

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

Ohio EPA 12/31/2024

Entered Director's Journal

By: Valley O'Neil Date: 12/31/2024

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Material Sciences Corporation
460 W Main Street
Canfield, Ohio 44406

**Director's Final
Findings and Orders**

Respondent

PREAMBLE

It is hereby agreed by and among the Parties as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Material Sciences Corporation, Respondent, pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.13, 3734.20, 3745.01, and 6111.03.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest to the extent liable under Ohio law. No change in ownership of Respondent or of the Facility shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapters 3734. and 6111. and the rules promulgated thereunder. Whenever the terms listed below are used in these Orders or in any appendices attached hereto and incorporated herein, the following definitions shall apply:

- a. "Corrective Action Framework Agreement" shall mean a written agreement between Ohio EPA and Respondent that implements the RCRA FIRST approach at the Facility.

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- b. "Corrective Measures Study" ("CMS") shall mean the activities to be undertaken to develop and evaluate potential remedial alternative(s) for the cleanup of the Facility;
- c. "Corrective Measures Study Workplan" ("CMS Workplan") shall mean the document submitted by Respondent pursuant to Section VI of these Orders;
- d. "Day" shall mean a calendar day unless expressly stated to be a business day;
- e. "Decision Document" shall mean the document, which is a final action of the Director, that, after public comment on the Statement of Basis, is the final remedy selection for the Facility.
- f. "Facility" shall mean the manufacturing facility portions of which are owned by Respondent and which are located at 460 West Main Street, Canfield, Mahoning County, Ohio, U.S. EPA Identification Number OHD000810283.
- g. "Hazardous Waste Management Unit" ("HWMU") shall mean the areas at the Facility where hazardous waste was treated, stored and/or disposed or otherwise managed.
- h. "Interim Measures" ("IM") shall mean those activities which mitigate the imminent threat or potential imminent threat to human health and the environment and that are consistent with and integrated into any long-term corrective measure(s) at the Facility;
- i. "Ohio EPA" shall mean the Ohio Environmental Protection Agency and its designated representatives;
- j. "Party" or "Parties" shall mean Respondent and Ohio EPA;
- k. "RCRA" shall mean the Resource Conservation and Recovery Act;
- l. "RCRA Facility Investigation" ("RFI") shall mean the activities to be undertaken to thoroughly evaluate the nature and extent of the releases of hazardous waste and hazardous waste constituents in order to gather necessary data to support the Corrective Measures Study and/or Interim Measures;
- m. "RCRA FIRST" shall mean the RCRA Facilities Investigation Remedy Selection Track, which is an approach developed by U.S. EPA designed to improve the efficiency of RFIs and remedy selection.

- n. "Respondent" shall mean Material Sciences Corporation;
- o. "Scope of Work" ("SOW") shall mean the outline of work Respondent must use to develop all workplans and reports required by these Orders as set forth in these Orders and its Attachments: A, Interim Measures Scope of Work; B, RCRA Facility Investigation Scope of Work; C, Corrective Measures Study Scope of Work; and D, Corrective Measures Implementation Scope of Work. All SOW Attachments and modifications or amendments thereto, are incorporated into these Orders and are an enforceable part of these Orders;
- p. "Waste Management Unit" ("WMU") and "Solid Waste Management Unit" ("SWMU") shall mean any discernible unit at which "waste" (as defined in OAC rule 3745-51-02), "solid wastes," "hazardous waste," "infectious wastes," (as those terms are defined in ORC Chapter 3734.), "construction and demolition debris" (as defined in ORC Chapter 3714.), "industrial waste," or "other wastes" (as those terms are defined in ORC Chapter 6111.) have been placed at any time, irrespective of whether the unit was intended for the management of solid waste, hazardous waste, infectious waste, construction and demolition debris, industrial waste, or other waste. Such units include any area at a facility at which solid waste, hazardous waste, infectious waste, construction and demolition debris, industrial waste, or other waste has been routinely and systematically released;
- q. "Waste Material" shall mean "waste" (as defined in OAC rule 3745-51-02), "solid wastes," "hazardous waste," "infectious wastes," (as those terms are defined in ORC Chapter 3734.), "construction and demolition debris" (as defined in ORC Chapter 3714.), "industrial waste," or "other wastes" (as those terms are defined in ORC Chapter 6111.); and
- r. "Work" shall mean any activities Respondent must perform to comply with the requirements of these Orders and its attachments.

IV. FINDINGS OF FACT, DETERMINATIONS, AND CONCLUSIONS OF LAW

All findings of fact, determinations and conclusions of law necessary for the issuance of these Orders pursuant to Sections 3734.20, 3734.13, 3745.01, and 6111.03 of the ORC have been made and are outlined below. Nothing in these Orders, including any plans, reports or other work products prepared pursuant to these Orders, is intended by the Parties to be, nor shall be, an admission of facts or law, an estoppel or waiver of defenses by Respondent for any purpose except as otherwise provided in Section I., herein. Ohio EPA has determined the following findings of fact, determinations and conclusions of law:

1. Respondent is a "person" as defined under §§ 3734.01(G) and 6111.01(I) of the ORC and Ohio Administrative Code (OAC) rule 3745-50-10(P).
2. Respondent operates a coil coating manufacturing business at the Facility which generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A)(56) and 3745-51-03. Respondent conducts electrogalvanizing and painting through surface coating operations at the Facility. The Facility has been assigned EPA identification number OHD000810283.
3. Based on available information, the Facility manufacturing building was constructed in 1950 for the Life Time Products Corporation, Coated Steel Division, with a later addition of the operations of the Bay Division of Life Time about 1956. The manufacturing building was used to manufacture coated steel products including venetian blinds, rulers, fly swatters, and paint trimmers. Life Time also manufactured portable pneumatic lifts and bumper jacks. Operations included painting through surface coating, machining, spray-painting, and metal fabricating. At some point in the 1950s or 1960s the Facility became known as Canfield Steel. Pittsburgh Steel Corporation purchased Canfield Steel in 1968 and formed the Pittsburgh- Canfield Corporation to own and operate the Facility. Machining, spray-painting, and metal fabricating operations were discontinued at an unknown time thereafter. It is believed that those operations were discontinued by the early 1970s. Respondent purchased the Facility in 2013.
4. During operations at the Facility, the following characteristic and listed hazardous waste have been generated from metal preparation, plating and painting operations with the associated hazardous waste codes as described in OAC rules 3745-51-21, 3745-51-22, 3745-51-23, 3745-51-24, 3745-51-31 and 3745-51-33: D001, D002, D003, D006, D007, D008, D010, D011, D018, D035 and D039; F003, F005;F006, F007, F008, and

F009; U080, U122 and U123. From these operations, Respondent has specifically generated cyanide bearing hazardous waste from Respondent's plating operations.

5. From February 15, 1984, through September 1, 2022, Ohio EPA conducted several hazardous waste inspections at the Facility. Multiple violations of Ohio's hazardous waste program were detected, but no findings of releases to the environment were discovered during these inspections.
6. On or about March 19, 1993, U.S. EPA issued a RCRA Facility Assessment Preliminary Assessment/Visual Site Inspection (PA/VS) Assessment Report. This PA/VS was triggered due to the filing of a Part A Hazardous Waste Permit application, which PCC alleged they withdrew. U.S. EPA was unable to determine the regulatory status of the Facility, and subsequently conducted the PA/VS. The PA/VS report identifies 12 SWMUs at the Facility. Of the 12 SWMUs, U.S. EPA recommends the former waste chromate solution treatment area undergo RCRA closure. For the remaining SWMUS, U.S. EPA does not find them to be a significant potential for release.
7. On July 11, 2024, an emergency spill was reported to Ohio EPA's Spill Hotline regarding a brown discharge into a ditch just east of the Facility. Ohio EPA's Emergency Response Office responded and determined the release was emanating from Respondent's Facility. Respondent suspected the cause of the July 2024 release was due to dislodged process fluids from sealed piping that had deteriorated.
8. Respondent, through its environmental consultant, initiated emergency actions to abate, mitigate, and minimize the immediate threat from the July 11, 2024, release of caustic solution by establishing containment, control and removal of the caustic solution present in the drainage ditch and tributary of Sawmill Creek. Respondent continues mitigation, characterization, and delineation efforts. During Respondent's investigation elevated concentrations of plating waste constituents were discovered in the ditch, presumably from historic releases during the operations of the Facility. The mitigation work is ongoing.
9. On July 12, 2024, Ohio EPA ER issued Respondent a notice of violation of ORC section 6111, causing pollution of waters of the state.
10. In July and August 2024, preliminary sampling data of the release from the July 11 incident to a tributary of Sawmill Creek, demonstrated that there were elevated levels of plating operation chemical constituents

such as cyanide, zinc and high pH levels. Ohio EPA determined these levels and volume of the release materials required certain immediate mitigative and removal tactics necessary to protect human health, safety and the environment from a either an imminent or potential threat.

11. On August 1, 2024, Ohio EPA's hazardous waste program conducted an inspection at the Facility. After Ohio EPA's on-site portion of the inspection, Respondent provided analytical results from sampling conducted in the ditch. These samples indicated there were elevated levels of plating operation chemical constituents such as cyanide, zinc and high pH levels. This information along with the visual discoloration found in the ditch indicates that a release of hazardous waste had occurred and may still be occurring from plating operations at the Facility. At least 1500 feet of the ditch, including wetland areas, have been impacted.
12. As a result of the information described in Finding No. 11. of these Orders, Ohio EPA determined Respondent, *inter alia*; established an unlawful hazardous waste disposal facility by disposing of hazardous waste without first obtaining a hazardous waste facility installation and operation permit, in violation of ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A). Specifically, Respondent disposed of spent cyanide plating and cleaning solutions (hazardous waste - D002, F007, F008 and F009) which was released into the subsurface at the Facility and ultimately discharged into a tributary of Sawmill Creek.
13. By letter dated October 31, 2024, Ohio EPA notified Respondent of the violations referenced in Finding No. 12. of these Orders.
14. On September 30, 2024, Respondent provided a Sampling and Analysis Plan (SAP) to Ohio EPA. The SAP included proposed subsurface soil, sediment, and groundwater investigations to characterize potential impacts at the Facility, adjacent drainage ditch, and surface water feature. Additional sampling efforts were completed by the Respondent in the tributary of Sawmill Creek as requested by Ohio EPA.
15. Results from the initial sampling event discovered significant concentrations of trichloroethylene (TCE) present at the Facility, at a minimum in the groundwater, found approximately in the north central area of the Facility. Respondent has informed Ohio EPA that it does not use TCE in its operations. Respondent is unsure of source of TCE but may be from historical operations at the Facility prior to obtaining ownership. Respondent has been coordinating with Ohio EPA to conduct further investigation of the TCE and take appropriate action both on and off-site, including conducting indoor air monitoring at the Facility on December 13, 2024.

16. On October 7, 2024, Respondent submitted an initial Ditch Interim Measures Plan (Ditch IM Plan) to Ohio EPA. The purpose of the Ditch IM Plan was to address impacts observed in the adjacent drainage ditch. Following Ohio EPA review and requests for modifications, a final Ditch IM Plan was submitted to Ohio EPA on November 15, 2024. Generally, this plan will capture and contain any on-going releases while Respondent investigates and develops an overall Remedy for the Facility. Respondent began implementation efforts to remove ditch impacted soils/sediments and install a liner to restrict direct contact were undertaken in Mid-October 2024. Respondent will continue operation and maintenance of the IM into the future as needed.
17. On November 15, 2024, Ohio EPA approved the Ditch Interim Measure plan.
18. In October 2024, Respondent installed a semi-permanent chain link fence restricting public access to the adjacent drainage ditch.
19. On December 12, 2024, Respondent submitted an Initial Site Investigation Report detailing the SAP implementation results.
20. The Facility is a hazardous waste facility, solid waste facility, or other location where hazardous waste was treated, stored or disposed. There have been releases of hazardous waste or hazardous waste constituents into the soil and potentially groundwater from the Facility.
21. Conditions at the Facility may constitute a substantial threat to public health or safety or are causing or contributing or threatening to cause or contribute to air or water pollution or soil contamination.
22. Hazardous wastes from operations at the Facility, including, but not limited to those described in Finding No. 4. of these Orders and other contaminants found at the Facility are "industrial wastes" or "other wastes" as defined under ORC § 6111.01(H).
23. The ground water at the Facility and surface water at the Facility are "waters of the state" as defined under ORC § 6111.01(H).
24. The work required by these Orders will contribute to the prohibition or abatement of the discharge of industrial wastes or other wastes into the waters of the state. In issuing these Orders, the Director has given consideration to, and based the Director's determination on, evidence relating to the technical feasibility and economical reasonableness of

complying with these Orders, and to evidence relating to conditions calculated to result from compliance with these Orders, and their relation to benefits to the people of the state to be derived from such compliance.

V. GENERAL PROVISIONS

The objectives of the Parties in entering into these Orders is to contribute to the protection of public health, safety, and welfare and the environment by preventing the disposal, discharge, or release of the Waste Material at the Facility through the development and implementation by Respondent of a RFI, implementation of the CMS, submittal of a CMS Report, and implementation of corrective measure(s) as approved by Ohio EPA in the Decision Document.

Respondent shall perform the Work in accordance with these Orders, including but not limited to, Interim Measures (if necessary), SOWs, relevant guidance documents, and all standards, specifications, and schedules set forth in or developed pursuant to these Orders.

All activities undertaken by Respondent pursuant to these Orders shall be performed in accordance with the requirements of all applicable federal and state laws and regulations. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Respondent' present or former ownership or operation of the Facility, as applicable.

Where any portion of the Work requires a permit or approval, Respondent shall timely submit applications and take all other actions necessary to obtain such permits or approval. These Orders are not, and shall not be construed to be, a permit issued pursuant to any statute or regulation. Ohio EPA shall use its best efforts to promptly consider and decide upon permit applications which Respondent may be required to submit pursuant to the Work required to be performed under these Orders.

All Work performed pursuant to these Orders shall be under the direction and supervision of a contractor/project manager or Respondent's employees with expertise in hazardous waste site investigation and remediation.

VI. ORDERS

Respondent shall achieve compliance with Chapter 3734 and 6111.03 of the ORC and the regulations promulgated thereunder according to the following compliance schedule, provided however that, the parties intend to streamline the deadlines and documents below pursuant to the RCRA FIRST process:

1. Within 45 days after the effective date of these Orders, Respondent shall meet with Ohio EPA in order to develop a Corrective Action Framework (CAF) Agreement under RCRA FIRST in conformance with the template in Attachment D.
2. In accordance with the timeframes and schedules outlined in the CAF Agreement, or within 150 days after the Effective Date of these Orders at the very latest, Respondent shall submit a sampling and analysis plan for the Facility and ditch and wetland/stream areas. Submittal of these work plans shall serve to be an appropriate and acceptable surrogate to a standard RFI Workplan. The submitted work plans together shall serve to be the 'RFI Workplan' as identified in the RCRA FIRST process and they shall be considered to be developed in conformance with the RFI SOW and guidance documents listed in **Attachment B** of these Orders, attached hereto and incorporated herein.
3. Upon completion of the work outlined in the RFI work plan, Respondent shall submit a RFI Final Report to Ohio EPA for review and approval. The RFI Final Report shall summarize the results of the investigation and define the nature and extent of the release of hazardous waste or hazardous constituents from waste management units and other source areas at the Facility and off-site and define the human health and ecological pathways and risk standards. The RFI Final Report also shall summarize any Interim Measures or Additional Work undertaken or completed, if any, pursuant to Section VI. Orders, paragraphs 7 and 9, respectively.
4. CMS
 - a. If Ohio EPA determines, based upon the results of the RFI Final Report and/or any other relevant information, or upon written request of Respondent, that corrective measures are necessary, Ohio EPA will notify Respondent, in writing, and Ohio EPA and Respondent shall meet within 30 days of that notification to conduct a Remedy Selection Meeting(s). During a Remedy Selection Meeting(s), Ohio EPA and Respondent can develop and approve a new CAF Agreement for the CMS ("CAF Agreement for the CMS"). Within ninety (90) days of the Remedy Selection Meeting(s), or otherwise agreed to by Ohio EPA and Respondent under the approved CAF Agreement for the CMS, Respondent shall submit to Ohio EPA a CMS Workplan, if applicable, for review and approval.
 - b. Upon approval of the CMS Workplan by Ohio EPA, Respondent shall implement the CMS Workplan. Respondent shall submit all plans,

reports, or other deliverables required under the approved CMS Workplan, in accordance with the approved schedule, for review and approval.

- c. Should Respondent identify any inconsistency between these Orders and any of the guidance documents, CMS Workplan or SOWs which Respondent is required to follow by these Orders, Respondent shall promptly notify Ohio EPA in writing of each inconsistency and the effect of the inconsistencies upon the Work to be performed. Respondent shall also recommend, along with a supportable rationale which justifies each recommendation, the requirement Respondent believes should be followed. Respondent shall implement the affected Work as directed by Ohio EPA.
- d. Within sixty (60) days after the completion of the CMS, Respondent shall submit a CMS Final Report to Ohio EPA for review and approval. The CMS Final Report shall summarize the results of the investigation, each remedy studied and must include an evaluation of each remedial alternative.

5. CORRECTIVE MEASURES IMPLEMENTATION

- a. Based upon the results of the Remedy Selection Meeting(s) and the CMS, if applicable, Respondent shall implement one or more of the corrective measures selected by Ohio EPA in the Decision Document in accordance with the schedules therein.
- b. If applicable, Respondent shall submit to Ohio EPA a Corrective Measures Implementation Workplan for review and approval.

6. NEWLY IDENTIFIED WMUs OR RELEASES

- a. Within thirty (30) days of discovery, Respondent shall submit to Ohio EPA the following information regarding any new WMU identified at the Facility:
 - i. The location of the unit on a site topographic map;
 - ii. Designation of the type of unit;
 - iii. General dimensions and structural description (supply any available drawings);
 - iv. When the unit was operated; and

- v. Specifications of all waste(s) that have been managed at the WMU.
- b. Within thirty (30) days of discovery, Respondent shall submit to Ohio EPA all available information pertaining to any release of hazardous waste(s) or hazardous constituent(s) from any new or existing WMU.

7. INTERIM MEASURES

- a. Respondent will continue implementation of the Ditch IM Plan into the future as needed. Within seven (7) days after the effective date of these Orders, Respondent will establish routine inspections to be conducted. The purposes of these inspections is to detect any deviations from the approved workplans and correct the deviations. Respondent will maintain documentation of such inspections and corrective measures taken. Any deviation which results in the potential release from off-site the Facility property must be immediately reported to Ohio EPA's Designated Project Manager.
- b. Within fourteen (14) days of the effective date of these Orders, Respondent shall submit a TCE Interim Measure Plan (TCE IM Plan) which outlines an investigative approach (sampling analysis plan) for TCE release described in Finding No. 15. of these Orders. The TCE IM Plan must be updated and amended based on the results of the sampling analysis plan in accordance with Order 7.e.
- c. In the event Respondent or Ohio EPA identifies an additional imminent threat or potential imminent threat to human health or the environment, or discovers new WMUs not previously identified that present an imminent threat or potential imminent threat to human health or the environment, Respondent shall immediately implement Interim Measures (IM) at the Facility. In the event Respondent identifies an imminent threat or potential imminent threat to human health or the environment, Respondent shall immediately notify Ohio EPA's Project Manager as described in Section IX. of these Orders, verbally within 48 hours and in writing within fourteen (14) days. The notifications shall summarize the immediacy and magnitude of the current or potential threat to human health and the environment.
- d. If Ohio EPA determines that an IM Workplan is required, Respondent (as applicable) shall submit to Ohio EPA an IM Workplan within thirty (30) days of notification from Ohio EPA. The IM Workplan shall identify interim measures which mitigate the imminent threat or potential imminent threat to human health and the environment and

are consistent with and integrated into any long-term corrective measure(s) at the Facility.

- e. The IM Workplan shall be developed in conformance with the site-specific SOW and guidance documents listed in **Attachment A** of these Orders, attached hereto and incorporated herein. If Ohio EPA determines that any additional or revised guidance documents affect the Work to be performed in implementing the IM Workplan, Ohio EPA will notify Respondent, and the IM Workplan and other affected documents shall be modified according to the provisions in Section XI, Review of Submittals. The IM Workplan, as modified, shall be incorporated in and made an enforceable part of these Orders.

8. CORRECTIVE ACTION FOR NEWLY IDENTIFIED WMUs AND RELEASES

If a new WMU or release is discovered, Respondent shall submit a written RFI Workplan to Ohio EPA upon a time frame established in written notification by Ohio EPA that further investigations or corrective measures are necessary for review and approval. The RFI Workplan will be developed in conformance with the SOW and guidance documents listed in **Attachment B** of these Orders. Further investigations or corrective measures will be established by Ohio EPA. Respondent may request an extension for submitting a written RFI Workplan to Ohio EPA for newly identified WMUs and releases of hazardous waste(s) or hazardous constituent(s) from any newly identified WMUs. Respondent shall make all such submittals in accordance with time frames and schedules contained in the approved written RFI workplan.

9. ADDITIONAL WORK

- a. Ohio EPA and/or Respondent may determine that in addition to the tasks defined in the IM Workplan, approved RFI Workplan, and approved CMS Workplan, additional work may be necessary to accomplish the objectives of these Orders as set forth in this Section of these Orders and the SOW.
- b. Within thirty (30) days after receipt of written notice from Ohio EPA that additional work is necessary, Respondent shall submit a work plan for the performance of the additional work. The work plan, as approved by Ohio EPA, shall be incorporated in and made an enforceable part of these Orders. Upon approval of the work plan by Ohio EPA, Respondent shall implement the work plan for additional work in accordance with the schedules contained therein.

10. FINANCIAL ASSURANCE

Respondent is required to obtain financial assurance as described in OAC rules 3745-55-40 through 3745-55-51. Respondent shall provide financial assurance in the following schedule: Within thirty (30) days after receiving approval of any IM Workplan or selection of one or more corrective measures by Ohio EPA in the Decision Document, Respondent shall provide a third party, itemized cost estimate for the work. Within ninety (60) days of Ohio EPA's approval of the cost estimate, Respondent shall provide financial assurance in the amount equal to the approved cost estimate. Respondent shall demonstrate financial assurance standards in OAC rules 3745-55-40 through 3745-55-51 for the Facility.

11. Respondent shall provide a copy of these Orders to all contractors, subcontractors, laboratories and consultants retained to perform any portion of the work pursuant to these Orders. Respondent shall ensure that all contractors, subcontractors, laboratories and consultants retained to perform work pursuant to these Orders comply with the provisions of these Orders.

12. COST RECOVERY

Within 30 days after the effective date of these Orders, Respondent shall pay \$14,000 to reimburse Ohio EPA for emergency response costs. Agreement with these Orders shall constitute satisfaction with Ohio EPA's emergency response objectives under RC Section 3745.12 and as a result, the emergency resulting from the release as identified in Finding No. 7. of these Orders has been redressed. Nothing herein shall preclude Ohio EPA from responding to future emergency incidents at the Respondent's property or any other property impacted by a future release involving Respondent.

13. CIVIL PENALTY

Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$105,660 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the environmental protection remediation fund established pursuant to ORC § 3734.281. The official payment shall be submitted to Ohio EPA according to the instructions on the invoice. Notification of penalty payment shall be sent to the Hazardous Waste Program Compliance Assurance Manager, Ohio EPA, Division of

Environmental Response and Revitalization, P.O. Box 1049, Columbus, Ohio 43216-1049 or via electronic mail at Mitchell.mathews@epa.ohio.gov.

VII. SAMPLING AND DATA AVAILABILITY

Respondent shall notify Ohio EPA not less than fifteen (15) days in advance, unless otherwise agreed to by the Parties, of all sample collection activity. Upon request, Respondent (as applicable) shall allow split, co located and/or duplicate samples to be taken by Ohio EPA. Ohio EPA shall also have the right to take any additional samples it deems necessary. Upon request, Ohio EPA shall allow Respondent (as applicable) to take split and/or duplicate samples of any samples Ohio EPA takes as part of its oversight of Respondent' implementation or the Work.

Within fourteen (14) days of receipt of the sample data by any Party, said Party shall submit to the other Parties copies of the results of all sampling and/or tests or other data, including raw data (i.e. tabulated) and original laboratory reports, generated with respect to the Facility and/or the implementation of these Orders. Respondent may submit to Ohio EPA any interpretive reports and written explanations concerning the raw data and original laboratory reports. Such interpretive reports and written explanations shall not be submitted in lieu of original laboratory reports and raw data. Should any Party subsequently discover an error in any report or raw data, said Party shall promptly notify the other Parties of such discovery and provide the current information.

VIII. ACCESS

Ohio EPA shall have access at all times to the Facility and any other property to which access is required for the implementation of these Orders, to the extent access to the property is controlled by Respondent. Access under these Orders shall be for the purposes of conducting any activity related to these Orders including, but not limited to the following:

- a. Monitoring the Work;
- b. Conducting sampling;
- c. Inspecting and copying records, operating logs, contracts, and/or other documents related to the implementation of these Orders;
- d. Conducting investigations and tests related to the implementation of these Orders;
- e. Verifying any data and/or other information submitted to Ohio EPA.

To the extent that the Facility or any other property to which access is required for the implementation of these Orders is owned or controlled by persons other than Respondent, Respondent shall use their best efforts to secure from such persons

access for Respondent and Ohio EPA as necessary to effectuate these Orders. Copies of all access agreements obtained by Respondent shall be provided promptly to Ohio EPA. If any access required to effectuate these Orders is not obtained within thirty (30) days of the effective date of these Orders, or within thirty (30) days of the date Ohio EPA notifies Respondent in writing that additional access beyond that previously secured is necessary, Respondent shall promptly notify Ohio EPA in writing of the steps Respondent have taken to attempt to obtain access. Ohio EPA may, as it deems appropriate, assist Respondent in obtaining access.

Notwithstanding any provision of these Orders, the State of Ohio retains all of its access rights and authorities, including enforcement authorities related thereto, under any applicable statute or regulations.

IX. DESIGNATED PROJECT MANAGERS

Within ten (10) days of the effective date of these Orders, Respondent and Ohio EPA shall notify each other, in writing, of the name, address, and telephone number of their designated Project Manager and Alternate Project Manager. If a designated Project Manager or Alternate Project Manager is changed, the identity of the successor will be given to the other Party at least five (5) days before the changes occur, unless impracticable, but in no event later than the actual day the change is made.

To the maximum extent practicable, except as specifically provided in these Orders, communications between Respondent and Ohio EPA concerning the implementation of these Orders shall be made between Project Managers. Respondent' Project Manager(s) shall be available for communication with Ohio EPA regarding the implementation of these Orders for the duration of these Orders. Each Project Manager shall be responsible for assuring that all communications from the other Party are appropriately disseminated and processed. Respondent' Project Manager(s) or alternate(s) shall be present at the Facility or on call during all hours of work at the Facility.

Ohio EPA's Project Manager's authority includes, but is not limited to the following:

- a. Taking samples and directing the type, quantity and location of samples to be taken by the Respondent pursuant to an approved work plan or report;
- b. Observing, taking photographs, or otherwise recording information related to the implementation of these Orders, including the use of any mechanical or photographic device;

- c. Directing that the Work stop whenever the Project Manager for Ohio EPA determines that the activities at the Facility may create or exacerbate a threat to public health or safety, or threaten to cause or contribute to air or water pollution or soil contamination;
- d. Conducting investigations and tests related to the implementation of these Orders;
- e. Inspecting and copying records, operating logs, contracts and/or other documents related to the implementation of these Orders; and
- f. Assessing Respondent' compliance with these Orders.

X. PROGRESS REPORTS

Unless otherwise directed by the CAF Agreement, Respondent shall submit, by mail, email, written progress reports to Ohio EPA at the addresses in Section XI. of these Orders by the tenth (10) day of every month. At a minimum, the progress reports shall:

- a. Describe the status of the Work and actions taken toward achieving compliance with the Orders during the reporting period;
- b. Describe difficulties encountered during the reporting period and actions taken to rectify any difficulties;
- c. Describe activities planned for the next month;
- d. Identify changes in key personnel;
- e. List target and actual completion dates for each element of activity, including project completion;
- f. Provide an explanation for any deviation from any applicable schedules;
- g. Indicate how much contaminated soil was removed and contaminated ground water was pumped and indicate where such contaminated media were disposed.

XI. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Environmental Response and Revitalization
2110 East Aurora Road
Twinsburg, OH 44087
Attn: DERR Hazardous Waste Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Ohio Environmental Protection Agency
Division of Environmental Response and Revitalization
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Engineering and Risk Assessment Support Section

For deliveries to the building:

Ohio Environmental Protection Agency
Division of Environmental Response and Revitalization
50 West Town Street
Columbus, Ohio 43215
Attn: Manager, Engineering and Risk Assessment Support Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

For electronic mail delivery, submit documents to the following email addresses:

Eric.Sainey@epa.ohio.gov

Natalie.Oryshkewych@epa.ohio.gov

Any report or other document submitted by Respondent pursuant to these Orders, which make any representation concerning Respondent's compliance or noncompliance with any requirement of these Orders shall be signed and certified by a responsible official of Respondent in accordance with OAC rule 3745-50-58(K). For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of Respondent, or a duly authorized representative.

XII. REVIEW OF SUBMITTALS

Ohio EPA shall review any work plan, report, or other item required to be submitted pursuant to these Orders. Upon review, Ohio EPA may in its sole discretion: (a) approve the submission in whole or in part; (b) approve the submission upon specified conditions; (c) disapprove the submission in whole or in part; (d) notify Respondent of deficiencies; or (e) any combination of the above.

In the event of approval or approval upon condition, Respondent shall proceed to take any action required by the submission as approved, or conditionally approved by Ohio EPA.

In the event that Ohio EPA does not approve a submission, Ohio EPA will notify Respondent of the deficiencies in writing. Respondent shall within fourteen (14) days from receipt of notification from Ohio EPA, or such longer period of time as specified by Ohio EPA, in writing, correct the deficiencies and submit to Ohio EPA for approval a revised submission. The revised submission shall incorporate all of the uncontested changes, additions, and/or deletions specified by Ohio EPA in its notice of deficiency ("NOD").

To the extent that Respondent contest any deficiencies noted or specified by Ohio EPA, Respondent shall initiate the procedures for dispute resolution set forth in the CAF Agreement. Notwithstanding the NOD, Respondent shall proceed to take any action required by a non-deficient portion of the submission.

In the event that Ohio EPA does not approve a revised submission, in whole or in part, Ohio EPA may again require Respondent to correct the deficiencies and incorporate all changes, additions, and/or deletions within fourteen (14) days, or such period of time as specified by Ohio EPA in writing. In the alternative, Ohio EPA will modify the submission, and such modification will be identified as an Ohio EPA modification or disapprove the revised submission.

All work plans, reports, or other items required to be submitted to Ohio EPA under these Orders shall, upon approval by Ohio EPA, be deemed to be incorporated in and made an enforceable part of these Orders. In the event that Ohio EPA approves a portion of the work plan, report, or other item, the approved portion shall be deemed to be incorporated in and made an enforceable part of these Orders.

XIII. DISPUTE RESOLUTION

If a dispute arises regarding the Work or these Orders, the procedures of this section shall apply as designated in the CAF Agreement.

Unless timely appeal is sought, Respondent shall incorporate the resolution and final decision of Ohio EPA into the appropriate plan, schedule or procedure and shall proceed with implementation within thirty (30) days of such resolution and final decision.

If the dispute resolution process fails to resolve a good faith dispute, Respondent and Ohio EPA may appeal under relevant statutes and rules.

XIV. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapters 3734. and 6111. or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders. Furthermore, nothing in these Orders shall limit or affect the right of Respondent to seek damages, cost-recovery or any other legal or equitable remedy against another person.

XV. ACCESS TO INFORMATION

Respondent shall provide to Ohio EPA, upon request, copies of all documents and information within its possession or control or that of its contractors or agents relating to events or conditions at the Facility including, but not limited to manifests, reports, correspondence, or other documents or information related to the Work.

Respondent may assert a claim that documents or other information submitted to Ohio EPA pursuant to these Orders is confidential under the provisions of OAC rule 3745-50-30(A). If no such claim of confidentiality accompanies the documents or other information when submitted to Ohio EPA, it may be made available to the public without notice to Respondent.

Respondent may assert that certain documents or other information are privileged under attorney-client or any other privilege recognized by state law. If Respondent makes such an assertion, it shall provide Ohio EPA with the following: (1) the title of the document or information; (2) the date of the document or information; (3) the name and title of the author of the document or information; (4) the name and title

of each addressee and recipient; (5) a general description of the contents of the document or information; and (6) the privilege being asserted by Respondent.

No claim of confidentiality shall be made with respect to any data, including but not limited to, all sampling, analytical monitoring, or laboratory or interpretive reports.

Respondent shall preserve for the duration of these Orders and for a minimum of five (5) years after termination of these Orders, all documents and other information within their possession or control, or with the possession or control of its contractors or agents, which in any way relate to the Work notwithstanding any document retention policy to the contrary. Respondent may preserve such documents by microfiche, or other electronic or photographic device. At the conclusion of this document retention period, Respondent shall notify Ohio EPA at least 60 days prior to the destruction of these documents or other information; and upon request, shall delivery such documents and other information to Ohio EPA.

XVI. INDEMNITY

Respondent shall indemnify, save, and hold harmless Ohio EPA from any and all claims or causes of action arising from, or related to, events or conditions at the Facility for which Respondent are liable. Ohio EPA shall provide notice to Respondent within thirty (30) days of receipt of any claim which may be the subject of indemnity as provided in this Section and cooperate with Respondent in the defense of any such claim or action against Ohio EPA. Ohio EPA shall not be considered a party to and shall not be held liable under any contract entered into by Respondent in carrying out the activities pursuant to these Orders. Consistent with federal, state and common law, nothing in these Orders shall render Respondent liable to indemnify Ohio EPA for any tortious conduct of Ohio EPA occurring outside of Ohio EPA's exercise of its discretionary functions. Discretionary functions of Ohio EPA include, but are not limited to, Ohio EPA's review, approval or disapproval of Work performed pursuant to these Orders. Respondent and Ohio EPA will cooperate in the defense of any claim or action against Ohio EPA which may be subject to this indemnity.

XVII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation, not subject to these Orders for any liability arising from, or related to, events or conditions at the Facility.

XVIII. UNAVOIDABLE DELAY

Respondent shall cause all Work to be performed in accordance with applicable schedules and time frames unless any such performance is prevented or delayed by an event which constitutes an unavoidable delay. For purposes of these Orders, an "unavoidable delay" shall mean an event beyond the control of Respondent which prevents, or delays performance of any obligation required by these Orders and which could not be overcome by due diligence on the part of Respondent. Increased cost of compliance shall not be considered an event beyond the control of Respondent.

Respondent shall notify Ohio EPA in writing within five (5) days after the occurrence of an event which Respondent contends is an unavoidable delay. Such written notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken and to be taken by Respondent to minimize the delay, and the timetable under which these measures will be implemented. Respondent shall have the burden of demonstrating that the event constitutes an unavoidable delay.

If Ohio EPA does not agree that the delay has been caused by an unavoidable delay, Ohio EPA will notify Respondent in writing. Ohio EPA reserves the right to terminate these Orders, perform any additional remediation and/or enforce the terms of these Orders in the event that Ohio EPA determines that the delay has not been caused by an unavoidable delay. If Ohio EPA agrees that the delay is attributable to an unavoidable delay, Ohio EPA will notify Respondent in writing of the length of the extension for the performance of the obligations affected by the unavoidable delay.

XIX. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

The effective date of these Orders shall be the date on which the Orders are entered in the Journal of the Director of Ohio EPA.

These Orders may be modified by mutual agreement of the Parties. Modifications shall be in writing and shall be effective on the date entered in the Journal of the Director of Ohio EPA.

XX. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent demonstrates in writing and certifies to the satisfaction of Ohio EPA that all obligations under these Orders have been performed and the Chief of Ohio EPA's Division of Environmental Response and Revitalization acknowledges, in writing, Ohio EPA's acceptance of this demonstration and certification.

The certification shall be submitted by Respondent and signed by a responsible official of each of the respective Respondent. The certification shall make the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

For purposes of these Orders, a "responsible official" is a corporate officer who is in charge of a principle business function of Respondent or a duly authorized representative. The termination of these Orders shall not affect the terms and conditions of Section XIV, Reservation of Rights, Section XVI, Indemnity, and Section XVII, Other Claims.

XXI. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

XXII. WAIVER AND AGREEMENT

In order to resolve disputed claims, without admission of fact, violation, or liability, Respondent agrees that these Orders are lawful and reasonable, and agrees to perform all actions in accordance with or as required by these Orders. Respondent each consent to and agrees not to contest Ohio EPA's jurisdiction to issue and enforce these Orders.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and hereby waives any and all rights that it may have to seek administrative or judicial review of the issuance, terms and conditions, and service of these Orders in law or equity.

Notwithstanding the limitations herein on Respondent' right to appeal or seek administrative or judicial review, Ohio EPA and Respondent agree that in the event that these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XXIII. SIGNATORIES

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into the terms and conditions of these Orders and to legally bind such signatory to this document.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Anne M Vogel

Anne M. Vogel
Director

IT IS SO AGREED:

Material Sciences Corporation

Mike Cocanis

Signature

12/30/24

Date

Mike Cocanis

Printed or Typed Name

COO

Title