IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA, STATE OF DELAWARE DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL, SOUTH CAROLINA DEPARTMENT OF HEALTH & ENVIRONMENTAL CONTROL and the CHATTANOOGA-HAMILTON COUNTY AIR POLLUTION CONTROL BOARD	)	
Plaintiffs,	)	Civil Action No. _____
v.	)	Judge _____
INVISTA S.à r.l.	)	
Defendant.	)	

CONSENT DECREE

Whereas, this Consent Decree is made by and between the United States of America, at the request and on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), the State of Delaware Department of Natural Resources and Environmental Control, the South Carolina Department of Health & Environmental Control, the Chattanooga-Hamilton County Air Pollution Control Board (collectively "Plaintiffs") and INVISTA S.à r.l ("INVISTA").

Whereas, Plaintiffs, by and through their undersigned counsel, have simultaneously filed Complaints and lodged this Consent Decree against INVISTA.

Whereas, INVISTA is a privately-owned integrated fibers and polymers company registered as a foreign limited liability company in the State of Delaware and headquartered in Wichita, Kansas.

Whereas, on April 30, 2004 (the "Closing Date"), E.I. du Pont de Nemours and Company and INVISTA finalized the sale of the DuPont Textiles & Interiors assets to INVISTA S.à r.l. The transaction involved over forty sites worldwide. Twelve facilities were located in the United States, specifically at: Athens, GA; Calhoun, GA; Camden, SC; Chattanooga, TN; Dalton, GA; Kinston, NC; LaPorte, TX; Martinsville, VA; Orange, TX; Seaford, DE; Victoria, TX; and Waynesboro, VA ("Acquired Facilities").

Whereas, EPA recognizes the critical role of environmental auditing in protecting human health and the environment by identifying, correcting, and ultimately preventing violations of environmental laws, particularly by responsible corporate citizens and new owners.

Whereas, as a result of the identification and disclosure of certain pre-Closing Date environmental noncompliance existing at some of the Acquired Facilities, INVISTA and EPA in July and August 2004 agreed that, pursuant to EPA's Policy on Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations, 65 Fed. Reg. 19618 (Apr. 11, 2000) ("EPA's Audit Policy"), INVISTA would continue implementation of its Compliance Assurance Management System ("CAMS") and conduct audits at the Acquired Facilities (hereinafter referred to as the "Corporate Audit Agreement"). In order to avail itself of the benefits afforded under EPA's Audit Policy, INVISTA entered into the Corporate Audit Agreement and was required thereunder to complete environmental compliance audits in addition to continued implementation of its CAMS at the Acquired Facilities covering the following statutes and implementing regulations thereof, corresponding state or local laws and regulations, and any permits issued under these laws (hereinafter referred to collectively as "Environmental Requirements"): the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. §§ 11001 to 11050; the Clean Water Act (CWA), 42 U.S.C. §§ 1251 to 1387; the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 to 6992k; the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. §§ 136 to 136y; Section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9603(a); the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300f to 300j-26; and the Clean Air Act (CAA), 42 U.S.C. §§ 7401 to 7671q.

Whereas, over the course of 33 months, INVISTA conducted 23 comprehensive and 22 focused environmental audits examining the pre- and post-Closing Date compliance of the Acquired Facilities with the Environmental Requirements. During and upon completion of those audits, consistent with EPA's Audit Policy, INVISTA timely disclosed the violations identified in Appendices A, B, and C.

Whereas for the findings contained in Appendices A, B, and C, the Plaintiffs performed reviews of INVISTA's quarterly and final reports submitted pursuant to the Corporate Audit Agreement, which detailed the auditors' factual, technical, and legal findings. The Plaintiffs' review also included site visits to three Acquired Facilities that were related to the findings of violation and consideration of appropriate remedies, a series of technical meetings, legal and technical correspondence regarding the findings of violations and consideration of appropriate remedies, supplemental information requests, and a review of information and site-specific data submitted by INVISTA in response to Plaintiffs' requests. After that review the Plaintiffs determined, based on the foregoing, that violations of Environmental Requirements had occurred as set forth in Appendices A, B, and C.

Whereas, based upon the results of those audits, the United States alleges that violations of Environmental Requirements have taken place at INVISTA's Acquired Facilities as set forth in Appendices A, B, and C, and that INVISTA has certified that all violations in Appendix A have been corrected.

Whereas, due to significant complexities requiring further investigation, analysis, and potential corrective actions, INVISTA and EPA have agreed to resolve RCRA and CWA disclosures pertaining to the wastewater treatment and conveyance systems at INVISTA's LaPorte, Orange, and Victoria facilities in a future agreement, if necessary, with the understanding that this Consent Decree shall not prevent such disclosures from receiving coverage under EPA's Audit Policy.

Whereas, based on the representations by INVISTA, EPA has determined that the violations as set forth in Appendices A, B, and C have met the conditions of EPA's Audit Policy and are appropriate for resolution in accordance with the Policy.

Whereas, based upon the results of the audits, the United States, the State of Delaware Department of Natural Resources and Environmental Control, the South Carolina Department of Health & Environmental Control, and the Chattanooga-Hamilton County Air Pollution Control Board allege that violations of certain Clean Air Act programs and their implementing federal, state, and/or local regulations have been and/or are continuing to take place at certain of INVISTA's Acquired Facilities, including: the Nonattainment New Source Review and/or Prevention of Significant Deterioration programs (NNSR/PSD), 42 U.S.C. §§ 7502, 7503, and 7475; the New Source Performance Standards (NSPS), 42 U.S.C. § 7411; National Emissions Standards for Hazardous Air Pollutants (NESHAP), 42 U.S.C. § 7412; and Leak Detection and Repair (LDAR) requirements 42 U.S.C. §§ 7411-7412.

Whereas, the Plaintiffs and INVISTA wish to resolve the violations of Environmental Requirements that INVISTA has already corrected or is required to correct under this Decree by providing for the performance of injunctive relief and payment of civil penalties for the disclosed violations, as provided herein.

Whereas, the Plaintiffs and INVISTA agree that the amount of civil penalty set forth herein was negotiated in recognition of INVISTA's audit of the Acquired Facilities and agreement to disclose the violations it discovered.

Whereas, the Plaintiffs and INVISTA agree, and this Court by entering this Consent Decree finds, that: (i) this Consent Decree has been negotiated by the Parties in good faith and at arm's length; (ii) settlement of this matter will avoid prolonged and complicated litigation among the Parties; and (iii) this Consent Decree is fair, reasonable, in the public interest and consistent with the goals of the Environmental Requirements.

Whereas, INVISTA consents to the simultaneous filing of the complaints and lodging of this Consent Decree against INVISTA, without the admission of liability or any adjudication on any issue of fact or law.

THEREFORE, upon the consent and agreement of the Parties to this Consent Decree by their attorneys and/or authorized officials, the Parties agree as follows:

I. JURISDICTION AND VENUE

1. This Court shall have jurisdiction over this matter pursuant to 28 U.S.C. §§ 157, 1331, 1334, 1345, 1355 and 1367; Sections 113, 167 and 304(b)(1)(B) of the CAA, as amended, 42 U.S.C. §§ 7413, 7477 and 7604(b)(1)(B); Sections 309 and 311(b)(7)(E) of the CWA, 33 U.S.C. §§ 1319, 1321(b)(7)(E); Section 325(c)(4) of EPCRA, 42 U.S.C. § 11045; Section 109 of CERCLA, 42 U.S.C. § 9609; Sections 16 and 27(a) of FIFRA, 7 U.S.C. §§ 136n and 136w-2(a); Sections 1414(b) and 1423(b) of the SDWA, 42 U.S.C. §§ 300g-3(b), 300h-2(b); and Sections 3008(a) and 9006(e) of RCRA, 42 U.S.C. §§ 6928(a), 6991(e).

2. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)-(c) and 1395(a); CAA § 113(b), 42 U.S.C. § 7413(b); FIFRA § 16, 7 U.S.C. § 136n; CWA §§ 309(b), 311(b)(7)(E), 33 U.S.C. §§ 1319(b), 1321(b)(7)(E); CERCLA § 109(c), 42 U.S.C. § 9609(c); EPCRA §§ 325(a)-(c), 42 U.S.C. §§ 11045(a)-(c); SDWA §§ 1414(b) and 1423(b), 42 U.S.C. §§ 300g-3(b), 300h-2(b); and RCRA §§ 3008(a), 9006, 42 U.S.C. §§ 6928(a), 6991e(a).

3. Solely for the purposes of this Consent Decree and the underlying Complaints, INVISTA waives all objections and defenses that it may have to the Court's jurisdiction over this action, to the Court's jurisdiction over INVISTA, and to venue in this District. For purposes of the Complaint filed by the Plaintiffs in this matter and resolved by the Consent Decree, and for purposes of entry and enforcement of this Consent Decree, INVISTA waives any defense or objection based on standing. This Consent Decree shall not create any rights in or grant any cause of action to any party other than the Plaintiffs and INVISTA. This Consent Decree does not limit or affect the rights of INVISTA or of any of the Plaintiffs against third parties who are not a party to this Consent Decree, nor shall this Consent Decree be construed to create rights in, or grant any cause of action to, any third parties not a party to this Consent Decree. Except as provided in Section XXIII (Public Comment) of this Consent Decree, the Parties consent to entry of this Consent Decree.

II. PARTIES BOUND

4. The provisions of this Consent Decree shall apply to the Acquired Facilities. This Consent Decree is binding on the United States, the State of Delaware Department of Natural Resources and Environmental Control, the South Carolina Department of Health & Environmental Control, the Chattanooga-Hamilton County Air Pollution Control Board, INVISTA and INVISTA's successors, transferees, grantees and assigns until the Consent Decree is terminated pursuant to Section XXVII (Termination). No transfer of ownership or operation of an Acquired Facility shall relieve INVISTA of its obligation to ensure that the terms of the Decree are implemented, unless the requirements of Section XIX (Sales or Transfers) are met.

5. INVISTA shall provide a copy of the applicable provisions of this Consent Decree to all vendors, suppliers, consultants, contractors, agents and any other company or other organization performing any of the work described under Sections IV (NNSR/PSD), V (NSPS), VI (BWON), or VII (LDAR) of this Consent Decree. Notwithstanding any retention of contractors, subcontractors, or agents to perform any work required under this Consent Decree, INVISTA shall be responsible for ensuring that all work is performed in accordance with the

requirements of this Consent Decree. In any action to enforce this Consent Decree, INVISTA shall not assert as a defense the failure of its officers, directors, employees, servants, agents or contractors to take actions necessary to comply with this Consent Decree, unless INVISTA establishes that such failure resulted from a Force Majeure event as defined in this Consent Decree.

III. DEFINITIONS

6. Unless otherwise defined herein, terms used in this Consent Decree shall have the meaning given to those terms in the CWA, EPCRA, CAA, FIFRA, CERCLA, and RCRA and the regulations promulgated thereunder. Whenever the terms listed below are used in this Consent Decree, the following definitions shall apply:

A. A "24-Hour Rolling Average Emission Rate" shall be expressed as lb/MMBTU for each pollutant in question and calculated in accordance with the following procedure: first, sum the total pounds of the pollutant in question emitted from the Unit during the most recent clock hour and the previous 23 clock hours; second, sum the total heat input to the Unit in MMBTU during the most recent clock hour and the previous 23 clock hours; and third, divide the total number of pounds of the pollutant emitted during the 24 hour period by the total heat input during the 24 hour period. A new 24-Hour Rolling Average Emission Rate shall be calculated for each additional clock hour of operation.

B. A "30-Day Rolling Average Emission Rate" shall be expressed as lb/MMBTU for each pollutant in question and calculated in accordance with the following procedure: first, sum the total pounds of the pollutant in question emitted from the Unit during an Operating Day and the previous 29 Operating Days; second, sum the total heat input to the Unit in MMBTU during an Operating Day and the previous 29 Operating Days; and third, divide the total number of pounds of the pollutant emitted during the 30 Operating Days by the total heat input during the 30 Operating Days. A new 30-Day Rolling Average Emission Rate shall be calculated for each Operating Day. Each 30-Day Rolling Average Emission Rate shall include all emissions that occur during all periods of Startup, Shutdown, and Malfunction within an Operating Day.

C. A "24-Hour Rolling Average Removal Efficiency" means the percent reduction in the mass of each pollutant in question achieved by a Unit's pollution control device over a 24-hour period. This percent reduction shall be calculated by subtracting the outlet 24-Hour Rolling Average Emission Rate from the inlet 24-Hour Rolling Average Emission Rate, dividing that difference by the inlet 24-Hour Rolling Average Emission Rate, and then multiplying by 100. A new 24-Hour Rolling Average Removal Efficiency shall be calculated for each new hour.

D. A"30-Day Rolling Tonnage" means the sum of the tons of each pollutant in question emitted from the Unit or Units in the most recent calendar day and the previous twenty-nine (29) calendar days. A 30-Day Rolling Tonnage shall be calculated for each new calendar day in accordance with the provisions of this Consent Decree. The calculation of each

30-Day Rolling Tonnage shall include the pollutants emitted during periods of Startup, Shutdown, and Malfunction within each calendar month.

E. A "12-Month Rolling Heat Input Percentage" means the sum of the total heat input from the fuel type in question in the most recent complete month and the previous eleven (11) months divided by the sum of the total heat input from all fuel types in the most recent complete month and the previous eleven (11) months.

F. A "12-Month Rolling Tonnage" means the sum of the tons of the pollutant in question emitted from the Unit or Units in the most recent complete month and the previous eleven (11) months. A 12-Month Rolling Tonnage shall be calculated for each new complete calendar month in accordance with the provisions of this Consent Decree. The calculation of a 12-Month Rolling Tonnage shall include the pollutants emitted during periods of Startup, Shutdown, and Malfunction within each calendar month. Calculation of the first 12-Month Rolling Tonnage shall commence 12 months after the applicable emission limit takes effect.

G. "Acquired Facilities" shall mean the INVISTA facilities located at: Athens, GA; Calhoun, GA; Camden, SC; Chattanooga, TN; Dalton, GA; Kinston, NC; LaPorte, TX; Martinsville, VA; Orange, TX; Seaford, DE; Victoria, TX; and Waynesboro, VA.

H. "ADN" shall mean adiponitrile.

I. "ADN Area" shall mean the area where adiponitrile is manufactured and does not include the HCN process or Promoter Area at the Orange Facility or the HCN process area at Victoria.

J. "Applicable Co-Plaintiff" shall mean the following parties with respect to the following Acquired Facilities: Camden Facility - the SCDHEC; Chattanooga Facility - the CHCAPCB; and Seaford Facility - State of Delaware through the DNREC.

K. "Audit," except as used in Section VII (Leak Detection and Repair Program Enhancements), shall mean the assessments of compliance with the Environmental Requirements conducted by or at the direction of INVISTA at the Acquired Facilities pursuant to the Corporate Audit Agreement between INVISTA and EPA.

L. "Athens Facility" means the INVISTA facility located at 110 Voyles Road, Athens, Georgia.

M. "Calhoun Facility" means the INVISTA facility located at 220 Boling Industry Way, Calhoun, Georgia.

N. "Camden Facility" means the INVISTA facility located at 643 Highway 1 South, Lugoff, South Carolina.

O. "CEMS" or "Continuous Emission Monitoring System" means, for obligations involving NO_x and SO_2 under this Consent Decree, the devices defined in 40 C.F.R.

§ 60 Appendix B and installed and maintained as required by 40 C.F.R. Part 60; for the Camden Facility, which is subject to 40 C.F.R. Part 75, its CEMS may be installed, certified, and maintained under 40 C.F.R. Part 75, provided that the Facility reports emissions required by this Consent Decree pursuant to the provisions of 40 C.F.R. Part 60.

P. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675, and its implementing regulations.

Q. "CHCAPCB" means the Chattanooga-Hamilton County Air Pollution Control Board and any successor departments or agencies.

R. "Chattanooga Facility" means the INVISTA facility located at 4501 N. Access Road, Chattanooga, Tennessee.

S. "Clean Air Act" or "CAA" means the federal Clean Air Act, 42 U.S.C. §§7401-7671q, and its implementing regulations.

T. "Clean Water Act" or "CWA" means the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251-1387, and its implementing regulations.

U. "Cold Startup Period" occurs whenever there has been no fire in the boiler of a Unit (no combustion of any Fossil Fuel) for a period of six (6) hours or more, and means the time between the beginning of the combustion of fuel in a Unit until 20 minutes after the SCR reaches the vendor's recommended design minimum temperature for injection of a reducing agent, a period not to exceed four (4) hours.

V. "Consent Decree" or "Decree" shall mean this Consent Decree.

W. "Continuously Operate" or "Continuous Operation" means that when an SCR, FGD, Mobotec, or other pollution control or treatment device or process is used at a Unit, except during a Malfunction, it shall be operated at all times such Unit is in operation, consistent with the technological limitations, manufacturers' specifications, and good engineering and maintenance practices for such equipment and the Unit so as to minimize emissions to the greatest extent practicable.

X. "Dalton Facility" means the facility at 403 Holiday Ave., Dalton, Georgia.

Y. "Date of Lodging" shall mean the date the Consent Decree is lodged in the United States District Court.

Z. "Day" shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or a federal holiday, the period shall run until the close of business of the next business day.

AA. "DNREC" means the Delaware Department of Natural Resources and Environmental Control and any successor departments or agencies.

BB. "Duct-injection" means a pollution control technology that employs injection of selected sorbents into the flue gas to control SO_2 emissions.

CC. "Election Date" shall mean, for the Chattanooga Facility, the fourth anniversary of the Entry Date.

DD. "Emission Rate" means, in the case of an instantaneous emission, the number of pounds of pollutant emitted per million BTU of heat input (lb/MMBTU) measured in accordance with this Consent Decree; in the case of mass emissions, Emission Rate means the total number of tons of pollutant emitted over a defined period of time, measured in accordance with this Consent Decree.

EE. "Entry Date" or "Date of Entry" shall mean the date this Consent Decree is signed by a United States District Court Judge.

FF. "Environmental Requirements" shall mean the following federal statutes and their implementing regulations: the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. §§ 11001 to 11050; the Clean Water Act (CWA), 42 U.S.C. §§ 1251 to 1387; the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 to 6992k; the Clean Air Act (CAA), 42 U.S.C. §§ 7401 to 7671q; the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601 to 9675; the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. §§ 136 to 136y; the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300f to 300j-26 and corresponding state and local laws and regulations and any permits issued under these laws.

GG. "EPA" shall mean the United States Environmental Protection Agency, and any successor departments or agencies of the United States.

HH. "EPCRA" means the federal Emergency Planning and Community Right-to-Know Act," 42 U.S.C. §§ 11001-11050, and its implementing regulations.

II. "Flue Gas Desulfurization System," or "FGD," means a pollution control device that employs flue gas desulfurization technology for the reduction of sulfur dioxide.

JJ. "Fossil Fuel" shall have the same meaning as set forth in 40 C.F.R. § 60.41.

KK. "INVISTA" means INVISTA S.à r.l.

LL. "Kinston Facility" means the former INVISTA facilities located at 4695 Highway 11 North, Kinston, North Carolina.

MM. "LaPorte Facility" means the INVISTA facility located at 12455 Strang Road, LaPorte, Texas.

NN. "lb/MMBTU" means one pound of a pollutant per million British thermal units of heat input.

OO. "Malfunction" shall mean, as that term is defined under 40 C.F.R. § 60.2, "any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operations are not malfunctions."

PP. "Martinsville Facility" means the INVISTA facility located at 1008 DuPont Road, Martinsville, Virginia.

QQ. "Mobotec ROFA" means the pollution control device manufactured by Mobotec USA that employs rotating opposed fired air technology to reduce NO_x emissions.

RR. "Mobotec ROFA with Rotamix" means the pollution control device manufactured by Mobotec USA that employs rotating opposed fired air technology and rotary mixing of chemicals to reduce NO_x emissions.

SS. "MW" means a megawatt or one million Watts.

TT. "NAAQS" means national ambient air quality standards that are promulgated pursuant to Section 109 of the Clean Air Act, 42 U.S.C. § 7409.

UU. "NO_x" means oxides of nitrogen, measured in accordance with the provisions of this Consent Decree.

VV. "Nonattainment NSR" or "NNSR" means the nonattainment area New Source Review program under Part D of Subchapter I of the Clean Air Act, 42 U.S.C. §§ 7501-7515 as implemented in 40 C.F.R. Part 51 and the applicable State Implementation Plans.

WW. "NSPS" means New Source Performance Standards within the meaning of Part A of Subchapter I, of the Clean Air Act, 42 U.S.C. § 7411, 40 C.F.R. Part 60.

XX. "Operating Day" means any calendar day on which a Unit fires Fossil Fuel.

YY. "Orange Facility" shall means the INVISTA facility located at 3055A FM 1006, Orange, Texas.

ZZ. "Over-fire Air" means a pollution control device to reduce NO_x formation in a Unit boiler by directing a portion of the air to be combusted through ports above the level of the cyclones in the furnace.

AAA. "Ownership Interest" means all or part of INVISTA's legal or equitable interest in any of INVISTA's Acquired Facilities.

BBB. "Parties" shall mean the United States, the State of Delaware Department of Natural Resources and Environmental Control, the South Carolina Department of Health and Environmental Control, the Chattanooga-Hamilton County Air Pollution Control Board and INVISTA.

CCC. "Permitting Authority" shall mean the following with respect to the following Acquired Facilities: Camden Facility - the SCDHEC; Chattanooga Facility - the CHCAPCB; and Seaford Facility - State of Delaware through the DNREC.

DDD. "Plaintiffs" means the United States of America, the State of Delaware Department of Natural Resources and Environmental Control, the South Carolina Department of Health and Environmental Control, and the Chattanooga-Hamilton County Air Pollution Control Board.

EEE. "PPM" means parts per million.

FFF. "Promoter Area" means the area where the catalyst for the ADN process is manufactured.

GGG. "PSD" means Prevention of Significant Deterioration within the meaning of Part C of Subchapter I of the Clean Air Act, 42 U.S.C. §§ 7470 - 7492 and 40 C.F.R. Parts 51 and 52 and the applicable State Implementation Plans.

HHH. "RCRA" means the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901-6992k, and its implementing regulations.

III. "SDWA" means the Public Health Service Act, as amended by the Safe Drinking Water Act, 42 U.S.C. §§ 300f to 300j-26, and its implementing regulations.

JJJ. "SCDHEC" means the South Carolina Department of Health and Environmental Control and any successor departments or agencies.

KKK. "Seaford Facility" means INVISTA's facility located at 25876 DuPont Road, Seaford, Delaware.

LLL. "Selective Catalytic Reduction System" or "SCR" means a pollution control device that employs selective catalytic reduction technology for the reduction of NO_x emissions.

MMM. "Selective Non-Catalytic Reduction System" or "SNCR" means a pollution control device for reducing NO_x emissions through the use of selective non-catalytic reduction technology.

NNN. "Shutdown" means the cessation of operation of equipment for any purpose.

OOO. "SO_2" means sulfur dioxide, measured in accordance with the provisions of this Consent Decree.

PPP. "Startup" means the setting into operation of the equipment for any purpose.

QQQ. "State of Delaware" or "Delaware" means the State of Delaware Department of Natural Resources and Environmental Control.

RRR. "Title V Permit" means the permit required of INVISTA's major sources under Subchapter V of the Clean Air Act, 42 U.S.C. §§ 7661-7661e and the applicable State Implementation Plans.

SSS. "Unit" shall mean a piece of equipment or an emissions source that is subject to a requirement within this Consent Decree.

TTT. "United States" shall mean the United States of America, on behalf of EPA.

UUU. "Vapor Combustion Unit" means equipment used for combustion or destruction of organic vapors.

VVV. "Vaporizer" means a combustion unit designed for use in process industries and that produces process heat using recirculating fluids at low operating pressure.

WWW. "Victoria Facility" means the INVISTA facility located at 2695 Old Bloomington Road North, Victoria, Texas.

XXX. "Waynesboro Facility" means the INVISTA facility located at 400 DuPont Boulevard, Waynesboro, Virginia.

IV. NONATTAINMENT NEW SOURCE REVIEW (NNSR) / PREVENTION OF SIGNIFICANT DETERIORATION(PSD) REQUIREMENTS

Summary: This Consent Decree requires NNSR/PSD Controls at four Acquired Facilities: the Camden Facility, the Chattanooga Facility, the Seaford Facility and the Victoria Facility.

> The Camden Facility has four coal-fired steam generating boilers, designated as Boilers 1, 2, 3 and 4, and four vaporizers. Camden Boilers 3 and 4 and the Camden Vaporizers have pollution control and/or emission reduction requirements under this Decree as described in Paragraphs 10, 26-27, 34 and 37 below.

The Chattanooga Facility has two natural gas-fired steam generating boilers (Boilers 1 and 2) capable of firing either natural gas or fuel oil, three coal-fired steam generating boilers (Boilers 3, 4, and 5), and six vaporizers. Chattanooga Boilers 3, 4, and 5 and the Chattanooga Vaporizers have pollution control and/or emission reduction requirements under this Decree as described in Paragraphs 7, 8, 11, 26, 28, 35 and 37 below.

The Seaford Facility has seven vaporizers and four steam-generating boilers, three of these boilers are capable of operating by burning either coal or fuel oil, which are designated as Boilers 1, 2, and 3, and one boiler is capable of operating by burning natural gas or fuel oil, designated as Boiler 4 (package boiler). Seaford Boilers 1, 2, and 3 and the Seaford Vaporizers have pollution control and/or emission reduction requirements under this Decree as described in Paragraphs 9, 12-16, 26, 29-33, 36, 37, and 38 below.

The Victoria Facility has six boiler and industrial furnaces ("BIF boilers") that burn liquid and gaseous streams, which are designated as Boilers 1, 2, 3, 4, 7, and 8. The Victoria Facility has one gas-fired co-generation unit designated as the Cogen Unit. Victoria Boilers 1, 2, 3, 4, 7, 8, the Cogen Unit, and any new boiler constructed at the Victoria Facility have pollution control and/or emission reduction requirements under this Decree as described in Paragraphs 17-26 below.

A. ELECTION PROVISIONS AND INTERIM CONTROLS

Chattanooga Facility Election Provision and Interim Controls

7. No later than four years after the Entry Date ("Election Date"), INVISTA shall elect to either: (a) install and Continuously Operate by no later than eighteen (18) months after the Election Date the NO_x emission controls and SO_2 emission controls for Chattanooga Boilers 3, 4, and 5 pursuant to Paragraphs 11 and 28; or (b) retire and permanently cease to operate Chattanooga Boilers 3, 4, and 5 no later than four years after the Entry Date. INVISTA shall inform the United States and the CHCAPCB of its election in writing.

8. Beginning on the Entry Date, INVISTA shall reduce its emission rate for Chattanooga Boilers 3, 4, and 5 to achieve a 12-Month Rolling Tonnage of no greater than 292 tons NO_x and 870 tons SO_2 until it exercises its election under Paragraph 7.

Seaford Facility Election Provision

9. By no later than the Entry Date, INVISTA shall select one of the following emissions reduction options set forth below for the Seaford Facility, and shall notify the United States and the State of Delaware in writing as to which option INVISTA has selected. After providing the United States and the State of Delaware with written notice of its selected approach, INVISTA shall implement the selected approach in compliance with the schedule set forth in this Consent Decree.

a. Seaford Option A - INVISTA shall install and Continuously Operate

pollution control technology on Boilers 1 and 3, and shall implement operational and fuel limitations on Boiler 2, in compliance with Paragraphs 12, 14-16, 29-32 of this Consent Decree. The 12-Month Rolling Tonnage from Seaford Boilers 1 and 3 under this Option shall not exceed 598 tons of NO_x and 1446 tons of SO_2.

b. Seaford Option B -By no later than May 1, 2009, INVISTA shall cease coal firing on Boilers 1 and 3, shall discontinue use of Boiler 2, shall install and Continuously Operate a natural gas-fired boiler with SCR technology, and shall operate Boilers 1 and/or 3 on fuel oil only in compliance with Paragraphs 13 and 33 of this Consent Decree. The 12-Month Rolling Tonnage from the natural gas-fired boiler under this Option, while burning natural gas only, shall not exceed 12 tons NO_x and 1 ton SO_2. The 12-Month Rolling Tonnage from Boilers 1 and 3 (while burning either #6 residual oil containing no more than 1% sulfur on an annual average basis or #2 distillate oil), and the new natural gas fired boiler (while burning #2 distillate oil), shall not exceed 118 tons NO_x and 353 tons SO_2. INVISTA shall operate the SCR technology according to the vendor recommendations regardless of fuel type burned.

B. NO_x EMISSIONS CONTROLS AND LIMITS

Camden Facility NO_x Emission Controls

10. By December 31, 2011, INVISTA shall convert Camden Boiler 3 to a natural gas-fired boiler. INVISTA shall install and Continuously Operate SCR control technology on Camden Boiler 3. INVISTA shall install and Continuously Operate Mobotec ROFA with Rotamix designed to achieve a removal efficiency for NO_x of at least sixty-five percent (65%) on Camden Boiler 4. The 30-Day Rolling Tonnage of combined NO_x emissions from Camden Boilers 3 and 4 shall not exceed 23 tons; and the 12-Month Rolling Tonnage of combined NO_x emissions from Boilers 3 and 4 shall not exceed 202 tons.

Chattanooga Facility NO_x Emission Controls

11. Pursuant to Paragraph 7, if INVISTA elects to install and Continuously Operate emission controls on Chattanooga Boilers 3, 4, and 5, then eighteen months after that election, INVISTA shall comply with the requirements of either option (a) or (b) as outlined below in this Paragraph.

a. INVISTA shall install and commence Continuous Operation of Mobotec ROFA and/or Over-fire Air designed to achieve a removal efficiency for NO_x of at least fifty percent (50%) on Chattanooga Boilers 3, 4, and 5. The 30-Day Rolling Tonnage from Chattanooga Boilers 3-5 combined under this Subparagraph shall not exceed 23 tons NO_x; and the 12-Month Rolling Tonnage shall not exceed 194 tons NO_x.

b. INVISTA shall convert one or more of Boilers 3, 4, and 5 to burn exclusively natural gas. INVISTA shall install and Continuously Operate ultra low-NO_x burner technology or an SCR on each Boiler converted to natural gas firing. For each Boiler 3, 4, or 5 that is not converted to natural gas firing, INVISTA shall install and commence Continuous Operation of Mobotec ROFA and/or Over-fire Air designed to achieve a removal efficiency for NO_x of at least fifty percent (50%), and shall limit NO_x emissions to a 30-Day Rolling Average

Emissions Rate of no greater than 0.3 lb/MMBTU for each Boiler that has Mobotec ROFA installed. The 30-Day Rolling Tonnage of NO_x emissions from Chattanooga Boilers 3-5 combined under this Subparagraph shall not exceed 20 tons; and the 12-Month Rolling Tonnage of NO_x emission shall not exceed 160 tons NO_x.

Seaford Facility NO_x Emission Controls

DEFINITIONS: For purposes of Paragraphs 12-16 only, the terms "Startup" and "Shutdown" shall have the following meanings:

a. "Startup" means the one-hour period immediately following the beginning of combustion of fuel in a Unit, except during a Cold Startup Period.

b. "Shutdown" means the period of no more than one hour that immediately precedes the cessation of fuel combustion in a Unit.

12. If INVISTA elects Seaford Option A, then by no later than May 1, 2009, INVISTA shall install and Continuously Operate Mobotec ROFA with Rotamix that is designed to achieve a removal efficiency for NO_x of at least sixty-five percent (65%) on Seaford Boilers 1 and 3. The 12-Month Rolling Tonnage of NO_x emissions under this option shall not exceed 272 tons for Boiler 1 and 326 tons for Boiler 3. The 24-Hour Rolling Average Emissions Rate for each Boiler shall be determined in compliance with the Optimization of NO_x Controls under Paragraph 14-16 of this Consent Decree.

13. If INVISTA elects Seaford Option B, then by no later than May 1, 2009, INVISTA shall install and Continuously Operate a natural gas fired boiler with SCR that achieves 5 ppmvd NO_x corrected to 3% Oxygen on a 3-hour rolling average basis while burning natural gas only, to be calculated as follows:

a. The 3-hour rolling average basis shall be expressed as the average concentration of NO_x in parts per million by dry volume ("ppmvd"), corrected to 3% O_2, as averaged over three (3) hours (which may be nonconsecutive, partial hours) during which the boiler operates on natural gas only. In determining the 3-hour rolling average basis, INVISTA shall use CEMS in accordance with the applicable reference methods specified in 40 C.F.R. § 60.13(h) to calculate the emissions for each 15-minute interval within each clock hour, except during a Cold Startup Period or as otherwise provided in this Paragraph;

b. Compliance with the 3-hour rolling average basis shall be demonstrated by averaging all valid CEMS data points for the 3-hour interval readings while burning natural gas only, except during a Cold Startup Period. A minimum of two (2) 15-minute CEMS interval reading per clock hour is required to determine compliance with the 3-hour rolling average basis. All emissions recorded by CEMS shall be reported in 3-hour averages;

c. NO_x emissions above 5 ppmvd during periods of Malfunction of the

natural gas-fired boiler or during Malfunction of the SCR will not be used in determining compliance with the 3-hour rolling average basis established pursuant to this Paragraph. For any event to be considered a Malfunction, INVISTA must satisfy each of the following:

i. The Seaford facility was at the time of the event being operated in a prudent and professional manner and in compliance with generally accepted industry operations and maintenance procedures;

ii. The 3-hour average NO_x emissions above the 5 ppmvd basis did not occur as a result of improperly designed equipment; lack of preventative maintenance; careless or improper operation; or the tampering with, interfering with, altering or adjusting any equipment in any way that conceals or disguises the type and quantity of emissions;

iii. During the period of the event INVISTA takes all reasonable steps to minimize levels of NO_x emissions from the gas-fired boiler and takes all reasonable measures to minimize the duration of such event and to prevent the recurrence of such event in the future;

iv. The operating conditions causing the event are recorded in the Seaford Facility's operating log within 24 hours of the event, and in the CEMS by 5 p.m. the next business day following the event. The notations in the log and CEMS must describe the data, list the time of entry into the log, and describe the plant operating conditions responsible for the event;

v. The 3-hour average NO_x concentration does not exceed 30 ppmvd, when calculated under this Paragraph;

vi. INVISTA provides written notice of the Malfunction claim to DNREC within two (2) business days of the Malfunction period containing: a description of the event, any steps taken to mitigate emissions, and any corrective actions taken; and

vii. Within thirty (30) calendar days of the event, INVISTA files a report with DNREC and EPA that sets forth the information that demonstrates the applicability of Subparagraphs 13.c.i – 13.c.vi to the Malfunction event. This report shall also contain: (1) the cause of, and INVISTA's response to, the Malfunction; (2) whether INVISTA has taken all reasonable and prudent steps to abide by the emissions limit conditions; (3) whether INVISTA has taken all reasonable and prudent steps to minimize the emissions associated

with the Seaford Facility; (4) the degree to which INVISTA has reduced throughput to the boiler and the basis for such degree of reduction; (5) the estimated emissions associated with a complete Shutdown of the boiler; (6) whether INVISTA had reviewed all prior similar causes of Malfunctions and had taken all reasonable and prudent actions necessary to avoid future similar outages; and (7) the actual emissions during the period of Malfunction;

d. Commencing sixty (60) days from the installation of the natural gas-fired boiler, Subparagraph 13.c may apply to no more than ten (10) 3-hour averages of NO_x per calendar year, and it is INVISTA's burden to demonstrate to DNREC and EPA that it has met the conditions of Subparagraphs 13.c.i-vi. All NO_x emissions during these 3-hour periods covered by Subparagraph 13.c shall be included when calculating the 12-Month Rolling Tonnage of NO_x emissions for the natural gas-fired boiler; and

e. Nothing in this Paragraph shall be construed to relieve INVISTA of any obligation under any applicable law, regulation, or permit to report emissions during periods of Malfunction, or to document the occurrence and/or cause of a Malfunction event.

Optimization of NO_x Controls Under Option A:

14. INVISTA's operation of the NO_x controls for Seaford Boilers 1 and 3 for an initial period of 180 days at the Seaford Facility shall constitute the "Optimization Period" for this technology, and shall commence upon completion of construction and operation of the NO_x controls for each Boiler. During each Boiler's Optimization Period, INVISTA shall commence a period of combustion tuning to optimize performance of the controls. This will include an evaluation of the effect of operating parameters on NO_x emissions, the monitoring of NO_x emissions and the other relevant operating parameters to identify optimum operating parameters that minimize NO_x emissions. Thereafter, INVISTA shall operate the NO_x controls at the Units in accordance with those parameters to minimize NO_x emissions to the greatest extent possible. INVISTA shall meet the performance test requirements set forth in Section XII, Paragraph 98 of this Consent Decree during each 180 day Optimization Period.

15. Initial Emissions Reports: No later than 90 days after the completion of each Optimization Period pursuant to Paragraph 14, INVISTA shall submit Initial Emissions Reports to EPA and DNREC. Each report shall include a summary of the 24-Hour Rolling Average Emission Rate for each respective Boiler, emission monitoring data during the Optimization Period including relevant CEMS data, and the operating parameter limits that INVISTA proposes to monitor for compliance demonstration. Each report shall also include INVISTA's proposed 24-Hour Rolling Average Emissions Rate (lb/MMBTU) for each Boiler, which shall be set at a level at least as stringent as the designed to achieve removal efficiency for NO_x specified in Paragraph 12 above.

16. Proposed and Final Emission Limits: DNREC shall set the final 24-Hour Rolling Average Emission Rate (lb/MMBTU) for each Boiler and operating parameters based on INVISTA's Initial Emissions Reports under Paragraph 15, process variability, a reasonable certainty of compliance and any other information pertinent to the specific emission unit. INVISTA shall comply with the proposed emission limit for each respective Boiler immediately following submission of the Initial Report for that Boiler, and shall comply with the final limit no later than sixty (60) days following INVISTA's receipt of notice from DNREC regarding the final emission limit or upon issuance of an operating permit from DNREC, whichever is earlier.

Victoria NO_x Emission Controls

Boiler Controls

17. By no later than December 31, 2011, INVISTA shall route all Low Boiler Waste streams at the Victoria Facility to Boilers 7 and 8 only and INVISTA shall install and commence Continuous Operation of SNCR technology, in compliance with Paragraph 21, on one of Boilers 7 or 8 by no later than December 31, 2011, and on the other by no later than December 31, 2012.

18. Victoria SCR Feasibility Pilot Study. INVISTA shall complete a pilot study (the "Victoria SCR Feasibility Pilot Study" or "Study") using an *in situ* pilot-scale SCR slipstream reactor designed to achieve a NO_x removal efficiency of at least ninety percent (90%) and that shall be designed to simulate the treatment of exhaust gases generated during normal representative operating loads (including Startup and Shutdown). The pilot-scale SCR slipstream reactor will utilize a medium temperature range, honeycomb catalyst SCR system and will include regular soot blowing and a sacrificial catalyst layer inside the SCR vessel. The Study will be conducted on one or, at INVISTA's election, more of Boilers 1-4 at the Victoria Facility, which Boiler(s) are to be selected by INVISTA.

a. The Study shall be comprised of a "Combined Waste Phase" with a potential second "Gas Waste Phase," if applicable. The first phase will be the "Combined Waste Phase" and will evaluate the application of SCR technology on a boiler firing combined liquid and gas wastes at the Victoria Facility. The first phase of the Study shall be complete by no later than December 31, 2011. A second phase, if applicable, will be the "Gas Waste Phase" and shall evaluate the application of SCR technology on a boiler firing only gas at the Victoria Facility. The second phase of the Study, if applicable, shall be complete by no later than December 31, 2012. Except as set forth in Subparagraph 18.h.ii(a) regarding the optional Gas Waste Phase of the Study, data collection during each phase shall be conducted for at least six months. The Study shall take into account catalyst erosion and poisoning, with catalyst measurements taken regularly. Except as provided in Subparagraph 18.d, normal vendor recommended best operating practices to maximize catalyst life for an SCR system shall be included in the Study.

b. The Victoria SCR Feasibility Pilot Study shall not be conducted on a boiler while combusting either Low Boiler Waste or the C12 WFE stream.

c. INVISTA shall submit its plan for each phase of the Study, as applicable, to EPA for approval no less than 60 days prior to commencement of each phase of the Study.

Within 50 days of receipt of the plan for the Study, EPA shall notify INVISTA of whether it approves or disapproves the plan. Approval of the plan shall not be unreasonably withheld.

d. During the Victoria SCR Feasibility Pilot Study, INVISTA shall use all reasonable efforts to operate the boiler and the pilot SCR in a manner that is representative of current and historic operating conditions (including Startup and Shutdown) and maximizing NO_x removal efficiency; provided, however, that INVISTA shall not be required to operate the boiler or SCR in a manner that creates a safety risk or impairs boiler operation unless reasonable efforts can be taken to compensate for such impairment. For purposes of this Paragraph, "reasonable efforts" do *not* include the installation and operation of pretreatment technologies, including, but not limited to, a baghouse control system, electrostatic precipitator, scrubber(s), or a sacrificial guard bed or vessel.

e. INVISTA shall provide updates of test results to EPA every other month via electronic mail and shall provide any other information relevant to the Study that EPA determines it needs upon request.

f. If at the completion of the Combined Waste Phase of the Victoria SCR Feasibility Pilot Study, INVISTA believes that SCR will not be feasible, as defined by Subparagraph 18.i, to treat combined liquid/gas wastes at the Victoria Facility Boilers, INVISTA may opt to commence the Gas Waste Phase of the Pilot Study, as set forth in Subparagraph 18.h.ii, in advance of submitting its report for the Combined Waste Phase of the Study pursuant to Subparagraph 18.g below.

g. Within ninety (90) days after completion of each phase of the Victoria SCR Feasibility Pilot Study, as applicable, INVISTA shall submit a written report to EPA summarizing the results of the Study. This report shall include the catalyst measurements, emission monitoring data, and operating data compiled on a daily or daily average basis.

h. Based on the results of the Combined Waste Phase of the Victoria SCR Feasibility Study, INVISTA shall include in its report for that phase a recommendation as to whether the installation and operation of SCR technology to treat combined liquid/gas wastes on the Victoria Boilers is feasible, as defined by Subparagraph 18.i.

i. In the event INVISTA asserts that SCR is feasible, as defined in Subparagraph 18.i, and EPA agrees pursuant to Subparagraph 18.j, INVISTA shall propose for EPA approval a schedule to install and Continuously Operate SCR technology designed to achieve a NO_x removal efficiency of at least ninety percent (90%) on one of Boilers 1-4 by December 31, 2013, and on each of the remaining three Boilers by no later than December 31, 2016;

ii. If INVISTA asserts in its report that SCR is not feasible, as defined in Subparagraph 18.i, to treat combined liquid/gas wastes at the Victoria Boilers, INVISTA may opt to conduct a Gas Waste Phase of the Victoria SCR Feasibility Pilot Study.

(a) The Gas Waste Phase shall evaluate the application of SCR technology on a gas-only waste boiler at the Victoria Facility, and shall be conducted in accordance with the requirements of this Paragraph 18, with the exception that INVISTA may propose a Study of less than six months if EPA agrees that there will be sufficient data for it to properly evaluate the feasibility of SCR pursuant to Subparagraphs 18.i and 18.j;

(b) If INVISTA elects not to conduct the Gas Waste Phase of the Study or, if in the report submitted pursuant to Subparagraph 18.g for the Gas Waste Phase of the Study INVISTA asserts that SCR on a gas-only waste boiler is feasible, as defined in Subparagraph 18.i, and EPA agrees pursuant to Subparagraph 18.j, INVISTA shall propose for EPA approval a schedule for the conversion of one of Boilers 1-4 to a gas-only waste boiler and the installation and Continuous Operation of SCR technology designed to achieve a NO_x removal efficiency of at least ninety percent (90%) on the gas-fired boiler by December 31, 2013, and SNCR on the remaining boilers by no later than December 31, 2016;

(c) If, in the report submitted pursuant to Subparagraph 18.g for the Gas Waste Phase of the Study, INVISTA asserts that SCR is not feasible, as defined by Subparagraph 18.i, and EPA agrees pursuant to Subparagraph 18.j, then INVISTA shall propose for EPA approval a schedule for the installation and Continuous Operation of SNCR technology on one of Boilers 1-4 by December 31, 2013, and on the remaining Boilers by December 31, 2016;

iii. Further, if INVISTA asserts that SCR is not feasible, as defined in Subparagraph 18.i, to treat combined liquid/gas wastes at the Victoria Boilers, and EPA agrees pursuant to Subparagraph 18.j, INVISTA may, at any time after December 31, 2012, re-route the Low Boiler Waste streams from Boiler(s) 7 and/or 8 to any Boiler(s) 1-4 equipped with SNCR technology. When combusting Low Boiler Waste in any boiler after December 31, 2012, INVISTA shall, to the greatest extent practicable, operate the boiler in accordance with optimum operating parameters for minimizing NO_x emissions that were identified during the Optimization Period for Boilers 7 and/or 8 under Subparagraph 21.a.

i. "Feasibility" Determination. For purposes of this Paragraph, the feasibility of SCR shall be determined based only on the following criteria:

i. If the data collected during the Study indicate that the catalyst in a full-scale SCR for the relevant liquid/gas or, as applicable, gas-

only boiler would need to be replaced at a rate of more than once per 12-month period in order to maintain a NO_x removal efficiency greater than that of SNCR, then SCR is considered infeasible for the purpose of this Paragraph 18;

ii. If the data collected during the Study indicate that a full-scale SCR for the relevant liquid/gas or, as applicable, gas-only boiler would require space velocity of less than 7,000 hr^{-1}, then SCR is considered infeasible for the purpose of this Paragraph 18; or

iii. If the data collected during the Study indicate that the amount of catalyst required in a full-scale SCR for the relevant liquid/gas or, as applicable, gas-only boiler would create a back pressure that exceeds the current structural/mechanical limitations of the boiler, then SCR is considered infeasible for the purpose of this Paragraph 18.

j. SCR Feasibility Determination and Installation Schedule.

i. Within 120 days of receipt of each report and schedule submitted by INVISTA pursuant to Subparagraph 18.g or Subparagraph 18.h, if applicable, EPA will review and either approve or conditionally approve INVISTA's selected technology and proposed implementation schedule or will specify another NO_x control technology (limited to SCR in lieu of an INVISTA-proposed SNCR or SNCR in lieu of an INVISTA-proposed SCR) or schedule to be implemented by INVISTA under Subparagraph 18.h;

ii. EPA will not specify the installation of SCR if EPA determines that any one of the criteria listed in Subparagraph 18.i demonstrates that SCR is infeasible under Paragraph 18;

iii. If EPA conditionally approves INVISTA's proposed technology or implementation schedule or if EPA rejects INVISTA's technology or implementation schedule and specifies that SCR be implemented in lieu of SNCR (or vice versa) or that the technology be implemented according to a different schedule, then within sixty (60) days of its receipt of EPA's determination, INVISTA shall either submit a revised schedule for implementing the EPA-specified SCR or SNCR technology, submit a revised proposal that responds to EPA's conditional approval, or invoke the Dispute Resolution provisions of Section XV.

k. If SCR is selected as the NO_x control technology, INVISTA shall comply with the optimization protocol set forth for SCR in Paragraph 19, below. If SNCR is selected as

the NO_x control technology, INVISTA shall comply with the optimization protocol set forth for SNCR in Paragraph 21, below, and shall Continuously Operate the SNCR using best efforts to maximize NO_x emissions reductions across all of the Victoria Boilers.

l. INVISTA shall comply with the implementation schedule approved by EPA pursuant to this Paragraph 18.

19. Optimization of SCR Controls.

a. Immediately after installation of the SCR technology under Paragraph 18, as applicable, INVISTA shall begin a 16-month period of optimizing the performance of each SCR (the "SCR Optimization Period") in a manner that optimizes the Unit consistent with design requirements and the ammonia feedrate so as to achieve the optimal design efficiency of the SCR technology. The SCR Optimization Period will include an evaluation of the effect of operating parameters on NO_x emissions, the monitoring of NO_x emissions and the other relevant operating parameters to identify optimum operating parameters that minimize NO_x emissions. After the SCR Optimization Period, INVISTA shall operate the SCR for that boiler in accordance with the parameters that minimize NO_x emissions to the greatest extent possible based on the evaluation conducted under this Subparagraph 19.a.

b. Initial SCR Emissions Report: By no later than ninety (90) days after completion of each SCR Optimization Period, INVISTA shall submit an emissions report to EPA. This report shall include a summary of NO_x emission monitoring data during the SCR Optimization Period for the boiler, including relevant CEMS data, operating data on a daily or daily average basis, and the operating parameter limits that INVISTA proposes to monitor for compliance demonstration. This report shall also include INVISTA's proposed NO_x emission limit for the Unit(s).

c. Proposed and Final Emission Limits: EPA shall set the final NO_x emission limit and operating parameters based on INVISTA's Initial SCR Emissions Report under Subparagraph 19.b, process variability, a reasonable certainty of compliance, and any other information pertinent to the specific emission Unit. INVISTA shall comply with the proposed NO_x emission limit immediately following submission of the Initial SCR Emissions Report, and shall comply with the final NO_x limit no later than thirty (30) days following INVISTA's receipt of notice from EPA regarding the final NO_x emission limit or upon issuance of an operating permit from the Permitting Authority, whichever is earlier.

20. Except, as set forth below, if, based on operations during the SCR Optimization Period, INVISTA asserts and EPA agrees that the catalyst in the SCR technology at any boiler needs to be replaced at a rate of once every six (6) to twelve (12) months in order to maintain a NO_x removal efficiency greater than that of SNCR, INVISTA may, after written approval from EPA, which shall not be unreasonably withheld, elect to cease to operate the SCR technology and, upon Shutdown of the SCR technology, commence Continuous Operation of SNCR technology. If, based on operations during the SCR Optimization Period, INVISTA asserts and EPA agrees that the catalyst needs to be replaced at a rate greater than once every six (6) months in order to maintain a NO_x removal efficiency greater than that of SNCR, INVISTA may, after

written approval from EPA, which shall not be unreasonably withheld, elect to cease to operate the SCR technology and, within five months of Shutdown of the SCR technology, shall commence Continuous Operation of SNCR technology. INVISTA shall submit its analysis and supporting documentation to EPA. The emissions limit for such an SNCR will be determined by the procedure outlined in Paragraph 21.

21. Optimization of SNCR Controls.

a. Immediately after the installation of SNCR on each boiler pursuant to Paragraph 17 and Paragraphs 18 or 20, if applicable, INVISTA shall begin a 180-day period of optimizing the performance of the SNCR for that boiler (the "SNCR Optimization Period"). This will include an evaluation of the effect of operating parameters on NO_x emissions and the monitoring of NO_x emissions and the other relevant operating parameters to identify optimum operating parameters that minimize NO_x emissions. Thereafter, INVISTA shall operate the SNCR at the boilers in accordance with those parameters to minimize NO_x emissions to the greatest extent possible based on the evaluation conducted under this Subparagraph 21.a.

b. Initial SNCR Emissions Report: No later than ninety (90) days after the completion of the last SNCR Optimization Period pursuant to Subparagraph 21.a, INVISTA shall submit an emissions report to EPA. This report shall include a summary of NO_x emission monitoring data for each Boiler's SNCR Optimization Period including relevant CEMS data, operating data on a daily or daily average basis, and the operating parameter limits that INVISTA proposes to monitor for compliance demonstration. This report shall also include INVISTA's proposed NO_x emission limits for the boilers and, if INVISTA elects to install a Thermal Oxidizer under Paragraph 23, for the Thermal Oxidizer that controls the C12 WFE.

c. Proposed and Final Emission Limits: EPA will set the final NO_x emission limits and operating parameters for each boiler (and the C12 WFE Thermal Oxidizer, as applicable) based on INVISTA's Initial SNCR Emissions Report under Subparagraph 21.b, process variability, a reasonable certainty of compliance, and any other information pertinent to the specific emission Unit. INVISTA shall comply with the proposed NO_x emission limits submitted under Subparagraph 21.b immediately following submission of the Initial SNCR Emissions Report, and shall comply with the final NO_x emissions limits no later than thirty (30) days following INVISTA's receipt of notice from EPA regarding the final NO_x emission limit or upon issuance of an operating permit from the Permitting Authority, whichever is earlier.

Cogen Unit and WFE Controls

22. By no later than December 31, 2011, INVISTA shall install and commence Continuous Operation of SCR at the Victoria Cogen Unit designed to achieve a NO_x reduction efficiency of at least ninety percent (90%) and emissions shall not exceed 10 ppmvd NO_x based on a 30-day rolling average or a 12-Month Rolling Tonnage of 85 tons NO_x.

23. By no later than December 31, 2013**,** INVISTA shall elect one of the following control options for the C12 WFE waste stream and shall notify the United States in writing as to which option INVISTA has selected:

a. Option A: By no later than December 31, 2015, INVISTA shall route the C12 WFE waste stream to a location offsite from the Victoria Facility;

b. Option B: By no later than December 31, 2015, INVISTA shall route the C12 WFE waste stream to a Thermal Oxidizer that is in compliance with all applicable federal and state permitting requirements;

c. Option C: By no later than December 31, 2015, INVISTA shall route the C12 WFE waste stream to a boiler equipped with SNCR control technology.

24. If INVISTA elects Option C and, during the SNCR Optimization Period or at any time thereafter for the boiler to which the C12 WFE stream is routed, INVISTA determines that combustion of the C12 WFE stream is causing or will likely cause the boiler to operate in excess of the emissions limits applicable to the boiler, INVISTA may, after written notice to EPA, elect to implement Option A or Option B under Paragraph 23.

25. If INVISTA elects to install a Thermal Oxidizer pursuant to Subparagraph 23.b (Option B), INVISTA shall include the emissions from the Thermal Oxidizer in its emissions report and proposed emission limits required under Subparagraph 21.b. Immediately upon installation of the Thermal Oxidizer, INVISTA shall operate the Thermal Oxidizer in a manner that minimizes NO_x emissions. A Thermal Oxidizer installed pursuant to this Paragraph shall be subject to the emissions limitations established under Subparagraph 21.c, above.

General NO_x Provision

26. All Units, except the Vaporizers, that have NO_x emissions limits under this Consent Decree shall be equipped with CEMS to measure NO_x emissions no later than the date the Unit has such requirements under this Consent Decree, with the exception that Units at Chattanooga shall be equipped with CEMS by no later than June 30, 2010.

C. SO_2 EMISSION REDUCTIONS AND CONTROLS

Camden SO_2 Emission Controls

27. By December 31, 2011, INVISTA shall convert and Continuously Operate Camden Boiler 3 as a natural gas-fired boiler. The 12-Month Rolling Tonnage for SO_2 emissions from Camden Boiler 3 under this option shall not exceed 1 ton.

Chattanooga SO_2 Emission Controls

28. Pursuant to Paragraph 7 above, if INVISTA elects to install and Continuously Operate emission controls on Chattanooga Boilers 3, 4, and 5, then eighteen months after the Election Date, INVISTA shall comply with the requirements of either option (a) or (b) as outlined below in this Paragraph:

a. INVISTA shall install and commence Continuous Operation of duct-injection technology on Chattanooga Boilers 4 and 5 designed to achieve a removal efficiency

for SO_2 of at least fifty percent (50%) combined with other control measures as may be necessary to meet the emissions requirements under this Subparagraph. The 30-Day Rolling Tonnage of SO_2 emissions from Chattanooga Boilers 3, 4, and 5 combined under this Subparagraph shall not exceed 60 tons; and the 12-Month Rolling Tonnage shall not exceed 530 tons SO_2. INVISTA shall operate the duct-injection technology installed under this Subparagraph in a manner that optimizes the technology consistent with design requirements to achieve the optimal design removal efficiency as identified in this Subparagraph;

b. INVISTA shall convert one or both Boilers 4 and 5 to burn exclusively natural gas. For the Boiler 4 or 5 that is not converted to natural gas firing, INVISTA shall install and commence Continuous Operation of duct injection technology designed to achieve a removal efficiency for SO_2 of at least fifty percent (50%) combined with other control measures that may be necessary to meet the emissions requirements under this Subparagraph. The 30-Day Rolling Tonnage of SO_2 emissions from Chattanooga Boilers 3-5 combined under this Subparagraph shall not exceed 45 tons; and the 12-Month Rolling Tonnage shall not exceed 445 tons SO_2. INVISTA shall operate the duct-injection technology installed under this Subparagraph in a manner that optimizes the technology consistent with design requirements to achieve the optimal design removal efficiency as identified in this Subparagraph.

Seaford SO_2 Emission Controls

DEFINITIONS: For purposes of Paragraphs 29-33 only, the terms "Startup" and "Shutdown" shall have the following meanings:

a. "Startup" means the one-hour period immediately following the beginning of combustion of fuel in a Unit, except during a Cold Startup Period.

b. "Shutdown" means the period of no more than one hour that immediately precedes the cessation of fuel combustion in a Unit.

29. If INVISTA elects Seaford Option A as described in Paragraph 9, then by January 1, 2010, INVISTA shall install and Continuously Operate a dry Flue Gas Desulfurization (FGD) System on Seaford Boiler 1 designed to achieve a 24-Hour Rolling Average Removal Efficiency for SO_2 of at least ninety percent (90%), except during Startup and Shutdown. The 12-Month Rolling Tonnage for SO_2 emissions shall not exceed 311 tons.

30. If INVISTA elects Seaford Option A as described in Paragraph 9, then by January 1, 2010, INVISTA shall install and Continuously Operate duct-injection technology on Seaford Boiler 3 designed to achieve a 24-Hour Rolling Average Removal Efficiency for SO_2 of at least fifty percent (50%), except during Startup and Shutdown. The 12-Month Rolling Tonnage of SO_2 emissions shall not exceed 1135 tons.

Seaford Facility Fuel and Operating Limitations

31. If INVISTA elects Seaford Option A as described in Paragraph 9, then by no later than May 1, 2009, INVISTA shall only burn either #6 residual oil or #2 distillate fuel oil in Seaford Boiler 2. If INVISTA burns #6 residual oil in Boiler 2, that residual oil shall contain no greater than 1% sulfur based on a 12-month rolling average.

32. If INVISTA elects Seaford Option A as described in Paragraph 9, then by no later than May 1, 2009, INVISTA shall only use Seaford Boiler 2 as a backup Boiler during Start-up, Shutdown, Malfunction, or maintenance of Boilers 1 or 3 which necessitates additional heat output from Boiler 2 to maintain normal operations.

33. If INVISTA elects Seaford Option B, as described in Paragraph 9, then by no later than May 1, 2009, INVISTA shall be authorized to burn either #6 residual oil (with a sulfur content of no greater than 1% based on a 12-month rolling average) or #2 distillate oil only in Boilers 1 and 3, and only #2 distillate oil in the new natural gas-fired boiler for a combined period of time not to exceed 2,880 hours based on a 12-month rolling summation of total hours and subject further to the 12-Month Rolling Tonnages set forth in Subparagraph 9.b, above. Notwithstanding the foregoing, in the event INVISTA is unable to install and operate Option B by May 1, 2009, due to delay in construction and/or permitting, INVISTA shall be authorized to burn either #6 residual oil or #2 distillate oil only in any of the existing Boilers for a period not to exceed two (2) months after May 1, 2009, without violation or penalty of any term or condition of this Consent Decree, including but not limited to the provision on "installation and operation" of controls (Paragraphs 9 and 13, herein). The number of hours of oil burning during this 2-month period shall be deducted from INVISTA's initial allocation of 2,880 hours during the first 12 months after May 1, 2009. Compliance with the 12-month rolling summation of 2,880 hours of oil-burning shall be determined by summing the number of hours plus any increment of an hour (increments less than one hour shall count as one hour) of continuous oil-burning, on a 12-month rolling basis.

Vaporizers

34. Camden Facility - Beginning sixty (60) days after the Entry Date, the Vaporizers 1-4 at the Camden Facility shall burn no more than 75% fuel oil and no less than 25% natural gas, calculated as a 12-Month Rolling Heat Input Percentage calculated from the total heat input to the vaporizers by each fuel type. The fuel oil used in the Camden Vaporizers 1-4 shall not exceed a 1% sulfur content based on a 12-month rolling average.

35. Chattanooga Facility - Beginning on the Entry Date, the Vaporizers 1-6 at the Chattanooga Facility shall burn no less than 95% natural gas and no more than 5% fuel oil as a 12-Month Rolling Heat Input Percentage calculated from the total heat input to the vaporizers by each fuel type. The fuel used in the Chattanooga Vaporizers 1-6 shall not exceed a 0.3% sulfur content based on a 12-month rolling average.

36. Seaford Facility - Beginning on the Entry Date, the Vaporizers at the Seaford Facility shall burn #2 distillate or #6 residual fuel oil with a sulfur content no greater than 1% sulfur based on a 12-month rolling average.

General SO_2 Provisions

37. All Units, except the Vaporizers, Units firing natural gas, and Seaford Units firing only fuel oil as described under Paragraph 33, that have SO_2 emissions limits under this Consent Decree shall be equipped with CEMS to measure SO_2 emissions no later than the date the Unit

has such requirements under this Consent Decree, with the exception that Units at Chattanooga shall be equipped with CEMS by no later than June 30, 2010.

D. PARTICULATE MATTER EMISSIONS LIMIT

Seaford Facility PM Limit

38. If INVISTA selects Option A as described in Paragraph 9, then by no later than May 1, 2009, INVISTA shall: (a) comply with a final PM emission limit of 0.015 lbs/MMBtu at Boilers 1 and 3; and (b) Boilers 1 and 3 shall be equipped with CEMS to measure PM emissions.

E. PROHIBITION ON NETTING CREDITS OR OFFSETS FROM REQUIRED CONTROLS

39. Emission reductions generated by INVISTA to comply with the requirements of this Consent Decree shall not be considered as a creditable contemporaneous emission decrease for the purpose of obtaining a netting credit under the Clean Air Act's Nonattainment NSR and PSD programs.

40. The limitations on the generation and use of netting credits or offsets set forth in the previous Paragraph 39 do not apply to emission reductions achieved by INVISTA Units that are greater than those required under this Consent Decree. For purposes of this Paragraph 40, emission reductions from an INVISTA Unit are greater than those required under this Consent Decree if they result from INVISTA compliance with federally enforceable emission limits that are more stringent than those limits imposed on Units under this Consent Decree and under applicable provisions of the Clean Air Act or the applicable SIP. Nothing in this Consent Decree is intended to preclude the emission reductions generated under this Consent Decree from being considered by DNREC, SCDHEC, CHCAPCB, or EPA as creditable contemporaneous emission decreases for the purpose of attainment demonstrations submitted pursuant to section 110 of the Act, 42 U.S.C. § 7410, or in determining impacts on NAAQS, PSD increment, or air quality related values, including visibility, in a Class I area.

Exception to General Prohibition for Seaford Option B

41. Exception to the General Prohibition against the Use or Generation of Consent Decree Emissions Reductions for Seaford Option B.

a. Notwithstanding the general prohibition set forth in Paragraph 39, INVISTA may use 50 tons per year of NO_x and 50 tons per year of SO_2 from the emissions reductions required by Paragraphs 13 and 33 as credits or offsets in any PSD, major nonattainment and/or minor NSR permit or permit proceeding occurring after the Date of Lodging of the Consent Decree, provided that INVISTA remains in compliance with the requirements of this Consent Decree. Utilization of this exception is subject to the following conditions:

i. This exception is only available in the event INVISTA chooses to

implement Seaford Option B as set forth in Paragraph 9 above;

ii. Under no circumstances shall INVISTA use emissions reductions required by this Consent Decree for netting and/or offsets prior to the time that actual emissions reductions have occurred;

iii. This exception may be used only at the Seaford Facility;

iv. The emissions requirements of this Consent Decree are for purposes of this Consent Decree only and neither INVISTA, nor any other entity, may use emissions reductions required by this Consent Decree for any purpose, including in any subsequent permitting or enforcement proceeding, except as provided herein; and

v. INVISTA still shall be subject to all federal and state regulations applicable to the PSD, major non-attainment and/or minor NSR permitting process.

V. NSPS FLARING DEVICES

42. INVISTA shall Continuously Operate an HCN startup flare at the Orange Facility that will comply with 40 C.F.R. § 60.18 and 40 C.F.R. § 63.11(a) by no later than December 31, 2010, if the final design of the flare calls for replacement of the flare tip or the flare can be reconstructed in three weeks; or (b) by no later than December 31, 2011, if the final design of the flare calls for reconstruction that cannot be completed in three weeks. Until the new flare design is constructed, INVISTA shall implement good air pollution control practices to minimize emissions from the flare.

VI. BENZENE WASTE NESHAP PROGRAM ENHANCEMENTS

43. Summary: As of the Date of Entry, INVISTA's Victoria Facility and Orange Facility have total annual benzene (TAB) amounts above 10 Mg. Upon the Date of Entry, the Victoria and Orange Facilities shall utilize the exemptions set forth in 40 C.F.R. §§ 61.342(c)(2) and (c)(3)(ii) (hereinafter referred to as the "2 Mg Compliance Option") to comply with 40 C.F.R. § 61.342(c).

44. INVISTA shall undertake the measures set forth in this Subsection VI to ensure continuing compliance with 40 C.F.R. Part 61, Subpart FF ("Benzene Waste NESHAP," "BWON," or Subpart FF) and to minimize or eliminate fugitive benzene emissions at the Victoria and Orange Facilities. By no later than December 31, 2010, INVISTA shall elect for each of the Victoria and Orange Facilities one of the following benzene emission reduction options, and shall notify the United States in writing as to which option INVISTA has selected for each Facility. After providing the United States with written notice of its election, INVISTA shall implement the selected option in compliance with the schedule set forth in this Consent Decree.

a. Option A - INVISTA shall install and fully implement a new ADN production technology that is expected to eliminate benzene from the ADN production process as follows: (i) for the first (or only, as applicable) Facility for which this option is elected, by no later than December 31, 2013, and (ii) for the second, if applicable, Facility for which this option is elected, by no later than December 31, 2016. If INVISTA elects to implement this new technology pursuant to this Option A at the Victoria and/or Orange Facility(ies), the other requirements of this Section VI and their corresponding stipulated penalties provisions of this Consent Decree (Subparagraphs 89.i – 89.t) shall not apply to the relevant Facility(ies). Until the new technology referenced above is fully implemented under this Option, INVISTA will continue to comply with the 2 Mg Compliance Option.

b. Option B - INVISTA shall continue to comply with the 2 Mg Compliance Option, and shall undertake the measures set forth in this Section VI to ensure continuing compliance with the Benzene Waste NESHAP, to further address the findings in Appendix C, and to minimize or eliminate fugitive benzene emissions at the relevant Facility.

Orange Facility - Actions to Correct Non-Compliance

45. By no later than December 31, 2012, INVISTA shall Continuously Operate a stripper at the Orange Facility to serve as a "benzene treatment process," for all regulated aqueous waste streams in the ADN Area in compliance with 40 C.F.R. § 61.348.

46. By no later than December 31, 2012, INVISTA shall install one or more vapor combustion device(s) that achieve(s) a 99% benzene destruction efficiency to control emissions from continuous process vents that are currently controlled by the ADN operating flare, excluding the HCN offgas, in the ADN Area and the Promoter Area at the Orange Facility with backup to the existing ADN operating flare or other vapor combustion device. INVISTA shall install at least one knock-out drum for all the common vent headers for the Vapor Combustion Units and operating flares within the ADN Area and Promoter Area at the Orange Facility.

47. By no later than December 31, 2012, INVISTA shall segregate the storm water streams from the process water waste streams in the ADN Area at the Orange Facility. INVISTA shall comply with the requirements of 40 C.F.R. § 61.346 for all regulated components of the process wastewater drain system.

Victoria Facility - Actions to Correct Non-Compliance

48. Within 180 days after Entry Date, INVISTA shall Continuously Operate the benzene flasher, Nitrile Stripper Column, or other benzene treatment process at the Victoria Facility to serve as a "benzene treatment process," for all regulated aqueous waste streams in the ADN area in compliance with 40 C.F.R. § 61.348. The following technologies are acceptable under this Paragraph: thermal oxidizer, hydrolysis column, and benzene stripper. INVISTA may install a benzene treatment process other than those specified in this Paragraph once INVISTA receives the United States' approval in writing prior to the time a contract for its purchase is executed.

49. By no later than December 31, 2012, INVISTA shall install and Continuously Operate one or more vapor combustion device(s) that achieve(s) a 99% benzene destruction efficiency with backup to a flare to control emissions from all continuous process vents, excluding the HCN offgas, from the 311 and ADN Areas at the Victoria Facility that are currently controlled by the ADN operating or the 101 flares. INVISTA shall install at least one knock-out drum for all the common vent headers for the Vapor Combustion Units and operating flares within the ADN Area at the Victoria Facility.

50. By no later than December 31, 2012, INVISTA shall segregate all stormwater streams from the process water streams in the ADN area of the Victoria Facility. INVISTA shall comply with the requirements of 40 C.F.R. § 61.346 for all regulated components of the process wastewater drain system.

51. Testing, Monitoring, and Reporting Requirements for New and Existing Installations. INVISTA shall comply with all applicable Subpart FF testing, monitoring, and reporting requirements set forth in Benzene Waste NESHAP regulations for any new installations or existing installations improved pursuant to Paragraphs 45, 46, 48, and 49. INVISTA shall conduct a test of each such installation following entry of this Decree. INVISTA shall submit these test results to EPA demonstrating that each installation meets the applicable requirements of Subpart FF.

52. Certification of Compliance with the 2 Mg Compliance Option. Within ninety (90) days after Entry, INVISTA shall submit a report to EPA certifying that the Orange and Victoria Facilities comply with the Benzene Waste NESHAP. If additional actions are determined to be necessary to ensure compliance with the 2 Mg Compliance Option, INVISTA will include such actions in its written report.

53. Carbon Canisters. INVISTA shall continue to implement the requirements of this Paragraph at all locations at the Victoria and Orange Facilities where a carbon canister(s) is utilized as a control device under the Benzene Waste NESHAP.

a. Within ninety (90) days after the Entry Date, INVISTA shall insure that installation of primary and secondary carbon canisters has occurred at locations currently utilizing single canisters and shall operate them in series. For any permanent unit, within thirty (30) days following completion of the installation of dual canisters, INVISTA shall submit a report to EPA certifying the completion of the installation. The report shall include: (i) a list of all locations at the Victoria and Orange Facilities where carbon canister systems are used as a control device under Subpart FF; (ii) an indication, for each location, whether there was a pre-existing secondary carbon canister or whether a secondary carbon canister was installed under this Paragraph; (iii) the installation date of each such secondary canister installed under this Paragraph and the date that each secondary canister was put into operation; and (iv) an indication, for each location, whether volatile organic compounds ("VOC") or benzene will be used to monitor for breakthrough under and as required by Subparagraph 53.d.

b. Except as expressly permitted under Subparagraph 53.f, INVISTA shall not use single carbon canisters for any new units or installations at the Victoria or Orange

Facilities.

c. For dual carbon canister systems, “breakthrough” between the primary and secondary canister is defined as any reading equal to or greater than 5 ppm benzene.

d. INVISTA shall continue to monitor for breakthrough between the primary and secondary carbon canisters weekly, or in accordance with the frequency specified in 40 C.F.R. § 61.354(d), whichever is more frequent. This requirement shall commence: (i) upon the Entry Date where dual carbon canisters currently are in service; and (ii) no later than seven days after installation of a new dual carbon canister system.

e. INVISTA shall continue to replace the original primary carbon canister (or route the flow to an appropriate alternative control device) immediately when breakthrough is detected between the primary and secondary canister. The original secondary carbon canister (or a fresh canister) will become the new primary carbon canister and a fresh carbon canister will become the secondary canister. For purposes of this Subparagraph, “immediately” shall mean within twenty-four (24) hours of the detection of a breakthrough for canisters greater than 55 gallons. In lieu of replacing the primary canister immediately, INVISTA may elect to monitor the outlet of the secondary canister beginning on the day the breakthrough between the primary and secondary canister is identified and each calendar day thereafter. This daily monitoring shall continue until the primary canister is replaced. If benzene is detected at the outlet of the secondary canister during this period of daily monitoring, both canisters must be replaced within eight (8) hours of the detection of a breakthrough.

f. Temporary Applications. For a period not longer than forty-five (45) days, INVISTA may utilize properly-sized single canisters for short-term operations such as with temporary storage tanks or as temporary control devices. For canisters 55 gallons or less operated as part of a single canister system, “breakthrough” is defined for purposes of this Consent Decree as any reading of VOC above background or benzene above 1 ppm (whichever is monitored). For canisters greater than 55 gallons, “breakthrough” is defined for purposes of this Consent Decree as any reading of benzene above 10 ppm. Beginning no later than the Entry Date, INVISTA shall monitor for breakthrough from a single carbon canister system once every calendar day that there is actual flow to the carbon canister. INVISTA shall replace the single carbon canister with a fresh carbon canister, discontinue flow, or route the stream to an alternate, appropriate device immediately when breakthrough is detected. For purposes of this Subparagraph, “immediately” shall mean within twenty-four (24) hours. If a single canister has been found to exceed the applicable breakthrough concentration, flow must be discontinued to that canister immediately. Such a spent canister may not be placed back into Benzene Waste NESHAP vapor control service until it has been appropriately regenerated.

g. INVISTA shall continue to maintain a readily-available supply of fresh carbon canisters at all times for the Victoria and Orange Facilities where canisters are used as a control device or shall otherwise ensure that such canisters are readily available to implement the requirements of this Paragraph 53. For purposes of this Paragraph, readily-available shall mean that INVISTA shall maintain a supply of fresh carbon canisters that are available within eight (8) hours for canisters that are 55 gallons or less and with twenty-four (24) hours for carbon

canisters that are greater than 55 gallons.

h. INVISTA shall continue to maintain records associated with the requirements of this Paragraph, including all carbon canister monitoring readings and the constituents being monitored for at least five (5) years after such readings occur.

54. Annual Review. Within sixty (60) days after the Entry Date, INVISTA shall modify, to the extent necessary, its existing written management of change procedures to provide for an annual review of process information for the Victoria and Orange Facilities, including but not limited to construction projects, to ensure that all new benzene waste streams are included in the waste stream inventory. INVISTA shall conduct such reviews on an annual basis.

55. Laboratory Audits. INVISTA shall conduct audits of all laboratories that perform analyses of INVISTA's Benzene Waste NESHAP samples to ensure that proper analytical and quality assurance/quality control procedures are followed for such samples.

a. Within 180 days after the Entry Date, INVISTA shall complete initial audits of half the laboratories used by the Orange and Victoria Facilities, and shall complete the audits for the remaining laboratories within 365 days of the Entry Date. INVISTA shall also audit any new laboratory to be used for analyses of benzene samples from the Orange and Victoria Facilities prior to use of the new laboratory. If INVISTA has completed an audit of any laboratory on or after January 1, 2006, initial audits of those laboratories pursuant to this Subparagraph shall not be required.

b. During the term of this Consent Decree, INVISTA shall conduct subsequent laboratory audits such that each laboratory is audited once every two (2) calendar years.

c. INVISTA may conduct audits itself, retain third parties to conduct these audits, or use audits conducted by others as its own, but the responsibility and obligation to ensure compliance with this Consent Decree, this Paragraph and Subpart FF are solely INVISTA's.

56. Benzene Spills. For any spill at either the Victoria or Orange Facility after the Entry Date, INVISTA shall review the spill to determine if any benzene waste, as defined by Subpart FF, was generated as a result of the spill. INVISTA shall continue to account for all benzene wastes generated through spills that are not managed in controlled equipment, in an enhanced biotreatment unit, or shipped offsite in accordance with 40 C.F.R. §§ 61.342-348 in its annual calculation against the 2 Mg compliance option.

57. Training.

a. Within 90 days after the Entry Date, INVISTA shall develop and implement a program for annual (i.e. once each calendar year) training for all employees who draw benzene samples for Benzene Waste NESHAP purposes.

b. Within 120 days after the Entry Date, INVISTA shall complete the development of standard operating procedures (where they do not already exist) for all control devices and treatment processes used to comply with the Benzene Waste NESHAP at the Victoria and Orange Facilities.

c. Within 180 days after the Entry Date, INVISTA shall complete an initial training program regarding these procedures for all operators assigned to the relevant equipment, if such training has not already been provided. Comparable training shall also be provided to any persons who subsequently become operators, prior to their assumption of this duty. "Refresher" training in these procedures shall be performed on a three-year cycle (i.e., once every three calendar years).

d. INVISTA shall require any contractors hired to perform any of the requirements of this Subsection VI to provide evidence that its employees are properly trained to implement any requirements that they are hired to perform pursuant to Paragraphs 51, 53, 58, 60, and 61 of this Consent Decree.

58. Sampling Under the 2 MG Compliance Option. INVISTA shall conduct quarterly sampling as described by this Paragraph at the Victoria and Orange Facilities for the purpose of calculating quarterly, uncontrolled benzene quantities.

a. Within 180 days after the Entry Date, INVISTA shall submit to EPA for approval a sampling plan for the Victoria and Orange Facilities designed to identify the quarterly benzene quantity in uncontrolled benzene waste streams. That sampling plan shall include, but need not be limited to: (i) proposed sampling locations and methods for flow calculations at the "end of line" of the uncontrolled benzene waste streams; (ii) quarterly sampling of all uncontrolled waste streams that count toward the 2 Mg/yr calculation and contain greater than 0.05 Mg/yr of benzene; (iii) quarterly sampling of all uncontrolled waste streams that qualify for the 10 ppmw exemption (40 C.F.R. § 61.342(c)(2)) and that contain greater than 0.1 Mg/yr of benzene. The Sampling Plans may identify commingled, exempt waste streams for sampling, provided INVISTA demonstrates that the benzene quantity of those commingled streams will not be underestimated. Subparagraph 58.a(i) above shall not apply so long as the configuration of the sewer systems at the Victoria and Orange Facilities are not modified from the 2007 configuration, except as contemplated by Paragraphs 47 and 50.

b. If changes in processes, operations, or other factors lead INVISTA to conclude that its approved Sampling Plan may no longer provide an accurate measure of the Facility's quarterly benzene quantity in uncontrolled benzene waste streams, INVISTA shall submit a revised sampling plan to EPA for approval within 60 days after discovery of an issue under this Paragraph occurs.

c. INVISTA shall commence sampling under its Sampling Plan during the first full calendar quarter following submittal of the Plan, regardless of whether or not the Plan is approved at that time. INVISTA shall take, and have analyzed, at least three representative samples from each identified sampling location. INVISTA shall use the average of all samples taken and the identified flow calculations to determine its quarterly benzene quantity in

uncontrolled waste streams and to estimate a calendar year value for the Facility.

d. After at least eight quarters of sampling under an approved Sampling Plan under this Paragraph 58, INVISTA may submit a report to EPA that requests a change in the monitoring frequency for the Victoria and/or Orange Facilities. If EPA determines, after an opportunity for consultation with INVISTA, that the information presented in the report supports a change in the monitoring frequency for one or more of the facilities, then the monitoring frequency requirement under this Paragraph will be modified in accordance with Paragraph 141 (Modification).

59. Quarterly and Annual Estimations of Uncontrolled Benzene Quantity. At the end of each calendar quarter following commencement of quarterly sampling, INVISTA shall calculate a quarterly uncontrolled benzene quantity and shall estimate a projected calendar year uncontrolled benzene quantity based on the quarterly sampling results and the approved flow calculations. INVISTA shall submit the uncontrolled benzene quantity in the Semi-Annual Reports due under Section XII of this Decree.

60. Corrective Measures.

a. Applicability. If the calculations in Paragraph 59 indicate that the quarterly uncontrolled benzene quantity exceeds 0.5 Megagrams or the projected calendar year uncontrolled benzene quantity exceeds 2.0 Megagrams, INVISTA shall submit in its Semi-Annual Report all relevant information and identify whether any action should be taken to reduce benzene quantities in its waste streams for the remainder of the calendar year. If additional actions are determined to be necessary to ensure compliance with the 2 Mg Compliance Option, INVISTA will include in the Semi-Annual Report, a BWON Corrective Measures Plan as specified in Subparagraph 60.b.

b. BWON Corrective Measures Plan. The BWON Corrective Measures Plan required by this Paragraph shall identify: (i) the cause of the potentially elevated benzene quantities; (ii) all corrective actions that INVISTA has taken or plans to take to ensure that the cause will not recur; and (iii) an appropriate strategy and schedule that INVISTA shall implement to ensure that INVISTA complies with the 2 Mg Compliance Option. If a spill event is the main cause of the potentially elevated benzene quantities, the BWON Corrective Measures Plan will focus on the spill event and on future measures to minimize and address spills. INVISTA shall implement its BWON Corrective Measures Plan in accordance with the schedule provided therein.

c. Third-Party TAB Study and Compliance Review. After a second consecutive quarter in which at least one of the conditions in Subparagraph 60.a continues to exist and INVISTA is not then able to identify the cause(s) and/or appropriate corrective measures to ensure compliance with the 2 Mg Compliance Option, INVISTA shall retain a third-party contractor to undertake a comprehensive TAB study and compliance review ("Third-Party TAB Study and Compliance Review") at the applicable Facility. By no later than the last day of the next following quarter, INVISTA shall submit a proposal to EPA that identifies the contractor, the contractor's scope of work, and the contractor's schedule for the Third-Party TAB

Study and Compliance Review. Unless EPA disapproves or seeks modifications of the proposal within thirty (30) days after its receipt, INVISTA shall authorize the contractor to commence work. INVISTA shall ensure that the work is completed in accordance with the schedule provided therein. No later than thirty (30) days after INVISTA receives the results of the Third-Party TAB Study and Compliance Review, INVISTA shall submit the results to EPA. After the report is submitted to EPA, INVISTA and EPA shall discuss informally the results of the Third-Party TAB Study and Compliance Review. No later than ninety (90) days after INVISTA receives the results of the Third-Party TAB Study and Compliance Review or at such other time as INVISTA and EPA may agree, INVISTA shall submit to EPA a plan and schedule for remedying any deficiencies identified in the Third-Party TAB Study and Compliance Review and any deficiencies that EPA identified following the Third-Party TAB Study and Compliance Review. Unless EPA disapproves or seeks modifications of the proposal within thirty (30) days after its receipt, INVISTA shall implement the remedial plan in accordance with the schedule included in its plan.

61. Miscellaneous Measures

a. By no later than sixty (60) days after the Entry Date, INVISTA shall:

i. Conduct monthly visual inspections of and, if appropriate, refill all Subpart FF water traps within the Orange and Victoria Facilities individual drain systems;

ii. If INVISTA utilizes conservation vents, visually inspect all Subpart FF conservation vents or indicators on process sewers for detectable leaks on a weekly basis, reset any vents where leaks are detected, and record the results of the inspections. After two (2) years of weekly inspections, and based upon an evaluation of the recorded results, INVISTA may submit a request to EPA Region 6 to modify the frequency of the inspections. Alternatively, for conservation vents with indicators that identify whether flow has occurred, INVISTA may elect to visually inspect such indicators on a monthly basis and, if flow is then detected, INVISTA shall then visually inspect that indicator on a weekly basis for four weeks. If flow is detected during any two of those four weeks, INVISTA shall install a carbon canister on that vent until appropriate corrective action(s) can be implemented to prevent such flow. Nothing in this Subparagraph shall require INVISTA to monitor conservation vents on fixed roof tanks.

b. By no later than sixty (60) days after completing the segregation project under Paragraph 47 and 50, INVISTA shall identify and mark at the drain all area drains in the ADN Area that are segregated stormwater drains.

62. Recordkeeping and Reporting Requirements for this Section VI: Outside of the Reports Required under 40 C.F.R. § 61.357 and the Semi-Annual Reports Required by Section

XII (Periodic Reporting). At the times specified in the applicable provisions of this Section VI, INVISTA will submit, as and to the extent required, the following reports to EPA:

a. a certification of compliance under Paragraph 52;

b. a report certifying the completion of installation of dual carbon canisters (under Subparagraph 53.a);

c. a BWON Sampling Plan (under Subparagraph 58.a), and revised BWON Sampling Plan, if necessary (under Subparagraph 58.b).

63. Recordkeeping and Reporting Requirements for this Section VI: As Part of the Semi-Annual Reports Required by Section XII (Periodic Reporting). INVISTA shall submit the following information in the Semi-Annual Reports submitted pursuant to Section XII (Periodic Recordkeeping) for the six month period covered by the Report:

a. An identification of all laboratory audits, if any, completed during the six month period, including a description of the methods used in the audit and the results of the audit;

b. A description of the measures taken, if any, during the six month period to comply with the training provisions of Paragraph 57; and

c. A summary of the sampling results required under Paragraph 58, including the quarterly and projected annual uncontrolled benzene quantities or TAB, as applicable.

VII. LEAK DETECTION AND REPAIR PROGRAM ENHANCEMENTS

64. In order to minimize or eliminate fugitive emissions of volatile organic compounds ("VOCs"), benzene, volatile hazardous air pollutants ("VHAPs"), and organic hazardous air pollutants ("HAPs") from equipment in light liquid and/or in gas/vapor service, INVISTA shall undertake the enhancements identified in this Section VII to its leak detection and repair ("LDAR") programs at the Victoria and Orange Facilities under all applicable federal Clean Air Act, and analogous state and local LDAR requirements.

65. Written LDAR Program Description. By no later than sixty (60) days after the Entry Date, INVISTA shall develop and maintain a written LDAR Program Description for a program for compliance with all federal, state, and local LDAR regulations applicable to the Victoria and Orange Facilities. INVISTA shall update the LDAR Program Description as may be necessary to ensure continuing compliance. The LDAR Program Description shall include, at a minimum:

a. A set of leak rate goals for the Victoria and Orange Facilities that will be a target for achievement on a process-unit-by-process-unit basis. Such targets shall have the purpose of facilitating lower leak rates and are not

intended as enforceable requirements;

b. An identification of all equipment in light liquid and/or in gas/vapor service that is subject to periodic monitoring requirements via 40 C.F.R. Part 60, EPA Reference Test Method 21 under any applicable federal, state, or local LDAR regulation and that has the potential to leak VOCs, HAPs, VHAPs, and benzene within the Victoria and Orange Facilities process units.

c. Procedures for identifying leaking equipment within the Victoria and Orange Facilities process units;

d. Procedures for repairing and keeping track of leaking equipment;

e. Procedures for identifying and including new equipment to be added to the LDAR program;

f. A process for evaluating new and replacement equipment to promote consideration and installation of equipment that will minimize leaks and/or eliminate chronic leakers;

g. A description of the Facility's LDAR monitoring organization and a designation of the person or position responsible for LDAR management who has the authority to implement LDAR improvements at the Facility, as required by Paragraph 67; and

h. A procedure for regularly communicating LDAR information to appropriate INVISTA personnel.

66. Training. INVISTA shall continue to implement its current training program, which includes the following features, and within ninety (90) days of completion of the written LDAR Program Description, INVISTA shall begin to implement a new training program at the Victoria and Orange Facilities which includes the following features:

a. For personnel newly-assigned to LDAR responsibilities, INVISTA shall require LDAR training prior to each employee beginning such work;

b. For all personnel assigned LDAR responsibilities, INVISTA shall provide and require completion of annual LDAR training or require its LDAR contractor to provide such training (initial annual LDAR training for all such personnel will be completed not later than one year after the Entry Date);

c. For all other Facility operations and maintenance personnel (including contract personnel) who have duties relevant to LDAR, INVISTA shall provide and require completion of an initial training program that includes

instruction on aspects of LDAR that are relevant to the person's duties (initial LDAR training for all such personnel will be completed not later than one year after the Entry Date); and

d. For the individuals covered by this Paragraph, "refresher" training in LDAR shall be performed on a cycle of no longer than three years.

67. LDAR Personnel. By no later than 180 days after the Entry Date, INVISTA shall establish a program that holds each person assigned LDAR responsibilities accountable for assuring compliance with LDAR. By no later than ninety (90) days after the Entry Date, INVISTA shall establish and maintain a person or position with responsibility for LDAR management and authority to implement LDAR improvements.

68. LDAR Audits. INVISTA shall implement Facility-wide LDAR Audits – including an Initial LDAR Audit and Regular LDAR Audits – as set forth in this Paragraph to ensure the Victoria and Orange Facilities' compliance with all applicable LDAR requirements. Each LDAR Audit shall include, but shall not be limited to: (i) performing comparative monitoring; (ii) reviewing records to ensure monitoring and repairs were completed in the required periods; (iii) reviewing component identification procedures, tagging procedures, and data management procedures; and (iv) observing LDAR technicians' calibration and monitoring techniques. During each LDAR Audit, leak rates shall be calculated for each process unit where comparative monitoring was performed.

a. Initial LDAR Audit. INVISTA shall retain a third-party contractor to complete an Initial LDAR Audit for the Victoria Facility by no later than December 31, 2009, and for the Orange Facility by no later than June 30, 2010.

b. Initial Audit Report. Within ninety (90) days of completion of each audit, INVISTA shall report to EPA any areas of non-compliance identified as a result of its audit and submit in writing a proposed compliance schedule for correcting the non-compliance. If the proposed compliance schedule extends greater than ninety (90) days beyond the audit completion date, INVISTA must seek approval of the compliance schedule from EPA. INVISTA shall implement the compliance schedule as proposed until the schedule is approved or disapproved by EPA. Within ninety (90) days of completing each audit, INVISTA shall certify to EPA that the facility: is in compliance; has completed related corrective action (if necessary); and/or is on a compliance schedule, and shall specifically certify that all affected equipment has been identified and included in the facility LDAR program. Violations identified in the report of the initial audit conducted pursuant to Subparagraph 68.a and corrected by INVISTA as required in Paragraph 69 shall not be subject to the stipulated penalties in Paragraph 89.

c. Regular LDAR Audits.

i. Third-Party Audits. INVISTA shall retain a contractor to perform a Third-Party LDAR Audit of the Victoria and Orange Facilities' LDAR program at least once every four (4) calendar years after the

Initial LDAR Audit is completed under Subparagraph 68.a (with approximately 48 months between the Audits).

ii. Internal Audits. Internal LDAR Audits of the Victoria and Orange Facilities' LDAR program shall be completed by having an audit performed by personnel familiar with the LDAR program and its requirements. INVISTA shall complete an Internal LDAR Audit by no later than two (2) years from the date of the completion of the third-party audits required in Subparagraphs 68.a and 68.c.i. INVISTA shall perform an internal audit of the Victoria and Orange Facilities' LDAR program at least once every four (4) calendar years (with approximately 48 months between the Audits). INVISTA may elect to retain third-parties to undertake an Internal Audit, provided that a Regular LDAR Audit at the Victoria and Orange Facilities occurs every two (2) years.

iii. Timing. To ensure that an LDAR Audit occurs every two (2) years at the Victoria and Orange Facilities, once the Initial Audit is completed, the remaining Third-Party Audits and Internal Audits shall be separated by not more than two (2) calendar years (with approximately 24 months between the Audits).

69. Implementation of Actions Necessary to Correct Non-Compliance. If the results of any of the LDAR Audits conducted pursuant to Paragraph 68 identify any areas of noncompliance, INVISTA shall implement, as soon as practicable, all steps necessary to correct or otherwise address such area(s) of non-compliance and to prevent, to the extent practicable, a recurrence of the cause of such non-compliance. For purposes of this Paragraph, a ratio of the process unit valve leak percentage, established through a comparative monitoring audit conducted under Paragraph 68 to determine the average valve leak percentage reported for the process unit for the four quarters immediately preceding the audit, in excess of 3.0 shall be deemed a cause for corrective action. If the calculated ratio yields an infinite result, INVISTA shall assume one leaking valve was found in the process unit through its routine monitoring during the four-quarter period. INVISTA shall, during the term of this Consent Decree, retain the Initial Audit Report and all other LDAR Audit reports generated pursuant to Paragraph 68, and shall maintain a written record of all corrective actions that INVISTA takes in response to deficiencies identified in any LDAR Audits. After the completion of any LDAR Audit other than the Initial Audit, INVISTA shall include the following information in the next Semi-Annual Report due under Section XII of this Consent Decree: (a) a summary, including findings, of each such LDAR Audit; and (b) a list of corrective actions taken during the reporting period and any schedule for implementing future corrective actions.

70. Internal Leak Definition for Valves and Pumps. Unless otherwise exempt from monitoring under all applicable regulatory requirements, INVISTA shall continue to utilize the following internal leak definitions for valves and pumps in light liquid and/or gas/vapor service, unless other permit(s), regulations, or laws require the use of lower leak definitions. If INVISTA's compliance with the Consolidated Federal Air Rule ("CAR") at 40 C.F.R. Part 65 is

at least as stringent as the requirements under this Paragraph and compliance with CAR is achieved on or before the deadlines set pursuant to this Paragraph, then compliance with CAR shall constitute compliance with this Paragraph.

a. Leak Definition for Valves. By no later than 365 days after the Entry Date, INVISTA shall utilize an internal leak definition of 500 ppm VOCs for valves that have not been previously subject to this internal leak definition at the Victoria and Orange Facilities, excluding pressure relief devices.

b. Leak Definition for Pumps. By no later than 365 days after the Entry Date, INVISTA shall utilize an internal leak definition of 2000 ppm for centrifugal pumps that have not been previously subject to this internal leak definition at the Victoria and Orange Facilities. Reciprocating pumps, connectors, compressors, and other components shall retain their applicable regulatory leak definition.

71. LDAR Monitoring Frequency. If INVISTA's compliance with CAR (40 C.F.R. Part 65) is at least as stringent as the requirements under this Paragraph and compliance with CAR is achieved on or before the deadlines set pursuant to this Paragraph, then compliance with CAR shall constitute compliance with this Paragraph.

a. Pumps. When the lower internal leak definition for pumps becomes applicable under Subparagraph 70.b, and unless more frequent monitoring is required by applicable LDAR requirements, INVISTA shall monitor pumps at the internal leak definition on a monthly basis.

b. Valves. When the lower internal leak definition for valves becomes applicable under Subparagraph 70.a, and unless more frequent monitoring is required by applicable LDAR requirements, INVISTA shall monitor valves (other than difficult to monitor or unsafe to monitor valves) at the internal leak definition on a quarterly basis, with no ability to skip periods on a process-unit-by-process-unit basis.

72. Reporting, Recording, Tracking, Repairing and Remonitoring Leaks of Valves and Pumps Based on the Internal Leak Definitions. If INVISTA's compliance with CAR (40 C.F.R. Part 65) is at least as stringent as the requirements under this Paragraph and compliance with CAR is achieved on or before the deadlines set pursuant to this Paragraph, then compliance with CAR shall constitute compliance with this Paragraph.

a. Reporting. For regulatory reporting purposes, INVISTA may continue to report leak rates in valves and pumps against the reporting requirements stated in applicable regulations, or may use the lower, internal leak definitions specified in Paragraph 70.

b. Recording, Tracking, Repairing and Remonitoring Leaks. INVISTA shall record, track, repair, and re-monitor all leaks in excess of the internal leak definitions of Paragraph 70 (at such time as those definitions become applicable). Except as provided otherwise in this Section VII, INVISTA shall make a first attempt at repair and remonitor the component within five (5) calendar days after a leak is detected and, if continuing to leak, either

complete repairs and re-monitor leaks or place such component on the Facility's delay of repair list according to Paragraph 77 within thirty (30) days after a leak is detected. All records of repairs, repair attempts, and remonitoring shall be maintained for the life of the Consent Decree.

73. Initial Attempt at Repair on Certain Valves**.** By no later than ninety (90) days after the Date of Entry, INVISTA shall promptly make an "initial attempt" at repair after detecting a leak at a reading greater than 200 ppm of VOCs at any valve, excluding pressure relief devices, control valves, valves that are on the delay of repair list, and components that LDAR personnel are not authorized to repair. INVISTA or its designated contractor shall re-monitor the valve in question within five (5) calendar days after the "initial attempt" to repair. If the remonitored leak reading is below the applicable leak definition, no further action will be necessary. If the re-monitored leak reading is greater than the applicable leak definition, INVISTA shall repair the valve according to the requirements of Subparagraph 72.b, except that no first repair attempt requirement shall apply. If INVISTA can demonstrate with sufficient, statistically significant monitoring data over a period of at least two years that "initial attempts" to repair at 200 ppm worsen or do not improve leak rates, INVISTA may request EPA to reconsider or amend this requirement.

74. Electronic Monitoring, Storing, and Reporting of LDAR Data.

a. Electronic Storing and Reporting of LDAR Data. INVISTA has and shall continue to maintain an electronic database for storing and reporting LDAR data at the Victoria and Orange Facilities.

b. Electronic Data Collection During LDAR Monitoring and Transfer Thereafter. By no later than 180 days after the Entry Date, INVISTA shall use data loggers and/or electronic data collection devices during all LDAR monitoring at the Victoria and Orange Facilities. INVISTA, or its designated contractor, shall use its best efforts to transfer, by the end of the next business day, the electronic data from electronic data logging devices to the electronic database maintained pursuant to Subparagraph 74.a. For all monitoring events in which an electronic data collection device is used, the collected monitoring data shall include a time and date stamp, and identification of the instrument and operator. INVISTA may only use paper logs where necessary or more feasible (e.g., small rounds, re-monitoring, or when data loggers are unavailable or broken, etc.), and shall record, at a minimum, the identity of the technician, the date, the monitoring starting and ending times, all monitoring readings, and an identification of the monitoring equipment. INVISTA shall use its best efforts to transfer any manually recorded monitoring data to the electronic database maintained pursuant to Subparagraph 74.a within seven (7) days of the monitoring event.

75. QA/QC of LDAR Data**.** By no later than 90 days after the Entry Date, INVISTA (or a third-party contractor retained by INVISTA) shall develop and implement procedures for quality assurance/quality control ("QA/QC") reviews of all data generated by LDAR monitoring technicians. INVISTA shall ensure that monitoring data provided by monitoring technicians is reviewed daily for QA/QC. At least once per calendar quarter, INVISTA shall perform a QA/QC review of each contractor's monitoring data which shall include, but not be limited to, a review of: (i) the number of components monitored per technician; (ii) the time between

monitoring events; and (iii) abnormal data patterns.

76. Calibration/Calibration Drift Assessment**.**

a. Calibration. INVISTA shall conduct all calibrations of LDAR monitoring equipment at the Victoria and Orange Facilities using methane as the calibration gas, and in accordance with 40 C.F.R. Part 60, EPA Reference Test Method 21.

b. Calibration Drift Assessment. By no later than 365 days after the Entry Date, INVISTA shall conduct calibration drift assessment re-checks of the LDAR monitoring equipment at least at the end of each day and anytime a machine shuts off. INVISTA shall conduct the calibration drift assessment re-check using a calibration gas with a concentration approximately equal to the applicable internal leak definition for the life of this Consent Decree as defined in Section XXVII (Termination of Consent Decree). If any calibration drift assessment after the initial calibration shows a negative drift of more than 10% from the previous calibration, INVISTA shall remonitor all valves that were monitored since the last calibration or calibration drift assessment that had a reading greater than 200 ppm and shall remonitor all pumps that were monitored since the last calibration or calibration drift assessment that had a reading greater than 500 ppm.

77. Delay of Repair.

a. By no later than ninety (90) days after the Entry Date, INVISTA shall take the following actions for any equipment at the Victoria and Orange Facilities that INVISTA intends to place on the "delay of repair" list, under applicable regulations:

i. INVISTA shall require sign-off by the unit supervisor within thirty (30) days of identifying that a piece of equipment is leaking at a rate greater than the applicable leak definition and that such equipment qualifies for delayed repair under applicable regulations;

ii. INVISTA shall include equipment that is placed on the "delay of repair" list in INVISTA's regular LDAR monitoring;

iii. INVISTA shall use its best efforts to isolate and repair centrifugal pumps identified as leaking at a rate of 2,000 ppm or greater; and

iv. Beginning no later than six (6) months from the Date of Lodging of the Consent Decree, on valves subject to the LDAR Regulations, other than control valves and pressure relief valves, that are leaking at a rate of 10,000 ppm or greater, INVISTA will use a "drill and tap" or equivalent method for fixing such leaking valves, unless INVISTA can demonstrate that there is a safety, mechanical, or adverse environmental concern posed by attempting to repair the leak in this manner. INVISTA will perform the first

"drill and tap" (or equivalent repair method) within fifteen (15) days, and a second attempt (if necessary) within thirty (30) days after the leak is detected. If a new method develops for repairing such valves, INVISTA will advise EPA prior to implementing the use of such new method in place of drill and tap for repairs required under this Decree.

78. Chronic Leakers. A valve shall be classified as a "chronic leaker" under this Paragraph if it leaks above 5,000 ppm twice in any consecutive four (4) quarters after the Entry Date, unless the valve has not leaked in the twelve (12) consecutive quarters prior to the relevant process unit turnaround. Following the identification of a "chronic leaker" non-control valve, INVISTA shall replace, repack, or perform similarly effective repairs on the chronic leaker during the next process unit turnaround.

79. Alternate Leak Detection Method. As an alternative to the LDAR requirements outlined in Paragraphs 75 and 76 above, INVISTA may begin using an alternate leak detection method – such as a method employing "Smart LDAR" technology – within one year of Entry Date.

80. Recordkeeping and Reporting Requirements for this Section.

a. In the Semi-Annual Reports submitted by INVISTA pursuant to Section XII (Periodic Reporting), INVISTA shall include the following information in the Report for the period in which the identified activity occurred or was required:

i. A copy of the LDAR Program Description under Paragraph 65;

ii. A certification that the training program has been implemented as required by Paragraph 66;

iii. An identification of the person or position responsible for LDAR performance as required by Paragraph 67;

iv. A certification that the lower leak definitions and increased monitoring frequencies have been implemented according to Paragraphs 70 and 71;

v. A certification of the implementation of the "initial attempt" to repair program under Paragraph 73;

vi. A certification of the implementation of QA/QC procedures for review of data generated by LDAR technicians as required by Paragraph 75;

vii. A certification of the implementation of the calibration drift assessment procedures of Paragraph 76;

viii. A certification of the implementation of the "delay of repair" procedures of Paragraph 77;

ix. A list of the process units monitored during the reporting period;

x. The number of valves and pumps present in each process unit;

xi. The number of valves and pumps monitored in each process unit;

xii. The number of valves and pumps found leaking for each process unit;

xiii. The number of "difficult to monitor" pieces of equipment monitored;

xiv. The projected month and year of the next monitoring event for that unit;

xv. A list of all equipment currently on the "delay of repair" list and the date each component was placed on the list;

xvi. The number of repairs not attempted within five (5) days and thirty (30) days pursuant to Subparagraph 72.b;

xvii. The number of initial attempts at repair not made promptly and remonitored within five (5) days pursuant to Paragraph 73;

xviii. The number of repairs not completed at the next process unit turnaround pursuant to Paragraph 78; and

xix. The number of repairs not completed within fifteen (15) days and thirty (30) days under Subparagraph 77.a.iv.

b. Special Requirement for Initial Semi-Annual Report Each Year. As part of the first Semi-Annual Report submitted each year pursuant to Section XII (Periodic Reporting), INVISTA shall identify each LDAR Audit that was conducted under Paragraph 68 in the previous calendar year, including an identification of the auditors, a summary of the audit results, and the actions that INVISTA took or intends to take to correct identified deficiencies.

VIII. RESOLUTION OF CLAIMS

81. Claims Based on Violations in Appendix A. Entry of this Consent Decree shall resolve INVISTA's civil and administrative liability to the Plaintiffs for the alleged violations specified in Appendix A.

82. Claims Based on Violations in Appendix B. Satisfaction of the requirements in Sections IV and V of this Consent Decree shall resolve INVISTA's civil and administrative liability to the Plaintiffs for NNSR/PSD or NSPS claims, as applicable, arising out of the alleged violations specified in Appendix B. Notwithstanding the resolution of liability in this Paragraph, the release of liability by the Plaintiffs to INVISTA for claims arising out of the alleged violations specified in Appendix B shall be rendered void if INVISTA materially fails to comply with the obligations and requirements of Section IV (relating to NNSR/PSD Requirements) or Section V (relating to NSPS Flaring Devices) of this Consent Decree; provided, however, that the release in this Paragraph shall not be rendered void if INVISTA remedies such failure and pays any stipulated penalties due as a result of such material failure.

83. Claims Based on BWON and LDAR Violations. Satisfaction of the requirements in Section VI and VII of this Consent Decree shall resolve INVISTA's civil and administrative liability to the Plaintiffs for (1) BWON and LDAR claims arising out of the alleged violations specified in Appendix C and (2) violations of federal or federally-enforceable state or local LDAR requirements applicable to the Victoria and Orange facilities that commence prior to the Date of Lodging, provided that the events giving rise to such violations are identified by INVISTA in its initial third party audit reports submitted pursuant to Paragraph 68.b and corrected by INVISTA as required under Paragraph 69. Notwithstanding the resolution of liability in this Paragraph, the releases of liability by the Plaintiffs to INVISTA for claims arising out of the alleged violations specified in Appendix C or identified in the Paragraph 68.b initial audit report shall be rendered void if INVISTA materially fails to comply with the obligations and requirements of Sections VI and VII (relating to BWON and LDAR Requirements) of this Consent Decree; provided, however, that the releases in this Paragraph shall not be rendered void if INVISTA remedies such failure and pays any stipulated penalties due as a result of such material failure.

84. Nothing in this Consent Decree is intended nor shall be construed as a waiver by EPA, the United States or of any of the Plaintiffs of its right to institute an administrative or civil action against INVISTA for any past, present, or future civil violations of any statutes, rules or regulations other than for those violations listed in Appendix A, B, or C. Nothing in this Consent Decree is intended nor shall be construed to operate in any way to resolve any criminal liability of INVISTA. Except as otherwise provided in Paragraphs 81-83, INVISTA's compliance with this Consent Decree shall be no defense in law or equity to any action commenced by the Plaintiffs pursuant to any federal, state or local law, regulation, or permit.

85. The United States', DNREC's, SCDHEC's and the CHCAPCB's agreement to the terms of this Consent Decree is expressly conditioned on the completeness, accuracy and truth of INVISTA's certifications set forth in Subparagraphs 97.a through 97.h of this Consent Decree. In the event that INVISTA has made any material misrepresentations or omissions in any Subparagraph 97.a through 97.h of this Consent Decree:

a. The Resolution of Claims in Paragraphs 81-83 shall be jointly voidable by action of the United States and the Applicable Co-Plaintiff, except that any civil penalty or stipulated penalty payments already made by INVISTA under this Consent Decree shall be forfeited by INVISTA; and

b. The Plaintiffs may pursue all civil and criminal remedies and sanctions available to them under law on account of Defendant's violations, including criminal prosecution for perjury or false swearing.

86. In the event that INVISTA has made a nonmaterial misrepresentation or omission in any Subparagraph 97.a through 97.h then the Resolution of Claims in Paragraphs 81-83 shall be jointly voidable by action of the United States and the Applicable Co-Plaintiff solely with respect to the violations to which such nonmaterial misrepresentation related, but not voidable in their entirety.

IX. PAYMENT OF CIVIL PENALTIES

87. Within thirty (30) days after Date of Entry of this Consent Decree, INVISTA shall pay to the Plaintiffs a civil penalty totaling $1,700,000 dollars in accordance with Subparagraphs 87.a – 87.f below, in settlement of the civil violations alleged in the Plaintiffs' Complaints.

a. INVISTA shall pay the amount of $850,000 to the U.S. Treasury. Such payment shall be made by EFT to the U.S. Department of Justice lockbox bank in accordance with instructions provided by the United States to INVISTA upon execution of the Consent Decree, and shall reference USAO File Number _____ and DOJ Case Number 90-5-2-1-08892. Any such EFT received at that lockbox bank after 11:00 a.m. (Eastern Time) will be credited on the following business day.

b. INVISTA shall pay the amount of $500,000 to DNREC.

c. INVISTA shall pay the amount of $250,000 to SCDHEC.

d. INVISTA shall pay the amount of $100,000 to the CHCAPCB.

e. INVISTA shall pay any amounts due to DNREC, SCDHEC, or the CHCAPCB by certified or corporate check payable to that entity and sent by first-class mail to the first person listed under the Notice section (Section XVIII) below.

f. INVISTA shall send notice to the United States that payment has been made in accordance with Section XVIII of this Consent Decree (Notices).

88. INVISTA shall not deduct any penalties paid under this Decree pursuant to this Section or Section X (Stipulated Penalties) in calculating its federal or State income taxes.

X. STIPULATED PENALTIES / VIOLATION OF CONSENT DECREE

89. For any failure by INVISTA to comply with the terms of this Consent Decree, and subject to the provisions of Sections XIV (Force Majeure) and XV (Dispute Resolution), INVISTA shall pay, within thirty (30) days after receipt of written demand to INVISTA, the following stipulated penalties to the United States and/or the Applicable Co-Plaintiff:

Consent Decree Violation	**Stipulated Penalty (Per day per violation, unless otherwise specified)**
a. Failure to pay the civil penalty as specified in Section IX (Payment of Civil Penalties) of this Consent Decree	$10,000
b. Failure to comply with any applicable 3-Hour Rolling Average, 24-Hour Rolling Average Emissions Rate, 30-Day Emissions Rate, 30-Day Rolling Tonnage	$100 for each 3-hour limit exceeded; $1,000 for each 24-hour limit exceeded; and $1,500 for each 30-day limit exceeded.
c. Failure to comply with any applicable 12-Month Rolling Average Emission Rate or 12-Month Rolling Tonnage.	$5,000 for each ton exceeding the limit up to 100 tons; $10,000 for each ton exceeding 100 tons above the limit
d. Failure to install, commence operation, or Continuously Operate the NO_x or SO_2 control devices on any Unit, or failure to retire a Unit	$5,000 during the first 30 days, $7,000 for 31st through 60th day; and $10,000 thereafter or an amount equal to 1.2 times the economic benefit of non-compliance (as defined below in Paragraph 91), whichever is greater
e. Failure to comply with the fuel limitations at a Unit, as required by Paragraphs 31-36	$1,750 during the first 30 days, $5,000, or an amount equal to 1.2 times the economic benefit of non-compliance (as defined below in Paragraph 91), whichever is greater
f. Failure to install or operate CEMS as required in Paragraph 26, 37, or 38	$1,000
g. Failure to apply for any permit required by Section XVI	$1,000
h. Failure to install and fully implement new ADN technology as required by Paragraph 44.a, if applicable	$7,500 per month
i. Failure to complete any action to correct noncompliance as required by Paragraphs 45, 47-48, or 50	$7,500 per month
j. Failure to timely install Benzene NESHAP controls required by Paragraph 46 or 49	$1,000
k. Failure to timely install or replace carbon canisters as required by Paragraph 53	$1,000
l. Failure to maintain the records or materials required by Section VI of this Decree	$2,000
m. Failure to establish an annual review	$2,500 per month

program to identify new benzene waste streams as required by Paragraph 54	
n. Failure to perform laboratory audits as required by Paragraph 55	$5,000 per month
o. Failure to implement training measures specified in Paragraph 57	$10,000 per quarter
p. Failure to conduct sampling in accordance with the sampling plans required in Paragraph 58	- $2,500 per week per stream - $15,000 per quarter per stream, whichever is greater, but not to exceed $150,000 per quarter per facility
q. Failure to identify/mark segregated stormwater drains as required by Paragraph 61.b	$1,000 per drain per week
r. Failure to monitor conservation vents or oil-water separators as required by Paragraph 61.a.ii	$1,000 per month
s. Failure to deliver written deliverables as specified in Paragraph 62 or 63	$1,000 per week
t. If it is discovered by an EPA or state investigator or inspector, or their agent, that INVISTA failed to include all benzene waste streams in its TAB, for each waste stream:	- $250 for streams less than 0.03Mg/yr - $1000 for streams between 0.03 and 0.5Mg/yr - $5,000 for streams greater than 0.5Mg/yr
u. Failure to timely develop an LDAR program as required by Paragraph 65	$3,500 per week
v. Failure to timely implement a training program as required by Paragraph 66	$10,000 per month
w. Failure to conduct any audits as required by Paragraph 68	$5,000 per month per audit
x. Failure to perform monitoring utilizing the lower internal leak rate definitions in Subparagraph 70(a) and (b) or to repair and remonitor leaks in accordance with Paragraph 72	$100 per component, but not greater than $10,000 per month per process unit
y. Failure to implement the initial attempt at repair program in Paragraph 73	$100 per component, but not greater than $10,000 per month per facility
z. Failure to implement the quarterly QA/QC procedures described in Paragraph 75	$10,000 per month per facility
aa. Failure to implement and comply with the LDAR monitoring program in the Written LDAR Program Description under Paragraph 65.	$100 per component but not greater than $10,000 per month per facility
bb. If it is determined through a federal, state or local investigation that INVISTA	

failed to include all valves and pumps in its LDAR program, INVISTA shall pay $2000 for those it failed to include. If INVISTA discovers it has failed to include all valves and pumps in its LDAR program, it shall pay $75 per component that it failed to include.	
cc. Failure to timely submit, modify, or implement, as approved, the reports, plans, studies, analyses, protocols, or other submittals required by this Consent Decree, except as otherwise specified in this Paragraph 89, above.	$750 during the first ten days, $1,000 thereafter

90. Violation of an emissions limit based on a 3-Hour Rolling Average basis is a violation for each 3-hour period during which the specified limit is exceeded. Violation of a 24-Hour Rolling Average or a 30-Day Rolling Average is a violation for each calendar day on which the average exceeds the specified limit. Violation of 12-Month Rolling Tonnages is a violation for each calendar month during which the average exceeds the limit.

91. For those provisions where a stipulated penalty of either a fixed amount or 1.2 times the economic benefit of non-compliance is available, the decision of which alternative to seek shall rest exclusively within the discretion of the EPA and the Applicable Co-Plaintiff. For purposes of this Section X, the term "economic benefit of non-compliance" means the economic benefit accrued from delaying a capital investment, delaying a one-time expenditure, and avoiding recurring costs (such as operation and maintenance costs) over the period of non-compliance. The overall "economic benefit of non-compliance" will be calculated based on the total number of days of non-compliance, and will be multiplied by 1.2 to compute the total stipulated penalty amount under a particular provision of this Section X. That total stipulated penalty amount will be assessed for the full period of non-compliance, and will not be assessed "per day." In no event shall any stipulated penalty assessed against INVISTA exceed $37,500 (or any inflation-adjusted increase in that maximum penalty amount set pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1996) per day for any individual violation of this Consent Decree.

92. All stipulated penalties shall begin to accrue on the day after the performance is due or on the day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Where a single event triggers more than one stipulated penalties provision in this Consent Decree, only the provision providing for the higher stipulated penalty shall apply, and that stipulated penalty is accrued for each day of violation unless otherwise specified in Paragraph 89.

93. INVISTA shall pay all stipulated penalties to the United States and the Applicable Co-Plaintiffs within sixty (60) days of receipt of written demand to INVISTA from the United States and/or the Applicable Co-Plaintiff, and shall continue to make such payments every thirty (30) days thereafter until the violation(s) no longer continues, unless INVISTA elects within

thirty (30) days of receipt of written demand to INVISTA from the United States and/or the Applicable Co-Plaintiff to dispute the accrual of stipulated penalties in accordance with the provisions in Section XVI (Dispute Resolution) of this Consent Decree. A demand from either the United States or an Applicable Co-Plaintiff shall be deemed a demand from both, but the United States and the Applicable Co-Plaintiff shall consult with each other prior to making a demand. A demand for the payment of stipulated penalties will identify the particular violation(s) to which the stipulated penalty relates, the stipulated penalty amount that the United States or the Applicable Co-Plaintiff is demanding for each violation (as can be best estimated), the calculation method underlying the demand, and the grounds upon which the demand is based. After consultation with each other, the United States and the Applicable Co-Plaintiff may, in their unreviewable discretion, waive payment of all or any portion of stipulated penalties that may accrue under this Consent Decree. Stipulated penalties shall be paid to the United States and Applicable Co-Plaintiff in the following manner:

a. Stipulated penalties owed by INVISTA shall be paid 50% to the United States and 50% to the Applicable Co-Plaintiff. If there is no Applicable Co-Plaintiff, stipulated penalties owed by INVISTA shall be paid 100% to the United States. Stipulated penalties owing to the United States of under $10,000 will be paid by check and made payable to "U.S. Department of Justice," referencing DOJ Case Number 90-5-2-1-08892 and USAO File Number _____, and delivered to the U.S. Attorney's Office. Stipulated penalties owing to the United States of $10,000 or more and stipulated penalties owing to an Applicable Co-Plaintiff will be paid in the manner set forth in Section IX (Payment of Civil Penalties) of this Consent Decree.

94. Should INVISTA dispute the United States' and/or an Applicable Co-Plaintiff's demand for all or part of a stipulated penalty, it may avoid liability for failure to pay a stipulated penalty by placing the disputed amount demanded in a commercial escrow account pending resolution of the matter and by invoking the dispute resolution provisions of Section XV within the time provided in Paragraph 93 for the payment of stipulated penalties. If the dispute is thereafter resolved in INVISTA's favor, the escrowed amount plus accrued interest shall be returned to INVISTA: otherwise, the United States and the Applicable Co-Plaintiff shall be entitled to the amount that was due by the Court, plus the interest that has accrued in the escrow account on such amount. Such payment shall be made according to the following schedule:

a. If the dispute is resolved by agreement, or by a decision of Plaintiffs pursuant to Section XV (Dispute Resolution) of this Consent Decree that is not appealed to the Court, accrued stipulated penalties agreed or determined to be owed, together with accrued interest, shall be paid within thirty (30) days of the effective date of the agreement or of INVISTA's receipt of EPA's decision;

b. If the dispute is appealed to the Court and Plaintiffs prevail in whole or in part, INVISTA shall, within sixty (60) days of receipt of the Court's decision or order, pay all accrued stipulated penalties determined by the Court to be owed, together with accrued interest, except as provided in Subparagraph 94.c.;

c. If the Court's decision is appealed by either Party and the Plaintiffs prevail in whole or in part, INVISTA shall, within fifteen (15) days of receipt of the final appellate court decision, pay all accrued stipulated penalties determined to be owed, together with accrued interest.

d. For purposes of this Paragraph, the accrued stipulated penalties agreed by the Parties, or determined by the Plaintiffs through Dispute Resolution, to be owing may be less than the stipulated penalty amounts set forth in Paragraph 89.

95. Should INVISTA fail to pay stipulated penalties in compliance with the terms of this Consent Decree, the Plaintiffs shall be entitled to collect interest on such penalties, as provided for in 28 U.S.C. § 1961.

96. In cases where a violation of this Consent Decree is also a violation that provides a basis for potential recovery of civil penalties under the Clean Air Act and its implementing federal, state, or local regulations, the United States and Applicable Co-Plaintiff will elect between seeking stipulated penalties under this Consent Decree and commencing a new action for civil penalties under such laws. Notwithstanding the foregoing, the United States and the Applicable Co-Plaintiffs reserve the right to pursue any other non-monetary remedies to which they are legally entitled.

XI. INVISTA'S CERTIFICATIONS

97. INVISTA certifies as true to the best of its knowledge and belief, after a reasonable inquiry, each of the factual assertions set forth in the following Subparagraphs 97.a through 97.h regarding the subject violations set forth in Appendix A attached to both this Decree and the United States' Complaint:

a. INVISTA discovered the subject violations through an environmental audit or through a compliance management system reflecting its due diligence;

b. INVISTA either disclosed the subject violations to or entered into the audit agreement with EPA prior to discovering such violations through a monitoring or sampling requirement prescribed by statute, regulation, permit, judicial or administrative order, or consent agreement;

c. INVISTA disclosed the subject violations promptly and in writing;

d. INVISTA disclosed the subject violations to EPA prior to the commencement of a federal, state, or local inspection or investigation, notice of a citizen suit, filing of a complaint of a third party, reporting of the subject violations to EPA (or other government agency) by a "whistle blower" employee, or imminent discovery by a regulatory agency;

e. INVISTA has corrected the subject violations in Appendix A and is, to the best of its knowledge and belief, in full compliance with the Environmental Requirements with respect to the subject violations of such Environmental Requirements as set forth in Appendix A at the Acquired Facilities that INVISTA currently owns;

f. INVISTA has taken appropriate steps to prevent a recurrence of the subject violations;

g. INVISTA has owned and operated the Acquired Facilities since April 30, 2004. For the period beginning April 30, 2004, through August 2004, INVISTA did not receive notice from the government of any of the violations (or closely related violations) identified in Appendices A, B, and C. For the purposes of this Subparagraph g., a violation is:

i. any violation of federal, state, or local environmental law identified in a judicial or administrative order, consent agreement or order, complaint, or notice of violation, conviction or plea agreement; or

ii. any act or omission for which the regulated entity has previously received penalty mitigation from EPA or a state or local agency; and

h. INVISTA cooperated as requested by EPA and provided information necessary and requested by EPA to determine applicability of the Audit Policy.

XII. PERIODIC REPORTING

98. Within 180 days after each date established by Section IV of this Consent Decree for INVISTA to achieve and maintain a certain Emission Rate and/or Removal Efficiency at any Unit, except those Units that are not required to install pollution control equipment pursuant to this Consent Decree, INVISTA shall conduct a performance test that demonstrates compliance with the Emission Rate and/or Removal Efficiency required by this Consent Decree. Within forty-five (45) days of each such performance test, INVISTA shall submit the results of the performance test to EPA and the Permitting Authority at the addresses specified in Section XVIII (Notices) of this Consent Decree.

99. In addition to any other express reporting requirement in this Consent Decree, INVISTA shall submit to EPA and the applicable Permitting Authority a semi-annual progress report beginning July 31, 2009 for the period between Entry Date and June 30, 2009, and continuing semi-annually thereafter.

100. The progress report shall contain the following information:

a. a progress report on the implementation of the requirements of Sections IV-VII above;

b. all information relating to emission allowances and credits that INVISTA claims to have generated in accordance with Paragraph 40 by compliance beyond the requirements of this Consent Decree;

c. a summary of the emissions data, including a separate identification of any exceedance(s) of Consent Decree emission limitations or standards for the Acquired Facilities set forth or established pursuant to Sections IV, VI, and VII of this Consent Decree for that time period; and

d. a description of any problems anticipated with respect to meeting the requirements of Sections IV - VII of this Consent Decree.

101. In any periodic progress report submitted pursuant to this Section, INVISTA may incorporate by reference information previously submitted under its Title V permitting requirements, provided that INVISTA attaches the Title V permit report and provides a specific reference to the provisions of the Title V permit report that are responsive to the information required in the periodic progress report.

102. Each INVISTA progress report shall be signed by INVISTA's Environment Health and Safety Director, or, in his or her absence, a higher ranking official, and shall contain the following certification:

> This information was prepared either by me or under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my evaluation, or the direction and my inquiry of the person(s) who manage the system or the person(s) directly responsible for gathering the information, I hereby certify under penalty of law that, to the best of my knowledge and belief, this information is true, accurate, and complete. I understand that there are significant penalties for submitting false, inaccurate, or incomplete information to the United States.

XIII. REVIEW AND APPROVAL OF SUBMITTALS

103. INVISTA shall submit each plan, report, or other submission to EPA and the Applicable Co-Plaintiff whenever such a document is required to be submitted for review or approval pursuant to this Consent Decree. EPA and the Applicable Co-Plaintiff may approve the submittal or decline to approve it and provide written comments explaining the basis for declining such approval as soon as reasonably practicable. Such Plaintiffs will endeavor to coordinate their comments into one document when explaining their basis for declining such approval. Within sixty (60) days of receiving written comments from EPA and the Applicable Co-Plaintiff, INVISTA shall either: (a) revise the submittal consistent with the written comments and provide the revised submittal for final approval to EPA and the Applicable Co-Plaintiff; or

(b) submit the matter for dispute resolution, including the period of informal negotiations, under Section XVI (Dispute Resolution) of this Consent Decree.

104. Upon receipt of Plaintiff's (or Plaintiffs') final approval of the submittal, or upon completion of the submittal pursuant to dispute resolution, INVISTA shall implement the approved submittal in accordance with the schedule specified therein.

XIV. FORCE MAJEURE

105. For purposes of this Consent Decree, a "Force Majeure Event" shall mean an event that has been or will be caused by circumstances beyond the control of INVISTA, its contractors, or any entity controlled by INVISTA that delays compliance with any provision of this Consent Decree or causes a violation of any provision of this Consent Decree despite INVISTA's best efforts to fulfill the obligation. "Best efforts to fulfill the obligation" include using best efforts to anticipate any potential Force Majeure Event and to address the effects of any such event (a) as it is occurring and (b) after it has occurred, such that the delay or violation is minimized. "Force Majeure" does not include INVISTA's financial inability to perform any obligation under this Consent Decree.

106. Notice of Force Majeure Events. If any event occurs or fails to occur that may delay compliance with or cause a violation of any obligation under this Consent Decree, as to which INVISTA intends to assert a claim of Force Majeure, INVISTA shall notify the United States and Permitting Authority in writing as soon as practicable, but in no event later than twenty (20) business days following the date INVISTA knew or should have known of the event. In this notice, INVISTA shall reference this Paragraph 106 of this Consent Decree and describe the anticipated length of time that the delay or violation may persist, the cause or causes of the delay or violation, all measures taken or to be taken by INVISTA to prevent or minimize the delay or violation, the schedule by which INVISTA proposes to implement those measures, and INVISTA's rationale for attributing a delay or violation to a Force Majeure Event. INVISTA shall adopt all reasonable measures to avoid or minimize such delays or violations. INVISTA shall be deemed to know of any circumstance which INVISTA, its contractors, or any entity controlled by INVISTA knew.

107. Failure to Give Notice. If INVISTA fails to materially comply with the notice requirements of this Section, the Plaintiffs may void INVISTA's claim for Force Majeure as to the specific event for which INVISTA has failed to comply with such notice requirement.

108. Plaintiffs' Response. The United States, after an opportunity for consultation with the Applicable Co-Plaintiff, shall notify INVISTA in writing regarding INVISTA's claim of Force Majeure within twenty (20) business days of receipt of the notice provided under Paragraph 105. If the Plaintiffs agree that a delay in or an impediment to performance has been or will be caused by a Force Majeure Event, the Parties shall stipulate to an extension of deadline(s) for performance of the affected compliance requirement(s) by a period not to exceed

the delay actually caused by the event. In such circumstances, an appropriate modification shall be made pursuant to Section XXII (Modification) of this Consent Decree.

109. Disagreement. If the Plaintiffs do not accept INVISTA's claim of Force Majeure, or if the Parties cannot agree on the length of the delay actually caused by the Force Majeure Event, the matter shall be resolved in accordance with Section XV (Dispute Resolution) of this Consent Decree.

110. Burden of Proof. In any dispute regarding Force Majeure, INVISTA shall bear the burden of proving that any delay in performance or any other violation of any requirement of this Consent Decree was caused by or will be caused by a Force Majeure Event. INVISTA shall also bear the burden of proving that INVISTA materially complied with the notice requirements of this Section and the burden of proving the anticipated duration and extent of any delay(s) attributable to a Force Majeure Event. An extension of one compliance date based on a particular event may, but does not necessarily, result in an extension of a subsequent compliance date.

111. Events Excluded. Unanticipated or increased costs or expenses associated with the performance of INVISTA's obligations under this Consent Decree shall not constitute a Force Majeure Event.

112. Potential Force Majeure Events. The Parties agree that, depending upon the circumstances related to an event and INVISTA's response to such circumstances, the kinds of events listed below are among those that could qualify as force majeure within the meaning of this Section: construction, labor, or equipment delays; Malfunction of a Unit or emission control device; unanticipated fuel supply or pollution control reagent/catalyst delivery interruptions; acts of God; and acts of war or terrorism. Depending upon the circumstances and Defendants' response to such circumstances, failure of a permitting authority to issue a necessary permit in a timely fashion may constitute force majeure where the failure of the permitting authority to act is beyond the control of INVISTA and INVISTA has taken all steps available to it to obtain the necessary permit, including, but not limited to: submitting a complete permit application; responding to requests for additional information by the permitting authority in a timely fashion; and accepting lawful permit terms and conditions. As part of the resolution of any matter submitted to this Court under Section XV (Dispute Resolution) of this Consent Decree regarding a claim of Force Majeure, the Parties by agreement, or this Court by order, may in appropriate circumstances extend or modify the schedule for completion of work under this Consent Decree to account for the delay in the work that occurred as a result of any delay or impediment to performance agreed to by the United States and the Applicable Co-Plaintiff and approved by the Court. INVISTA shall be liable for stipulated penalties for its failure thereafter to complete the work in accordance with the extended or modified schedule.

XV. DISPUTE RESOLUTION

113. In the event that the United States and the applicable Permitting Authority make differing determinations or take differing actions that affect INVISTA's rights or obligations under this Consent Decree, the final decision of the United States shall be binding.

114. The dispute resolution procedure required herein shall be invoked by one Party giving written notice to the other Parties advising of a dispute pursuant to this Section. The notice shall describe the nature of the dispute and shall state the noticing Party's position with regard to such dispute. The Party receiving such a notice shall acknowledge receipt of the notice, and the Parties in dispute shall expeditiously schedule a meeting to discuss the dispute informally not later than fourteen (14) days following receipt of such notice.

115. Disputes submitted to dispute resolution under this Section shall, in the first instance, be the subject of informal negotiations among the disputing Parties. Such period of informal negotiations shall not extend beyond thirty (30) calendar days from the date of the first meeting among the disputing Parties' representatives unless they agree in writing to shorten or extend this period. During the informal negotiations period, the disputing Parties may also submit their dispute to a mutually agreed-upon non-binding alternative dispute resolution (ADR) forum if the Parties agree that the ADR activities can be completed within the 30-day informal negotiations period (or such longer period as the Parties may agree to in writing).

116. If the disputing Parties are unable to reach agreement during the informal negotiation period, the Plaintiffs shall provide INVISTA with a written summary of their position regarding the dispute. The written position provided by the Plaintiffs shall be considered binding unless, within forty-five (45) calendar days thereafter, INVISTA seeks judicial resolution of the dispute by filing a petition with this Court. The Plaintiffs may respond to the petition within forty-five (45) calendar days of filing.

117. Where the nature of the dispute is such that a more timely resolution of the issue is required, the time periods set out in this Section may be shortened by the Court upon motion of one of the Parties to the dispute.

118. As part of the resolution of any dispute under this Section, in appropriate circumstances the disputing Parties may agree, or this Court may order, an extension or modification of the schedule for the completion of the activities required under this Consent Decree to account for the delay that occurred as a result of dispute resolution. INVISTA shall be liable for stipulated penalties for its failure thereafter to complete the work in accordance with the extended or modified schedule, provided that INVISTA shall not be precluded from asserting that a Force Majeure Event has caused or may cause a delay in complying with the extended or modified schedule.

119. The Court shall decide all disputes pursuant to applicable principles of law for resolving such disputes. In their initial filings with the Court under Paragraph 116, the disputing

Parties shall state their respective positions as to the applicable standard of law for resolving the particular dispute.

120. The Court shall not draw any inferences nor establish any presumptions adverse to any disputing Party as a result of invocation of this Section or the disputing Parties' inability to reach agreement.

XVI. PERMITS

121. Unless expressly stated otherwise in this Consent Decree, in any instance where otherwise applicable law or this Consent Decree requires INVISTA to secure a permit to authorize construction or operation of any device, including all preconstruction, construction, and operating permits required under state or local law, INVISTA shall make such application in a timely manner. The Plaintiffs will use their best efforts to expeditiously review all permit applications submitted by INVISTA in order to meet the requirements of this Consent Decree. Nothing in this Consent Decree shall prevent INVISTA from qualifying for South Carolina's expedited permitting program provided that INVISTA meets all other requirements of that program.

122. When permits are required as described in Paragraph 121, INVISTA shall complete and submit applications for such permits to the appropriate authorities to allow sufficient time for all legally required processing and review of the permit request, including requests for additional information by the permitting authorities. Any failure by INVISTA to submit a timely permit application for any Unit shall bar any use by INVISTA of Section XIV (Force Majeure) of this Consent Decree, where a Force Majeure claim is based on permitting delays.

123. Notwithstanding the reference to Title V or other federally enforceable permits in this Consent Decree, the enforcement of such permits shall be in accordance with their own terms and the Clean Air Act. The Title V or other federally enforceable permits shall not be enforceable under this Consent Decree, although any term or limit established by or under this Consent Decree shall be enforceable under this Consent Decree regardless of whether such term has or will become part of a Title V or other federally enforceable permit subject to the terms of Section XXVII (Termination of Consent Decree) of this Consent Decree.

124. Obtaining Permit Limits for Consent Decree Emission Limits and Standards That Are Effective *Upon Date of Entry*. Within 180 days after the Entry Date for the Camden, Chattanooga, and Seaford Facilities, and, to the extent applicable, within 270 days after the Entry Date for the Victoria and Orange Facilities, INVISTA shall amend any applicable Title V permit application, or apply for amendments of its Title V permits, to include all Unit-specific performance, operational, maintenance, and control technology requirements established by this Consent Decree and effective upon the Date of Entry including, but not limited to, emission rates, removal efficiencies, fuel limitations, and tonnage limitations.

125. Obtaining Permit Limits for Consent Decree Emission Limits and Standards That Become Effective *After Date of Entry*. Within one year from the commencement of operation of each emission control technology to be installed, upgraded, or operated on a Unit under this Consent Decree, INVISTA shall apply to include the following requirements and limitations enumerated in this Consent Decree in either a federally enforceable operating permit issued under the applicable SIP or amendments to the applicable SIP: (a) any applicable 30-Day Rolling Average Emission Rate, 24-Hour Rolling Average Emission Rate, Removal Efficiency, or 30-Day or 12-Month Rolling Average Emissions Rate; (b) any applicable tonnage limitations; and (c) any applicable fuel limitations set forth in this Consent Decree.

126. For each Unit, INVISTA shall provide EPA and the Permitting Authority with a copy of each application for a permit to address or comply with any provision of this Consent Decree, as well as a copy of any permit proposed as a result of such application, to allow for timely participation in any public comment opportunity.

127. If INVISTA sells or transfers to an entity unrelated to INVISTA ("Third Party Purchaser") part or all of its Ownership Interest in an Unit or Facility covered under this Consent Decree, INVISTA shall comply with the requirements of Paragraphs 135-138 with regard to that Unit prior to any such sale or transfer unless, following any such sale or transfer, INVISTA remains the holder of the Title V or other federally enforceable permit for such Unit or Facility.

XVII. INFORMATION COLLECTION AND RETENTION

128. Any authorized representative of the United States or Permitting Agency, including their attorneys, contractors, and consultants, upon presentation of credentials, shall have a right of entry upon the premises of INVISTA's Acquired Facilities at any reasonable time for the purpose of:

a. monitoring the progress of activities required under this Consent Decree;

b. verifying any data or information submitted to the United States in accordance with the terms of this Consent Decree;

c. obtaining samples and, upon request, splits of any samples taken by INVISTA or its representatives, contractors, or consultants; and

d. assessing INVISTA's compliance with this Consent Decree.

129. INVISTA shall retain, and instruct its contractors and agents to preserve all non-identical copies of all records and documents (including records and documents in electronic form) now in its or its contractors' or agents' possession or control, and that directly relate to INVISTA's performance of its obligations under this Consent Decree until December 31, 2018. This record retention requirement shall apply regardless of any corporate document retention policy to the contrary.

130. All information and documents submitted by INVISTA pursuant to this Consent Decree shall be subject to any requests under applicable law providing public disclosure of documents unless (a) the information and documents are subject to legal privileges or protection or (b) INVISTA claims and substantiates in accordance with 40 C.F.R. Part 2 or corresponding applicable state or local laws that the information and documents contain confidential business information.

131. Nothing in this Consent Decree shall limit the authority of the EPA to conduct tests and inspections at INVISTA's Acquired Facilities under Section 114 of the Clean Air Act, 42 U.S.C. § 7414, or any other applicable federal, state or local laws, regulations or permits.

XVIII. NOTICES

132. Unless otherwise provided herein, whenever reports, notification, submissions, or communications are required by this Consent Decree, they shall be made in writing and addressed as follows:

As to the United States:
Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611, Ben Franklin Station
Washington, D.C. 20044-7611
DJ# 90-5-2-1-08085

As to EPA:

Director, Special Litigation and Projects Division
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code 2248-A
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

with a hard copy to

Director, Air Enforcement Division
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code 2242-A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

and an electronic copy to

burke.shaun@epa.gov
milton.philip@epa.gov

EPA Region 3:

Chief, Enforcement and Compliance Branch
Office of Enforcement, Compliance & Environmental Justice
Mail Code: 3EC10
EPA Region 3
1650 Arch Street
Philadelphia, PA 19103-2029

EPA Region 4:

Multimedia Technical Authority
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

EPA Region 6:

Associate Director, Air, Toxics, and Inspection Coordination Branch (6 EN-A)
U.S. EPA Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

As to the State of Delaware:
Valerie M. Satterfield
Deputy Attorney General
Delaware Department of Justice
102 W. Water Street, 3rd Floor
Dover, DE 19904

Ali Mirzakhalili, Administrator
Air Quality Management
Department of Natural Resources
& Environmental Control
156 S. State Street
Dover, DE 19901

Joanna French, Program Manager
Air Quality Management
Department of Natural Resources
& Environmental Control
156 S. State Street
Dover, DE 19901

As to the South Carolina Department of Health and Environmental Control:

Director, Air Compliance Management Division
Bureau of Air Quality
SC Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201

As to the Chattanooga-Hamilton County Air Pollution Control Board:

Robert H. Colby
Director
Chattanooga-Hamilton County Air Pollution Control Bureau
6125 Preservation Drive
Chattanooga, Tennessee 37416-3638

As to INVISTA:

General Counsel
INVISTA, S.à r.l.
4123 East 37th Street North
Wichita KS 67220

Director, EH&S
INVISTA, S.à r.l.
4123 East 37th Street North
Wichita KS 67220

133. All notifications, communications or submissions made pursuant to this Section shall be sent either by: (a) overnight mail or delivery service; (b) certified or registered mail, return receipt requested; or (c) electronic transmission, unless the recipient is not able to review the transmission in electronic form. All notifications, communications and transmissions (a) sent by overnight, certified or registered mail shall be deemed submitted on the date they are postmarked, or (b) sent by overnight delivery service shall be deemed submitted on the date they are delivered to the delivery service. If the date for submission of a report, notification, submission, or other communication falls on a Saturday, Sunday, or legal holiday, the report, notification, submission, or other communication will be deemed timely if it is submitted by the

next business day. All notifications, communications, and submissions made by electronic means shall be electronically signed and certified, and shall be deemed submitted on the date that INVISTA receives written acknowledgment of receipt of such transmission.

134. Any Party may change either the notice recipient or the address for providing notices to it by serving the other Parties with a notice setting forth such new notice recipient or address.

XIX. SALES OR TRANSFERS OF OWNERSHIP INTERESTS

135. If INVISTA proposes to sell or transfer an Ownership Interest to an entity not affiliated with INVISTA ("Third Party Purchaser"), it shall advise the Third Party Purchaser in writing of the existence of this Consent Decree prior to such sale or transfer, and shall send a copy of such written notification to the Plaintiffs pursuant to Section XVIII (Notices) of this Consent Decree at least thirty (30) days before such proposed sale or transfer.

136. INVISTA shall condition any transfer, in whole or in part, of ownership of, operation of, or other interest in any Ownership Interest to a Third Party Purchaser, upon the execution by the transferee of a modification to the Consent Decree, which modification shall make the terms and conditions of the Consent Decree that apply to the Ownership Interest applicable to the Third Party Purchaser. In the event of such transfer, INVISTA shall notify the Plaintiffs. By no earlier than thirty (30) days after such notice, INVISTA may file a motion to modify the Consent Decree to make the terms and conditions of the Consent Decree applicable to the transferee. INVISTA shall be released from the obligations and liabilities of this Consent Decree applicable to the transferred Ownership Interest unless one of the Plaintiffs opposes the motion and the Court finds that the Third Party Purchaser does not have either the technical or financial ability to assume the obligations and liabilities of the Consent Decree.

137. This Consent Decree shall not be construed to impede the transfer of any Ownership Interests between INVISTA and any Third Party Purchaser as long the requirements of this Consent Decree are met. This Consent Decree shall not be construed to prohibit a contractual allocation – as between INVISTA and any Third Party Purchaser of Ownership Interests – of the burdens of compliance with this Decree, provided that both INVISTA and such Third Party Purchaser meet the requirements of this Section.

138. Notwithstanding the foregoing, however, INVISTA may not assign, and may not be released from, any obligation under this Consent Decree that is not specific to the purchased or transferred Ownership Interests, including the obligations set forth in Section XI (INVISTA's Certifications) and Section IX (Payment of Civil Penalties). INVISTA may propose and the Plaintiffs may agree to restrict the scope of joint and several liability of any purchaser or transferee for any obligations of this Consent Decree that are not specific to the transferred or purchased Ownership Interests, to the extent such obligations may be adequately separated in an enforceable manner.

XX. EFFECTIVE DATE

139. The effective date of this Consent Decree shall be the Date of Entry.

XXI. RETENTION OF JURISDICTION

140. Continuing Jurisdiction. The Court shall retain jurisdiction of this case after entry of this Consent Decree to enforce compliance with the terms and conditions of this Consent Decree and to take any action necessary or appropriate for its interpretation, construction, execution, modification, or adjudication of disputes. During the term of this Consent Decree, any Party to this Consent Decree may apply to the Court for any relief necessary to construe or effectuate this Consent Decree.

XXII. MODIFICATION

141. Modifications. This Consent Decree contains the entire agreement of the Parties and will not be modified by any prior oral or written agreement, representation, or understanding. Prior drafts of the Consent Decree will not be used in any action involving the interpretation or enforcement of the Consent Decree. Non-material modifications to this Consent Decree will be effective when signed in writing by EPA and INVISTA. The United States will file non-material modifications with the Court on a periodic basis. For purposes of this Paragraph, non-material modifications include but are not limited to modifications to the frequency of reporting obligations and modifications to schedules that do not extend the date for compliance with emissions limitations following the installation of control equipment or the completion of a catalyst additive program, provided that such changes are agreed upon in writing between EPA and INVISTA. Material modifications to this Consent Decree will be in writing, signed by EPA, the Applicable Co-Plaintiff, and INVISTA, and will be effective upon approval by the Court.

XXIII. PUBLIC COMMENT

142. The Parties agree and acknowledge that final approval by the United States and entry of this Consent Decree is subject to the procedures of 28 C.F.R. § 50.7, which provides for notice of the lodging of this Consent Decree in the Federal Register, an opportunity for public comment, and the right of the United States to withdraw or withhold consent if the comments disclose facts or considerations which indicate that the Consent Decree is inappropriate, improper or inadequate. INVISTA shall not oppose entry of this Consent Decree by this Court or challenge any provision of this Consent Decree unless the United States has notified INVISTA, in writing, that the United States no longer supports entry of the Consent Decree. If the United States withdraws or withholds consent, any other Plaintiff may also withdraw or withhold consent.

XXIV. GENERAL PROVISIONS

143. This Consent Decree shall be considered an enforceable judgment for purposes of post-judgment collection in accordance with Rule 69 of the Federal Rules of Civil Procedure, and other applicable federal authority.

144. This Consent Decree constitutes the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Decree, and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein except for the Final Audit Report as referenced in Appendices A, B, and C to this Decree. No other document, nor any representation, inducement, agreement, understanding or promise, constitutes any part of this Decree or the settlement it represents, nor shall it be used in construing the terms of this Decree.

145. This Consent Decree does not pertain to any matters other than those expressly specified herein. Nothing in this Consent Decree is intended or shall be construed as a waiver by the United States of its right to institute a civil or criminal action against INVISTA for any past, present or future civil or criminal violations of any statutes, rules or regulations administered or enforceable by the United States, other than those civil violations alleged in the Complaint and any other claims arising from the audit findings listed in Appendices A-C.

146. This Consent Decree in no way affects or relieves INVISTA of its responsibility to comply with all applicable federal, state and local laws, regulations and permits. Defendant agrees that it will not assert in any federal, state or local criminal, civil or administrative proceeding, hearing or other permitting, licensing or procedural matter, that its compliance with this Consent Decree is a defense in law or equity to any civil or criminal action commenced by the Plaintiffs pursuant to any such federal, state or local law, regulation or permit, except as expressly provided in this Consent Decree.

147. The United States retains the right to seek to enforce the terms of this Consent Decree, and to take any action authorized by federal, state, or local law not inconsistent with the terms of this Consent Decree to achieve or maintain INVISTA's compliance with the terms and conditions of this Consent Decree.

148. Effect of Shutdown. The permanent Shutdown of a Unit and the surrender of all air permits or air permit conditions for that Unit will be deemed to satisfy all requirements of Sections IV, V, VI, and VII of this Consent Decree applicable only to that Unit on and after the later of: (i) the date of the Shutdown of the Unit; or (ii) the date of the surrender of all air permits/permit conditions. The permanent Shutdown of a Facility and the surrender of all air permits for that Facility will be deemed to satisfy all requirements of Sections IV, V, VI, and VII of this Consent Decree applicable to that Facility on and after the later of: (i) the date of the Shutdown of the Facility; or (ii) the date of the surrender of all air permits. This Paragraph does not affect INVISTA's requirements for the Facility where a Shutdown Unit is located (including

INVISTA's obligation to meet the 12-month rolling averages) unless each applicable Unit at the Facility is permanently Shutdown.

XXV. COSTS OF SUIT

149. Each Party in this action shall bear its own costs, including attorney's fees.

XXVI. ENTRY OF CONSENT DECREE

150. INVISTA consents to the entry of this Consent Decree unless the United States notifies INVISTA, in writing, that the United States no longer supports the entry of the Consent Decree.

151. If for any reason this Court should decline to approve this Consent Decree in the form presented or the United States no longer supports entry of the Consent Decree, this Consent Decree is voidable at the sole discretion of any Party and the terms of this Consent Decree may not be used as evidence in any litigation between the Parties.

XXVII. TERMINATION OF CONSENT DECREE

152. This Consent Decree shall be subject to termination upon motion by the United States or INVISTA under the conditions identified in Subparagraphs 152.a-d. INVISTA may seek termination of any provision of the Consent Decree at any one of the Acquired Facilities upon completion and satisfaction at the relevant Acquired Facility(ies) of all of the following requirements of this Paragraph 152.a-d as applicable to the Acquired Facility(ies):

a. compliance with all provisions contained in this Consent Decree, including installation of emission control technology;

b. payment of all penalties and other monetary obligations due under the terms of the Consent Decree; no penalties or other monetary obligations due hereunder can be outstanding or owed to the United States or Co-Plaintiffs;

c. application for and receipt of Title V permits incorporating the surviving emission limits and standards established under Sections IV, VI, and VII; and

d. operation for at least one year of each Unit in compliance with the emission limits and other requirements established herein, and certification of such compliance for each Unit within the first periodic report following the conclusion of the compliance period.

153. At such time as INVISTA believes that it has satisfied the requirements for termination set forth in Paragraph 152, INVISTA shall certify such compliance and completion to the United States and the Applicable Co-Plaintiff in writing. The report shall contain the

following statement, signed by a responsible official of INVISTA: "To the best of my knowledge, after appropriate investigation, I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." Unless, within 120 days of receipt of INVISTA's certification under this Paragraph, either the United States or the Applicable Co-Plaintiff objects in writing with specific reasons, the Court may, upon motion by INVISTA, order that this Consent Decree be terminated. If either the United States or the Applicable Co-Plaintiff objects to the certification by INVISTA then the matter shall be submitted to the Court for resolution under Section XV (Dispute Resolution) of this Consent Decree.

154. The Resolution of Claims provisions set forth in Section VIII shall survive termination of the Consent Decree.

XXVIII. SIGNATORIES/SERVICE

155. Each of the undersigned representatives of the Parties certify that he or she is authorized to enter into terms and conditions of this Consent Decree and to execute and bind legally such Party to this document. This Consent Decree may be executed in one or more counterparts, but in such event, each counterpart shall constitute an original and all such counterparts shall together constitute one instrument.

XXIX. FINAL JUDGMENT

156. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment in the above-captioned matter between the Plaintiffs and INVISTA.

SO ORDERED, THIS _____ DAY OF _____, 2009.

_____
THE HONORABLE
UNITED STATES DISTRICT COURT JUDGE

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States, et. al. v. INVISTA S.à r.l., C.A. No. _____.

FOR THE UNITED STATES OF AMERICA:

DATED:_____ _____

JOHN C. CRUDEN
Acting Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

DATED:_____ _____

ROBERT D. BROOK
Assistant Section Chief
DANIELLE C. FIDLER
By Special Appointment as a
Department of Justice Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 514-2738

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States, et. al. v. INVISTA S.à r.l., C.A. No. _____.

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

DATED:_____ _____

CATHERINE R. MCCABE
Acting Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-2440

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States, et. al. v. INVISTA S.à r.l., C.A. No. _____.

FOR THE STATE OF DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL:

DATED: _____

_____

DAVID S. SMALL
Acting Secretary
Delaware Department of Natural Resources
and Environmental Control
89 Kings Highway
Dover, DE 19901
(302) 739-4636

DATED: _____

_____

VALERIE M. SATTERFIELD
Deputy Attorney General
Attorney for Delaware Department of Natural
Resources and Environmental Control
Delaware State Bar Identification No. 3937
Delaware Department of Justice
102 West Water Street, 3d Floor
Dover, DE 19904
(302) 739-4636
Valerie.Satterfield@state.de.us

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States, et. al. v. INVISTA S.à r.l., C.A. No. _____.

FOR THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL:

DATED: _____

_____
ROBERT W. KING, JR., P.E.
Deputy Commissioner
Environmental Quality Control
South Carolina Department of Health and
Environmental Control
(803) 896-8940

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States, et. al. v. INVISTA S.à r.l., C.A. No. _____.

FOR THE CHATTANOOGA-HAMILTON COUNTY AIR POLLUTION CONTROL BOARD:

DATED: _____

_____

JOSIAH BAKER
Counsel for Chattanooga-Hamilton County
Air Pollution Control Board
701 Market Street
First Tennessee Building, Suite 1500
Chattanooga, TN 37402
(423) 756-3333

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States, et. al. v. INVISTA S.à r.l., C.A. No. _____.

FOR INVISTA:

DATED:_____ _____

DAVID C. DOTSON
Senior Vice President - Operations
INVISTA S.à r.l.
4123 East 37th Street North
Wichita, Kansas 67220
(316) 828-1732