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COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
PIEDMONT REGIONAL OFFICE
4949-A Cox Road, Glen Allen, Virginia 23060
(804) 527-5020 Fax (804) 527-5106
www.deq.virginia.gov

L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

WASTE MANAGEMENT BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO MR. ALBERT BOUFARAH AND ADVANCED TECHNOLOGIES PROCESSING, INC.

EPA ID No. VAR000508648
PBR 523

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and Mr. Albert Boufarah and Advanced Technologies Processing, Inc., for the purpose of resolving certain violations of the Virginia Waste Management Act, the Virginia Hazardous Waste Management Regulations, and the Virginia Solid Waste Management Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.

2. "Advanced Technologies" or "Company" means Advanced Technologies Processing, Inc., a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents, including but not limited to Supreme Asset Management (see below). Advanced Technologies also does business in Virginia as "Advanced Technology Processing."

3. "Board" means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1401 and 10.1-1184.

4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.

5. "Destination Facility" means a universal waste destination facility, as defined by 40 CFR § 273.9.

6. "Director" means the Director of the Department of Environmental Quality.

7. "Eubank Road Facility" or "Facility" means the Advanced Technologies facility located at 4300 Eubank Road, Henrico County, Virginia.

8. "Generator" means a hazardous waste generator, as defined by 40 CFR § 260.10.

9. "Handler" means a universal waste handler, as defined by 40 CFR § 273.9.

10. "Large Quantity Handler" means a Large Quantity Handler of universal waste, as defined by 40 CFR § 273.9. A Large Quantity Handler is a universal waste handler that accumulates 5,000 kilograms or more total of universal waste at any time.

11. "LQG" means Large Quantity Generator, a hazardous waste generator that generates greater than 1000 kilograms (2200 pounds) of hazardous waste in a calendar month and meets other restrictions (See 40 CFR § 262.34(a)-(b) and (g)-(l)).

12. "Order" means this document, also known as a Consent Order.

13. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.

14. "Small Quantity Handler" means a Small Quantity Handler of universal waste as defined by 40 CFR § 273.9. A Small Quantity Handler is a universal waste handler who does not accumulate 5,000 kilograms or more total of universal waste at any time.

15. "SQG" means a Small Quantity Generator, a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions (See 40 CFR § 262.34(d)-(f)).

16. "Supreme Asset Management" means Supreme Asset Management, Inc., Supreme Computer, Inc. a/k/a Supreme Computers, and Supreme Electronics and Computer Recycling, Inc. a/k/a Supreme Computer Recycling, Supreme Asset Management and Recovery SAMR, Associated Technical Processors, Inc., and SCER Supreme Inc.,

17. "SWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10, et seq.

18. "Universal waste" means any hazardous waste that can be managed under the universal waste requirements of 40 CFR Part 273 as an alternative to full hazardous waste management standards under 40 CFR Parts 260 through 272. Universal wastes include specified types of widely generated hazardous wastes (including waste lamps) that are subject to less stringent standards for storing, transporting, and collecting these wastes. The standards are designed to encourage the environmentally sound collection and proper management of these hazardous wastes. (See 64 *Federal Register* at 36468 (July 6, 1999)).

19. "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 et seq. Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR) (as in effect July 1, 2006), with additions and exceptions as noted. The VHWMR also contain independent requirements. In this Order, when reference is made to a part or section of the CFR, unless otherwise noted, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR (e.g., 40 CFR Part 273 means that part of the CFR as incorporated by 9 VAC 20-60-273, and 40 CFR 262.34 means that section as incorporated by 9 VAC 20-60-262, etc.). Citations to independent Virginia requirements are made directly to the VHWMR (e.g., 9 VAC 20-60-315 D).

SECTION C: Findings of Fact and Conclusions of Law

1. Advanced Technologies submitted an initial RCRA Subtitle C Site Identification Form (received February 8, 2005) that gave notice of regulated waste activity as an SQG of hazardous waste, a Large Quantity Handler of universal waste, and a Destination Facility for universal waste. Advanced Technologies was issued EPA ID No. VAR000508648. In a subsequent form (received March 24, 2008), Advanced Technologies gave notice as an LQG of hazardous waste and a Large Quantity Handler of Universal Waste. Mr. Albert Boufarah is listed as president and as certifying the most recent form.

2. SCER Supreme Inc. and Supreme Asset Management and Recovery SAMR have submitted similar forms for New Jersey identifying them each as a Large Quantity Handler of Universal Waste (latest forms received March 11, 2008 and May 22, 2008, respectively). They have been issued EPA ID Nos. NJR000054783 and NJR000071902, respectively. Mr. Albert Boufarah is listed as president and as certifying the most recent forms for each entity.

3. Associated Technical Processors, Inc. gave notice of regulated waste activity as a Large Quantity Handler of universal waste to the Maryland Department of Environmental Protection ("DEP") on August 11, 2008. On August 18, 2008, the Maryland DEP issued EPA ID No. MDR000519857. The signatory on the

notification to the Maryland DEP was Mr. Michael A. Clarke, who is the Director of Environmental Health and Safety for Associated Technical Processors, Inc., Supreme Asset Management, Inc., and Advanced Technologies Processing, Inc.

4. Advanced Technologies collects waste electronic devices ("e-waste") and universal waste (waste fluorescent lamps) at its Eubank Road Facility in Henrico County. The collected e-waste is managed as a solid waste and is shipped to its sister company, Supreme Asset Management, Inc., located in Lakewood, New Jersey, for processing. The waste fluorescent lamps are crushed at the Facility in a purpose-manufactured lamp crushing machine and separated into glass, metal end caps, and phosphor dust, which then are shipped off-site. Advanced Technologies characterized off-site shipments of the phosphor dust as hazardous waste (D009) due to its mercury toxicity (waste code D009) under 40 CFR § 261.24.

5. Operations of Advanced Technologies are co-mingled with those of Supreme Asset Management. Operations at the Eubank Road Facility are oftentimes directed by managers or officers of Supreme Asset Management (including Mr. Albert Boufarah), and managers, officers, or employees of Supreme Asset Management are oftentimes sent to the Eubank Road Facility to direct or perform waste fluorescent lamp processing on behalf of Advanced Technologies.

6. Va. Code § 10.1-1400 defines "Person" as an "individual, corporation, partnership, association ... or any other legal entity." (*Accord* 40 CFR § 260.10) "Operator" is defined by 40 CFR § 260.10 as the "person responsible for the overall operation of a facility".

7. Accordingly, Mr. Albert Boufarah, Advanced Technologies, and Supreme Asset Management are considered "Operators" of any facility where business of Advanced Technologies occurs.

8. DEQ inspected the Eubank Road Facility on February 8, 2008 as a result of a citizen complaint and an initial investigation by another state agency.

9. Observations, a review of Facility and DEQ records, and interviews indicated the following:

    a. The Facility generated an average of 3,449 pounds of hazardous waste per month, and therefore is characterized as an LQG. Hazardous waste was accumulated for up to 315 days at the Facility prior to shipment in 2007. LQGs are not allowed to accumulate such waste over 90 days unless they obtain a permit for storage or interim status, according to 40 CFR § 262.34(b). Neither Mr. Boufarah, nor Advanced Technologies, nor Supreme Asset Management has been issued a permit for hazardous waste storage or has qualified for interim status. No extension to the accumulation period was granted.

b. The Facility received at least two containers of hazardous waste from New Jersey and New York. Facilities that receive and store hazardous waste from off-site are considered hazardous waste storage facilities (See 40 CFR § 262.34(a) and the definition of "On-site" in 40 CFR § 260.10.) Advanced Technologies did not notify DEQ that the Facility received hazardous waste, as required by 40 CFR § 273.38(g). A permit is required by Va. Code § 10.1-1426 and 40 CFR § 270.1(c) for the storage of hazardous waste. Neither Mr. Boufarah, nor Advanced Technologies, nor Supreme Asset Management has been issued a permit by DEQ for hazardous waste storage.

c. More than 5,000 kilograms of universal waste was accumulated at the Facility at one time; therefore the Facility was subject to the requirements for Large Quantity Handlers found at 40 CFR § 273.30 *et seq*.

10. During the inspection, DEQ inspectors found that the Facility did not meet several requirements applicable to LQGs and Large Quantity Handlers.

a. The Facility did not make a waste determination on all waste streams, including used high efficiency particulate air ("HEPA") filters, swept-up dust, broken glass, dust cloths, HEPA vacuum filters, cardboard boxes and other general trash. A waste determination is required of all facility types by 40 CFR §§ 262.11 and 273.37(b).

b. The Facility did not maintain manifests of hazardous waste shipments or records of the shipment and receipt of universal waste. LQGs and Large Quantity Handlers are required by 40 CFR §§ 262.40(a) and 273.39, respectively, to maintain records of waste shipments.

c. Containers of universal waste were not properly labeled as required by 40 CFR §273.34.

11. As an LQG, the Facility was also responsible for complying with the following requirements:

a. In February 2004, the facility notified DEQ that it was an SQG; however, records indicate that the Facility became an LQG during 2007 and 2008. Any facility that becomes an LQG is required by 9 VAC 20-60-315 D to notify the Department in writing immediately of this change in status, but the Facility did not do so.

b. The Facility did not notify DEQ of the location of its hazardous waste accumulation area or conduct weekly inspections of its hazardous waste accumulation area, as is required of LQGs by 9 VAC 20-60-262 B 4, and 40 CFR §§ 262.34(a)(1)(i) and 265.174.

c. The Facility could not document that it had a training plan and could not provide records of employee training, as required by 40 CFR §§ 262.34(a)(4) and 265.16.

d. A copy of the hazardous waste contingency plan was not provided to DEQ upon request. A contingency plan is required by 40 CFR §§ 262.34(a)(4) and 265.50 through .56.
e. The Facility did not maintain aisle space sufficient to allow unobstructed movement of equipment in an emergency, as required by 40 CFR §§ 262.34(a)(4) and 265.35.
f. The Facility did not maintain records of waste determinations, as required by 40 CFR § 262.40(c).

12. On January 8, 2008, an inspector from another state agency observed phosphor dust on most surfaces and suspended in the air within the Facility. Advanced Technologies has declared previous shipments of the dust hazardous waste, and manifested it as a hazardous waste due to its mercury toxicity (waste code D009) under 40 CFR § 261.24.

a. Whole and broken lamps were observed in open and unsound containers. The Facility is required by 40 CFR § 273.33(d) to contain lamps in structurally sound, closed containers and clean up any broken lamp or lamp showing evidence of breakage, leakage or damage.

b. LQGs are required by 40 CFR §§ 262.34(a)(4) and 265.31 to operate and maintain their Facility to minimize the possibility of a fire, explosion or unplanned sudden or non-sudden release of hazardous waste which could threaten human health or the environment. The lamp crushing machine had holes in it due to lack of maintenance. The holes allowed phosphor dust to be emitted from the machine uncontrolled. Reports indicated that the Facility was operated with doors open and fans blowing phosphor dust outside to the environment in order to lower ambient mercury levels inside the building. Indoor ambient air monitoring records revealed 46 instances in 2006 where the direct reading mercury levels were found to exceed 0.100 mg/m^3, and 58 instances in 2006 and 24 instances in 2007 where the direct reading mercury levels were found to exceed 0.095 mg/m^3, The 8-hour time weighted average Occupational Safety and Health Administration permissible exposure level set for mercury is 0.100 mg/m^3 (§1910.1000(b)). The Jerome meter used to measure the direct readings has a confidence level of +/- 5%, meaning that a measured reading of 0.096 mg/m^3 could range up to 0.101 mg/m^3. Records further revealed that 4 employees received mercury blood tests in September 2007. Three employees had elevated blood mercury levels ranging from 57.8 to 85.7μg/L, when the normal range is <10μg/L.

c. If a release of hazardous waste or universal waste does occur, 40 CFR §§ 262.34(a)(4) and 265.56(b), and 40 CFR §273.37, require LQGs and Large Quantity Handlers, respectively, to immediately identify the source, character, amount, and aerial extent of any released materials

and respond immediately to contain all releases. In the summer of 2007, Advanced Technologies was notified by a neighboring facility that phosphor dust was released to the neighboring facility through a crack in a partition wall. Advanced Technologies representatives sealed the crack in the partition wall, but did not characterize or remove the dust from the adjacent facility. Advanced Technologies took no actions to characterize or contain any phosphor dust released outdoors.

d. Upon a release of hazardous waste, LQGs are required by 40 CFR §§ 262(a)(4) and 265.56(c) and (g) to assess possible hazards to human health or the environment and provide for treating, storing or disposing of recovered waste, contaminated soil or surface material resulting from a release. Advanced Technologies did not assess possible hazards to human health by interviewing or collecting blood or urine samples from employees of the adjacent facility, did not assess risks to the environment resulting form the dust released outdoors, and did not recover any of the released waste from either location.

13. On February 28, 2008, Advanced Technologies indicated to DEQ that it had voluntarily ceased lamp crushing operations at the Facility.

14. On March 6, 2008, DEQ issued Notice of Violation No. 2008-03-PRO-601 for the violations described in Paragraphs 8 through 11, above.

15. On April 25, 2008, DEQ staff inspected a site near Tappahannock, Virginia ("Tappahannock Site"). A citizen had informed DEQ that trailers containing universal waste (waste fluorescent lamps) were being stored there by Advanced Technologies. DEQ staff found 8 trailers labeled "Supreme Computer Recycling". Representatives of Advanced Technologies indicated that these trailers contained items removed from the Eubank Road Facility sometime between January 8 and 23, 2008, although manifests required of hazardous waste generators and transporters by 40 CFR §§ 262.20 through 262.23, 263.20 and 263.22 could not be produced. According to 40 CFR § 273.38(a), a Large Quantity Handler is prohibited from sending universal waste to a facility not designated as a Handler, Destination Facility, or foreign destination. DEQ has not been notified that the Tappahannock Site is designated as any of these types of facilities.

16. Advanced Technologies representatives met DEQ staff at the Tappahannock site on April 30, 2008 and opened (but did not unload) the trailers. Each trailer contained many boxes of universal waste lamps and one trailer contained one box labeled "Hazardous Waste". Some boxes of universal waste lamps were open and some broken glass was present, indicating that lamp storage did not meet the requirements of 40 CFR § 273.33(d).

17. DEQ staff returned to the Tappahannock site on May 7, 2008 and observed that the trailers were still present.

a. Because hazardous waste was stored for longer than 10 days, Mr. Boufarah and Advanced Technologies (as the transporter) were subject to the requirements for hazardous waste storage facilities found in 40 CFR Part 264 under 40 CFR § 263.12. DEQ has observed no evidence demonstrating compliance with the requirements set forth in 40 CFR Part 264. Neither Mr. Boufarah nor Advanced Technologies has applied for storage permit for the Tappahannock site, and no such permit has been issued. Under Va. Code § 10.1-1426, no person shall store a hazardous waste without a permit from the Director of DEQ (*Accord* 40 CFR § 270.1.)
b. Because universal waste in excess of 5,000 kilograms was stored for longer than 10 days, Advanced Technologies was subject to Large Quantity Handler requirements at the Tappahannock Site, according to 40 CFR § 273.53(b). A company that becomes a Large Quantity Handler of universal waste shall notify DEQ and receive an EPA identification number for that site, as required by 40 CFR § 273.32. Large Quantity Handlers are also required by 40 CFR § 273.39 to maintain records of receipt of shipments of universal waste. Neither Mr. Boufarah nor Advanced Technologies complied with these requirements.

18. Transporters of hazardous waste shipments originating or terminating in the Commonwealth are required by 9 VAC 20-60-420 E to obtain a hazardous waste transporter permit from the Director of DEQ. The Director of DEQ has not issued such a permit to Advanced Technologies or Mr. Boufarah.

19. Testing of mercury levels in the ambient air of the trailers appeared to indicate that bulbs were broken and a release of phosphor dust containing mercury had occurred. Advanced Technologies had not characterized or contained this release. Transporters and Handlers of universal waste are required by 40 CFR § 273.54(b) and 40 CFR § 273.37(b), respectively, to determine whether any material released is hazardous waste. At the time of the DEQ inspection, no waste determination had been made. If the material resulting from the release is hazardous waste, the Large Quantity Handler or Transporter shall manage hazardous waste in compliance with all applicable requirements. (*Id.*)

20. On May 7, 2008, DEQ staff re-inspected the Eubank Road Facility. The Facility was operating as a Large Quantity Handler. The following observations were made:

a. Some packages of used lamps were not closed, as required by 40 CFR § 273.33 (d).
b. Universal waste shipment records of received and shipped waste were not completed and maintained as required by 40 CFR § 273.39.
c. Employees present at the time of the inspection did not appear to have been trained in proper waste handling and emergency procedures, as

required by 40 CFR § 273.36.

d. The universal waste and residues of universal waste that were released to an adjacent facility (as described in the March 6, 2008 NOV) were still present and uncontained, and neither Mr. Boufarah nor Advanced Technologies had made a waste determination on this material. Containment and characterization of releases is required by 40 CFR § 273.37.

e. Advanced Technologies representatives could not document that universal waste at the Facility was on site less than one year. Large Quantity Handlers are required by 40 CFR § 273.35 to be able to demonstrate the storage time of universal waste on site.

f. Records of sampling results or waste determinations made for the phosphor powder generated prior to April 2008 were not available, although 40 CFR § 262.40(c) requires that LQGs keep such records for at least 3 years from the date that waste is last sent to treatment, storage or disposal.

21. DEQ staff also conducted a records review to evaluate compliance with certain portions of the Virginia Waste Management Act and the SWMR. Advanced Technologies holds Permit By Rule No. 523, which authorizes certain e-waste recycling activities at the Facility. The records review indicates that, although key personnel have changed at the Facility, the Facility's disclosure statement has not been updated as required by Va. Code § 10.1-1408.1.C.3. In addition, Advanced Technologies did not submit its annual report of the amount of solid waste received and managed by the facility, as required by Va. Code § 10.1-1413.1.B and 9 VAC 20-80-115.A.

22. On July 21, 2008, DEQ issued Notice of Violation No. 2008-07-PRO-601 for the violations observed during the May 2008 inspection of the Tappahannock Site and described in Paragraphs 15 through 19, above.

23. On July 21, 2008, DEQ issued Notice of Violation No. 2008-07-PRO-602 for the inspection of and records review for the Eubank Road Facility, described in Paragraphs 20 and 21, above.

24. Representatives of Advanced Technologies and Mr. Boufarah responded to the March 6, 2008 NOV on May 16, 2008. The Company and Mr. Boufarah contend that the Facility is not a Destination Facility; however DEQ does not agree. Advanced Technologies also contends that it is not an LQG; that the powder manifested from the site as hazardous waste and the drums labeled "hazardous waste" that were stored on the site were not in fact hazardous; that the weights of this waste were erroneous; and that it did not exceed the storage time allowed. No evidence was submitted that supports these claims. The Company claims that it used Generator knowledge to characterize some waste streams but not all of those in question. Advanced Technologies indicated that the Facility was not operating during some of the periods for which records were missing; however the

Company was operating during other periods of missing records. No records were submitted for these periods. Advanced Technologies indicated that it has developed a training plan, but that it should not be required to develop a contingency plan because the Company is not an LQG.

25. The Company has not responded to the NOVs issued on July 21, 2008.

26. During a follow-up visit to the Tappahannock Site on July 29, 2008, DEQ staff observed that 1 of the 8 trailers observed on April 30, 2008 that contained universal waste was no longer present at that site. During a second follow-up visit to the Tappahannock Site on August 14, 2008, DEQ staff observed that an additional 3 trailers had been removed. DEQ received no notice of the removal and no indication of where the trailers were sent. DEQ staff requested this information on August 18, 2008. On August 29, 2008, representatives of Mr. Boufarah and Advanced Technologies indicated that the trailers were being moved to 3361 Hollins Ferry Road, Halethorpe, Maryland. The site registered as a Large Quantity Handler (EPA ID No. MDR000519857) with the Maryland Department of Environmental Protection on August 11, 2008. The site owner name is Associated Technical Processors, Inc. The signatory was Mr. Michael A. Clarke, who is the Director of Environmental Health and Safety for Associated Technical Processors, Inc., Supreme Asset Management, and Advanced Technologies Processing, Inc.

27. Mr. Boufarah and Advanced Technologies are currently operating the Eubank Road Facility as a Large Quantity Handler.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 10.1-1455(F), orders Mr. Albert Boufarah and Advanced Technologies Processing, Inc., and Mr. Albert Boufarah and Advanced Technologies agree to perform the actions described in Appendix A of this Order. In addition, Mr. Albert Boufarah and Advanced Technologies Processing, Inc. voluntarily agree to pay a civil charge of $165,000 in settlement of the violations cited in this Order according to the following schedule:

a. By December 31, 2009, Mr. Albert Boufarah and Advanced Technologies Processing, Inc. shall submit a check to the Department for $6,875.

b. Following the initial payment of $6,875 as described in the above paragraph D.a., Mr. Albert Boufarah and Advanced Technologies Processing, Inc. shall submit a minimum payment of $6,875 to the Department on or before the end of the calendar quarter for the following 23 calendar quarters (6 year total payment schedule).

c. If the Department fails to receive a payment pursuant to the schedule, described in the above paragraphs D.a. an D.b., the payment shall be deemed late. If any payment is late, the Department reserves the right to demand in writing full payment of the balance owed by Mr. Albert Boufarah and Advanced Technologies Processing, Inc. under this Order. Mr. Albert Boufarah and Advanced Technologies Processing, Inc. shall pay such balance within 15 days of receipt of a demand letter from the Department. Any allowance by the Department of a late payment by Mr. Albert Boufarah and Advanced Technologies Processing, Inc. shall not serve as a waiver of the Department's reserved right to accelerate payment of the balance.

d. Mr. Albert Boufarah and Advanced Technologies Processing, Inc. must request in writing any adjustment to the payment schedule described in the above paragraphs D.a. and D.b.

e. All payments shall be made by check payable to the "Treasurer of Virginia" and shall be delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23219

Either on a transmittal letter or as a notation on the check, Advanced Technologies Processing, Inc. shall include its Federal Identification Number (_____) with each civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund ("VEERF").

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Mr. Boufarah and Advanced Technologies for good cause shown by Mr. Boufarah and Advanced Technologies, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order, Mr. Boufarah and Advanced Technologies admit the jurisdictional allegations, and

agree not to contest, but neither admit nor deny, the findings of fact and conclusions of law in this Order.

4. Mr. Boufarah and Advanced Technologies consent to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. Mr. Boufarah and Advanced Technologies declare that they have received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and they waive the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Mr. Boufarah or Advanced Technologies to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Mr. Boufarah and Advanced Technologies shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Mr. Boufarah and Advanced Technologies shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Mr. Boufarah and Advanced Technologies shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

   a. the reasons for the delay or noncompliance;

   b. the projected duration of any such delay or noncompliance;

   c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

   d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within verbally within 24 hours and in writing within three business days of learning of any condition above, which Mr. Boufarah or Advanced Technologies intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by the Director or his designee, Mr. Boufarah and Advanced Technologies. Nevertheless, Mr. Boufarah and Advanced Technologies agree to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

    a. Mr. Boufarah and Advanced Technologies petition the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

    b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Mr. Boufarah and Advanced Technologies.

    Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Mr. Boufarah and Advanced Technologies from their obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. The undersigned representative of Mr. Boufarah and Advanced Technologies certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Mr. Boufarah and Advanced Technologies to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Mr. Boufarah and Advanced Technologies.

13. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

14. By their signatures below, Mr. Boufarah and Advanced Technologies voluntarily agree to the issuance of this Order.

And it is so ORDERED this ____day of _____, 2009.

_____
Richard F. Weeks, Regional Director
Department of Environmental Quality

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Mr. Albert Boufarah voluntarily agrees to the issuance of this Order

Date: 11/11/09

By: _____
Albert Boufarah

Commonwealth/State of New Jersey
~~City~~/County of Ocean

The foregoing document was signed and acknowledged before me this 11th day of November by Albert Boufarah.

_____
Notary Public

2292466
Registration Number

My commission expires: 12/18/12

Notary seal:

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Advanced Technologies Processing, Inc. voluntarily agrees to the issuance of this Order.

Date: 11/11/09 By: _____
Albert Boufarah
President, Advanced Technologies Processing, Inc.

Commonwealth/State of New Jersey
~~City~~/County of Ocean

The foregoing document was signed and acknowledged before me this 11th day of November by Albert Boufarah, who is OWNER of Advanced Technologies Processing, Inc., o
(name) (title)

on behalf of Advanced Technologies Processing, Inc.

_____
Notary Public

22924666
Registration Number

My commission expires: 12/18/12

Notary seal:

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APPENDIX A

1. Mr. Boufarah and Advanced Technologies and its affiliates, partners, subsidiaries, and parents, including, but not limited to, Supreme Asset Management shall not operate Destination Facilities in the Commonwealth of Virginia. Prohibited activities include but are not limited to any crushing or other treatment of waste fluorescent lamps that are generated off-site.

2. Mr. Albert Boufarah and Advanced Technologies shall perform closure for the Facility in accordance with 40 CFR §264 (Subpart G – Closure and Post-Closure).

3. Mr. Albert Boufarah and Advanced Technologies shall submit the closure plan, cost estimates for closure, and financial responsibility in accordance with 40 CFR §264.112(a), §264.142, §264.143, §264.1102 as applicable, **no later than 90 days after the execution of this Order by DEQ**. Upon approval by DEQ, Mr. Boufarah and Advanced Technologies shall initiate the activities called for in the approved closure plan and shall abide by the terms and schedule therein.

4. If Mr. Albert Boufarah and Advanced Technologies are unable to demonstrate "clean closure" in accordance with 40 CFR §§ 264.1102(a) and 264.111, Advanced Technologies shall perform closure and post-closure care as applicable to landfills (40 CFR § 310). No later than 90 days of this determination, Mr. Boufarah and Advanced Technologies shall submit a closure plan, a post-closure care plan, groundwater monitoring plan, cost estimate and financial responsibility in accordance with the requirements for landfills specified in Subparts, F, G and H of 40 CFR § 264. Upon approval by DEQ, Mr. Boufarah and Advanced Technologies shall initiate the activities called for in the approved plans and shall abide by the terms and schedule therein.

5. **No later than 180 days after** the determination that the Facility cannot practicably be decontaminated or all contaminated subsoils or other media cannot be removed, Mr. Albert Boufarah and Advanced Technologies shall submit a permit application to address post-closure care. The permit application shall include the permit application fee as required by 9 VAC 20-60-1285 of the VHWMR.

6. All requirements of Appendix B of this Order shall be submitted to:

   Leslie A. Romanchik
   Director, Office of Hazardous Waste
   VA DEQ
   629 East Main St.
   P.O. Box 1105
   Richmond, Virginia 23218
   Phone: (804) 698-4129
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