



ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

)	
)	Docket Nos. RCRA-HQ-2021-5006
In re:)	RCRA-04-2021-2110(b)
US Technology Media, Inc.)	RCRA-05-2022-0001
)	RCRA-08-2022-0001
)	
)	

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b)-(c) of EPA’s Consolidated Rules of Practice, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Respondent is ORDERED to comply with all terms of the Consent Agreement, effective immediately.

So ordered.¹

ENVIRONMENTAL APPEALS BOARD

Aaron P. Avila
Environmental Appeals Judge

Dated: November 15, 2021

¹ The three-member panel ratifying this matter is composed of Environmental Appeals Judges Aaron P. Avila, Mary Kay Lynch, and Kathie A. Stein.

**ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In re:)	
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)	
US Technology Media, Inc.)	Docket No. RCRA-HQ-2021-5006
509 Water Street)	RCRA-04-2021-2110(b)
Bolivar, Ohio 44612)	RCRA-05-2022-0001
)	RCRA-08-2022-0001
)	
)	

**CONSENT AGREEMENT
I. PRELIMINARY STATEMENTS**

1. This Consent Agreement is entered into by the Director of the Waste and Chemical Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance (“Complainant”) and US Technology Media, Inc. (“Respondent” or “UST Media”) (collectively the “Parties”), pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA” or the “Act”), as amended, 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22.
2. Section 3008(a) of RCRA authorizes the Administrator of the U.S. Environmental Protection Agency (“EPA” or the “Agency”) to assess penalties and require compliance immediately or within a specified time period or both, for violation of any requirement of Subtitle C of RCRA. The Administrator has delegated this authority to the Complainant.
3. This Consent Agreement shall come into effect upon issuance of a Final Order. Once incorporated into a Final Order, the Consent Agreement resolves Complainant’s civil penalty claims against Respondent under RCRA for the violations alleged herein. (This Consent Agreement, and the Final Order together are referred to as the “CA/FO”.)
4. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

5. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, EPA may authorize a state to administer its hazardous waste program in lieu of the federal program when the Administrator deems the state program to be equivalent to the federal program.
6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA granted the State of Georgia final authorization to administer its hazardous waste program in lieu of the federal program on August 21, 1984. 49 Fed. Reg. 31417 (August 7, 1984). The requirements of the authorized state program are found at O.C.G.A. § 12-8-60 *et seq.*, and in Ga. Comp. R. and Regs. 391-3-11-.01 through 391-3-11-.18.
7. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA granted the State of Ohio final authorization to administer its hazardous waste program in lieu of the federal program on June 30, 1989. 54 Fed. Reg. 27170 (June 28, 1989). The requirements of the authorized state program are found at Ohio Revised Code 3745-50 through 57, 65-69, 205, 256, 266, 270, 273, and 279.
8. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA granted the State of Utah final authorization to administer its hazardous waste program in lieu of the federal program on October 25, 1984. 49 Fed. Reg. 39683 (October 10, 1984). The requirements of the authorized state program are found at Utah Code Annotated Title 19 Chapter 6 part 1; Utah Administrative Rules R315, R315-261, R315-260, R315-363, R315-264, R315-265, R315-301, and R315-270.
9. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements.
10. Although the states have authority to enforce their own hazardous waste programs, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
11. Each of Georgia's, Ohio's, and Utah's authorized programs contains regulations equivalent to, or more stringent than, the C.F.R. regulations cited below. For the convenience of the parties and the purposes of this CA/FO, Respondent agrees that each citation to 40 C.F.R. Parts 260, 261 and 262 below shall be considered a reference to each of Georgia's, Ohio's, and Utah's authorized counterparts to the cited regulation.
12. Notice of this action has been given to the States of Georgia, Ohio, and Utah pursuant to Section 3008(a)(2) of RCRA, 42, U.S.C. § 6928(a)(2).

II. GENERAL PROVISIONS

For the purposes of this CA/FO and in accordance with the specific requirements for settlement set forth in 40 C.F.R. § 22.18(b)(2):

13. Respondent admits the jurisdictional allegations herein.
14. Respondent neither admits nor denies the specific factual allegations and alleged violations herein.
15. Respondent consents to the issuance of the CA/FO, consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CA/FO, and consents to the specific stated Compliance Order as set forth in this CA/FO. Respondent agrees to undertake and complete all actions required by the compliance provisions and by the terms and conditions of this CA/FO.
16. In any action by the EPA or the United States to enforce the terms of this CA/FO, Respondent agrees not to contest the authority or jurisdiction of the EPA to issue or enforce this CA/FO and agrees not to contest the validity of any allegations, terms, or conditions of this CA/FO.
17. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and waives its right to appeal the Final Order.
18. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement by Respondent only resolves Respondent's liability for federal civil penalties for the specific violations and facts set forth herein.

III. STATUTORY AND REGULATORY FRAMEWORK **Resource Conservation and Recovery Act (RCRA)**

19. Pursuant to 40 C.F.R. § 261.2(a)(1), a "solid waste" is any discarded material that is not otherwise excluded by regulation.
20. Pursuant to 40 C.F.R. § 261.2(a)(2)(i) a discarded material is any material which is abandoned, recycled, inherently waste-like, or a military munition.
21. Pursuant to 40 C.F.R. § 261.2(b) materials are solid waste if they are abandoned by being disposed of, burned, or incinerated, or accumulated, stored or treated (but not recycled) before, or in lieu of, being abandoned by being disposed of, burned, or incinerated.

22. Pursuant to 40 C.F.R. § 261.2(c), certain materials are “solid wastes” if they are recycled – or accumulated, stored, or treated before recycling where such materials are (1) used in a manner constituting disposal, (2) burned for energy recovery, (3) reclaimed, or (4) accumulated speculatively.
23. Pursuant to 40 C.F.R. §§ 261.2(c)(4) and 261.1(c)(8), material is “speculatively accumulated” if it is accumulated, and specific amounts are not recycled within the allowed regulatory timeframe. A person accumulating the material must demonstrate that the material is potentially recyclable and has a feasible means of being recycled; and that during the calendar year (commencing January 1) the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75% by weight or volume of the amount of that material accumulated at the beginning of the period (*i.e.*, the amount in storage on January 1).
24. Pursuant to 40 C.F.R. § 261.1(c)(1), “spent material” is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.
25. Pursuant to 40 C.F.R. § 261.2(c)(4), spent materials are solid wastes when speculatively accumulated.
26. Pursuant to 40 C.F.R. § 261.3, a “solid waste” is a “hazardous waste” if it is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b), and it exhibits any of the characteristics identified in 40 C.F.R. Part 261, Subpart C, or it is listed in 40 C.F.R. Part 261, Subpart D.
27. Pursuant to 40 C.F.R. § 261.24, a “solid waste” exhibits the characteristic of toxicity if, using the Toxicity Characteristic Leaching Procedure (TCLP), the extract from the representative sample of the waste exceeds the levels of a toxic contaminant identified by its associated Hazardous Waste No. and listed in 40 C.F.R. § 261.24.
28. Pursuant to 40 C.F.R. § 261.24: a “solid waste” exhibits the characteristic of toxicity for cadmium if the extract from a representative sample exceeds 1.0 mg/L (and is designated as D006); a solid waste exhibits the characteristic of toxicity for chromium if the extract from a representative sample exceeds 5.0 mg/L (and is designated as D007); and a solid waste exhibits the characteristic of toxicity for lead if the extract from a representative sample exceeds 5.0 mg/L (and is designated as D008).
29. Pursuant to 40 C.F.R. § 262.11, a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must make an accurate determination as to whether that waste is a hazardous waste.

30. Pursuant to RCRA Section 1004(15), RCRA 42 U.S.C. § 6903 and 40 C.F.R. § 260.10, the term “person” includes an individual, trust, firm, corporation, partnership, or association.
31. Pursuant to 40 C.F.R. § 260.10, the term “operator” means the person responsible for the overall operation of the facility; the term “owner” means the person who owns a facility or part of a facility.
32. Pursuant to 40 C.F.R. § 260.10, the term “generator” means any person, by site, whose act or process produces hazardous waste identified or listed in Part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.
33. Pursuant to 40 C.F.R. § 260.10, the term “facility” means (1) all contiguous land, and structures, other than appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (*e.g.*, one or more landfills, surface impoundments or combinations of them).
34. Pursuant to 40 C.F.R. § 260.10, the term “storage” means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
35. Pursuant to RCRA Section 3005, 42 U.S.C. § 6925 persons storing hazardous waste at a facility must have a permit.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

36. Respondent, UST Media, is incorporated in the State of Ohio. UST Media owns and/or operates warehouses at the following locations: 380 Allied Industrial Boulevard, Macon, GA 31206 (hereinafter “Georgia facility”); 509 Water Street, Bolivar, OH 44612 (hereinafter “Ohio facility”); and Freeport Center Building J-6, Clearfield, UT 84016 (hereinafter “Utah facility”). UST Media headquarters is located at the Ohio facility. Hereinafter, all three warehouses together shall be referred to as “Facilities.”
37. Respondent is a “person” within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10.
38. Each warehouse is a “facility” within the meaning of 40 C.F.R. § 260.10.
39. Since 2015, Respondent has been the “owner” and/or “operator” of the three Facilities described above within the meaning of 40 C.F.R. § 260.10.

40. Since 2015, Respondent has been in the business of selling and leasing blast media made of combinations of plastic, acrylic, glass beads, aluminum oxide, and urea to clients under recycle contracts. The blast media is leased or purchased by the clients and used for cleaning, removing paint, and maintaining equipment surfaces.
41. During use, blast media comes into contact with contaminants from the surfaces to which it is applied. Once used, the blast media cannot be used again for these purposes and blast media becomes spent blast media (SBM). Therefore, at all times relevant to the allegations in this CA/FO, SBM contains high levels of contaminants, particularly cadmium, chromium, and lead.
42. SBM is a “spent material” pursuant 40 C.F.R. § 261.1(c)(1).
43. Under the terms of “Buy and Recycle” and “Lease and Recycle” contracts, UST Media arranges for the SBM to be transported from the clients to the Georgia, Ohio, or Utah facilities.
44. At the Utah facility, Respondent receives, stores, and then ships the SBM to either the Georgia or Ohio facilities. At the Georgia and Ohio facilities, Respondent receives, blends, stores, and either further transports the SBM between the Ohio and Georgia facilities, or sends it for recycling.
45. EPA Region 8 and/or State of Utah representatives inspected the Utah facility on June 19 and October 23, 2018, June 26, 2019, and February 5, 2020. Region 4 and Georgia Environmental Protection Division representatives inspected the Georgia facility on September 8, 2017. Ohio Department of the Environment representatives inspected the Ohio facility on September 18, 2018 and on June 18, 2019.
46. On May 14, 2018 and September 26, 2019, the EPA issued information request letters (“IRLs”) to Respondent pursuant to RCRA Section 3007, 42 U.S.C. § 6927, requesting information regarding its SBM management.
47. In its response to the EPA IRLs, UST Media provided information regarding incoming and outgoing shipments to and from each of the three Facilities for the years 2015 through 2019.
48. From UST Media’s IRL responses, EPA determined that Respondent speculatively accumulated hazardous waste company-wide at UST Media Facilities for the years 2017 and 2019 because it did not recycle at least 75% of the SBM by weight or volume of the amount of that material accumulated at the beginning of the period. In calendar year 2017, UST Media appears to have sent for recycling approximately 62% of the January 1st SBM inventory stored at all three Facilities, and in calendar year 2019

UST Media appears to have sent for recycling approximately 44% of the January 1st SBM inventory stored at all three Facilities.

49. All SBM that was “speculatively accumulated” in 2017 and 2019 is a RCRA “solid waste,” and as sampling demonstrates, the SBM exhibits the characteristic of toxicity, a RCRA hazardous waste.
50. SBM at each of Respondent’s Facilities became regulated as a hazardous waste no later than the date upon which it became speculatively accumulated (January 1, 2018 and again on January 1, 2020).
51. The hazardous waste was stored at Respondent's Facilities.
52. None of Respondent’s Facilities are permitted under RCRA to treat, store, or dispose of hazardous waste.

V. VIOLATIONS

Count I – Storage of hazardous waste without a permit

53. Pursuant to RCRA Section 3005(a), 42 U.S.C. § 6925(a), a permit is required for the storage of hazardous waste.
54. SBM in storage at each of Respondent’s facilities on January 1, 2018, and January 1, 2020, is a characteristic hazardous waste.
55. UST Media does not have a permit for the storage of SBM at any of its Facilities.
56. Since at least April 1, 2018, Respondent has been in violation of RCRA Section 3005(a), 42 U.S.C. § 6925(a), by storing hazardous waste at each of its Facilities without a permit.

VI. STATEMENT OF PURPOSE

57. The mutual objectives of the EPA and Respondent in entering into this CA/FO are to: (1) develop and implement a plan to properly sample and dispose of any solid and hazardous waste stored at the Facilities; (2) to eliminate the potential threat of a release of the hazardous waste or hazardous constituents to the environment from the storage and disposal of solid and hazardous waste on site; (3) to mitigate and/or remediate any releases of hazardous waste or hazardous constituents at or from the Facilities; and (4) to perform any other actions as necessary to correct or evaluate actual or potential threats to human health and/or the environment resulting from the release of hazardous waste or hazardous constituents at or from the Facilities .

VII. TERMS OF SETTLEMENT

A. COMPLIANCE ORDER

General Provisions

58. This Compliance Order sets forth the agreed upon requirements for Respondent's management of SBM until Respondent's receipt of EPA's approval of all three of the Facility Final Reports to be submitted pursuant to paragraph 80 below. This Compliance Order sets forth management requirements for the following three categories of SBM:
- a. SBM stored and speculatively accumulated through December 31, 2019 and the subject of the Section V. Violations of this CA/FO (defined as all SBM in storage at each of the Facilities on December 31, 2019 that remains in storage as of the effective date of this CA/FO) (Category 1 SBM);
 - b. SBM received and accumulated on and after January 1, 2020 and stored at the Facilities or in transit to the Facilities through the Effective Date of this CA/FO (Category 2 SBM); and
 - c. SBM generated on and after the Effective Date of this CA/FO by Respondent's clients pursuant to existing "Lease and Recycle" contracts (*i.e.*, not yet in Respondent's possession on the Effective Date of this CA/FO) (Category 3 SBM).
59. Upon the Effective Date of this CA/FO, Respondent agrees to stop receiving SBM and storing SBM at any of the Facilities until Respondent has received notice of EPA's approval of each of the three Facility Final Reports to be submitted pursuant to paragraph 80 below.

Management of Category 1 SBM SBM in Storage at Each facility on December 31, 2019

60. Upon the Effective Date of this CA/FO, Respondent shall submit an inventory of the SBM in storage at each facility and shall manage Category 1 SBM in the following manner:
- a. As more fully set forth in paragraph 75 below, Respondent shall develop a separate Work Plan for each of the Georgia, Ohio, and Utah Facilities ("Facility Work Plan"). Each Facility Work Plan shall describe how Respondent proposes to dispose of Category 1 SBM in storage at each facility. All Category 1 SBM shall be disposed of as hazardous waste in accordance with the schedule established in each approved Facility Work Plan and applicable federal and state hazardous waste regulations.

**Management of Category 2 SBM
SBM Received after January 1, 2020 and in Storage at the Facilities
as of the Effective Date**

61. As more fully set forth in paragraph 75 below, each Facility Work Plan shall describe Respondent's proposal for handling Category 2 SBM at that facility.
62. Respondent understands and agrees that EPA's agreement to consider a proposal by Respondent to segregate hazardous from non-hazardous Category 2 SBM and manage each separately is based on Respondent's representations to the EPA that:
 - a. Since January 1, 2020, Category 2 SBM at each facility has been separated by client/generator, labeled, and dated (date of receipt) and has not been blended or otherwise mixed or combined with Category 1 SBM or other Category 2 SBM; and
 - b. That Category 2 SBM at each facility has been sampled and tested in accordance with each state's equivalent to 40 C.F.R. § 262.11 to determine whether individual containers contain hazardous or nonhazardous SBM.
63. Pursuant to paragraph 107, Respondent shall keep all records relating to each container of Category 2 SBM for six (6) years after termination of this CA/FO and shall provide such records to the EPA or the state within 2 business days of the request. These records will include documentation that correlate individual containers of SBM to its corresponding analytical results and offsite disposal documentation (*e.g.*, manifests and bills of lading).
64. Any Category 2 SBM that does not meet all of the conditions in paragraph 62 above shall be disposed of as hazardous waste in accordance with the schedule established in each approved Facility Work Plan regardless of whether it would test hazardous or not.
65. All Category 2 SBM which tests hazardous shall be disposed of as hazardous waste in accordance with the schedule established in each approved Facility Work Plan.
66. Each Facility Work Plan must establish a schedule for removal of Category 2 SBM which does not test hazardous. Work under each Plan will not be complete until all such Category 2 SBM has been removed and any remaining work at the facility is completed.

**Management of Category 3 SBM
SBM Generated by Respondent's Clients on and after the Effective Date of this CA/FO**

67. Upon the Effective Date of this CA/FO, Respondent shall stop receiving SBM from current clients/generators at any of the Facilities until Respondent receives EPA's

determination that each Facility Work Plan is complete, and EPA approves each Facility Final Report submitted by Respondent in accordance with paragraph 80.

- a. Until receipt of EPA's approval of each Final Facility Report, Respondent will arrange for the sampling and testing of SBM Respondent intends to manage on behalf of Respondent's client(s) at the client/generator facility (point of generation). Sampling and testing will be pursuant to each state's equivalent to 40 C.F.R. § 262.11 for each SBM waste stream at the generator facility to determine whether the waste tests hazardous or nonhazardous.
 - b. During this time, all SBM sampled and tested at client/generator facilities that tests hazardous must be disposed of as hazardous waste at a treatment storage and disposal facility and in accordance with all federal and state hazardous and solid waste requirements including the hazardous waste land disposal restrictions of 40 C.F.R. Part 268. Sampled SBM that does not test hazardous cannot be stored or otherwise managed at any of the Facilities until receipt of EPA's approval of the Final Facility Report.
 - c. Upon receipt of EPA approval of the last remaining Final Facility Report pursuant to paragraph 80, Respondent may determine whether and how to handle hazardous SBM which tests hazardous at each client's facility (*i.e.*, whether to dispose of it as hazardous waste or accumulate and legitimately recycle such hazardous SBM in compliance with all RCRA requirements).
68. Pursuant to paragraph 107, Respondent shall keep all records relating to each container of Category 3 SBM for six (6) years after termination of this CA/FO and shall provide such records to the EPA or the state within 2 business days of the request. These records will include documentation that correlate individual containers of SBM to its corresponding analytical results tested by the generators or by Respondent, and offsite disposal documentation (*e.g.*, manifests and bills of lading).

Project Coordinator

69. **EPA Project Coordinator.** EPA has designated a Project Coordinator, identified below. The EPA Project Coordinator will be the EPA's designated representative for the Facilities. All communications between Respondent and the EPA, and all documents, reports, approvals, and other correspondence concerning the activities performed pursuant to this CA/FO, shall be directed to the Project Coordinator.
70. The EPA Project Coordinator is:

Derrick Samaranski
Land Enforcement & Compliance Assurance Branch (ECR-17J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-35
R5LEECAB@epa.gov
Samaranski.derrick@epa.gov

71. **Contractor Selection.** Within fourteen (14) days of the Effective Date of this CA/FO, Respondent shall notify the EPA of the name and qualifications of its selected Contractor(s) (including testing laboratories), subject to EPA approval, to carry out all activities set forth herein. All work performed under this CA/FO shall be under the direction and supervision of a professional licensed engineer.
72. **Project Manager Selection.** Within fourteen (14) days of the Effective Date of this CA/FO, Respondent shall notify the EPA of the name and qualifications of its selected Project Manager(s). To the greatest extent possible, Respondent's Project Manager(s) shall be readily available during all work to be performed hereunder. Respondent's Project Manager(s) shall have the authority to act on behalf of Respondent.
73. Respondent shall notify the EPA of the name(s) and qualifications of any other Contractor(s) or Subcontractor(s) retained to perform work under this CA/FO at least seven (7) days prior to commencement of such work pursuant to its Project Management Plan below.

Site Security

74. Within seven (7) calendar days of the Effective Date of this CA/FO, Respondent must provide for site security designed for the Facilities to prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons onto the active portion of each of the Facilities. This security must include, but is not limited to, closure of doors and gates or other entrances to the active portion of the Facilities (*e.g.*, an attendant, television monitors, locked entrance, or controlled roadway access to the Facilities). Respondent must also post signage that reads, "Danger—Unauthorized Personnel Keep Out," at each entrance to the active portion of the Facilities, and at other locations.

Work Plans

75. Within thirty (30) days of the Effective Date of this CA/FO, Respondent shall submit to the EPA one document ("UST Media Compliance Plan") containing three separate Facility Work Plans, one for each of the Facilities. Each Facility Work Plan shall set forth how Respondent proposes to comply with the requirements set forth in paragraphs 58-68 above. Each Facility Work Plan also shall include:

- a. A Health and Safety Plan (HASP) for the facility to ensure the safety of the individuals working on the sampling, management and disposal of the SBM. The HASP shall be consistent with applicable Occupational Safety and Health Administration regulations. The EPA reserves the right to comment on the HASP, however, it will not be subject to EPA approval or disapproval.
- b. A schedule for implementation of all activities for the facility described in each Work Plan, including potential sampling and remediation of any residual contamination. The estimated clean up schedule shall run consecutively in the following order for the three Facilities beginning from the date of Work Plan approval: (1) Utah facility cleanup within 5 weeks; (2) Georgia facility cleanup within 8 weeks; and (3) Ohio facility cleanup within 8 weeks.
- c. A scale diagram of the facility showing the buildings and all on-site structures.
- d. A Project Management Plan, which shall include the names, titles, and qualifications of the facility's personnel, and of any contractors or subcontractors, to be used in carrying out the work.
- e. A Management Plan, which shall describe the management process and procedures for the performance of work activities described in each Facility Work Plan.
- f. An Off-Site Disposal Plan for hazardous waste disposal of Category 1 SBM in storage at UST Media Facilities. A Sampling and Off-site Disposal Plan for the sampling and off-site disposal of hazardous Category 2 SBM in storage at UST Media Facilities. Respondent shall also submit a Sampling and Off-site Disposal Plan for all hazardous Category 3 SBM. These Plans shall include:
 - i. Category 1 SBM Off-Site Disposal Plan. A detailed description of the activities to be undertaken to complete the off-site hazardous waste disposal of the Category 1 SBM currently in storage at the Facilities. The off-site disposal shall meet all federal and state solid waste regulations, including the hazardous waste land disposal restrictions of 40 C.F.R. Part 268.
 - ii. Category 2 SBM Sampling and Off-Site Disposal Plan. A detailed description of the proposed sampling, testing, and off-site disposal of all Category 2 SBM in transport to or stored at the Facilities. Respondent will arrange for such sampling and testing as necessary to complete a hazardous waste determination pursuant to each state's equivalent to 40 C.F.R. § 262.11. The Plan will also provide for sampling of SBM to meet

the applicable land disposal restriction requirements as set forth at 40 C.F.R. Part 268, and subsequent off-site disposal which meets all federal and state hazardous and solid waste regulations; and

iii. Category 3 SBM Sampling and Off-Site Disposal Plan. A detailed description of the proposed sampling, testing, and disposal of all Category 3 SBM at the client/generator facility (point of generation). Respondent will arrange for sampling and testing as necessary to complete a hazardous waste determination pursuant to each state's equivalent to 40 C.F.R. § 262.11. The Plan shall provide for sampling of SBM to meet the applicable land disposal restriction requirements as set forth at 40 C.F.R. Part 268, and subsequent off-site disposal which meets all federal and state hazardous and solid waste regulations. The Plan shall also describe actions Respondent will undertake to ensure that non-hazardous Category 3 SBM is not stored or otherwise managed at any of the Facilities until receipt of EPA's Final Facility Report approval.

- g. A Quality Assurance Project Plan (QAPP), which shall address quality assurance, quality control, and chain of custody procedures in accordance with "EPA Requirements for Quality Assurance Project Plans" (EPA QA/R-5, EPN240/B-01/003, March 2001) and "EPA Guidance for Quality Assurance Project Plans" (EPA QA/G-5, EPN240/R02/009, December 2002). The QAPP shall describe the proposed sampling procedures that will be employed to ensure that samples are collected and analyzed using EPA-approved protocols. (*e.g.*, ASTM Designation D5680 14). In addition, the QAPP shall describe the number and type of samples to be collected, the method(s) of collection and analysis, and criteria for determining sampling locations. The QAPP shall also state which analytical laboratory Respondent will use for analysis of samples required by the Work Plan.
76. The UST Media Compliance Plan including all Work Plan submittals shall comply with the submission requirements of paragraph 86.
77. Each Facility Work Plan shall be reviewed and approved by EPA in accordance with the procedures outlined in the Document Approval and Work Implementation Section below. Respondent shall thereafter implement each Facility Work Plan as approved, or as approved with comments or modifications. The EPA reserves the right to disapprove of work performed by Respondent that does not conform to the terms of this CA/FO.
78. Within fourteen (14) days of receipt of EPA's written approval of any Work Plan, Respondent shall commence the implementation of all activities required by the Work Plan, in accordance with the schedules set forth therein.

79. Upon request by the EPA, Respondent shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondent while performing work under this CA/FO. Respondent shall notify the EPA not less than thirty (30) calendar days in advance of any sample collection activity.

Facility Final Report

80. Within thirty (30) calendar days after completion of all the work required by an approved Facility Work Plan, Respondent shall submit for EPA review and approval a Final Report for each facility (Facility Final Report) summarizing the Work performed under the approved Facility Work Plan. Each Facility Final Report shall include: 1) a listing of quantities and types of any materials removed off-site and of the ultimate destination(s) of those materials; 2) an inventory with the amounts of SBM per generator; 3) legible copies of any and all sampling and analysis results or confirmatory sampling and analysis results, including the quality assurance/quality control (QA/QC) documentation; and 4) an appendix containing all other relevant documentation generated during the performance of the work (*e.g.*, manifests, bills of lading, invoices, contracts, and permits) not previously provided to the EPA. This Final Report is subject to approval by the EPA in accordance with the Document Approval and Work Implementation Section below.
81. Any hazardous waste generated by Respondent at the Facilities during the implementation of the approved Facility Work Plans must be transported off-site to a permitted hazardous waste treatment, storage, or disposal facility, in accordance with all applicable federal, state, and local regulations.
82. Legible copies of all hazardous waste manifests and land disposal restriction notices must be provided to the EPA within thirty (30) days of each shipment of any hazardous waste from the Facilities.
83. Any non-hazardous waste generated by Respondent at the Facilities during the implementation of the approved Facility Work Plans must be transported off-site to an approved Subtitle D landfill in accordance with all applicable federal, state, and local regulations. Legible copies of all bills of lading must be provided to the EPA within thirty (30) days of each shipment of non-hazardous waste from the Facilities.

Additional Work

84. The EPA may determine, or Respondent may propose that certain tasks, including investigatory work or procedure/methodology modifications, are necessary in addition to or in lieu of the tasks included in this Compliance Order to meet the purposes of this CA/FO. If the EPA determines that Respondent shall perform additional work, the EPA will specify in writing the basis for its determination that the additional work is

necessary. Within fifteen (15) calendar days after the receipt of such determination, Respondent shall have the opportunity to meet or confer with the EPA to discuss the additional work. If required by the EPA, Respondent shall submit for EPA approval a Work Plan for the additional work. Such Work Plan shall be submitted within thirty (30) calendar days of receipt of the EPA's determination that additional work is necessary, or according to an alternative schedule established by the EPA. Upon approval of the Work Plan in accordance with the Document Approval and Work Implementation Section below, Respondent shall implement such Work Plan in accordance with the schedule and provisions contained therein.

Financial Agreement/Contract Notification Requirement

85. Within fifteen (15) days of the Effective Date of this CA/FO, Respondent shall submit a copy of a signed agreement(s)/contract(s) with the Contractor(s) or Subcontractor(s) demonstrating that 20 percent of the funds associated with the work specified in Section VII. A. Compliance Order, have been pre-paid to the Contractor(s) or Subcontractor(s) and/or placed into an escrow account which has been created and funded for the sole purpose of paying Contractor(s) or Subcontractor(s) to perform the work.

Notification, Submissions, and Certification

86. Respondent shall submit one hard copy and one electronic version of the UST Media Compliance Plan to the EPA Project Manager. Unless otherwise specified, copies of all reports, correspondence, notices, or other submittals relating to or required under this CA/FO, shall be in writing, and reports shall be submitted in hard copy and electronically, and shall be sent to EPA's Project Coordinator in paragraph 70.
87. All EPA notifications and other communications proposed under this CA/FO shall be sent to:
Mr. Tony Giancola, President
US Technology Media, Inc.
509 Water Street
Bolivar, OH 44612
Tgiancola@gmrtechnology.com
Telephone (330) 455-1181
88. All notices made by any party under this CA/FO shall be hand delivered, sent by certified mail (return receipt requested) or overnight courier, or sent by electronic mail (return receipt requested) and shall be deemed effective upon receipt.
89. Any report or other document submitted by Respondent pursuant to this CA/FO which makes any representation concerning Respondent's compliance or noncompliance with any requirement of this CA/FO shall be certified by a responsible corporate officer of

Respondent or a duly authorized representative. A responsible corporate officer means: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation.

90. The certification required by paragraph 89 above, shall be in the following form:

“I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to evaluate the information submitted. I certify that, to the best of my knowledge and belief, the information contained in or accompanying this submittal is true, accurate, and complete. As to those identified portion(s) of this submittal for which I cannot personally verify the accuracy, I certify that this submittal and all attachments were prepared in accordance with procedures designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those directly responsible for gathering the information, or the immediate supervisor of such person(s), the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Signature:

Name:

Title:

Date:

Document Approval and Work Implementation

91. The EPA will review all written proposals, work plans, reports, draft and final reports, and any other documents required to be submitted under this CA/FO (“submissions”) and will notify Respondent in writing of the EPA’s: (a) approval, (b) approval with conditions and/or modifications, or (c) disapproval, with comments and/or modifications, directing Respondent to resubmit the submission after incorporating the EPA’s comments and/or modifications. The EPA may also approve, modify, or disapprove a portion of a submission.
92. Upon receipt of any written notice of EPA disapproval, Respondent shall revise and resubmit for EPA approval any submission in accordance with the requirements of this CA/FO and the EPA’s notice of disapproval, within the due date specified therein.

Revised submissions are subject to EPA approval, approval with conditions and/or modifications, or disapproval. If Respondent does not submit a revised submission by the due date, Respondent shall be in violation of this CA/FO as of the due date.

93. For purposes of Respondent's submissions, Section VIII. Dispute Resolution applies only to submissions disapproved and revised by the EPA, or that have been disapproved by the EPA, then revised and resubmitted by the Respondent, and again disapproved by the EPA.
94. Subject to Section VIII. Dispute Resolution, if, after providing the Respondent with the opportunity to correct and resubmit any submission required by this CA/FO, the EPA determines that the submission still fails to meet the technical or administrative requirements of this CA/FO or applicable regulations, the EPA may modify the submission with the EPA's comments and finalize and approve the submission for implementation by the Respondent.
95. Upon receipt of the EPA's written approval, Respondent shall commence work and implement any approved Facility Work Plan in accordance with the schedule and provisions contained therein.
96. Any EPA-approved submission shall be deemed incorporated into this CA/FO. Any noncompliance with such EPA-approved submission shall constitute noncompliance with this CA/FO. Prior to the EPA's written approval, no submission shall be construed as approved and final. Oral advice, suggestions, or comments given by the EPA representatives will not constitute an official approval, nor shall any oral approval or oral assurance of approval be considered binding, except as specifically described in paragraph 97 below.
97. Beginning thirty (30) calendar days after EPA approval of each Facility Work Plan, Respondent shall submit monthly progress reports regarding implementation of each Facility Work Plan required within this CA/FO which includes, at a minimum, the following information:
 - a. Analytical data received regarding sampling events which have not otherwise been provided;
 - b. Summaries of findings to date;
 - c. Summaries of problems encountered during the previous month and how the problems were or are being addressed;
 - d. Changes in personnel associated with the Facilities or work performed;

- e. Projected work for the next quarterly reporting period, including a schedule of implementation; and
- f. Any manifest/shipment documents for any solid or hazardous waste sent off-site for disposal during that quarter.

Minimum Qualifications for Personnel

98. All work performed by Respondent pursuant to this CA/FO shall be under the direction and supervision of an individual who has demonstrated expertise in hazardous waste cleanup. As part of Respondent's Project Management Plans, required pursuant to paragraph 75 above, before any work is performed, Respondent shall submit to the EPA, in writing, the names, titles, and qualifications of the Facilities personnel, and of any contractors or subcontractors, to be used in carrying out the work required by this CA/FO. Any contractor or consultant shall have the technical expertise sufficient to adequately perform all aspects of the work for which it is responsible. Additionally, Respondent shall ensure that when a license is required, only licensed individuals shall be used to perform any work required by this CA/FO.

Sampling and Data/Document Availability

99. Upon request, Respondent shall submit to the EPA the results of all sampling and/or tests or other data generated by agents, consultants, or contractors pursuant to this CA/FO.
100. Respondent shall notify the EPA in writing via electronic mail (reply requested), and certified mail (return receipt, or overnight courier) at least seven (7) calendar days before commencing any field activities under this CA/FO, unless otherwise authorized by the EPA on request by Respondent. If Respondent believes it must commence emergency field activities without delay, Respondent may seek emergency telephone authorization from the EPA Project Coordinator or, if the EPA Project Coordinator is unavailable, his/her Section Chief, to commence such activities immediately. At the request of the EPA, Respondent shall provide or allow the EPA or its authorized representative to take split or duplicate samples of all samples collected by Respondent pursuant to this CA/FO. In addition, the EPA shall have the right to take any additional samples that it deems necessary.
101. Respondent may assert a business confidentiality claim covering all or part of any information submitted to the EPA pursuant to this CA/FO, provided that Respondent shall not assert a Confidential Business Information (CBI) claim with respect to any physical, sampling, monitoring, or analytical data. Any assertion of confidentiality must be accompanied by information that satisfies the items listed in 40 C.F.R. § 2.204(e)(4) or such claim shall be deemed waived. Information determined by the EPA to be confidential shall be disclosed only to the extent permitted by 40 C.F.R. Part 2. If no such

confidentiality claim accompanies the information when it is submitted to the EPA, the information may be made available to the public by the EPA without further notice to Respondent. Respondent agrees not to assert any confidentiality claim with regard to any physical or analytical data.

Access and Notification

102. The EPA, its employees and authorized agents, including contractors and subcontractors, shall have access to Respondent's Facilities at all reasonable times and in accordance with Respondent's reasonable internal safety and security procedures for the purpose of monitoring, investigating, or verifying compliance with the terms of this CA/FO consistent with the authority set forth in Section 3007 of RCRA, 42 U.S.C. § 6927.
103. To the extent that work being performed pursuant to this CA/FO must be done beyond the facility's property boundary, Respondent shall use its best efforts to obtain access agreements necessary to complete work required by this CA/FO from the present owner(s) of such property within forty-five (45) calendar days of approval of any Facility Work Plan for which access is required. Best efforts as used in this paragraph shall include, at a minimum, a certified letter from Respondent to the present owner(s) of such property requesting access agreement(s) to permit Respondent, the EPA and its authorized representatives to access such property, and the payment of reasonable sums of money in consideration of granting access. Any such access agreement shall provide for access by the EPA and its representatives, including representatives of Georgia Environmental Protection Division, Ohio Environmental Protection Agency and/or Utah Department of Environmental Quality. Respondent shall ensure that the EPA's Project Coordinator has a copy of any access agreement(s). In the event that agreements for access are not obtained within forty-five (45) calendar days of approval of any Facility Work Plan for which access is required, or of the date that the need for access became known to Respondent, Respondent shall notify the EPA in writing within fourteen (14) calendar days thereafter of both the efforts undertaken to obtain access and the failure to obtain such agreements. The EPA may, at its discretion, assist Respondent in obtaining access. In the event the EPA obtains access, Respondent shall undertake EPA-approved work on such property. Respondent agrees to indemnify the United States as provided in Section X. Indemnification, for any and all claims arising from activities on such property.
104. If, at any time, Respondent or the EPA determines that human exposures are occurring or that contamination has migrated, or is suspected to have migrated, into any soil, groundwater, or surface water beyond any facility's boundary (other than for immediate and short-term emergency response actions), or to other areas within any facility controlled by different operators, at concentrations exceeding the most stringent applicable EPA Regional Screening Levels (RSLs), Respondent shall notify the EPA within twenty-four (24) hours of the initial discovery. Respondent shall provide written

notification within three (3) calendar days of discovery. This notification shall include a proposed notification letter and a list of known and potentially affected property owners and operators, for EPA approval, before Respondent sends the notification letter to the parties listed below. Within thirty (30) calendar days of EPA approval of the notification letter, Respondent shall notify, by certified or registered mail, at a minimum the following list of people and agencies:

- a. All owners of property onto which the contamination is known or suspected by Respondent to have migrated; and
- b. The State Agency where the human exposures are occurring (Georgia Environmental Protection Division, Ohio Environmental Protection Agency, and/or Utah Department of Environmental Quality).

Copies of the notification letters and proof of receipt must be submitted to the EPA within forty-five (45) calendar days of EPA's approval of the letter.

105. Nothing in this Section limits or otherwise affects the EPA's right of access and entry pursuant to applicable law, including RCRA and CERCLA.
106. Nothing in this Section shall be construed to limit or otherwise affect Respondent's liability and obligation to perform corrective measures, including corrective measures beyond any facility's boundary, notwithstanding the lack of access.

Record Preservation

107. Respondent shall retain, during the pendency of this CA/FO and for a minimum of six (6) years after its termination, all data, records, and documents now in its possession or control or which come into its possession which relate in any way to this CA/FO or to hazardous waste management and/or disposal at the Facilities. Respondent shall notify the EPA in writing via electronic submission (reply requested) and certified mail (return receipt, or overnight courier) ninety (90) calendar days prior to the destruction of any such records and shall provide the EPA with the opportunity to take possession of any such records. Such written notification shall reference the Effective Date, caption, and docket number of this CA/FO and shall be addressed to:

Negin Mostaghim, Attorney-Advisor
Waste and Chemicals Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W. (MC2249A)
Washington D.C. 20460

108. Respondent further agrees that within thirty (30) calendar days of retaining or employing any agent, consultant, or contractor for the purpose of carrying out the terms of this CA/FO, Respondent will enter into an agreement with any such agents, consultants, or contractors whereby such agents, consultants, and/or contractors will be required to provide Respondent a copy of all documents produced pursuant to this CA/FO.
109. All documents pertaining to this CA/FO shall be stored by Respondent in a manner to afford ease of access by the EPA or its representatives.

B. CIVIL PENALTY

110. Respondent agrees to pay a civil penalty of TWO HUNDRED THOUSAND DOLLARS (\$200,000.00). Payments start 3 months (90 days) from the Effective Date of this CA/FO. Payments shall be made in thirty-four (34) installments with interest at the rate of one percent (1%) per annum on the outstanding principal balance according to the payment schedule attached to this CA/FO. (Attachment 1). These payment terms are based on Respondent's certified statement that COVID-19 negatively impacted its financial health, and any false statement made in this certified statement may result in voiding the penalty portion of this settlement.
111. Respondents must pay the assessed civil penalty using any method provided on the following website: <https://www.epa.gov/financial/makepayment>.
112. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest on the civil penalty assessed in this CA/FO will begin to accrue thirty (30) days after the Effective Date of the CA/FO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. In accordance with 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, Respondents must pay the following amounts on any amount overdue:
 - a. Interest. Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 30 C.F.R. § 13.11(a).
 - b. Monthly Handling Charge. Respondents must pay a late payment handling charge of fifteen (\$15.00) on any late payment, with an additional charge of \$15.00 for each subsequent thirty (30) day period over which an unpaid balance remains.

- c. Non-payment Penalty. On any portion of a civil penalty more than nine (9) dayspast due, Respondents must pay a non-payment penalty charge of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. 40 C.F.R. § 13.11(c) This non-payment penalty charge is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

C. DELAY IN PERFORMANCE/STIPULATED PENALTIES

- 113. If Respondent fails to comply with the provisions of this CA/FO, Respondent shall pay Stipulated Penalties as indicated below for each violation for each calendar day during which the violation occurs:

Period of Failure to Comply Penalty Per Calendar Day Per Violation

1st through 6th day \$ 100
7th through 30th day \$ 250
31st through 60th day \$ 500
61st day and beyond \$ 1,000

- 114. Subject to the other paragraphs in this Section, all Stipulated Penalties begin to accrue on the day that complete performance is due, or a violation occurs, and continue to accrue through the final day of correction of the noncompliance. Nothing herein shall prevent the simultaneous accrual of separate Stipulated Penalties for separate violations of this CA/FO which derive from Respondent's independent and distinguishable acts and/or omissions. Issuance and receipt of a notice of noncompliance is not a condition precedent to the accrual of Stipulated Penalties.
- 115. Accrued Stipulated Penalties shall become due and payable thirty (30) calendar days after demand by the EPA for their payment. Stipulated Penalties shall be paid using any method provided on the following website:
<https://www.epa.gov/financial/makepayment>
- 116. If any payment is not received within thirty (30) calendar days of being due, interest, handling charges, and late-payment penalties will begin to accrue in the same manner as set forth at 31 U.S.C. § 3717 and 40 C.F.R. § 13.11(b) and (c) as described Section VII. B. Civil Penalty.
- 117. Respondent may dispute the EPA's assessment of Stipulated Penalties by invoking the dispute resolution procedures under Section VIII. Dispute Resolution. Except as provided in Section VIII. Dispute Resolution, the Stipulated Penalties in dispute shall continue to accrue in accordance with paragraphs 113 and 114, but need not be paid, during the dispute resolution period. Respondent shall pay Stipulated Penalties and interest, if any, in accordance with the dispute resolution decision and/or agreement. Respondent shall submit such payment to the EPA within seven (7) calendar days of receipt of such

resolution in accordance with paragraph 113 of the CA/FO. The EPA in its sole discretion may waive or reduce any Stipulated Penalties assessed.

118. Neither the invocation of dispute resolution nor the payment of stipulated penalties shall alter in any way Respondent's obligation to comply with the terms and conditions of this CA/FO.
119. The Stipulated Penalties set forth in this Section do not preclude the EPA from pursuing any other remedies or sanctions which may be available to the EPA by reason of Respondent's failure to comply with any of the terms and conditions of this CA/FO. However, all Stipulated Penalties which are paid by Respondent shall be off-set against any and all penalties for the same violation which the EPA may be entitled to collect as a result of other enforcement actions.
120. No payments under this Section shall be tax deductible for federal tax purposes, 26 U.S.C. § 162(f). For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of paragraphs 58-68 is restitution, remediation, or required to come into compliance with the law.

VIII. DISPUTE RESOLUTION

121. The Parties shall use their best efforts to informally and in good faith resolve all disputes or differences of opinion. The Parties agree that the procedures contained in this Section are the sole procedures for resolving disputes arising under this CA/FO.
122. If Respondent disagrees, in whole or in part, with any written decision (Initial Written Decision) by the EPA pursuant to this CA/FO, Respondent shall notify the EPA of the dispute (Notice of Dispute) in writing within fourteen (14) calendar days of Respondent's receipt of the Initial Written Decision. The Notice of Dispute shall be sent via electronic submission (reply requested) and certified mail (return receipt, or overnight courier) to:

Negin Mostaghim, Attorney-Advisor
Waste and Chemicals Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W. (MC2249A)
Washington D.C. 20460
Mostaghim.Negin@epa.gov

123. Respondent and the EPA shall attempt to resolve the dispute informally. The period for informal negotiations shall not exceed twenty-one (21) calendar days from the date of

receipt of the Notice of Dispute by the EPA, unless it is modified by written agreement of the Parties to the dispute (Negotiation Period). The EPA agrees to confer in person or by telephone to resolve any such disagreement with Respondent as long as Respondent's request for a conference will not require extension of the Negotiation Period. The Negotiation Period may be modified by written agreement of the Parties to the dispute.

124. If the Parties cannot resolve the dispute informally, then the position advanced by the EPA shall be binding unless, within fourteen (14) calendar days after the conclusion of the informal Negotiation Period, Respondent invokes the formal dispute resolution procedures by serving on the EPA at the address specified in paragraph 122 above, and the EPA Chief of the Waste Enforcement Branch below, a written Statement of Position on the matter in dispute, including, but not limited to, the specific points of the dispute, the position Respondent claims should be adopted as consistent with the requirements of this CA/FO, the basis for Respondent's position, any factual data, analysis, or opinion supporting that position, and any supporting documentation relied upon by Respondent. If Respondent fails to follow any of the requirements contained in this paragraph, then it shall have waived its right to further consideration of the disputed issue.

Chief, Waste Enforcement Branch
Waste and Chemicals Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W. (MC2249A)
Washington, D.C. 20460

125. Within fourteen (14) calendar days after receipt of Respondent's Statement of Position, the EPA will serve on Respondent and the EPA Chief of the Waste Enforcement Branch, its Statement of Position, including, but not limited to, any factual data, analysis or opinion supporting that position and any supporting documentation relied upon by the EPA.
126. Following receipt of both Statements of Position, the EPA Chief of the Waste Enforcement Branch will issue a final written decision resolving the dispute, which sets forth the basis for EPA's decision. Such decision shall not be appealed further.
127. During the pendency of the dispute resolution process, unless there has been a written modification by the EPA of a compliance date, or excusable delay as defined in Section IX. Force Majeure and Excusable Delay, the existence of a dispute as defined in this Section and the EPA's consideration of matters placed into dispute shall not excuse, toll, or suspend any compliance obligation or deadline required pursuant to this CA/FO which is not directly in dispute. However, payment of Stipulated Penalties with respect to the disputed matter shall be stayed pending resolution of the dispute. Notwithstanding the stay of payment, Stipulated Penalties shall accrue in accordance with paragraphs 113 and

114 unless Respondent prevails on the disputed issue, or the final decision maker, at his or her discretion, reduces the amount of the accrued Stipulated Penalty. Stipulated Penalties shall be assessed and paid as provided in Section VII. C. Delay in Performance/Stipulated Penalties.

IX. FORCE MAJEURE AND EXCUSABLE DELAY

128. Force majeure, for purposes of this CA/FO, is defined as any event arising from causes not reasonably foreseen and beyond the control of Respondent or any person or entity controlled by Respondent, including, but not limited to, Respondent's contractors, that delays or prevents the timely performance of any obligation under this CA/FO despite Respondent's best efforts to fulfill such obligation. The requirement that Respondent exercise "best efforts to fulfill such obligation" shall include, but not be limited to, best efforts to anticipate any potential force majeure event and address it before, during, and after its occurrence, such that any delay or prevention of performance is minimized to the greatest extent possible. Force majeure does not include increased costs of the work to be performed under this CA/FO; financial inability to complete the work; minor precipitation events; or changed circumstances arising out of sale, lease, or transfer of Respondent's interest in any and/or all portions of the Facilities.
129. If any event occurs or has occurred that may delay the performance of any obligation under this CA/FO, whether or not caused by a force majeure event, Respondent shall contact by telephone and communicate orally with EPA's Project Coordinator, or in his or her absence, his or her Section Chief or, in the event both of the EPA's designated representatives are unavailable, the Chief of the Land Enforcement and Compliance Assurance Branch, Enforcement and Compliance Assurance Division EPA Region 5, within seventy-two hours of when Respondent first knew or should have known that the event might cause a delay. Within five (5) calendar days thereafter, Respondent shall provide to the EPA in writing the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; all other obligations affected by the force majeure event, and what measures, if any, taken or to be taken to minimize the effect of the event on those obligations; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondent's rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health, welfare or the environment. Respondent shall include with any notice all available documentation supporting its claim that the delay was attributable to a force majeure event. Failure to comply with the above requirements shall preclude Respondent from asserting any claim of force majeure for that event, unless such failure is waived by the EPA at its discretion. Respondent shall be deemed to have notice of any circumstances of which its contractors had or should have had notice.

130. If the EPA determines that the delay or anticipated delay is attributable to a force majeure event, the time for performance of such obligation under this CA/FO that is affected by the force majeure event will be extended by the EPA for such time as the EPA determines is necessary to complete such obligation. An extension of the time for performance of such obligation affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation, unless Respondent can demonstrate that more than one obligation was affected by the force majeure event. If the EPA determines that the delay or anticipated delay has been or will be caused by a force majeure event, the EPA will notify Respondent in writing of the length of the extension, if any, for performance of such obligations affected by the force majeure event.
131. If the EPA disagrees with Respondent's assertion of a force majeure event, Respondent may elect to invoke the dispute resolution provision, and shall follow the time frames set forth in Section VIII. 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 event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Respondent complied with the requirements of this Section. If Respondent satisfies this burden, the time for performance of such obligation will be extended by the EPA for such time as is necessary to complete such obligation.

X. INDEMNIFICATION

132. Respondent agrees to indemnify and save and hold harmless the United States Government, its agencies, departments, agents, and employees, from any and all claims or causes of action arising solely 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 CA/FO. This indemnification shall not be construed in any way as affecting or limiting the rights or obligations of Respondent or the United States under their various contracts.

XI. OTHER MATTERS

133. Nothing in this CA/FO shall relieve Respondent of the duty to comply with all applicable provisions of RCRA and any other federal, state, or local laws and regulation.
134. Notwithstanding any other provision of this CA/FO, nothing in this CA/FO shall be construed to limit the authority of the EPA to take any action against Respondent to address conditions that may present an imminent and substantial endangerment to human health or the environment. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.

135. This CA/FO may be amended or modified only by written agreement executed by both the EPA and Respondent.
136. The terms of this CA/FO bind the Parties and their successors and assigns.
137. The undersigned representative of each party to this CA/FO certifies that each is duly authorized by the party whom he or she represents to enter into these terms and conditions and to legally bind that party to it.
138. The headings in this CA/FO are for convenience of reference only and shall not affect the interpretation of this CA/FO.

XII. EFFECTIVE DATE

139. This Consent Agreement and the Final Order shall become effective upon execution of the Final Order by the Environmental Appeals Board and filing with the Clerk of the EAB (“Effective Date”). 40 C.F.R. § 22.18(b)(2) and § 22.31(b).

[SIGNATURES BEGIN ON NEXT PAGE]

AGREED AND CONSENTED TO:

FOR COMPLAINANT:

Date

**GREGORY
SULLIVAN** Digitally signed by
GREGORY SULLIVAN
Date: 2021.11.09
12:47:10 -05'00'

Gregory Sullivan, Director
Waste and Chemical Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency

FOR RESPONDENT US TECHNOLOGY MEDIA, INC.

11.3.2021

Date



Mr. Tony Giancola, President
US Technology Media, Inc.
509 Water Street
Bolivar, OH 44612
Tgiancola@gmrtechnology.com
Telephone (330) 455-1181

ATTACHMENT 1
US Technology Media, Inc., Payment Schedule

Attachment 1 Payment Schedule, US Technology Media, Inc.

Payment Number	Months From Effective Date of CA/FO	Payment	Principal	Interest
1	3	\$5,977.94	\$5,882.35	\$500.00
2	4	\$5,977.94	\$5,882.35	\$161.76
3	5	\$5,977.94	\$5,882.35	\$156.86
4	6	\$5,977.94	\$5,882.35	\$151.96
5	7	\$5,977.94	\$5,882.35	\$147.06
6	8	\$5,977.94	\$5,882.35	\$142.16
7	9	\$5,977.94	\$5,882.35	\$137.25
8	10	\$5,977.94	\$5,882.35	\$132.35
9	11	\$5,977.94	\$5,882.35	\$127.45
10	12	\$5,977.94	\$5,882.35	\$122.55
11	13	\$5,977.94	\$5,882.35	\$117.65
12	14	\$5,977.94	\$5,882.35	\$112.75
13	15	\$5,977.94	\$5,882.35	\$107.84
14	16	\$5,977.94	\$5,882.35	\$102.94
15	17	\$5,977.94	\$5,882.35	\$98.04
16	18	\$5,977.94	\$5,882.35	\$93.14
17	19	\$5,977.94	\$5,882.35	\$88.24
18	20	\$5,977.94	\$5,882.35	\$83.33
19	21	\$5,977.94	\$5,882.35	\$78.43
20	22	\$5,977.94	\$5,882.35	\$73.53
21	23	\$5,977.94	\$5,882.35	\$68.63
22	24	\$5,977.94	\$5,882.35	\$63.73
23	25	\$5,977.94	\$5,882.35	\$58.82
24	26	\$5,977.94	\$5,882.35	\$53.92
25	27	\$5,977.94	\$5,882.35	\$49.02
26	28	\$5,977.94	\$5,882.35	\$44.12
27	29	\$5,977.94	\$5,882.35	\$39.22
28	30	\$5,977.94	\$5,882.35	\$34.31
29	31	\$5,977.94	\$5,882.35	\$29.41
30	32	\$5,977.94	\$5,882.35	\$24.51
31	33	\$5,977.94	\$5,882.35	\$19.61
32	34	\$5,977.94	\$5,882.35	\$14.71
33	35	\$5,977.94	\$5,882.35	\$9.80
34	36	\$5,977.98	\$5,882.45	\$4.90
Total		\$203,250.00	\$200,000.00	\$3,250.00

CERTIFICATE OF SERVICE

I certify that copies of the foregoing “Consent Agreement” and “Final Order” in the matter of U.S. Technology Media, Inc., Docket Nos. RCRA-HQ-2021-5006, RCRA-04-2021-2110(b), RCRA-05-2022-0001, and RCRA-08-2022-0001 were sent to the following persons in the manner indicated:

By E-mail:

Tony Giancola,
President US
Technology Media, Inc.
509 Water Street
Bolivar, OH 44612
E-mail: Tgiancola@gmrtechnology.com

Jeffrey A. Cahn
Associate Regional Counsel
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