

STATE OF MICHIGAN  
CIRCUIT COURT FOR THE 6TH JUDICIAL CIRCUIT  
OAKLAND COUNTY

MICHIGAN DEPARTMENT OF  
ENVIRONMENTAL QUALITY,

Plaintiff,

No. 14- 142024-CE

v

HON. CHERYL MATTHEWS

KNIGHT ENTERPRISES, Inc., a  
Michigan Corporation

**CONSENT ORDER**

Defendant.

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Corporation

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## CONSENT ORDER

The Plaintiff is the Michigan Department of Environmental Quality (MDEQ). The Defendant is Knight Enterprises, Inc., a Michigan Corporation (Knight). This Consent Order (Order) requires the preparation of reports and performance of corrective actions to address releases of regulated substances from underground storage tank systems that occurred at gas stations owned and/or operated by Knight in the State of Michigan. Knight agrees not to contest the authority or jurisdiction of the Court to enter this Order or any terms or conditions set forth herein.

The Court by entering this Order finds that the corrective actions set forth herein are necessary to abate the release or threatened release of regulated substances into the environment, to control future releases, and to protect the public health, safety, and welfare, and the environment.

NOW, THEREFORE, upon the consent of the Parties, by their attorneys, it is hereby ORDERED, ADJUDGED, AND DECREED:

### I. JURISDICTION

1.1 This Court has jurisdiction over the subject matter of this action pursuant to MCL 324.21323. This Court also has personal jurisdiction over the Parties. The Parties waive all objections and defenses that they may have with respect to jurisdiction of the Court or to venue in this Circuit.

1.2 The Court determines that the terms and conditions of this Order are reasonable, adequately resolve the environmental issues raised, and properly protect the interests of the people of the State of Michigan.

1.3 The Court shall retain jurisdiction over the Parties and subject matter of this action to enforce this Order and to resolve disputes arising under this Order, including those that may be necessary for its construction, execution, or implementation, subject to Section XVIII (Dispute Resolution).

## **II. DENIAL OF LIABILITY**

2.1 The entry of this Order by the Parties is for settlement purposes only and is neither an admission of liability with respect to any issue dealt with in this Order nor an admission of any factual allegations or legal conclusions stated or implied herein.

## **III. PARTIES BOUND**

3.1 This Order shall apply to and be binding upon Knight and the State and their successors. Any change in ownership, corporate, or legal status of Knight, including, but not limited to, any transfer of assets, or of real or personal property, shall in no way alter Knight's responsibilities under this Order. To the extent that Knight is the owner of part or all of any Site, and until such times as Knight's responsibilities under Section VI (Performance of Corrective Action) are terminated pursuant to Section XXVII (Termination of Certain Provisions), Knight shall provide MDEQ with written notice prior to their transfer of ownership of part or all of a Site, and shall provide a copy of this Order to any subsequent owners or successors prior to the transfer of any ownership rights. To the extent applicable,

Knight shall comply with the requirements of Section 21304d of Part 213,  
MCL 324.21304d.

3.2 Notwithstanding the terms of any contract that Knight may enter with respect to the performance of corrective actions pursuant to this Order, Knight is responsible for compliance with the terms of this Order and shall ensure that its contractors, subcontractors, laboratories, and consultants perform all corrective action in conformance with the terms and conditions of this Order.

3.3 The signatories to this Order certify that they are authorized to execute this Order and to legally bind the Parties they represent.

#### IV. STATEMENT OF PURPOSE

4.1 In entering into this Order, it is the mutual intent of the Parties to:

- (a) Set forth the corrective actions to be performed by Knight in accordance with Section VI (Performance of Corrective Action);
- (b) Achieve closure for releases of regulated substances at and/or migrating from the Sites in compliance with Section 21312a of Part 213.
- (c) Resolve fully and finally any obligations or liability of Knight under Part 213 regarding the Sites, except those obligations or liabilities arising under this Order, and consistent with Section XX (Covenants Not to Sue by the State) and Section XXI (Reservation of Rights by the State).

- (d) Minimize disputes and litigation.

## V. DEFINITIONS

5.1 "CAP" means Corrective Action Plan, "FAR" means Final Assessment Report, "Closure Report" means Closure Report, and "IAR" means Initial Assessment Report, as those terms are defined in Sections 21308a, 21309a, 21311a and 21312a of Part 213.

5.2 "Day" means a calendar day.

5.3 "Effective Date" means the date the Court enters this Order.

5.4 "Future Corrective Action Costs" means all costs incurred by the State after the Effective Date to oversee, enforce, monitor, and document compliance with this Order, and to perform corrective actions required by this Order, including, but not limited to, costs incurred to: monitor corrective actions at the Sites, observe and comment on field activities, review and comment on submissions, collect and analyze samples, evaluate data, purchase equipment and supplies to perform monitoring activities, attend and participate in meetings, prepare and review cost reimbursement documentation, and perform corrective actions pursuant to Paragraph 6.3 and Section XII (Emergency Response) of this Order. Costs paid by DEQ to contractors are also considered Future Corrective Action Costs.

5.5 "Knight" means Knight Enterprises, Inc., a Michigan Corporation and its legal successors and assigns.

5.6 "MDAG" means the Michigan Department of Attorney General, its successor entities, and those authorized persons or entities acting on its behalf.

5.7 "MDEQ" means the Michigan Department of Environmental Quality, its successor entities, and those authorized persons or entities acting on its behalf.

5.8 "Part 213" means Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.21301a *et seq.*

5.9 "Party" means either Knight or MDEQ, and "Parties" means Knight and MDEQ.

5.10 "Past Corrective Action Costs" means costs the State has incurred and paid relating to the release of regulated substances at the Sites prior to the effective date of this order.

5.11 "RBCA" means the ASTM International (ASTM) document entitled Standard Guide for Risk-Based Corrective Action Applied at Petroleum Release Sites, designation E 1739-95 (reapproved 2010) E1; Standard Guide for Risk-Based Corrective Action, designation E 2081-00 (reapproved 2010) E1; and Standard Guide for Development of Conceptual Site Models and Remediation Strategies for Light Nonaqueous-Phase Liquids Released to the Subsurface, designation E 2531-06 E1, all of which are hereby incorporated by reference.

5.12 "RRD" means the Remediation and Redevelopment Division of MDEQ and its successor entities.

5.13 "Site" or "Sites" means individually or collectively the following locations where a release has occurred or a threat of release may exist from an underground storage tank system:



	FACILITY_ID	SITE NAME	ADDRESS
1	00004164	Knight Enterprises, Inc.	G4005 Clio Rd. & Pierson, Flint, MI 48504-6824
2	00005943	Knight #399	6134 Van Dyke, Detroit, MI 48213
3	00008090	Knight #317	G-5277 Corunna Rd., Flint, MI 48532
4	00016095	Knight Enterprises K- 312/#312	8438 N. Telegraph Rd., Dearborn Hts., MI 48127-1437
5	00016627	Knight #375	13300 Livernois, Detroit, MI 48238
6	00016682	Knight #346	33330 W. 8 Mile Rd., Farmington, MI 48336-5402
7	00018499	Citgo Gas Page Avenue/Knight #72	3501 Page Ave., Jackson, MI 49203-2319
8	00018509	Knight Enterprises Station #7/#307	31233 Grand River, Farmington, MI 48024
9	00018510	Knight Enterprises K- 9/#309	23640 W. 8 Mile Rd, Southfield, MI 48034-4201
10	00018515	Knight #-15/#315	10924 Telegraph Rd., Taylor, MI 48180-3323
11	00018516	Knight Enterprises K-23	24045 W. Warren, Dearborn Heights, MI 48127
12	00018518	Knight #327	28005 Gratiot Ave., Roseville, MI 48066-4204
13	00018520	Knight #330	12750 Schaefer Hwy., Detroit, MI 48227-3586
14	00018521	Knight #31/#331	41350 Ford Rd., Canton, MI 48187-3657
15	00018526	Knight K-33	36421 Plymouth Rd., Livonia, MI 48150
16	00018965	Sunoco #0354-5662	G-5145 Miller Rd., Flint, MI 48507
17	00019869	Knight #328	6401 W. 8 Mile Rd., Detroit, MI 48221
18	00021408	Citgo, Knight Ent. #70	206 N. James St., Grayling, MI 49738-1702
19	00021658	Knight Station K-79/#308	29009 Northwestern Hwy., Southfield, MI 48034-1009
20	00034507	Knight #365	24991 Groesbeck Hwy., Warren, MI 48089
21	00036050	Knight #38	33375 Eight Mile Rd, Livonia, MI 48152

5.14 "State" means MDAG and MDEQ and any authorized representatives acting on their behalf.

5.15 "Submissions" means all plans, reports, schedules, and other submissions that Knight is required to provide to the State or the MDEQ pursuant to this Order. "Submissions" does not include the notifications set forth in Section XIII (*Force Majeure*) of this Order.

5.16 Unless otherwise stated herein, all other terms used in this Order which are defined in Part 3, Definitions, of the NREPA, MCL 324.301; or Part 213 shall have the same meaning in this Order as in Parts 3 and 213.

## VI. PERFORMANCE OF CORRECTIVE ACTION

6.1 Knight shall perform all necessary corrective actions relating to the Sites to comply with the requirements of Part 213, including but not limited to the corrective actions outlined in this Order, as follows:

a. Knight shall submit to MDEQ within one hundred and eighty (180) days of the Effective Date a Masterplan for each Site in the form attached hereto as Exhibit A (Masterplan) that contains the following with respect to each Site:

i. A plan and schedule to obtain access consistent with Section IX (Access) of the Order in order to perform the necessary corrective actions for each Site

- ii. A schedule to submit any reports required under Part 213 that have not already been submitted and approved pursuant to Part 213, such as an IAR, FAR/CAP, or Closure Report, for each Site
  - iii. Except for when a Masterplan permits a Closure Report to be submitted instead of an IAR or FAR/CAP, Knight shall set a Site-specific goal of submitting a Closure Report for each Site that meets the requirements of Section 21312a within a period of time after MDEQ's approval of the FAR/CAP for a Site.
- b. Upon MDEQ approval, each component of each Master Plan, IAR, FAR/CAP, schedule, and any approved modifications, shall be deemed incorporated into this Order and made an enforceable part of this Order.
- c. Knight shall implement the actions set forth in each MDEQ-approved Masterplan, IAR, FAR/CAP, in accordance with the schedule set forth therein. If there is a conflict between the requirements of this Order and any MDEQ-approved Masterplan, IAR, FAR/CAP or schedule, the requirements of this Order shall prevail, unless the parties agree to specifically amend this order in writing. MDEQ acknowledges that Knight must rely on work performed by third

parties at Sites 1, 2, 6, and 16. Nothing stated herein shall be construed as waiving any responsibility or liability that Knight may have for such Sites under this Consent Order.

d. Until the submission of an approvable Closure Report for a Site or as mutually agreed upon in accordance with Paragraph 7.5, Knight will submit, on a bi-annual basis, a written status report to MDEQ for each such Site that describes the activities that have been taken toward achieving compliance with this Order, all results of sampling and tests and other data received by Knight, each third party property at which access has been achieved in order to fully delineate the extent of contamination at or migrating from a Site, Knight's progress in identifying the vertical and horizontal extent of contamination, and Knight's progress in implementing that Masterplan.

e. Knight shall advise MDEQ as soon as practicable of any actual or potential problems that affect or might affect Knight's ability to implement that Masterplan, how Knight proposes to resolve such problems, and any request by Knight to amend a Masterplan schedule requirement due to such problems.

f. If a delay or anticipated delay in meeting a requirement for a Site under this Order is caused by a *Force Majeure* event as defined in Section XIII (*Force Majeure*), the Parties shall amend or alter that

requirement by written mutual agreement in accordance with Paragraph 7.5 and any such modifications shall be incorporated into this Order.

g. Absent agreement by the Parties, an extension of the schedule for any task or activity shall not, by itself, extend the schedule for the performance of any other task or activity.

6.2 Knight shall submit to the appropriate Register of Deeds for recording all institutional controls or land and resource use restrictions required by a CAP for a Site within 60 days of receipt of MDEQ's approval (a) without conditions or (b) that all conditions in a conditional approval are satisfied for a CAP or an amendment to a CAP submitted under Paragraph 6.1.a, unless a longer period of time is requested by Knight and agreed to in writing by MDEQ in accordance with Paragraph 7.5, which agreement shall not be unreasonably withheld. With respect to any Site that has an approved Masterplan that permits a Closure Report to be submitted instead of a FAR/CAP, Knight shall submit to the MDEQ prior to submitting the Closure Report, any institutional controls or land and resource use restrictions that are known to be required for the approval of the Closure Report. Following approval of any institutional controls or land and resource use restrictions Knight shall submit to the Register of Deeds within 60 days of receipt of MDEQ's approval the approved institutional controls or land and resource use restrictions and include copies of the recorded instruments within the Closure

Report. All institutional controls or land and resource use restrictions shall comply with applicable requirements of Section 21310a of Part 213.

6.3 If Knight ceases to perform the corrective action required by this Order; is not performing corrective action in accordance with this Order; or is performing corrective action in a manner that causes or may cause an endangerment to public health, safety, or welfare, or the environment, MDEQ may, at its option and upon providing thirty (30) days prior written notice to Knight, take over the performance of those corrective action. MDEQ, however, is not required to provide thirty (30) days written notice prior to performing corrective action that MDEQ determines are necessary pursuant to Section XII (Emergency Response). If MDEQ finds it necessary to take over the performance of corrective action that Knight is obligated to perform under this Order, Knight shall reimburse the State for its costs lawfully incurred to perform this corrective action, including any accrued interest at the rate specified in Section 21323b(3) of Part 213. Interest shall begin to accrue on the date described in Section 21323b(3) of Part 213. Costs incurred by the State to perform corrective action pursuant to this Paragraph (and any accrued interest) shall be reimbursed by Knight in accordance with Paragraph 15.2 of Section XV (Payment).

6.4 MDEQ shall provide reasonable, convenient and full access (subject to any exemptions provided under the Freedom of Information Act) to Knight to agency files relevant to compliance under Part 213, including the preparation of the

Masterplan. This MDEQ responsibility shall manifest itself in ease of access to relevant MDEQ records, including reports, correspondence and review memos.

## VII. SUBMISSIONS AND APPROVALS

7.1 Following receipt of each Masterplan, IAR, FAR/CAP, and Closure Reports as required in Paragraph 6.1.a, MDEQ shall review each submittal and approve, approve with conditions, deny or determine that the submittal does not contain sufficient information for MDEQ to make a decision or is otherwise deficient. If MDEQ's response is that the submittal does not include sufficient information or is otherwise deficient, MDEQ shall identify (a) the information that is required for MDEQ to make a decision, or (b) specific deficiencies as described in MCL 324.21315(6)(a) and recommendations as described in MCL 324.21315(6)(b), or both.

7.2 If MDEQ requests further information or denies a Masterplan, IAR, FAR/CAP, or Closure Report submitted under this Order, then Knight may proceed to dispute resolution specified in Section XVIII (Dispute Resolution) within 60 days of receipt of MDEQ's written determination or re-submit the Masterplan, IAR, FAR/CAP or Closure Report within 60 days of receipt of MDEQ's written determination. If, however, Knight is required by MDEQ, or if Knight determines, to conduct additional field work or secure access to additional properties in order to re-submit the Masterplan, IAR, FAR/CAP, or Closure Report, then the schedule for that re-submission shall be established by mutual agreement in accordance with Paragraph 7.5. MDEQ shall review a resubmitted Masterplan, IAR, FAR/CAP or

Closure Report to evaluate whether sufficient information has been provided or the identified deficiencies have been corrected. Any Masterplan, IAR, FAR/CAP, or Closure Report shall be considered out of compliance with this Order until sufficient information has been provided or the identified deficiencies have been corrected, subject to Paragraphs 7.4 and 17.4, and Section XVIII (Dispute Resolution).

7.3 If MDEQ approves or approves with conditions a Masterplan, IAR, FAR/CAP, or Closure Report, submitted under Paragraph 6.1.a, then Knight shall initiate implementation of the Masterplan, IAR FAR/CAP, or Closure Report or proceed to dispute resolution specified in Section XVIII (Dispute Resolution) regarding the conditions, within 60 days of receipt of MDEQ's written approval with conditions, and Knight shall provide proof of such initiation in writing at the next meeting between the Parties following such initiation. If, however, Knight is required by MDEQ to conduct additional field work or secure access to additional properties in order to initiate implementation of the Masterplan, IAR, FAR/CAP, or Closure Report, then the schedule for initiating such implementation shall be established by mutual agreement in accordance with Paragraph 7.5.

7.4 If MDEQ denies a Closure Report submitted as part of an approved Masterplan that does not require an IAR or FAR/CAP, subject to Knight's right to proceed to dispute resolution in Section XVIII (Dispute Resolution), Knight shall prepare, pursuant to a mutually agreed upon schedule in accordance with Paragraph 7.5, an amended Masterplan or Closure Report for that Site.



7.5 Any time frame or activity under this Section may be modified by mutual agreement between the designated MDEQ RRD Project Manager specified in Section XIV (Communications/Notices) and Knight.

#### VIII. COMPLIANCE WITH PART 211

8.1 At any Site that Knight owns or operates after the Effective Date until termination pursuant to Section XXVII (Termination of Certain Provisions), Knight shall maintain substantial compliance with any requirement of Part 211, Pollution Control, of the NREPA, MCL 324.21101, *et seq.*, and its administrative rules, designed to prevent releases of hazardous substances from underground storage tanks.

#### IX. ACCESS

9.1 Upon the Effective Date of this Order, Knight shall allow the MDEQ and its authorized employees, agents, representatives, contractors, and consultants to enter any Site and associated properties at all reasonable times to the extent access to a Site and any associated properties are owned, controlled by, or available to Knight. Upon presentation of proper credentials and upon making a reasonable effort to contact the person in charge of a Site, MDEQ staff and its authorized employees, agents, representatives, contractors, and consultants shall be allowed to enter a Site and associated properties for the purpose of conducting any activity for which access is required for the implementation of this Order or to otherwise fulfill

any responsibility under state or federal laws with respect to a Site, including, but not limited to, the following:

- (a) Monitoring corrective actions or any other activities taking place pursuant to this Order at a Site;
- (b) Verifying any data or information submitted to the MDEQ;
- (c) Assessing the need for, or planning, or conducting investigations relating to a Site;
- (d) Obtaining samples;
- (e) Assessing the need for, or planning, or conducting corrective actions at or near a Site;
- (f) Assessing compliance with requirements for the performance of monitoring, operation and maintenance, or other measures necessary to assure the effectiveness and integrity of the corrective action;
- (g) Inspecting and copying non-privileged records, operating logs, contracts, or other documents;
- (h) Determining whether a Site or other property is being used in a manner that is or may need to be prohibited or restricted pursuant to this Order; and
- (i) Assuring the protection of public health, safety, or welfare, or the environment.

9.2 To the extent that a Site, or any other property where corrective actions are to be performed by Knight under this Order, is owned or controlled by

persons other than Knight, Knight agrees to use its best efforts to secure from such persons written access agreements or judicial orders providing access for the Parties and their authorized employees, agents, representatives, contractors, and consultants. Knight shall provide the MDEQ with a copy of each written access agreement or judicial order secured pursuant to this Section. For purposes of this Paragraph, "best efforts" includes, but is not limited to, providing reasonable consideration acceptable to the owner or taking judicial action to secure such access. If judicial action is required to obtain access, Knight shall provide documentation to the MDEQ that such judicial action has been filed in a court of appropriate jurisdiction no later than sixty (60) days after Knight's receipt of the MDEQ's approval of the Master Plan for which such access is needed. If Knight has not been able to obtain access within sixty (60) days after filing judicial action, Knight shall promptly notify the MDEQ of the status of its efforts to obtain access and shall describe how any delay in obtaining access may affect the performance of corrective actions for which the access is needed. Any delay in obtaining access shall not be an excuse for delaying the performance of corrective actions, unless the State determines that the delay was caused by a *Force Majeure* event pursuant to Section XIII (Force Majeure).

9.3 Any lease, purchase, contract, or other agreement entered into by Knight after the Effective Date that transfers to another person a right of control over a Site or a portion of a Site shall contain a provision preserving for the MDEQ

or any other person undertaking the corrective actions, and their authorized representatives, the access provided under this Section.

9.4 Any person granted access to a Site pursuant to this Order shall comply with all applicable health and safety laws and regulations.

## **X. COMPLIANCE WITH STATE AND FEDERAL LAWS**

10.1 All actions required to be taken pursuant to this Order shall be undertaken in accordance with the requirements of all applicable or relevant and appropriate state and federal laws, rules, and regulations, including, but not limited to, Part 213, and laws relating to occupational safety and health. Other agencies may also be called upon to review the performance of corrective action under this Order.

10.2 This Order does not relieve Knight's obligation to obtain and maintain compliance with any applicable permits including, but not limited to, a National Pollutant Discharge Elimination System (NPDES) permit, Storm Water Management permit, and soil erosion and sedimentation control permit.

10.3 Corrective action performed by Knight pursuant to this Order shall be in accordance with the standards promulgated pursuant to the National Contingency Plan, 40 CFR 300.150; the Occupational Safety and Health Act of 1970, 29 CFR 1910.120; and the Michigan Occupational Safety and Health Act, 1974 PA 154, as amended, MCL 408.1001 et seq.

## **XI. SAMPLING AND ANALYSIS**

11.1 Knight, or its consultants or subcontractors, shall provide the MDEQ a five (5) day notice prior to any sampling activity to be conducted pursuant to this Order to allow the MDEQ Project Manager, or his or her authorized representative, the opportunity to take split or duplicate samples or to observe the sampling procedures. In circumstances where a five (5) day notice is not possible, Knight, or its consultants or subcontractors, shall provide notice of the planned sampling activity as soon as possible to the MDEQ Project Manager and explain why earlier notification was not possible. If the MDEQ Project Manager concurs with the explanation provided, Knight may forego the five (5) day notification period for that particular sampling event.

11.2 Knight shall provide the MDEQ with the results of all environmental sampling, and other analytical data generated relating to the Sites in the performance or monitoring of any requirement under this Order. These results shall be included in the progress reports set forth in Paragraph 6.1(d) of this Order.

11.3 For the purpose of quality assurance monitoring, Knight shall assure that the MDEQ and its authorized representatives are allowed access to any laboratory used by Knight in implementing this Order.

## **XII. EMERGENCY RESPONSE**

12.1 If during the course of Knight's performance of corrective action pursuant to this Order, an event causes a release or threat of release of a hazardous substance as defined at MCL 324.20101(x) at or from a Site, or causes exacerbation

of existing contamination at a Site, and the release, threat of release, or exacerbation poses or threatens to pose an imminent and substantial endangerment to public health, safety, or welfare, or the environment, Knight shall immediately undertake all appropriate actions under applicable law to prevent, abate, or minimize such release, threat of release, or exacerbation; and shall immediately notify the designated MDEQ Project Manager by telephone, as provided in Section XIV (Communications/Notices), and the Pollution Emergency Alerting System (PEAS) at 1-800-292-4706. In such an event, any actions taken by Knight shall be in accordance with all applicable health and safety laws and regulations.

12.2 Within ten (10) days of notifying MDEQ of such an act or event described in Paragraph 12.1, Knight shall submit a written report, setting forth a description of the act or event that occurred and the measures taken or to be taken to mitigate any release, threat of release, or exacerbation caused or threatened by the act or event and to prevent recurrence of such an act or event. Regardless of whether Knight notifies MDEQ under this Section, if Knight's or its agents' performance of corrective action pursuant to this Order causes a release, threat of release, or exacerbation at or from a Site, MDEQ may:

- a. Require Knight to stop corrective action at that Site for such period of time as may be needed to prevent or abate any such release, threat of release, or exacerbation;
- b. Require Knight to undertake any actions that the MDEQ determines are necessary under applicable law to prevent or abate any

such release, threat of release, or exacerbation; or undertake any actions that MDEQ determines are necessary under applicable law to prevent or abate such release, threat of release, or exacerbation.

### XIII. FORCE MAJEURE

13.1 Knight shall perform the requirements of this Order within the time limits established herein, unless performance is prevented or delayed by events that constitute a "*Force Majeure*." Any delay in the performance attributable to a *Force Majeure* shall not be deemed a violation of this Order in accordance with this Section.

13.2 For the purposes of this Order, a *Force Majeure* event is defined as any event arising from causes beyond the control of and without the fault of Knight, of any person controlled by Knight, or of Knight's contractors that delays or prevents the performance of any obligation under this Order despite Knight's "best efforts to fulfill the obligation." The requirement that Knight exercise "best efforts to fulfill the obligation" includes Knight using best efforts to anticipate any potential *Force Majeure* event and to address the effects of any potential *Force Majeure* event during and after the occurrence of the event, such that Knight minimizes any delays in the performance of any obligation under this Order to the greatest extent possible. *Force Majeure* includes an occurrence or nonoccurrence arising from causes beyond the control of and without the fault of Knight, such as an act of God, untimely review of permit applications or submissions by the MDEQ or other applicable authority, and acts or omissions of third parties that could not have been

avoided or overcome by the diligence of Knight and that delay the performance of an obligation under this Order, including, but not limited to, denial of access by a court of competent jurisdiction pursuant to Section IX (Access). *Force Majeure* does not include, among other things, unanticipated or increased costs, changed financial circumstances, or failure to obtain a permit or license as a result of actions or omissions of Knight.

13.3 Knight shall notify the MDEQ by telephone within seventy-two (72) hours of discovering any event that causes a delay or prevents performance with any provision of this Order. Verbal notice shall be followed by written notice within ten (10) calendar days and shall describe, in detail, the anticipated length of delay for each specific obligation that will be impacted by the delay; the cause or causes of delay; the measures taken by Knight to prevent or minimize the delay; and the timetable by which those measures shall be implemented. Knight shall use its best efforts to avoid or minimize any such delay.

13.4 Failure of Knight to comply with the notice requirements of Paragraph 13.3, above, shall render Section XIII (Force Majeure) of this Order, void and of no force and effect as to the particular incident involved. The MDEQ may, at its sole discretion and in appropriate circumstances, waive the notice requirements of Paragraph 13.3 of this Order.

13.5 If the parties agree that the delay or anticipated delay was beyond the control of Knight, this may be so stipulated and the parties to this Order may agree upon an appropriate modification of this Order. If the parties to this Order are



unable to reach such agreement, the dispute shall be resolved in accordance with Section XVIII (Dispute Resolution) of this Order. The burden of proving that any delay was beyond the control of Knight, and that all the requirements of this Section have been met by Knight, is on Knight.

13.6 An extension of one compliance date based upon a particular incident does not necessarily mean that Knight qualifies for an extension of a subsequent compliance date without providing proof regarding each incremental step or other requirement for which an extension is sought.

#### **XIV. COMMUNICATIONS/NOTICES**

14.1 Each Party shall designate one or more Project Managers. Communications regarding issues relating to preparation and performance of corrective action at a Site pursuant to this Order, including all communications and submissions set forth in Section VI (Performance of Corrective Action) and notifications Knight is required to submit pursuant to Section 21307a(2), shall be directed to the designated Project Managers at the address listed below. Notices and submissions may be initially provided by electronic means but a hard copy must be concurrently sent. If any Party changes its designated Project Manager, the name, address, telephone number, and email address of the successor shall be provided to the other Party, in writing, as soon as practicable.

A. As to MDEQ:

i. MDEQ Project Manager:

Jeanne Schlaufman  
Southeast Michigan District Office  
Remediation and Redevelopment Division  
27700 Donald Court  
Warren, MI 48092-2793  
Phone: (586) 753-3700  
Email: schlaufmanj@michigan.gov

ii. MDEQ RRD Division Chief:

Robert Wagner, Chief  
Remediation and Redevelopment Division  
Constitution Hall  
525 West Allegan Street  
P.O. Box 30473  
Lansing, MI 48909-7973  
Phone: (517) 284-5144  
Email: wagnerb@michigan.gov

B. As to Knight:

John Denton  
Knight Enterprises, Inc.  
4600 Grand River Ave.  
Novi, MI 48050  
Phone: (248) 478-3651  
Email: jdenton@knightenterprisesinc.com

14.2 MDEQ may designate other authorized representatives, employees, contractors, and consultants to observe and monitor the progress of any activity undertaken pursuant to this Order.

## XV. PAYMENT

15.1 In consideration of the covenants set forth in Section XX (Covenants Not To Sue By The State), Knight shall make two (2) payments of Fifty Thousand

Dollars (\$50,000.00) to the MDEQ to reimburse the State for Past Corrective Action Costs incurred by the State. The first payment shall be made on or before thirty (30) days of the Effective Date and the second payment shall be made on or before the first anniversary of the Effective Date. Payment shall be made pursuant to the provisions of Paragraph 15.4 of this Order.

15.2 Knight shall reimburse the State for all Future Corrective Action Costs incurred by the State. Following the Effective Date of this Order, the MDEQ will periodically provide Knight with an invoice for Future Corrective Action Costs. An invoice will include a summary report (Summary Report) that identifies all Future Corrective Action Costs, the nature of those costs, and the dates through which those costs were incurred by the State. Except as provided by Section XVIII (Dispute Resolution) of this Order, Knight shall reimburse the MDEQ for such costs within thirty (30) days of Knight's receipt of an invoice from the MDEQ.

15.3 Knight shall have the right to request a full and complete accounting of all MDEQ invoices made hereunder, including time sheets, travel vouchers, contracts, invoices, and payment vouchers as may be available to the MDEQ. The MDEQ's provision of these documents to Knight may result in the MDEQ incurring additional Future Corrective Action Costs, which will be included in the annual invoice for payment of Future Corrective Action Costs.

15.2 All payments made pursuant to this Order shall be by certified check, made payable to the "State of Michigan – Environmental Response Fund," and shall be sent by first class mail to:

Michigan Department of Environmental Quality  
Cashier's Office  
P.O. Box 30657  
Lansing, MI 48909-8157

Via courier:

Accounting Services Division  
Cashier's Office for DEQ  
1<sup>st</sup> Floor, Van Wagoner Building  
425 W. Ottawa Street  
Lansing, MI 48933-2125

The Knight Enterprises, Inc., the Court Case No. 14-142024, and the RRD Account Number **RRD50079** shall be designated on each check. A copy of the transmittal letter and the check shall be provided simultaneously to the MDEQ Project Manager at the address listed in Paragraph 14.1(A) and to the MDAG at:

Assistant in Charge  
Environment, Natural Resources, and Agriculture Division  
Michigan Department of Attorney General  
G. Mennen Williams Building, 6<sup>th</sup> Floor  
P.O. Box 30755  
Lansing, MI 48909  
Phone: 517-373-7540  
Fax: 517-373-1610

Costs recovered pursuant to this Section and payment of stipulated penalties pursuant to Section XVII (Stipulated Penalties) of this Order, shall be deposited into the Environmental Response Fund in accordance with the provisions of MCL 324.20108(3).

15.5 If Knight fails to make full payment to the MDEQ for Past Corrective Action Costs or Future Corrective Action Costs as specified in Paragraphs 15.1 and

15.2 of this Order, interest, at the rate specified in MCL 324.21323b(3), shall begin to accrue on the unpaid balance on the day after payment was due, until the date upon which Knight makes full payment of those costs and the accrued interest to the MDEQ. In any challenge by Knight to an MDEQ demand for reimbursement of costs, Knight shall have the burden of establishing that the MDEQ did not lawfully incur those costs in accordance with MCL 324.20123b(1)(a).

#### **XVI. ESCROW AGREEMENT**

16.1 Knight shall establish an escrow fund in the form attached to this Order as Attachment B. MDEQ shall be identified as a beneficiary of the Escrow Fund.

- (a) Within thirty (30) days after the Effective Date, Knight shall make a payment into the Escrow Fund of \$500,000.00.
- (b) If MDEQ approves a Closure Report for any Site or Knight demonstrates it has satisfied the conditions set forth in an approval with conditions from the MDEQ, Knight shall be entitled to withdraw 1/21 of the funds in the Escrow Fund (\$23,809.52), plus accrued interest.
- (c) If Knight fails to submit a Closure Report that meets the requirements of Section 21312a by the Site-specific goal established pursuant to Paragraph 6.1(a)(iii), MDEQ shall be entitled to withdraw 1/21 of the funds paid in the Escrow Fund.

(d) In the event that some or all of the funds in the Escrow Fund remain after twenty (20) years from the Effective Date of the Order, MDEQ may transfer the remaining funds to the Environmental Response Fund, or its successor.

#### **XVII. STIPULATED PENALTIES**

17.1 Knight shall be liable for stipulated penalties in the amounts set forth in Paragraphs 17.2 and 17.3 of this Order for failure to comply with the requirements of this Order, unless excused under Paragraph 6.1.f. "Failure to Comply" by Knight shall include failure to complete submissions and notifications as required by this Order, and failure to perform corrective action in accordance with Section VI (Performance of Corrective Action) and this Order, within the specified implementation schedules established by or approved under this Order.

17.2 The following stipulated penalties shall accrue per violation per day for any violation of Section VI (Performance of Corrective Action) of this Order:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$250.00	1 <sup>st</sup> through 14 <sup>th</sup> day
\$500.00	15 <sup>th</sup> through 30 <sup>th</sup> day
\$2,000.00	31 <sup>st</sup> day and beyond

17.3 Except as provided in Paragraph 6.1.f, Section VII (Submissions and Approvals), and Section XVIII (Dispute Resolution), if Knight fails or refuses to comply with any other term or condition of this Order, Knight shall pay the MDEQ

stipulated penalties of Three Hundred Seventy Five Dollars (\$375.00) per day for each and every failure or refusal to comply.

17.4 If Knight fails to comply with a requirement of Section VI (Performance of Corrective Action) or Section VII (Submissions and Approvals), stipulated penalties shall begin to accrue upon Knight's receipt of MDEQ's written notice of accrual of stipulated penalties, which shall set forth specifically the compliance requirement(s) at issue. However, following receipt of such notice, Knight shall have a grace period of thirty (30) days to comply with the requirement(s) set forth in MDEQ's notice. If Knight achieves such compliance within thirty (30) days of receipt of MDEQ's notice, stipulated penalties shall not be demanded by MDEQ and shall lapse.

17.5 If Knight does not achieve compliance with the requirement(s) set forth in MDEQ's notice by thirty (30) days after Knight's receipt of MDEQ's notice, stipulated penalties may be demanded as specified in Paragraph 17.2 and shall continue to accrue until the lapse or violation is corrected. Knight may proceed to dispute resolution specified in Section XVIII (Dispute Resolution) regarding any violation or stipulated penalties claimed by MDEQ. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Order.

17.6 Except as provided in Section XVIII (Dispute Resolution) of this Order, Knight shall pay stipulated penalties owed to the State no later than thirty (30) days after Knight's receipt of a written demand from the State. All payments made pursuant to this Order shall be by certified check, made payable to the "State

of Michigan – Environmental Response Fund” as set forth in Paragraph 15.4. To ensure proper credit, the name Knight Enterprises, Inc. and the RRD Project Number RRD50079 shall be designated on each check. A copy of the transmittal letter and the check shall be provided simultaneously to:

Chief of the Compliance and Enforcement Section  
Remediation and Redevelopment Division  
Michigan Department of Environmental Quality  
P.O. Box 30426  
Lansing, MI 48909-7818

and

Assistant in Charge  
Environment, Natural Resources, and Agriculture Division  
G. Mennen Williams Building, 6<sup>th</sup> Floor  
P.O. Box 30755  
Lansing, MI 48909

Interest, at the rate provided for in Section 21323b(3) of Part 213, MCL 324.21323b(3), shall begin to accrue on the unpaid balance after payment was due until the date upon which Knight make full payment of those stipulated penalties and the accrued interest to MDEQ.

17.7 The payment of stipulated penalties shall not alter in any way Knight's obligation to perform the corrective action required by this Order.

17.8 If Knight fails to pay stipulated penalties when due, the State may institute proceedings to collect the penalties, as well as any accrued interest. However, the assessment of stipulated penalties is not the State's exclusive remedy if Knight violates this Order. For any failure or refusal of Knight to comply with the requirements of this Order, the State also reserves the right to pursue any other



remedies to which it is entitled under this Order or any applicable law including, but not limited to, seeking civil fines, injunctive relief, and the specific performance of corrective action and reimbursement of costs.

17.9 Notwithstanding any other provision of this Section, the State may waive, in its unreviewable discretion, any portion of stipulated penalties and interest that has accrued pursuant to this Order.

### **XVIII. DISPUTE RESOLUTION**

18.1 Unless otherwise expressly provided for in this Order, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under this Order, including Section VI (Performance of Corrective Action), except Section XII (Emergency Response) which is not disputable. However, the procedures set forth in this Section shall not apply to actions by the State to enforce any of Knight's obligations that have not been disputed in accordance with this Section. Engagement of dispute resolution pursuant to this Section shall not be cause for Knight to delay the performance of any corrective action required under this Order.

18.2 The State shall maintain an administrative record of any disputes initiated pursuant to this Section. The administrative record shall include the information Knight provides to the State under Paragraphs 18.3 through 18.4 of this Order, and any documents MDEQ and the State rely on to make the decisions set forth in Paragraphs 18.3 through 18.4 of this Order and any other documents

either Party submits in the Dispute Resolution Process, such as documents submitted under Section VII (Submissions and Approvals).

18.3 Except for undisputable matters identified in Paragraph 12.1 of this Order, any dispute that arises under this Order with respect to the MDEQ's disapproval, modification, or other decision concerning requirements of this Order shall, in the first instance, be the subject of informal negotiations between the district staff representing the MDEQ and Knight. A dispute shall be considered to have arisen on the date that either MDEQ's Project Manager or the Knight's representative designated at Paragraph 14.1.B receives a written Notice of Dispute from the other Party. The Notice of Dispute shall state the issues in dispute; the relevant facts upon which the dispute is based; factual data, analysis, or opinion supporting the Party's position; and supporting documentation upon which the Party bases its position. In the event Knight objects to any MDEQ notice of disapproval, modification, or decision concerning the requirements of this Order that is subject to dispute under this Section, Knight shall submit the Notice of Dispute within twenty-one (21) days of receipt of the MDEQ's notice of disapproval, modification, or decision. The period of informal negotiations shall not exceed twenty (20) days from the date a Party receives a Notice of Dispute, unless the time period for negotiations is modified by written agreement between the Parties. If the Parties do not reach an agreement within twenty (20) days or within the agreed-upon time period, the MDEQ Project Manager will thereafter provide the MDEQ's Statement of Position, in writing, to Knight. In the absence of initiation of formal

dispute resolution by Knight under Paragraph 18.4 of this Order, the MDEQ's position as set forth in the MDEQ's Statement of Position shall be binding on the Parties.

18.4 If Knight and the MDEQ cannot informally resolve a dispute under Paragraph 18.3 of this Order, Knight may initiate formal dispute resolution by submitting a written Request for Review to the MDEQ RRD Chief, with a copy to the MDEQ Project Manager, requesting a review of the disputed issues. This Request for Review must be submitted within twenty-one (21) days of Knight's receipt of the Statement of Position issued by the MDEQ pursuant to Paragraph 18.3 of this Order. The Request for Review shall state the issues in dispute; the relevant facts upon which the dispute is based; factual data, analysis, or opinion supporting the Party's position; and supporting documentation upon which the Party bases its position. Within twenty (20) days of the RRD Chief's receipt of Knight's Request for Review, the RRD Chief will provide the MDEQ's Statement of Decision, in writing, to Knight, which will include a statement of his/her understanding of the issues in dispute; the relevant facts upon which the dispute is based; factual data, analysis, or opinion supporting his/her position; and supporting documentation he/she relied upon in making the decision. The time period for the RRD Chief's review of the Request for Review may be extended by written agreement between the Parties.

18.5 The MDEQ's Statement of Decision pursuant to Paragraph 18.4 shall control unless within 20 days after Knight's receipt of the MDEQ's Statement of

Decision, Knight files with this Court a motion for resolution of the dispute, which sets forth the matter in dispute, the efforts made by the Parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to insure orderly implementation of this Decree. Within 30 days of Knight's filing of a motion asking the Court to resolve a dispute, MDEQ will file with the Court a response to Knight's motion and the administrative record that is maintained pursuant to Paragraph 18.2 of this Decree.

18.6 Any judicial review of the MDEQ's Statement of Decision shall be limited to the administrative record. In proceedings on any dispute relating to the selection, extent, or adequacy of any aspect of the response activities that are subject of this Decree, Knight shall have the burden of demonstrating on the administrative record that the position of the MDEQ is incorrect under the standards described in MCL 24.306(1)(a)-(c), (e)-(f). In proceedings on any dispute, Knight shall bear the burden of persuasion on factual issues under the applicable standards of review. Nothing herein shall prevent MDEQ from arguing that the Court should apply the arbitrary and capricious standard of review to any dispute under this Decree.

18.7 Notwithstanding the invocation of a dispute resolution proceeding, stipulated penalties shall accrue from the first day of the Knight's failure or refusal to comply with any term or condition of this Order, but payment shall be stayed pending resolution of the dispute. In the event, and to the extent that Knight does not prevail on the disputed matters, the MDEQ may demand payment of stipulated

penalties and Knight shall pay stipulated penalties as set forth in Paragraph 17.5 of Section XVII (Stipulated Penalties) of this Order. Knight shall not be assessed stipulated penalties for disputes that are resolved in its favor. The MDAG, on behalf of the MDEQ, may take civil enforcement action against Knight to seek the assessment of civil penalties or damages, pursuant to MCL 324.21323, or other statutory and equitable authorities.

18.8 Notwithstanding the provisions of this Section and in accordance with Section XVII (Stipulated Penalties) of this Order, Knight shall pay to the MDEQ that portion of a demand for reimbursement of costs or for payment of stipulated penalties that is not the subject of an ongoing dispute resolution proceeding. With respect to any stipulated penalties under this Order that are the subject of a dispute resolution proceeding, in the event that Knight does not prevail on the disputed matters, Knight shall pay any penalties to MDEQ within fourteen (14) days of the conclusion of the final dispute resolution proceeding pursuant to Paragraph 17.6.

### **XIX. INDEMNIFICATION AND INSURANCE**

19.1 The State of Michigan does not assume any liability by entering into this Order. This Order shall not be construed to be an indemnity by the State of Michigan for the benefit of Knight or any other person.

19.2 Knight shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, agents, employees, contractors, and representatives for any claims or causes of action that arise from, or on account of, acts or omissions of Knight, their officers, employees, agents, or any other person

acting on its behalf or under its control, in performing the activities required by this Order.

19.3 Knight shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, agents, employees, contractors, and representatives for all claims or causes of action for damages or reimbursement from the State of Michigan that arise from, or on account of, any contract, agreement, or arrangement between Knight and any person for the performance of corrective action at the Site, including any claims on account of construction delays

19.4 The State shall provide to Knight written notice of any claim for which the State of Michigan intends to seek indemnification pursuant, to Paragraphs 19.2 or 19.3. Any such notice shall include all documentation available to MDEQ supporting such claim, and it shall be provided to Knight as promptly as reasonably practicable after the State becomes aware of such claim. If the State fails to provide notice and that failure materially impairs Knight's ability to defend against such claim, Knight shall be relieved to the extent of the material impairment of any obligation to indemnify or hold harmless pursuant to Paragraphs 19.2 or 19.3.

19.5 Neither the State of Michigan nor any of its departments, agencies, officials, agents, employees, contractors, or representatives shall be held out as a party to any contract that is entered into by or on behalf of Knight for the performance of activities required by this Order. Neither Knight nor their contractor shall be considered an agent of the State of Michigan.

19.6 Knight waives all claims or causes of action against the State of Michigan and its departments, agencies, officials, agents, employees, contractors, and representatives for damages, reimbursement, or set-off of any payments made or to be made to the State of Michigan that arise from, or on account of, any contract, agreement, or arrangement between Knight and any other person for the performance of corrective action pursuant to this Order, including any claims on account of construction delays.

19.7 Prior to commencing any corrective action at a Site pursuant to this Order, and for the duration of this Order, Knight shall require its contractors to secure and maintain all insurance required pursuant to MCL 324.21325 (b), which names MDEQ, MDAG, and the State of Michigan as additional insured parties. Prior to commencement of corrective action at a Site pursuant to this Order, Knight shall provide the appropriate MDEQ Project Manager with certificates evidencing said insurance and the status of MDEQ, MDAG, and the State of Michigan as additional insured parties. Such certificates shall specify the relevant Site and the MDEQ Facility Number.

## **XX. COVENANTS NOT TO SUE BY THE STATE**

20.1 In consideration of the actions that will be performed and the payments that will be made by Knight under the terms of this Order, and except as specifically provided for in this Section and Section XXI (Reservation of Rights By The State) of this Order, the State of Michigan hereby covenants not to sue under

any statute, regulation, common law or any other basis, or to take further administrative action against Knight for:

- a. Performance of corrective actions that Knight performs pursuant to this Order.
- b. Payment of civil fines and penalties and any applicable interest for acts or omissions allegedly occurring prior to the Effective Date and relating to the releases of regulated substances at the Sites that are addressed in an IAR, FAR/CAP or Closure Report under this Order.
- c. Payment of Past and Future Corrective Action Costs incurred by the State of Michigan relating to the release of regulated substances at the Sites that are addressed in an IAR, FAR/CAP or Closure Report under this Order, except as otherwise required by this Order.
- d. Any obligations or liabilities under Part 213 relating to the releases of regulated substances at the Sites that are addressed in an IAR, FAR/CAP or Closure Report under this Order, except as expressly required by this Order or reserved under Section XXI (Reservation of Rights By The State).

20.2 The covenants not to sue shall take effect under this Order as follows:

- a. With respect to Knight's liability for performance of corrective action relating to a Site under this Order, the covenant not to sue shall



take effect upon approval of the Closure Report for that Site pursuant to this Order. The covenant not to sue for a Site will remain effective so long as Knight are meeting the applicable RBCA standard specified in the approved Closure Report for that Site.

b. With respect to Knight's liability for payment of civil fines and penalties, the covenant not to sue regarding all Sites shall take effect upon Knight's compliance with Paragraph 16.1(a).

c. With respect to Knight's liability for payment of Past Corrective Action Costs incurred by the State of Michigan regarding any of the Sites, except as required by this Order, the covenant not to sue regarding all Sites shall take effect upon Knight's compliance with Paragraph 15.1.

d. With respect to Knight's liability for payment of Future Corrective Action Costs incurred by the State of Michigan regarding any of the Sites, except as required by this Order, the covenant not to sue regarding all Sites shall take effect upon Knight's compliance with Paragraph 15.2.

20.3 The covenants not to sue extend only to Knight and do not extend to any other person.

## **XXI. RESERVATION OF RIGHTS BY THE STATE**

21.1 The covenants not to sue apply only to those matters specified in Paragraph 20.1 of Section XX (Covenants Not To Sue By The State). The State of Michigan expressly reserves, and this Order is without prejudice to, all rights to take administrative action or to file a new action pursuant to any applicable authority against Knight with respect to the following:

- a. The performance of corrective action relating to a Site that is required to achieve and maintain the applicable RBCA standard specified in the approved Closure Report for that Site.
- b. The past, present, or future treatment, handling, disposal, release, or threat of release of regulated substances that occur outside of a Site and that are not attributable to any of the Sites.
- c. The past, present, or future treatment, handling, disposal, release, or threat of release of regulated substances taken from the Sites.
- d. Damages for injury to, destruction of, or loss of natural resources, and the costs for any natural resource damage assessment.
- e. Criminal acts.
- f. Any matters for which the State is owed indemnification under Section XIX (Indemnification and Insurance).

g. The release or threatened release of regulated substances that occur during or after the performance of corrective action required by this Order or any other violations of applicable State of Michigan or federal law for which Knight has not received a covenant not to sue under this Order.

h. Any issue addressed in MCL 324.21323a(4)(d)(i)-(v).

i. Any issue addressed in MCL 324.21323g(5) as it relates to unknown conditions at any Site.

21.2 The State of Michigan reserves the right to take action against Knight if it discovers at any time that any material information provided by Knight prior to or after entry of this Order was known by Knight to be false or misleading at the time it was provided.

21.3 MDEQ and MDAG expressly reserve all of their rights and defenses pursuant to any available legal authority to enforce this Order.

21.4 In addition to, and not as a limitation of any other provision of this Order, MDEQ retains all of its authority and reserves all of its rights to perform, or contract to have performed, any corrective action that MDEQ determines is necessary under applicable law.

21.5 In addition to, and not as a limitation of any provision of this Order, MDEQ and MDAG retain all of their information-gathering, inspection, access, and enforcement authorities and rights under Part 213, and any other applicable

statute or regulation, except as provided in Section XX (Covenants Not To Sue By The State).

21.6 Except as otherwise provided in Section VI (Performance of Corrective Action), failure by MDEQ or MDAG to enforce any term, condition, or requirement of this Order in a timely manner shall not:

- a. Provide or be construed to provide a defense for Knight's noncompliance with any such term, condition, or requirement of this Order.
- b. Estop or limit the authority of MDEQ or MDAG to enforce any such term, condition, or requirement of the Order, or to seek any other remedy provided by law.

21.7 This Order does not constitute a warranty or representation of any kind by MDEQ that the corrective action performed by Knight in accordance with this Order will result in the completion of corrective action activities in accordance with Section 21312a of Part 213, or the remedial criteria established by law, or that those corrective actions will assure protection of public health, safety, or welfare, or the environment.

21.8 Except as provided in Paragraph 20.1(a) of Section XX (Covenants Not To Sue By The State), nothing in this Order shall limit the power and authority of MDEQ or the State of Michigan, pursuant to Section 21323g(7) of Part 213, 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 Sites.

## **XXII. COVENANT NOT TO SUE BY KNIGHT**

22.1 Knight hereby covenants not to sue or to take any civil, judicial, or administrative action against the State of Michigan, its agencies, or their authorized representatives, for any claims or causes of action against the State of Michigan that arise from this Order, including, but not limited to, any direct or indirect claim for reimbursement from any State of Michigan fund (except as allowed under Part 215 of NREPA, MCL 324.21501 et seq.), or any other provision of law.

22.2 After the Effective Date, if MDAG initiates any administrative or judicial proceeding for injunctive relief, recovery of costs, or other appropriate relief relating to any of the Sites, Knight agrees not to assert and shall not maintain any defenses or claims that are based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, or claim-splitting; or that are based upon a defense that contends any claims raised by MDEQ or MDAG in such a proceeding were or should have been brought in this case, provided, however, that nothing in this Paragraph affects the enforceability of the covenants not to sue set forth in Section XX (Covenants Not To Sue By The State).

### **XXIII. CONTRIBUTION**

23.1 Pursuant to Section 21323d(5) of Part 213, and Section 113(f)(2) of the federal Comprehensive Environmental Response, Compensation, and Liability Act, 1980 PL 96-510, as amended (CERCLA), 42 USC Section 9613(f)(2), and to the extent provided in Section XX (Covenants Not To Sue By The State), Knight shall not be liable for claims for contribution for the matters set forth in Paragraph 18.1 of Section XX (Covenants Not To Sue By The State), to the extent allowable by law. The Parties agree that entry of this Order constitutes a judicially approved settlement for purposes of Section 113(f)(3)(B) of CERCLA, 42 USC 9613(f)(3)(B), pursuant to which Knight has, as of the Effective Date, resolved its liability to MDEQ for the matters set forth in Paragraph 20.1 of this Order. Entry of this Order does not discharge the liability of any other person that may be liable under Part 213 or CERCLA. Pursuant to Section 21323d(9) of Part 213, any action by Knight for contribution from any person that is not a Party to this Order shall be subordinate to the rights of the State of Michigan, if the State of Michigan files an action pursuant to the NREPA, or other applicable state or federal law.

### **XIV. MODIFICATIONS**

24.1 Except as otherwise permitted in Section VI (Performance of Corrective Action), the Parties may only modify this Order according to the terms of this Section.

24.2 Modifications of this Order shall be made only by written agreement between Knight's Project Manager, the RRD Chief, or his or her authorized representative, and the designated representative of MDAG.

#### **XXV. SEPARATE DOCUMENTS**

25.1 The Parties may execute this Order in duplicate original form for the primary purpose of obtaining multiple signatures, each of which shall be deemed an original, but all of which together shall constitute the same instrument.

#### **XXVI. SEVERABILITY**

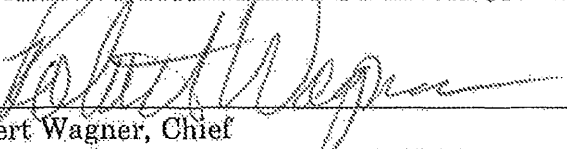
26.1 The provisions of this Order shall be severable. If a court of competent jurisdiction declares that any provision of this Order is inconsistent with state or federal law and therefore unenforceable, the remaining provisions of this Order shall remain in full force and effect.

#### **XXVII. TERMINATION OF CERTAIN PROVISIONS**

27.1 Except for Sections XX (Covenants Not To Sue By The State), XXI (Reservation of Rights By The State), and XXII (Covenant Not To Sue By Knight), this Order shall terminate as to any Site when both (a) MDEQ has approved or is deemed to have approved in accordance with Paragraph 7.3 a Closure Report for that Site under this Order, and (b) MDEQ has received all payments that Knight is required to make under this Order.

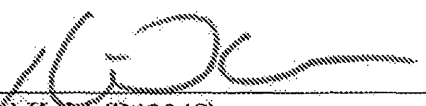
IT IS SO AGREED TO AND ORDERED BY:

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

  
Robert Wagner, Chief  
Remediation and Redevelopment Division  
Michigan Department of Environmental Quality

6/27/2016  
Date

MICHIGAN DEPARTMENT OF ATTORNEY GENERAL

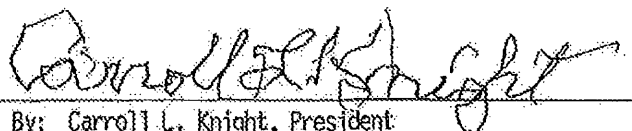
  
Richard Kuhl (P42042)  
Assistant Attorney General  
Environment, Natural Resources, and Agriculture Division  
Michigan Department of Attorney General

6/10/16  
Date



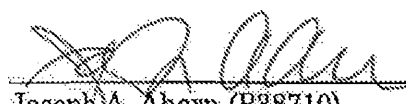
IT IS SO AGREED BY:

KNIGHT ENTERPRISES, INC.

  
By: Carroll L. Knight, President  
And

June 9, 2016

Date

  
Joseph A. Ahern (P38710)  
Ahern Kill

June 23, 2016

Date

IT IS SO ORDERED, ADJUDGED AND DECREED THIS 3 day of August, 2016.

August, 2016.

/s/Cheryl A. Matthews

Honorable  
Circuit Court Judge

AW

Received for Filing Oakland County Clerk 2016 AUG 04 AM 11:57

**Exhibit A**

**Site Master Plan Template**

## Site Master Plan

**Knight Enterprises Site #**  
**Facility ID #**  
**Site Address**

### Site Contact Information

Knight Project Manager	
Knight Consultant	
MDEQ District	
MDEQ Project Manager	

### Site/Remediation History

*(Summary of release, response work performed (including any on-going) and current understanding of nature/extent of impacts) (Include Site/Isoconcentration/Flow Maps as attachments)*

### Delineation Status

*(Description of current status and of any remaining delineation required for submission of FAR/CAP or Closure Report)*

### Off-Site Access Status

*(Identification of third party properties to which access is required to complete delineation for submission of FAR/CAP or Closure Report, status of access agreements with the owners of those properties and Schedule for obtaining access agreements.)*

Property	Status	Schedule for Obtaining

### FAR/CAP Submittal Schedule

*(Schedule for submitting FAR/CAP or Closure Report. Does not have to be specific date, can be dependent on timing of granting of access)*

## **Closure Report Schedule**

### **Status Update Meeting Schedule**

*(Timing of agreed upon Status Update Meeting between Knight Enterprises, Inc. PM and MDEQ Project Manager. Meeting will discuss the schedule, status, results of corrective action being undertaken at each Site, and any other matters related to the implementation of the Site master plans or FAR/CAPs or Closure Reports.)*

### **Annual Report Schedule**

*(Schedule for submission of annual reports to MDEQ Project Manager, in hard copy format. Will be a written status report to MDEQ for each Site that describes the activities that have been taken toward achieving compliance with the Consent Order, all results of sampling and tests and other data received by Knight Enterprises, Inc., Knight Enterprises, Inc.'s progress in implementing the master plans, any actual or potential problems that affect or might affect Knight Enterprises, Inc.'s ability to implement the master plans, how Knight Enterprises, Inc. proposes to resolve such problems, and any request by Knight Enterprises, Inc. to amend any master plan or FAR/CAP or Closure Report schedule requirement due to such problems.)*

**Attachment B**

**Escrow Form**

## ESCROW AGREEMENT

This Escrow Agreement is entered into by and between Knight Enterprises, Inc. (Knight or Grantor); **[insert name of Escrow Agent]**; and the Michigan Department of Environmental Quality (MDEQ) to provide financial assurance to assure the completion of corrective actions by Knight for the sites listed in paragraph 5.13 of the Consent Order.

Whereas, the Consent Order requires that Knight perform corrective actions at all of the sites listed in Paragraph 5.13 of the Order; and

Whereas, the Grantor has elected to establish an Escrow pursuant to Section XVI of the Order; and

Whereas, the Grantor, acting through its duly authorized officers, has proposed an Escrow Agent under this Escrow Agreement; and

Whereas, the MDEQ approves the Escrow Agent proposed by the Grantor; and

Whereas, the Escrow Agent is willing to act as the Escrow Agent;

NOW, THEREFORE, the Grantor, the MDEQ, and Escrow Agent agree as follows:

### I. DEFINITIONS

"Escrow Agent" means the escrow agent who enters this Escrow Agreement and any successor or assigns of the Escrow Agent.

"Escrow Agreement" means this Escrow Agreement executed between the Grantor, the Escrow Agent and the MDEQ.

"Escrow Assets" means cash and/or direct obligations of the United States of America (U.S.A.) or the State of Michigan, or obligations for which the principal and interest are unconditionally guaranteed by the U.S.A. or the State of Michigan, or certificates of deposit of any financial institution to the extent insured by an agency of the United States Government.

"Fiduciary" means any person who exercises any power of control, management, or disposition, or renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of this Escrow, or has any authority or responsibility to do so, or who has any authority or responsibility in the administration of this Escrow.

"Fund" or "Escrow" means the account by which deposits and earnings are maintained.

"Grantor" means Knight Enterprises, Inc., and any successors or assigns of Knight Enterprises, Inc.

"MDEQ" means the Director of the Michigan Department of Environmental Quality or his designee, or any successor department or agency, or the Director's authorized representative.

"Consent Order" means the Consent Order executed between the Grantor and the MDEQ on **[insert date that consent order was executed]**, Oakland County Circuit Court Docket #14-142024-CE, which is attached as Exhibit A.

All other terms used in this Escrow Agreement which are defined in Part 213 of the NREPA shall have the same meaning as in Part 213 of the NREPA.

## **II. AMOUNT OF ESCROW FUND**

The Grantor shall provide financial assurance in the form of an Escrow as required by the Consent Order. The Escrow shall be secured in the amount of five hundred thousand dollars (\$500,000.00) and be maintained consistent with the provisions of the Consent Order.

## **III. NOTICES**

All notices, deliveries, or other communications required or permitted hereunder shall be deemed given when sent by facsimile transmission and confirmed by certified or registered mail addressed as follows:

(A) For Escrow Agent:

**[insert Escrow Agent name]**  
ATTN: **[insert contact person's name]**  
**[Address or P.O. Box]**  
**[City], [State] [Zip Code]**  
Telephone No.: **[insert telephone no.]**  
FAX No.: **[insert fax no.]**

(B) For MDEQ:

(1) For questions regarding invoice reimbursement, escrow review and/or financial issues:

Darren C. Bowling, Enforcement Unit  
Compliance and Enforcement Section  
Remediation and Redevelopment Division  
Michigan Department of Environmental Quality  
P.O. Box 30426  
Lansing, Michigan 48909-7926  
Telephone No.: 517-284-5068  
FAX No.: 517-241-9581

(2) For payments sent to the MDEQ:

(Via U. S. Mail)

Accounting Services Center  
Cashier's Office for MDEQ  
P.O. Box 30657  
Lansing, Michigan 48909-8157



(Via Courier)

Accounting Services Center  
Cashier's Office for MDEQ  
Van Wagoner Building, 1<sup>st</sup> Floor  
425 West Ottawa Street  
Lansing, Michigan 48933-2125

(C) For Grantor:

Knight Enterprises, Inc.  
ATTN: John Denton  
40600 Grand River Ave.  
Novi, Michigan 48375  
Telephone: 248-478-3651  
FAX No.: 248-478-1441

Knight Enterprises, Inc., and Docket #14-142024-CE shall be included on any notices sent to the MDEQ.

#### **IV. ESTABLISHMENT OF FUND**

The Grantor and the Escrow Agent hereby establish the Fund for the use and benefit of the MDEQ and the Grantor with the intent to assure the completion of the corrective actions as described in the Consent Order. The Fund is established initially as consisting of the Escrow Assets described in Exhibit B of this Escrow Agreement, all of which are acceptable to the Escrow Agent. Such Escrow Assets or any other assets subsequently transferred to the Escrow Agent are collectively referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Escrow Agent pursuant to this Escrow Agreement. The Escrow will be held by the Escrow Agent, as hereinafter provided. The Escrow Agent undertakes no responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments required to be made by the Grantor to the Escrow Agent or for payments required of the Grantor. The Escrow Agent shall notify the MDEQ in writing of contributions made to the Escrow by the Grantor.

#### **V. SECURE PERFORMANCE**

The Fund shall be used and disbursed as described in Section XVI of the Consent Order.

If either party is entitled to withdraw from the Fund, that party will deliver written notice, containing a brief justification for the withdrawal including any applicable supporting documents, to the Escrow Agent and simultaneously to the other party. If neither MDEQ nor Grantor delivers a written objection to the Escrow Agent within 15 business days of receipt of the notice, the Escrow Agent shall disburse the requested funds. If either party delivers a timely objection to the Escrow Agent, the Escrow Agent will retain payment until (1) the Escrow Agent receives written instructions mutually agreed to by MDEQ and Grantor, or (2) a court having jurisdiction orders reimbursement. For the purposes of this paragraph, a written objection may be made by email or facsimile.

Funds disbursed to the MDEQ or Grantor under this Paragraph shall be delivered pursuant to Section III (Notices).

Pursuant to Paragraph 16.1(d) of the Consent Order, in the event that any of the Escrow Assets remain in the Fund after twenty (20) years from the Effective Date of the Consent Order, MDEQ may request that the Escrow Agent transfer the remaining Escrow Assets to the Environmental Response Fund, or its successor. In such event, the Escrow Agent shall remit payment to the MDEQ within thirty (30) days of receipt of the request. Escrow Assets disbursed to the MDEQ under this Paragraph shall be delivered to the address indicated in Subsection (B) (2) of Section III (Notices).

## **VI. PAYMENTS COMPRISING THE FUND**

The Escrow Assets placed with the Escrow Agent by the Grantor shall consist of cash and/or direct obligations of the U.S.A. or the State of Michigan, or obligations for which the principal and interest are unconditionally guaranteed by the U.S.A. or the State of Michigan, or certificates of deposit of any financial institution to the extent insured by an agency of the United States Government.

## **VII. ESCROW AGENT MANAGEMENT**

The Escrow Agent shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with prudent investment guidelines. In investing, reinvesting, exchanging, selling, and managing the Fund, the Escrow Agent or any other fiduciary will discharge ***[insert as appropriate: its or his or her]*** duties with respect to the Fund solely in the interest of the participants and the MDEQ and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matter, would use in the conduct of an enterprise of like character and with like aims, except that:

(A) Securities or other obligations of the Grantor or any other owner or operator of the Facility, or any of their affiliates as defined in the Investment Companies and Advisors Act of 1940, as amended, 15 U.S.C. Section 80a-2(a), shall not be acquired or held on behalf of the Fund unless they are securities or other obligations of the U.S.A. or the State of Michigan;

(B) The Escrow Agent is authorized to invest the Fund in time or demand deposits of the Escrow Agent or any other financial institution to the extent such Escrow Assets are insured by an agency of the United States Government and to the extent such time and demand deposits shall mature not later than one (1) year from the date of the investment;

(C) The Escrow Agent is authorized to hold cash while awaiting investment or investment distribution for a reasonable time and without liability for the payment of interest thereon.

## **VIII. COMMINGLING AND INVESTMENTS**

The Escrow Agent is expressly authorized in ***[insert as appropriate: its or his or her]*** discretion and in accordance with the investment policies and guidelines described in Section VII to transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective fund created by the Escrow Agent in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other escrows participating therein so long as such management does not conflict with the

requirements of this Fund. To the extent of the equitable share of the Fund in any such commingled fund, such commingled funds will be part of the Fund.

#### **IX. EXPRESS POWERS OF ESCROW AGENT**

Without in any way limiting the powers and discretions conferred upon the Escrow Agent by the other provisions of this Escrow Agreement by law, the Escrow Agent is expressly authorized and empowered:

(A) To make, execute, acknowledge, and deliver any and all documents of transfers and conveyances and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(B) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Escrow Agent will at all times show that all such securities are part of the Fund;

(C) To deposit any cash in the Fund maintained in interest-bearing accounts or saving certificates issued by the Escrow Agent, in its separate corporate capacity, or in any other banking institution affiliated with the Escrow Agent, to the extent insured by an agency of the United States Government;

(D) To sell, exchange, convey, transfer or otherwise dispose of any other property held on behalf of the Fund, by public or private sale. No person dealing with the Escrow Agent shall be bound to see the application of the purchase money or to inquire into the validity of expediency of any such sale or other disposition; and

(E) To comprise or otherwise adjust all claims in favor of or against the Fund.

#### **X. TAXES AND EXPENSES**

All taxes of any kind that may be assessed or levied against or in respect to the Fund and monthly maintenance fee (such fee shall include any necessary advice of counsel) incurred by the Escrow Agent or Fund will be paid directly by the Grantor.

#### **XI. ACCOUNTING FOR THE FUND**

The Escrow Agent shall annually, at least thirty (30) days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and the MDEQ a written statement of the current value of the Fund. Any securities in the Fund shall be valued at market value as of no more than sixty (60) days prior to the anniversary date established for the Fund.

The accounting shall show in reasonable detail the following:

(A) The total funds deposited into the Fund;

- (B) Accrued earnings on the funds deposited into the Fund;
- (C) The amount of the funds that have been paid out of the Fund; and
- (D) The remaining balance of the Fund.

## **XII. ADVICE OF COUNSEL**

The Escrow Agent may from time to time consult with counsel, who may be counsel to the MDEQ, with respect to any questions arising as to the construction of this Escrow Agreement or any action to be taken hereunder. The Escrow Agent shall be fully protected, to the extent permitted by law, in acting upon the advice of *[insert as appropriate: its or his or her]* own counsel.

## **XIII. ESCROW AGENT COMPENSATION**

The Escrow Agent will be entitled to reasonable compensation for *[insert as appropriate: its or his or her]* services as agreed upon in writing from time to time with the Grantor. Payment shall be made directly by the Grantor and not from the Fund.

## **XIV. SUCCESSOR ESCROW AGENT**

The Escrow Agent may be replaced upon providing ninety (90) days written notice to the Escrow Agent from the MDEQ or the Grantor. The Escrow Agent may resign after giving ninety (90) days written notice to the Grantor and the MDEQ. In either event, upon written concurrence of the MDEQ, the Grantor will appoint a successor Escrow Agent who will have the same powers and duties as those conferred upon the Escrow Agent hereunder. Upon acceptance of the appointment of a successor Escrow Agent by the MDEQ, the successor Escrow Agent and the Grantor will sign a new Escrow Agreement with identical terms as this Escrow Agreement and forward it to the MDEQ for signature. Upon MDEQ signature, the Escrow Agent will assign, transfer, and pay over to the successor Escrow Agent, the funds then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Escrow Agent, the Escrow Agent may apply to a court of competent jurisdiction for the appointment of a successor Escrow Agent or for instructions. The successor Escrow Agent shall notify the MDEQ, the Grantor, and the present Escrow Agent in writing by certified mail of the date upon which it will assume administration of the Fund at least ten (10) days before such change becomes effective. Any expenses incurred by the Escrow Agent as a result of any of the actions performed under this Section will be paid as provided in Section X (Taxes and Expenses).

## **XV. INSTRUCTIONS TO THE ESCROW AGENT**

All orders, requests, and instructions by the MDEQ to the Escrow Agent will be in writing and signed by the MDEQ's authorized representative (in accordance with MDEQ delegation authority). The Escrow Agent shall act and, in so acting, will be fully protected if acting in accordance with such orders, requests, and instructions. The Escrow Agent will have no duty to act in the absence of such orders, requests, and instructions from the MDEQ, except as provided for herein.

#### **XVI. AMENDMENT OF THE ESCROW AGREEMENT**

This Escrow Agreement may be amended by an instrument in writing executed by the Escrow Agent, Grantor, and the MDEQ; or by the Escrow Agent and the MDEQ if the Grantor ceases to exist.

#### **XVII. IRREVOCABILITY AND TERMINATION**

Subject to the right of the parties to amend this Escrow Agreement as provided in Sections XIV (Successor Escrow Agent) and XVI (Amendment of the Escrow Agreement), this Fund will be irrevocable and continue until terminated by the written notification of the MDEQ.

If the Escrow Agreement is terminated for any reason, the Escrow Amount shall be transferred to the MDEQ for deposit in the Environmental Response Fund.

The Escrow Agreement shall be terminated when the Escrow Agent receives written notice from the MDEQ that the Fund is no longer necessary.

#### **XVIII. IMMUNITY AND INDEMNIFICATION**

The Escrow Agent will not incur personal liability of any nature in connection with any act or omission made in good faith in the administration of this Fund, or in carrying out any directions by the MDEQ issued in accordance with this Escrow Agreement.

The Escrow Agent will be indemnified and saved harmless by the Grantor, from and against any personal liability to which the Escrow Agent may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense.

#### **XIX. CHOICE OF LAW**

This Escrow Agreement will be administered, construed, and enforced according to the laws of the State of Michigan.

#### **XX. INTERPRETATION**

As used in this Escrow Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Escrow Agreement will not affect the interpretation or the legal efficacy of this Escrow Agreement.

The parties herein enter into and duly execute this Escrow Agreement. Furthermore, the Grantor and Escrow Agent below certify that the wording of this Escrow Agreement is identical to the wording specified by the MDEQ as of the effective date of this Escrow Agreement which is the date it is entered by the last signatory.

**FOR KNIGHT ENTERPRISES, INC., THE GRANTOR**

By: \_\_\_\_\_  
Signature Date

Name: \_\_\_\_\_  
Print or Type

Title: \_\_\_\_\_  
Print or Type

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of Knight Enterprises, Inc., a Michigan corporation, on behalf of the corporation, the Grantor named in the foregoing instrument.

\_\_\_\_\_  
Signature of Notary

Commission Expires: \_\_\_\_\_

FOR *[insert the name of the Escrow Agent]*, THE ESCROW AGENT

By: \_\_\_\_\_  
Signature Date

Name: \_\_\_\_\_  
Print or Type

Title: \_\_\_\_\_  
Print or Type

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, by *[insert name of Escrow Agent's authorized representative]*, the *[insert title of Escrow Agent's authorized representative]* of *[insert name of Escrow Agent]*, a *[insert state of incorporation]* corporation, on behalf of the corporation, the Escrow Agent named in the foregoing instrument.

\_\_\_\_\_  
Signature of Notary

Commission Expires: \_\_\_\_\_

FOR THE MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY,  
THE MDEQ

By: \_\_\_\_\_  
Signature Date

Name: \_\_\_\_\_  
Print or Type

Title: \_\_\_\_\_  
Print or Type

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, by ***[insert name of the MDEQ authorized representative]***, the ***[insert title of the MDEQ authorized representative]*** on behalf of the MDEQ named in the foregoing instrument.

\_\_\_\_\_  
Signature of Notary

Commission Expires: \_\_\_\_\_



## EXHIBIT A

Consent Order executed between the Grantor and the MDEQ on ***[insert date that consent order was executed]***, Oakland County Circuit Court Docket #14-142024-CE

EXHIBIT B

Escrow Assets

The Escrow Fund is established initially as consisting of the following:

***[Describe the nature and amount(s) of the Escrow Assets.]***

By their signatures below, the parties agree that this Exhibit B is incorporated into and made a part of the Escrow Agreement dated ***[insert effective date of Escrow Agreement]***.

**FOR KNIGHT ENTERPRISES, INC, THE GRANTOR**

By: \_\_\_\_\_  
Signature Date

Name: \_\_\_\_\_  
Print or Type

Title: \_\_\_\_\_  
Print or Type

**FOR *[insert name of Escrow Agent]*, THE ESCROW AGENT**

By: \_\_\_\_\_  
Signature Date

Name: \_\_\_\_\_  
Print or Type

Title: \_\_\_\_\_  
Print or Type

**FOR THE MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY,  
THE MDEQ**

By: \_\_\_\_\_  
Signature Date

Name: \_\_\_\_\_  
Print or Type

Title: \_\_\_\_\_  
Print or Type