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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 Respondents that implements the RCRA FIRST approach at the Facility.
- 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 Respondents 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 former manufacturing facility that is owned by Respondent Spencerville and is located at 220 South Elizabeth Street, Spencerville, Allen County, Ohio, U.S. EPA Identification Number OHD005036264.
- g. "Hazardous Waste Management Unit" ("HWMU") shall mean the area at the Facility where listed hazardous waste 55-gallon containers holding ignitable and listed (F003 and F005) hazardous waste (spent solvents) (described as Unit 1 on the map); an aboveground tank which was formerly part of the wastewater treatment unit storing corrosive and toxic (chromium) hazardous waste (described as Unit 2 on the map); and an underground storage tank storing listed (F003 and F005) and ignitable hazardous waste (described as Unit 3 on the map).as described in Ohio Administrative Code (OAC) rule 3745-51-31, was stored.
- 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;

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- i. "Ohio EPA" shall mean the Ohio Environmental Protection Agency and its designated representatives;
- j. "Party" or "Parties" shall mean the Respondents 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. "Respondents" shall mean Ohio Decorative Products LLC and Village of Spencerville;
- o. "Scope of Work" ("SOW") shall mean the outline of work Respondents 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;

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- 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 Respondents 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 Respondents 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. Pursuant to ORC § 3734.02(G) and OAC rule 3745-50-31, the Director may, by order, exempt any person generating, storing, treating, or disposing of hazardous waste in such quantities or under such circumstances that, in the determination of the Director, it is unlikely that the public health or safety or the environment will be adversely affected thereby, from any requirement to obtain a permit or comply with other requirements of ORC Chapter 3734. Any such exemption shall be consistent with and equivalent to rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. § 6921 et seq., as amended.
2. Respondent ODP and Respondent Spencerville are each a "person" as defined under §§ 3734.01(G) and 6111.01(I) of the ORC and Ohio Administrative Code (OAC) rule 3745-50-10(A).
3. Respondent ODP was the previous owner and operator of a manufacturing facility that conducted metal plating and produced zinc die cast parts for the appliance industry. The property is located at 220 South Elizabeth St., Spencerville, Allen County, Ohio (Facility). Respondent ODP operated at the Facility from approximately 1970 until ceasing operations in 2011.
4. Respondent Spencerville acquired ownership of the Facility on April 28, 2023.

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5. From at least 1983 until 2011, the Respondent ODP was a large quantity generator and generated hazardous waste copper cyanide solution (F007 listed, D002 corrosivity), waste cleaner (D007 toxicity - chromium), spent nickel, chrome, and plating waste water solution (D002 corrosivity, D008 toxicity - lead, and F006 listed), and concentrated liquid from electroplating waste water treatment (F006 listed), as defined in 3745-51-22 (corrosivity), 3745-51-24 (toxicity), and OAC rule 3745-51-31 (listed hazardous waste from non-specific sources). Respondent ODP also generated hazardous waste paint related material that carried the waste codes D035 (toxicity – MEK), F005 (listed for ignitability and toxicity), and D001 (ignitable), as defined in OAC rules 3745-51-21 (ignitability), 3745-51-24 (toxicity), and OAC rule 3745-51-31 (listed hazardous waste from non-specific sources). Due to Respondent ODP's hazardous waste generator activities, Respondent ODP applied and was assigned U.S. EPA ID number OHD005036264.
4. During inspections on April 2, 1985 and December 19, 1991, Ohio EPA observed and documented Respondent ODP unlawfully accumulating hazardous waste generated by Respondent at the Facility. During the inspections, Ohio EPA found the following hazardous waste being accumulated in the following hazardous waste management units at the Facility, which are located on the map attached to and incorporated into these Orders: a container management unit where 55-gallon containers holding ignitable and listed (F003 and F005) hazardous waste (spent solvents) (described as Unit 1 on the map); an aboveground tank which was formerly part of the wastewater treatment unit storing corrosive and toxic (chromium) hazardous waste (described as Unit 2 on the map); and an underground storage tank storing listed (F003 and F005) and ignitable hazardous waste (described as Unit 3 on the map).
5. Ohio EPA informed Respondent ODP of the inspection findings in notices of violation letters dated May 3, 1985 and February 25, 1992.
6. Due to management of hazardous waste in the units described in Finding No. 4. of these Orders, as a generator of hazardous waste subject to OAC rule 3745-52-34(A), Respondent is required, at a minimum, to close the hazardous waste management units described in Finding No. 4. of these Orders pursuant to the closure performance standard described in OAC rule 3745-66-11 for the container management units as well as OAC rule 3745-66-97 for the tanks.
7. On August 3, 2016, Respondent ODP performed a voluntary environmental audit of the Facility and submitted to Ohio EPA on August 24, 2016 a voluntary audit disclosure pursuant to ORC § 3745.72. The voluntary audit disclosure (VAD) stated hazardous waste had been improperly stored at the Facility, and subsequently hazardous waste had been characterized and properly shipped

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offsite by Respondent ODP. Containers of hazardous waste are described as having been stored in the following four areas at the Facility: the designated hazardous waste storage facility; the wastewater treatment room; the filtration room; and the plating room.

8. On September 16, 2016, Ohio EPA conducted an investigation of the Facility in response to the VAD. From that date until November 3, 2016, Respondent provided hazardous waste manifests showing all hazardous waste stored at the Facility had been managed offsite to an authorized facility.
9. Respondent began site investigation activity in November 2016 which continued until May 2017. The investigation scope was as follows:
 - a. Determine site-specific soil profile and establish groundwater occurrence,
 - b. Constituents of concern delineation soil borings and sampling;
 - c. Monitor well installation and groundwater sampling;
 - d. Subsurface utility assessment;
 - e. Background soil sample collection;
 - f. Vapor migration assessment; and
 - g. Building material sampling.
10. In January 2017, as part of the ongoing investigation, Ohio EPA advised Respondent that it would be required to perform sampling under the plating room floor and any other areas at the Facility for which closure would be required.
11. On January 27, 2017, Respondent performed sampling with Ohio EPA oversight under the plating room floor at the Facility, and analytical results received by Ohio EPA on February 20, 2017 showed a release of hazardous waste constituents from plating operations under the floor.
12. From January through May 2017, Respondent also detected releases of hazardous waste constituents in the wastewater treatment room and the filtration room.
13. In a letter dated July 5, 2017, based upon the information submitted as part of the VAD described in Finding No. 7 of these Orders and the information from the investigation as described in Finding Nos. 9 through 12. of these Orders, Ohio

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EPA informed Respondent that it, *inter alia*, violated ORC § 3734.02(E) and (F) for storage of hazardous waste in excess of 90 days and disposal of hazardous waste without a permit.

14. On December 23, 2019, Ohio EPA issued Director's Final Findings and Orders (2019 DFFOs) to Respondent ODP requiring the submittal and implementation of a hazardous waste closure plan for the hazardous waste storage and disposal areas at the Facility.
15. On July 17, 2020, Ohio EPA approved Respondent ODP's Closure Plan.
16. From June 2021 to March 2022, Respondent ODP implemented the approved Closure Plan.
17. As part of the approved Closure Plan, Respondent ODP submitted a closure cost estimate and established financial assurance in the form of a funded trust. Upon the Effective Date of these Orders, the 2019 DFFOs are hereby terminated as well as the approved closure plan. Since a closure plan is no longer required, Ohio EPA will release the remaining funds held in the trust as directed by Respondent ODP.
18. On December 22, 2022, Respondent ODP met with representatives of the hazardous waste program to discuss current status of implementation of closure plan. During the discussion Respondent and Ohio EPA agreed units subject to closure and other waste management units were indistinguishable from each other and are likely to have contributed to releases. The decision was made to pursue continued remediation under RCRA Corrective Action.
19. On April 18, 2023, The village of Spencerville was awarded a Brownfield Remediation Grant Agreement for \$3,965,000.00 (Grant Funds) to conduct the remaining work required to complete the Corrective Action obligations required by the DFFOs.
20. In accordance with OAC rule 3745-55-10(C)/3745-66-10(D), the Director has determined that: HWMUs 1,2, and 3 meet the requirements of the rule, are eligible to perform site-wide corrective action, and it is not necessary to apply the closure and post-closure requirements of OAC rules 3745-55-11 to 3745-55-15/3745-66-11 to 3745-66-15 or the approved closure plan referenced in Findings No. 15. of these Orders. This is because the alternate requirements of these enforceable Orders will protect human health and the environment and will satisfy the closure and post-closure requirements including establishing and maintaining financial assurance.

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21. U.S. EPA delegated to Ohio EPA the authority to administer and enforce the RCRA program in Ohio, including the corrective action program. The Facility is listed on the RCRA Corrective Action 2020 Baseline list. The performance by Respondents of the activities outlined in these Orders satisfactorily addresses any corrective action obligations required for the Facility.
22. The Director has determined that hazardous waste chromium (D007), waste trichloroethylene (D040), waste copper cyanide solution (F007 listed, D002 corrosivity), waste cleaner (D007 toxicity - chromium), spent nickel, chrome, and plating waste water solution (D002 corrosivity, D008 toxicity - lead, and F006 listed), and concentrated liquid from electroplating waste water treatment (F006 listed), as defined in 3745-51-22 (corrosivity), 3745-51-24 (toxicity), and OAC rule 3745-51-31 (listed hazardous waste from non-specific sources). Respondent ODP also generated hazardous waste paint related material that carried the waste codes D035 (toxicity – MEK), F005 (listed for ignitability and toxicity), and D001 (ignitable), as defined in OAC rules 3745-51-21 (ignitability), 3745-51-24 (toxicity), and OAC rule 3745-51-31 (listed hazardous waste from non-specific sources), D003 (reactivity), as defined in OAC rule 3745-51-23, found at the Facility are “hazardous wastes” or “hazardous waste constituents” as defined under ORC § 3734.01(J) or under OAC rules 3745-51-03 and 3745-50-10.
23. The Facility is a hazardous waste facility, solid waste facility, or other location where hazardous waste was treated, stored or disposed. There is or has been a release of hazardous waste or hazardous waste constituents into the soil and potentially groundwater at or underlying the Facility.
24. 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.
25. Hazardous waste as described in Finding No. 22. of these Orders other contaminants found at the Facility are “industrial wastes” or “other wastes” as defined under ORC § 6111.01(H).
26. The ground water at the Facility and surface water at the Facility are “waters of the state” as defined under ORC § 6111.01(H).
27. 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.

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28. In issuing these Orders, the Director has given consideration to, and based her 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.
29. Due to Respondent ODP establishment and operation of a hazardous waste storage facility as described in Finding No. 13. of these Orders, Respondents are required to conduct corrective action for waste management units at the Facility in accordance with OAC rule 3745-54-101, including obtaining financial assurance. Compliance with financial assurance standards in OAC rules 3745-55-40 through 3745-55-51 is required.
30. The Grant Funds, as described in Finding No. 19. of these Orders, which are available to Respondent Spencerville to conduct clean up at the Facility in lieu of meeting the financial assurance standards in OAC rules 745-55-40 through 3745-55-51 is unlikely to adversely affect the public health or safety or environment. In the event that, at any point prior to termination of Respondents' obligations hereunder, the Grant Funds are no longer sufficient to complete the work under the Orders, Respondent Spencerville may demonstrate financial assurance through compliance with the local government financial test for closure/post-closure described in OAC rules 3745-27-15(L) and 3745-27-16(L) or, in the alternative, Respondents may meet the financial assurance standards in OAC rules 3745-55-40 through 3745-55-51 for the Facility. Therefore, the Director finds that the issuance to Respondents of an exemption from the requirement to meet the financial assurance standards in OAC rules 3745-55-40 through 3745-55-51 for the Facility is unlikely to adversely affect the public health or safety or the environment within the meaning of ORC § 3734.02(G).

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 Respondents 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.

Respondents shall perform the Work in accordance with these Orders, including but not limited to, Interim Measures (if necessary), SOWs, relevant guidance documents, and all

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standards, specifications, and schedules set forth in or developed pursuant to these Orders.

All activities undertaken by Respondents 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 ODP's present or former ownership or operation of the Facility, as applicable.

Where any portion of the Work requires a permit or approval, Respondents 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 Respondents 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 Respondents's employees with expertise in hazardous waste site investigation and remediation.

VI. ORDERS

Respondents 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 30 days after the effective date of these Orders, Respondents 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 E**.
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, Respondents shall submit a RFI Workplan to Ohio EPA for review and approval. The RFI Workplan shall be developed in conformance with the RCRA Facility

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Investigation Scope of Work 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 Workplan, Respondents 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 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 Respondents, that corrective measures are necessary, Ohio EPA will notify Respondents, in writing, and Ohio EPA and Respondents shall meet within 30 days of that notification to conduct a Remedy Selection Meeting(s). During a Remedy Selection Meeting(s), Ohio EPA and Respondents can develop and approve a new CAF Agreement for the CMS ("CAF Agreement for the CMS"). Within 90 days of the Remedy Selection Meeting(s), or otherwise agreed to by Ohio EPA and Respondents under the approved CAF Agreement for the CMS, Respondents shall submit to Ohio EPA a CMS Workplan, if applicable, for review and approval.
 - b. Upon approval of the CMS Workplan by Ohio EPA, Respondents shall implement the CMS Workplan. Respondents 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 Respondents identify any inconsistency between these Orders and any of the guidance documents, CMS Workplan or SOWs which Respondents is required to follow by these Orders, Respondents shall promptly notify Ohio EPA in writing of each inconsistency and the effect of the inconsistencies upon the Work to be performed. Respondents shall

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also recommend, along with a supportable rationale which justifies each recommendation, the requirement Respondents believes should be followed. Respondents shall implement the affected Work as directed by Ohio EPA.

- d. Within 60 days after the completion of the CMS, Respondents 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, Respondents 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, Respondents shall submit to Ohio EPA a Corrective Measures Implementation Workplan for review and approval.

6. NEWLY IDENTIFIED WMUs OR RELEASES

- a. Within 30 days of discovery, Respondents 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.

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- b. Within 30 days of discovery, Respondents 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. In the event Respondents identifies an 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, Respondents shall immediately implement Interim Measures (IM) at the Facility. In the event Respondents identifies an imminent threat or potential imminent threat to human health or the environment, Respondents shall immediately notify Ohio EPA's Project Manager as described in Section IX. of these Orders, verbally within 48 hours and in writing within 14 days. The notifications shall summarize the immediacy and magnitude of the current or potential threat to human health and the environment.
- b. If Ohio EPA determines that an IM Workplan is required, Respondents shall submit to Ohio EPA an IM Workplan within 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.
- c. 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 Respondents, 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, Respondents 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

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investigations or corrective measures will be established by Ohio EPA. Respondents 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. Respondents 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 Respondents 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 30 days after receipt of written notice from Ohio EPA that additional work is necessary, Respondents 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, Respondents shall implement the work plan for additional work in accordance with the schedules contained therein.

10. FINANCIAL ASSURANCE

Respondents are hereby exempted from the requirement to obtain financial assurance as described in OAC rules 3745-55-40 through 3745-55-51, provided that Respondents comply with the following: Within 30 days after receiving approval of any IM Workplan or selection of one or more corrective measures by Ohio EPA in the Decision Document, Respondents shall provide a third party, itemized cost estimate for the work. Within 90 days of Ohio EPA's approval of the cost estimate, Respondents shall provide financial assurance in the amount equal to the approved cost estimate. Respondents shall demonstrate financial assurance through access to the Grant Funds described in Finding No. 19. of these Orders. In the event that, at any point prior to termination of Respondents' obligations hereunder, the Grant Funds are no longer sufficient to complete the work under the Orders, Respondent Spencerville may demonstrate financial assurance through compliance with the local government financial test for

closure/post-closure described in OAC rules 3745-27-15(L) and 3745-27-16(L) or, in the alternative, Respondents may meet the financial assurance standards in OAC rules 3745-55-40 through 3745-55-51 for the Facility.

11. Respondents 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. Respondents shall ensure that all contractors, subcontractors, laboratories and consultants retained to perform work pursuant to these Orders comply with the provisions of these Orders.

VII. SAMPLING AND DATA AVAILABILITY

Respondents 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, Respondents shall allow split 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 Respondents to take split and/or duplicate samples of any samples Ohio EPA takes as part of its oversight of Respondents's 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. Respondents 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 Respondents. Access under these Orders shall be for the purposes of conducting any activity related to these Orders including, but not limited to the following:

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- 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 Respondents, Respondents shall use its best efforts to secure from such persons access for Respondents and Ohio EPA as necessary to effectuate these Orders. Copies of all access agreements obtained by Respondents shall be provided promptly to Ohio EPA. If any access required to effectuate these Orders is not obtained within 30 days of the effective date of these Orders, or within 30 days of the date Ohio EPA notifies Respondents in writing that additional access beyond that previously secured is necessary, Respondents shall promptly notify Ohio EPA in writing of the steps Respondents has taken to attempt to obtain access. Ohio EPA may, as it deems appropriate, assist Respondents 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, Respondents 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 Respondents and Ohio EPA concerning the implementation of these Orders shall be made between Project Managers. Respondents's Project Manager(s) shall be available for communication with Ohio EPA regarding the

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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. Respondents's 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 Respondents 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 Respondents's compliance with these Orders.

X. PROGRESS REPORTS

Unless otherwise directed by the CAF Agreement, Respondents shall submit, by mail, email or facsimile, 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;

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- 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 Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Environmental Response and Revitalization
347 N. Dunbridge Road
Bowling Green, Ohio 44087
Attn: DERR Hazardous Waste Manager

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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 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 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
Gary.Deutschman@epa.ohio.gov

Any report or other document submitted by Respondents pursuant to these Orders, which make any representation concerning Respondents's compliance or noncompliance with any requirement of these Orders shall be signed and certified by a responsible official of Respondents 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 Respondents, 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 Respondents of deficiencies; or (e) any combination of the above.

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In the event of approval or approval upon condition, Respondents 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 Respondents of the deficiencies in writing. Respondents 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 Respondents contests any deficiencies noted or specified by Ohio EPA, Respondents shall initiate the procedures for dispute resolution set forth in the CAF Agreement. Notwithstanding the NOD, Respondents 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 Respondents 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, Respondents shall incorporate the resolution and final decision of Ohio EPA into the appropriate plan, schedule or procedure and shall proceed with implementation within 30 days of such resolution and final decision.

If the dispute resolution process fails to resolve a good faith dispute, Respondents 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 Respondents 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 Respondents 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 Respondents to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondents. 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 Respondents to seek damages, cost-recovery or any other legal or equitable remedy against another person.

XV. ACCESS TO INFORMATION

Respondents 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.

Respondents 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 Respondents.

Respondents may assert that certain documents or other information are privileged under attorney-client or any other privilege recognized by state law. If Respondents 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 Respondents.

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.

Respondents 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. Respondents may preserve such documents by microfiche, or other electronic or photographic device. At the conclusion of this document retention period, Respondents 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

Respondents 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 Respondents is liable. Ohio EPA shall provide notice to Respondents within 30 days of receipt of any claim which may be the subject of indemnity as provided in this Section, and cooperate with Respondents 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 Respondents in carrying out the activities pursuant to these Orders. Consistent with federal, state and common law, nothing in these Orders shall render Respondents 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. Respondents 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

Respondents 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 Respondents 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

Respondents. Increased cost of compliance shall not be considered an event beyond the control of Respondents.

Respondents shall notify Ohio EPA in writing within 5 days after the occurrence of an event which Respondents 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 Respondents to minimize the delay, and the timetable under which these measures will be implemented. Respondents 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 Respondents 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 Respondents 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

Respondents's obligations under these Orders shall terminate when Respondents 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 Respondents and signed by a responsible official of Respondents. 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 Respondents 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 Respondents.

XXII. WAIVER AND AGREEMENT

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

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

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XXIV. 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.

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IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Anne M Vogel

Anne M. Vogel
Director

IT IS SO AGREED:

Ohio Decorative Products, LLC

[Signature]

Signature

6-9-23

Date

Charlene McCullough

Printed or Typed Name

Manager

Title

Village of Spencerville

[Signature]

Signature

6-8-2023

Date

Sean M. Chapman

Printed or Typed Name

Village Administrator

Title