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U.S. EPA REGION 4
HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: **Excel TSD of Tennessee LLC** **552 Rivergate Road** **Memphis, Tennessee 38109** **EPA ID No.: TND980847024** **Respondent.**	Docket No.: RCRA-04-2026-4004(b) Proceeding Under Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a)

CONSENT AGREEMENT

I. NATURE OF ACTION

1. This is a civil administrative action for penalties and injunctive relief brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA or the Act), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.

2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.

3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without the Respondent's admission of violation or adjudication of any issues of law or fact herein.

II. PARTIES

4. Complainant is the Director, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA) Region 4, who has been delegated the authority on

behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 3008(a) of the Act.

5. The Respondent is Excel TSD of Tennessee LLC (Excel TSD), a limited liability company doing business in the State of Tennessee. This proceeding pertains to the Respondent's facility located at 552 Rivergate Road in Memphis, Tennessee (Facility).

III. GOVERNING LAW

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Tennessee (State) has received final authorization to implement a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found in the Tennessee Hazardous Waste Management Act of 1977 (THWMA), Tennessee Code Annotated (Tenn. Code Ann.) §§ 68-212-101 to 121 [Subtitle C of RCRA, 42 U.S.C. §§ 6921 - 6939g], and Chapters 0400-12-01 and 1200-1-11 (2008) of the Rules and Regulations of the State of Tennessee (Tenn. Comp. R. & Regs.) [40 C.F.R. Parts 260 through 270, 273 and 279].

7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State has received final authorization for certain portions of HSWA, including those recited herein.

8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.

9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.

10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CAFO.

11. Tenn. Code Ann. § 68-212-107(d) [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at Tenn. Comp. R. & Regs. 0400-12-01-.03 [40 C.F.R. Part 262].

12. Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Tenn. Comp. R. & Regs. 0400-12-01-.06 (permitted) and Tenn. Comp. R. & Regs. 0400-12-01-.05 (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a "generator" is defined as any person, by site, whose act or process produces hazardous waste identified or listed in Tenn. Comp. R. & Regs. 0400-12-01-.02 [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.

14. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a "facility" includes "all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste."

15. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a "person" includes an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, or political subdivision of a state.

16. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], an "owner" is "the person who owns a facility or part of a facility" and an "operator" is "the person responsible for the overall operation of a facility."

17. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a "large quantity generator" (LQG) includes a generator who generates greater than or equal to 1,000 kilograms (2,200 pounds) of non-acute hazardous waste in a calendar month.

18. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], "storage" means the containment of hazardous waste in such a manner as not to constitute disposal of such hazardous waste.

19. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], "container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

20. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], "tank" means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

21. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a "tank system" is defined as a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

22. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], "ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to a storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

23. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(b) [40 C.F.R. § 261.2], a "solid waste" is any discarded material that is not otherwise excluded by variance or non-waste determination.

A discarded material includes any material that is abandoned by being stored in lieu of being disposed.

24. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c) [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it meets any of the criteria set forth in Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c)1.(ii) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(d)2. [40 C.F.R. § 261.4(b)].

25. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c)1.(ii)(I) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(b)-(e) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.

26. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a)-(b) [40 C.F.R. §§ 261.20-21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.

27. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and (c) [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.

28. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and (d) [40 C.F.R. §§ 261.20 and 261.23], a solid waste that exhibits the characteristic of reactivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D003.

29. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and (e) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number between D004 – D043 that is associated with the toxic contaminant causing it to be hazardous.

30. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c)1.(ii)(II) and Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(a) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed "hazardous waste" if it is listed in Tenn. Comp. R. & Regs. 0400-12-01-.02(4) [40 C.F.R. Part 261, Subpart D].

31. Listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(b) [40 C.F.R. § 261.31].

32. Listed hazardous wastes include the K-Listed wastes from specific sources identified in Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(c) [40 C.F.R. § 261.32].

33. Listed hazardous wastes include the P- and U-Listed wastes identified in Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(d) [40 C.F.R. § 261.33].

Generator Regulations

34. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(f) [40 C.F.R. § 262.15(a)], a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(g)2. or (h)1. [40 C.F.R. §§ 262.16(b) or 262.17(a)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(f) [40 C.F.R. § 262.15(a)] (hereinafter referred to as the "SAA Permit Exemption").

35. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(f)1.(v)(II) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption, a generator is required to mark or label its containers with an indication of the hazards of the contents.

36. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(h)1. [40 C.F.R. § 262.17], an LQG may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(h)1. [40 C.F.R. § 262.17] (hereinafter referred to as the "LQG Permit Exemption").

37. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(h)1.(vi)2. [40 C.F.R. § 262.17(a)(6)], which incorporates Tenn. Comp. R. & Regs. 0400-12-01-.03(12)(j)2.-3. [40 C.F.R. § 262.262(b)-(c)] and is a condition of the LQG Permit Exemption, an LQG that first becomes subject to these provisions after the effective date of these rules, or is otherwise amending its contingency plan, must at that time submit a quick reference guide of the contingency plan to the local emergency responders or, as appropriate, the local emergency planning committee. The quick reference guide must include, among other things, the name of the emergency coordinator(s) and 7/24-hour emergency telephone number(s) or, in the case of a facility where an emergency coordinator is continuously on duty, the emergency telephone number for the emergency coordinator. The quick reference guide shall be updated whenever the contingency plan is amended and these documents shall be submitted to the local emergency responders or, as appropriate, the local emergency planning committee.

Permit Conditions

38. On September 30, 2008, the Tennessee Department of Environment and Conservation (TDEC) issued RCRA Hazardous Waste Permit Number TNHW-138 (RCRA permit) to the Respondent for the treatment and storage of hazardous waste at the Respondent's Facility. On March 17, 2011, a permit modification to the RCRA permit was issued.

39. The September 30, 2008, RCRA permit and its modification shall be collectively referred to as the "RCRA Permit" or "the Permit." The Respondent is also referred to as "the Permittee".

40. The RCRA Permit expired on September 30, 2018. The Permittee submitted a permit renewal application and a new permit was issued on June 30, 2025, RCRA Hazardous Waste Permit

Number TNHW-197. On June 9, 2026, a permit modification to RCRA Hazardous Waste Permit Number TNHW-197 was issued. Prior to the new permit being issued, the RCRA Permit was administratively continued and remained in effect and is the subject of this CAFO.

41. Pursuant to the terms and conditions of the Permit, the Permittee must comply with its conditions, attachments, and the applicable regulations in Tennessee Rule Chapter 1200-1-11. For permit conditions that cite Rule 1200-1-11-.06, the Permit specifies that the applicable regulations are those that were in effect on September 30, 2008, the date of issuance of the Permit. For permit conditions that cite any other rule in Chapter 1200-1-11, the Permit specifies that the applicable regulations are those in effect on the date of the issuance of the Permit and any subsequent modifications to the regulations as they become effective.

42. On September 17, 2012, the State of Tennessee repealed Chapter 1200-1-11 and renumbered it as Chapter 0400-12-01; corresponding Parts .01 through .12 continue to be the same. For ease of reference in this CAFO, permit conditions that cite any rule in Chapter 1200-1-11, except for rules in Rule 1200-1-11-.06, has been replaced with its corresponding renumbered rule in Chapter 0400-12-01. Any permit condition that cites Rule 1200-1-11-.06 will continue to cite Rule 1200-1-11-.06.

Permit Conditions – Container Management

43. Pursuant to Permit Condition II.H.7(b)., the Permittee shall prevent hazards at the container unloading (storage) areas by ensuring that each received container of hazardous waste is promptly, clearly, and durably marked or labeled with the date the container was received. Each container shall also be labeled with the approved material profile form number that matches the manifest description of the waste (if it has not already been entered on a label), along with a container number.

44. Pursuant to Permit Condition II.O.3., which incorporates Tenn. Comp. R. & Regs. 0400-12-01-.10(4)(a)1.(ii)(I)I. [40 C.F.R. § 268.50(a)(2)(i)(A)], the owner/operator of a hazardous waste treatment, storage, or disposal facility storing wastes subject to land disposal restrictions must clearly mark each container with the words "Hazardous Waste."

45. Pursuant to Permit Condition II.O.3., which incorporates Tenn. Comp. R. & Regs. 0400-12-01-.10(4)(a)1.(ii)(I)IV. [40 C.F.R. § 268.50(a)(2)(i)(D)], the owner/operator of a hazardous waste treatment, storage, or disposal facility storing waste subject to land disposal restrictions must be clearly mark each container with the accumulations start date.

46. Pursuant to Permit Condition II.O.3., which incorporates Tenn. Comp. R. & Regs. 0400-12-01-.10(4)(a)1.(ii)(I)III. [40 C.F.R. § 268.50(a)(2)(i)(C)], the owner/operator of a hazardous waste treatment, storage, or disposal facility storing waste subject to land disposal restrictions must clearly mark each container to identify its contents and with an indication of the hazards of the contents.

47. Pursuant to Permit Condition II.O.3., which incorporates Tenn. Comp. R. & Regs. 0400-12-01-.10(4)(a)3. [40 C.F.R. § 268.50(c)], the owner/operator of a treatment, storage, or disposal facility may store waste subject to land disposal restrictions beyond one year if they prove that

such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.

48. Pursuant to Permit Condition II.H.5., the Permittee shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of the facility operation in an emergency. Pursuant to Permit Condition III.D.1., containers will be managed in rows no more than two containers wide (e.g., one four-drum pallet), with a minimum aisle space of 2.5 feet between rows.

49. Pursuant to Permit Condition III.B., if a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the Permittee shall transfer the hazardous waste from this container to a container that is in good condition or otherwise manage the waste in some other way that complies with the conditions of the RCRA Permit.

50. Pursuant to Permit Condition III.D.2., containers holding hazardous waste must remain closed during storage, except when it is necessary to add or remove waste.

51. Pursuant to Permit Condition III.G., the Permittee shall not locate containers holding ignitable or reactive waste within 15 meters (50 feet) of the Facility's property line.

Permit Conditions – Tank System

52. Pursuant to Permit Conditions II.B. and II.H.1., the Facility shall be designed, constructed, maintained, and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous constituents to air, soil, or surface water which could threaten human health or the environment.

53. Pursuant to Permit Condition II.E.2., the Permittee shall remedy any deterioration or malfunction of equipment or structures which an internal inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action shall be taken immediately.

54. Pursuant to Permit Condition II.Q., which incorporates Tenn. Comp. R. & Regs. 1200-1-11-.06(31)(n)2.(iii) (2008) [40 C.F.R. § 264.1063(b)(3)], for all ancillary equipment that contains or contacts hazardous waste with organic concentrations of at least 10 percent by weight that are managed in units that are subject to the Permit, the Permittee shall calibrate the instrument used in leak detection monitoring, as required in Tenn. Comp. R. & Regs. 1200-1-11-.06(31)(c)-(m) (2008) [40 C.F.R. §§ 264.1052-1062], before use on each day of its use by the procedures specified in Reference Method 21.

55. Pursuant to Reference Method 21, 8.1.1.1, the instrument used in leak detection monitoring shall be calibrated with the reference compound as specified in the applicable regulation, Tenn. Comp. R. & Regs. 1200-1-11-.06(31)(n)2.(iv) (2008) [40 C.F.R. § 264.1063(b)(4)]. Three total measurements shall be taken of the calibration gas and zero gas.

56. Pursuant to Permit Condition II.R.3., which requires the Permittee to comply with Tenn. Comp. R. & Regs. 1200-1-11-.06(32) (2008) [40 C.F.R. Part 264, Subpart CC], the owner or operator of a treatment storage or disposal facility accumulating hazardous waste containing an average volatile organic concentration greater than 500 parts per million by weight (ppmw) at the point of waste origination in tanks must comply with the RCRA Subpart CC organic air emission standards for tanks, including, but not limited to, controlling air pollutant emissions from a tank using Tank Level 1 controls meeting the requirements specified in Tenn. Comp. R. & Regs. 1200-1-11-.06(32)(e)3.(iii)-(iv) (2008) [40 C.F.R. § 264.1084(c)(3)-(4)].

57. Pursuant to Tenn. Comp. R. & Regs. 1200-1-11-.06(32)(e)3.(iii) (2008) [40 C.F.R. § 264.1084(c)(3)], whenever a hazardous waste is in the tank using Tank Level 1 controls, the fixed roof shall be installed with each closure device secured in the closed position.

58. Pursuant to Tenn. Comp. R. & Regs. 1200-1-11-.06(32)(e)3.(iv) (2008) [40 C.F.R. § 264.1084(c)(4)], the fixed roof and its closure devices of a tank using Tank Level 1 controls shall be visually inspected by owners or operators to check for defects that could result in air pollutant emissions at least once every year and shall maintain a record of the inspection. Pursuant to Permit Condition IV.A., at least once each year, the Permittee's personnel shall visually inspect the fixed roofs and closure devices of Tanks F1 and F2 to check for defects that could result in air pollutant emissions.

59. Pursuant to Permit Condition II.E.3., the Permittee shall record inspections in an inspection log or summary. The Permittee shall keep these records for at least five years from the date of inspection. At a minimum, these records shall include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

Permit Conditions – Tank System, Daily Inspections

60. Pursuant to Permit Condition IV.F.2., the Permittee shall inspect at least once each operating day:

    a. Aboveground portions of the tank system, to detect corrosion or releases of waste;

    b. Data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design; and

    c. The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g. wet spots, dead vegetation).

61. Pursuant to Permit Conditions II.E.1. and IV.C.2., the Permittee shall inspect the hazardous waste tanks and secondary containment systems for signs of damage, leakage, or deterioration (i.e., rust spots, discoloration on the exterior of the tank, and broken seals on the tank's closure device). Inspections shall be conducted on a daily schedule, and observations shall be recorded

on the approved checklist, which includes, among its requirements, an area to draft observations and repairs/remedial actions taken.

62. Pursuant to Permit Condition IV.A., the Permittee will formally inspect each tank system every operating day (i.e., each day that there is hazardous waste in the tank system), checking the tanks, their ancillary equipment, and the secondary containment system to detect corrosion or releases of wastes.

Permit Conditions – Secondary Containment System

63. Pursuant to Permit Condition III.F.2.(a)., the Permittee's containment system in container storage areas shall be designed, operated, and maintained with a base that underlies the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed.

64. Pursuant to Permit Condition IV.C.1., the Permittee shall ensure that secondary containment systems in the tank storage area are operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tank system.

Permit Conditions - Recordkeeping

65. Pursuant to Permit Condition II.J.1.(b)(v)., the Permittee must retain a copy of each manifest for at least three years from the date of delivery when the Facility receives a hazardous waste shipment accompanied by a manifest.

66. Pursuant to Permit Conditions I.F.7. and II.K.1.(b)., the Permittee shall record and maintain a written operating record at the Facility that contains the location of each hazardous waste within the Facility and its quantity, as the information becomes available. This information must be maintained in the operating record until the closure of the Facility. Pursuant to Permit Condition II.K.1.(b)(i) at the end of each operating day (or at the beginning of the next operating day), the Permittee will complete a daily container inventory location report identifying, for each operational area at the facility, the hazardous waste containers that are in that area at that time. The completed daily container inventory location reports will be maintained, as paper or electronic files, as part of the operating record until closure of the Facility.

67. Pursuant to Permit Condition II.F., the Permittee shall ensure that Facility personnel successfully complete a program of classroom instruction and/or on-the-job training that teaches them to perform their duties in a way that ensures the Permittee's compliance with the Permit and the Tennessee hazardous waste management regulations. The Permittee shall ensure that the training program is directed by a person(s) trained in hazardous waste management procedures and shall include instruction which teaches Facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

68. Pursuant to Permit Condition II.F.1., the training program shall at least conform to the personnel training included in Permit Condition II.F. The training program must include compliance with regulatory requirements. Additionally, the Facility's safety director will review

and audit training activities annually to attempt to ensure that the training program is being properly and effectively implemented.

IV. Findings of Fact

69. The Respondent owns and operates the Facility.

70. The Facility generates D001-D043, F-Listed, K-Listed, P-Listed, and U-Listed hazardous waste in its Laboratory and Decontamination Shed.

71. The Respondent is the Permittee under the RCRA Permit for the Facility. The Permit allows the Permittee to treat and store commercial hazardous waste in Areas 1, 2, 3, 4, 5 (Building A), and 6 (Building B). The Facility receives and manages hazardous wastes that are characteristic for ignitability, corrosivity, reactivity, and toxicity as well as numerous F-Listed, K-Listed, P-Listed, and U-Listed hazardous wastes.

72. On September 4, 2024, inspectors from the EPA and TDEC conducted a compliance evaluation inspection (CEI) at the Respondent's Facility. The EPA's findings of the CEI were documented in a report mailed to the Respondent, dated May 23, 2025. TDEC's findings of the CEI were documented in a report mailed to the Respondent, dated November 13, 2024. Certain observations in this CAFO were made by the EPA inspector. Certain observations in this CAFO were made by the TDEC inspector. All observations cited in this CAFO are memorialized in either the EPA CEI report and/or the TDEC CEI report.

Generator Area

73. At the time of the CEI, the EPA inspector observed that the Respondent had not labeled eight containers storing hazardous waste in SAAs at the Laboratory and Decontamination Shed with the indication of the hazards of their contents.

74. At the time of the CEI, the EPA inspector observed that the Respondent's quick reference guide did not include the updated name(s) of the emergency coordinator(s) or emergency telephone number(s).

Permitted Area – Container Management

75. At the time of the CEI, the TDEC inspector observed one five-gallon container storing hazardous waste in Area 4 that was not labeled with a material profile form number or a container number.

76. At the time of the CEI, the TDEC inspector observed one five-gallon container storing hazardous waste that was not labeled with the words "Hazardous Waste" in Area 4.

77. At the time of the CEI, the EPA inspector observed four boxes storing hazardous waste in Area 5 (Building A) and the TDEC inspector observed one five-gallon container storing hazardous waste in Area 4 that was not labeled with an accumulation start date.

78. At the time of the CEI, the EPA inspector observed the Respondent storing 125 hazardous waste containers in Areas 2, 3, 4, 5 (Building A), and 6 (Building B) (53 hazardous waste containers in

Area 2, one roll-off container in Area 3, 58 hazardous waste containers in Area 4, 12 hazardous waste containers in Area 5 (Building A), and one hazardous waste container in Area 6 (Building B)) that were not labeled with the indication of the hazards of the contents.

79. At the time of the CEI, the EPA inspector observed five containers storing hazardous waste for longer than one year in Areas 2 and 4. The Respondent was unable to show that the storage for greater than one year was for the sole purpose of facilitating proper recovery, treatment, or disposal.

80. At the time of the CEI, the EPA inspector observed that the aisle space between two sets of rows of containers storing hazardous waste in Area 5 (Building A) did not allow for the unobstructed movement of personnel or emergency equipment. The aisle space between the rows was less than 2.5 feet.

81. At the time of the CEI, the EPA inspector observed three severely dented containers storing hazardous waste in Area 4.

82. At the time of the CEI, the EPA inspector observed five containers storing hazardous waste that were open in Areas 2 and 5 (Building A).

83. At the time of the CEI, the EPA inspector observed one container storing ignitable hazardous waste (EPA Hazardous Waste Number D001) in an area within Area 6 (Building B) that was within 15 meters (50 feet) of the Facility's property line.

Permitted Area – Tank System

84. At the time of the CEI, the EPA inspector observed rust on the outside of Tanks F1 and F2 and discoloration on the outside of the conservation vent between Tanks F1 and F2, which indicated a release. Tanks F1 and F2 manage D001 ignitable hazardous waste.

85. At the time of the CEI, the Respondent acknowledged that its ancillary equipment, which was part of its tank system, was in contact with hazardous waste with organic concentration of at least 10 percent by weight.

86. At the time of the CEI, the EPA inspector noted the Respondent's calibration records showed that the instrument used in leak detection monitoring was not calibrated before use on each day of its use and was not calibrated to the calibrating gas. The instrument was used in leak detection monitoring for all equipment in contact with hazardous waste with organic concentration of at least 10 percent by weight.

87. At the time of the CEI, the Respondent acknowledged that its tanks, F1 and F2, were accumulating hazardous waste containing an average volatile organic concentration greater than 500 ppmw.

88. At the time of the CEI, the EPA inspector observed a missing bolt from one of the closure devices on the fixed roof of Tank F1.

89. At the time of the CEI, the EPA inspector observed that the Respondent did not maintain records of the annual inspection of the fixed roof and closure devices for Tanks F1 and F2 for three years.

Permitted Area – Tank System and Secondary Containment, Daily Inspections

90. At the time of the CEI, the EPA inspector observed that the Respondent's daily inspection records and/or checklists did not notate observations of corrosion to the tank system or secondary containment system, broken seals to the tank system's closure device, or data gathered from monitoring and leak detection equipment.

Permitted Area – Secondary Containment

91. At the time of the CEI, the EPA inspector observed cracks, gaps, bare patches of concrete, and worn through impervious coating in the secondary containment in Areas 1, 2, 3, 4, 5 (Building A), and 6 (Building B). Areas 1, 2, 3, 4, 5 (Building A), and 6 (Building B) are used to manage containers storing hazardous waste.

92. At the time of the CEI, the EPA inspector observed cracks, gaps, and worn through impervious coating in the secondary containment of the Tank Farm. The Tank Farm is used to manage hazardous waste stored in Tanks F1 and F2.

Permitted Area - Recordkeeping

93. At the time of the CEI, the EPA inspector observed that the Respondent did not retain a copy of the manifests for two containers, dated August 31, 2023, and September 3, 2023, storing hazardous waste in the Facility's permitted storage areas.

94. At the time of the CEI, the EPA inspector observed that the Respondent's daily inventory report, which is contained in the Facility's operating record, inaccurately accounted for waste that was hazardous and non-hazardous within the Facility's inventory.

95. At the time of the CEI, the EPA inspector observed that the Respondent did not provide training to ensure compliance with the RCRA Permit and the Tennessee hazardous waste management regulations for one employee that signed a RCRA hazardous waste manifest.

96. At the time of the CEI, the EPA inspector observed that the Respondent's hazardous waste training program was not reviewed and audited annually to ensure compliance with regulatory requirements. The training program did not include regulatory amendments to Tenn. Comp. R. & Regs. 0400-12-01-.10 [40 C.F.R. § 268.50(a)(2)], which was a part of the Generator Improvement Rule that Tennessee adopted on May 13, 2021, and that the EPA authorized on September 12, 2022.

V. ALLEGED VIOLATIONS

97. The Respondent is a "person" as defined in Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10].

98. The Respondent is the "owner" and "operator" of a "facility" located in 552 Rivergate Road in Memphis, Tennessee, as those terms are defined in Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10].

99. The Respondent generates wastes that are "solid wastes" and "hazardous wastes" as those terms are defined in Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(b) and (c) [40 C.F.R. §§ 261.2 and 261.3].

100. The Respondent is an "LQG" of hazardous waste as defined in Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10].

Alleged Violations for Generator Area

101. The Respondent failed to label eight containers storing hazardous waste in SAAs at the Laboratory and Decontamination Shed with the indication of the hazards of their contents. The EPA therefore alleges the Respondent violated Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the marking and labeling requirement in Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(f)1.(v)(II) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption.

102. The Respondent failed to include the updated name(s) of the emergency coordinator(s) or emergency telephone number(s) in its quick reference guide. The EPA therefore alleges the Respondent violated Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the quick reference guide requirement in Tenn. Comp. R. & Regs. 0400-12-01-.03(12)(j)2.-3. [40 C.F.R. § 262.262(b) – (c)], which is a condition of the LQG Permit Exemption.

Alleged Violations for Permitted Area – Container Management

103. The Respondent failed to label one five-gallon container storing hazardous waste with a material profile form number and a container number in Area 4. The EPA therefore alleges the Respondent violated Condition II.H.7(b) of the RCRA Permit, by failing to comply with the labeling requirements for containers storing hazardous waste at the Facility.

104. The Respondent failed to label one five-gallon container storing hazardous waste with the words "Hazardous Waste" in Area 4. The EPA therefore alleges the Respondent violated Condition II.O.3. of the RCRA Permit, which incorporates Tenn. Comp. R. & Regs. 0400-12-01-.10(4)(a)1.(ii)(I)I. [40 C.F.R. § 268.50(a)(2)(i)(A)], by failing to comply with the labeling requirements for containers storing hazardous waste at the Facility.

105. The Respondent failed to label four boxes and one five-gallon container storing hazardous waste in Areas 4 and 5 (Building A) with accumulation start dates. The EPA therefore alleges the Respondent violated Condition II.O.3. of the RCRA Permit, which incorporates Tenn. Comp. R. & Regs. 0400-12-01-.10(4)(a)1.(ii)(I)IV. [40 C.F.R. § 268.50(a)(2)(i)(D)], by failing to comply with the labeling requirements for containers storing hazardous waste at the Facility.

106. The Respondent failed to label 125 containers storing hazardous waste in Areas 2, 3, 4, 5 (Building A), and 6 (Building B) with the indication of the hazards of the contents. The EPA therefore alleges The Respondent violated Condition II.O.3. of the RCRA Permit, which incorporates Tenn. Comp. R. & Regs. 0400-12-01-.10(4)(a)1.(ii)(I)III. [40 C.F.R. § 268.50(a)(2)(i)(C)], by failing to comply with the labeling requirements for containers storing hazardous waste at the Facility.

107. The Respondent stored hazardous waste in five containers in Areas 2 and 4 for greater than one year. The EPA therefore alleges The Respondent violated Condition II.O.3. of the RCRA Permit, which incorporates Tenn. Comp. R. & Regs. 0400-12-01-.10(4)(a)3. [40 C.F.R. § 268.50(c)], by storing hazardous waste for greater than one year without proof that the storage was for the sole purpose of facilitating proper recovery, treatment, or disposal.

108. The Respondent failed to maintain sufficient space for unobstructed movement between two sets of rows of containers storing hazardous waste in Area 5 (Building A) and at least 2.5 feet between the rows. The EPA therefore alleges The Respondent violated Conditions II.H.5. and III.D.1. of the RCRA Permit, by failing to maintain the minimum amount of aisle space necessary for personnel and emergency access and at least 2.5 feet between rows.

109. The Respondent failed to transfer the hazardous waste stored in three severely dented containers in Area 4 into containers in good condition. The EPA therefore alleges the Respondent violated Condition III.B. of the RCRA Permit by not transferring hazardous waste stored in containers in poor condition to containers in good condition.

110. The Respondent failed to keep five containers storing hazardous waste closed in Areas 2 and 5 (Building A). The EPA therefore alleges the Respondent violated Condition III.D.2. of the RCRA Permit, by not keeping containers storing hazardous waste closed.

111. The Respondent failed to store one container of ignitable hazardous waste, which was in Area 6 (Building B), beyond 15 meters (50 feet) of the Facility's property line. The EPA therefore alleges the Respondent violated Condition III.G. of the RCRA Permit by storing containers storing ignitable hazardous waste too close to the Facility's property line.

Alleged Violations for Permitted Area – Tank System

112. The Respondent failed to repair the outside of Tanks F1 and F2, and the conservation vent between Tanks F1 and F2, in a manner that minimized the possibility of a release of hazardous waste. The EPA therefore alleges the Respondent violated Conditions II.B. and II.H.1. of the RCRA Permit by failing to maintain the Facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

113. The Respondent failed to remedy the deterioration outside of Tanks F1 and F2, and the malfunction of the conservation vent between Tanks F1 and F2. The EPA therefore alleges the Respondent violated Condition II.E.2. of the RCRA Permit by failing to remedy any deterioration or malfunction of equipment so as to ensure that the problem does not lead to an environmental or human health hazard.

114. The Respondent failed to calibrate its instrument used in leak detection monitoring for all equipment in contact with hazardous waste with organic concentration of at least 10 percent by weight before use on each day of its use. The EPA therefore alleges the Respondent violated Condition II.Q. of the RCRA Permit and Tenn. Comp. R. & Regs. 1200-1-11-.06(31)(n)2.(iii) (2008) [40 C.F.R. § 264.1063(b)(3)], by failing to calibrate its instrument before use on each day of its use.

115. The Respondent failed to calibrate its instrument used in leak detection monitoring for all equipment in contact with hazardous waste with organic concentration of at least 10 percent by weight with the calibration gas. The EPA therefore alleges the Respondent violated Condition II.Q. of the RCRA Permit, Tenn. Comp. R. & Regs. 1200-1-11-.06(31) (2008), and Reference Method 21, 8.1.1.1, by failing to calibrate its instrument with the appropriate calibration gas.

116. The Respondent failed to remedy the missing bolt from one of the closure devices on the fixed roof of Tank F1, which was a malfunction of the equipment. The EPA therefore alleges the Respondent violated Condition II.E.2. of the RCRA Permit by failing to remedy any deterioration or malfunction of equipment so as to ensure that the problem does not lead to an environmental or human health hazard.

117. The Respondent failed to replace the missing bolt from one of the closure devices on the fixed roof of Tank F1, which uses Tank Level 1 controls. The EPA therefore alleges the Respondent violated Condition II.R.3. of the RCRA Permit, which incorporates Tenn. Comp. R. & Regs. 1200-1-11-.06(32)(e)3.(iii) (2008) [40 C.F.R. §264.1084(c)(3)], by failing to keep the closure device of a tank using Tank Level 1 controls closed.

118. The Respondent failed to maintain records of the annual inspection of the fixed roof and closure devices for Tanks F1 and F2 for three years. The EPA therefore alleges that the Respondent violated Condition II.R.3. of the RCRA Permit, which incorporates Tenn. Comp. R. & Regs. 1200-1-11-.06(32)(e)3.(iv) (2008) [40 C.F.R. § 264.1084(c)(4)], and Conditions II.E.3. and IV.A. of the RCRA Permit, by failing to maintain the annual inspection records of the fixed roof and closure devices of the tanks using Tank Level 1 controls.

Alleged Violations for Permitted Area – Tank System and Secondary Containment, Daily Inspections

119. The Respondent's daily inspections failed to record observations of the deteriorating condition of the tank system and tank system's closure device, and data gathered from monitoring and leak detection equipment. The EPA therefore alleges the Respondent violated Conditions IV.F.2., IV.C.2., II.E.1., II.E.3., and IV.A. of the RCRA Permit, by failing to completely conduct daily inspections and record observations of all portions of tank system and secondary containment.

Alleged Violations for Permitted Area – Secondary Containment

120. The Respondent failed to repair the cracks, gaps, and worn through impervious coating in the secondary containment in Areas 1, 2, 3, 4, 5 (Building A), and 6 (Building B). The EPA therefore alleges the Respondent violated Conditions II.E.2. and III.F.2(a) of the RCRA Permit, by failing to maintain the secondary containment in the permitted container storage areas.

121. The Respondent failed to repair the cracks, gaps, and worn through impervious coating in the secondary containment of the Tank Farm. The EPA therefore alleges the Respondent violated Conditions II.E.2 and IV.C.1. of the RCRA Permit, by failing to maintain the secondary containment in the tank storage area.

Alleged Violations for Permitted Area - Recordkeeping

122. The Respondent failed to retain a copy of the manifests for two containers storing hazardous waste in the Facility's permitted storage areas. The EPA therefore alleges the Respondent violated Condition II.J.1.(b)(v) of the RCRA Permit, by failing to retain a copy of each manifest that accompanies a hazardous waste shipment.

123. The Respondent failed to accurately account for waste that was hazardous and non-hazardous within its inventory. The EPA therefore alleges that the Respondent violated Conditions I.F.7. and II.K.1.(b)(i) of the RCRA Permit by failing to accurately complete a daily container inventory location report at the end of each operating day.

124. The Respondent failed to provide hazardous waste training to one employee. The EPA therefore alleges Respondent violated Condition II.F. of the RCRA Permit, by failing to train Facility personnel in a way that ensures compliance with the RCRA Permit and the Tennessee Hazardous Waste Management Regulations.

125. The Respondent failed to annually review and audit its hazardous waste training program. The EPA therefore alleges the Respondent violated Condition II.F.1. of the RCRA Permit, for failing to ensure that the training program was properly and effectively implemented.

VI. STIPULATIONS

126. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

127. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), the Respondent:

    a. admits that the EPA has jurisdiction over the subject matter alleged in this CAFO;

    b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;

    c. consents to the assessment of a civil penalty as stated below;

    d. consents to the issuance of this compliance order;

e. consents to the conditions specified in this CAFO;

f. consents to any stated Permit Action in this CAFO;

g. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and

h. waives its rights to appeal the Final Order accompanying this CAFO.

128. For the purpose of this proceeding, the Respondent:

a. agrees that this CAFO states a claim upon which relief may be granted against the Respondent;

b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering the Respondent's compliance history in any subsequent enforcement actions;

c. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that the Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706;

d. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;

e. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO;

f. waives any rights or defenses that the Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying this Consent Agreement; and

g. agrees to comply with the terms of this CAFO.

129. Within 30 days of the completion of the Work to be Performed in Section VIII of this CAFO, the Respondent shall submit to the EPA a certification signed by a duly authorized representative stating that the Facility is in compliance with the THWMA, Tenn. Code Ann. §§ 68-212-101 to 121 and Chapters 0400-12-01 and 1200-1-11 (2008) of the Tenn. Comp. R. & Regs., and the Act and its implementing regulations, and that all the violations alleged in this CAFO, including all violations of the RCRA Permit, which are neither admitted nor denied, have been corrected. This certification shall be as follows:

"I certify under penalty of law, to the best of my knowledge and belief, formed after reasonable inquiry, that all violations alleged in this CAFO have been corrected and the Facility is in compliance with Attachment 4.3 of the RCRA Hazardous Waste Permit Number TNHW-197 and Attachment 8.6 of the modification dated June 9, 2026, THWMA, Tenn. Code Ann. §§ 68-212-101 to 121 and Chapters 0400-12-01 and 1200-1-11 (2008) of the Tenn. Comp. R. & Regs., and the Act and its implementing regulations. All work was done under my direction or supervision according to a system designed to assure that qualified personnel implemented and completed the required tasks. This certification is based on my inquiry of the person(s) who performed the tasks, or those persons directly responsible for the person(s) who performed the tasks. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

130. The certification required to be submitted under this CAFO shall be emailed to:

Alan Newman, Environmental Engineer
U.S. Environmental Protection Agency, Region 4
Enforcement and Compliance Assurance Division
Chemical Safety and Land Enforcement Branch
RCRA Enforcement Section
newman.alan@epa.gov

131. In accordance with 40 C.F.R. § 22.5, the individuals named in the Certificate of Service are authorized to receive service related to this proceeding and the Parties agree to receive service by electronic means.

VII. TERMS OF PAYMENT

132. The Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **THREE HUNDRED AND EIGHTY-FIVE THOUSAND DOLLARS [$385,000.00],** which is to be paid within 30 days of the Effective Date of this CAFO.

133. The Respondent shall pay the civil penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the following EPA website: https://www.epa.gov/financial/makepayment. For additional instructions, see: https://www.epa.gov/financial/additional-instructions-making-payments-epa. In addition, the Respondent shall identify every payment with the Respondent's name and the docket number of this CAFO, Docket No. RCRA-04-2026-4004(b).

134. The Respondent shall send proof of payment, within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov

and

Alan Newman
Enforcement and Compliance Assurance Division
Chemical Safety and Land Enforcement Branch
newman.alan@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

135. "Proof of payment" means, as applicable, confirmation of credit card or debit card payment, confirmation of wire or ACH transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the Respondent's name and Docket No. RCRA-04-2026-4004(b).

136. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. §§ 13.11 and 13.12, if the Respondent fails to timely pay the full amount of the civil penalty per this CAFO, the EPA is authorized to recover, in addition to the amount of the unpaid civil penalty, the following amounts:

    a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO, interest is waived. If the civil penalty is not paid in full within 30 days, interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued interest are paid. To protect the interests of the United States, the rate of interest is set at the Internal Revenue Service (IRS) large corporate underpayment rate, as any lower rate would fail to provide the Respondent adequate incentive for timely payment;

    b. Handling Charges. The Respondent will be assessed a monthly charge to cover the EPA's costs of processing and handling overdue debts. If the Respondent fails to pay the civil penalty in accordance with this CAFO, the EPA will assess a charge to cover the costs of handling any unpaid amounts for the first 30 day period after the Effective Date. Additional handling charges will be assessed every 30 days, or any portion thereof, until the unpaid portion of the civil penalty as well as any accrued interest, penalties, and other charges are paid in full;

    c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum will be assessed monthly on all debts, including any unpaid portion of the civil penalty, interest, penalties, and other charges, that remain delinquent more than 90 days. Any such amounts will accrue from the date of delinquency.

137. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty

charges, third to accrued interest, and last to the principal that is the outstanding civil penalty amount.

138. Late Penalty Actions. In addition to the amounts described in Paragraph 136, if the Respondent fails to timely pay any portion of the civil penalty, interest, or other charges and penalties per this CAFO, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following:

    a. refer the debt to a credit reporting agency or a collection agency (*see* 40 C.F.R. §§ 13.13 and 13.14);

    b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the IRS for offset against income tax refunds (*see* 40 C.F.R. Part 13, Subparts C and H);

    c. suspend or revoke the Respondent's licenses or other privileges, or suspend or disqualify the Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds (*see* 40 C.F.R. § 13.17); and/or

    d. refer the debt to the Department of Justice as provided in 40 C.F.R. § 13.33. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

139. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

140. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send a completed Form 1098-F ("Fines, Penalties, and Other Amounts") to the IRS annually with respect to any court order and settlement agreement (including administrative settlements), that requires a payor to pay an aggregate amount that the EPA reasonably believes will be equal to, or in excess of, $50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." The EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (for example, a copy of Form 1098-F). In order to provide the EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and the Respondent herein agrees, that:

    a. The Respondent shall complete a Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at https://www.irs.gov/pub/irs-pdf/fw9.pdf;

    b. The Respondent shall therein certify that its completed Form W-9 includes the Respondent's correct Tax Identification Number (TIN) or that the Respondent has applied and is waiting for issuance of a TIN;

c. The Respondent shall email its completed Form W-9 to the EPA's Cincinnati Finance Center Region 4 contact, Jessica Henderson (Henderson.Jessica@epa.gov), on or before the date that the Respondent's initial penalty payment is due, pursuant to Paragraph 132 of this CAFO, and the EPA recommends encrypting Form W-9 email correspondence; and

d. In the event that the Respondent has certified in its completed Form W-9 that it has applied for a TIN and that TIN has not been issued to the Respondent by the date that its initial penalty payment is due, then the Respondent, using the same email address identified in the preceding sub-paragraph, shall further:

i. notify the EPA's Cincinnati Finance Center of this fact, via email, by the date that the Respondent's initial penalty payment is due; and
ii. provide the EPA's Cincinnati Finance Center with the Respondent's TIN, via email, within five (5) days of the Respondent's issuance and receipt of the TIN.

141. Failure to comply with providing Form W-9 or TIN may subject the Respondent to a penalty. *See* 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1.

VIII. WORK TO BE PERFORMED

142. Within 90 days of the Effective Date, the Respondent shall install a liner and replace the concrete in the secondary containment of Areas 1, 2, and 3, referenced in Figure 1 of the modification to the RCRA Hazardous Waste Permit Number TNHW-197 dated June 9, 2026, in accordance with RCRA Hazardous Waste Permit Number TNHW-197 and its modification dated June 9, 2026.

143. Within 90 days of the Effective Date, the Respondent shall install a new coating on the concrete in the secondary containment of the Tank Farm in accordance with RCRA Hazardous Waste Permit Number TNHW-197 and its modification dated June 9, 2026.

144. Within 30 days of completion of the requirements of Paragraphs 142 and 143, the Respondent shall submit to the EPA and TDEC a certification that the secondary containment in Areas 1, 2, and 3, and the Tank Farm are in compliance with RCRA Hazardous Waste Permit Number TNHW–197 and its modification dated June 9, 2026, via email to:

Alan Newman
Enforcement and Compliance Assurance Division
Chemical Safety and Land Enforcement Branch
newman.alan@epa.gov

and

Brett Harris
Tennessee Department of Environment and Conservation
brett.harris@tn.gov

IX. EFFECT OF CAFO

145. In accordance with 40 C.F.R. § 22.18(c), the Respondent's full compliance with this CAFO shall only resolve the Respondent's liability for federal civil penalties and injunctive relief for the violations and facts specifically alleged above.

146. Full payment of the civil penalty, as provided in Section VII (Terms of Payment) and completion of the work to be performed in Section VIII (Work to be Performed), shall satisfy the requirements of this CAFO; but shall not in any case affect the right of the EPA or the United States to pursue other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).

147. Any violation of this CAFO may result in a civil penalty for each day of continued noncompliance with the CAFO and/or the suspension or revocation of any federal or state permit issued to the violator, as provided in Section 3008(c) of the Act, 42 U.S.C. § 6928(c).

148. Nothing in this CAFO shall relieve the Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.

149. Nothing herein shall be construed to limit the power of the EPA to undertake any action against the Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.

150. The terms, conditions and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.

151. The provisions of this CAFO shall apply to and be binding upon the Respondent and its successors and assigns. The Respondent shall direct its officers, directors, employees, agents, trustees, and authorized representatives to comply with the provisions of this CAFO, as appropriate.

152. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter the Respondent's obligations and responsibilities under this CAFO.

153. By signing this Consent Agreement, the Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

154. By signing this Consent Agreement, the Complainant and the undersigned representative of the Respondent each certify that each person is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the Party represented by that person to this CAFO.

155. By signing this Consent Agreement, both Parties agree that each Party's obligations under this CAFO constitute sufficient consideration for the other Party's obligations.

156. By signing this Consent Agreement, the Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. The Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

157. The EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by the Respondent was materially false or inaccurate at the time such information was provided to the EPA. If such false or inaccurate material was provided, the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give the Respondent notice of its intent to revoke, which shall not be effective until received by the Respondent in writing.

158. Unless specifically stated otherwise in this CAFO, each Party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

159. It is the intent of the Parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any Party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other Parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

160. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Section VIII (Work to be Performed) is restitution, remediation, or required to come into compliance with law.

X. EFFECTIVE DATE

161. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Regional Hearing Clerk.

[Remainder of Page Intentionally Left Blank

Complainant and the Respondent will Each Sign on Separate Pages.]

The foregoing Consent Agreement *In the Matter of Excel TSD of Tennessee LLC*, Docket No. RCRA-04-2026-4004(b) is Hereby Stipulated, Agreed, and Approved for Entry.

FOR THE RESPONDENT:

Mark Wayne 9/11/2026

Signature Date

Printed Name: Mark Wayne

Title: Authorized Representative, Excel TSD of Tennessee LLC

Address: 550 N Rivergate Rd. Memphis, TN 38109

The foregoing Consent Agreement *In the Matter of Excel TSD of Tennessee LLC*, Docket No. RCRA-04-2026-4004(b) is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

KERIEMA NEWMAN

Digitally signed by KERIEMA NEWMAN
Date: 2026.09.09 08:58:12 -04'00'

Keriema S. Newman, Director
Enforcement & Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: Excel TSD of Tennessee, LLC 552 Rivergate Road Memphis, Tennessee 38109 EPA ID No.: TND980847024 Respondent.	Docket No.: RCRA-04-2026-4004(b) Proceeding Under Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a)

FINAL ORDER

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and the Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified, and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrotive Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22.

The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED.

MICHELE WETHERINGTON Digitally signed by MICHELE WETHERINGTON Date: 2026.09.11 14:56:18 -04'00'

Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, *In the Matter of Excel TSD of Tennessee LLC*, Docket No. RCRA-04-2026-4004(b), were filed and copies of the same were emailed to the Parties as indicated below.

Via email to all Parties at the following email addresses:

Respondent:

Mark Wayne
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SHANNON RICHARDSON

Digitally signed by SHANNON RICHARDSON
Date: 2026.09.14 06:10:19 -04'00'

Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov