

VT.V
6/11/02

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Implementation of
Corrective Action for a Hazardous Waste
Management Facility, pursuant to Article 27,
Titles 9 and 13 of the Environmental Conservation
Law of the State of New York by:

ORDER ON CONSENT

NORTON COMPANY

Index Number: CO 4-20001205-3375

Respondent.

WHEREAS:

1. The New York State Department of Environmental Conservation (the "Department") is responsible for enforcement of the Environmental Conservation Law of the State of New York ("ECL"). This Order is issued pursuant to the Department's authority under that law, including ECL Article 3-0301, ECL Article 27, Titles 9 and 13, and ECL Article 71, Title 27.
2. The Department has the power, inter alia, to provide for the prevention and abatement of all water, land, and air pollution. ECL 3-0301.1.i.
3. From the 1930s until 1974 Norton Company ("Norton") owned and operated two manufacturing facilities located in the Town of Colonie, County of Albany, State of New York, known as Plant 1 and Plant 2 (collectively the Plants are referred to herein as the "Site").
4. When Norton owned and operated the Site, it was involved with the use of various chemicals, including but not limited to, toluene and toluosol from the 1950's up to and including 1974.
5. On or about February 21, 1974, Nashua Corporation ("Nashua") purchased Norton's tape manufacturing division including interconnected buildings 56, 56A, 58, 59, 60 and 61 in Plant 1 and adjacent land (hereinafter the "Property").

6. Nashua then sold Building 56, the most northwestern of its buildings, back to Norton.
7. From 1974 through early 1990, Norton leased a portion of the Property, specifically the northern half of Building 61, from Nashua and operated that portion of the Property in connection with a manufacturing operation known generally as the Bear-Tex line (hereinafter the "Bear-Tex Premises").
8. Nashua operated the Property under interim permit status, pursuant to 6 NYCRR 373-1.3(c) and closed the regulated unit pursuant to the requirements of a closure plan which was submitted on June 27, 1988 and approved by the Department on August 31, 1998.
9. These activities subject the Property to ECL Article 27, Titles 9 and 13, and the regulations promulgated pursuant thereto.
10. In August 1989, in response to a complaint by a neighbor of both Nashua and Norton, the United States Environmental Protection Agency ("EPA") and the New York State Department of Environmental Conservation ("Department") investigated suspected storm water contamination on and in the vicinity of the Property.
11. On August 31, 1989, the EPA issued notices to both Nashua and Norton pursuant to CERCLA advising both Nashua and Norton that they may be potentially responsible for a release and/or a threatened release leading to suspected storm water contamination.
12. After initially cooperating in the investigation of the contamination, Nashua and Norton disagreed on the appropriate division of response costs which led to Nashua filing its original Complaint against Norton on December 14, 1990.
13. After a trial on the merits, the Honorable Rosemary S. Pooler, sitting by designation as a United States District Court Judge for the Northern District of New York, issued a Decision

After Trial (the "Court") finding that Norton had leaks of toluene and toluosol on the Property during its operations.

14. The Court found that other than the potential area of contamination under the solvent recovery room, for which Nashua and Norton were found to be jointly responsible, Nashua was not responsible for the contamination at the Property which was identified during the NDNY Litigation.

15. The Court found that Norton was responsible for the contamination immediately outside the Bear-Tex Premises and in the sewer line leading from the Bear-Tex Premises.

16. As a result of this Order, and the terms of the agreed upon Consent Decree entered into between Nashua and Respondent, Respondent agreed to: (1) the issuance of this Order by the Department in order to fulfill any required obligations under the ECL; (2) to perform any and all required corrective action, as defined in Paragraph I of this Order, at the Property and any and all off-site areas that are required by the Department, EPA, New York State Department of Health or any other state, federal or local agency or municipality with jurisdiction over any contamination at the Site; and (3) assume liability for the investigation and remediation of the Site under ECL Article 27, Title 9 and 13 based solely upon the investigation and any required remediation of the Site as specifically required by this Order.

17. On or about April 17, 1996, The Kendall Company ("Kendall") purchased certain of Nashua's assets, including but not limited to, the Property pursuant to an Asset and Purchase Agreement ("Agreement"), and immediately proceeded to terminate operations at the Property.

18. Pursuant to the Agreement by and between Nashua and Kendall, Nashua agreed to indemnify and hold Kendall harmless from and against certain Costs and Claims associated with the release or threatened release of hazardous substances at the Property.

19. Pursuant to a Site Access Agreement recorded in the Office of the Clerk of Albany County at Liber 2556 of Deeds, Page 727 ("Site Access Agreement"), Nashua reserved unto itself and its successors and assigns a nonexclusive easement and right-of-way on, over, across, through and under the Property for the purpose of undertaking and conducting any Required Response Actions.

20. Nashua has assigned to Respondent any and all of Nashua's access rights to the Property, as set forth in the Agreement by and between Nashua and Kendall. To the extent such assignment does not provide Respondent sufficient access to the Property in order to comply with this Order, Nashua has agreed to assist, to the best of its ability, Respondent in obtaining the necessary access following notification by Respondent that such assistance is necessary. Respondent agrees to be solely responsible for obtaining the necessary access to any required off-site areas.

21. Recently, Kendall sold the Property to Tyco Corporation International, Inc. ("Tyco") and as of the date of this Order, Tyco is the owner of record for the Property.

22. By virtue of its acquisition of Kendall, Tyco has assumed any obligations and/or rights that Kendall may have had as it relates to the Property.

23. In accordance with the Site Access Agreement, entered into between Nashua and Kendall, Tyco acknowledges and intends to be bound by its obligation to cooperate with the Department, Respondent and Nashua in all reasonable respects in its performance of the Required Response Actions, including but not limited to, providing access to the Property. Tyco's acknowledgment of that responsibility and consent to provide access to Respondent to fulfill the requirements of this Order is annexed hereto and incorporated herewith as Attachment III.

24. Pursuant to ECL 71-2727.3.b, whenever on the basis of any information the Commissioner of Environmental Conservation ("Commissioner") determines that there is or has been a release of hazardous waste or constituents thereof into the environment from a facility which has or has had interim status but which did not receive a final status permit, the Commissioner may issue an order requiring corrective action.

25. Pursuant to ECL 27-1313.3, the Department shall be responsible for inactive hazardous waste disposal site remedial programs, except as provided in Section 1389-b of the Public Health Law. ECL 27-1313.3.a provides that whenever the Commissioner finds that hazardous wastes at an inactive hazardous waste disposal site constitute a significant threat to the environment, the Commissioner may order the owner of such site and/or any person responsible for the disposal of hazardous wastes at such site: (i) to develop an inactive hazardous waste disposal site remedial program, subject to the approval of the Department, at such site; and (ii) to implement such program within reasonable time limits specified in the Order.

26. Respondent consents to the issuance of this Order in order to fulfill its obligation under ECL Article 27, Title 9 and ECL 71-2727.3.b relating to the Site. The Department finds that resolution of all issues relating to the performance of any required investigation and remediation at the Site, undertaken in accordance with the terms of this Order, is in the public interest.

27. The Department and Respondent agree that the goals of this Order are: (i) for Respondent to implement any required corrective action at the Site, as defined in Paragraph I of this Order, in a timely and effective manner; and (ii) for Respondent to reimburse the State's administrative costs as provided in this Order; and (iii) for the Department, upon the satisfactory completion of the obligations of Respondent set forth herein, to provide a written determination resolving Respondent's, Nashua's, Kendall's and Tyco's liability for any and all known releases of

hazardous wastes or constituents thereof from the Site into the environment.

28. The Department acknowledges that Tyco is the current owner of the Property and, as such, may be obligated to provide access to Respondent and the Department for both of them to fulfill their obligations pursuant to the terms of this Order.

29. Respondent has waived its right to a hearing as provided by law, and having consented to the issuance and entry of this Order, and agrees to be bound by its terms. Respondent reserves all rights and defenses it may have regarding liability or responsibility for conditions at the Site, except that Respondent consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce this Order, and agrees not to contest the validity of this Order or its terms. Respondent has consented to the issuance of this Order in good faith without trial or adjudication of any issue of fact or law. Nothing in this Paragraph 29, however, shall affect or diminish Respondent's rights under the dispute resolution mechanism set forth in Paragraph VIII of this Order.

30. NOW, having considered this matter and being duly advised, IT IS ORDERED THAT:

I. Corrective Action

A. Respondent shall comply with the Correction Action Requirements set forth in Attachment II of this Order.

B. All approved Work Plans shall be incorporated into and become an enforceable part of this Order. Failure to implement or comply with any requirements of any approved Work Plan shall be a violation of this Order.

C. Respondent shall conduct the activities set forth in the Corrective Action Requirements, and any other investigation and remediation at the Site as may be required by the

Department, EPA, New York State Department of Health or any other state, federal or local agency or municipality that asserts and has jurisdiction over any contamination at the site.

D. The parties contemplate that, upon selection by the Commissioner of the final corrective measures for the site, Respondent will negotiate for a consent order with the Department for the implementation of the final corrective measures.

II. Financial Responsibility

Respondent shall provide assurance of financial responsibility for completing such corrective action, pursuant to the requirements of 6 NYCRR 373-2.8.

III. Payment of State Costs

Within sixty days after receipt of an itemized invoice from the Department, Respondent shall pay to the Department, in accordance with all applicable laws, a sum of money which shall represent reimbursement for the State's expenses, but not including the State's expenses incurred after the Department's notification identified in Paragraph XIII of this Order of its approval of the final report relating to the final corrective measures. Each payment shall be made by certified check payable to the Department of Environmental Conservation and shall be sent to:

Donna Weigel
Bureau of Program Management
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-7010

Personal service costs shall be documented by reports of Direct Personal Service, which shall identify the employee name, title, biweekly salary, and time spent (in hours) on the project during the billing period, as identified by an assigned time and activity code. Approved agency fringe benefit and indirect cost rates shall be applied. Non-personal service costs shall be summarized by category of expense (e.g., supplies, materials, travel, contractual) and shall be documented by expenditure reports.

IV. Enforcement and Force Majeure

A. Respondent's failure to comply with any term of this Order, constitutes a violation of this Order and the ECL. If Department staff determines that Respondent has failed to comply with this Order, the Department staff shall notify Respondent in writing. Payment of any penalty shall not in any way alter Respondent's obligation to comply with any term of this Order or to complete performance under the terms of this Order. The payment of stipulated penalties as set forth below shall not limit the Department's right to seek such other relief as may be authorized by law.

B. Respondent shall neither suffer any penalty under this Order nor be subject to any proceeding or action, and shall not be deemed to be in violation of this Order, if it cannot comply with any requirement of this Order because of the action of a national, state, or local government body or court, an act of God, war, strike, riot, catastrophe, fire, terrorist activity, or any other fact or circumstance beyond Respondent's reasonable control, including any attempts by Nashua to prevent Respondent from performing any required work at the Property (a force majeure event). Respondent shall, within five business days of when it obtains knowledge that a force majeure event has occurred, notify the Department in writing. Failure to give such notice within the five-day business period constitutes a waiver of any claim that Respondent's failure to comply is attributable to a force majeure event. Written notification shall be sent to the Regional Solid and Hazardous Materials Engineer and the Director, Bureau of Radiation and Hazardous Site Management at the respective addresses provided in Paragraph XI. Respondent shall include in such notice, to the extent known at the time, the measures taken and to be taken by Respondent to prevent or minimize any delays and shall request an appropriate extension or modification of this Order. Respondent shall have the burden of proving by a preponderance of the evidence that a force majeure event has occurred and, consequently, is a defense to compliance with this Order pursuant to this Subparagraph IV.B of this Order.

V. Stipulated penalties

If Respondent fails to comply with a term or condition set forth in this Order in the time or manner specified herein, then Respondent shall be liable for payment to the Department of the sums set forth below as stipulated penalties for each day or part thereof that Respondent is in

violation of any term or condition of this Order. All penalties begin to accrue on the first day Respondent is in violation of a term or condition of this Order and continue to accrue through the final day of correction of any violation. Such sums shall be due and payable within sixty days after receipt of notification from the Department assessing the penalties. If such payment is not received within sixty days after Respondent receives such notification from the Department, interest shall be payable at the rate specified by the New York Civil Practice Law and Rules for interest on a judgment on the overdue amount from the day on which it was due through, and including, date of payment. Penalties shall be paid by certified check or money order, made payable to New York State Department of Environmental Conservation and shall be delivered personally or by certified mail, return receipt requested, to Salvatore J. Carlomagno, P.E., Chief, Compliance Section, Division of Solid and Hazardous Materials, N.Y.S.D.E.C., 625 Broadway, Albany, N.Y. 12233-7252. Payment of the penalties shall not in any way alter Respondent's obligation to complete performance under the terms of this Order. The payment of stipulated penalties as set forth above shall not limit the Department's right to seek such other relief as may be authorized by law. Stipulated penalties shall be due and payable under Subparagraph IV.A pursuant to the following schedule:

<u>PERIOD OF NONCOMPLIANCE</u>	<u>PENALTY PER DAY</u>
1st day through 15th day	\$ 500
16th day through 30th day	\$2,500
31st day and each day thereafter	\$5,000

VI. Submissions

A. All reports and submissions required by this Order shall be made to the Regional Solid and Hazardous Materials Engineer and the Director, Bureau of Hazardous Waste Management at the respective addresses provided in Paragraph XI. Respondent shall be responsible for the content of any submissions made pursuant to this Order. Submission of any documentation containing assertions of fact shall be considered an affirmative representation by Respondent that the documentation contains no misrepresentation of fact.

B. The Department shall review each of the submissions Respondent makes pursuant to this Order to determine whether it was prepared, and whether the work done to generate the data and other information in the submission was done, in accordance with this Order and with generally accepted technical scientific principles. The Department shall notify Respondent in writing of its approval or disapproval of each submission. All Department-approved submissions shall be incorporated into and become an enforceable part of this Order. Approval by the Department shall not be unreasonably withheld or delayed by the Department.

C. If the Department disapproves a submission, it shall so notify Respondent in writing and specify the reasons for its disapproval. Within no less than forty-five days, and subject to Respondent's ability to request additional time, after receiving written notice that Respondent's submission has been disapproved, Respondent shall make a revised submission to the Department that addresses and resolves all of the Department's stated reasons for disapproving the first submission. After receipt of the revised submission, the Department, without unreasonable delay, shall notify Respondent in writing of its approval or disapproval. If the Department approves the revised submission, it shall be incorporated into and become an enforceable part of this Order. If the Department disapproves the revised submission, the Department and Respondent will conduct good faith negotiations to resolve the issues between them during the course of the next twenty-one business days. If the issues are not resolved to the Department's satisfaction, the Department shall so notify Respondent in writing within such twenty-one business day period, and Respondent shall be in violation of this Order, unless it has invoked the dispute resolution mechanism set forth below in Paragraph VIII within ten days of receipt of the Department's written notice that issues have not been resolved.

D. Respondent shall modify, amplify and/or expand a submission upon the Department's direction to do so if the Department determines, as a result of reviewing data generated by an activity required under this Order or as a result of reviewing any other data or facts, that further work is necessary.

E. Respondent shall be in violation of this Order if any submission is of such poor quality that it does not constitute a good faith effort to comply with the provisions of this Order.

VII. Reservation of Rights

A. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of the Department's civil, criminal, or administrative rights or authorities, including but not limited to, nor exemplified by, the right to recover natural resource damages against any party, including Respondent.

B. Nothing contained in this Order shall be construed to prohibit the Commissioner or the Commissioner's designee from exercising any summary abatement powers pursuant to ECL 71-0301.

VIII. Dispute Resolution

A. If the Department disapproves a revised submission under Subparagraph VI.C. or demands additional work under Subparagraph VI.D of this Order, Respondent shall be in violation of this Order unless, within ten business days after receipt of the Department's notice of failure to resolve issues regarding a submission or demand for additional work, Respondent serves on the Regional Solid and Hazardous Materials Engineer and the Director, Bureau of Hazardous Waste Management at the respective addresses provided in Paragraph XI, a written request for the appointment of an Administrative Law Judge ("ALJ") to resolve the dispute between the Department and Respondent, and files with the Department a written statement of the issues in dispute, the relevant facts upon which the dispute is based, all factual data, analysis or opinion supporting Respondent's position, and all supporting documentation on which Respondent relies (hereinafter called the Statement of Position). Subject to the Force Majeure provisions of Paragraph IV, if Respondent fails to serve such a request within such ten business day period, the Department's proposed determination, as set forth in the Department's notice of failure to resolve issues regarding a submission or demand for additional work, shall become final and Respondent will not contest such a determination.

B. In the event that Respondent serves the Department with its Statement of Position, in accordance with Subparagraph VIII.A of this Order, the Department shall appoint an ALJ from its Office of Hearings and Mediation Services to decide the dispute between the parties, and shall serve upon Respondent its Statement of Position, including supporting documentation no later than ten business days after receipt of Respondent's Statement of Position. The Department shall

notify Respondent in writing of the identity of the ALJ so appointed as soon as practicable. Respondent shall have seven business days after receipt of the Department's Statement of Position within which to serve upon the Department a reply to the Department's Statement of Position, and in the event Respondent serves such a reply, the Department shall have seven business days after receipt of Respondent's reply to the Department's Statement of Position within which to serve upon Respondent the Department's reply to Respondent's reply to the Department's Statement of Position. In the event that the periods for exchange of Statements of Position and replies may cause a delay in the work being performed under this Order, the time periods to resolve the dispute between the Department and Respondent may be shortened upon and in accordance with notice by the Department as agreed to by Respondent.

C. The Department shall maintain an administrative record of any dispute being addressed under this Paragraph VIII. The record shall include the submission(s) and any revisions, any correspondence exchanged by the parties during the time periods set forth in Paragraphs VI and VIII of this Order, the Statements of Position and replies of each party served pursuant hereon, and any other relevant information. The record shall be available for review of all parties and the public.

D. Upon review of the administrative record as developed pursuant to this Paragraph VIII, the ALJ shall issue a final decision and order resolving the dispute. Before making such decision and order, the ALJ, in his or her sole discretion, may require the parties to attend and present evidence at an oral hearing with regard to any issue in the administrative record concerning which the ALJ believes further evidence needs to be presented to enable him or her to make his or her decision on that issue. Any such oral hearing shall be conducted pursuant the applicable procedures set forth in 6 NYCRR 622. With respect to the final determination of the ALJ, Respondent shall have those rights granted pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York, provided that a petition is filed within twenty-one business days of receipt of the final decision and order issued by the ALJ, acting as the Commissioner's designee. If no such petition is filed within such twenty-one business day period, Respondent shall comply with the final decision rendered by the ALJ in connection with the dispute occasioned by the Department's disapproval of a submission or demand for additional work. If such a petition is filed, Respondent shall comply with the final decision rendered by the ALJ unless Respondent duly obtains a stay from the court in such Article 78 proceeding pursuant to

CPLR Section 7805. If the final decision of the Court on appeal is in favor of the Department, Respondent shall be deemed to be in violation of this Order as of the date of the ALJ's final decision, if the Court determines that Respondent lacked a reasonable basis for believing it would prevail on the disputed issue(s).

E. In any dispute to be resolved by an ALJ pursuant to this Paragraph VIII, the party, which triggered the procedures set forth in this Paragraph VIII of this Order shall have the burden of proving by a preponderance of the evidence that its position should prevail. However, Respondent shall bear the burden of proof regarding all affirmative defenses; and any party making a motion shall bear the burden of proof on that motion.

F. During the pendency of the dispute resolution process, Respondent shall continue to perform all work required under the Order other than those specific items of work subject to the dispute, and the performance of which depends upon those specific items of work subject to the dispute.

IX. The Site

Respondent hereby consents to the entry upon areas of the Site which are under the control of Respondent at times reasonable under the circumstances by any duly designated employee, consultant, contractor, or agent of the Department or any State agency having jurisdiction for purposes of inspection, sampling, and testing and to ensure Respondent's compliance with this Order. To the extent Respondent does not have control of the Site, Respondent further consents to take all steps necessary to obtain from Nashua and/or Tyco, their successors (including successors-in-title) and/or assigns, the necessary access rights for any duly designated employee, consultant, contractor, or agent of the Department or any State agency having jurisdiction for purposes of inspection, sampling, and testing and to ensure Respondent's compliance with this Order. If, after reasonable efforts, Respondent's access to the Property is denied by Nashua and/or Tyco, their successors (including successors-in-title) and/or assigns, Respondent shall immediately (within ten days) notify the Department in writing of the cause of the delay and the steps or measures taken to minimize the delay. If Respondent notifies the Department of the occurrence of any event which delays or will delay a deadline established by this Order, and if Respondent otherwise complies with the requirements of the Order and circumstances are beyond the control and without fault of the Respondent, the Department shall

extend the specified deadlines hereunder for a period of time equal to the length of the delay.

The Department shall abide by the health and safety rules in effect for work performed at the Site under the terms of this Order. Upon request, Nashua and/or Tyco, their successors (including successors-in-title) and/or assigns, will provide the Department with reasonably suitable office space at the Property, including reasonable access to a telephone, and shall permit the Department full access to all records relating to matters addressed by this Order and to job meetings held in connection with the work performed under this Order.

X. Indemnification

Respondent shall indemnify and hold the Department, the State of New York, and its representatives and employees harmless for all claims, suits, actions, damages, and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by Respondent or its directors, officers, employees, servants, agents, successors, and assigns.

XI. Communications

A. All written communications required by this Order shall be transmitted by United States Postal Service, by private courier service, or by hand delivery.

1. Communication from Respondent shall be sent to:
Regional Solid & Hazardous Materials Engineer
New York State Department of Environmental Conservation
1150 N. Westcott Road
Schenectady, NY 12306

Chief, Bureau of Hazardous Waste Management
Division of Solid & Hazardous Materials
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-7252

Director, Division of Environmental Enforcement
(Attn: RCRA Enforcement Attorney)
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-5500 (for legal matters only)

2. Communication to Respondent shall be sent to:

Lauren P. Alterman,
Senior Counsel
Saint - Gobain Corporation
750 E. Swedesford Road
P.O. Box 860
Valley Forge, Pennsylvania 19482-0101

B. The Department and Respondent reserve the right to designate additional or different addressees for communication on written notice to the other given in accordance with this Paragraph XI, provided that neither the Department nor Respondent shall be entitled to designate more than a total of five addressees each.

XII. Public Notice

A. Within thirty days after the effective date of this Order, Respondent shall take all reasonable steps to cause Tyco, its successors (including successors-in-title) and/or assigns, to file the Notice of Order, which is attached to this Order as Attachment IV, with the real property records of the Albany County Clerk to give all parties who may acquire any interest in the Property notice of this Order. Such Notice may only be terminated or amended upon written notification from the Department pursuant to Paragraph XIII of this Order that Respondent has satisfactorily fulfilled its obligations under this Order.

B. Respondent shall provide the Department with a copy of such instrument(s) required under this Paragraph XII certified by the Albany County Clerk to be a true and faithful copy of the instrument(s) as recorded in the Office of the Albany County Clerk.

C. If Respondent and/or Tyco propose to convey the whole or any part of their respective ownership interest in the Property, Respondent and/or Tyco shall, not fewer than sixty (60) days

before the date of conveyance, notify the Department in writing of the identity of the transferee and of the nature and proposed date of the conveyance and shall notify the transferee in writing, with a copy to the Department, of the applicability of this Order, provided that the notification requirement set forth in this Subparagraph XII.C shall not apply to: (1) easements and licenses granted by Respondent regarding the Property; or (2) changes in ownership resulting from corporate restructuring on the part of Respondent. The notification requirement set forth in this Subparagraph XII.C shall terminate no later than the date Respondent receives notice from the Department pursuant to Subparagraph I.I of this Order that the Department is satisfied that no further work is necessary under this Order.

D. Within forty-five (45) days of Respondent's receipt of the Department's notification pursuant to Paragraph XIII of this Order of its approval of the final report relating to the final corrective measures, Respondent shall take all reasonable steps to cause Tyco, its successors (including successors-in-title) and/or assigns, to record an instrument with the Albany County Clerk, to run with the land, that, shall require Respondent and Respondent's successors (including successors-in-title) and assigns to continue in full force and effect such institutional and engineering controls the Department may require Respondent to put into place and maintain; and that shall provide that Respondent, on behalf of itself and its successors (including successors-in-title) and assigns, hereby consents to the enforcement by the Department (or if at such time the Department shall no longer exist, any New York State Department, bureau, or other entity replacing the Department) of such controls, and hereby covenants not to contest such enforcement.

XIII. Termination of Order

A. This Order will terminate upon the Department's written determination that the Respondent has completed all phases of the final corrective measures program, in which event, the termination shall be effective on the fifth (5th) day after the Department issues its approval of the final report relating to the final corrective measures program.

B. The Department shall notify Respondent in writing of its determination that no further work is required in connection with this Order, that the Order has terminated in accordance with its own terms, and that Respondent, as well as its successors and assigns, has and have no further obligations under this Order. Upon receipt of such writing, Respondent or its duly designated

successors or assigns shall forward a copy to Tyco, so that Tyco or its duly designated successors or assigns may file a Termination of Notice of Order with the Albany County Clerk, as set forth in Paragraph XII.A of this Order. The Department shall not unreasonably withhold or delay such notice.

C. Respondent's indemnification obligation under Paragraph X of this Order and Respondent's obligation for payment of State costs under Paragraph III of this Order shall survive the termination of this Order.

XIV. Miscellaneous

A. Respondent, Nashua, Kendall and Tyco hereby certify that they have fully and accurately disclosed or made available to the Department all relevant information known to them and all relevant information in the possession or control of its officers, directors, employees, contractors, and agents which relates to, identifies or describes contamination of Property soils and groundwater and any other environmental concerns.

B. Respondent shall retain professional consultants, contractors, laboratories, and quality assurance/quality control personnel acceptable to the Department to perform the technical, engineering, and analytical obligations required by this Order. Such acceptance by the Department shall not be unreasonably withheld or delayed by the Department. Respondent shall consult with the NYSDEC prior to selection of a laboratory to be used pursuant to such work plans required by this Order; however, any laboratory that possesses New York certification for the specified analytical methods shall be presumptively approved. The responsibility for the performance of the professionals retained by Respondent shall rest solely with Respondent.

C. The Department shall have the right to obtain split samples, duplicate samples, or both, of all substances and materials sampled by Respondent, and the Department also shall have the right to take its own samples. Respondent shall make available to the Department the results of all sampling, tests or other data generated by Respondent with respect to implementation of this Order or conducted independently by Respondent. Respondent shall have the right to obtain split samples, duplicate samples, or both of all substances and materials sampled by the Department, and the Department shall promptly make available to Respondent the results of all sampling, tests or other data generated by the Department with respect to this Order.

D. Respondent shall use best efforts to obtain all permits, easements, rights-of-way, rights-of-entry, approvals, or authorizations necessary to perform its obligations under this Order. If any access required to perform this Order is not obtained despite best efforts within 45 days of the Department's approval of the pertinent work plan or phase, e.g., RFI, or within 45 days of the date the Department notifies Respondent in writing that additional access beyond that previously secured is necessary, Respondent shall promptly notify the Department, and shall include in that notification a summary of the steps Respondent has taken to attempt to obtain access. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration for obtaining same. The Department may, consistent with all laws, rules, regulations, and policies, assist Respondent in obtaining access, as it deems appropriate.

E. Respondent and its successors (including successors-in-title) and assigns shall be bound by this Order. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property, shall in no way alter Respondent's responsibilities under this Order. Respondent shall require that its officers, directors, employees, servants, and agents comply with the relevant provisions of this Order in the performance of their designated duties on behalf of Respondent.

F. Respondent shall provide a copy of this Order to each contractor hired to perform work required by this Order and to each person representing Respondent with respect to groundwater monitoring at the Site and shall condition all contracts entered into, in order to carry out the obligations identified in this Order, upon performance in conformity with the terms of this Order. Respondent and its contractors shall provide written notice of this Order to all subcontractors hired to perform any portion of the work required by this Order. Respondent shall nonetheless be responsible for ensuring that its contractors and subcontractors perform the work in satisfaction of the requirements of this Order.

G. Respondent shall notify the Department at least ten calendar days in advance of any field activities to be conducted pursuant to this Order.

H. The Paragraph headings set forth in this Order are included for convenience of reference only and shall be disregarded in the construction and interpretation of any of the provisions of this Order.

I. 1. The terms of this Order constitute the complete and entire Order the Department issued to Respondent covering corrective action under, respectively, ECL Article 27, Titles 9 and 13 for the Site. No term, condition, understanding, or Order purporting to modify or vary any term of this Order shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department regarding any report, proposal, plan, specification, schedule, or any other submissions shall be construed as relieving Respondent of its obligation to obtain such formal approvals as may be required by this Order.

2. If Respondent desires that any provision of this Order be changed, Respondent shall make timely written application to the Department setting forth reasonable grounds for the relief sought. Copies of such written application shall be delivered or mailed to: Chief, Bureau of Radiation and Hazardous Site Management, the Regional Solid & Hazardous Materials Engineer, and the Director, Division of Environmental Enforcement (Attn: RCRA Enforcement Attorney), New York State Department of Environmental Conservation at the respective addresses provided in Paragraph XI. Approval by the Department shall not be unreasonably withheld or delayed by the Department.

J. Respondent and Respondent's officers, directors, employees, servants, agents, lessees, and corporate successors, and assigns hereby affirmatively waive any right they had, have, or may have to make a claim pursuant to Article 12 of the Navigation Law with respect to the Site, and further release and hold harmless the New York State Environmental Protection and Spill Compensation Fund from any and all legal or equitable claims, suits, causes of action, or demands whatsoever that any of same has or may have with respect to the Site.

K. All references to "days" in this Order are to calendar days unless otherwise specified.

L. In the event of an inconsistency between the provisions of any attachment or appendix of this Order and any term, condition, or provision contained in Paragraph I through XIII of this Order, the term, condition, or provision contained in that Paragraph, and not that in any attachment or appendix of this Order, shall control.

M. The effective date of this Order shall be the date that the Commissioner or the Commissioner's designee signs it. The Department will provide Respondent (or Respondent's counsel), with a fully executed copy of this Order as soon as practicable after the Commissioner or the Commissioner's designee signs it. In turn, Respondent shall provide a copy of the Order to Nashua and Tyco.

DATED: Albany, New York
6/4, 2002

ERIN M. CROTTY, COMMISSIONER
NEW YORK STATE DEPARTMENT
OF ENVIRONMENTAL CONSERVATION



BY: CARL JOHNSON
DEPUTY COMMISSIONER

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order, waives its right to a hearing herein as provided by law, and agrees to be bound by this Order.

NORTON COMPANY

By: Mark E. Markese

Title: VP Abrasives

Date: 5/10/02

STATE OF ~~NEW YORK~~ Mass.

)

)

COUNTY OF Worcester

)

On the 10th day of May, in the year 2002, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Carlo J. Zolner

NOTARY PUBLIC

My Commission Expires: 9/12/08

ATTACHMENT I

SITE MAP

ATTACHMENT II
CORRECTIVE ACTION REQUIREMENTS

**CONSENT ORDER
CORRECTIVE ACTION REQUIREMENTS
FOR SOLID WASTE MANAGEMENT UNITS AND
AREAS OF CONCERN**

Norton Company

A. APPLICABILITY

1. Statute. Article 71, Title 27, Section 71-2727 requires corrective action, including corrective action beyond the facility boundary where necessary to protect human health and/or the environment, for all releases of hazardous wastes, including hazardous constituents, from the facility which includes solid waste management units (SWMUs) and areas of concern (AOCs).
2. Solid Waste Management Units and Areas of Concern. The conditions of this Order apply to:
 - (a) All the SWMUs and AOCs listed in this Module individually or in combinations;
 - (b) Any additional SWMU(s) and AOC(s) identified during the course of groundwater monitoring, field investigations, environmental audits or other means as described in Condition C. below;
 - (c) SWMUs and AOCs located On-site and/or off-site are identified in Table-I:

Table-I

SWMUs	Corrective Action Status
"Tolusol" Tank System	Further Investigation Required
"Beartex" Sump Area	Further Investigation Required
Storm Sewers	Further Investigation Required
Sanitary Sewers	Further Investigation Required

- (d) The Respondent need not undertake corrective action at any aforementioned SWMU(s) and/or AOC(s) identified in Table-1 as No Further Action provided there is no evidence of the release(s) of hazardous waste(s) or constituent(s) from the SWMU(s) and/or AOC(s) threatening human health and/or the environment.
- (e) A determination of No Further Action shall not preclude the Commissioner from modifying this Order at a later date to require further investigations, studies, monitoring, or corrective measures, if new information or subsequent analysis indicates the release(s) or likelihood of release(s) that could pose a threat to human health and/or the environment.

B. STANDARD CONDITIONS FOR CORRECTIVE ACTION

1. Work Plans. All work plans submitted pursuant to this Order shall include:
 - (a) Quality Assurance/Quality Control protocols to ensure that data generated is valid and supported by documented procedures;
 - (b) Other plans, specifications and protocols, as applicable;
 - (c) A schedule for starting specific tasks, completing the work and submitting progress and final reports; and
 - (d) Plans for the treatment, storage, discharge or disposal of wastes to be generated by activities described therein.
2. Quality Assurance/Quality Control.
 - (a) Any laboratory to be used pursuant to such work plans required by this Order must be approved by the Commissioner of the New York State Department of Environmental Conservation ("Commissioner") prior to work plan implementation. Certification by the New York State Department of Health Environmental Laboratory Approval Program in the relevant analytical services is required. Respondent shall consult with the NYSDEC prior to selection of a laboratory to be used pursuant to such work plans required by this Order; however, any laboratory that possesses New York certification for the specified analytical methods shall be approved presumptively.
 - (b) The minimum Quality Assurance/Quality Control data and information, that shall be delivered with all sample analyses required by this Order, are tabulated in Attachments A-1 and A-2 of this Order.
3. Health/Safety Plans. The Respondent shall develop, according to applicable Federal, State and local requirements, and submit to the Commissioner, health and safety plans that will be implemented to ensure that the health and safety of project personnel, plant personnel and the general public are protected. These plans are not subject to approval by the Commissioner.
4. Guidance Documents. When preparing the submissions described in this Order the Respondent shall take account of applicable guidance documents issued by the U.S. Environmental Protection Agency ("USEPA") and the New York State Department of Environmental Conservation ("Department") in a manner reflecting reasonable technical considerations.
5. Prior Submissions. The Respondent, its successors (including successors-in-interest) and/or assigns may have already submitted portions of information, plans, or reports required by this Order and its Appendices to the Commissioner pursuant to the terms of previous applications, consent orders, or plans. For those items the Respondent contends were submitted to the Commissioner, the Respondent may cite the specific document(s) it believes adequately addresses each of the individual items requested by this Order and its Appendices. The references, by document(s) shall be placed in the

appropriate sections of the submissions that require the referenced information and data. If the Commissioner, determines that it does not possess any of the referenced information, plans, or reports that the Respondent claims were previously submitted, the Commissioner will notify the Respondent and the Respondent shall submit the referenced documents within the time frame specified within the notification.

6. Compliance Schedule For Interim Corrective Measures (ICMs).

- (a) If at any time it is determined by the Commissioner that a release or, based on site-specific circumstances, a threatened release of hazardous wastes, including hazardous constituents from a SWMU, an AOC or a combination of SWMUs and/or AOCs poses a threat to human health or the environment, or that such condition jeopardizes the Respondent's ability, or current facility owner's, to comply with any governmental permit, a focused interim corrective measures study shall be submitted to the Commissioner for approval within sixty (60) calendar days of notice of such a determination. This study shall consider, among other relevant factors, the character, the extent, direction, the rate of release, the proximity to population, the exposure pathways, the effects of delayed action, and the evaluations of appropriate ICM(s) or the selection of a pragmatic and presumptive ICM. Upon approval of the study by the Commissioner, the Respondent shall implement the required ICM as specified by the Commissioner. Should a selected ICM involve an engineered action, e.g., pump and treat, then its design, implementation schedule and subsequent construction completion certification shall require approvals by the Commissioner. Nothing herein precludes the Respondent from taking immediate action to address the conditions described herein and promptly notifying the Commissioner.
- (b) In the event the Respondent discovers a release or, based on site-specific circumstances, a threatened release of hazardous waste, including hazardous constituents, from a SWMU, an AOC, or a combination of SWMUs and/or AOCs, that poses a threat to human health or the environment, the Respondent shall identify interim corrective measures to mitigate this threat. The Respondent shall immediately summarize the nature and magnitude of the actual or potential threat and nature of the ICM being considered and notify the Commissioner. Within sixty (60) calendar days of notifying the Commissioner, the Respondent shall submit to the Commissioner for approval, a focused CMS study and follow the progression of events identified in Condition B. 6(a) above.
- (c) The following factors may be considered by the Commissioner or the Respondent in determining the need for interim corrective measures:
 - (i) Time required to develop and implement a final corrective measure;
 - (ii) Actual and potential exposure of human and environmental receptors;
 - (iii) Actual and potential contamination of groundwater and sensitive ecosystems;

- (iv) Concentration of hazardous constituents, in soils that have the potential to migrate to the air, groundwater or surface water; and
- (vi) Other situations that may pose threats to human health and/or the environment.

7. Determination of No Further Action.

- (a) Based on the results of an RFI for a particular SWMU, an AOC, or combination of SWMUs, and/or AOCs, and other relevant information, the Respondent may submit a request to the Commissioner for a modification of this Order to terminate the subsequent corrective action requirements. This modification must contain information demonstrating no release(s) of hazardous wastes, including hazardous constituents, from the SWMU(s) and/or AOC(s) pose a threat to human health or the environment.
- (b) If, based upon review of the Respondent's request for a modification, the results of the RFI and other information, the Commissioner determines that the release(s) or suspected release(s) investigated either are non-existent or do not pose a threat to human health or the environment, the Commissioner may grant the requested modification.
- (c) A determination of no further action shall not preclude the Commissioner from implementing the following actions:
 - (i) Modifying this Order at a later date to require the Respondent to perform such investigations as necessary to comply with the requirements of this Order and its Attachments if new information or subsequent analysis indicates that there are, or are likely to be, releases from SWMUs/AOCs that may pose a threat to human health or the environment; and
 - (ii) Requiring continual or periodic monitoring of air, soil, groundwater, or surface water/sediment or subsurface gas, if necessary, to protect human health and/or the environment, when site-specific circumstances indicate the release(s) of hazardous waste, including hazardous constituents, are likely to occur from any SWMU(s) and/or AOC(s).

8. Compliance Schedule For Reporting And Submissions.

- (a) The Respondent shall submit to the Commissioner signed progress reports, as specified in approved work plans pursuant to this Order, of all activities (i.e., SWMU Assessment, Interim Measures, RCRA Facility Investigation, Corrective Measures Study) conducted pursuant to the provisions of the Corrective Action Compliance Schedules of this Order, beginning no later than thirty (30) calendar days after the Respondent is first required to begin implementation of any requirement herein. These reports shall contain:
 - (i) A description of the work completed during the reporting periods;
 - (ii) Summaries of all findings made during the reporting period;
 - (iii) Summaries of all changes made during the reporting period;

- (iv) Summaries of all contacts made with representatives of the local community and public interest groups during the reporting period;
- (v) Summaries of all problems or potential problems encountered during the reporting period and actions taken to rectify problems;
- (vi) Changes in personnel conducting or managing the corrective action activities during the reporting period;
- (vii) Projected work for the next reporting period; and
- (viii) Copies of daily reports, inspection reports, laboratory/monitoring data, etc., generated during the reporting period.

(b) Upon request, copies of other relevant reports and data not identified in Condition B.8.(a) shall be made available to the Commissioner.

(c) The Commissioner may require the Respondent to conduct new or more extensive assessments, investigations, or studies, based upon information provided in the progress reports referred to in Condition B.8(a) above, or upon other supporting information.

(d) All work plans, reports, studies, designs and schedules required by the conditions of this Order and Attachment B are, upon approval of the Commissioner, incorporated into this Order by reference and become an enforceable part of this Order. Any noncompliance with such approved work plans, reports, studies, designs and schedules shall constitute noncompliance with this Order. Requests to modify this Order for extensions of due dates for submissions shall be submitted to the Department pursuant to Paragraph XIV.I.2 of this Order.

9. Compliance with Governmental Requirements. During investigative activities, interim corrective measures, and final corrective measures (including, but not limited to, equipment decommissioning, excavation and unit demolition) required under this Order, the Respondent shall ensure that the transportation, treatment, storage, discharge, and disposal of all contaminated materials generated as a result of such activities (including, but not limited to, soils, sediments, liquids, tanks, pipes, pumps, rubble, debris, and structural materials) are performed in an environmentally sound manner pursuant to all applicable Federal, State and local requirements and that is protective of public health and the environment. Nothing in this Order shall be construed to require the Respondent to proceed in a manner which is in violation of any such requirements.

10. Notifications.

(a) Notification of groundwater contamination. If at any time the Respondent discovers that hazardous constituents in groundwater that may have been released from a SWMU or AOC at the facility have migrated beyond the facility boundary in concentrations that exceed action levels, the Respondent shall, within fifteen (15) calendar days of discovery, provide written notice to

the Commissioner and any person who owns or resides on the land which overlies the contaminated groundwater.

- (b) Notification of air contamination. If at any time the Respondent discovers that hazardous constituents in air that may have been released from a SWMU or AOC at the facility have or are migrating to areas beyond the facility boundary in concentrations that pose a threat to human health or the environment, and that residences or other places at which continuous, long-term exposure to such constituents might occur are located within such areas, the Respondent shall, within fifteen (15) calendar days of such discovery:
 - (i) Provide written notification to the Commissioner; and
 - (ii) Initiate any actions that may be necessary to provide notice to all individuals who have or may have been subject to such exposure, including the current owner of the facility.
- (c) Notification of residual contamination. If hazardous wastes or hazardous constituents in solid waste management units or areas of concern, or which have been released from a SWMU or AOC, will remain in or on the land, including groundwater, after this Order has terminated, the Commissioner may require the Respondent to ensure that a notation in the deed to the facility property or in some other instrument is recorded which is normally examined during title search that will, in perpetuity, notify any potential purchaser of the property of the types, concentrations, and locations of such hazardous wastes or hazardous constituents. The Commissioner may require such notice as part of the corrective measures selection process.

C. COMPLIANCE SCHEDULE FOR ASSESSMENT OF NEWLY IDENTIFIED SWMUS AND AOCS.

1. Notification of Assessment. The Respondent shall notify the Commissioner, in writing, of any additional SWMU(s) and/or AOC(s) not listed in this Order, which are identified during the course of groundwater monitoring, field investigations environmental audits, or other means within fifteen (15) calendar days after discovery.
2. SWMU/AOC Assessment Report. Within sixty (60) calendar days after notifying the Commissioner, the Respondent shall submit a SWMU/AOC Assessment Report. This Report must provide, at a minimum, the following information for each newly identified SWMU/AOC:
 - (a) Type and function of unit/area;
 - (b) Location of each unit/area on a topographic map of appropriate scale;
 - (c) Dimensions, capacities, and structural descriptions of the unit/area (supply available engineering drawings);
 - (d) Dates that the unit/area was operated;
 - (e) Description of the wastes that were placed or spilled at the unit/area;

- (f) Description of any known releases from the unit/area (to include groundwater data, soil analyses, air monitoring data, and/or surface water/sediment data);
 - (g) The results of any sampling and analysis required for the purpose of determining whether releases of hazardous wastes including hazardous constituents, have occurred, are occurring, or are likely to occur from the unit/area; and
 - (h) Whether this unit/area, individually or in combination with other units/areas described in Condition A.2. is a significant source of contaminant release.
3. SWMU/AOC Sampling and Analysis Plan. Within sixty (60) calendar days after submittal of the SWMU/AOC Assessment Report required in Condition C.2., the Respondent shall submit to the Commissioner for approval a Plan in accordance with the most recent version of the NYS RCRA Quality Assurance Project Plan Guidance, for any sampling and analysis of groundwater, land surface and subsurface strata, surface water/sediment or air, as necessary to determine whether a release of hazardous waste, including hazardous constituents, from such unit(s) and/or area(s) has occurred, is likely to have occurred, or is likely to occur. The SWMU/AOC Sampling and Analysis Plan must demonstrate that the sampling and analyses program, if applicable, is capable of yielding representative samples and must include parameters sufficient to identify migration of hazardous waste, including hazardous constituents, from the newly-discovered SWMU(s) and/or AOC(s) to the environment.
4. Subsequent Assessment Actions. Following submission of the SWMU/AOC Assessment Sampling and Analysis Plan set forth in Condition C.3., subsequent activities for the Plan shall proceed in accordance with the following schedule:
- (a) Meeting between the Respondent, and the Department to discuss Plan Comments, as appropriate, and
 - (b) Submission of a revised Plan to the Commissioner for approval within thirty (30) calendar days of the above-described meeting. (If the above referenced meeting is determined not to be necessary, the Respondent shall submit a revised Plan to the Commissioner, according to a schedule specified by the Department, not to exceed forty-five (45) calendar days after Respondent's receipt of Plan comments from the Commissioner); and
 - (c) Begin implementation of the SWMU/AOC Sampling and Analysis Plan within thirty (30) calendar days following written approval from the Commissioner for the Plan.
5. SWMU/AOC Sampling and Analysis Report. Within thirty (30) calendar days of receipt by the Respondent of validated analytical data generated under the approved SWMU/AOC Sampling and Analysis Plan, the Respondent shall follow reporting requirements in the approved Plan and submit a SWMU/AOC Sampling and Analysis Report to the Commissioner. The Report shall describe all results obtained from the implementation of the approved Plan.

6. Assessment Conclusions. Based on the results of the SWMU/AOC Sampling and Analysis Report, the Commissioner shall determine the need for further investigations at the specific unit(s) covered in the SWMU/AOC Assessment Report. If the Commissioner determines that such investigations are needed, the Commissioner shall, by written notification, require the Respondent to prepare and submit for approval a RCRA Facility Investigation Work Plan, including an implementation schedule. This RFI Work Plan, its implementation schedule, the RFI Report, any subsequent CMS and ICM submission shall be made part of this Order. Following the implementation of the RFI Work Plan, the Respondent shall submit for approval the RFI Report. If the Commissioner after reviewing the RFI Report determines that a Corrective Measure Study (CMS) or an Interim Corrective Measure (ICM) is required, the Commissioner shall, by written notification, require the Respondent to prepare and submit for approval the CMS and/or ICM, including implementation schedules. All approved submissions submitted pursuant to this Order condition shall be made part of this Order.

D. COMPLIANCE SCHEDULE AND NOTIFICATION REQUIREMENTS FOR NEWLY-DISCOVERED RELEASES AT SWMUS AND AOCS.

The Respondent shall notify the Commissioner, in writing, of any release(s) of hazardous wastes, including hazardous constituents, discovered during the course of groundwater monitoring, field investigation, environmental auditing, or other activities no later than fifteen (15) calendar days after discovery. Such newly-discovered release(s) may be from the newly-identified unit(s)/area(s), from the unit(s)/area(s) for which, based on the findings of the RFA, the Commissioner had previously determined that no further investigation was necessary, or from the unit(s)/area(s) investigated as part of an RFI. Based on the information provided in the notification, the Commissioner shall determine the need for further investigation of the release(s). If the Commissioner determines that such investigations are needed, the Commissioner shall, by written notification, require the respondent to prepare a RCRA Facility Investigation Work Plan, including an implementation schedule. Following the implementation of the RFI Work Plan, the Respondent shall submit for approval the RFI Report. If the Commissioner after reviewing the RFI Report determines that a Corrective Measure Study (CMS) or an Interim Corrective Measure (ICM) is required, the Commissioner shall, by written notification, require the Respondent to prepare and submit for approval the CMS and/or ICM, including implementation schedules. All approved submissions submitted pursuant to this Order condition shall be made part of this Order.

E. CORRECTIVE ACTION REQUIREMENTS.

1. Compliance Schedule For RCRA Facility Investigation (RFI) Work Plan At SWMUs and AOCS.

- (a) On the basis of the findings in the "Preliminary RFA. Nashua Tape Corporation. 9/15/93, prepared by TRC Environmental Corporation on behalf of the USEPA, the Commissioner has determined that there has been a release of hazardous waste and/or constituents from the following

SWMU(s), or combination of SWMU(s), and/or AOC(s) identified in Condition A.2. that require the implementation of an RFI:

SWMUs	Corrective Action
"Tolusol" Tank System	RFI
"Beartex" Sump Area	RFI
Storm Sewers	RFI
Sanitary Sewers	RFI

(b) On October 12, 2001, the "RCRA Facility Assessment (Enhanced RFA) Work Plan dated September 2001 was approved and subsequently implemented. The purpose of this investigation was to determine the current status of the sediments in the sewers and onsite groundwater. In a letter dated March 4, 2002, the Department transmitted the results of the QA/QC review and instructed the facility to submit a RFI Work Plan (which is to include a summary of the Enhanced RFA sampling results) within 60 days of the date of the letter. This requirement is superceded by the following: Within 45 calendar days after the effective date of this Order, the Respondent shall submit to the Commissioner for approval a RCRA Facility Investigation Work Plan for investigation of all of the SWMU's in the above table. In addition, the work plan is to include proposed groundwater sampling and installation of additional groundwater monitoring wells as necessary. This work plan is to include a summary of the Enhanced RFA sampling results.

- (c) Following submission of the RFI Work Plan subsequent activities for the Plan shall proceed in accordance with the following schedule.
- (i) Meeting between the Respondent and the Department to discuss Plan comments, as appropriate; and
 - (ii) Submission of a revised Plan to the Commissioner for approval within thirty (30) calendar days of the above-described meeting. (If the above-referenced meeting is determined not to be necessary, the Respondent shall submit a revised Plan to the Commissioner. according to a schedule specified by the Department, not to exceed forty-five (45) calendar days after Respondent's receipt of Plan comments from the Commissioner)

2. Compliance Schedule For RCRA Facility Investigation (RFI) Work Plan Implementation RFI Report And Summary Report Submissions.

- (a) No later than thirty (30) calendar days after written notification by the Commissioner approving the RFI Work Plan, the Respondent shall begin implementation of the Plan according to the schedules made part of the approved RFI Work Plan.

- (b) Within sixty (60) calendar days of receipt by the Respondent of validated analytical data generated under the approved RFI Work Plan, the Respondent shall submit to the Commissioner for approval the RFI Final Report and Summary Report. The RFI Final Report must contain adequate information to support further corrective action decisions at the facility and/or off-site, should such actions be necessary. The RFI Final Report shall describe the procedures, methods, and results of all facility investigations of SWMUs and AOCs and their releases, including information on the type and extent of contamination at the facility and/or off-site, sources and migration pathways, and actual or potential receptors. It shall present all information gathered under the approved RFI Work Plan.
 - (c) Following submission of the RFI Report and Summary Report set forth in Condition E.3.(b), subsequent activities for the Reports shall proceed in accordance with the following schedule:
 - (i) Meeting between the Respondent and the Department to discuss Report comments, as appropriate, and
 - (ii) Submission of a revised Reports to the Commissioner for approval within forty-five (45) calendar days of the above-described meeting. (If the above-referenced meeting is determined not to be necessary, the Respondent shall submit revised Reports to the Commissioner according to a schedule specified by the Department, not to exceed forty-five (45) calendar days after Respondent's receipt of Report comments from the Commissioner).
 - (d) After the Commissioner approves the RFI Final Report and Summary Report the Respondent shall mail the approved Summary Report to all individuals on the facility mailing list established by the Respondent, within thirty (30) calendar days of receipt of approval.
3. Requirements For A Corrective Measures Study (CMS).
- (a) Should a CMS that evaluates alternative remedies be required, the Commissioner shall notify the Respondent in writing when the CMS will be submitted. The submission time will take into consideration the extent of the remediation that needs to be implemented. This notice shall identify the hazardous constituent(s) which have exceeded target cleanup level(s) that are considered a threat to human health and/or the environment given site specific exposure conditions or due to additive exposure risk. The notification shall specify the target cleanup levels for hazardous constituents detected in each medium of concern, and may also specify corrective measure alternatives to be evaluated by the Respondent during the CMS. The CMS shall:
 - (i) Summarize the results of the investigations and, if applicable, of any bench-scale or pilot tests conducted;

- (ii) Provide a detailed description of the corrective measures evaluated and include an evaluation of how each corrective measure alternative meets the standards set forth in Condition E.5.a; and
 - (iii) Contain any additional information to support the Commissioner in the corrective measure selection decision-making process, described under Condition E.5.
- (b) The Respondent will not need to prepare and submit for approval a CMS that evaluates remedial alternatives when the Department and the Respondent agree on the implementation of a pragmatic and presumptive remedy. The Respondent shall instead submit a focused CMS that includes a conceptional design of this remedy that meets the requirements in Condition E.5, within sixty (60) calendar days following notification by the Commissioner.

4. Compliance Schedule For Corrective Measures Study (CMS)

- (a) Following submission of a CMS, subsequent activities for the CMS shall proceed in accordance with the following schedule:
 - (i) Meeting between the Respondent and the Department to discuss the CMS comments, as appropriate; and
 - (ii) Submission of a revised CMS to the Commissioner for approval within forty-five (45) calendar days of the above-described meeting. (If the above referenced meeting is determined not to be necessary the Respondent shall submit a revised CMS to the Commissioner, according to a schedule specified by the Department, not to exceed forty-five (45) calendar days after Respondent's receipt of CMS comments from the Commissioner.

5. Corrective Measure(s) Selection.

- (a) Based on the information presented in the CMS, and any further evaluations of additional corrective measures under this study, the Commissioner shall select the corrective measure(s) that at a minimum will meet the following standards:
 - (i) Be protective of human health and the environment;
 - (ii) Attain media target cleanup levels selected by the Commissioner during the corrective measures selection process;
 - (iii) Control the source(s) of release(s) so as to reduce or eliminate, to the maximum extent practicable, further releases of hazardous waste, including hazardous constituents, that might pose a threat to human health and/or the environment; and
 - (iv) Meet all applicable waste management requirements.
- (b) In selecting the corrective measure(s) which meets the standards for corrective measures established under Condition E.5.(a), the Commissioner shall consider the following evaluation factors, as appropriate:
 - (i) Long-term reliability and effectiveness. Any potential corrective

measure(s) may be assessed for the long-term reliability and effectiveness it affords, along with the degree of certainty that the corrective measure(s) will prove successful. Factors that shall be considered in this evaluation include:

- (1) Magnitude of residual risks in terms of amounts and concentrations of hazardous waste, including hazardous constituents, remaining following implementation of the corrective measure(s), considering the persistence, toxicity, mobility and propensity to bioaccumulate of such hazardous wastes, including hazardous constituents:
- (2) The type and degree of long-term management required, including monitoring and operation and maintenance-
- (3) Potential for exposure of humans and environmental receptors to remaining hazardous wastes, including hazardous constituents, considering the potential threat to human health and/or the environment associated with excavation, transportation, redisposal or containment;
- (4) Long-term reliability of the engineering and institutional controls, including uncertainties associated with land disposal of untreated hazardous wastes, including hazardous constituents, and their residuals; and
- (5) Potential need for replacement of the corrective measure(s).

(ii) Reduction of toxicity, mobility or volume. A potential corrective measure(s) may be assessed as to the degree to which it employs treatment that reduces toxicity, mobility or volume of hazardous wastes, including hazardous constituents. Factors that shall be considered in such assessments include;

- (1) The treatment processes the corrective measure(s) employs and materials it would treat;
- (2) The amount of hazardous wastes, including hazardous constituents, that would be destroyed or treated;
- (3) The degree to which the treatment is irreversible;
- (4) The residuals that will remain following treatment, considering the persistence, toxicity, mobility and propensity to bioaccumulate of such hazardous wastes, including hazardous constituents: and
- (5) All concentration levels of hazardous waste, including hazardous constituents, in each medium that the corrective measure(s) must achieve to be protective of human health and the environment.

(iii) The short-term effectiveness of a potential corrective measure(s) may be assessed considering the following:

- (1) Magnitude of reduction of existing risks;
- (2) Short-term risks that might be posed to the community, workers, or the environment during implementation of such a corrective measure(s), including potential threats to human health and/or the environment associated with excavation, transportation, and redisposal or containment; and
- (3) Time until full protection is achieved.

(iv) Implementability. The ease or difficulty of implementing a potential corrective measure(s) may be assessed by considering the following types of factors:

- (1) Degree of difficulty associated with constructing the technology;
- (2) Expected operational reliability of the technologies;
- (3) Need to coordinate with and obtain necessary approvals and permits from other agencies;
- (4) Availability of necessary equipment and specialists;
- (5) Available capacity and location of needed treatment, storage and disposal services; and
- (6) Requirements for removal, decontamination, closure, or post-closure of units, equipment, devices or structures that will be used to implement the corrective measure(s).

(v) Cost. The types of costs that may be assessed include the following:

- (1) Capital costs;
- (2) Operation and maintenance costs;
- (3) Net present value of capital and operation and maintenance costs; and
- (4) Potential future corrective measure costs.

6. Order Modification for Corrective Measure(s).

- (a) Based on information the Respondent submits in the RFI Report, the CMS and other information, the Commissioner will propose the final corrective measure(s) and public notice for forty five (45) calendar days a Statement of Basis (SB) discussing the proposed final Corrective measure(s). After the close of the public notice period, the Commissioner, after taking all relevant comments into consideration, will select the final corrective measures. The final corrective measures shall be implemented through an Order On Consent.

Attachment - A-1

COMPONENTS REQUIRED FOR RCRA ANALYTICAL DATA SUBMITTED TO NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Norton Company

(NOTE: This is one of two deliverables tables. See also Attachment A-2, "Raw Data Deliverables" for additional requirements for data validation.)

A Report Narrative should accompany each submission, summarizing the contents, results and all relevant circumstances of the work. It should describe the data validation and explain discrepancies.

A. Parameter requested.

B. Sample Number or Numbers, Matrix, and:

1. Date and time collected;
2. Date extracted and/or digested;
3. Date and time analyzed;
4. Chain of custody report and/or form, including confirmation of unbroken chain of custody, intact sample packaging and container seals and adequate temperature and/or other preservation; and
5. Field Sampling Log.

C. Results ^{b,e,f}

1. Sample Results;
2. Duplicate;
3. Blanks^a;
4. Matrix Spike; matrix spike duplicate; blank spike;
5. Surrogate recoveries, if applicable;
6. Standard reference materials results; and
7. Low level matrix spike recoveries, to confirm method detection limit (MDL) in the matrix.

D. Supporting QA/QC^{b,d}

1. Sample preparation and analysis methods, and sample cleanup procedures;
2. Sample preparation and sample cleanup logs;
3. Analysis run logs;
4. Method detection limits, instrument detection limits^c, Method used to determine MDL in the matrix;

5. Calibration data (correlation coefficient or percent relative standard deviation and calibration check sample results);
6. Percent solids for soils, sludges, sediments, and where otherwise applicable;
7. Example calculations;
8. Data validation procedures, results, and completed data validation checklists; and
9. Documentation which illustrates how blank water is determined to be analyte-free.

In addition to submitting the above, all sample data and its QA/QC data as specified in the approved methods and SW-846, 3rd edition (or more current edition), must be maintained accessible to NYSDEC either in hard copy or on magnetic tape or disk (computer data files). The data, if requested by NYSDEC, should be formatted as described in SW-846, 3rd edition, Chapter 1, where applicable. This requirement may be changed in the future to mandate computer data files, accessible to NYSDEC on request.

- If CLP protocols are performed, then CLP deliverables are required, but all of the items listed in this Appendix must be submitted unless otherwise stated in the approved plan.
- ^a The data should include all blanks (trip, equipment rinse, method and instrument blanks) as specified in the sampling and analysis plan, guidance and regulation.
- ^b Supporting QA/QC should be specific to the RCRA samples analyzed.
- ^c Every effort practicable must be made to achieve detection limits below regulatory limits and comparable to or better than the Practical Quantification Limits specified in the EPA-approved methods. In no case, will reporting limits above the specified PQL's be accepted without extensive and complete documentation to the Department.
- ^d The supporting data should be provided to NYSDEC upon request, without restriction. Calibration data must include date and time of analysis.
- ^e Frequencies of blanks, duplicates, spikes, surrogates, calibrations, standard reference materials, etc., should be as stated in the approved sampling and analysis plan, the approved analytical methods and the SW-846 3rd edition, Chapter 1, requirements. If there are any perceived conflicts, these should be resolved with NYSDEC in advance of sampling.
- ^f Spiking for metals, organics or other parameters must be done before sample preparation (i.e., before digestions, extractions etc.) unless otherwise stated in the approved plan. Furnace analysis for metals will still require post-digestion spikes on all samples analyzed by this technique.

Attachment - A-2

RAW DATA DELIVERABLES

For the purpose of data validation or confirming the data validation, the Department may select a number of samples for which raw data deliverables may be required in addition to the main data and QA/QC requirements enumerated in Attachment A-1. This selection may be determined before the initial data report is received by the Department or after review of the initial data report. Raw data deliverables may also be stated to be required in the approved sampling and analysis plan for any or all of the samples. If requested by the Department, at a minimum, the following supporting information and raw data must be submitted, for the selection of samples:

1. The Report Narrative pertaining to the selection of data, including a detailed description of any problems associated with the data and how the problems were resolved.
2. The Chain-of-Custody forms for the selected samples.
3. The laboratory I.D. numbers corresponding to the field sample numbers.
4. Sample preparation logs, analytical run logs, GPC and other sample cleanup logs and related chromatograms, fully labelled; documentation of sample changes or reactions during preparation; documentation of sample pH where applicable.
5. Key explaining notations on the data sheets that are relevant to the usage of the data; and explanation of data corrections or other anomalies, including all data voided.
6. Standards information sheets documenting the composition and concentrations of standards used in the analyses.
7. Standards preparation logs.
8. Organics reconstructed ion chromatograms (RICs), as described in the NYSDEC ASP.
9. Quantitation reports.
10. Copies of organics raw spectra and copies of background-subtracted mass spectra of detected target compounds and non-target compounds (TICs), labelled, as described in the NYSDEC ASP, and the corresponding standard mass spectra (or best-match spectra in the case of TICs).
11. Organics extracted ion current profiles (EICPs) for samples and their related standards, fully labeled.

12. The standards raw data corresponding to the sample data for initial and continuing calibrations, with sources and preparation dates
13. All the sample raw data and QC raw data pertaining to the samples, such as the data from instrument tunings, blanks, spikes (of matrices and blanks) , detection limit determinations in water and in the matrices, low-level spiking of matrices to confirm PQLs, interference check samples, ICP serial dilutions, CRDL standards, LCSs, post-digestion spikes, MSAs, linear range analyses, etc
14. Calculations showing how final results are obtained from values printed on the quantitation reports; copies of formulas used (even by software packages) , and values for all terms in the formulas.
15. Chromatograms and data system printouts for all standards (individual and multicomponent) for the PCB and pesticides analyses.
16. All direct real-time instrument read-outs, fully labelled.

The raw data submission should contain all the information needed to confirm, recalculate and validate the reported results for the selected samples.

Attachment-B

Corrective Action Compliance Schedule

Norton Company

I. Compliance Schedule For Interim Corrective Measures.

- A. Pursuant to Condition B.6.(a), Respondent shall submit for approval a focused CMS within sixty (60) calendar days following the date of the notification by the Commissioner requiring implementation of interim corrective measures.
- B. Pursuant to Condition B.6.(b), Respondent shall submit for approval a CMS within sixty (60) calendar days after notifying the Commissioner of the actual or potential threat to human health or the environment.

II. Compliance Schedule For Reporting.

- A. Pursuant to Condition B.8.(a), Respondent shall submit signed progress reports as specified in approved work plans of all activities conducted in accordance with the provisions of this Order, beginning no later than thirty (30) calendar days after the Respondent is first required to begin implementation of any such requirement.

III. Compliance Schedule for Notification.

- A. Pursuant to Condition B.10.(a), Respondent within fifteen (15) calendar days after discovering facility releases of hazardous constituents in groundwater have migrated off-site, shall notify the Commissioner and off-site owners or residents on land overlying such contamination.
- B. Pursuant to Condition B.10.(b), Respondent within fifteen (15) calendar days after discovering facility releases of hazardous constituents in air have or are migrated off-site, exceeding action levels, shall notify the Commissioner and off-site individuals subject to such long-term exposure.

IV. Compliance Schedule For Assessment of Newly Identified SWMUs and AOCs.

- A. Pursuant to Condition C. I., Respondent shall notify the Commissioner, in writing, of any additional SWMU(s) and/or AOC(s) within fifteen (15) calendar days after discovery.

- B. Pursuant to Condition C.2., Respondent shall submit a SWMU/AOC Assessment Report within sixty (60) calendar days after notifying the Commissioner of any additional SWMU(s) and/or AOC(s).
- C. Pursuant to Condition C.3., Respondent shall submit for approval a SWMU/AOC Sampling and Analysis Plan within sixty (60) calendar days after submittal of the SWMU/AOC Assessment Report.
- D. Pursuant to Condition C.4.(b), Respondent shall submit for approval revisions of the SWMU/AOC Sampling and Analysis Plan within thirty (30) calendar days after meeting with the Department to discuss Plan comments or within forty-five (45) calendar days after Respondent's receipt of Plan comments when no meeting is scheduled.
- E. Pursuant to Condition C.4.(c), Respondent shall begin to implement the SWMU/AOC Sampling and Analysis Plan within thirty (30) calendar days following written approval of the Plan.
- F. Pursuant to Condition C.5., Respondent shall submit a SWMU/AOC Sampling and Analysis Report within thirty (30) calendar days of receipt by the Respondent of validated analytical data generated under in the approved SWMU/AOC Sampling and Analysis Plan.

V. Compliance Schedule And Notification Requirements For Newly-Discovered Releases At SWMUs and AOCs.

- A. Pursuant to Condition D., Respondent shall notify the Commissioner in writing, of any newly-discovered releases at SWMUs and/or AOCs, no later than fifteen (15) calendar days after such discovery.

VI. Compliance Schedule For RCRA Facility Investigation ("RFI") Work Plan.

- A. Pursuant to Condition E.1.(b)., within 45 calendar days after the effective date of this Order, the Respondent shall submit to the Commissioner for approval a RCRA Facility Investigation Work Plan for investigation of all of the SWMU's in the Table-I. In addition, the work plan is to include proposed groundwater sampling and installation of additional groundwater monitoring wells as necessary. This work plan is to include a summary of the Enhanced RFA sampling results.
- B. Pursuant to Condition E.1.(c), Respondent shall submit for approval revisions to the RFI Work Plan within thirty (30) calendar days after meeting with the Department to discuss Plan comments or within forty-five (45) calendar days after Respondent's receipt of Plan comments when no meeting is scheduled.

VII. Compliance Schedule For RFI Work Plan Implementation.

- A. Pursuant to Condition E.2 (a)., Respondent shall begin to implement the RFI Work Plan within thirty (30) calendar days following written approval of the Plan.

VIII. Compliance Schedule For RFI Final Report And Summary.

- A. Pursuant to Condition E.2.(b)., Respondent shall submit for approval the RFI Final Report and Summary Report within sixty (60) calendar days after receipt by the Respondent of validated analytical data generated under the approved work plan.
- B. Pursuant to Condition E.2.(c)., Respondent shall submit for approval revisions to the RFI Final Report and Summary Report within forty-five (45) calendar days after meeting with the Department to discuss Report comments. or within forty-five (45) calendar days when no meeting is scheduled.
- C. Pursuant to Condition E.2.(d), Respondent shall mail the approved RFI Summary to all individuals on the facility mailing list within thirty (30) calendar days of receipt of RFI Report approval.

IX Compliance Schedule For A Corrective Measures Study ("CMS").

- A. Pursuant to Condition E.3.(b), Respondent shall submit for approval a focused CMS within sixty (60) calendar days after the written notification by the Commissioner regarding implementation of a pragmatic and presumptive remedy.
- B. Pursuant to Condition E.4.(a)., Respondent shall submit for approval revisions to the CMS within forty-five (45) calendar days after meeting with the Department to discuss CMS comments. or within forty-five (45) calendar days when no meeting is scheduled.

ATTACHMENT III
ACCESS AGREEMENT TO FACILITY

**SETTLEMENT AGREEMENT WITH RELEASES
BY AND BETWEEN TYCO INTERNATIONAL (US) INC.,
NASHUA CORPORATION AND NORTON COMPANY**

THIS SETTLEMENT AGREEMENT WITH RELEASES ("Settlement Agreement") is made and entered into this ____ day of September 2001, by and between (1) Tyco International (US) Inc. ("Tyco"); (2) Nashua Corporation ("Nashua"); and (3) Norton Company ("Norton") (collectively the "Settling Parties").

WHEREAS, The Settling Parties incorporate by reference all definitions as set forth in Section III of the Consent Decree between Nashua and Norton that has been executed contemporaneously with this Settlement Agreement such that all the terms that are used collectively in this Settlement Agreement and the Consent Decree shall be defined as set forth at Section III of the Consent Decree. A true and accurate copy of the Consent Decree is incorporated herein as Attachment I; and,

WHEREAS, From the 1930's until 1974, Norton owned and operated two manufacturing facilities located in the Town of Colonie, County of Albany, State of New York, known as Plant 1 and Plant 2. In Plant 2, the more western of the two, Norton manufactured coated abrasives such as sandpaper. In Plant 1, Norton manufactured pressure sensitive adhesive paper; and,

WHEREAS, When Norton owned Plant 1 and Plant 2, it operated two manufacturing facilities thereon, and was involved with the use of various chemicals, including but not limited to, toluene and toluosol from the 1950's up to and including 1974; and,

WHEREAS, On or about February 21, 1974, Nashua purchased Norton's tape manufacturing division including interconnected buildings 56, 56A, 58, 59, 60 and 61 in Plant 1 and adjacent land, generally located at 2600 Seventh Avenue, Watervliet, New York (the "Property"). ; and,

WHEREAS, Nashua then sold Building 56, the most northwestern of its buildings back to Norton; and,

WHEREAS, From 1974 through early 1990, Norton leased a portion of the Property, specifically the northern half of Building 61, from Nashua and operated that portion of the Property in connection with a manufacturing operation known generally as the Bear-TeX line (hereinafter the "Bear-TeX Premises"); and,

WHEREAS, Prior to the time Norton's lease expired for the Bear-TeX Premises, Norton removed all its equipment from the Property; and,

WHEREAS, In August 1989, in response to a complaint by a neighbor of both Nashua and Norton, the United States Environmental Protection Agency ("EPA") and the New York State Department of Environmental Conservation ("DEC") investigated suspected storm water contamination on and in the vicinity of the Property; and,

WHEREAS, On August 31, 1989, the EPA issued notices to both Nashua and Norton pursuant to CERCLA advising both Nashua and Norton that they may be potentially responsible for a release and/or a threatened release leading to suspected storm water contamination; and,

WHEREAS, After a brief cooperative investigation, Nashua filed a federal lawsuit against Norton in December 1990 seeking recovery of response costs and other damages pursuant to both federal and state law. The case encaptioned Nashua Corporation v. Norton Company, No. 90-CV-1351 (RSP/RWS) (the "NDNY Litigation") was brought in the United States District Court for the Northern District of New York; and,

WHEREAS, On or about April 17, 1996, Nashua sold the Property to The Kendall Company ("Kendall") pursuant to an Asset Purchase Agreement ("Agreement"); and,

WHEREAS, Pursuant to the Agreement, Nashua agreed to indemnify and hold Kendall harmless from and against certain Costs and Claims associated with the release or threatened release of hazardous substances on the Property with respect to existing contamination; and,

WHEREAS, Pursuant to the Agreement, Nashua also agreed, as between it and Kendall, to take such steps as are reasonably necessary to remediate the release of hazardous substances on the Property with respect to existing contamination so as to satisfy the requirements of either the DEC or the EPA; and,

WHEREAS, Kendall merged with Tyco by Certificate of Merger dated December 31, 1996; and,

WHEREAS, As of the date of this Settlement Agreement, Tyco is the owner of record of the Property and has succeeded to all of Kendall's rights and obligations thereat; and,

WHEREAS, On or about July 31, 2000, the DEC sought Kendall's cooperation in investigating the release or threatened release of hazardous substances at the Property, and if necessary, remediating any contamination of the Property; and,

WHEREAS, In turn, Kendall interposed a Demand, dated August 14, 2000, to Nashua for indemnification pursuant to the Agreement and requested that Nashua assume responsibility for any and all investigatory and/or remediation actions required by the DEC regarding the Property; and,

WHEREAS, By letter dated September 13, 2000, Nashua agreed that, as between it and Kendall, it would assume the responsibility, as contemplated by the Agreement, for any and all investigatory and/or remediation actions required by the DEC regarding the Property; and,

WHEREAS, On June 26, 2000, the Honorable Rosemary S. Pooler, sitting by designation as a United States District Court Judge for the Northern District of New York, issued a Decision After Trial finding that Nashua was entitled to maintain a § 113 contribution action under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") as well as a claim under the Resource Conservation and Recovery Act ("RCRA") against Norton; and,

WHEREAS, The Decision after Trial further found that the appropriate allocation of response costs pursuant to 42 U.S.C. § 9613(c)(1) was 90% for Norton and 10% for Nashua; and,

WHEREAS, Nashua and Norton entered into a Consent Decree in or about August 2001 that was submitted to the United States District Court for the Northern District of New York for approval to resolve all outstanding issues in the NDNY Litigation and for Norton to agree to enter into an Order on Consent with the DEC and to implement any DEC Required Work in a timely and effective manner; and,

WHEREAS, in connection with the rights and obligations set forth in the Consent Decree, Tyco agrees to cooperate with Norton and Nashua to the extent necessary to allow Norton to acquire insurance that covers the investigation and remediation of any contaminants and/or compounds on the Site that were not the subject matter of the NDNY Litigation; and,

WHEREAS, The Settling Parties agree to provide contemporaneous notification to one another of all written submissions, including correspondence, as well as final drafts prior to submission to the DEC, by and between themselves and the DEC regarding the Site and to provide one another a reasonable opportunity to provide any comments they may have on any submissions to the DEC regarding the Site. None of the Settling Parties, however, are obligated to include another party's comments in any submittals to the DEC; and,

WHEREAS, In accordance with a certain *Access Agreement Between Tyco International (US) Inc. and Norton Company* ("Access Agreement") executed herewith, Tyco acknowledges and intends to be bound by its obligation to cooperate with the DEC, Norton and Nashua in all reasonable respects in the performance of any DEC Required Work, including but not limited to, providing access to the Property, and Norton acknowledges and intends to be bound by its obligations under the Access Agreement; and,

WHEREAS, Norton agrees that it shall indemnify Tyco, its successors and assigns from any and all claims, costs, and actions caused by the actual performance of any DEC Required Work and Tyco agrees that for any claims, costs and actions caused by the actual performance of any DEC Required Work, Tyco will seek indemnification directly from Norton rather than Nashua.

WHEREAS, The parties to this Settlement Agreement seek to resolve, as between themselves, any statutory, common-law, or contractual obligations with respect to the Property that remain subsequent to Norton's full and complete implementation of the Order.

NOW THEREFORE, BE IT RESOLVED THAT:

1. In consideration of: (1) Norton's completion of the DEC Required Work; and, (2) receipt of the letter referenced at paragraph "40" and Attachment IV of the Order on Consent (the "NFA Letter") or an equivalent determination, Tyco agrees, for itself, its predecessors, successors, employees, assigns, officers, directors, shareholders, parents, subsidiaries, and affiliates (collectively referred to as "'Tyco'"), to remise, release, and forever discharge, Norton, and Norton's respective predecessors, successors, employees, assigns, officers, directors, shareholders, parents, subsidiaries, and affiliates (collectively referred to as "Norton") of and from all actions, causes of action, suits, debts, dues, sums of money, accounts, reckoning, bonds, bills, specialties, covenants, trespasses, damages, judgments, extents, executions, claims and demands whatsoever, in law or in equity, known or unknown, which against Norton, they ever had, now have, or which Tyco hereafter can, shall or may have for, upon or by reason of the contamination that was the subject of the NDNY Litigation. Provided, however, that in the event Tyco is presented with one or more third-party claim(s) brought with respect to any contamination at the Site, irrespective of when the claim accrued, including but not limited to, claims from third-parties relating to any injury stemming from exposure to a hazardous substance that contaminated the Site, Tyco reserves all of its rights as against Norton to seek contribution and/or indemnification from Norton for all such third-party claims. This reservation of rights by Tyco as to third-party claims, however, shall not extend to any claims or damages brought by any Kendall or Tyco employees, contractors or subcontractors for any claim or damage they may have or had, including, but not limited to, claims or damages arising out of their employment or work at the Property. Norton reserves any and all rights and defenses it has, had or may have to any such claims by Tyco.

2. In consideration of Tyco's entry into this Settlement Agreement, and for other good and valuable consideration, Norton agrees, for itself, its predecessors, successors, employees and assigns, to remise, release, and forever discharge, Tyco of and from all actions, causes of action, suits, debts, dues, sums of money, accounts, reckoning, bonds, bills, specialties, covenants, trespasses, damages, judgments, extents, executions, claims and demands whatsoever, in law or in equity, known or unknown, which against Tyco, they ever had, now have, or which Norton

hereafter can, shall or may have for, upon, or by reason of the contamination that was the subject of the NDNY Litigation.

3. Irrespective of whether Norton is able to obtain insurance as contemplated and set forth in Paragraph 32 of the Consent Decree, Norton shall: (i) indemnify and hold harmless Tyco for any and all third party claims brought with respect to any contaminants and/or compounds on the Site that were the subject matter of the NDNY Litigation and which are identified at Exhibit C of the Consent Decree, irrespective of when the claim accrued, including but not limited to, claims from third parties relating to any injury stemming from exposure to any contaminants and/or compounds on the Site that were the subject matter of the NDNY Litigation; and (ii) be solely responsible for any DEC required investigation and/or remediation of any such NDNY Litigation contaminants and/or compounds at the Site. Tyco does not assume any responsibility, and expressly waives any such responsibility, for the investigation and remediation of any contaminants and/or compounds on the Site.

4. If Norton is able to obtain insurance as contemplated and set forth in Paragraph 32 of the Consent Decree, without regard to whether the policy names Nashua or Tyco as additional insureds, Norton shall: (i) indemnify and hold harmless Tyco for any and all third party claims brought with respect to any contamination of the Site without regard to whether the contaminants and/or compounds that caused the contamination were the subject matter of the NDNY Litigation and irrespective of when the claim accrued, including but not limited to, claims from third parties relating to any injury stemming from exposure to any contaminants and/or compounds on the Site; and (ii) be solely responsible for any DEC Required Work without regard to whether the contaminants and/or compounds that are the subject of the DEC Required Work were contaminants listed on Exhibit C.

5. If Norton is unable to obtain insurance as contemplated and set forth in Paragraph 32 of the Consent Decree, but Norton exercises its option pursuant to Paragraph 33 to apply the money to the investigation and/or remediation of any contaminants and/or compounds on the Site that were not the subject matter of the NDNY Litigation and Nashua consents to such application of those funds, Norton shall: (i) indemnify and hold harmless Tyco for any and all third party claims brought with respect to any contamination of the Site without regard to whether the contaminants and/or compounds that caused the contamination were the subject matter of the NDNY Litigation and irrespective of when the claim accrued, including but not limited to, claims from third parties relating to any injury stemming from exposure to any contaminants and/or compounds on the Site; and (ii) be solely responsible for any DEC Required Work without regard to whether the contaminants and/or compounds that are the subject of the DEC Required Work were the contaminants listed on Exhibit C.

6. If Norton is unable to obtain insurance as contemplated and set forth in Paragraph 32 of the Consent Decree and Norton chooses not to exercise its option pursuant to Paragraph 33 of the Consent Decree to apply the remaining money to the investigation and/or remediation of any contaminants and/or compounds on the Site that were not the subject matter of the NDNY Litigation, or Nashua withholds its consent to such application of those funds, Norton shall: (i) indemnify and hold harmless Tyco for any and all third party claims brought with respect to any contamination of the Site without regard to whether the contaminants and/or compounds that caused the contamination were the subject matter of the NDNY Litigation and irrespective of when the claim accrued, including but not limited to, claims from third parties relating to any injury stemming from exposure to any contaminants and/or compounds on the Site; and (ii) be solely responsible for any DEC Required Work without regard to whether the contaminants and/or compounds that caused the contamination that are the subject of the DEC Required Work were contaminants listed on Exhibit C, except that Norton's indemnification obligations under this Paragraph 6 do not extend to any contamination that was caused or contributed to by Tyco's Release of any contaminants and/or compounds that were not the subject matter of the NDNY Litigation.

7. The indemnity set forth in this Agreement shall not extend to any claims or damages brought by any Tyco or Kendall employees, contractors or subcontractors, for any claim or damage they may have or had, including but not limited to, claims or damages arising out of their employment or work at the Property.

8. Tyco agrees that Norton's completion of the DEC Required Work and receipt of the NFA Letter or an equivalent determination, together with Nashua's reimbursement of Tyco in an amount not to exceed twenty thousand dollars (\$20,000) for costs incurred ("Specified Sum") within thirty days of the execution of this Settlement Agreement, will satisfy and discharge all of Nashua's obligations to Tyco pursuant to the Agreement, and Tyco agrees that upon receipt of the NFA Letter, or an equivalent determination, and the Specified Sum, it will remise, release, and forever discharge, Nashua, and Nashua's respective officers, shareholders, directors, employees, subsidiaries, parents, affiliates, predecessors, successors and assigns, of and from all actions, causes of action, suits, debts, dues, sums of money, accounts, reckoning, bonds, bills, specialties, covenants, trespasses, damages, judgments, extents, executions, claims and demands whatsoever, in law or in equity, known or unknown, which against Nashua, they ever had, now have, or which Tyco hereafter can, shall or may have for, upon or by reason of any matter, case, or thing whatsoever. Provided, however, that in the event Tyco is presented with one or more third-party claim(s) brought with respect to any contamination at the Property, Nashua and Tyco retain a full reservation of rights and any such third-party claims will be governed by the Agreement.

9. None of the releases contained in this Settlement Agreement shall become effective until: (1) Norton completes the DEC Required Work; and, (2) the DEC issues the NFA Letter or an equivalent determination.

10. Nothing in this Settlement Agreement shall be construed to prevent Tyco, in its sole discretion, from entering into a contract of sale for all or part of the Property and/or selling to a third-party all or part of the Property (the "third-party sale"). Tyco also agrees to provide prior notice of its intent to enter into a third-party sale to Nashua and Norton and to provide further notice to Nashua and Norton upon completion of any third-party sale. The Settling Parties agree that all of Tyco's rights, duties and obligations as derived from the Agreement, the Order on Consent, and/or this Settlement Agreement, including but not limited to, its rights of indemnification, may be transferred in such third-party sale only with the written consent of Nashua as set forth in Paragraph 45 of the Agreement. Tyco agrees to provide notice to such third-party of the Agreement, the Order on Consent, and this Settlement Agreement prior to such third-party sale.

11. If any provision, right or obligation set forth in this Settlement Agreement is ambiguous, or in conflict with any provision, right or obligation set forth in the Consent Decree, Asset Purchase Agreement and/or Site Access Agreement, this Agreement shall be superseded by, and where ambiguous, interpreted consistent with, the Consent Decree, Asset Purchase Agreement and/or Site Access Agreement. In no event shall any provision, right or obligation set forth in this Settlement Agreement amend, alter, modify, limit, expand or change any provision, right or obligation agreed to by the Settling Parties in the Consent Decree, Asset Purchase Agreement and/or Site Access Agreement.

12. Nothing in this Settlement Agreement shall be construed to govern, dictate, amend, alter, modify, limit, expand, or change the rights and obligations as between Nashua and Norton. Any and all rights and/or obligations as between Nashua and Norton shall be governed exclusively by the Consent Decree.

13. Nothing in this Settlement Agreement shall be construed to govern, dictate, amend, alter, modify, limit, expand, or change the rights and obligations as between Nashua and Tyco. Any and all rights and/or obligations as between Nashua and Tyco shall be governed exclusively by the Asset Purchase Agreement and Site Access Agreement.

14. The Settlement Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to the conflicts of laws principles thereof and the Settling Parties agree that the exclusive venue and jurisdiction shall be in the United States District Court for the Northern District of New York regarding any dispute, controversy or performance arising from this Settlement Agreement.

IN WITNESS WHEREOF, the Settling Parties have executed this Settlement Agreement as of the first date indicated above.

TYCO INTERNATIONAL (US) INC.

By: M. Brian Moroze
M. Brian Moroze
Its: Secretary

State of ~~Massachusetts~~ New Hampshire
County of Rockingham

On the 6th day of September, 2001, before me personally came M. Brian Moroze, to me known, who, being by me duly sworn, did depose and say that he resides at 34 Pine Street, Exeter, NH and that he is the Secretary of TYCO INTERNATIONAL (US) INC., the corporation described herein, and which executed the foregoing instrument; that he knows the seal of said corporation and that seal is affixed to said instrument and was so affixed by order of the Board of Directors of said corporation and that he signed his name by like order.

Sworn to before me this
6th day of September, 2001

PATRICIA J. TRAVIS, Notary Public
My Commission Expires April 28, 2004

Patricia J. Travis
Notary Public

NASHUA CORPORATION

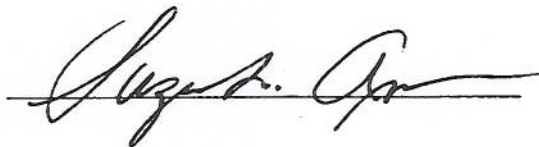
By: 

Its: VP, General Counsel & Secretary

State of New Hampshire

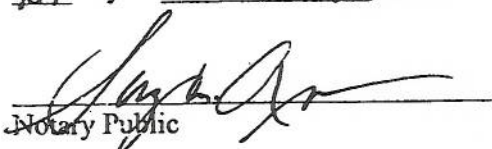
County of Hillsborough

On the 1st day of ~~September~~ ^{October}, 2001, before me personally came Robert J. Amrein, to me known, who, being by me duly sworn, did depose and say that he resides at 12 Queensway Circle, Nashua, NH 03062 and that he is the Vice President, General Counsel & Secretary of NASHUA CORPORATION, the corporation described herein, and which executed the foregoing instrument; that he knows the seal of said corporation and that seal is affixed to said instrument and was so affixed by order of the Board of Directors of said corporation and that he signed his name by like order.



Sworn to before me this

1st day of October, 2001


Notary Public

NORTON COMPANY

By: Mark Mathisen

Mark E. Mathisen

Vice President Abrasives North America

And Coated Abrasives Worldwide _____

Commonwealth of ~~Massachusetts~~ Pennsylvania
County of Chester

On the 27 day of September, 2001, before me personally came Mark Mathisen, to me known, who, being by me duly sworn, did depose and say that he is the Vice President Abrasives North America and Coated Abrasives Worldwide and that he has the authority to execute this Agreement on behalf of NORTON COMPANY.

Mark E. Mathisen

Mark Mathisen

Sworn to before me this
27 day of September, 2001

Barbara B. Sauerbrey
Notary Public

NOTARIAL SEAL
BARBARA B. SAUERBREY, Notary Public
Tredyffrin, Chester County
My Commission Expires April 16, 2005

69767v4

ATTACHMENT IV
NOTICE OF ORDER

THIS NOTICE is made as of the ____ day of _____, 2002 by Tyco Corporation International, Inc. ("Tyco"), the fee owner of a parcel of real property located at 2600 Seventh Avenue, Watervliet, New York ; also include Tax Map Parcel No./Tax Section, block, and lot no. as more particularly described on Appendix "A" attached hereto (the "Property"); and

WHEREAS, The Department of Environmental Conservation, by authorized signature, issued an Order to Norton Company ("Norton") on its consent, Index # CO-4-20001205-3375 (the "Order") on the ____ day of _____, 2002 concerning the performance of corrective action to remediate contamination present on the Property; and

WHEREAS, from the 1930s until 1974 Norton Company owned and operated two manufacturing facilities, known as Plant 1 and Plant 2, on an area of land that included in part, the Property; and

WHEREAS, on or about February 21, 1974, Nashua Corporation ("Nashua") purchased from Norton the Property; and

WHEREAS, on or about April 17, 1996, Nashua sold the Property to The Kendall Company ("Kendall") pursuant to an Asset Purchase Agreement; and

WHEREAS, on or about _____ 2001, Kendall sold the Property to Tyco pursuant to a Contract of Sale; and

WHEREAS, Tyco is the current owner of the Property; and

WHEREAS, Tyco agrees to give notice of the Order to all parties who may acquire any interest in the Property by filing this Notice with the Albany County Clerk;

NOW, THEREFORE, Tyco, for itself and for its successors and assigns, declares that:

1. This Notice of the Order is hereby given to all parties who may acquire any interest in the Property.

2. This Notice shall terminate only upon the filing by Tyco, or its successors and assigns, of a Termination of Notice of Order after Norton Company having first received from the New York State Department of Environmental Conservation the notice of termination.

IN WITNESS WHEREOF, Tyco has executed this Notice of Order by its duly authorized representative.

The Tyco Corporation International, Inc.

Dated:

By: _____

Title: _____

ATTACHMENT V

ENHANCED RFA SAMPLING SCOPE

