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DATE N ember 7, 2002

ROUTING AND TRANSMITTAL SLIP

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. Mr. James Bearzi, Chief Hazardous & Radioactive Materials Bureau New Mexico Environment Department P.O. Box 26110 Sante Fe, NM 87502-6110		
2. Mr. Robert Warder Hazardous & Radioactive Materials Bureau New Mexico Environment Department 2905 Rodeo Park Drive East, Building 1 Santa Fe, NM 87505		
3. Ms. Ana Ortiz Office of General Counsel New Mexico Environment Department Post Office Box 26110 Santa Fe, New Mexico 87502-6110		

2002

Remarks:

The Sparton-DOE case decision - FYI.

Thanks, Hebert

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances and similar actions

FROM: Hazardous Waste Enforcement Branch Technical Section - (6EN-HX)	Room No. - Bldg. *Cubicle 9.064*
Michael A. Hebert	Phone No. *(214) 665-8315*
6EN Division Correspondence Log Number (if applicable)	

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SPARTON TECHNOLOGY, INC.,

Plaintiff,

v.

ALLIEDSIGNAL, INC., et al.,

Defendants.

No. CV-00-407 WJ/WWD

SETTLEMENT AGREEMENT AND CONSENT ORDER

This Settlement Agreement and Consent Order ("Agreement") is made, as of the Effective Date of this Agreement, as defined below, between Plaintiff Sparton Technology Inc. ("Plaintiff") and Defendant the United States Department of Energy ("the United States"), collectively referred to as "the Parties;"

WHEREAS, in 1999, the above-captioned matter was transferred to the United States District Court for the District of New Mexico and assigned Civil Action Number CV-00-407 WJ/WWD ("the Action");

WHEREAS, this Action involves claims by Plaintiff under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675, as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) (hereinafter "CERCLA"), together with other claims;

WHEREAS, through this Action, Plaintiff seeks to recover certain costs it allegedly incurred in response to the release or threatened release of Hazardous Substances at and

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around the Coors Road Facility ("the Site"), as that term is defined below, as the result of activities that occurred at the Site prior to the Effective Date of this Agreement;

WHEREAS, in this action, Plaintiff also seeks a declaration as to the United States' liability for costs Plaintiff will incur in the future in responding to the release or threatened release of Hazardous Substances at the Site resulting from activities that occurred prior to the Effective Date of the Agreement;

WHEREAS, the Parties desire to enter into this Agreement as a full and final resolution of any and all claims that either were asserted or could now or hereafter be asserted against the United States in connection with the Site with respect to Covered Matters, as defined below, except as to matters agreed upon herein, and to avoid the complication and expense of further litigation of such claims concerning the Site; and

WHEREAS, the Parties agree that this Agreement is fair, reasonable and in the public interest.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that:

1. The Parties to this Agreement are Plaintiff and the United States.

2. This Agreement applies to, is binding upon, and inures to the benefit of Plaintiff (and its successors, assigns, and designees) and the United States. Paragraphs 4 and 5 of this Agreement apply to and are binding upon not only the Parties, but also Sparton Corporation (and its successors, assigns, and designees).

3. Definitions.

a. City of Albuquerque Consent Decree. The "City of Albuquerque Consent Decree" is the Consent Decree entered by the District Court for the District of New

Mexico on March 3, 2000, in the matter of City of Albuquerque v. Sparton Technology, Inc., Civil Action No. CIV 97 0206 LH/JHG (consolidated with CIV Nos. 97-0208 JC/RLP, 97-0210 M/DJS, 97-0981 LH/JHG). For purposes of this Agreement, the "City of Albuquerque Consent Decree" shall mean the Decree itself, all Attachments to the Decree, including Attached Work Plans, and all items approved by the Environmental Protection Agency ("EPA") and the New Mexico Environment Department pursuant to Section X of the Consent Decree (Review of Submittals). In the event of a conflict between the City of Albuquerque Consent Decree and any Attachment(s) thereto, the City of Albuquerque Consent Decree shall control.

b. Covered Matters. "Covered Matters" means any and all past or future claims that either were asserted or could now or hereafter be asserted against the United States arising out of or in connection with the release or threatened release of Hazardous Substances at the Site, including any claims regarding off-Site Hazardous Substance contamination that may have emanated or be emanating from the Site. The phrases "release or threatened release of Hazardous Substances," and "Hazardous Substance contamination," as used in this Paragraph, shall mean any releases or threatened releases of Hazardous Substances, whether they have occurred or will occur, that have resulted from activities that took place at the Site prior to the Effective Date of this Agreement. The nature of the Hazardous Substance contamination resulting from activities at the Site prior to the Effective Date of this Agreement is described in Sparton's 1999, 2000, and 2001 Annual Reports submitted to EPA pursuant to the City of Albuquerque Consent Decree.

c. Effective Date. The Effective Date of this Agreement shall be the date this Agreement is approved by the Court.

d. Execution Date. "Execution Date" shall mean the date on which the authorized representatives of Plaintiff, Sparton Corporation and the United States execute this Agreement. If the authorized representatives for these entities do not execute the Agreement on the same day, the Execution Date shall be the date of the final entity's execution of the Agreement. Consistent with Paragraph 2, Sparton Corporation shall sign this Agreement only with respect to Paragraphs 4 and 5, by which it has agreed to be bound.

e. Hazardous Substance. "Hazardous Substance" shall have the meaning set forth in section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

f. Metals Contamination Costs. "Metals Contamination Costs" shall mean those direct capital costs, direct operation and maintenance costs, and indirect costs incurred by Plaintiff to comply with the requirements of the City of Albuquerque Consent Decree that would not have been incurred but for the presence of the metals contamination at the Site, including, but not limited to, chromium contamination. Metals Contamination Costs would include, for example, the capital costs associated with installing any metals contamination treatment system, including any chromium treatment system, the costs of operating and maintaining such treatment systems, and any indirect costs incurred solely to address metals contamination at the Site.

g. Plaintiff. "Plaintiff" shall mean Sparton Technology, Inc., including its predecessors-in-interest, as well as its successors, assigns and designees.

h. Site. The "Site" shall mean the land (including the subsurface and groundwater) consisting of an area that includes: (a) the Coors Road Facility located at 9621 Coors Road, NW, Albuquerque, Bernallilo County, New Mexico, and (b) the land in the general

vicinity of the Coors Road Facility where Hazardous Substances originating from the Coors Road Facility have or may come to be located.

i. Sparton Corporation. "Sparton Corporation" means the parent corporation of Sparton Technology, Inc., and includes the predecessors-in-interest of Sparton Corporation, as well as its successors, assigns and designees.

j. United States. The "United States" means the United States of America, including all of its departments, agencies, and instrumentalities.

4. Release and Covenant Not To Sue by Plaintiff. Upon the approval and entry of this Agreement by the Court, and receipt by Plaintiff of the payment provided for in Paragraph 7, Plaintiff and Sparton Corporation hereby forever release, discharge, and covenant and agree not to assert (by way of the commencement of an action, the joinder of the United States in an existing action, or in any other fashion) any and all claims, causes of action, suits or demands of any kind whatsoever in law or in equity, which Plaintiff or Sparton Corporation may have had, or hereafter have for Covered Matters, including, but not limited to, claims under CERCLA sections 107 and 113, 42 U.S.C. § 9607 and 9613, contract claims, and claims arising under any federal or state statute or common law, against the United States.

5. Indemnification by Plaintiff.

a. Agreement to Indemnify. Plaintiff further agrees to indemnify and hold harmless (but not defend) the United States against any and all past or future claims, causes of actions, suits and demands of any kind whatsoever in law or in equity brought against the United States, where such claims, causes of actions, suits and demands concern Covered Matters and are incident to, or result from, litigation initiated by Plaintiff or Sparton Corporation against a third

party, or an agreement entered into by Plaintiff or Sparton Corporation with a third party in lieu of litigation. Plaintiff further agrees to indemnify and hold harmless (but not defend) the United States against any and all past or future claims, causes of actions, suits and demands of any kind whatsoever in law or in equity concerning Covered Matters brought against the United States by Plaintiff's successors in interest to the Coors Road Facility located at 9621 Coors Road, NW, Albuquerque, New Mexico, including lessees, sub-lessees and owners.

b. Notice of Claim for Indemnification. If the United States receives notice of any claim(s) in respect to which it intends to make an indemnification claim, the United States shall promptly provide written notice of the assertion of the claim(s) to Plaintiff. This notice shall be called the "Indemnification Notice." If the United States fails to provide Plaintiff an Indemnification Notice within sixty (60) days of the date of service upon the relevant United States Attorney's Office of the summons and complaint containing the claim(s) for which the United States seeks indemnity under this Agreement, Plaintiff shall bear no responsibility to indemnify the United States for that claim(s).

c. Other. The United States shall have full authority to litigate, negotiate, settle, or otherwise dispose of the claim(s) for which Plaintiff is obligated to provide indemnification under this Paragraph. The United States shall provide Plaintiff with the opportunity to comment on the terms on which the United States is considering settling the claim(s), in the event there is a settlement. The United States hereby agrees not to object if Plaintiff seeks to intervene in support of the United States in any action filed against the United States for which the United States seeks indemnification pursuant to this Paragraph; provided, however, that such intervention is timely. The amount for which Plaintiff shall indemnify the

United States under this Agreement shall be exclusive of any attorney's fees the United States may incur with respect to any claim(s) against it. Nothing in this Decree shall require Plaintiff to indemnify the United States for a settlement if Plaintiff can show that the settlement was unreasonable in light of the litigation risk to the United States. Plaintiff shall bear the burden of proving that the United States' settlement of a claim(s) for which it seeks indemnification was unreasonable.

d. Financial Inability of Plaintiff. If Plaintiff is unable to meet the financial obligations of this Paragraph, due to its filing bankruptcy or for any other reason, Sparton Corporation hereby agrees to assume the obligations of Plaintiff, Sparton Technology, pursuant to this Paragraph. If this occurs, Sparton Corporation shall provide prompt written notice of the change to the United States at the addresses specified in Paragraph 8(f) of this Agreement. Once the United States receives Sparton Corporation's written notice, it will forward all future Indemnification Notices to Sparton Corporation directly. Once Sparton Corporation has given written notice of Plaintiff's bankruptcy or financial inability as required herein, and in the event that EPA provides written approval for Sparton Corporation to take over the clean-up activities required by the City of Albuquerque Consent Decree, Sparton Corporation shall have the same rights and obligations as Plaintiff as to all terms of this Settlement Agreement and Consent Order.

6. Contribution Protection. With regard to any claims for costs, damages or other claims against the United States for any and all costs within the meaning of CERCLA section 107(a)(4)(A) through (D) that were incurred or may be incurred by any entity to respond to the release or threatened release of Hazardous Substances at the Site, including costs associated with

off-site Hazardous Substance contamination that may have emanated or be emanating from the Site, the Parties agree that the United States is entitled, as of the Effective Date of this Agreement, to contribution protection pursuant to section 113(f)(1) of CERCLA, 42 U.S.C. § 9613(f), the Uniform Comparative Fault Act, and any other applicable provision of federal or state law, whether by statute or common law, thereby extinguishing the United States' liability to persons not party to this Agreement. The phrases "release or threatened release of Hazardous Substances," and "Hazardous Substance contamination," as used in this Paragraph, shall mean any releases or threatened releases of Hazardous Substances, whether they have occurred or will occur, caused by activities that took place at the Site prior to the Effective Date of this Agreement. The nature of contamination resulting from activities occurring at the Site prior to the Effective Date of the Consent Decree is set forth in Sparton's 1999, 2000, and 2001 Annual Reports submitted to EPA pursuant to the City of Albuquerque Consent Decree.

7. Payment.

a. Within a reasonable time after the Effective Date of this Agreement, the United States will pay $3,800,000.00 to Plaintiff. Payment shall be by Electronic Funds Transfer in accordance with instructions to be provided by the Plaintiff.

b. If the payment described in Paragraph 7(a) is not made in full within ninety (90) days after the Effective Date of this Agreement, the United States will pay interest on the unpaid balance commencing on the 91st day after the Effective Date. Interest shall accrue at the rate specified for interest on investments of the Hazardous Substance Superfund established under subchapter A of chapter 98 of Title 26 of the United States Code.

8. Re-opener.

a. Definition of Future Clean-Up Costs: For purposes of this Paragraph, the term "Future Clean-up Costs" shall mean all costs related to compliance with the City of Albuquerque Consent Decree incurred by Plaintiff after the Execution Date of this Agreement, exclusive of: (1) Metals Contamination Costs; (2) any attorney's fees incurred by Plaintiff or Sparton Corporation; (3) any stipulated penalties assessed against Plaintiff pursuant to the City of Albuquerque Consent Decree; (4) any costs, including the costs of consultants, incurred by Plaintiff or Sparton Corporation that may arise as the result of any party to the City of Albuquerque Consent Decree invoking the Dispute Resolution Provisions of that Decree; and (5) any costs incurred by Plaintiff in response to any claim or motion filed by the United States or other Governmental Party to the City of Albuquerque Consent Decree to enforce the City of Albuquerque Consent Decree due to Sparton's failure to comply with the terms of that Decree.

b. Examples of Specific Future Clean-Up Costs: This Paragraph includes specific examples of what would constitute Future Clean-up Costs within the meaning of Paragraph 8(a). The examples set forth in this Paragraph are for illustration purposes only and are not meant to be exclusive. Future clean-up costs for purposes of this Agreement would include: (1) response costs, as defined by CERCLA Section 101(23)-(25), 42 U.S.C. § 9601(23)-(25), paid by Sparton to the United States or the State of New Mexico in connection with the Site, provided, however, that: (A) Sparton's payment is for response costs incurred by the United States and the State of New Mexico after the Effective Date of the City of Albuquerque Consent Decree, (B) Sparton's payment is for response costs incurred by the United States and New Mexico to respond solely to the Hazardous Substance contamination caused by activities at

the Site prior to the Effective Date of this Agreement, and (C) Sparton's payment does not cover any costs associated with the United States' or the State of New Mexico's efforts to invoke the Dispute Resolution Provisions of the City of Albuquerque Consent Decree or to enforce the terms of the City of Albuquerque Consent Decree, as these costs are not Future Clean-up Costs within the meaning of Paragraph 8(a), see supra ¶ 8(a)(4) & (a)(5); (2) any payment by Sparton to the United States to resolve Sparton's liability for damages for injury to, destruction of, or loss of natural resources stemming from the Hazardous Substance contamination at the Site that has resulted from activities that occurred at the Site prior to the Effective Date of this Agreement; and (3) any payment by Sparton to the State of New Mexico pursuant to Paragraph 78(g) of the City of Albuquerque Consent Decree associated with the Hazardous Substance contamination at the Site that has resulted from activities that occurred at the Site prior to the Effective Date of this Agreement.

c. If Plaintiff's Future Clean-up Costs, as defined in Paragraph 8(a), ever exceed $8,400,000.00, the United States will pay 37.5 percent of any Future Clean-up Costs that exceed $8,400,000.00.

Pre-Threshold Reporting

d. Within one year of the Execution Date of this Agreement and every year thereafter, Plaintiff will send an Annual Statement to the United States at the addresses specified in Paragraph 8(f). Each Annual Statement shall provide a one year chronological accounting of the Future Clean-up Costs, as defined in Paragraph 8(a), alleged to have been incurred by Plaintiff from the Execution Date of the Agreement or the submission of the last Annual Statement, whichever is later. The Statement shall include, at a minimum:

(1) copies of all paid invoices arranged in chronological order. For technical consultants, the invoice shall include the total hours billed, the hourly rate charged by the consultant, the number of hours spent by the consultant on each task completed during the billing period, and a description of the nature, purpose and scope of the work that was performed during the billing period. For all other vendors, the invoice shall include the amount charged and an adequate description of the nature of the services performed during the billing period. An adequate description of the nature of the services performed is one that provides sufficient information for a reviewer to determine that the costs incurred are commensurate with the task(s) performed. For each task performed by a consultant or vendor, the invoice must include the appropriate work code (or codes) consistent with Appendix A, which is attached hereto and incorporated herein. Plaintiff's Project Coordinator, as designated under the City of Albuquerque Consent Decree (hereinafter "Project Coordinator"), is responsible for ensuring that each invoice has the proper work code(s) (per Appendix A) assigned for each activity completed and described in the invoice;

(2) copies of each of the Project Coordinator's Monthly Progress Reports for the twelve-month Annual Statement reporting period. Each of the Project Coordinator's Monthly Progress Reports shall include, at a minimum: (a) a complete description of the nature, purpose and scope of the activities undertaken by any contractors, subcontractors, or personnel of Plaintiff or Sparton Corporation during the billing period. (The description of a specific activity in the Monthly Progress Report can be shortened if the invoice

submitted by the consultant or vendor provides sufficient detail concerning the nature, purpose and scope of the activities undertaken during the billing period.); (b) the identity of the vendors and/or consultants that performed each activity undertaken during the billing period; and (c) a code (per Appendix A) assigned to each activity described in the Monthly Progress Report. The codes included in the Monthly Progress Reports must match the codes set forth on the submitted invoices. For example, if one of the monthly activities is installation of new monitoring wells, the Project Coordinator's Monthly Progress Report shall specify the number of monitoring wells installed, at what depth the wells were installed, whether the wells were installed on-site or off-site, the technique used to install the wells, the purpose/reason for installing the wells, the identity of the vendor(s)/consultant that installed the wells, and the appropriate code (per Appendix A) pertaining to installation of the wells. If this information is already included on the submitted invoice, the Project Coordinator's Monthly Progress Report would need only identify the activity, vendor, and code and reference the invoice for the detail concerning the nature of the work performed.

(3) documentation showing that the costs identified in the submitted invoices have been paid;

(4) copies of any annual reports submitted to the Environmental Protection Agency ("EPA") pursuant to the City of Albuquerque Consent Decree since the Execution Date or the date of the last Annual Statement, whichever is later;

(5) Any Correspondence to Plaintiff from EPA since the Execution Date or the date of the last Annual Statement, whichever is later, in which EPA disapproves any of Plaintiff's submissions pursuant to the City of Albuquerque Consent Decree; and

(6) Any correspondence to Plaintiff from EPA or any other Governmental Party to the City of Albuquerque Consent Decree since the Execution Date or the date of the last Annual Statement, whichever is later, in which EPA or any other Governmental Party to the City of Albuquerque Consent Decree seeks to modify the requirements of that Consent Decree.

(7) a certification by the President of Sparton Technology, Inc., or other appropriate representative of Plaintiff's organization, that the costs included in the Annual Statement are Future Clean-up Costs as defined in Paragraph 8(a), and that the costs were actually incurred and paid by Plaintiff.

e. Once Plaintiff has incurred $8,400,000.00 in Future Clean-up Costs, as defined in Paragraph 8(a), it must submit within ninety (90) days of the date of incurring said amount a Final Annual Statement that provides a chronological accounting of the Future Clean-up Costs alleged to have been incurred by Plaintiff from the date of the last Annual Statement submitted to the United States pursuant to Paragraph 8(d), through the date on which Plaintiff

incurred $8,400,000.00 in Future Clean-up Costs. The Final Annual Statement must include each of the items required for an Annual Statement, as set forth in Paragraph 8(d).

f. Plaintiff shall submit the Annual Statements required by Paragraph 8(d) and the Final Annual Statement required by Paragraph 8(e) to:

Attn: Chief, Environmental Defense Section
U.S. Department of Justice
phone: (202) 514-2219

First Class Mail Address:
P.O. Box 23986
Washington, DC 20026-3986

Overnight Delivery Address:
601 D Street, NW, Suite 8000
Washington, DC 20004

Attn: Chief Counsel
U.S. Department of Energy
National Nuclear Security Administration
Kansas City Area Office
(816) 997-3341

First Class Mail Address:
P.O. Box 410202
Kansas City, MO 64141

Overnight Delivery Address:
2000 East 95th Street
Kansas City, MO 64131-3095

g. Within ninety (90) days of actual receipt of each Annual Statement (and/or the Final Annual Statement), the United States shall notify Plaintiff in writing at the addresses listed below as to whether it will challenge any of the costs set forth in that Annual Statement (and/or Final Annual Statement) as not being Future Clean-up Costs within the meaning of Paragraph 8(a). The United States shall also specify in writing to Plaintiff which costs in the

Annual Statement (and/or the Final Annual Statement) are challenged and which are not. The ninety (90) day review period called for by this Paragraph can be extended by written agreement of the Parties and shall be extended by at least twenty (20) days if Plaintiff submits information in response to the United States' request for additional documentation pursuant to Paragraph 8(h).

Attn: President, Sparton Technology, Inc.

First Class Mail And Overnight Address:

4901 Rockaway blvd., Northeast
Rio Rancho, New Mexico 87124
phone: (505) 892-5300

Attn: President, Sparton Corporation

First Class Mail And Overnight Address:

2400 East Ganson St.
Jackson, Michigan 49202
phone: (800) 248-9579

h. The United States shall have the right, within ninety (90) days of the actual receipt of the Annual Statement (and/or Final Annual Statement) described in Paragraph 8(d) and (e) above, to request in writing additional information regarding some or all of the costs contained in the Annual Statement (and/or Final Annual Statement). Plaintiff agrees to provide a response to such request, in writing, within thirty (30) days of its actual receipt of the United States' request for additional information. Plaintiff's thirty (30) day response period may be extended, upon written agreement of the parties.

i. If the United States challenges some or all of the costs identified in the Annual Statement (and/or Final Annual Statement), Plaintiff may initiate the dispute resolution process set forth in Paragraph 9 of this Agreement.

Post-Threshold Meeting

j. Plaintiff and the United States shall meet within 150 days of the United States' receipt of the Final Annual Statement called for by Paragraph 8(e). At that meeting, the Parties shall attempt in good faith to negotiate a cash-out payment to resolve the United States' remaining liability for Future Clean-up Costs as set forth in Paragraph 8(c) of this Agreement. If the Parties reach such an agreement, that agreement shall be memorialized in a separate settlement document. If, however, the Parties do not reach an agreement regarding a cash-out payment, the Parties shall follow the provisions of Paragraph 8(c) and 8(k) through 8(p), which address the United States' payment of Future Clean-up Costs pursuant to this Agreement. Although Plaintiff agrees to attend the meeting called for by this Paragraph and act in good faith, Plaintiff retains the right to insist on payment consistent with the provisions of Paragraph 8(c) and 8(k) through 8(p) of this Agreement.

Post-Threshold Reporting

k. Within six months of the date Plaintiff has incurred $8,400,000.00 in Future Clean-up Costs as that term is defined in Paragraph 8(a), and every six months thereafter, Plaintiff shall send a "Cost Report" to the United States at the addresses specified in paragraph 8(f). The Cost Report shall provide a chronological accounting of the Future Clean-up Costs alleged to have been incurred by Plaintiff since the date on which Plaintiff incurred

$8,400,000.00 in Future Clean-up Costs, or the submission of the last Cost Report, whichever is later. The Cost Report shall include, at a minimum:

(1) copies of all paid invoices arranged in chronological order. For technical consultants, the invoice shall include the total hours billed, the hourly rate charged by the consultant, the number of hours spent by the consultant on each task completed during the billing period, and a description of the nature, purpose and scope of the work that was performed during the billing period. For all other vendors, the invoice shall include the amount charged and an adequate description of the nature of the services performed during the billing period. An adequate description of the nature of the services performed is one that provides sufficient information for a reviewer to determine that the costs incurred are commensurate with the task(s) performed. For each task performed by a consultant or vendor, the invoice must include the appropriate work code (or codes) consistent with Appendix A, which is attached hereto and incorporated herein. Plaintiff's Project Coordinator, as designated under the City of Albuquerque Consent Decree (hereinafter "Project Coordinator"), is responsible for ensuring that each invoice has the proper work code(s) (per Appendix A) assigned for each activity completed and described in the invoice;

(2) copies of each of the Project Coordinator's Monthly Progress Reports for the six-month reporting period for the Cost Report. Each of the Project Coordinator's Monthly Progress Reports shall include, at a minimum: (a) a complete description of the nature,

purpose and scope of the activities undertaken by any contractors, subcontractors, or personnel of Plaintiff or Sparton Corporation during the billing period. (The description of a specific activity in the Monthly Progress Report can be shortened if the invoice submitted by the consultant or vendor provides sufficient detail concerning the nature, purpose and scope of the activities undertaken during the billing period.); (b) the identity of the vendors and/or consultants that performed each activity undertaken during the billing period; and (c) a code (per Appendix A) assigned to each activity described in the Monthly Progress Report. The codes included in the Monthly Progress Reports must match the codes set forth on the submitted invoices. For example, if one of the monthly activities is installation of new monitoring wells, the Project Coordinator's Monthly Progress Report shall specify the number of monitoring wells installed, at what depth the wells were installed, whether the wells were installed on-site or off-site, the technique used to install the wells, the purpose/reason for installing the wells, the identity of the vendor(s)/consultant that installed the wells, and the appropriate code (per Appendix A) pertaining to installation of the wells. If this information is already included on the submitted invoice, the Project Coordinator's Monthly Progress Report would need only identify the activity, vendor, and code and reference the invoice for the detail concerning the nature of the work performed.

(3) documentation showing that the costs identified in the submitted invoices have been paid;

(4) copies of any annual reports submitted to the Environmental Protection Agency ("EPA") pursuant to the City of Albuquerque Consent Decree since the date of the Final Annual Statement or the date of the last Cost Report, whichever is later;

(5) Any Correspondence to Plaintiff from EPA since the date of the Final Annual Statement or the date of the last Cost Report, whichever is later, in which EPA disapproves any of Plaintiff's submissions pursuant to the City of Albuquerque Consent Decree; and

(6) Any correspondence to Plaintiff from EPA or any other Governmental Party to the City of Albuquerque Consent Decree since the date of the Final Annual Statement or the date of the last Cost Report, whichever is later, in which EPA or any other Governmental Party to the City of Albuquerque Consent Decree seeks to modify the requirements of that Consent Decree.

(7) a certification under penalty of perjury, signed by the President of Sparton Technology, Inc., or another appropriate representative of Plaintiff's organization, stating:

"Plaintiff certifies that all of the costs set forth in this Cost Report are Future Clean-up Costs as defined in Paragraph 8(a) of this Agreement, that these costs were actually incurred and paid by Plaintiff or Sparton Corporation, that these costs have been paid in full and that payment by the United States of the amount set forth in this Cost Report shall be accepted by Plaintiff and Sparton Corporation as full and final payment of the United States' obligations under this Agreement as to those costs set forth in this Cost Report, and that the only condition of the Plaintiff's release of its claims regarding those

costs and covenant not to sue for those costs is the actual payment of the costs in the Cost Report by the United States."

l. Within sixty (60) days of actual receipt of each Cost Report, the United States shall notify Plaintiff in writing at the addresses listed in Paragraph 8(f) as to whether the United States will challenge any of the costs set forth in the Cost Report, as not compensable under this Agreement. The United States shall also specify in writing to Plaintiff which costs in the Cost Report are not being challenged by the United States and which are. The sixty (60) day review period called for by this Paragraph can be extended by written agreement of the Parties and shall be extended by at least twenty (20) days if Plaintiff submits information in response to the United States' request for additional documentation pursuant to Paragraph 8(m).

m. The United States shall have the right, within sixty (60) days of the actual receipt of the Cost Report described in Paragraph 8(k) to request in writing additional information regarding some or all of the costs contained in the Cost Report. Plaintiff agrees to provide a response to such request, in writing, within thirty (30) days of its actual receipt of the United States' written request for additional information. Plaintiff's thirty (30) day response period may be extended, upon written agreement of the parties. If the request concerns costs incurred by Sparton Corporation, Plaintiff shall be responsible for complying with any request of the United States submitted to Plaintiff pursuant to this Paragraph.

n. If the United States challenges some or all of the costs claimed for payment in the Cost Report, Plaintiff may initiate the dispute resolution process set forth in Paragraph 9 of this Agreement.

o. To the extent the United States approves all, or a portion of, the costs in the Cost Report pursuant to Paragraph 8(l), the United States shall authorize payment of 37.5 percent of those approved costs. Payment shall be by Electronic Funds Transfer in accordance with instructions to be provided by the Plaintiff. If payment is not made within 120 days after the date the United States approved the Future Clean-up Costs for payment pursuant to Paragraph 8(l), the United States will pay interest on the unpaid balance commencing on the one hundred and twenty first (121st) day after the United States' approved payment. Interest shall accrue at the rate specified for interest on investments of the Hazardous Substance Superfund established under subchapter A of chapter 98 of Title 26 of the United States Code.

p. As to those costs in the Cost Report to which the United States objects pursuant to Paragraph 8(l), the United States shall authorize payment of 37.5 percent of those costs if the costs are approved by the United States during Dispute Resolution or the Court issues an order requiring the United States to pay the costs. Payment shall be by Electronic Funds Transfer in accordance with instructions to be provided by the Plaintiff. If payment is not made within 120 days after the date the United States approves the costs in Dispute Resolution or if the Court issues an order requiring payment of the costs, the United States will pay interest on the unpaid balance commencing on the one hundred and twenty first (121st) day after the United States' approved payment or was ordered to make payment by the Court. Interest shall accrue at the rate specified for interest on investments of the Hazardous Substance Superfund established under subchapter A of chapter 98 of Title 26 of the United States Code.

q. All notices, submissions, or other writings required by this Agreement shall be sent to the individuals designated in Paragraph 8(f) and 8(g) by first class United States mail and overnight delivery. If one of the addresses specified in Paragraph 8(f) and 8(g) changes, the party whose address has changed shall provide the other party written notice of the new address by first class mail and overnight delivery.

9. Dispute Resolution. For disputes arising between the Parties regarding matters set forth in Paragraph 8 of this Agreement, or with regard to any other dispute regarding the interpretation or performance of this Agreement, the Parties agree to the following dispute resolution process:

a. The Parties shall first enter into an informal dispute resolution process in which the Parties attempt to resolve the dispute through informal negotiations. To initiate informal dispute resolution, the party with the dispute shall send the other Party a written Notice of Dispute, identifying the precise nature of the dispute. The informal negotiation period will commence as of the date the responding party receives the complaining party's written Notice of Dispute, and will continue for thirty (30) days thereafter, unless extended by written consent of the Parties.

b. In the event the Parties are unable to resolve the dispute through informal negotiations, either party can file a motion for enforcement of this Agreement. The party filing the motion shall include with its motion a description of the matter in dispute, the efforts made by the parties to resolve it, and the relief requested. The Court has agreed to retain jurisdiction sufficient to resolve disputes arising under this Agreement.

c. The Parties agree that this Paragraph contains the exclusive process for dispute resolution under the Agreement, and that dispute resolution through the Agreement shall be considered the Plaintiff's sole remedy for an alleged breach of this Agreement by the United States.

10. Anti-Deficiency Act. Any payment by the United States pursuant to this Agreement is subject to the availability of funds appropriated for such purpose. No provision of this Agreement shall be interpreted as or constitute a commitment or requirement that the United States obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341.

11. Covenant Not to Sue by United States and Reservation. The United States hereby releases and covenants not to sue Plaintiff for Covered Matters, except the United States reserves its right to assert against Plaintiff any claims or actions regarding the Site brought on behalf of the EPA or a natural resource trustee, including, but not limited to, any claims to enforce the City of Albuquerque Consent Decree. The United States further covenants not to sue any party, including Sandia Corporation and Honeywell, Inc., to seek recovery for the costs the United States incurs pursuant to the express terms of this Agreement, including the $3,800,000.00 payment called for by Paragraph 7 and any payment(s) made by the United States pursuant to Paragraph 8 of this Agreement. Nothing in this Agreement affects, in any way, the rights the United States reserved in the City of Albuquerque Consent Decree, except for the offset provisions relating to this case that are set forth in paragraph 76 of the City of Albuquerque Consent Decree, which provisions are made moot by this Agreement.

12. Effect of Settlement/Entry of Judgment.

a. This Agreement was negotiated and executed by Plaintiff, Sparton Corporation and the United States in good faith and at arms length and is a fair and equitable compromise of claims which were vigorously contested. This Agreement shall not constitute or be construed as an admission of liability by the United States. Nor is it an admission of any factual allegations set out in the Second Amended Complaint or an admission of violation of any law, rule, regulation, or policy by any of the Parties to this Agreement.

b. Upon approval and entry of this Agreement by the Court, this Agreement shall constitute a final judgment among the Parties.

13. Dismissal with Prejudice of Complaint. Upon approval and entry of this Agreement by the Court, all claims against the United States in this Action, whether alleged in the Second Amended Complaint or otherwise, shall be dismissed with prejudice, although the Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of this Agreement, including resolving disputes pursuant to Paragraph 9 above.

14. Dismissal of Plaintiff's Court of Federal Claims case with Prejudice. Within ten (10) calendar days of the Effective Date of this Agreement, Plaintiff shall move to dismiss with prejudice its case against the United States currently pending in the United States Court of Federal Claims. That case is captioned: Sparton Technology, Inc. v. United States, No. 98-111C (Judge Hodges).

15. Entry of Agreement. The Parties agree to join in and/or support, as may be appropriate, such legal proceedings as necessary to secure the Court's approval and entry of this

Agreement and to secure and maintain the contribution protection contemplated in this Agreement.

16. Nothing in this Agreement precludes Plaintiff from arguing in any other action that it is entitled to Contribution Protection under section 113(f)(1) of CERCLA, 42 U.S.C. § 9613(f)(1), the Uniform Comparative Fault Act, and any other applicable provision of federal or state law, whether by statute or common law.

17. Representative Authority. The individuals signing this Agreement on behalf of the Parties and on behalf of Sparton Corporation hereby certify that they are authorized to bind the party they represent to this Agreement.

FOR THE PLAINTIFF AND SPARTON CORPORATION:

SPARTON TECHNOLOGY, INC.

Date: June 19, 2002

By: _____
DAVID W. HOCKENBROCHT, President
2400 East Ganson St.
Jackson, Michigan 49202
Voice: (800) 248-9579

SPARTON CORPORATION

Date: June 19, 2002

By: _____
DAVID W. HOCKENBROCHT
CEO & President
2400 East Ganson St.
Jackson, Michigan 49202
Voice: (800) 248-9579

Date: June 18, 2002

HARRY B. WILSON
Husch & Eppenberger, LLC
190 Carondelet Plaza, Suite 600
St. Louis, Missouri 63105-3441
Voice: (314) 480-1843
Telecopier: (314) 480-1505

Attorney for Plaintiff

Sparton Technology, Inc. and Sparton Corporation

FOR THE UNITED STATES:

THOMAS L. SANSONETTI
Assistant Attorney General
Environmental & Natural Resources Division

Date: August 26, 2002

By:

WENDY L. BLAKE, Attorney
Environmental Defense Section
U.S. Department of Justice
P.O. Box 23986
Washington, DC 20026-3986

Overnight Mail Address
Room 8000 - Patrick Henry Building
601 D Street, NW
Washington, DC 20004
Voice: (202) 305-0851
Telecopier: (202) 514-8865

ORDER

UPON CONSIDERATION OF THE FOREGOING, the Court hereby finds that this Agreement is fair and reasonable, both procedurally and substantively, consistent with applicable law, in good faith, and in the public interest. THE FOREGOING Agreement is hereby APPROVED.

The United States is entitled to, as of the effective date of this Agreement, contribution protection pursuant to section 113(f) of CERCLA, 42 U.S.C. § 9613(f), the Uniform Comparative Fault Act, and any other applicable provision of federal or state law, whether by statute or common law.

All claims against the United States in this Action, whether alleged in the Second Amended Complaint or otherwise, are hereby dismissed with prejudice, although the Court shall retain jurisdiction over this matter for the sole purpose of enforcing the terms of this Agreement.

Pursuant to Rule 54, Fed. R. Civ. P., the Court expressly directs ENTRY OF FINAL JUDGMENT in accordance with the terms of this Agreement, SIGNED and ENTERED this 23rd day of Sept. 2002.

Plaintiff, the United States, and Sparton Corporation shall each bear their own costs and expenses, including attorneys' fees, in this case.

Dated: 9/23/02

WILLIAM P. JOHNSON
U.S. DISTRICT COURT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SPARTON TECHNOLOGY, INC.,

Plaintiff,

v.

ALLIEDSIGNAL, INC., et al.,

Defendants.

No. CV-00-407 WJ/WWD ACE

ORDER

Upon joint motion and stipulation of the Plaintiff Sparton Technology, Inc. and Defendant Sandia Corporation, and for good cause shown, it is hereby

ORDERED, that the stay of proceedings in this action is lifted; and it is further

ORDERED, that Defendant Sandia Corporation, and its predecessor and successor corporations in interest, as of this date, is entitled to contribution protection pursuant to Section 113(f) of the Comprehensive Environmental Remediation, Compensation and Liability Act (hereinafter "CERCLA"), 42 U.S.C. §9613(f), the Uniform Comparative Fault Act, and any other applicable provision of federal or state law, whether by statute, rule, regulation or common law; and it is further

ORDERED, that all claims brought by Plaintiff Sparton Technology, Inc. against Defendant Sandia Corporation, and its predecessor and successor entities in interest, whether alleged in the Second Amended Complaint or otherwise, are hereby dismissed with prejudice; and it is further

ORDERED, that this Court shall retain jurisdiction over this matter for the limited purpose of enforcing the terms of the settlement agreement executed by Plaintiff Sparton Technology, Inc. and Defendant Sandia Corporation.

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Plaintiff and Defendant each shall bear its own costs and expenses, including attorneys' fees, incurred in this case.

Date 9/23/02

William P. Johnson, U.S. District Judge

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SPARTON TECHNOLOGY, INC.,

Plaintiff,

v.

ALLIEDSIGNAL INC., et al.,

Defendants.

No. CV-00-407 WJ/WWD ACE

ORDER

Upon joint motion and stipulation of the Plaintiff Sparton Technology, Inc. and Defendant AlliedSignal, Inc., and for good cause shown, it is hereby

ORDERED, that the stay of proceedings in this action is lifted; and it is further

ORDERED, that Defendant AlliedSignal Inc., and its predecessor and successor corporations in interest, as of this date, is entitled to contribution protection pursuant to Section 113(f) of the Comprehensive Environmental Remediation, Compensation and Liability Act (hereinafter "CERCLA"), 42 U.S.C. §9613(f), the Uniform Comparative Fault Act, and any other applicable provision of federal or state law, whether by statute, rule, regulation or common law; and it is further

ORDERED, that all claims brought by Plaintiff Sparton Technology, Inc. against Defendant AlliedSignal Inc, and its predecessor and successor entities in interest, whether alleged in the Second Amended Complaint or otherwise, are hereby dismissed with prejudice; and it is further

ORDERED, that this Court shall retain jurisdiction over this matter for the limited purpose of enforcing the terms of the settlement agreement executed by Plaintiff Sparton Technology, Inc. and Defendant AllliedSignal, Inc..

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Plaintiff and Defendant each shall bear its own costs and expenses, including attorneys' fees, incurred in this case.

Date 9/23/02

William P. Johnson, U.S. District Judge

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