

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of the General Counsel
625 Broadway, 14th Floor, Albany, New York 12233-1500
P: (518) 402-9185 | F: (518) 402-9018
www.dec.ny.gov

August 2, 2017

**SENT VIA FIRST CLASS MAIL AND BY
ELECTRONIC MAIL**

Mr. Sean Monaghan, Esq.
Schenck, Price, Smith & King, LLP
220 Park Avenue
P.O. Box 991
Florham Park, NJ 07932
sm@spsk.com

**RE: Redesign of Remedy Agreement
Index No.: CO 1-20170720-204
Site Name: Pall Corporation
Site No.: 130053B**

Dear Mr. Monaghan:

Enclosed to complete your files is the fully executed Agreement revised to include an assigned Index Number for the purpose of tracking payments associated with the terms of the Agreement. The Agreement also includes the Department's signed and notarized signature page.

If you have any further questions or concerns relating to this matter, please contact Ms. Rosalie Rusinko at 914-428-2505 x 315.

Sincerely,



Maria Mastroianni
Remediation Bureau
Office of General Counsel

Enclosure

ec: R. Rusinko, Esq., NYSDEC
K. Diligent, NYSDEC
Donald J. Engels, Hampshire Global Partners, LLC



Department of
Environmental
Conservation

This **AGREEMENT** ("Agreement") is entered into as of July ^{20th} 2017, by and among Hampshire Global Partners, LLC ("Hampshire"), a New Jersey limited liability company with offices located at 22 Maple Avenue, Morristown, NJ and the New York State Department of Environmental Conservation (the "Department" or "NYSDEC"), an agency of the State of New York with offices located at 625 Broadway, Albany, New York 12233 (the foregoing collectively referred to herein as, the "Parties").

WITNESSETH

WHEREAS, Hampshire is the contract vendee for certain real property with a street address of 30 Sea Cliff Avenue, Glen Cove, New York, which is one of the two parcels of real property included in the Pall Corporation Site, Site # 130053B (the "Pall Site");

WHEREAS, Hampshire represents that it is not otherwise legally liable for site-related contamination;

WHEREAS, Hampshire intends to redevelop the 30 Sea Cliff Avenue portion of Pall Site and return it to economic use;

WHEREAS, the Pall Site is listed in the *Registry of Inactive Hazardous Waste Disposal Sites in New York State* as a classification "2";

WHEREAS, the Department issued the Record of Decision ("ROD") for Operable Unit 1 ("OU 1") of the Pall site in March 2004 and the ROD for Operable Unit 2 ("OU 2") of the Pall site in March 2013.

WHEREAS, Pall Corporation settled its environmental liability for the Pall Site with the State of New York pursuant to a federal Consent Decree entered in the case of *State of New York v. Pall Corporation*, Docket Number 09-C-04126 which required Pall Corporation to pay monies to the State and grant an Environmental Easement;

WHEREAS, the Department, pursuant to the Consent Decree, is responsible to implement the selected remedy set forth in the OU1 and OU2 RODs for the Pall Site;

WHEREAS, the Department's contractor has produced an engineering design for the Pall Site remedies ("Original Design") which includes a hydraulic control and injection system (the "Hydraulic Control and Injection System");

WHEREAS, Hampshire desires that the Department modify the construction design for the Original Design to accommodate Hampshire's redevelopment plans;

WHEREAS, the Department is willing to work with Hampshire, but the Department cannot fund the cost of re-design of the Hydraulic Control and Injection System and the additional costs associated with constructing the new design;

WHEREAS, Hampshire has agreed to pay to the Department a total sum of \$1,000,000.00 (ONE MILLION DOLLARS) to cover the cost of the re-design of the construction plan and the additional costs associated with constructing the new design;

WHEREAS, Hampshire has also agreed to allocate an area on the northern part of the Pall Site for the Department's use to house remedial equipment (the "NYSDEC Work Area") and to a building configuration which minimizes interference with the underground piping for the remedies as shown on the attached plan entitled "Phasing Exhibit Plan" prepared by Bohler Engineering, Sheet Number PH-1 ("PH-1") attached here to and made a part hereof as Exhibit "A";

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth herein, and for other good and valuable consideration, the Parties agree as follows:

I. Approvals/Permits Necessary for Hampshire's Redevelopment

- A. Hampshire will obtain, at its cost and expense all necessary municipal, county and state approvals/permits necessary for Hampshire's redevelopment of the Pall site (the "Development Approvals").
- B. Hampshire must apply for the Development Approvals concurrently with the redesign process for the Hydraulic Control and Injection System.
- C. Hampshire anticipates the process to obtain the Development Approvals will take seven months from the date hereof.

II. Payments to the Department and Opt Out

- A. Hampshire will pay the Department up to a total sum of \$1,000,000.00 (ONE MILLION U.S. DOLLARS) in accordance with Subparagraphs II.B and II.C of this Agreement. The Department will hold these monies in an account to cover the cost of the Hydraulic Control and Injection System redesign and the additional costs associated with construction the new design.
- B. Within 10 (ten) days of the effective date of this Agreement, Hampshire must make an initial payment of \$100,000.00 (ONE HUNDRED THOUSAND U.S. DOLLARS) via electronic funds transfer to the Department.

C. Within 10 (ten) days after the last to occur of (i) the completion of the redesign of the Hydraulic Control and Injection System, or (ii) seven months from the date hereof Hampshire must pay the balance sum of \$900,000.00 (NINE HUNDRED THOUSAND U.S DOLLARS) via electronic funds transfer to the Department.

D. Payments made to the Department under this Agreement are not refundable, however, Hampshire may terminate this Agreement prior to the deadline for the second payment. Upon termination Hampshire shall have no further obligations under this Agreement or otherwise with respect to the Pall Site and the Department will be free to implement the Original Design.

E. The Department at its sole discretion may extend the deadline for the payment of the \$900,000 under Subparagraph II.C.

III. Regulatory Goal, Access and NYSDEC Work Area

A. The Department's regulatory goal is protection of public health and the environment as authorized by the Environmental Conservation Law ("ECL") and the regulations promulgated thereunder.

B. Hampshire acknowledges that it is obligated under the Environmental Easement for the Pall site, Article 27 of the ECL, 6 New York Code Rules and Regulations Part 375, and the federal Consent Decree settling Pall Corporation's liability to the State to allow the Department access to the Pall Site. Hampshire hereby consents to access to the Pall Site by the Department, its agents, employees, contractors and representatives for the purpose of implementing the selected remedy in the Pall Site RODs.

C. Hampshire must provide the Department exclusive use of the NYSDEC Work Area until such time as the Department determines that it no longer needs to operate the Hydraulic Control and Injection System.

D. Hampshire must, at its expense, construct a gated fence with screening to its liking around the NYSDEC Work Area.

E. Hampshire must allow the Department to maintain a lock on the gate accessing the NYSDEC Work Area.

IV. Redesign of Hydraulic Control and Injection System

A. Within 30 (thirty) days of the effective date of this Agreement, Hampshire must provide to the Department Hampshire's grading plan including, *inter alia*, finish grade contours, location of building, parking areas and driveways, catch basins, storm sewer lines (including elevations) and NYSDEC Work Area ("Hampshire's Grading Plan").

B. Within 30 (thirty) days after receipt of Hampshire's Grading Plan and the initial payment pursuant to Subparagraph II.B above, the Department will use best efforts to task its contractor to undertake redesign of the Hydraulic Control and Injection System to produce plans and specifications for the redesigned Hydraulic Control and Injection System.

C. The redesign of the Hydraulic Control and Injection System must to the extent feasible place all piping, wells and infrastructure below grade or flush to finish grade in the area of the Pall Site outside the NYSDEC Work Area.

D. The redesign of the Hydraulic Control and Injection System must, to the extent feasible, place all equipment that must be above grade, such as tanks, pumps, manifolds, valves and electrical equipment within the NYSDEC Work Area.

E. Within 45 (forty-five) days after receipt of the second payment pursuant to Subparagraph II.C above, the Department will use best efforts to prepare a bid package for the construction of the redesigned Hydraulic Control and Injection System and to seek approvals for advertisement of the bid.

V. Coordination

A. The Department will coordinate, to the extent feasible and cost effective, with Hampshire on the redesign of the Hydraulic Control and Injection System to minimize any impact on Hampshire's redevelopment of the Pall Site.

B. Hampshire must coordinate Hampshire's redevelopment construction schedule with the Department's schedule. The Department will use best efforts to sequence its remedy construction schedule to allow both the remediation and the redevelopment of the Pall Site to proceed as expeditiously as possible. The Department will use best efforts to construct the portion of the Hydraulic Control and Injection system located outside the NYSDEC Work area within twelve (12) months after the award of the contract. The soil remediation required in the Pall Site OU 1 ROD must be complete before Hampshire starts construction of the new building shown on Exhibit "A" or installing infrastructure in the area in which the soil remediation is to be performed. The Department will use its best efforts to complete the remediation of the soil within the building footprint shown on Exhibit "A" as the first task after the remediation contractor mobilizes, or during the time when the Hydraulic Control and Injection System is being redesigned, if feasible.

VI. Appropriate Care/Cooperation

A. Hampshire will exercise appropriate care at the Pall Site with respect to the Existing Contamination and, once installed, the Hydraulic Control and Injection System, and must comply with all applicable local, State, and federal laws and regulations.

B. Hampshire must cooperate fully with the Department's implementation of the remedy at the Pall Site and must not interfere with same.

VII. Termination of Operation

At such time as the Department determines that the remedial goals and objectives set forth in the Pall site RODs for Operable Unit 1 and 2 have been achieved, Department must remove or decommission the remedial equipment, or with respect to remedial equipment such as pipes and wells that are below the ground surface decommission them in place, and repair the surface of paved areas impacted by such removal or decommissioning.

VIII. The Department's Contractor

The Department's contractor must have comprehensive general liability insurance for activities conducted on the Pall Site.

IX. Notice

The following parties shall be designated to receive any notice pursuant to this Agreement:

To Hampshire:

Hampshire Global Partners LLC
Attention: Donald J. Engels, Vice President
22 Maple Avenue
Morristown NJ 07960
(973) 292-9545
djengels@hampshireco.com

and

Sean Monaghan
Schenck, Price, Smith & King, LLP
220 Park Avenue
PO Box 991
Florham Park, NJ 07932
(973) 631-7856
sm@spsk.com

To NYSDEC:

Jeffrey Dyber, P.E.
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway, Albany, NY 12233-7015
(518) 402-9621
jeffrey.dyber@dec.ny.gov

and

Rosalie K. Rusinko, Esq. (electronic copy only)
Senior Attorney
New York State Department of Environmental Conservation
100 Hillside Avenue, Suite 1W
White Plains, NY 10603
(914) 428-2505, Extension 315
rosalie.rusinko@dec.ny.gov

X. Miscellaneous Provisions

A. Except as may be expressly provided herein, nothing in this Agreement is intended or shall be construed to give any person, other than the Parties hereto, their respective successors and assigns, any legal or equitable right, remedy or claim under or in respect to this Agreement. This Agreement and any conditions and provisions hereof are intended to be for the sole and exclusive benefit of the Parties, their respective heirs, successors, agents, assigns and former, present or future shareholders, directors, officers and employees, along with their respective former, present or future transferees and assigns and for the benefit of no other person.

B. This Agreement is entered into and shall be governed, construed and interpreted in accordance with the laws of the State of New York, regardless of New York's conflict of laws rules.

C. The section titles, captions and headings contained herein are inserted only as a matter of convenience and for reference, and shall in no way be construed to define, limit or extend the scope of this Agreement or effect any of its provisions.

D. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of executed counterparts may be accomplished by facsimile or e-mail.

E. This Agreement constitutes the entire agreement and understanding of the Parties as to its subject matter and supersedes all prior written or oral agreements or understandings between the Parties as to its subject matter.

F. Any change, modification, deletion or addition to this Agreement must be in writing and executed with the same formality as this Agreement.

G. If any provision of this Agreement is deemed invalid or unenforceable, the balance of this Agreement shall remain in full force and effect.

H. The effective date of this Agreement is the date the Commissioner or his designee signs it.

I. Hampshire may, after five (5) days written notice to the Department, assign this Agreement to an entity that takes title to the Pall Site and/or to any tenant of the redevelopment to be constructed by Hampshire at the Pall Site.

IN WITNESS WHEREOF, the Parties, intending to be legally bound by the terms and conditions of this Agreement, have caused this Agreement to be executed on their behalf by their duly authorized representatives as of the date this Agreement is executed by the Department which is first written above.

Hampshire Global Partners, LLC

By 

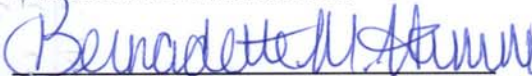
Title: Senior Vice President

Date: 7/5/17

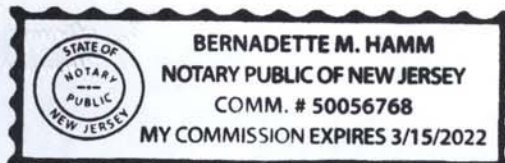
STATE OF NEW JERSEY)

) ss:
COUNTY OF MORRIS)

On the 5th day of July, in the year 2017, before me, the undersigned, personally appeared Donald J. Engels, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Notary Public - State of New Jersey



New York State Department of Environmental Conservation

By: _____

Robert W. Schick, P.E.
Director
Division of Environmental Remediation

STATE OF NEW YORK)
) ss:
COUNTY OF)

On the 20th day of July, in the year 2017, before me, the undersigned, personally appeared Robert W. Schick, P.E., personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public - State of New York

David J. Chiusano
Notary Public, State of New York
No. 01CH5032146
Qualified in Schenectady County 8
Commission Expires August 22, 2018

