VOLUNTARY CLEANUP CONTRACT
13-5202-NRP

IN THE MATTER OF
SHADY DEALS SITE, RICHLAND COUNTY
and
MPG TWO NOTCH, LLC

This Contract is entered into by the South Carolina Department of Health and Environmental Control and MPG Two Notch, LLC, with respect to the Property located at 10254 and 10258 through 10272 Two Notch Road, Columbia, South Carolina. The Property includes approximately 10.96 acres identified by Tax Map Serial Numbers 22914-06-01/03/04/05/06/07/08, and 22914-06-16/17. In entering this Contract, the Department relies on the representations contained in the "Non Responsible Party Application for Voluntary Cleanup Contract" of January 15, 2013, and any amendments thereto, by MPG Two Notch, LLC, which is incorporated into this Contract and attached as Appendix A.

AUTHORITY

This Contract is entered into pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710 et. seq. (as amended); the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-10, et. seq. (as amended), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601, et seq., and the South Carolina Pollution Control Act, § 48-1-10 et. seq.

DEFINITIONS

1. Unless otherwise expressly provided in this Contract, terms used herein shall have the meaning assigned to them pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. §44-56-710 et. seq. (as amended), and if not set forth therein, shall have the meaning assigned to them pursuant to the South Carolina Hazardous Waste Management Act, S.C. Code Ann. § 44-56-10, et. seq. (as

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amended), the S.C. Pollution Control Act, S.C. Code Ann. .§ 48-1-10, et. seq. (as amended), or the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601, et. seq.

A. "MPG" means MPG Two Notch, LLC.

B. "Beneficiaries" means MPG's Non-Responsible Party lenders, signatories, parents, subsidiaries, and successors, including new purchasers, lessees, and other parties acquiring an interest in any portion of the Property, but only to the extent that such parties have never been a Responsible Party at the Site

C. "Contamination" means the presence of a contaminant, pollutant, hazardous substance, petroleum, or petroleum product.

D. "Contract" means this Voluntary Cleanup Contract.

E. "Department" means the South Carolina Department of Health and Environmental Control, or a successor agency of the State of South Carolina that has responsibility for and jurisdiction over the subject matter of this Contract.

F. "Existing Contamination" shall mean any Contamination present on, or under, the Property as of the execution date of this Contract.

G. "Property" means the real property as described in the Non Responsible Party Application for Voluntary Cleanup Contract attached as Appendix A, and that is subject to the ownership, prospective ownership, or possessory or contractual interest of MPG or its Beneficiaries.

H. "Segregated Sources" means drums, tanks, or similar discrete containers that

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potentially hold substances that may cause Contamination upon release to the environment.

I. "Site" means all areas where a contaminant has been released, deposited, stored, disposed of, or placed or otherwise comes to be located; "site" does not include any consumer product in consumer use or any vessel, as defined in CERCLA section 101 (28).

J. "Waste Materials" means any Contamination-causing solid, semi-solid, or liquid material discarded, buried, or otherwise present on the Property, and may include sludge, slag, or solid waste materials such as empty containers and demolition debris or materials containing asbestos, lead-based paint, or petroleum or other contaminants.

FINDINGS

2. Based on the information known by or provided to the Department, the following findings are asserted for purposes of this Contract:

A. Owners and Operators: The owners and operators of the Property include the following:

Parcels 22914-06-01/03/04/05/06/07/08 and 16	
Privately owned farmland/residential/undeveloped	To 2000
Hudson Real Estate, LLC	2000 to 2010
Grands Investment Company	2010 to Present

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Parcel 22914-06-17

Inez Upchurch Watson	1960 to 1982
Charles Junior Harris	1982 to 1985
James Joongho Chae & Sandra Kucha Chae	1985 to 2000
Hudson Real Estate, LLC	2000 to 2010
Grands Investment Company	2010 to Present

B. Property and Surrounding Areas: The Property consists of nine parcels bounded by Two Notch Road and commercial property to the northwest, Fore Avenue and a mix of residential and commercial property to the northeast, residential property to the southeast, and industrial and commercial property to the southwest. Based on information provided in the Phase I Environmental Site Assessment dated November 2, 2012 (Terracon), the Property consisted of wooded land and farmland from 1939 until approximately 1966. Medium sized structures were present in the north central portion of the property (Parcel 22914-06-06) from 1966 until at least 1970. Historical records indicate the Property was occupied by a company conducting auto repair and painting during this time period. By 1996, this portion of the property appears cleared. The asphalt parking lot (still present in the northern portion of the Property along Two Notch Road) first appeared in 2000 when city directories indicate a used car sales business was present at this address. The business had apparently closed by 2004. Six small residential parcels are present on the western portion of the property along Fore Avenue and were first developed after 1970. Four residential structures are currently present but unoccupied.

C. Investigations / Reports: In the 1990s, chlorinated solvents were identified in drinking water wells at residences within the Royal Pines Subdivision. The six parcels located on the eastern portion of the Property were part of the Royal Pines Subdivision, along with other residences located across Fore Avenue east

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of the Property. One drinking water well is still present, though it appears to be in poor condition, at one of the six residential parcels within the Property. USEPA and the SCDHEC Site Assessment Section conducted groundwater quality investigations on the subject property (Shady Deals site), and at the industrial property located just west of the Property (then known as Diamont Boart, currently occupied by Husqvarna Construction Products). These investigations did not identify the source of the Royal Pines Subdivision groundwater contamination. No further investigations were conducted after municipal drinking water was provided to the Royal Pines Subdivision in the late 1990's.

D. A Limited Site Investigation (January 11, 2013, Terracon) was conducted in preparation for MPG's application for this Contract. Assessment included installation of four permanent monitoring wells screened to below the water table, and ranging in depth from 74 to 87.5 feet below the top of casing. Groundwater samples collected from each well were analyzed for volatile organic compounds. Assessment results identified no constituents at levels above maximum contaminant levels for drinking water. Constituents detected include tetrachloethylene, trihalomethanes, and acetone. Groundwater elevation data indicate that the groundwater flow direction is to the southeast.

E. Applicant Identification: MPG is a state of South Carolina limited liability company with its principal place of business located at 7332 Office Park Place, Suite 101 Melbourne, Florida, 32940. MPG affirms that it has the financial resources to conduct the response action pursuant to this Contract.

F. Proposed Redevelopment: MPG will acquire the Property and intends to redevelop the Property commercial use to include a 55,000 square foot retail building located in the approximate center of the Property, and two smaller retail buildings at the northern end of the Property along Two Notch Road. The southern portion of the Property will remain undeveloped.

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BONA FIDE PROSPECTIVE PURCHASER STATUS

3. MPG certifies that it and its members are a not a current owner of the Property, or parent, successor or subsidiary of a current or past owner of the Property; are not a Responsible Party for the site, or a parent, successor or subsidiary of a Responsible Party for the site; and have not had any involvement with the Property in the past other than activities performed in anticipation of participation in the Voluntary Cleanup Program. MPG also certifies that it and its members are eligible to be a Bona Fide Prospective Purchaser for the Property.

RESPONSE ACTION

4. MPG agrees to conduct the response actions specified in the sub-paragraphs below. An initial Work Plan shall be submitted by MPG, or its designee, within thirty (30) days after the date of execution of this Contract by the Department, or such earlier or later date if approved by the Department's project manager. A Report of the assessment results shall be submitted by MPG, or its designee in accordance with the schedule provided in the initial Work Plan. MPG acknowledges that the assessment may find distributions of Existing Contamination requiring additional assessment and/or corrective action on the Property that cannot be anticipated with this Contract. MPG agrees to perform the additional assessment and/or corrective action consistent with the intended uses of the Property under the purview of this Contract; however, MPG may seek an amendment of this Contract to clarify its further responsibilities. MPG shall perform all actions required by this Contract, and any related actions of MPG's choosing not expressly required by this Contract, pursuant to Work Plans and/or Addenda approved by the Department.

A. Work Plan Logistics:

1). The Work Plan(s) shall set forth a schedule and methods for assessment and corrective action activities detailed herein.

2). The Work Plan(s) shall be submitted to the Department in the form of one

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hard copy and one electronic copy of the entire Work Plan on a compact disk (in .pdf format).

3). All activities undertaken pursuant to this Contract shall be consistent with S.C. statutes, regulations, and permitting requirements (e.g., stormwater management and waste disposal regulations). MPG shall identify and obtain the applicable permits before beginning any action.

4). The Work Plan(s) shall be in accordance with accepted industry standards and shall be signed and sealed by a Professional Engineer or Professional Geologist duly-licensed in South Carolina.

5). The Work Plan(s) shall provide detailed information about the proposed sampling points, collection methods, analytical methods, quality assurance procedures, and other pertinent details of the assessment and/or corrective measures activities consistent with the following:

a). Sample collection methodologies shall be consistent with the US EPA Region IV Field Branches Quality System and Technical Procedures.

b). All monitoring wells and groundwater sampling points shall be constructed in accordance with 25 S.C. Code Ann. Regs. R.61-71, the South Carolina Well Standards. The Work Plan shall provide sufficient detail to support issuance of the well approvals by the Department.

c). The laboratory analyses for samples taken pursuant to the Work Plan are specified in the media-specific sub-paragraphs below, but may include any of the following:

i. the full EPA Target Analyte List (TAL);

i). EPA Target Analyte List excluding cyanide (TAL-Metals);

ii. the full EPA Target Compound List (TCL);

i). EPA Target Compound List Volatile Organic Compounds (TCL-VOCs);

ii). EPA Target Compound List Semi-Volatile Organic Compounds (TCL-SVOCs);

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iii). EPA Target Compound List Pesticides (TCL-Pesticides);

iv). EPA Target Compound List Polychlorinated Biphenyls (TCL-PCBs).

d). All analytical methods shall use appropriate detection levels to allow comparison to the media-specific screening criteria listed in the "EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites" in effect at the time of sampling. The applicable Protection of Groundwater SSL for soil samples shall be the "MCL-Based SSL", if listed. If the applicable screening criteria are lower than achievable detections levels, the analytical method shall use the lowest achievable detection levels.

6). The Work Plan shall include the names, addresses, and telephone numbers of MPG's consulting firm(s), analytical laboratories, and MPG's contact person for matters relating to this Contract and the Work Plan.

a). The analytical laboratory shall possess applicable Certification defined in 25A S.C. Code Regs. R.61-81, for the test methods specified in the Work Plan.

b). MPG shall notify the Department in writing of any changes concerning the consulting firm(s), contact person(s), or laboratory identified in the Work Plan.

7). The Department will notify MPG in writing of approvals or deficiencies in the Work Plan.

8). MPG, or its designee, shall respond in writing within thirty (30) days of receipt of any comments on the Work Plan by the Department.

9). MPG shall begin implementation of the Work Plan as soon as reasonably possible after receipt of written approval of the Work Plan by the Department.

10). MPG shall inform the Department at least five (5) working days in advance of all field activities conducted pursuant to the Work Plan, and shall allow the

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Department, or its authorized representatives, to take duplicates of any samples if desired.

11). MPG shall preserve items on the Property that may: 1) provide evidence of a Potentially Responsible Party's involvement at the Site; 2) lead to the discovery of other areas of Contamination at the Site; or 3) contain environmental information related to the Site. Such items may include drums, bottles, labels, business and operating records, contracts, Site studies, investigations, and other physical or written materials relating to the Site. MPG shall notify the Department of the location of any such items, and provide the Department with an opportunity to inspect any materials or copy any documents at the Department's expense prior to destruction of said items.

B. Report Logistics

1). Report(s) shall be prepared in accordance with accepted industry standards and shall be certified by signature and seal of a Professional Engineer or Professional Geologist duly licensed in South Carolina.

2). The Report(s) of assessment and/or corrective measures activities shall include a discussion of investigation methods and any deviations from the Department approved Work Plan. The Report shall also include tables and figures to summarize all data, a map documenting sampling locations, documentation of field observations including well core logs, sample descriptions, field screening results, and all laboratory analytical data.

3). All Report(s) shall be submitted to the Department in the form of one hardcopy and one electronic copy of the entire Report on a compact disk (in .pdf format).

C. Assess Waste Materials and Segregated Sources:

1). MPG shall characterize any Waste Material and Segregated Sources that

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may be discovered on the Property at any time during assessment, corrective action, or development activities in accordance with a Department approved plan.

2). Upon discovery of any Segregated Source that has not yet released all contents to the environment, MPG shall expeditiously stabilize or remove the Segregated Source from the Property

3). MPG shall immediately notify the Department if a release of Contamination occurs as a result of its assessment, stabilization or removal actions. MPG shall assess the impact of the release and take necessary action in accordance with a Department approved plan.

D. Conduct a well survey:

1). MPG shall map all public and private wells used for drinking water supply within a one-half mile radius of the Property, and wells used for irrigation or other non-drinking water use within a one-quarter mile radius.

2). MPG shall report sufficient information to the Department to allow the Department to secure permission to sample the wells. At a minimum, this information shall include the: 1) Location of the well; 2) Identity and mailing address of the well owner; and, 3) Telephone number, if publicly available or otherwise known to MPG, of the well owner or occupant of the residence served by the well.

E. Assess soil quality across the Property:

1). MPG shall collect and analyze a minimum of eighteen (18) soil samples from twelve (12) locations on the Property. MPG shall collect one surface soil sample (0-1 foot below ground surface) and one subsurface soil sample (2 foot minimum depth) from each of the following locations:

a). Two soil samples shall be collected from one presumed background location. Soil samples shall be analyzed for TAL metals only.

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b). Six soil samples shall be collected from three locations within the area of former truck repair and auto painting operations.

c). Four soil samples shall be collected from two locations in the vicinity of debris remaining from burned structure in central portion of the Property.

d). Six surface soil samples shall be collected from six locations randomly spaced on a 1-acre grid across the balance of the property not assessed above.

2). Unless otherwise specified above, each surface soil sample shall be analyzed for TAL-Metals and SVOCs. Each subsurface sample shall be analyzed for TAL-Metals, VOCs and SVOCs. A minimum of one surface and one subsurface sample from the former truck repair area shall be analyzed for the full EPA-TAL and EPA-TCL.

3). Soil quality results shall be compared to the Residential and Industrial Screening Levels and to the applicable Protection of Groundwater SSL.

F. Assess groundwater quality:

1). MPG shall assess groundwater quality and flow direction across the Property. Assessment shall include collection and analysis of groundwater samples from a minimum of four monitoring wells existing on the Property. If possible, a groundwater sample shall also be collected from the drinking water well present on one of the residential parcels. Information regarding well construction and depth of the drinking water well shall also be determined, if possible.

2). Samples from all wells shall be analyzed for TAL- Metals, VOCs and SVOCs. In addition, a groundwater sample from MW-1 shall be analyzed for the full TAL/TCL parameters.

3). Groundwater quality results shall be compared to the primary maximum contaminant level (MCL) standards in the South Carolina State Primary

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Drinking Water Regulations, R.61-58, or, if not specified in R.61-58, to the Regional Screening Tables values for "Tapwater."

G. Evaluate and control potential impacts to indoor air:

1). MPG shall evaluate potential impacts to indoor air if the Department determines significant concentrations of volatile organic compounds are present in the subsurface. The Department will use a modified Johnson and Ettinger Model to determine "Significant concentrations" based on representative soil and/or groundwater quality results reflective of the Property. The model will be constrained towards predicting residential exposures consistent with the building construction proposed to be used on the Property.

2). MPG shall submit an addendum to the Work Plan detailing the steps for further study and/or remedial or other control management measures to be implemented if the predicted indoor air concentration exceeds a 10^{-6} risk calculated for occupational exposure (40 hrs/wk, 50 wk/yr, 25 yrs).

3). MPG's additional evaluation (if necessary) shall, unless otherwise agreed to by the Department, consist of collection and analysis of a representative number of soil gas samples from the proposed footprint of buildings to be constructed on the Property over areas potentially subject to Vapor Intrusion. Soil gas samples shall be analyzed for all site related volatile compounds by appropriate methods capable of detecting soil gas concentrations at screening levels indicative of a 10^{-6} risk for shallow gas samples (using an depth-appropriate attenuation factor). The applicable screening concentrations shall be based upon the EPA OSWER "Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils" or supplemental EPA guidance.

4). The Department may allow MPG to implement vapor intrusion control measures in lieu of the above additional evaluation, or use alternative

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evaluation methods that, in the Department's sole discretion, offer a similar degree of data usability.

H. Institute reasonable Contamination control measures:

1). MPG shall stabilize or remove from the Property any Segregated Sources of Contamination that have not yet released all contents to the environment.

a). The contents of the Segregated Sources shall be properly reused or disposed of in accordance with regulations.

b). MPG shall document the characterization results and ultimate disposition of the materials to the Department within sixty (60) days of removal of any material from the Property.

2). MPG shall take reasonable measures to limit or prevent human exposure to Existing Contamination on the Property:

a). Corrective measures shall be required for Waste Materials and Contamination present in any media on the Property with concentrations in excess of appropriate human-health risk-based exposure standards with plausibly complete routes of exposure.

i. MPG may request Department approval to conduct a site-specific risk assessment to determine levels of Contamination that are acceptable for the intended use of the Property. The risk assessment shall be conducted in accordance with EPA Risk Assessment Guidance for Superfund. Prior to conducting the risk assessment, MPG shall submit for Department approval, an overview of risk assessment assumptions including identification of contaminant exposure routes, the type and duration of possible exposures, the magnitude of exposure, and any data gaps that need to be addressed to complete the risk assessment.

ii. Corrective measures may include removal, encapsulation, barriers, or other methods reasonably expected to limit human exposures to

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the Contamination. The corrective measures shall be proposed in a Corrective Measures Plan to be approved by the Department prior to implementation, and shall be consistent with the intended future use of the Property.

iii. Upon completion of any corrective measures, MPG shall provide a Corrective Measures Report to document satisfactory completion of the corrective measures for Department review and approval prior to obtaining a Certificate of Completion.

I. Monitor and/or abandon the monitoring wells:

1). MPG shall implement a groundwater-monitoring program if required by the Department. Continued monitoring requirements will be based on the Department's determination of potential adverse effects on nearby receptors, i.e., individuals that are presently or potentially exposed to Contamination.

2). The Department will determine the frequency and duration of the monitoring program on a case-specific basis.

3). MPG shall abandon the monitoring well(s) and drinking water well when the Department determines there are no further needs for wells, and prior to potential damage to the wells from redevelopment construction activities. The wells shall be abandoned in accordance with R.61-71 of the South Carolina Well Standards.

HEALTH AND SAFETY PLAN

5. MPG shall prepare and submit under separate cover from the Work Plan, a Health and Safety Plan consistent with Occupational Safety and Health Administration regulations. The Health and Safety Plan shall be submitted to the Department in the form of one hard copy and one electronic copy of the Health and Safety Plan on compact disk (in .pdf format). MPG agrees that the Health and Safety plan is submitted to the Department only for informational purposes. The Department expressly disclaims any liability that may result from implementation of the Health

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and Safety Plan by MPG.

PUBLIC PARTICIPATION

6. MPG and the Department will encourage public participation to implement this Contract as follows:

   A. The Department will provide notice, seek public comment, and initiate a thirty-day claim contribution notification period in accordance with established procedures consistent with S.C. Code Ann. §44-56-750 upon signature of this Contract by MPG.

   B. MPG shall erect a sign at major entrances onto the Property or other locations routinely accessible by the public. The sign(s) shall be erected no later than one day after the Department's public announcement about the Contract in a newspaper of general circulation in the community.

      1). The sign will state "Voluntary Cleanup Project by MPG Two Notch, LLC under Voluntary Cleanup Contract 13-5202-NRP with the South Carolina Department of Health and Environmental Control." The sign shall provide a brief description of the scope of activities under the Contract, and contact information, including telephone number and address, for a representative of MPG. Contact information for the Department shall state "TOLL-FREE TELEPHONE: 1-866-576-3432".

      2). All sign lettering must be of sufficient size to be legible with un-aided normal eyesight from the point where the public will normally pass by the Property without intruding onto the Property.

      3). MPG shall submit photographs of the sign(s) and a Property drawing showing the location(s) of the signs. The photographs shall be submitted to the Department within 10 days of erecting the sign.

      4). MPG agrees to revise the sign if the Department determines the sign is

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inaccurate, not legible, or otherwise ineffectively placed.

5). MPG shall maintain the sign(s) in legible condition and at visible locations throughout the duration of the Contract period until a Certificate of Completion is issued on the Property.

6). The sign(s) may be removed to accommodate building or grading activities; however, MPG shall restore the sign within two (2) days to its original location, or other publicly accessible location upon notice to the Department.

PROGRESS UPDATES

7. MPG shall submit periodic written updates to the Department's project manager until such time as all activities related to the Property are complete pursuant to this Contract. The first update shall be due within 90 days of the execution date of this Contract and semi-annually thereafter.

A. The updates may be in summary letter format, but should include information about:

1). The actions taken under this Contract during the previous reporting period;

2). Actions scheduled to be taken in the next reporting period;

3). Sampling, test results, and any other data in summary form, generated during the previous reporting period regardless of whether the data was collected pursuant to this Contract; and,

4). A description of any environmental problems experienced during the previous reporting period and the actions taken to resolve them.

B. The Department's project manager may allow an extended schedule between updates based on case specific conditions.

SCHEDULE

8. MPG shall perform all activities and response actions pursuant to this Contract in an expeditious manner. In the event that circumstances cause a delay in

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implementation of the response actions, the Department may require implementation of interim measures to stabilize Contamination or prevent unacceptable exposures. MPG shall implement the interim measures in accordance with a Department-approved plan.

DECLARATION OF COVENANTS AND RESTRICTIONS

9. MPG or its Beneficiaries shall enter, and record, a Declaration of Covenants and Restrictions (Declaration) for the Property if Contamination exceeds levels acceptable for unrestricted use after completing the response actions pursuant to this Contract. Contaminant levels acceptable for unrestricted use shall be the Screening Levels for Resident Soil as specified in the EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites for soil, and the primary maximum contaminant level (MCL) standards in the South Carolina State Primary Drinking Water Regulations, R.61-58 for groundwater. The recorded Declaration shall be incorporated into this Contract as an Appendix and shall be implemented as follows:

   A. The Department shall prepare and sign the Declaration prior to providing it to MPG. An authorized representative of MPG or its Beneficiaries shall sign the Declaration within ten (10) days of receipt. All signatures shall be witnessed, and signed and sealed by a notary public.

   B. MPG or its Beneficiaries shall record the executed Declaration with the Registrar of Deeds or Mesne Conveyance for the county where the Property is located.

   C. MPG or its Beneficiaries shall provide a copy of the recorded Declaration to the Department within sixty (60) days of the Department's execution. The copy shall show the date and Book and Page number where the Declaration has been recorded.

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D. In the event that Contamination exceeds levels acceptable for unrestricted use (Regional Screening Levels for residential use) on a portion of the Property, MPG or its Beneficiaries may create a new parcel of that portion of the property that will be subject to the Declaration.

E. The Declaration shall be noted on the master deed of any planned development for the Property and noted, or referenced thererafter, on each individual deed of property subdivided from the Property and subject to the Declaration.

F. The Declaration shall reserve a right of entry and inspection for MPG or its Beneficiaries that may be transferred to another single individual or entity for purposes of compliance monitoring.

   1). MPG or its Beneficiaries shall ensure that the restrictions established by the Declaration remain on any subdivided property.

   2). MPG or its Beneficiaries shall create a procedure to provide a single point of contact responsible for documenting current land use and compliance with the Declaration regardless of the Property's ownership status. The procedure shall be reviewed and approved by the Department before it is implemented.

G. The Declaration shall provide that the Department has an irrevocable right of access to the Property after MPG acquires the Property, and such right of access shall remain until remediation is accomplished for unrestricted use and monitoring is no longer required. Such access shall extend to the Department's authorized representatives and all persons performing response actions on the Property under the Department's oversight.

H. MPG or its Beneficiaries, or the individual or entity responsible for compliance

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monitoring, shall annually document the Property's land use and compliance with the Declaration to the Department. The report shall be submitted by May 31st in a manner and form prescribed by the Department.

I. The Department may amend the Declaration in response to changes in law, completion of remedial actions meeting the applicable standards in effect at the time, or if other circumstances of the Property change; however, said amendment shall not be applied retroactively unless expressly provided for in the legislation. An amendment may strengthen, relax, or remove restrictions based on the Regional Screening Tables in effect at that time; however, the Department shall not impose a more restrictive condition based solely on changes in the Regional Screening Tables. An amendment to the Declaration shall be duly executed and recorded using procedures similar to those detailed above.

NOTIFICATION

10. All notices required to be given by either party to the other shall be in writing. Each party shall have a continuing obligation to identify a contact person, whose name, address, and telephone number must be updated to the other party, throughout the term of the Contract. Notices by electronic mail or facsimile shall be acceptable if acknowledged in writing by the recipient; with the delivery date being the date of acknowledgment or earlier date if stated in the acknowledgment. All other forms of notice shall be deemed sufficiently given if delivered at the address shown below, or at such place or to such agent as the parties may from time to time designate in writing, by: 1) regular U.S. Mail by which notice shall be deemed to occur seven (7) days after the postmark date; 2) Certified or Registered Mail by which notice shall be deemed to occur on the date received as shown on the receipt; 3) Commercial delivery service company by which notice shall be deemed to occur on the date received as shown on the receipt; or, 4) hand delivery to the other party.

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A. All correspondence, notices, work plans, and reports shall be submitted to:

Angela Gorman
Bureau of Land and Waste Management
2600 Bull Street
Columbia, South Carolina 29201

B. All correspondence and notices to MPG shall be submitted to MPG's designated contact person who as of the effective date of this Contract shall be:

Myles H. Wilkinson
MPG Two Notch, LLC
7332 Office Park Place, Suite 101
Melbourne, FL 32940

FINANCIAL REIMBURSEMENT

11. MPG or its Beneficiaries shall reimburse the Department for its public participation costs and for oversight costs of activities specific to this Contract as provided by S.C.Code Ann. §44-56-750 (D). The oversight costs shall include the direct and indirect costs incurred by the Department in implementing the Voluntary Cleanup Program as related to this Contract, and any future amendments thereto, and may include costs related to this Contract and incurred by the Department prior to execution of this Contract. Invoices for oversight costs will be sent to MPG on a quarterly basis. All costs are payable within thirty (30) days of the Department's invoice submitted to:

Myles H. Wilkinson
MPG Two Notch, LLC
7332 Office Park Place, Suite 101
Melbourne, FL 32940

A. Failure to submit timely payment for costs upon receipt of the Department's invoice is grounds for termination of the Contract pursuant to paragraph 16 herein.

B. Payment for costs incurred by the Department pursuant to this Contract shall become immediately due upon termination of the Contract by any party pursuant to paragraph 16 herein.

ACCESS TO THE PROPERTY

12. MPG agrees the Department has an irrevocable right of access to the Property for environmental response matters after MPG acquires the Property. This right of access remains until such time as remediation is accomplished for unrestricted use and monitoring is no longer required, and shall extend to the Department's authorized representatives and all other persons performing response actions on the Property under the Department's oversight.

CERTIFICATE OF COMPLETION AND COVENANT NOT TO SUE

13. A Certificate of Completion shall be issued to MPG or its Beneficiaries for the Property under this Contract as follows:

A. MPG or its Beneficiaries shall request a Certificate of Completion pursuant to S.C. Code Ann. § 44-56-750(C)(1) after the response actions are completed and any required Declarations are recorded pursuant to this Contract. The request shall be in writing and shall report 1) the amount of soil that was removed or remediated on the Property; and 2) the cost of all environmental work conducted pursuant to this Contract.

B. Pursuant to S.C. Code Ann. § 44-56-750(C)(1) the Department shall issue the

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Certificate of Completion with its covenant not to sue upon determining that MPG or its Beneficiaries has successfully and completely complied with the Contract and the voluntary cleanup approved under S.C. Code Ann. § 44-56-710 through 760 (as amended).

C. The Department may issue a Provisional Certificate of Completion if the substantive response actions required under this Contract are complete and a required Declaration has been recorded but all actions under this Contract have not been completed due to Property-specific circumstances.

1). A Provisional Certificate of Completion will include specific performance standards that MPG or its Beneficiaries shall continue to meet.

2). The Provisional Certificate of Completion may include the Department's covenant not to sue for Existing Contamination; however, said covenant shall be automatically revoked if MPG or its Beneficiaries do not satisfactorily complete the requirements of the Contract as stipulated in the Provisional Certificate of Completion.

ECONOMIC BENEFITS REPORTING

14. MPG or its Beneficiaries shall report information to the Department that demonstrates that the activities pursuant to this Contract have been beneficial to the State and community. The report shall be submitted within two (2) years after the execution date of this Contract, and annually thereafter until two (2) years after redevelopment of the Property is complete. MPG shall summarize the new operations at the Property, the number of jobs created, the amount of property taxes paid, and the total amount invested in the Property for property acquisition and capital improvements.

CONTRACT OBLIGATIONS AND PROTECTIONS INURE

15. The terms, conditions, obligations and protections of this Contract apply to and

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inure to the benefit of the Department, MPG, and its Beneficiaries as set forth below. The following stipulations apply to ensure the transition of all obligations and protections to successive Beneficiaries for any portion of the Property:

A. MPG or its Beneficiaries shall provide a copy of this Contract and applicable Appendices to any subsequent Beneficiary. Transmittal of the Contract copy may be via any commonly accepted mechanism.

B. MPG and its Beneficiaries shall not allow residential occupancy on any portion of the Property prior to obtaining the Certificate of Completion or a Provisional Certificate of Completion specific to that portion of the Property allowing residential occupancy.

C. If the Certificate of Completion has not been issued, MPG or its Beneficiaries shall request approval from the Department prior to transferring the obligations and protections of this Contract to a new person or entity. The Department shall not unreasonably withhold its approval upon receipt of a Non-Responsible Party Application for Voluntary Cleanup Contract documenting that the new person or entity:

   1). Is not a Responsible Party for the Site;
   2). Has sufficient resources to complete the activities of this Contract;
   3). Will not use the Property for activities that are inconsistent with the terms and conditions of this Contract,
   4). Will assume the protections and all obligations of this Contract and,
   5). Will, in the Department's sole discretion, provide a measurable benefit to the State and the community as a result of this transfer.

D. If the Certificate of Completion has been issued and the portion of the Property is subject to a Declaration or other ongoing obligation pursuant to this Contract,

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MPG or its Beneficiaries shall provide written notification to the Department identifying the new individual or entity within thirty days after the effective date of the ownership change or other possessory transfer of the Property.

1). The notification shall include a signed statement from the new individual or entity that its use of the Property will remain consistent with the terms of the Contract and the Declaration, and that it will assume the ongoing obligations and protections of this Contract.

2). This requirement is waived for an individual or entity acquiring a portion of the Property for individual residential or commercial use provided the Declaration is noted on the master deed for the planned development, and the Department has approved the procedure for a single point of contact responsible for documenting current land use and compliance with the Covenant.

E. If a Certificate of Completion has been issued and the Property is not subject to a Declaration or other continuing obligation pursuant to this Contract, no notification is required.

CONTRACT TERMINATION

16. MPG, its Beneficiaries, and the Department each reserve the right to unilaterally terminate this Contract by giving thirty days advance written notice to the other party. Termination shall be subject to the following:

A. The Department may not terminate this Contract without cause and before termination, shall provide MPG or its Beneficiaries an opportunity to correct the cause(s) for termination, which may include, but is not limited to, the following:

1). Failure to complete the terms and conditions of this Contract;

2). Change in MPG's or its Beneficiaries' business activities on the Property or use of the Property that are inconsistent with the terms and conditions of this Contract;

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3). Failure to submit timely payment for costs upon receipt of the Department's invoice;

4). Failure of MPG or its Beneficiaries to implement appropriate response actions for additional Contamination or releases caused by MPG or its Beneficiaries;

5). Knowingly providing the Department with false or incomplete information or knowing failure to disclose material information;

6). Failure by MPG or its Beneficiaries to obtain the applicable permits from the Department for the response actions or other activities undertaken at the Property pursuant to this Contract; or,

7). Failure by MPG or its Beneficiaries to make material progress toward the expansion, redevelopment, or reuse of the property as determined by the Department upon consideration of MPG's or its Beneficiaries' marketing efforts, regional economic conditions, and other pertinent information on the Property.

B. Should MPG or its Beneficiaries elect to terminate, that party shall certify to the Department's satisfaction that any environmental or physical hazards caused or contributed by MPG or its Beneficiaries have been stabilized or mitigated such that the Property does not pose hazards to human health or the environment.

C. Termination of this Contract by any party does not waive the Department's authority to require response action under any applicable state or federal law.

D. Termination of this Contract by any party does not end the obligations of MPG or its Beneficiaries to pay costs incurred by the Department pursuant to this Contract. Payment for such costs shall become immediately due.

E. Upon termination, the protections provided under this Contract shall be null and

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void as to any party who participated in actions giving rise to termination of the Contract. Revocation of protections shall also apply to that party's lenders, parents, subsidiaries, , and successors, including lessees, heirs, devisees, and other parties taking an interest in the Property through that party who participated in actions giving rise to termination of the contract. The protections will continue for any party who has received protections through a Certificate of Completion for this Contract, and who did not participate in the actions giving rise to the termination.

ENTITLEMENT OF PROTECTIONS AND BENEFITS

17. MPG and its Beneficiaries are entitled to the protections and benefits in regard to Existing Contamination provided by South Carolina statutes as follows:

A. Effective on the date this Contract is first executed by the Department:
   1). Protection from contribution claims under CERCLA Section 113.42 U.S.C. § 9613 and § 44-56-200, et seq.
   2). Protection from third-party claims as provided by S.C. Code Ann. § 44-56-750(H).
   3). Eligibility to file annual application for Voluntary Cleanup Activity Tax Credits pursuant to S.C Code § 12-6-3550.

B. Effective on the date the Certificate of Completion is issued by the Department.
   1). The Department's covenant not to sue MPG and its Beneficiaries for Existing Contamination but not for any Contamination, releases and consequences caused or contributed by MPG or its Beneficiaries.
   2). Specific tax credits or additional benefits expressly contingent in South Carolina statutes on issuance of the Certificate of Completion.

C. These Protections and Benefits do not apply to any Contamination, releases, and

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consequences caused or contributed by MPG or its Beneficiaries. The Department retains all rights under State and Federal laws to compel MPG and its Beneficiaries to perform or pay for response activity for any Contamination, releases and consequences caused or contributed by MPG or its Beneficiaries.

RESERVATION OF RIGHTS BY THE DEPARTMENT

18. Nothing in this Contract is intended to be, or shall be construed as, a release or covenant not to sue for any claim or cause of action, past or future, that the Department may have against any person, firm, or corporation other than MPG and its Beneficiaries. The Department reserves the right to undertake future response actions at the Site and to seek to compel parties, other than MPG and its Beneficiaries, to perform or pay for response actions at the Site. Nothing in this Contract shall in any way restrict or limit the nature or scope of response actions that may be taken or be required by the Department in exercising its authority under State and Federal law.

RESERVATION OF RIGHTS BY MPG

19. MPG retains all rights to assert claims in law or equity against any person, company, or entity with respect to the Property, except as limited elsewhere by this Contract. MPG and its Beneficiaries specifically deny responsibility for response costs or damages resulting from Existing Contamination except for Contamination, releases, and consequences they cause or contribute to the Property. However, MPG and its Beneficiaries agree to undertake the requirements of this Contract.

BURDEN OF PROOF

20. MPG and its Beneficiaries shall have the continuing obligation to demonstrate that any newly discovered Contamination is not caused or contributed by MPG or its Beneficiaries. MPG and its Beneficiaries shall make this demonstration to the Department's satisfaction in accordance with State or Federal Law applicable to

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such newly discovered Contamination. For purposes of this clause, newly discovered Contamination means finding types of Contamination not previously identified at the Property or substantially higher concentrations of Existing Contamination.

LIMITATION OF CLAIMS BY MPG AND ITS BENEFICIARIES

21. In consideration of the protections from the Department under this Contract, MPG and its Beneficiaries agree not to assert any claims or causes of action against the Department or to seek other costs, damages, or attorney's fees from the Department arising out of activities undertaken at the Property pursuant to this Contract. This limitation shall not extend to any claims or causes of action resulting from the Department's intentional or negligent acts or omissions, or the Department's willful breach of this Contract.

SIGNATORS

22. The signatories below hereby represent that they are authorized to and do enter into this Contract on behalf of their respective parties.

THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

BY: _____ DATE: _____

Daphne G. Neel, Chief
Bureau of Land and Waste Management

DATE: _____

_____
Reviewed by Office of General Counsel

MPG TWO NOTCH, LLC

BY: _____ DATE: 2-21-13

Myles K. Wilkinson
Manager
Printed Name and Title

APPENDIX A

MPG Two Notch, LLC

Application for Non-Responsible Party Voluntary Cleanup Contract

January 15, 2013