

SETTLEMENT AGREEMENT FOR PAYMENT OF PAST
COSTS BETWEEN THE STATE OF MICHIGAN AND ARVINMERITOR, INC.

Recitals

The State of Michigan through its Department of Attorney General ("MDAG") and Department of Environmental Quality ("MDEQ"), collectively referred to as the "State," asserts that it has incurred response activity costs, as defined by Part 201 of the Natural Resources and Environmental Protection Act ("NREPA") 1994 P.A. 451, as amended, MCL 324.20101, *et seq.* ("Part 201"), and response costs, as defined by the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 USC 9601 *et seq.* ("CERCLA"), responding to the release or threat of release of hazardous substances at and emanating from the former Rockwell International Superfund Site, located at One Glass Street in Allegan, Michigan (the "Facility").

Pursuant to Section 20126a(1)(a) of the NREPA and Section 107(a) of CERCLA, a person who is liable under Section 20126 and Section 107 is liable for all response activity costs lawfully incurred by a state and all response costs incurred by a state that are not inconsistent with the National Contingency Plan, respectively, subject to the applicable defenses and other provisions set forth in the relevant statutes.

The State asserts that ArvinMeritor, Inc. ("ArvinMeritor") is liable under the NREPA and CERCLA for any response activity costs and response costs it incurred at the Facility.

On May 21, 2007, the MDAG, on behalf of the MDEQ, filed a Complaint in the Ingham County Circuit Court, Docket No. 07-654-CE, entitled *Michigan Department of Environmental Quality v ArvinMeritor, Inc.*, ("the Action"), against ArvinMeritor seeking recovery of over \$1.3 million in response activity costs allegedly incurred by the State, pursuant to Section 20137(1)(b) of the NREPA, MCL 324.20137(1)(b), and seeking a declaratory judgment that ArvinMeritor is

liable for any future response activity costs the State may incur, pursuant to Section 20137(1)(d) of the NREPA, MCL 324.20137(1)(d).

Arvin Meritor denies that it is liable to the State, and asserts that the State is not entitled to recover any of its alleged response activity costs or to obtain a declaratory judgment.

The State and ArvinMeritor (the "Parties") desire to settle, compromise and resolve the Action, including all response activity and enforcement costs incurred by the State up to the effective date of this Settlement Agreement, as set forth more particularly herein. Settlement of this claim is in the public interest and will minimize litigation.

This Settlement Agreement is entered into voluntarily by and between the State and ArvinMeritor pursuant to Part 201 and CERCLA. All terms used in this Settlement Agreement, which are defined in Part 201, the Part 201 Administrative Rules, 1990 AACRS R 299.5101 *et seq.* ("Part 201 Rules"), and CERCLA, shall have the same meaning in this Settlement Agreement as in Part 201, the Part 201 Rules, and CERCLA.

The execution of this Settlement Agreement by ArvinMeritor is neither an admission of liability with respect to any claim resolved by this Settlement Agreement nor an admission of any Recital stated herein.

Subject to the foregoing Recitals, the Parties agree to the following:

1. Terms and Conditions. ArvinMeritor will pay a total of \$825,000 to the MDEQ to resolve all claims or potential claims by the State against ArvinMeritor for the recovery of response activity costs (as defined by Part 201) incurred by the State through the effective date of this Settlement Agreement, including enforcement costs ("past response activity costs"), or for the recovery of response costs (as defined by CERCLA) incurred by the State through the effective date of this Settlement Agreement, including enforcement costs ("past response costs") for the Facility. Payment shall be made in two installments as follows: \$500,000 by January 31,

2008; and \$325,000 by January 31, 2009. Payments are to be made by check payable to the "State of Michigan - Environmental Response Fund" and sent to:

Revenue Control Unit
Financial and Business Services Division
Michigan Department of Environmental Quality
P.O. Box 30657
Lansing, Michigan 48909-8157

Via Courier:
Constitution Hall, 5th Floor, South Tower
525 West Allegan Street
Lansing, MI 48933

To ensure proper credit, payments made pursuant to this Settlement Agreement must be made by check referencing the Rockwell International Superfund Site, the MDEQ Reference No. AOC-RRD-2008-001, and Remediation and Redevelopment Division Account No. RRD2229. A copy of the transmittal letter and the check shall be provided simultaneously to:

The MDEQ Project Coordinator:
Cynthia Mollenhour
Compliance and Enforcement Section
Remediation and Redevelopment Division
Michigan Department of Environmental Quality
Constitution Hall
525 West Allegan St.
P.O. Box 30426
Lansing, MI 48909

and to:
Celeste R. Gill,
Assistant Attorney General in Charge
Environment, Natural Resources, and Agriculture Division
Department of Attorney General
G. Mennen Williams Bldg., 6th Floor
525 West Ottawa Street
P.O. Box 30755
Lansing, Michigan 48909.

Costs recovered pursuant to this Settlement Agreement will be deposited by the MDEQ in the Environmental Response Fund, in accordance with the provisions of Section 20108(3) of the NREPA.

2. Late Payment Penalties. If ArvinMeritor fails to pay the amounts indicated in Paragraph 1 pursuant to the schedule set forth therein, ArvinMeritor also shall pay the State interest on the unreimbursed portions of those amounts at the rate provided in Section 20126a(3) of the NREPA. If any of ArvinMeritor's installment payments is more than thirty (30) days past due, it shall also pay the State stipulated penalties of \$500.00 per day for every day that such payment remains unpaid in full. The stipulated penalties set forth in this paragraph shall begin on the 31st day the installment payment is past due and shall continue to accrue until the installment payment is made in full. If accrued, the stipulated penalties shall be paid at the same time the installment payment is made in full.

3. Dismissal of Claims and Covenants Not to Sue.

(a) In consideration of the payments to be made by ArvinMeritor under the terms of this Settlement Agreement, the State agrees to stipulate to the dismissal with prejudice of its claim for recovery of past costs under NREPA (Count I of its Complaint), and covenants not to sue or to take further civil or administrative action against ArvinMeritor for, past response activity costs or past response costs, as defined in Paragraph 1 of this Settlement Agreement; and the State agrees to stipulate to a dismissal without prejudice of its claim for a declaratory judgment with regard to future response activity costs (Count II of its Complaint). Attachment 1 to this Settlement Agreement is the Stipulation and Order the Parties have agreed to execute and file in the Action. The covenant not to sue applies only to past response activity costs and past response costs and shall not be construed as a covenant not to sue for any other liability that ArvinMeritor may have to the State for the Facility. The covenant not to sue shall extend only to ArvinMeritor and does not extend to any other person.

(b) ArvinMeritor, hereby covenants not to sue and agrees not to assert any claim or cause of action against the State with respect to the Facility for matters arising from this

Settlement Agreement, including but not limited to, any direct or indirect claim for reimbursement from the Environmental Response Fund pursuant to Section 20119(5) of the NREPA, MCL 324.20119(5), or any other provision of law. In any subsequent administrative or judicial proceeding initiated by the Attorney General for injunctive relief, recovery of response activity costs, or other appropriate relief relating to the Facility, ArvinMeritor agrees not to assert, and may not and shall not maintain any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim splitting, or other defense based upon any contention that the claims raised by the State in the subsequent proceeding were or should have been brought in this case; provided however, that nothing in this paragraph affects the enforceability of the State's covenant not to sue set forth in paragraph 3(a) of this Settlement Agreement.

4. ArvinMeritor Reservation of Rights. Nothing in this Settlement Agreement shall be construed as releasing or discharging any liability of any other person to ArvinMeritor and ArvinMeritor specifically reserves its rights against such person, including, but not limited to, its right to seek contribution or indemnity from such person subject to Paragraph 8 of this Settlement Agreement. ArvinMeritor reserves all of its rights and defenses pursuant to any available legal authority to enforce this Settlement Agreement.

5. State Reservation of Rights. The State reserves all of its rights under state and federal law to perform response activities and to take enforcement action, including action to seek injunctive relief, the recovery of response activity costs or response costs not addressed by this Settlement Agreement, the recovery of natural resource damages and costs incurred to assess natural resource damages, monetary penalties, damages for any violation of law or this Settlement Agreement, and liability for criminal acts. The State expressly reserves all of its rights and defenses pursuant to any available legal authority to enforce this Settlement Agreement. Nothing in this Settlement Agreement shall limit the power and authority of the MDEQ or the State of Michigan, pursuant to Section 20132(8) of the NREPA, to direct or order all appropriate action to protect the public health, safety, or welfare, or the environment; or to

prevent, abate or minimize a release or threatened release of hazardous substances, pollutants or contaminants on, at, or from the Facility.

7. Tolling of the Statute of Limitations. ArvinMeritor agrees that all statutes of limitation applicable to the State's recovery of past response activity costs and past response costs are tolled until ArvinMeritor has complied with the provisions of Paragraphs 1 and 2 of this Settlement Agreement.

8. Contribution. Pursuant to Section 20129(5) of the NREPA and Section 113(f)(2) of CERCLA, ArvinMeritor shall not be liable for claims for contribution for past response activity costs and past response costs as defined in Paragraph 1 of this Settlement Agreement. This Settlement Agreement does not discharge the liability of any other person that may be liable under Section 20126 of the NREPA, or Sections 107 and 113 of the CERCLA, 42 USC § 9607 and § 9613, to the extent allowable by law. Pursuant to Section 20129(9) of the NREPA, any action by ArvinMeritor for contribution from any person not a party to this Settlement Agreement shall be subordinate to the rights of the State if the State files an action pursuant to Part 201 or other applicable federal or state law.

9. Effective Date. This Settlement Agreement shall become effective upon the date that ArvinMeritor and the State have signed this Settlement Agreement, which shall be no later than January 24, 2008. All dates for the performance of obligations under this Settlement Agreement shall be calculated from the effective date of this Settlement Agreement. For the purposes of this Settlement Agreement, the term "day" shall mean a calendar day unless otherwise noted.

10. Modification. This Settlement Agreement shall not be modified without the prior written consent of the Parties or their successors in interest.

11. Counterparts. This Settlement Agreement may be executed in counterparts, each of which shall be deemed to be an original, and all such counterparts taken together shall be deemed to constitute one and the same agreement.

12. Severability. In the event that any provision of this Settlement Agreement is deemed invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions of the Settlement Agreement shall be unimpaired.

13. Parties Bound. This Settlement Agreement shall apply to and be binding upon the Parties and their respective successors and assigns. No change or changes in the ownership or corporate status of ArvinMeritor shall alter in any way its obligations under this Settlement Agreement.

14. Signatories. The undersigned representatives of the State and ArvinMeritor certify that they are fully authorized to enter into the terms and conditions of this Settlement Agreement and legally bind the parties they represent.

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lf:2005010036B:ArvinMeritor:Settlement

IT IS SO AGREED BY:

FOR THE STATE OF MICHIGAN

Michael A. Cox
Attorney General for the State of Michigan

By: _____

Celeste R. Gill
Assistant Attorney General
Environment, Natural Resources and Agriculture Division

Dated: 11/24/08

By: _____

Andrew W. Hogarth, Chief
Remediation and Redevelopment Division
Michigan Department of Environmental Quality

Dated: 01/24/08

FOR ARVINMERITOR, INC.

By: _____

Vernon G. Baker, II, Senior Vice President & General Counsel
ArvinMeritor, Inc.
2135 W. Maple Road
Troy, MI 48084

Dated: _____

IT IS SO AGREED BY:

FOR THE STATE OF MICHIGAN

Michael A. Cox
Attorney General for the State of Michigan

By: _____

Celeste R. Gill
Assistant Attorney General
Environment, Natural Resources and Agriculture Division

Dated: _____

By: _____

Andrew W. Hogarth, Chief
Remediation and Redevelopment Division
Michigan Department of Environmental Quality

Dated: _____

FOR ARVINMERITOR, INC.

By: Vernon G. Baker, II

Vernon G. Baker, II, Senior Vice President & General Counsel
ArvinMeritor, Inc.
2135 W. Maple Road
Troy, MI 48084

Dated: 1-21-08