

THIS IS CERTIFIED AS A TRUE
AND CORRECT COPY
SIGNATURE Eliseo Vincent

**VOLUNTARY CLEANUP CONTRACT
18-6537-RP**

**IN THE MATTER OF
AMERICAN FITTINGS SITE, GREENVILLE COUNTY
and
TPS-SFG, LLC**

This Contract is entered into by the South Carolina Department of Health and Environmental Control and TPS-SFG, LLC, a Texas Limited Liability Company, pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. §§ 44-56-710 through 760, as amended, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601 to 9675, as amended, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-200, with respect to the facility known as the American Fittings Site ("Site"). The TPS-SFG, LLC property is located at 1925 Geer Highway, Travelers Rest, South Carolina ("Property"). The Property includes approximately 9.31 acres and is bounded generally by Geer Highway on the north; residential properties and Lake Loop on the west; residential properties and Geer Highway on the east; and woodlands beyond which is Tugaloo Road on the south. The Property is identified by the County of Greenville as Tax Map Serial Number 0513020202400. A legal description of the Property is attached to this Contract as Appendix A.

DEFINITIONS

1. Unless otherwise expressly provided, terms used in this Contract shall have the meaning assigned to them pursuant to the Brownfields/Voluntary Cleanup Program, and if not set forth therein, shall have the meaning assigned to them pursuant to CERCLA, the HWMA, and in regulations promulgated under these statutes.

- A. "TPS-SFG" shall mean TPS-SFG, LLC. TPS-SFG, LLC is a Texas Limited Liability Company with its principal place of business located at 2330 Holmes Road in Houston, Texas 77051.

- B. "Contamination" shall mean impact by a Pollutant or Contaminant, Petroleum and Petroleum Product, or Hazardous Substance.
- C. "Contract" shall mean this Responsible Party Voluntary Cleanup Contract.
- D. "Department" shall mean the South Carolina Department of Health and Environmental Control or a successor agency of the State of South Carolina that has responsibility for and jurisdiction over the subject matter of this Contract.
- E. "Hazardous Substance" shall have the same meaning as defined under subparagraphs (A) through (F) of Paragraph (14) of CERCLA § 101, 42 U.S.C. § 9601(14).
- F. "Petroleum" and "Petroleum Product" shall mean crude oil or any fraction of crude oil, which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds for each square inch absolute), including any liquid, which consists of a blend of petroleum and alcohol and which is intended for use as a motor fuel.
- G. "Pollutant" or "Contaminant" includes, but is not limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, including malfunctions in reproduction, or physical deformations, in organisms or their offspring; "contaminant" does not include petroleum, including crude oil or any fraction of crude oil, which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of paragraph (14) of CERCLA § 101, 42 U.S.C. §§ 9601, et seq. and

- does not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality or mixtures of natural gas and such synthetic gas.
- H. "Property" as described in the legal description attached as Appendix A, shall mean that portion of the Site, which is subject to ownership, prospective ownership, or possessory or contractual interest of TPS-SFG.
- I. "Response Action" shall mean any assessment, cleanup, inspection, or closure of a site as necessary to remedy actual or potential damage to public health, public welfare, or the environment.
- J. "Site" shall mean all areas where a Hazardous Substance, Petroleum, Petroleum Product, Pollutant or Contaminant has been released, deposited, stored, disposed of, or placed, or otherwise comes to be located; "Site" does not include any consumer product in consumer use or any vessel, as defined in CERCLA.
- K. "Voluntary Cleanup" shall mean a Response Action taken under and in compliance with the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. §§ 44-56-710 to 760, as amended.
- L. "Work Plan" shall mean the plan for additional Response Actions to be conducted at the Site as described in Paragraph 3 of this Contract.

FINDINGS

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

A. Property Ownership:

TPS-SFG, LLC	06/05/2018 - Present
Stainless Fittings Group, LLC	05/25/2006 – 06/05/2018
Bank of Travelers Rest	07/26/2005 – 05/25/2006
Charles L. Reid	05/08/1995 – 07/26/2005
Charles L. & Carl E. Reid	04/30/1990 – 05/08/1995

Billy C. Hawkins	05/10/1985 – 04/30/1990
Billy C. & Clifton L. Hawkins	08/06/1979 – 05/10/1985
Clifton L. Hawkins	07/29/1969 – 08/06/1976
J.D. Maw	07/12/1956 – 07/29/1969

- B. Historically, the Property consisted of agricultural land and woodlands. Property development began between 1978 and 1980 and consisted of the construction of the used machinery warehouse, the storage warehouse, and the eastern portion of the manufacturing warehouse. The Property began operations as Carolina Fabrication and Manufacturing. In 1990, the Property began operations as American Fittings, Inc., a stainless-steel pipe fitting manufacturing facility, owned and operated by Mr. Carl E. Reid. American Fittings operated on the Property until 2004. From 2004 through 2006, the Property was vacant. Property operations resumed in 2006 under Stainless Fittings Group, LLC.
- C. Bunnell-Lammons Engineering, Inc. (BLE) performed a Phase I Environmental Site Assessment (ESA1) of the Property for TPS-SFG in January 2018. The purpose of the ESA1 was to identify Recognized Environmental Conditions (RECs). According to the ESA1 report dated January 4, 2018, the following information, in part, was provided:
- i. A synthetic coolant and lubricant in metal machining processes (CoolPAK C2000) is utilized during pipe cutting operations. New coolant is stored in 55-gallon drums. Spillage from cutting operations is collected in one of two floor sumps and pumped through above-ground piping into a 55-gallon drum for reuse. It is BLE's opinion the use of CoolPAK C2000 and other coolants on the Property represents a REC.
 - ii. Pickling liquors, consisting of hydrofluoric and nitric acid, are contained within lined tanks and are utilized in the acid pickling building. These liquors are utilized to clean pipe

parts. After pickling is complete, the spent pickling liquor is pumped into separate tanks for pH neutralization followed by filtration to remove solids. The resulting sludge and spent filter fabrics are contained in drums and collected by an outside contractor for disposal off the Property. Neutralized and filtered pickling water is heated and returned to the pickling tanks to recycle into new pickling liquor. It is BLE's opinion the use of pickling liquors on the Property represents a REC.

- D. BLE performed a Phase II Environmental Site Assessment (ESA2) of the Property for TPS-SFG in May 2018. The purpose of the ESA2 was to investigate RECs identified during the ESA1. According to the ESA2 report dated May 3, 2018, the following information, in part, was provided:
- i. Three soil samples were collected and analyzed. Tetrachloroethene and Trichloroethene were detected above the EPA Groundwater Soil Screening Level. Antimony, selenium, and cyanide metals were detected above the EPA Risk Based Soil Screening Level. Additionally, arsenic and lead metals were detected above the Groundwater Soil Screening Level.
 - ii. Two groundwater samples were collected and analyzed. Chloroform, methylene chloride, tetrachloroethene, and trichloroethene were detected above the EPA Tapwater Standard. Tetrachloroethene and trichloroethene were detected above the Department's Drinking Water Standard MCL. Numerous metals were also detected above the Department's Drinking Water Standard.
- E. Soil and groundwater contamination from chlorinated solvents, namely trichloroethene and tetrachloroethene, were detected at

select locations above EPA and/or the Department's regulatory limits.

RESPONSE ACTIONS

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

- A. Conduct a Remedial Investigation (RI) to determine the source, nature, and extent of Contamination at the Property. If necessary, the RI will extend off the Property in an effort to determine the source, nature, and extent of Contamination.
- B. Submit to the Department a RI Report (to include a Baseline Risk Assessment or other evaluation of risk to human health and the environment) in accordance with the schedule in the approved RI Work Plan. The Department shall review the report for determination of completion of the RI and sufficiency of the documentation. If the Department determines that the field investigation is not complete, it will send written notification of such to TPS-SFG and TPS-SFG shall

subsequently conduct additional field investigation to further determine the source, nature, and extent of Contamination. If the Department determines that the field investigation is complete but the report is incomplete, the Department shall send to TPS-SFG a letter indicating that revision of the report is necessary. Within thirty (30) days of receipt of such letter from the Department, TPS-SFG shall submit a revised report addressing the Department's comments.

- C. If determined necessary by the Department, conduct a Feasibility Study or other evaluation of remedial and/or removal alternatives for addressing Contamination at the Site.

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

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

6. Within sixty (60) days of the execution date of this Contract and once a quarter thereafter, TPS-SFG shall submit to the Department a written progress report that must include the following: (A) actions taken under this Contract during the previous reporting period; (B) actions scheduled to be taken in the next reporting period; (C) sampling, test results, and any other data, in summary form, generated during the previous reporting period, whether generated pursuant to this Contract or not; and (D) a description of any

environmental problems experienced during the previous reporting period and the actions taken to resolve them.

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

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

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

TPS-SFG: TPS-SFG
2330 Holmes Road
Houston, Texas 77051
Attention: Mr. Scott R. Rubenstein

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

PUBLIC PARTICIPATION

8. Upon execution of this Contract by TPS-SFG, the Department will seek public participation in accordance with S.C. Code Ann. § 44-56-740(D), and not inconsistent with the National Contingency Plan. TPS-SFG will reimburse the Department's costs associated with public participation (e.g., publication of public notice(s), building and equipment rental(s) for public meetings, etc.).

RESPONSE COSTS

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

TPS-SFG: TPS-SFG
2330 Holmes Road
Houston, Texas 77051
Attention: Mr. Scott R. Rubenstein

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

The South Carolina Department of Health & Environmental Control

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

ACCESS

10. The Department, its authorized officers, employees, representatives, and all other persons performing Response Actions will not be denied access, after notification to TPS-SFG, to the Property during normal business hours or at any time work under this Contract is being performed or during any environmental emergency or imminent threat situation, as determined by the Department (or as allowed by applicable law). TPS-SFG and

SIGNATURE Clisaw Vincent

subsequent owners of the Property shall ensure that a copy of this Contract is provided to any lessee or successor or other transferee of the Property, and to any owner of other property that is included in the Site. If TPS-SFG is unable to obtain access from the Property owner, the Department may obtain access and perform Response Actions. All of the Department's costs associated with access and said Response Actions will be reimbursed by TPS-SFG.

RESTRICTIVE COVENANT

11. If hazardous substances in excess of residential standards exist at the Property after TPS-SFG has completed the actions required under this Contract, TPS-SFG shall enter and file a restrictive covenant. Upon the Department's approval of the items outlined therein, the restrictive covenant shall be signed by the Department and representatives of TPS-SFG and witnessed, signed, and sealed by a notary public. TPS-SFG shall record this restrictive covenant with the Greenville County Register of Deeds. The signed covenant shall be incorporated into this Contract as an Appendix. A Certificate of Completion shall not be issued by the Department until the restrictive covenant, if required, is executed and recorded. With the approval of the Department, the restrictive covenant may be modified in the future if additional remedial activities are carried out which meet appropriate clean-up standards at that time or circumstances change such that the restrictive covenant would no longer be applicable. The Department may require TPS-SFG or subsequent owners of the Property to modify the restrictive covenant if a significant change in law or circumstances requiring remediation occurs. TPS-SFG or subsequent owners of the Property shall file an annual report with the Department by May 31st of each year detailing the current land uses and compliance with the restrictive covenants for as long as the restrictive covenant remains in effect on the Property. The report must be submitted in a manner prescribed by the Department.

OBLIGATIONS AND BENEFITS

12. Upon execution of this Contract by the Department, TPS-SFG, its signatories, parents, subsidiaries, successors and assigns shall be deemed to have resolved their

liability to the State in an administrative settlement for purposes of, and to the extent authorized under 42 U.S.C. § 9613(f)(2), S.C. Code Ann. § 44-56-200, for the matters addressed in this Contract. "Matters addressed" are all Response Actions taken or to be taken at or in connection with this Site under this Contract and any subsequent amendments to this Contract, and all response costs incurred or to be incurred under this Contract and any subsequent amendments to this Contract. Further, by resolving its liability to the State for any and all of a Response Action in this administrative settlement, TPS-SFG may seek contribution to the extent authorized under 42 U.S.C. § 9613(f)(3)(B), S.C. Code Ann. § 44-56-200 from any person who is not a party to this administrative settlement. A thirty (30) day comment period shall be required prior to the Department's execution of this Contract, and shall commence upon publication of the notice of this proposed Contract in the *South Carolina State Register*.

13. Nothing in this Contract is intended to be or shall be construed as a release or covenant not to sue for any claim or cause of action, past or future, that the Department may have against a responsible party who is not a signatory to this Contract and who is not a signatory's parent, subsidiary, successor or assign.

14. Subject to the provisions of Paragraph 16, nothing in this Contract is intended to limit the right of the Department to undertake future Response Actions at the Site or to seek to compel parties to perform or pay for costs of Response Actions at the Site. Nothing in this Contract shall in any way restrict or limit the nature or scope of Response Actions that may be taken or be required by the Department in exercising its authority under State and Federal law.

15. Subject to the provisions of Paragraph 16, nothing in this Contract is intended to be or shall be construed as a release or covenant not to sue for any claim or cause of action that the Department may have against TPS-SFG for any matters not expressly addressed by and settled through this Contract. Matters addressed through this Contract further include the Findings of the ESA 1 and the Limited Phase ESA 2.

16. Upon successful completion of the terms of this Contract, TPS-SFG shall submit to the Department a request for a Certificate of Completion.

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

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

17. TPS-SFG and the Department each reserve the right to unilaterally terminate this Contract. Termination may be accomplished by giving a thirty (30) day advance written notice of the election to terminate this Contract to the Department. Should TPS-SFG elect to terminate, it must submit to the Department all data generated pursuant to this Contract, and certify to the Department's satisfaction that any environmental or physical hazard shall be stabilized and/or mitigated such that the Site does not pose a hazard to human health or the environment that did not exist prior to any initial Response Action addressing Contamination identified in this Contract.

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

- A. Events or circumstances at the Site that are inconsistent with the terms and conditions of this Contract;

- B. Failure to complete the terms of this Contract or the Work Plan within the agreed time frame;
- C. Failure to submit timely payments for Oversight Costs as defined in Paragraph 9 above after receipt of invoice and supporting documents therefore;
- D. Additional Contamination or releases or consequences at the Property caused by TPS-SFG, its parents, subsidiaries, successors and assigns;
- E. Providing the Department with false information or knowingly providing the Department with incomplete information or knowingly failing to disclose material information;
- F. Change in TPS-SFG's or its parents', subsidiaries', successors' and assigns', business activities on the Property or uses of the Property that are inconsistent with the terms and conditions of this Contract;
or
- G. Failure by TPS-SFG to obtain the applicable permits from the Department for any Response Action or other activities undertaken at the Property.

19. Upon termination of this Contract under Paragraph 17 or 18, the covenant not to sue and administrative settlement for purposes of contribution protection shall be null and void. Termination of this Contract by TPS-SFG or the Department does not end the obligations to reimburse Oversight Costs already incurred by the Department and payment of such costs shall become immediately due.

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

THIS IS CERTIFIED AS A TRUE
AND CORRECT COPY

SIGNATURE Elisa Vincent

THE SOUTH CAROLINA DEPARTMENT OF HEALTH
AND ENVIRONMENTAL CONTROL

BY: [Signature] DATE: 11-8-2018
Donald L. Siron, P.G., Assistant Chief Henry J. Porter, Chief
Bureau of Land and Waste Management
Environmental Quality Control

[Signature] DATE: 11/5/18
Reviewed by Office of General Counsel

[Signature] TPS-SFG, LLC
DATE: 8-27-18
Signature

KEITH RUBENSTEIN-PRESIDENT
Printed Name and Title