STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-20-0009**
DIAMOND PAINTING AND	*	
SANDBLASTING LLC	*	
	*	**Enforcement Tracking No.**
AI # 6625	*	**AE-PP-19-00516**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Diamond Painting and Sandblasting LLC ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a limited liability company that owned and/or operated a sand blasting and painting facility located in Belle Chasse, Plaquemines Parish, Louisiana ("the Facility").

II

On October 10, 2019, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-19-00516 (Exhibit 1).

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of ONE THOUSAND AND NO/100 DOLLARS ($1,000.00), of which Three Hundred Thirty-Five and 36/100 Dollars ($335.36) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for

both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Plaquemines Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

DIAMOND PAINTING AND SANDBLASTING LLC

BY: _____
(Signature)

_____
(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

_____
NOTARY PUBLIC (ID #_____)

_____
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: _____
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

_____
NOTARY PUBLIC (ID # _____)

_____
(stamped or printed)

Approved: _____
Lourdes Iturralde, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR

CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana

DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

October 10, 2019

EXHIBIT
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CERTIFIED MAIL (7018 1130 0001 5655 0119)
RETURN RECEIPT REQUESTED

DIAMOND PAINTING AND SANDBLASTING LLC
c/o Benjamin Pettiette
Agent for Service of Process
83183 Phillips Rd
Folsom, LA 70437

RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-PP-19-00516
AGENCY INTEREST NO. 6625

Dear Sir:

On or about April 9, 2018, an inspection of **DIAMOND PAINTING AND SANDBLASTING (FACILITY)**, a sand blasting and painting facility, owned and/or operated by **DIAMOND PAINTING AND SANDBLASTING LLC (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 2309 Engineers Road in Belle Chasse, Plaquemines Parish, Louisiana. Since the Department's surveillance conducted on April 12, 2019, the Respondent moved its facility 1.5 miles away from 2309 Engineers Road to 4640 Peters Road in Harvey, Jefferson Parish, Louisiana. The AI associated with this address is 2597.

On March 25, 2019, the Department received a complaint (T190274) concerning daily accumulation of sand and paint covering vehicles and getting into an office. No painting or sandblasting was observed during the Department's surveillance conducted on April 3, 2019 and inspection conducted on April 9, 2019. On April 11, 2019, the Department received a complaint (T190572) concerning particles from the facility had covered the front of an office and cars with sand. No painting or sandblasting was observed during the Department's surveillance conducted on April 12, 2019.

During the inspection on April 9, 2019, Mr. Nealus LeBoeuf, the facility's Superintendent, stated that the facility does not have an air permit.

On or about April 9, 2019, the Department conducted a complaint inspection of the Respondent's facility to determine the degree of compliance with the Act and the Air Quality Regulations. While the

investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violation was noted during the course of the inspection:

> During the inspection, Mr. Nealus LeBoeuf stated that the facility does not have a Best Management Plan (BMP). No painting or sandblasting were being conducted at the time of the inspection. However, Mr. Nealus LeBoeuf stated that painting and sandblasting occurred in the open yard of the facility. The Respondent's failure to fully enclose the item during blasting operations or to have a BMP plan in place is a violation of LAC 33:III.1329.A.1, LAC 33:III.1329.A.2, and La. R.S. 30:2057(A)(2).

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Jacob Danielson (225) 219-3703 or Jacob.Danielson@LA.GOV within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter 7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached **"NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE"** form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

Notice of Potential Penalty
Diamond Painting and Sandblasting LLC

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,

Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

LI/JDD/jdd
Alt ID No. N/A

c: Diamond Painting and Sandblasting LLC
c/o Benjamin Pettiette
4640 Peters Road
Harvey, LA 70058

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE
ENFORCEMENT DIVISION
POST OFFICE BOX 4312
BATON ROUGE, LOUISIANA 70821-4312

NOTICE OF POTENTIAL PENALTY
REQUEST TO SETTLE *(OPTIONAL)*

Enforcement Tracking No.	AE-PP-19-00516	Contact Name	Jacob Danielson
Agency Interest (AI) No.	6625	Contact Phone No.	(225) 219-3703
Alternate ID No.	N/A		
Respondent:	Diamond Painting and Sandblasting LLC	Facility Name:	Diamond Painting and Sandblasting LLC
	c/o Benjamin Pettiette	Physical Location:	4640 Peters Rd
	Agent for Service of Process		
	83183 Phillips Rd	City, State, Zip:	Harvey, LA 70058
	Folsom, LA 70437	Parish:	Jefferson Parish

SETTLEMENT OFFER *(OPTIONAL)*

(check the applicable option)

____	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:I.Subpart1.Chapter7.
____	In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY** (AE-PP-19-00516), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
____	In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY** (AE-PP-19-00516), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay $_____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. • Monetary component = $_____ • Beneficial Environmental Project (BEP)component (optional)= $_____ • *DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.*
	The Respondent has reviewed the violations noted in **NOTICE OF POTENTIAL PENALTY** (AE-PP-19-00516) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821
Attn: Jacob Danielson