accrue on the unpaid balance through the date of payment.

16. Stipulated Penalty

a. If any amounts due to EPA under Paragraph 11 (Payment by Settling Party for Past Response Costs) are not paid by the required date, Settling Party shall be in violation of this Settlement Agreement and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 15 (Interest on Late Payments), \$2,500.00 per violation per day that such payment is late.

b. If Settling Party does not comply with any non-payment obligations, including Section XII (Access to Information) and Section XIII (Record Retention), Settling Party shall be in violation of this Settlement Agreement and shall pay to EPA, as a stipulated penalty, \$1,000.00 per violation per day of such noncompliance.

c. Payment of Stipulated penalties.

(1) Stipulated penalties are due and payable within 30 days after the date of demand for payment of the penalties by EPA. Settling Party shall make all payments of stipulated penalties at <https://www.pay.gov> using the following instructions: (i) Enter "sfo 1.1" in the search field to access EPA's Miscellaneous Payment Form - Cincinnati Finance Center; (ii) Complete the form, including references to the Site Name (Desha Road Superfund Site), EPA docket number (CERCLA-03-2026-0020CR), and Site/Spill ID Number (B3BA); and (iii) Indicate in the comment field that the payment is for stipulated penalties. Settling Party shall send to EPA, in accordance with Section XIV (Notices and Submissions), a notice of this payment including these references.

(2) Settling Party shall also send notice of payment of stipulated penalties to: (i) the U.S. EPA Cincinnati Finance Office at CINWD_AcctsReceivable@epa.gov; and (ii) the U.S. EPA Regional Hearing Clerk at R3_Hearing_Clerk@epa.gov. Such notice shall state the Settling Party's name, street/P.O. Box address, email address, and telephone number; the name of the Site (Desha Road Superfund Site); the EPA docket number (CERCLA-03-2026-0020CR); the Site/Spill ID Number (Site/Spill ID Number (B3BA)); and the amount of the payment.

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

17. In addition to the Interest and stipulated-penalty payments required by this Section and any other remedies or sanctions available to EPA by virtue of Settling Party's failure to comply with the requirements of this Settlement Agreement, Settling Party shall be subject to

enforcement action pursuant to Section 122(h)(3) of CERCLA, 42 U.S.C. § 9622(h)(3), for its failure or refusal to comply with the requirements of this Settlement Agreement. If the United States, on behalf of EPA, brings an action to enforce this Settlement Agreement, Settling Party shall reimburse the United States for all costs of such action, including, but not limited to, costs of attorney time.

18. [Reserved].

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

VII. COVENANTS BY EPA

20. **Covenants for Settling Party by EPA.** Except as specifically provided in Section VIII (Reservations of Rights by EPA), EPA covenants not to sue or take administrative action against Settling Party pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), to recover Past Response Costs. These covenants shall take effect upon the Effective Date. These covenants are conditioned upon the satisfactory performance by Settling Party of its obligations under this Settlement Agreement. These covenants extend only to the Settling Party and do not extend to any other person.

21. [Reserved.]

VIII. RESERVATIONS OF RIGHTS BY EPA

22. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Settling Party with respect to all matters not expressly included within Paragraph 20 (Covenants for Settling Party by EPA). Notwithstanding any other provision of this Settlement Agreement, EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Settling Party with respect to:

- a. liability for failure of Settling Party to meet a requirement of this Settlement Agreement;
- b. liability for costs incurred or to be incurred by the United States that are not within the definition of Past Response Costs;
- c. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 9606;
- d. criminal liability; and
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments.

23. Nothing in this Settlement Agreement is intended to be nor shall it be construed as a release, covenant not to sue, or compromise of any claim or cause of action, administrative or

judicial, civil or criminal, past or future, in law or in equity, that the United States may have against any person, firm, corporation or other entity not a signatory to this Settlement Agreement.

IX. COVENANTS BY SETTLING PARTY

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

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

b. any claims arising out of the response actions at the Site for which the Past Response Costs were incurred, including any claim under the United States Constitution, the Constitution of the Commonwealth of Virginia, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, or at common law; and

c. any claim pursuant to Section 107 or 113 of CERCLA, 42 U.S.C. § 9607 or 9613, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law for Past Response Costs.

25. [Reserved.]

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

27. **Waiver of Claims by Settling Party**

a. Settling Party agrees not to assert any claims and to waive all claims or causes of action (including, but not limited to, claims or causes of action under Sections 107(a) and 113 of CERCLA) that they may have:

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

(2) [Reserved;]

(3) **De Minimis/Ability to Pay Waiver.** For response costs relating to the Site against any person that has entered or in the future enters into a final CERCLA Section 122(g) *de minimis* settlement, 42 U.S.C. § 9622(g), or a final settlement based on limited ability to pay, with EPA with respect to the Site.

b. Exceptions to Waivers

(1) The waivers under this Paragraph 27 shall not apply with respect to any defense, claim, or cause of action that a Settling Party may have against any person otherwise covered by such waivers if such person asserts a claim or cause of action relating to the Site against the Settling Party.

(2) The waivers under this Paragraph 27 shall not apply to any contractual indemnification claim(s) that the Settling Party has against another person.

(3) The waiver under Paragraph 27.a(1) (De Micromis Waiver) shall not apply to any claim or cause of action against any person otherwise covered by such waiver if EPA determines that: (i) the materials containing hazardous substances contributed to the Site by such person contributed significantly or could contribute significantly, either individually or in the aggregate, to the cost of the response action or natural resource restoration at the Site; or (ii) such person has failed to comply with any information request or administrative subpoena issued pursuant to Section 104(e) or 122(e)(3)(B) of CERCLA, 42 U.S.C. § 9604(e) or 9622(e)(3)(B), or Section 3007 of RCRA, 42 U.S.C. § 6927, or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site; or if (iii) such person has been convicted of a criminal violation for the conduct to which the waiver would apply and that conviction has not been vitiated on appeal or otherwise.

X. EFFECT OF SETTLEMENT/CONTRIBUTION

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

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

30. The Parties further agree that this Settlement Agreement constitutes an administrative settlement pursuant to which Settling Party has, as of the Effective Date, resolved

liability to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

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

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

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

XI. PROPERTY REQUIREMENTS

34. [Reserved.]

35. [Reserved.]

36. [Reserved.]

37. [Reserved.]

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

XII. ACCESS TO INFORMATION

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

40. Privileged and Protected Claims

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

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

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

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

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

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

42. Notwithstanding any provision of this Settlement Agreement, the United States retains all of its information-gathering and inspection authorities and rights, including enforcement actions relating thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XIII. RETENTION OF RECORDS

43. Until ten (10) years after the Effective Date, Settling Party shall preserve and retain Records now in its possession or control, or that come into its possession or control, that relate in any manner to its liability under CERCLA with respect to the Site or that relate to the

liability of any other person under CERCLA with respect to the Site. Each of the above record-retention requirements shall apply regardless of any corporate retention policy to the contrary.

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

45. Settling Party certifies that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed, or otherwise disposed of any Records (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by the United States and that it has fully complied with any and all EPA requests for information regarding the Site pursuant to Sections 104(e) and 122(e)(3)(B) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e)(3)(B), Section 3007 of RCRA, 42 U.S.C. § 6927, and state law.

46. [Reserved.]

XIV. NOTICES AND SUBMISSIONS

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

As to EPA:

Robert S. Hasson
Assistant Regional Counsel
U.S. EPA, Region 3
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103
hasson.robert@epa.gov

As to Settling Party:

John J. Carney
Chief Executive Officer
FDP Virginia Inc.
1290 Mt. Landing Road
Tappahannock, VA 22560
jcarney@fdpbrakes.com

With a copy to:

James F. Van Orden
Cozen O'Connor
1 Liberty Place, 1650 Market Street
Suite 2800
Philadelphia, PA 19103
jvanorden@cozen.com

XV. INTEGRATION

48. This Settlement Agreement constitutes the final, complete, and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Settlement Agreement. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Settlement Agreement.

XVI. PUBLIC COMMENT

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

XVII. ATTORNEY GENERAL APPROVAL

50. [Reserved.]

XVIII. EFFECTIVE DATE

51. The effective date of this Settlement Agreement shall be the date upon which EPA issues written notice that the public comment period pursuant to Paragraph 49 has closed and the United States has determined not to withhold its consent or seek to modify this Settlement Agreement based on the comments received, if any. EPA's written notice will inform Settling Party that payment is due in accordance with Paragraph 11 (Payment by Settling Party for Past Response Costs) and will include a calculation of any Interest to be included with Settling Party's Past Response Cost payment in accordance with Paragraph 11.

IT IS SO AGREED:

U.S. ENVIRONMENTAL PROTECTION AGENCY:

PAUL LEONARD

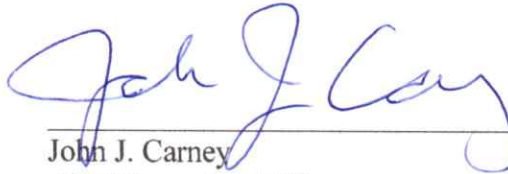
Director, Superfund and Emergency Management Division

Signature Page for Settlement Agreement Regarding Desha Road Superfund Site

FOR FDP VIRGINIA, INC.:

3/27/2026

Dated



John J. Carney
Chief Executive Officer
FDP Virginia, Inc.
1290 Mt. Landing Road
Tappahannock, VA 22560