

**VOLUNTARY CLEANUP CONTRACT  
13-5875-RP**

**IN THE MATTER OF  
JOSLYN CLARK CONTROLS SITE, LANCASTER COUNTY  
and  
JOSLYN CLARK CONTROLS, LLC**

This Contract is entered into by the South Carolina Department of Health and Environmental Control and Joslyn Clark Controls, LLC, pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. §§ 44-56-710 to 760, as amended, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601 to 9675, as amended, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. §§ 44-56-10 to 850, as amended, with respect to the facility known as the Joslyn Clark Controls Site ("Site"). The Joslyn Clark Controls, LLC property is located at 2013 West Meeting Street, Lancaster, South Carolina. ("Property"). The Property includes approximately 32 acres and is bounded generally on the north by West Meeting Street, beyond which is residential and industrial land; on the south by the Lancaster & Chester Railway, beyond which is rural land owned by L&C Land Holdings Inc., TMS 0083-00-005.00; on the east by apartments owned by New Northeast Apartments, LLC, TMS 066-00-013.00; and on the west by a 2.63 acre parcel owned by American Properties Corporation, TMS 066-00-035.00. It is also bounded on the west by rural land owned by William Joseph Cunningham, TMS 066-00-036.00. The Property is identified by the County of Lancaster as Tax Map Serial Number 0066-00-031.00 and a legal description of the Property is attached to this Contract as Appendix A.

**DEFINITIONS**

1. Unless otherwise expressly provided, terms used in this Contract shall have the meaning assigned to them in CERCLA, the HWMA, and in regulations promulgated under the foregoing statutes, or the Brownfields/Voluntary Cleanup Program.

A. "Joslyn Clark" shall mean Joslyn Clark Controls, LLC. Joslyn Clark is a Delaware Limited Liability Company authorized to do business in



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Clark.

- H. "Response Action" shall mean any assessment, cleanup, inspection, or closure of a Site as necessary to remedy actual or potential damage to public health, public welfare, or the environment.
- I. "The Site" shall mean the Property and all areas where a Hazardous Substance, Pollutant or 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.
- J. "Voluntary Cleanup" shall mean a Response Action taken under and in compliance with the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. §§ 44-56-710 to 760, as amended.
- K. "Work Plan" shall mean the plan for additional Response Actions to be conducted at the Site as described in Paragraph 3 of this Contract.

## FINDINGS

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

- A. The Property was first developed in 1965 as part of a larger 34.63 acre parcel, by Clark Controller, an Ohio Corporation. Upon information and belief, upon development, the site was used to make electrical control components. As part of the process, the facility used trichloroethylene (TCE), then a commonly used degreaser, in preparation for metal plating processes. Degreasing activities were carried on inside the building constructed onsite, and the facility used adjacent wastewater lagoons for waste disposal. In 1965, Clark Controller (OH) merged into A.O. Smith Corporation, a New York Corporation. In 1970, Clark Controller (OH) was dissolved. In 1974, a separate corporation, Clark Control, a Delaware Corporation, was

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created, and in December of 1974 AO Smith sold the 34.63 acre parcel to Clark Control (DE) as part of an asset acquisition. At some time prior to December 20, 1979, GTE Sylvania Incorporated, a Delaware Corporation, had acquired all the stock of Clark Control (DE) and on January 1, 1980 merged Clark Control (DE) and 19 other companies into it, and changed its name to GTE Products Corporation (DE). During this period of time the site continued to be used for the same purpose, operating under RCRA hazardous waste generator registration SCD066323452. During that same year Clark Control, (DE) was merged out of existence. On October 28 1983, Challenger Electrical Controls, a Delaware corporation, was created as a wholly owned subsidiary of GTE Products (DE). On October 30, 1983, GTE Products sold the 34.63 acre parcel to Challenger Electrical Controls (DE).

On August 22, 1984, Joslyn Manufacturing and Supply, an Illinois Corporation, incorporated Joslyn Clark Controls, a Delaware Corporation, as its wholly owned subsidiary. On August 23, 1984, Challenger Electrical Controls subdivided the 34.63 acre parcel and conveyed a 32 acre portion of it to Joslyn Clark Controls. Challenger Electrical Controls retained ownership of a 2.63 acre parcel that contained the facility's wastewater lagoons.

From August 23, 1984 until 2009 Joslyn Clark Controls Inc. (DE), and its successor, Joslyn Clark Controls, LLC (DE) operated the 32 acre site to manufacture electrical control equipment, although at no time did it ever own or operate the 2.63 acre parcel upon which the former lagoons were located.

Historic uses of the 32-acre Property included spills and leaks inside the building resulting in a TCE release under the building slab impacting groundwater ("the Building Plume"). Historic use of the 2.63 acre parcel prior to August 23, 1984, included wastewater discharges to the wastewater lagoons resulting in a separate release

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also impacting groundwater (“the Lagoon Plume”).

Since discovery of the releases in 2009, Joslyn Clark has been working on assessment of the building plume and distinguishing the impacts of the two plumes.

- B. Joslyn Clark’s consultants conducted a preliminary soil assessment of the Property in April 2009, the results of which indicated low levels of TCE in site soils. The results of the soil analyses were reported to the Department in May of that year. At the Department’s request, Joslyn Clark’s consultant prepared a Groundwater Assessment Plan and submitted it to the Department in August 2009. By December 2009, the consultant had completed and submitted to the Department a Soil and Groundwater Assessment which showed the presence of only trace TCE in onsite soils, but up to 2,700 ug/L TCE in groundwater.
- C. During January of 2011, the Department requested that Joslyn Clark prepare a work plan for additional assessment and a sensitive receptor survey (SRS). The SRS indicated that the closest water supply well to the site was located at a trailer park about 645 feet upgradient from the Joslyn Clark site and according to the property owner, was not in use. The next closest water well was almost 3,500 feet from the Joslyn Clark site, also in the general upgradient direction. In August of 2011, the Department approved the assessment work plan, which involved more soil and groundwater sampling. The resulting report, submitted to the Department during February of 2012, indicated that there are two separate plumes of affected groundwater. One of the groundwater plumes emanates from the Joslyn Clark building (the Building Plume) located on the 32-acre Property. The second groundwater plume emanates from the former wastewater lagoons located on the 2.63-acre adjacent parcel (the Lagoon Plume). Joslyn Clark is now preparing a Work Plan for submittal to the Department to address additional pre-remediation assessment activities at the Site.



A summary of the assessment reports previously submitted to the Department is presented below:

- i. Phase II Site Assessment, by ERM dated December 9, 2009;
- ii. Sensitive Receptor Survey, by ERM dated March 3, 2011;
- iii. Phase III Site Assessment, by ERM dated February 23, 2012;
- iv. Pre-Remedial Assessment Plan, by ERM dated September 11, 2012; and
- v. Pre-Remedial Assessment Soil Gas Survey Result Report by ERM, dated January 23, 2013, revised March 7, 2013.
- vi. Pre Remedial Assessment Soil Gas Survey Revised, March 7, 2013.

### RESPONSE ACTIONS

3. Joslyn Clark agrees to submit to the Department for review and written approval within thirty (30) days of the execution date of this Contract a Work Plan for the Site that is consistent with the technical intent of the National Contingency Plan. The Work Plan shall be implemented upon written approval from the Department. The Work Plan shall include the names, addresses, and telephone numbers of the consulting firm, the analytical laboratory certified by the Department, and Joslyn Clark's contact person for matters relating to this Contract. Joslyn Clark will notify the Department in writing of changes in the contractor or laboratory. The Department will review the Work Plan and will notify Joslyn Clark in writing of any deficiencies in the Work Plan, and Joslyn Clark will respond in writing within thirty (30) days to the Department's comments. The Work Plan and all associated reports shall be prepared in accordance with industry standards and endorsed by a Professional Engineer (P.E.) and/or Professional Geologist (P.G.) duly-licensed in South Carolina and shall set forth methods and schedules for accomplishing the following tasks:

- A. Conduct a Remedial Investigation (RI) to determine the source, nature, and extent of Contamination at the Site, including the contamination identified in Part 2 (Findings).
- B. Submit to the Department an RI Report (to include a Baseline Risk



Assessment or other evaluation of risk to human health and the environment) in accordance with the schedule in the approved RI Work Plan. The Department shall review the report for determination of completeness of the RI and sufficiency of the documentation. If the Department determines that the field investigation is not complete, it will send written notification of such to Joslyn Clark, and Joslyn Clark shall subsequently conduct additional field investigation to further determine the source, nature, and extent of Contamination. If the Department determines that the field investigation is complete but the report is incomplete, the Department shall send to Joslyn Clark a letter indicating that revision of the report is necessary. Within thirty-(30)-days of receipt of such letter from the Department, Joslyn Clark shall submit a revised report addressing the Department's comments.

- C. If determined necessary by the Department, conduct a Feasibility Study to evaluate remedial alternatives for addressing Contamination at the Site.

4. Joslyn Clark shall prepare and submit under separate cover from the Work Plan, a Health and Safety Plan that is consistent with Occupational Safety and Health Administration regulations. The Health and Safety Plan is submitted for information purposes only to the Department. The Department expressly disclaims any liability that may result from implementation of the Health and Safety Plan by Joslyn Clark.

5. Joslyn Clark shall inform the Department in writing at least five (5) working days in advance of all field activities pursuant to this Contract and, if deemed necessary by the Department, shall allow the Department and its authorized representatives to take duplicates of any samples collected by Joslyn Clark pursuant to this Contract.

6. Within sixty (60) days of the execution date of this Contract and quarterly thereafter, Joslyn Clark shall submit to the Department a written progress report that must include the following: (A) actions taken under this Contract during the previous reporting period; (B)

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actions scheduled to be taken in the next reporting period; (C) sampling, test results, and any other data, in summary form, generated during the previous reporting period, whether generated pursuant to this Contract or not; and (D) a description of any environmental problems experienced during the previous reporting period and the actions taken to resolve them.

7. All correspondence which may or are required or permitted to be given by either party to the other hereunder shall be in writing and deemed sufficiently given if delivered by (A) regular U.S. mail, (B) certified or registered mail, postage prepaid, return receipt requested, or (C) nationally recognized overnight delivery service company, or (D) by hand delivery to the other party at the address shown below or at such place or to such agent as the parties may from time to time designate in writing.

Unless otherwise directed in writing by either party, all correspondence, work plans, and reports should be submitted to:

The Department: Lucas Berresford  
South Carolina Department Health & Environmental Control  
Bureau of Land and Waste Management  
2600 Bull Street  
Columbia, South Carolina 29201  
berresjl@dhec.sc.gov

Joslyn Clark Joslyn Clark Controls, LLC  
Carl S. Grabinski, V.P. & Corporate Counsel  
c/o Videojet Technologies, Inc.  
1500 Mittel Blvd.  
Wood Dale, IL 60191

All final work plans and reports shall include two (2) paper copies and one (1) electronic copy on compact disk.

### PUBLIC PARTICIPATION

8. Upon execution of this Contract, the Department will seek public participation in accordance with S.C. Code Ann. § 44-56-740(D), and not inconsistent with the National Contingency Plan. Joslyn Clark will pay costs of response associated with public



participation (e.g., publication of public notice(s), building and equipment rental(s) for public meetings, etc.).

### COSTS OF RESPONSE

9. Joslyn Clark shall, within thirty (30) days of the execution date of this Contract, pay to the Department by certified or cashier's check the sum of three thousand dollars (\$3,000.00) to reimburse estimated past costs of response incurred by the Department through June 30, 2012 ("Past Costs") relating to the Site. Joslyn Clark's payment for Past Costs should be submitted to:

The Department:        John K. Cresswell  
                                     South Carolina Department of Health & Environmental Control  
                                     Bureau of Land and Waste Management  
                                     2600 Bull Street  
                                     Columbia, SC 29201

In accordance with S.C. Code Ann. §§ 44-56-200 and 44-56-740, Joslyn Clark shall, on a quarterly basis, reimburse the Department for Oversight Costs of activities required under this Contract occurring after April 1, 2013. Oversight Costs include, but are not limited to, the direct and indirect costs of negotiating the terms of this Contract, reviewing Work Plans and reports, supervising corresponding work and activities and costs associated with public participation. Payments will be due within thirty (30) days of the Department's invoice date. The Department shall provide documentation of its Oversight Costs in sufficient detail so as to show the personnel involved, amount of time spent on the project for each person, expenses, and other specific costs. Invoices shall be submitted to:

Joslyn Clark Controls, LLC  
Carl S. Grabinski, V.P. & Corporate Counsel  
c/o Videojet Technologies, Inc.  
1500 Mittel Blvd.  
Wood Dale, IL 60191

All of Joslyn Clark's payments should reference the Contract number on page 1 of this Contract and be made payable to:

**The South Carolina Department of Health & Environmental Control**

If complete payment of the past costs of response or of the quarterly billing of

Oversight Costs is not received by the Department by the due date, the Department may bring an action to recover the amount owed and all costs incurred by the Department in bringing the action including, but not limited to, attorney's fees, Department personnel costs, witness costs, court costs, and deposition costs.

### ACCESS

10. The Department, its authorized officers, employees, representatives, and all other persons performing Response Actions will not be denied access to the Site during normal business hours or at any time work under this Contract is being performed or during any environmental emergency or imminent threat situation, as determined by the Department (or as allowed by applicable law). All of the Department's costs associated with access and said Response Actions will be reimbursed by Joslyn Clark. Joslyn Clark and subsequent owners of the Property shall ensure that a copy of this Contract is provided to any lessee or successor or other transferee of the Property, and to any owner of other property that is included in the Site. If Joslyn Clark is unable to obtain access from the Property owner, the Department may obtain access and perform response activities.

### RESTRICTIVE COVENANT

11. If hazardous substances in excess of residential standards exist at the Property after Joslyn Clark have completed the actions required under this Contract, Joslyn Clark shall enter and file a restrictive covenant. Upon the Department's approval of the items outlined therein, the restrictive covenant shall be signed by the Department and representatives of Joslyn Clark and, if the Property is not owned by the Joslyn Clark, the current owner of the Property, and witnessed, signed, and sealed by a notary public. Joslyn Clark shall file this restrictive covenant with the Register of Mesne Conveyance or Deeds in the county in which the Property is located. The signed covenant shall be incorporated into this Contract as an Appendix. A Certificate of Completion shall not be issued by the Department until the Restrictive Covenant, if required, is executed and recorded. With the approval of the Department, the restrictive covenant may be modified in the future if additional remedial activities are carried out which meet appropriate clean-up standards at that time or circumstances change such that the restrictive covenant would no

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longer be applicable. The Department may require Joslyn Clark or subsequent owners of the Property to modify the restrictive covenant if a significant change in law or circumstances requiring remediation occurs. Joslyn Clark or subsequent owners of the Property shall file an annual report with the Department by May 31<sup>st</sup> of each year detailing the current land uses and compliance with the restrictive covenants for as long as the restrictive covenant remains in effect on the Property. The report must be submitted in a manner prescribed by the Department.

### OBLIGATIONS AND BENEFITS

12. Upon execution of this Contract by the Department, Joslyn Clark, its signatories, parents, subsidiaries, successors and assigns, shall be deemed to have resolved its liability to the State in an administrative settlement for purposes of, and to the extent authorized under 42 U.S.C. § 9613(f)(2) and § 9613(f)((3)(B), S.C. Code Ann. § 44-56-200 (2002), for the response actions specifically covered in the Contract including the approved Work Plan(s) and reports. A thirty (30) day comment period shall be required prior to the Department's execution of the Contract, and shall commence upon publication of the notice of the proposed Contract in the South Carolina State Register.

13. The terms, conditions, obligations and protections of this Contract apply to and inure to the benefit of Joslyn Clark's signatories, parents, successors, assigns, and subsidiaries.

14. Subject to Paragraph 17, 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 not a signatory of this Contract or a signatory's parent, successor, assign, or subsidiary.

15. Subject to Paragraph 17, nothing in this Contract is intended to limit the right of the Department to undertake future Response Actions at the Site or to seek to compel parties to perform or pay for costs of 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.

THIS IS CERTIFIED AS A TRUE  
AND CORRECT COPY

SIGNATURE \_\_\_\_\_

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16. Subject to the provisions of Paragraph 17, 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 that the Department may have against Joslyn Clark for any matters not expressly included in this Contract.

17. Upon successful completion of the terms of this Contract and the approved Work Plan as referenced in Paragraph 3 above, Joslyn Clark shall submit to the Department a written notice of completion.

Once the Department determines that Joslyn Clark has successfully and completely complied with this Contract, the Department, pursuant to S.C. Code Ann. § 44-56-740(A)(5) and (B)(1), shall issue Joslyn Clark a Certificate of Completion that provides a covenant not to sue to Joslyn Clark, its signatories, parents, successors, and subsidiaries, for the work done in completing the Response Actions specifically covered in the Contract and completed in accordance with the approved work plans and reports. The covenant not to sue and administrative settlement for purposes of contribution protection are contingent upon the Department's determination that Joslyn Clark successfully and completely complied with the Contract.

In consideration of the Department's covenant not to sue, Joslyn Clark its signatories, parents, successors, assigns, and subsidiaries agree not to assert any claims or causes of action against the Department arising out of activities undertaken at the Site or to seek other costs, damages, or attorney's fees from the Department arising out of activities undertaken at the Site, except for those claims or causes of action resulting from the Department's intentional or grossly negligent acts or omissions.

18. Joslyn Clark and the Department each reserve the right to unilaterally terminate this Contract. Termination may be accomplished by giving a thirty-(30)-day advance written notice of the election to terminate this Contract to the other party. Should Joslyn Clark or subsequent owners of the Site elect to terminate, it must submit to the Department all data generated pursuant to this Contract, and certify to the Department's satisfaction that any environmental or physical hazard shall be stabilized and/or mitigated such that the Site

does not pose a hazard to human health or the environment that did not exist prior to any initial Response Action addressing Contamination identified in this Contract.

19. The Department may terminate this Contract only for cause, which may include but is not limited to, the following:

- A. Events or circumstances at the Site that are inconsistent with the terms and conditions of this Contract;
- B. Failure to complete the terms of this Contract or the Work Plan;
- C. Failure to submit timely payments for Past Costs and/or for Oversight Costs as defined in Paragraph 9 above;
- D. Additional Contamination or releases or consequences at the Site caused by Joslyn Clark its parents, successors, assigns, and subsidiaries;
- E. Providing the Department with false or incomplete information or knowingly failing to disclose material information;
- F. Change in Joslyn Clark's or its parents, successors, assigns, and subsidiaries business activities on the Property or use of the Property that are inconsistent with the terms and conditions of this Contract; or
- G. Failure by Joslyn Clark to obtain the applicable permits from the Department for any Response Actions or other activities undertaken at the Property.

20. Upon termination of the Contract under Paragraph 18 or 19, the covenant not to sue and administrative settlement for purposes of contribution protection shall be null and void. Termination of the Contract by Joslyn Clark or the Department does not end the obligations to pay Oversight Costs already incurred by the Department and payment of such costs shall become immediately due.

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

THIS IS CERTIFIED AS A TRUE  
AND CORRECT COPY

SIGNATURE AW

THE SOUTH CAROLINA DEPARTMENT OF HEALTH  
AND ENVIRONMENTAL CONTROL

BY: Daphne G. Neel  
Daphne G. Neel, Chief  
Bureau of Land and Waste Management  
Environmental Quality Control

DATE: 10/2/13

Claire W. Prince  
Reviewed by Office of General Counsel

DATE: 9/30/13

JOSLYN CLARK CONTROLS, LLC

Carl S. Grabinski  
Signature

DATE: June 18, 2013

CARL S. GRABINSKI, VICE PRESIDENT  
Printed Name and Title

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Legal Description of the Property

County of Lancaster

Tax Map Serial Number 0066-00-031.00

"All that certain piece, parcel or tract of land, together with the improvements located thereon, lying, being and situate in Lancaster County, South Carolina, approximately three miles West of the City of Lancaster on the southerly side of South Carolina Highway No. 9, bounded on the north by the right of way for South Carolina Highway No. 9, on the east by property now or formerly of Northwest Apartments, on the south by the right of way for the Lancaster & Chester Railroad Company, and on the West by property now or formerly of Joe Cunningham and property of Challenger Electrical Controls, Inc., said tract more particularly shown, described and designated as follows on plat of survey entitled 'Physical Survey of Joslyn Clark Controls, Inc.' dated August 22, 1984, surveyed by R. H. Iseley and J.C. Crumpler:

BEGINNING AT A POINT at the northwestern corner of said tract located on the southern margin of the right of way for South Carolina Highway No. 9, marked by an iron pin, thence along the southern margin of the right of way for South Carolina Highway No. 9 S 51° 00' 00" E for a distance of 1074.65 feet to an old iron pin, thence leaving the right of way for South Carolina Highway No 9 S 39° 00' 00" W along the common property line with property now or formerly of Northwest Apartments for a distance of 1147.86 feet to an old iron pin located on the northern margin of the right of way for the Lancaster & Chester Railroad Company, thence with the northern margin of the right of way for the Lancaster & Chester Railroad Company N 67° 17' 00" W 117.87 feet to an iron pin, thence N 66° 42' 00" W 202.54 feet to an iron pin, thence N 66° 51' 00" W 260.55 feet to an iron pin, thence N 66° 54' 00" W 614.56 feet to an old iron pin, thence leaving the right of way for the Lancaster & Chester Railroad Company N 39° 00' 00" E along the common property line with property now or formerly of Joe Cunningham for a distance of 350.52 feet to an iron pin, thence along the common property line with property of Challenger Electrical Controls, Inc. S 51° 00' 00" E 135.00 feet to an iron pin, thence N 39° 00' 00" E 270.00 feet to an iron pin, thence N 02° 08' 50" E 75.01 feet to an iron pin, thence N 39° 00' 00" E 746.88 feet to an iron pin, thence N 22° 04' 15" E 50.28 feet to an iron pin, the point of beginning: said tract containing 32.00 acres according to the aforementioned plat of survey."

Being a portion of the property conveyed to Challenger Electrical Controls, Inc. by Deed of GTE Products Corporation dated November 30, 1983, filed for record January 12, 1984 at 12:30 p.m., Deed Book E-6 at page 5698, Office of the Clerk of Court for Lancaster County, South Carolina.