



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
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CHICAGO, IL 60604-3590

June 23, 2021

VIA EMAIL

Mr. Paul J. Regan
Vice President – Finance & Business Operations
Lockheed Martin Corporation
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norman.a.varney@lmco.com (for Respondent)

Mr. Christopher Burnham
President
Development Finance Authority
47 North Main Street
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tfinn@ralaw.com (for Respondent)

Mr. Alan Weston
Chief Executive Officer
LTA Airdock PropCo LLC,
LTA Galactic, Inc.
LTA Research & Development, LLC
1210 Massillon Road
Akron, Ohio 44315
tommounteer@paulhastings.com and jabutterworth@bmdllc.com (for Respondents)

Re: Fourth Amendment to Consent Agreement and Final Order
Docket No: TSCA-05-2005-0016

Gentlemen:

Attached please find a copy of the signed, fully executed Fourth Amendment to Consent Agreement and Final Order for the above case. The original was filed with the Regional Hearing Clerk on June 23, 2021.

If you have any questions or concerns, please contact Ken Zolnierczyk, of my staff, at 312-353-9687 or zolnierczyk.kenneth@epa.gov.

Sincerely,

Cunningham
m, Michael

Digitally signed by
Cunningham, Michael
Date: 2021.06.14
10:22:32 -05'00'

Michael Cunningham, Chief
RCRA Compliance Section 1

Attachment

cc: Mitchell Mathews, Ohio EPA (mitchell.mathews@epa.ohio.gov)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	
)	
Lockheed Martin Corporation,)	Fourth Amendment to Consent
Development Finance Authority of)	Agreement and Final Order
Summit County,)	
LTA Airdock PropCo LLC,)	Docket No. TSCA-05-2005-0016
LTA Galactic, Inc., and)	
LTA Research and Exploration, LLC)	
)	
Respondents.)	
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Consent Agreement and Final Order

Preliminary Statement

1. This is an amendment to an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits* as codified at 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, Region 5 (USEPA) and is authorized to institute, settle and amend civil administrative actions brought pursuant to Section 16(a) of TSCA.

3. The Respondents are:

- a. Lockheed Martin Corporation (Lockheed Martin), Bethesda, Maryland;
- b. The Development Finance Authority of Summit County (DFASC), Akron, Ohio;

- c. LTA Airdock PropCo LLC (PropCo), a limited liability company organized under the laws of the state of Delaware with a place of business located at 1204 Massillon Road, Akron, Ohio 44306.
- d. LTA Galactic, Inc. (LTAG), a corporation organized under the laws of the state of Delaware with a place of business located at 1204 Massillon Road, Akron, Ohio 44306.
- e. LTA Research and Exploration, LLC (LTAR), a limited liability company organized under the laws of the state of Delaware with places of business located at 642 North Pastoria Avenue, Sunnyvale, California 94085 and 204 Massillon Road, Akron, Ohio 44306. (LTAR, PropCo and LTAG are collectively the LTA Parties).

4. The undersigned parties agree to the following 4th Amendment to the May 5, 2005, Consent Agreement and Final Order (CAFO) in the above-referenced matter (original CAFO), as amended December 23, 2005, (1st Amended CAFO); January 4, 2007, (2nd Amended CAFO); and December 18, 2008, (3rd Amended CAFO), entered into in the above-captioned matter by USEPA; Lockheed Martin; and the Summit County Port Authority, *k/n/a* DFASC, regarding the use of PCBs at an airdock located in Akron, Ohio (Airdock). The original CAFO, 1st Amended CAFO, 2nd Amended CAFO, and 3rd Amended CAFO shall herein be referred to as the CAFOs.

5. The initial action was commenced and concluded on May 5, 2005, when Lockheed Martin entered into the original CAFO with USEPA resolving alleged violations of TSCA and the PCB regulations, 40 CFR Part 761, at the Airdock which is now owned by DFASC and leased to Lockheed Martin. The Airdock is primarily used to construct and maintain lighter than air airships.

6. The original CAFO contains the elements described at § 22.14(a)(1)-(3) and (8), accordingly, the CAFOs and this 4th Amendment comply with 40 C.F.R. Part 22. *See* 40 C.F.R. § 22.18(b)(2).

7. The original CAFO was amended three times. The original CAFO was first amended on December 23, 2005, to include the Summit County Port Authority, *k/n/a* DFASC, as a party to

this action in anticipation of Lockheed Martin transferring ownership of the Airdock to DFASC. See 1st Amended CAFO. The original CAFO was amended a second time on January 4, 2007, to increase the number of Aerostats to be inflated, tested, and evaluated in the Airdock. See 2nd Amended CAFO. The original CAFO was amended a third time on December 18, 2008, to allow the conditional use of the Airdock on a longer-term basis to develop, construct, test and repair airships and other inflatable structures after Lockheed Martin performed remedial actions at the site, including decontaminating the interior of the Airdock, and Lockheed Martin agreed to additional conditions limiting the use of the Airdock to prevent exposure to PCBs. See 3rd Amended CAFO.

8. Under the terms of the CAFOs, Lockheed Martin is allowed conditional use of the Airdock on a limited and extended basis.

9. The Airdock is listed on the National Park Service's *National Register of Historic Places* due to its unique architecture and engineering, *i.e.*, it is one of the largest operating airship hangers in the world without interior supports.

10. Given the unique nature of the Airdock building and the unique nature of the operations at the facility, USEPA has determined the continued conditional use of PCBs at this building is warranted.

11. Pursuant to the terms and conditions of the 3rd Amended CAFO, Lockheed Martin is allowed the conditional use of the Airdock for manufacture, assembly, inspection, testing, maintenance, and repair of airships and other inflatable structures for government customers.

12. USEPA has determined that the sublease of the Airdock to the LTA Parties would not be a cessation of operations under the CAFOs and that the sublease of the Airdock to the LTA Parties, who will continue with the same, or similar operations, at the facility, as contemplated by

the CAFOs, *i.e.*, the manufacture of airships for government, commercial, and nonprofit purposes, is a similar activity which would not change the risk assessments and considerations USEPA relied upon to allow the original use of the Airdock.

13. Lockheed Martin and the LTA Parties contemplate that Lockheed Martin will sublease the Airdock to PropCo, whereupon PropCo will sub-sublease the Airdock to each of LTAG and LTAR. The LTA Parties will use the Airdock for manufacture, assembly, inspection, testing, maintenance, and repair of airships and other inflatable structures for government, commercial, and nonprofit customers, including electric-powered zero emission airships. The LTA Parties also will sublease a portion of the Airdock to Skyship Services, Inc., (Skyship) for the same uses.

14. The LTA Parties agree to use the Airdock only for the purposes listed above and, except as provided by this Amendment, agree to be bound by all terms and conditions of the CAFOs.

15. All of the parties agree that the amendment of the CAFOs without further delay is in their interest and in the public interest, and having consented to the entry of this amended Consent Agreement and the attached Final Order before taking testimony and without any adjudication of any issues of law or fact herein, Respondents agree to comply with the terms of this Consent Agreement and the attached Final Order.

16. The Parties confirm the following:

- a. a sublease of the Airdock by Lockheed Martin to, either directly or through further underlying sublease tiers, another operator, such as the LTA Parties or Skyship, that will use the Airdock for manufacture, assembly, inspection, testing, maintenance, and repair of airships and other inflatable structures for government, commercial, and nonprofit customers, would not constitute a cessation of operations under Section X (Cessation of Operations) of the CAFOs;

- b. the manufacture, assembly, inspection, testing, maintenance, and repair of airships and other inflatable structures for commercial and nonprofit customers are operations similar to those regarding such activities for government customers, such that their conduct in the Airdock would not change the risk assessments and considerations relied upon by USEPA to allow the conditional use of the Airdock under the 3rd Amended CAFO, and therefore are allowed uses under the CAFOs;
- c. that, effective as of the date of this Amendment, the LTA Parties are Respondents and parties to the CAFOs and this Amendment and will be subject to and will comply with the terms and conditions of the CAFOs and this Amendment during the term of PropCo's sublease of the Airdock (and any direct lease resulting from conversion of the sublease to a direct lease), any extension(s) thereof, and any holdover period (collectively, the Sublease Period); provided, however, that the LTA Parties shall not be responsible for the obligations set forth in Section X of the 3rd Amended CAFO, unless any of the LTA Parties fail to use and occupy the Airdock both as allowed by and in accordance with the terms and conditions of the CAFOs and such results in a cessation of operation of the Airdock. Upon expiration or termination of the Sublease Period (other than in connection with a change in ownership of the Airdock to PropCo), PropCo, LTAG, and LTA will no longer be subject to the CAFOs and this Amendment, except for those responsibilities and obligations incurred under or derived from the CAFOs and this Amendment by the LTA Parties during the Sublease Period, which responsibilities and obligations will survive expiration or termination of the Sublease Period.

17. Lockheed Martin and the LTA Parties further contemplate that, subsequent to entering into the aforementioned sublease, ownership of the Airdock will transfer from DFASC to Lockheed Martin, and immediately thereafter from Lockheed Martin to PropCo, during and after which the LTA Parties and Skyship will continue to use the Airdock for the purposes set forth in this Amendment. The Parties intend that this change in ownership of the Airdock, and any necessary changes to the terms and conditions of the CAFOs and this Amendment (including the removal of Lockheed Martin and DFASC as respondents and parties to the CAFOs upon consummation of such change in ownership of the Airdock), be addressed in a Fifth Amendment to the CAFO or in a superseding CAFO. This new CAFO will include additional terms and conditions necessary to protect human health and the environment during Respondents' continued

use of the Airdock, *e.g.*, additional sampling and analysis requirements; comprehensive closure and post closure plans; financial assurance to address costs of removal and disposal of the remaining original siding, and costs of closure and post-closure performance; a termination date for use of the original Airdock siding; emergency planning, including written plans and procedures, and arrangements with state and local responders; any subsequent owners being subject to the terms of a Fifth Amendment to the CAFO or a superseding CAFO; and increased stipulated penalties.

Effect of the Consent Agreement and Final Order

18. The CAFOs remain in full force and effect in accordance with their terms, and shall otherwise remain unchanged, except to the extent that they are modified by or necessary to give effect to this Amendment.

Additional Provisions

19. This amendment to the CAFOs is intended only to add the additional terms and conditions listed below.

20. No other terms and conditions of the CAFOs are amended and remain in full force and effect.

21. Lockheed Martin and DFASC remain Respondents under the CAFOs and these amendments do not change the rights and responsibilities of Respondent Lockheed Martin and Respondent DFASC under the CAFOs, other than as set forth at Paragraph 27 of this CAFO.

22. As the owner of the Airdock, DFASC is responsible for compliance with those terms and conditions of the CAFOs that apply to DFASC.

23. As the operator of the Airdock, Lockheed Martin is ultimately responsible for compliance with those terms and conditions of the CAFOs that apply to Lockheed Martin.

Amendment: Use and Sublease of the Airdock

24. The manufacture, assembly, inspection, testing, maintenance, and repair of airships and other inflatable structures for commercial and nonprofit customers constitute allowed uses of the Airdock pursuant to the CAFOs.

25. Sublease of the Airdock to PropCo, PropCo's sub-sublease of the Airdock to each of LTAG, LTAR, and SkyShip, and any subsequent ownership of the Airdock by the LTA Parties, under which the LTA Parties and their contractors and tenants will conduct operations at the Airdock as contemplated by the 3rd Amended CAFO and by this Amendment, will not constitute a cessation of operations under Section X (Cessation of Operations) of the CAFOs.

26. Sublease of the Airdock to PropCo and PropCo's sub-sublease of the Airdock to each of LTAG, LTAR, and SkyShip shall have concurrent terms that, with respective original terms and extensions, shall not exceed eighteen (18) months, with the right for Respondents to request two (2) subsequent six-month extensions from USEPA. Respondents shall submit a written Request for Extension to USEPA no later than sixty (60) days before the termination of the then-existing sublease period. The Request for Extension shall provide the reason(s) for the extension and an explanation of why the extension is necessary. The granting of any such extension by USEPA will not be unreasonably withheld.

Amendment: LTA Parties' Obligations

27. Upon execution of this Amendment, the LTA Parties will become Respondents to the CAFOs and this Amendment, but none of the LTA Parties has or will have any responsibilities or obligations under the CAFOs and this Amendment until Propco enters into a sublease of the Airdock from Lockheed Martin. Upon entry by PropCo into a sublease for the Airdock and during

the Sublease Period, each of the LTA Parties will be subject to, and responsible for, all obligations required of Lockheed Martin under the CAFOs and this Amendment; provided, however, that the LTA Parties shall not be responsible for the obligations set forth in Section X of the 3rd Amended CAFO, unless any of the LTA Parties fails to use and occupy the Airdock both as allowed by and in accordance with the terms and conditions of the CAFOs and such results in a cessation of operation of the Airdock.

28. Upon expiration or termination of the Sublease Period (other than in connection with a change in ownership of the Airdock to PropCo), PropCo, LTAG, and LTAR will no longer be subject to the CAFOs and this Amendment, except for those responsibilities and obligations incurred under or derived from the CAFOs and this Amendment by the LTA Parties during the Sublease Period, which responsibilities and obligations will survive expiration or termination of the Sublease Period.

General Provisions

29. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: steketee.john@epa.gov (for USEPA); norman.a.varney@lmco.com (for Respondent Lockheed Martin); tfinn@ralaw.com (for Respondent DFASC); tommounteer@paulhastings.com and jabutterworth@bmdllc.com (for Respondents PropCo, LTAR and LTAG).

30. This CAFO does not affect the rights of USEPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

31. Except as otherwise provided by its terms, this CAFO does not affect Respondents' responsibility to comply with TSCA and the PCB regulations, and all other applicable federal, state and local laws.

32. Respondents Lockheed Martin and DFASC certify that they are currently complying with TSCA, the PCB regulations, and the terms and conditions of this CAFO at the Airdock site.

33. The terms of this CAFO bind Respondents, and their successors and assigns.

34. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

35. Each party agrees to bear its own costs and attorney's fees in this action.

36. This CAFO constitutes the entire agreement between the parties.

In the Matter of:
Lockheed Martin Corporation,
Development Finance Authority of
Summit County,
LTA Airdock PropCo LLC,
LTA Galactic, Inc., and
LTA Research & Development,
LLC
Docket No. TSCA-05-2005-0016

Lockheed Martin Corporation, Respondent

6/7/2021

Date

Paul J Regan III

Digitally signed by Paul J Regan III
Date: 2021.06.07 08:41:44 -04'00'

Paul J. Regan
Vice President – Finance & Business Operations

Development Finance Authority of Summit County, Respondent

6/8/2021

Date

Christopher Burnham Digitally signed by Christopher Burnham
Date: 2021.06.08 08:29:34 -04'00'

Christopher Burnham
President

LTA Airdock PropCo LLC, Respondent

6/9/2021

Date

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Alan Weston

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Alan Weston
CEO

LTA Galactic, Inc. Respondent

6/9/2021

Date

DocuSigned by:

Alan Weston

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Alan Weston
CEO

LTA Research & Development, LLC, Respondent

6/9/2021

Date

DocuSigned by:

Alan Weston

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Alan Weston
CEO

**In the Matter of:
Lockheed Martin Corporation,
Development Finance Authority of
Summit County,
LTA Airdock PropCo LLC,
LTA Galactic, Inc., and
LTA Research & Development,
LLC
Docket No. TSCA-05-2005-0016**

United States Environmental Protection Agency, Complainant

**MICHAEL
HARRIS**

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MICHAEL HARRIS
Date: 2021.06.15
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Date

Michael D. Harris
Director
Enforcement and Compliance Assurance Division

**In the Matter of:
Lockheed Martin Corporation,
Development Finance Authority of
Summit County,
LTA Airdock PropCo LLC,
LTA Galactic, Inc., and
LTA Research & Development,
LLC
Docket No. TSCA-05-2005-0016**

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date:

ANN COYLE Digitally signed by ANN
COYLE
Date: 2021.06.23
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Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection
Agency, Region 5

Consent Agreement and Final Order

In the Matter of: Lockheed Martin Corporation, Defense Finance Authority of Summit County, LTA Airdock PropCo LLC, LTA Galactic, Inc., and LTA Research & Development, LLC

Docket Number: TSCA-05-2005-0016

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number TSCA-05-2005-0016, which was filed on June 23, 2021, in the following manner to the following addresses:

Copy by email to
Respondents:

Paul J. Regan
norman.a.varney@lmco.com (for Respondent)

Christopher Burnham
tfinn@ralaw.com (for Respondent)

Alan Weston
tommounteer@paulhastings.com and
jabutterworth@bmdllc.com (for Respondents)

Copy by email to
Attorney for Complainant

John Steketee
steketee.john@epa.gov

Copy by email to
Enforcement Officer

Kenneth Zolnierczyk
zolnierczyk.kenneth@epa.gov

Copy by email to Regional
Judicial Officer

Ann Coyle
coyle.ann@epa.gov

Dated: _____

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5