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LOS ANGELES COUNTY  
CALIFORNIA  
05/24/05 AT 08:00am

TITLE(S) : \_\_\_\_\_



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CALIFORNIA REGIONAL WATER  
QUALITY CONTROL BOARD  
LOS ANGELES REGION

2005 JUN 27 PM 2:05

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Assessor's Identification Number (AIN)

To be completed by Examiner OR Title Company in black ink.

Number of AIN's Shown

THIS FORM NOT TO BE DUPLICATED



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Recording Requested By:

Precision Specialty Metals, Inc.

When Recorded, Mail To:

California Regional Water Quality Control Board  
Los Angeles Region  
Attention: Executive Officer  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, California 90013

REC'D JUN 27 PM 2:06  
LOS ANGELES REGION

COVENANT AND ENVIRONMENTAL RESTRICTION  
ON PROPERTY

PRECISION SPECIALTY METALS, INC.  
3301 MEDFORD STREET, LOS ANGELES, CALIFORNIA

This Covenant and Environmental Restriction on Property (this "Covenant") is made as of the \_\_\_ day of December 2004 by Precision Specialty Metals, Inc. ("Covenantor") who is the Owner of record of that certain property situated at 3301 Medford Street, in the City of Los Angeles, County of Los Angeles, State of California, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference (such portion hereinafter referred to as the "Burdened Property"), for the benefit of the California Regional Water Quality Control Board for the Los Angeles Region (the "Board"), with reference to the following facts:

A. The Burdened Property has been used for various industrial purposes for many years. Cold rolling of stainless steel and related products has occurred at the Burdened Property by various operators since approximately 1964. Between 1933 and 1964, the Burdened Property was used for various other industrial purposes, including, but not limited to, fertilizer manufacturing, paint manufacturing, and steel products manufacturing. Operations prior to June 1, 2002 have resulted in contamination of soil and groundwater with various organic chemicals, including principally tetrachloroethene (PCE) and trichloroethene (TCE), which constitute hazardous materials as that term is defined in Health & Safety Code Section 25260.

B. The contaminants addressed in this Covenant are present in soil and groundwater on the Burdened Property. Without the mitigation measures which have been and will be performed on the Burdened Property (as described further below), exposure to these contaminants could take place via contact with subsurface soils during the course of any subsurface excavation activities and via contact with groundwater, resulting in dermal contact, inhalation, or ingestion by humans. The risk of public exposure to the contaminants has been substantially lessened by the remediation and controls described herein.

**SEE EXHIBIT A**



C. The Burdened Property is currently used for industrial purposes, including, but not limited to, manufacturing, processing and/or distributing products and vehicle maintenance activities, and is adjacent to other industrial and commercial land uses.

D. Pursuant to the March 12, 2004 Prospective Purchaser Agreement (PPA) by and between Covenantor and the Board, attached hereto as Exhibit B to this Covenant and incorporated herein by this reference, Covenantor agreed to undertake certain investigation and cleanup work with regard to Existing Contamination (as defined in the PPA) involving the Burdened Property pursuant to Cleanup and Abatement Order (CAO) No. R4-2003-0093, dated March 9, 2004, in exchange for receiving from the Board an agreement limiting the environmental liability of Covenantor (and prospective purchasers who acquire the Burdened Property from Covenantor) for such Existing Contamination. Pursuant to Section 3.1.2 of the PPA, Covenantor was required to record a deed restriction setting forth and imposing certain Land Use Restrictions, as defined in Section 1.11 of the PPA.

E. Full and voluntary disclosure to the Board of the presence of hazardous materials on the Burdened Property has been made and extensive sampling of the Burdened Property has been conducted.

F. Covenantor desires and intends that in order to benefit the Board, to comply with the requirements of the PPA, and to protect the present and future public health and safety, the Burdened Property shall be used in such a manner as to avoid potential harm to persons or property that may result from hazardous materials that may have been deposited on portions of the Burdened Property.

## ARTICLE I GENERAL PROVISIONS

1.1 Provisions to Run with the Land. This Covenant sets forth protective provisions, covenants, conditions and restrictions (collectively referred to as "Restrictions") upon and subject to which the Burdened Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. The restrictions set forth in Article III are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence on the land of hazardous materials. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors in interest thereof, for the benefit of the Board and all Owners and Occupants. Each and all of the Restrictions are imposed upon the entire Burdened Property unless expressly stated as applicable to a specific portion of the Burdened Property. Each and all of the Restrictions run with the land pursuant to section 1471 of the Civil Code. Each and all of the Restrictions are enforceable by the Board.

1.2 Concurrence of Owners and Lessees Presumed. All purchasers, lessees, or possessors of any portion of the Burdened Property shall be deemed by their purchase, leasing, or possession of such Burdened Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such



themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions as herein established must be adhered to for the benefit of the Board and the Owners and Occupants of the Burdened Property and that the interest of the Owners and Occupants of the Burdened Property shall be subject to the Restrictions contained herein.

1.3 Incorporation into Deeds and Leases. Covenantor desires and covenants that the Restrictions set out herein shall be incorporated by reference in each and all deeds and leases of any portion of the Burdened Property. The requirements of this Section 1.3 may be satisfied by either (a) reciting in such deed or lease, or alternately by reciting in any written notice to be prepared pursuant to California Health & Safety Code Section 25359.7, the title of this instrument and the recording information concerning its recordation in the official records of the County of Los Angeles or (b) attaching a copy of this instrument to such deed or lease. Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant and Agreement has been attached to or incorporated into any given deed or lease.

1.4 Purpose. It is the purpose of this instrument to convey to the Board real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to residual hazardous materials.

## ARTICLE II DEFINITIONS

2.1 Board. "Board" shall mean the California Regional Water Quality Control Board for the Los Angeles Region and shall include its successor agencies, if any.

2.2 Existing Contamination. "Existing Contamination" shall have the definition set forth in Section 1.6 of the PPA.

2.3 Improvements. "Improvements" shall mean all buildings, roads, driveways, regradings, and paved parking areas, constructed or placed upon any portion of the Burdened Property.

2.4 Occupants. "Occupants" shall mean Owners and those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to use and/or occupy all or any portion of the Burdened Property.

2.5 Owner or Owners. "Owner" or "Owners" shall mean the Covenantor and/or its successors in interest, who hold title to all or any portion of the Burdened Property.

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ARTICLE III  
DEVELOPMENT, USE AND CONVEYANCE OF THE BURDENED PROPERTY

3.1 Restrictions on Development and Use. Covenantor promises to restrict the use of the Burdened Property as follows:

a. Development and use of the Burdened Property shall be restricted to industrial, commercial and/or office space, including, but not limited to, manufacturing, processing or distributing of products and vehicle maintenance activities, in accordance with the zoning requirements set by the City of Los Angeles.

b. No residence for human habitation shall be permitted on the Burdened Property.

c. No hospitals shall be permitted on the Burdened Property.

d. No schools for persons under 21 years of age shall be permitted on the Burdened Property.

e. No day care centers for children or day care centers for Senior Citizens shall be permitted on the Burdened Property.

f. Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed by Covenantor or his agent in accordance with all applicable provisions of local, state and federal law and a site-specific health and safety plan.

g. All uses and development of the Burdened Property shall be consistent with any applicable Board order, which is hereby incorporated by reference including future amendments thereto. All uses and development shall preserve the integrity of any remedial measures taken or remedial equipment installed, and any groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the Board, unless otherwise expressly permitted in writing by the Board.

h. No Owners or Occupants of the Property or any portion thereof shall drill, bore, otherwise construct, or use a well for the purpose of extracting water for any use, including, but not limited to, domestic, potable, or industrial uses, unless expressly permitted in writing by the Board.

i. The Covenantor agrees that the Board, and/or any persons acting pursuant to Board orders, shall have reasonable access to the Burdened Property for the purposes of inspection, surveillance, maintenance, or monitoring, as provided for in Division 7 of the Water Code.

j. No Owner or Occupant of the Burdened Property shall act in any manner that will aggravate or contribute to the Existing Contamination.



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3.2 Enforcement. Failure of an Owner or Occupant to comply with any of the restrictions, as set forth in paragraph 3.1, shall be grounds for the Board, by reason of this Covenant, to have the authority to require that Owner or Occupant undertake actions to comply therewith. Violation of the Covenant shall be grounds for the Board to file civil actions against the Owner as provided by law.

3.3 Notice in Agreements. After the date of recordation hereof, all Owners and Occupants shall execute a written instrument which shall accompany all purchase agreements or leases relating to the property. Any such instrument shall contain the following statement in the following form:

The land described herein contains hazardous materials in soils and in the ground water under the property, and is subject to a deed restriction dated as of \_\_\_\_\_, 200\_, and recorded on \_\_\_\_\_, 200\_, in the Official Records of Los Angeles County, California, as Document No. \_\_\_\_\_, which Covenant and Restriction imposes certain covenants, conditions, and restrictions on usage of the property described herein. This statement is not a declaration that a hazard exists.

#### ARTICLE IV VARIANCE AND TERMINATION

4.1 Variance. Any Owner or, with the Owner's consent, any Occupant of the Burdened Property or any portion thereof may apply to the Board for a written variance from the provisions of this Covenant.

4.2 Termination. Any Owner or, with the Owner's consent, any Occupant of the Burdened Property or a portion thereof may apply to the Board for a termination of the Restrictions as they apply to all or any portion of the Burdened Property.

4.3 Term. Unless terminated in accordance with paragraph 4.2 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.

#### ARTICLE V MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Burdened Property or any portion thereof to the general public.

5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective (1) when delivered, if personally delivered to



the person being served or official of a government agency being served, or (2) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested:

*If To: "Covenantor"*

Precision Specialty Metals, Inc.  
3301 Medford Street  
Los Angeles, CA 90063  
Attention: Tony Gallegos  
(323) 475-3200 - Office  
(323) 475-3298 - Fax

*With a copy to:*

Jon L. Benjamin, Esq.  
Farella Braun + Martel, LLP  
235 Montgomery Street  
San Francisco, CA 94104  
(415) 954-4971 - Office  
(415) 954-4480 - Fax

*If To: "Board"*

Regional Water Quality Control Board  
Los Angeles Region  
Attention: Executive Officer  
320 W. 4th Street, Suite 200  
Los Angeles, CA 90013  
(213) 576-6605 - Office  
(213) 576-6625 - Fax

*With a copy to:*

Michael A.M. Lauffer, Esq.  
Office of Chief Counsel  
State Water Resources Control Board  
1001 I Street, 22<sup>nd</sup> Floor  
Sacramento, CA 95814  
(916) 341-5183 - Office  
(916) 341-5199 - Fax

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.4 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.




5.5 Recordation. This instrument shall be executed by the Covenantor and by the Executive Officer of the Board. This instrument shall be recorded by the Covenantor in the County of Los Angeles within ten (10) days of the date of execution.

5.6 References. All references to Code sections include successor provisions.

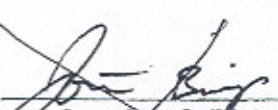
5.7 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to effect the purpose of this instrument and the policy and purpose of the Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

5.8 Effect on Mortgage. Neither breach of any of the terms or conditions of this Covenant, nor enforcement action taken by the Board or any other governmental agency concerning such breach, shall defeat or render invalid or affect in any manner whatsoever the status or priority of the lien of any mortgage or deed of trust made for value and encumbering the Burdened Property, or encumbering any leasehold estate or any Improvements on such area; provided, however, that the foregoing clause shall not relieve any lender or holder of a security interest of its obligation to comply with this Covenant if such lender or holder comes into possession of any portion of the Burdened Property, as provided under Section 1471 of the Cal. Civil Code and other applicable laws.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.  
Covenantor: Precision Specialty Metals, Inc.

By:   
Name: Paul Kowal  
Title: Asst Secretary + Controller  
Date: 5/12/2005

Agency: State of California  
Regional Water Quality Board,  
Los Angeles Region

By:   
Name: Jonathan S. Bishop  
Title: Executive Officer  
Date: 12/28/04

EXECUTED IN COUNTERPART



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**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Los Angeles } ss.

On 5-12-05 before me, S. Finestone  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Paul Kowal  
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/hers/their authorized capacity(ies), and that by his/hers/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

[Signature]  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: Covenant of Environment Restriction on Property

Document Date: \_\_\_\_\_ Number of Pages: 7

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

- Signer's Name: \_\_\_\_\_
- Individual
  - Corporate Officer — Title(s): \_\_\_\_\_
  - Partner —  Limited  General
  - Attorney in Fact
  - Trustee
  - Guardian or Conservator
  - Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_





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5.5 Recordation. This instrument shall be executed by the Covenantor and by the Executive Officer of the Board. This instrument shall be recorded by the Covenantor in the County of Los Angeles within ten (10) days of the date of execution.

5.6 References. All references to Code sections include successor provisions.

5.7 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to effect the purpose of this instrument and the policy and purpose of the Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

5.8 Effect on Mortgage. Neither breach of any of the terms or conditions of this Covenant, nor enforcement action taken by the Board or any other governmental agency concerning such breach, shall defeat or render invalid or affect in any manner whatsoever the status or priority of the lien of any mortgage or deed of trust made for value and encumbering the Burdened Property, or encumbering any leasehold estate or any Improvements on such area; provided, however, that the foregoing clause shall not relieve any lender or holder of a security interest of its obligation to comply with this Covenant if such lender or holder comes into possession of any portion of the Burdened Property, as provided under Section 1471 of the Cal. Civil Code and other applicable laws.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.  
Covenantor: Precision Specialty Metals, Inc.

By: [Signature]  
Name: PAUL KOWAL  
Title: Asst. Secretary / Controller  
Date: 3/16/2005

Agency: State of California  
Regional Water Quality Board,  
Los Angeles Region

By: [Signature] David A. Bacharowski AEO for JB  
Name: Jonathan S. Bishop David A. Bacharowski  
Title: Executive Officer Assistant Executive Officer  
Date: 12/26/04 5/4/05

EXECUTED IN COUNTERPART



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**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California  
County of LOS ANGELES } ss.

On May 4, 2005, before me, Selby C Jessup, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared David Bacarouse DAVID BACAROUSE  
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Selby C Jessup  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: COVENANT AND ENVIRONMENTAL RESTRICTIONS ON PROPERTY

Document Date: DECEMBER, 2004 Number of Pages: 35

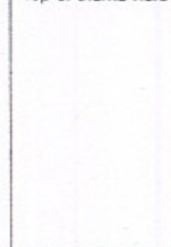
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

- Signer's Name: \_\_\_\_\_
- Individual
  - Corporate Officer — Title(s): \_\_\_\_\_
  - Partner —  Limited  General
  - Attorney in Fact
  - Trustee
  - Guardian or Conservator
  - Other: ASSISTANT EXECUTIVE OFFICER - Regional Water Quality Board

Signer Is Representing: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**  
Top of thumb here



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#12

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

PARCEL 1

LOTS 35 TO 39 INCLUSIVE IN BLOCK "B", TRACT 6333, PARTLY WITHIN AND PARTLY WITHOUT THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 71, PAGES 11 TO 14 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY

PARCEL 2

LOT 1 OF TRACT 8093, PARTLY WITHIN AND PARTLY WITHOUT THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 100, PAGES 28 AND 29, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY

PARCEL 3

LOT 25 IN BLOCK "A" TRACT 6333, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 71, PAGES 11 TO 14, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY

PARCEL 4

LOTS 32, 33 AND 34 IN BLOCK "B" OF TRACT 6333, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 71, PAGES 11 TO 14, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY

ALSO THAT PORTION OF LOT 31 OF SAID TRACT LYING NORTHERLY OF A STRAIGHT LINE EXTENDING FROM A POINT IN THE WEST LINE OF SAID LOT DISTANT NORTHERLY 216 30 FEET FROM THE SOUTHWEST CORNER EASTERLY TO A POINT IN THE EAST LINE OF SAID LOT DISTANT NORTHERLY 196 16 FEET FROM THE SOUTHEAST CORNER OF SAID LOT 31



EXHIBIT B

PROSPECTIVE PURCHASER AGREEMENT  
[RWQCB SLIC FILE NO. 0881]



RECORDING REQUESTED BY:  
Precision Specialty Metals, Inc.

AND,

WHEN RECORDED MAIL TO:  
California Regional Water Quality Control Board,  
Los Angeles Region  
Attention: Executive Officer  
320 W. 4th Street, Suite 200  
Los Angeles, CA 90013

PROSPECTIVE PURCHASER AGREEMENT  
[RWQCB SLIC FILE NO. 0881]

This Prospective Purchaser Agreement ("PPA") is made and entered into by and between the California Regional Water Quality Control Board, Los Angeles Region ("RWQCB"), and Precision Specialty Metals, Inc. (formerly known as PSM Acquisition Co.), a Delaware corporation (hereinafter referred to as "New PSM"), with respect to the following facts:

RECITALS

A. **Property.** This PPA applies to several parcels that total approximately 13 acres located at 3301 Medford Street in the City of Los Angeles (the "City"), County of Los Angeles, State of California, and more particularly described in Section 1.9 and Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"). The Property is situated in an industrial and commercial area, and is bounded on the North and West by Union Pacific Railroad rights-of-way, on the South by Medford Street, and on the East by a vacant lot followed by a drum recycling operation further to the east.

*See Exhibit A, B, C, D, E, F Attached*

B. **Jurisdiction.** The RWQCB enters into this PPA pursuant to Water Code sections 13000 *et. seq.* (the "Porter-Cologne Water Quality Act"). The RWQCB has authority to enter into agreements whereby the RWQCB covenants not to sue, or to assert claims against, prospective purchasers, tenants, or lenders in enforcement actions or other administrative actions for environmental remediation of environmentally impacted properties, if such agreements are sufficiently in the public interest.

C. **Property Ownership.** On July 16, 2001, the former owner of the Property and operator of a stainless steel processing business ("Old PSM") filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The ensuing bankruptcy case was pending in the United States Bankruptcy Court for the District of Delaware under Case Number 01-2411(RRM). Brady Investment Company Inc., a California corporation ("BIC"), a company independent of and not affiliated with Old PSM, acquired the Property of Old PSM, following a hearing and approval of the Bankruptcy Court on May 29, 2002. PSM Acquisition Co. acquired the operating assets of Old PSM effective June 1, 2002. On June 17, 2002, PSM Acquisition Co. changed its name to Precision Specialty Metals, Inc. New PSM currently occupies the Property pursuant to an exclusive license from BIC. New PSM has no obligation, but does have the right, in its sole discretion, to purchase the Property from BIC on the terms and conditions set forth in an option agreement between BIC and New PSM.



BIC had formerly owned the Property and operated a steel processing business from approximately 1983 until 1989, when Old PSM bought the Property and business from BIC. Between approximately 1964 and 1983, the Property was owned by Affiliated Metal Products and its successor-in-interest, Plessey Incorporated. Between approximately 1933 and 1964, all or portions of the Property were reportedly owned by several parties, including, but not limited to, Los Angeles Valve & Fittings Co., Security-First National Bank of Los Angeles, Western Industrial Engineering Co., Ralston Purina Co., Naco Fertilizer Co., Mid-Town Investment Corp., George Morton, Drayer-Hanson, Inc., National-U.S. Radiator Corporation, W.R. Grace & Co., The Synkoloid Company, Harry Schneider and George Jaffin, Crane Co., and Hi-Press Air Conditioning of America, Inc. A table summarizing the ownership history of various portions of the Property had been prepared on behalf of Old PSM and submitted previously to RWQCB staff. See Exhibit E. BIC desires to sell the Property to New PSM, which intends to continue steel processing operations at the Property.

D. **History Of Past Operations.** The Property has been used for various industrial purposes for many years. Cold rolling of stainless steel and other products has occurred by various operators since approximately 1964. Past operators have included Affiliated Metal Products/Plessey (1964 to 1983), BIC (1983 to 1989), and Old PSM (1989 to 2002). As noted above, between approximately 1933 and 1964, the Property was used for various other industrial purposes, including, but not limited to, fertilizer manufacturing (Naco Fertilizer), paint manufacturing (Synkoloid Paint Company), and steel products manufacturing (Drayer Hanson).

As described further in Section 2.3 below, contamination consisting of trichloroethene ("TCE") and tetrachloroethene ("PCE") was detected by Old PSM in soils and groundwater at and emanating from the Property. This information was reported previously by Old PSM to the RWQCB. Old PSM conducted initial soil and groundwater monitoring at the Property. As a follow-up to that work, Old PSM's technical consultant prepared and the RWQCB approved a Phase II work plan to perform a supplemental investigation to further define the nature and extent of the TCE and PCE contamination at the Property. However, the implementation of this work was delayed due to the bankruptcy of Old PSM, the purchase of certain assets from Old PSM and commencement of operations by New PSM, New PSM's application for a PPA, and the RWQCB's preparation of a Cleanup and Abatement Order for the Property.

Although its operations do not involve the use of PCE or TCE, New PSM could nonetheless face potential liability for the existing PCE and TCE contamination, along with other Existing Contamination, at the Property if it was to purchase the Property. Consequently, prior to deciding to commit significant resources to acquire and improve the PSM facility, New PSM sought assurances from the RWQCB's staff and legal counsel that it would not be required to clean up such contamination beyond the extent of a significant financial commitment that it would be prepared to make pursuant to this PPA to address the Existing Contamination at the Property. RWQCB staff and legal counsel informed New PSM that such assurances could only be provided to New PSM by the RWQCB members (i) in the form of a prospective purchaser agreement and (ii) after acting during a duly noticed RWQCB meeting. Although insufficient time was available for the Parties to complete negotiations and finalize a PPA prior to the Bankruptcy Court-approved sale of Old PSM and the Property, the RWQCB's staff and legal counsel verbally committed to New PSM that they would work in good faith with New PSM to negotiate and to recommend to the RWQCB members the issuance of a PPA. Without this commitment, BIC and New PSM advised RWQCB staff that they would not have completed the acquisition, and the facility would have likely been closed and abandoned, resulting in the certain losses of many jobs and the facility's contribution to the local tax base. In addition, the RWQCB would have lost a major opportunity to have someone other than the State commit--without having to engage in costly and protracted enforcement or cost recovery litigation--to undertake a significant portion of work to clean up the Existing Contamination



at the Property.

**E. No Admission Of Liability.** The Parties agree that their respective entry into this PPA, and any actions undertaken by New PSM pursuant to this PPA, do not constitute an admission of any liability by New PSM and its officers, directors, investors, employees, contractors, agents, attorneys, consultants, receivers, trustees, lenders, successors and assigns. New PSM represents and warrants that neither it nor its officers, directors, investors, and employees caused the Existing Contamination (as hereinafter defined) as a result of the operation of the Property by New PSM as of June 1, 2002 (i.e., the time when New PSM acquired certain assets of Old PSM and commenced operations).

**F. Cleanup and Abatement Orders.** In conjunction with the approval of this PPA, the RWQCB has issued a Cleanup and Abatement Order ("CAO") to New PSM (CAO Order No. R4-2003-0093) requiring, among other things, implementation of the tasks set forth in the Phase II Site Investigation Work Plan prepared by New PSM's consultant, TRC Environmental Solutions, Inc. ("TRC") (Phase II Work Plan) (as hereinafter defined). The RWQCB reserves its right to issue other CAOs to other former owners and/or operators of the Property, including, but not limited to, BIC with respect to its period of ownership of the facility, and supplementary CAOs to the Parties, so long as not inconsistent with this PPA.

**G. Acceptability of Environmental Documents.** The Phase II Work Plan has been approved by the RWQCB staff. Additional work, including conducting an additional soil and groundwater investigation and/or remediation and an investigation to identify other potentially responsible parties, would follow under the direction of RWQCB staff which would be implemented and funded by New PSM in a phased approach based on the results of the Phase II supplemental work.

**H. Purpose.** The Parties agree to undertake all actions required of such Parties by the terms and conditions of this PPA. The purpose of this PPA is to settle and resolve, subject to the reservations and limitations contained in Article IV - RWQCB Covenant, the potential liability of the Prospective Purchasers (as hereinafter defined) for Existing Contamination.

**I. Liability and Risk.** The RWQCB has determined that, with the exercise of due care, New PSM's Intended Use as defined in Section 1.12 will (i) prevent any increased risk to the waters of the State of California which may result from the Existing Contamination, (ii) not aggravate, exacerbate or contribute to the Existing Contamination, and (iii) not interfere with any future response actions directed toward the assessment and cleanup of the Property.

**J. Financial Resources.** As described further in Section 5.2 below, in consideration of the RWQCB Covenant contained in Section 4.1 of this PPA, New PSM agrees to contribute up to one million dollars (\$1,000,000) to perform the tasks required pursuant to the CAO to address the Existing Contamination at the Property in accordance with this PPA.

**K. Benefits.** The resolution of any potential liabilities, in exchange for carrying out the activities contemplated by the CAO with respect to the Existing Contamination by New PSM or other responsible parties, confers on the RWQCB a substantial benefit which is fair, reasonable and in the public interest. The RWQCB has also determined that this PPA will result in a substantial public benefit because activities by New PSM pursuant to this PPA and otherwise will result in the following benefits:

- a) Provide jobs for at least seventy-seven (77) people as a result of the continued operation of the Property by New PSM, and hopefully even more jobs as the business returns to profitable operation and grows.



- b) Maintain and likely increase the tax revenues of the City and County of Los Angeles and the State of California as a result of the continued operation of the steel processing business at the Property by New PSM.
- c) Maintain productive use of the land as a result of the continued operation of the steel processing business at the Property by New PSM, while simultaneously making significant and substantial efforts to investigate and then clean up the Existing Contamination at the Property.
- d) Minimize the need for police, fire, water, health, and safety officials to monitor the Property had the Property otherwise been closed and abandoned as a result of the Old PSM bankruptcy.
- e) Eliminate blight and opportunities for misuse of the Property by trespassers and other unauthorized users had the Property otherwise been closed and abandoned as a result of the Old PSM bankruptcy.
- f) Provide the RWQCB with a major opportunity to have someone other than the State commit--without having to engage in costly and protracted enforcement or cost recovery litigation--to undertake a significant and substantial portion of work to investigate and clean up the Existing Contamination at the Property.

## ARTICLE I

### DEFINITIONS

- 1.1 **RWQCB.** "RWQCB" means the California Regional Water Quality Control Board, Los Angeles Region, and includes its successor agencies, if any.
- 1.2 **Improvements.** "Improvements" means all buildings, roads, driveways, landscaping, and paved parking areas, constructed or placed upon any portion of the Property but does not include any building interior improvements.
- 1.3 **Occupant.** "Occupant" means the owners or holders of a leasehold interest in, or license to use, all or any portion of land comprising the Property, which is received from the Owner and entitles the interest holder to the exclusive right to occupy all or any portion of the Property.
- 1.4 **Owner.** "Owner" means New PSM, its successors in interest, including heirs and assigns, who hold fee title to all or any portion of the Property to the extent that New PSM acquires all or a portion of the Property.
- 1.5 **Lender.** "Lender" means any person or entity providing a loan or other financing to any Occupant or Owner, which loan or other financing is secured by such Occupant or Owner's interest in the Property; provided, however, that from and after the date, if any, that person or entity acquires a possessory interest in the Property, such person or entity thereafter shall be treated as an Occupant or Owner hereunder, as the case may be.
- 1.6 **Existing Contamination.** "Existing Contamination" means any contamination or pollution caused by any hazardous substances, pollutants, contaminants, or solid wastes present, including emergent compounds that were not historically investigated, originating from, or existing at, on or under (including within the groundwater beneath the Property and within groundwater downgradient of the



Property) the Property as of June 1, 2002, as described in the Phase II Work Plan and in the reports prepared by other parties and filed with the RWQCB, identified in Exhibit "D" attached hereto and incorporated herein by this reference.

1.7 **Prospective Purchaser.** "Prospective Purchaser" or "Prospective Purchasers" means New PSM and its investors, members, directors, officers, shareholders, partners, affiliates, Lender, employees, agents, successors and assigns, and any subsequent Owner, purchaser, Lender, and any Occupant of the Property, as well as their respective investors, members, directors, officers, shareholders, partners, affiliates, employees, agents, successors and assigns. "Prospective Purchaser" specifically excludes BIC and its successors and assigns (other than New PSM), and specifically excludes any entity that has previously owned or operated at the Property prior to June 1, 2002. Nothing in this definition shall be construed to limit the liability a person or entity may have, if any, as a result of an investment in or management of a person or entity that owned or operated at the Property prior to June 1, 2002.

1.8 **Property.** "Property" means the real property located in the City of Los Angeles, County of Los Angeles, State of California, as more particularly described on Exhibit "A" attached hereto and fully incorporated herein by this reference, but shall not include any buildings now existing or to be constructed on the Property.

1.9 **Effective Date.** "Effective Date" means the date upon which this PPA is fully executed by the Parties and approved by the RWQCB.

1.10 **Phase II Work Plan.** "Phase II Work Plan" means that document prepared by TRC, dated October, 2001.

1.11 **Land Use Restrictions.** "Land Use Restrictions" means recorded instruments restricting the uses at the Property, including, but not limited to, recorded easements, covenants, restrictions or servitudes, or any combination thereof, prohibiting future Owners and Occupants from one or more of the following activities: (i) engaging in drilling activities on the Property for the purpose of constructing water supply wells; (ii) interfering with or exacerbating Existing Contamination at, on, beneath, adjacent or down gradient of the Property; and (iii) utilizing or developing the Property for any purpose other than the Intended Use as defined in Section 1.12.

1.12 **Intended Use.** "Intended Use" means use of the Property for purposes of manufacturing, processing or distributing products, in accordance with the zoning requirements set by the City of Los Angeles.

## ARTICLE II

### FINDINGS OF FACT

The RWQCB hereby finds:

2.1 The Property has been used for various industrial purposes for many years. Cold rolling of stainless steel and related products has occurred at the Property by various operators since approximately 1964. Between approximately 1933 and 1964, the Property was used for various other industrial purposes, including, but not limited to, fertilizer manufacturing, paint manufacturing, and steel products manufacturing.

2.2 Several environmental assessments have been completed at the Property from approximately 1983 to 2002. These studies indicate that various types of chemicals were used at the facility, including



various oils (lubricating, hydraulic, machine, gear oils) used in machinery, acids (sulfuric, nitric, hydrofluoric) and caustics (sodium hydroxide, including Koliqoid No. 1 containing sodium nitrite and sodium hydroxide used in annealing lines and wastewater treatment process), sulfuric acid, sodium bisulfite, calcium chloride and ferrous chloride used in the wastewater treatment system, potassium hydroxide used to maintain cooling towers, methyl ethyl ketone used in an ink dot matrix line marking machine, TURCO solvent (which reportedly contained TCE) used for wipe-cleaning of equipment, and small quantities of argon, oxygen and acetylene used for welding. Prior to purchasing certain assets from Old PSM and commencing operations, New PSM took steps to confirm, in consultation with RWQCB staff, that its subsequent operations at the Property would not involve the use or handling of PCE and TCE. See Statement of Rose A. Coughlin of LFR Levine-Fricke (Exhibit F).

2.3 Soil and groundwater investigations performed by TRC on behalf of Old PSM at the Property prior to 2001 were described in the Site Investigation Workplan. Soil types encountered beneath the Property consist predominantly of clay, silt, and silt laminae with fine sand lenses to the maximum explored depth of 41.5 feet below ground surface. Perched groundwater is encountered at the Property at approximately 15 to 20 feet below ground surface, and appears to flow toward the south/southwest. Results of a June 2001 site investigation at the Property by TRC, which included the installation of six groundwater monitoring wells at and around the Property, indicate that contamination consisting principally of PCE and TCE had been detected in soil and groundwater at the Property. Concentrations of TCE, PCE, 1,1-dichloroethane ("1,1-DCA") and 1,1-dichloroethene ("1,1-DCE") were measured in certain soil samples at concentrations up to 700 micrograms per kilogram (" $\mu\text{g}/\text{kg}$ "), 580  $\mu\text{g}/\text{kg}$ , 301  $\mu\text{g}/\text{kg}$  and 401  $\mu\text{g}/\text{kg}$ , respectively. Total Petroleum Hydrocarbons ("TPH") were detected in one soil sample at a concentration of 170 milligrams per kilogram (mg/kg). TCE, PCE, chloroform and 1,1-DCE were detected in certain groundwater samples at concentrations up to 31,000 micrograms per liter (" $\mu\text{g}/\text{l}$ "), 870  $\mu\text{g}/\text{l}$ , 2.1  $\mu\text{g}/\text{l}$ , and 280  $\mu\text{g}/\text{l}$ , respectively. Ethylbenzene, toluene and xylenes were detected at concentrations of 0.59  $\mu\text{g}/\text{l}$ , 1.1  $\mu\text{g}/\text{l}$  and 1.4  $\mu\text{g}/\text{l}$ , respectively from a groundwater sample collected from one soil boring located on the Property.

2.4 Soil sampling conducted by TRC in May 2002 in conjunction with the closure of a former wastewater treatment unit at the Property indicated that Chrome VI was detected in only one of fifteen soil samples at a concentration of 1.4 milligrams per kilogram (" $\text{mg}/\text{kg}$ "), which is below the U.S. EPA Preliminary Remediation Goal ("PRG") of 64 mg/kg. Additional soil sampling conducted by TRC in May 2002 in connection with an assessment of a potential release of Kolene at the Property, revealed that only one out of the five soils samples collected exceeded the PRG for lead. Based on this sampling, TRC concluded that the presence of lead at this one discrete location was most likely attributable to an adjacent railroad spur or other ambient sources not associated with operations at the Property. TRC has requested that the County of Los Angeles Fire Department close these matters without further action.

2.5 Environmental assessments for sites in the vicinity of the Property indicate that volatile organic compounds ("VOCs"), including PCE and TCE, have been detected in perched groundwater both upgradient and downgradient of the Property. PCE and TCE have been detected in groundwater at the former Chevron Oronite Additives (Chevron) facility, located south of the Property, and may be the result of sources on and/or upgradient of that site.

2.6 New PSM's technical consultant, TRC, has prepared and the RWQCB has approved a Phase II Work Plan to perform a supplemental investigation to further define the nature and extent of the TCE and PCE contamination at the Property. The supplemental investigation will include performance of soil gas surveys in three possible source areas of the Property, installation of four additional groundwater monitoring wells, drilling and sampling twelve additional soil borings, and further groundwater sampling and testing. Additional investigation and/or remedial work, which would follow under the direction of



RWQCB staff, would be implemented and funded by New PSM in a phased approach based on the results of the Phase II supplemental work.

2.7 New PSM represents and warrants that it did not contribute to the placement and/or release of Existing Contamination on, beneath, or adjacent to the Property, and has not been an owner of the Property during such release; and that the interest of New PSM in the Property is to acquire the Property, and continue operations at the Property in a manner consistent with the Intended Use. New PSM agrees to implement the directives of the CAO in order to allow full economic use of the Property for the Intended Use, and to enable New PSM to acquire the Property.

2.8 At New PSM's request, the RWQCB intends to settle and resolve any potential liability of New PSM related to the Existing Contamination.

2.9 New PSM desires a commitment, to the maximum extent permitted by law, that the Prospective Purchasers will not be subject to liability for, or be the subject of any claims, orders, demands, enforcement actions, or other civil or administrative proceedings, including, without limitation, any investigation, monitoring or remediation requirements, related to or arising from, the Existing Contamination.

2.10 The RWQCB has authority to enter into agreements that provide covenants not to sue or to assert claims for environmental remediation against the purchaser of contaminated properties, if such agreements are sufficiently in the public's interest. This PPA is consistent with the State Water Resources Control Board Executive Director's memorandum dated July 9, 1996, regarding prospective purchaser agreements, and is based on the findings by the RWQCB's staff outlined above.

2.11 A prospective purchaser agreement has the consequence of absolving the purchaser from liability for existing contamination, potentially shifting the burden for remediation from a specific private entity that has been an operator at a site since June 1, 2002 to the public or other private entities. Accordingly, the criteria used to evaluate the efficacy of this PPA were evaluated carefully to assure that the risks to the public are minimized and that the public benefits outweigh those risks. This PPA does not shift the burden for remediation to a public entity, as all existing responsible parties (including without limitation their partners, members, directors, shareholders, and investors) maintain liability at the Property. The PPA with New PSM is expected to result in a public benefit, including but not limited to, restoration of contaminated land, provision of at least seventy-seven (77) jobs, and hopefully even more jobs as the business returns to profitable operation and grows, and maintaining of and likely increasing tax revenues for the City and County of Los Angeles and the State of California as a result of the continued operation of the Property by New PSM.

2.12 New PSM has agreed to voluntarily accept, implement, and fund to the extent of its financial contribution as set forth in Section 5.2 below, the directives set forth in the CAO.

2.13 RWQCB has determined that this PPA is fair, reasonable and in the public interest, and is further consistent with the goals and purposes of the Porter-Cologne Water Quality Act and the federal Clean Water Act, in view of the fact that New PSM has agreed to implement and fund (to the extent of its financial contribution as set forth in Section 5.2 below) the directives in the CAO regarding the Existing Contamination at the Property.

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ARTICLE III

RESTRICTIONS ON INTENDED USE, CONVEYANCE OF THE PROPERTY, ENFORCEMENT AND COOPERATION

3.1 Restrictions on Intended Use. The use of the Property shall be restricted as follows:

3.1.1 Concurrent with the Intended Use of the Property by New PSM, New PSM shall implement, and fund to the extent of its financial contribution as set forth in Section 5.2 below, the directives set forth in the CAO and, in connection therewith, will exercise due care concerning the Existing Contamination. The RWQCB shall in good faith cooperate with New PSM in the implementation of the CAO, and, as applicable, shall certify completion of the requirements of the CAO upon reasonable satisfaction of all the requirements and conditions thereof by New PSM.

3.1.2 Concurrent with the sale and conveyance of the Property by BIC to New PSM, New PSM shall file for recording in the official records of the County of Los Angeles, State of California, a deed restriction setting forth and imposing the Land Use Restrictions, as defined in Section 1.11, against any Owner and/or Occupant of the Property. All future Owners and Occupants (including New PSM) shall exercise due care at the Property with respect to Existing Contamination and shall comply with all applicable local, state and federal laws and regulations, and shall cooperate in the implementation of the CAO. The RWQCB shall not unreasonably require Land Use Restrictions that limit future Owners and Occupants (including New PSM) from maintaining and developing the Property in a manner consistent with the Intended Use identified in this PPA.

3.2 Conveyance or Transfer of Property. Notwithstanding any other provisions of this PPA, all of the rights and benefits conferred upon New PSM under this PPA may be assigned or transferred to any eligible person pursuant to Section 3.2.1. In the event of an assignment or transfer of the Property or an assignment or transfer of an interest in the Property, the successor or assign of New PSM shall continue to be bound by all the terms and conditions, and entitled to all of the benefits, of this PPA.

3.2.1 Prior to or simultaneous with any assignment or transfer of the Property, the assignee or transferee shall as a precondition to receiving the benefit of the covenant not to sue, execute the Notice in the form attached hereto as Exhibit "B", which shall accompany each purchase or other transfer relating to the Property. No assignee or transferee who is a liable or responsible party with respect to Existing Contamination under Health and Safety Code section 25300 *et seq.* or the Porter-Cologne Water Quality Act, or who is excluded from being a Prospective Purchaser, shall be eligible to receive the rights or benefits conferred by the RWQCB covenant set forth in Article IV. The RWQCB shall not, by reason of this PPA, have authority to approve, disapprove, or otherwise affect any sale, lease or other conveyance of the Property except as otherwise provided by law or as expressly provided by this PPA.

3.3 Enforcement. Enforcement shall be as follows:

3.3.1 Failure of any Owner or Occupant to comply with any of the requirements set forth in Section 3.1.2 above, shall be grounds for RWQCB, by reason of this PPA, to order the Owner or Occupant to discontinue any use of the Property in violation of Section 3.1.2. Failure to observe the restrictions set forth in Section 3.1 shall be grounds for the RWQCB to order the Owner or Occupant to discontinue any use of the Property and to pursue any remedy provided by law to enforce the provisions of Section 3.1. Any Owner or Occupant that fails to comply with the



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terms of this PPA shall be liable for all reasonable enforcement costs, including, but not limited to, reasonable litigation costs incurred by the RWQCB to enforce the provisions of this PPA.

3.3.2 No Owner or Occupant (or their successors or predecessors in interest) shall have any obligation to enforce or to police the observance of the restrictions set forth herein by other Owners or Occupants of the Property or any portion thereof. This PPA shall not create any private right of action on behalf of any third parties against any Party to this PPA, or any Owner or Occupant, of the Property or any portion thereof. The Parties do not intend to waive any rights to enforce the terms of this PPA.

3.3.3 Within thirty (30) days after receipt of a written request from any actual or prospective Owner or Occupant of the Property or any portion thereof, the RWQCB shall provide to such Owner or Occupant (and such additional designee, if any, as such Owner or Occupant must designate in writing) a written statement, substantially in the form attached hereto as Exhibit "C", indicating whether to the RWQCB's knowledge such Owner or Occupant is operating in compliance with the provisions of this covenant. The RWQCB shall not unreasonably delay responding to such a request.

3.4 **Cooperation.** The RWQCB agrees, consistent with its responsibilities under applicable law, to use reasonable efforts to minimize any interference with New PSM's Intended Use of the Property, and that if any entry on the Property and response actions are necessary to address contamination other than Existing Contamination, the RWQCB will not unreasonably interfere with New PSM's activities.

#### ARTICLE IV

#### RWQCB COVENANT

4.1 **RWQCB Covenant.** Subject to the unconditional acceptance of the CAO by New PSM and the payment or contribution of funds contemplated in Section 5.2, the RWQCB hereby agrees to release the Prospective Purchasers from any and all liability associated with the Existing Contamination, and irrevocably and unconditionally covenants not to sue or name any Prospective Purchaser in any enforcement action, or to take any civil, judicial or administrative action, or to pursue any claim, enter any order or make any demand against the Prospective Purchasers for claims the RWQCB may assert pursuant to Section 107 of CERCLA (42 U.S.C. § 9607), California Health and Safety Code Chapter 6.8 (Section 25301 *et seq.*), pursuant to California Water Code Section 13304, pursuant to any California Code of Regulations applicable to the RWQCB's authority, or pursuant to any other applicable laws, regulations or civil, or administrative authorities, with respect to the Existing Contamination (the "RWQCB Covenant"). The RWQCB Covenant shall "run with the land", shall inure to the benefit of, and pass with each and every portion of the Property and shall apply to and benefit the Prospective Purchasers. The reliance and benefit of the Prospective Purchasers upon and benefit from this RWQCB Covenant is expressly subject to and conditioned upon each such party's own, and only its own, material compliance with its obligations (including satisfying the definition of "Prospective Purchaser"), if any, under this PPA as an Owner or Occupant. That is, each party shall be responsible only for its own material compliance with its obligations, if any, under this PPA as an Owner or Occupant. However, no Prospective Purchaser shall benefit from this RWQCB Covenant unless New PSM or its successors or assigns have made the payments or contributions contemplated in Section 5.2 in accordance with the schedule set forth therein.

4.1.1 The RWQCB further covenants not to sue or take any civil, judicial or administrative action, to pursue any claim, enter any order or make any demand against any Prospective



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Purchaser for claims of damages for injury to, destruction of, or loss of natural resources, and for the cost of any natural resource damages assessment.

4.2 Reservation of Rights By RWQCB. Notwithstanding the RWQCB Covenant, the RWQCB reserves, and this PPA is without prejudice to, the RWQCB's right to assert any claims, or initiate and pursue enforcement actions or other civil or administrative proceedings against New PSM or any Prospective Purchaser that fails to satisfy the definition of "Prospective Purchaser" or relating to the acts or omissions of any such party with regard to the Property occurring after the Effective Date and which may give rise to liability under applicable law relating to any:

- a) failure by such party to meet a requirement of this PPA;
- b) a future release or threatened release of a hazardous substance, pollutant or contaminant which is not Existing Contamination, at or from the Property, caused, permitted, or contributed to by such party;
- c) exacerbation by such party of Existing Contamination caused by the willful misconduct, recklessness or negligence of such party;
- d) introduction of any hazardous substance, pollutant or contaminant (other than the Existing Contamination) to the Property by such party;
- e) criminal liability of such party; and
- f) illegal transportation and disposal by such party of hazardous substances, pollutants or contaminants from the Property.

The foregoing specific reservations by the RWQCB shall be applied separately and distinctly with respect to each Owner and Occupant, the intent being that none of the foregoing actions or events applicable to a particular Owner or Occupant shall render the RWQCB Covenant inapplicable to any other Owner or Occupant. Nothing contained in this Section 4.2 shall be deemed a waiver of or release by any Owner or Occupant of any defense, cross-claim, counter claim, offset or other rights available to such Owner or Occupant in response to any claim or enforcement action by the RWQCB, all of which are hereby expressly reserved hereunder.

4.3 Reservation of Rights as to Other Parties. The RWQCB Covenant contained in Section 4.1 is made and given solely for the benefit of the Prospective Purchasers, and for no other persons (including without limitation BIC and any entity which owned or operated at the Site prior to June 1, 2002). The RWQCB reserves the right to assert all claims or causes of action against any other person, firm, corporation, or any other entity, including its officers, directors, shareholders and employees, for any claims associated with the Property, and for any other relief to which the RWQCB may be entitled at law or in equity.

ARTICLE V

PROSPECTIVE PURCHASERS' COVENANTS AND RELEASE OF CLAIMS

5.1 Prospective Purchasers' Covenant Not To Sue. In consideration of the RWQCB Covenant contained in Section 4.1 of this PPA, the Prospective Purchasers hereby covenant not to sue and not to assert any claims or causes of action against the RWQCB, and its past, present and future authorized officers, employees, or representatives, with respect to the Property, including but not limited to: (i) any



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claims arising out of response activities at the Property, including but not limited to nuisance, trespass, takings, equitable indemnity, equitable restitution, or indemnity under California law, or strict liability under California law, based on the RWQCB's oversight activities or approval of plans for such activities. This covenant is made and given and effective upon execution of this PPA by New PSM.

5.2 **Prospective Purchaser's Financial Contribution.** In consideration of the RWQCB Covenant contained in Section 4.1 of this PPA, New PSM agrees to contribute up to one million dollars (\$1,000,000) to perform certain tasks required pursuant to the CAO to investigate and clean up Existing Contamination, including without limitation PCE and TCE contamination, at the Property in accordance with this PPA. The timing of New PSM's financial contributions would occur over a reasonable period (not to exceed eight (8) years), so as to not interfere with New PSM's ability to fund various operational and compliance matters at the facility, especially during the first few years of facility operations following New PSM's acquisition of the business out of bankruptcy. Initially, New PSM would fund the implementation of the Phase II Work Plan and the RWQCB's oversight of such work (estimated to be up to about \$100,000), as well as fund one-half of the costs to conduct an investigation to identify other parties potentially responsible (i.e., "PRPs") for the contamination at and emanating from the Property (New PSM's one-half share is estimated to be up to about \$50,000). The other one-half share of costs to conduct this PRP investigation would be funded by or on behalf of BIC. New PSM's initial \$150,000 in funding would be deposited into a dedicated bank account in one-third installments, for subsequent use by New PSM to pay for this initial work as it is performed. The installments shall be deposited on or by the following dates: thirty days after the Effective Date (first installment), sixty days after the Effective Date, and ninety days after the Effective Date (third installment), provided, however, that if insufficient funds have been deposited by New PSM to timely pay initial work costs that are appropriately invoiced to New PSM at the time New PSM deposits the first or second installment, then New PSM shall promptly supplement such installments, as necessary, to pay such unfunded additional work costs. After these initial expenditures, the remaining funds to be contributed by New PSM would be used first to conduct on-site remedial work and to pay the RWQCB's associated oversight costs, and then, to the extent funds are still available, to pay for off-site investigation and/or off-site remedial work and associated RWQCB oversight costs.

5.2.1 On a quarterly basis, New PSM will deposit additional funds into its dedicated bank account in amounts sufficient to pay for those tasks that are anticipated to be performed by New PSM during the upcoming quarterly period, pursuant to the CAO. The amount to be funded each quarter will be determined according to the work schedule and cost estimates, as prepared by New PSM's consultant(s), and will include a ten percent (10%) contingency to address RWQCB oversight and other unforeseen costs. New PSM will deposit such amount at least ten (10) days in advance of the quarterly period in which the RWQCB-approved services will be performed. New PSM will provide the RWQCB with an accounting of its financial contributions and expenditures on an annual basis. The Parties will work cooperatively together to carefully develop and implement necessary, appropriate and cost-effective scopes of work for the investigation and cleanup of the Property.

5.3 **Prospective Purchasers' Reservation of Rights.** Notwithstanding the foregoing, Prospective Purchasers reserve, and this PPA is without prejudice to, actions against the RWQCB based on the gross negligence or willful misconduct of the RWQCB, not including oversight or approval of the Prospective Purchasers' plans or activities. Nothing in this paragraph is intended to create a right, claim, or cause of action that would not exist absent this paragraph.

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ARTICLE VI

CONTRIBUTION PROTECTION

6.1 Contribution Protection. With regard to claims for contribution against New PSM, the Parties hereto agree that New PSM is entitled to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2) (42 U.S.C. § 9613(f)(2)) for matters addressed in this PPA. The matters addressed in this PPA and the accompanying CAO include response actions taken or to be taken and response costs incurred or to be incurred by the RWQCB or any other person with respect to the Existing Contamination.

ARTICLE VII

TERMINATION, AMENDMENT AND TERM

7.1 Termination. Any Owner, or with the Owner's written consent, which shall not be unreasonably withheld, any Occupant, of the Property or any portion thereof, may apply to the RWQCB for a termination of this PPA as it applies to all or any portion of the Property owned or occupied by the applicant.

7.2 Amendment. This PPA may be amended and approved by the Parties, and all of the then-Owners of the Property or any portion thereof, which remain subject to this PPA. Any such amendment shall be effective only upon the date any such amendment is filed for recording in the official records of the County of Los Angeles, State of California.

7.3 Term. Unless terminated in accordance with Section 7.1 above, by law or otherwise, this PPA shall continue in effect in perpetuity.

ARTICLE VIII

MISCELLANEOUS

8.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property or any portion thereof to the general public for any purposes whatsoever.

8.2 Notices. Whenever any person shall desire to give or serve any notice, demand, or other communication with respect to this PPA, each such notice, demand, or other communication shall be in writing and shall be deemed effective (i) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served or official of a government agency being served; (ii) three (3) business days after deposit in the mail if mailed by United States mail, postage paid and certified, return receipt requested; or (iii) one (1) business day after delivery by facsimile, or other electronic transmission, with confirmation of successful delivery. Any party may change its address by notice to the other party in the manner set forth above. The following addresses shall be effective as of the date of this PPA:

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New PSM: Precision Specialty Metals, Inc.  
3301 Medford Street  
Los Angeles, CA 90063  
Attention: Tony Gallegos  
(323) 475-3200 - Office  
(323) 475-3298 - Fax

With a Copy to: Jon L. Benjamin, Esq.  
Farella Braun + Martel, LLP  
235 Montgomery Street  
San Francisco, CA 94104  
(415) 954-4971 - Office  
(415) 954-4480 - Fax

RWQCB: Regional Water Quality Control Board  
320 W. 4th Street, Suite 200  
Los Angeles, CA 90013  
Attention: Dennis Dickerson  
(213) 576-6605 - Office  
(213) 576-6625 - Fax

With a Copy to: Michael A.M. Lauffer, Esq.  
Office of Chief Counsel  
State Water Resources Control Board  
1001 I Street, 22<sup>nd</sup> Floor  
Sacramento, CA 95814  
(916) 341-5183 - Office  
(916) 341-5199 - Fax

8.3 **Article Headings.** Headings at the beginning of each article of this PPA are solely for the convenience of the Parties and are not a part of the PPA.

8.4 **Recordation.** This instrument shall be executed by New PSM and by the authorized representative of the RWQCB or his or her designee. Concurrent with the sale and conveyance of the Property by BIC to New PSM, this instrument shall be filed by New PSM for recording in the official records of the County of Los Angeles, State of California. New PSM shall promptly furnish a copy of the properly filed instrument to all the Parties in accordance with the notice provisions in Section 8.2.

8.5 **Counterparts.** This PPA may be executed in one or more counterparts.

8.6 **Governing Law.** This PPA shall be construed and governed in accordance with the laws of the State of California.

8.7 **Parties Bound.** This PPA is binding upon the Parties, and their respective officers, directors, employees, agents, successors and assigns.

8.8 **Attorneys' Fees.** In the event any litigation, arbitration, mediation or other proceeding is initiated by any of the Parties to enforce, interpret or obtain other relief in connection with this PPA, the prevailing party shall be entitled to reimbursement of all costs, expenses, expert witness fees, and reasonable attorneys' fees in addition to any other relief to which such party may be entitled.



Notwithstanding this paragraph, no Party may recover attorneys' fees or costs from the RWQCB, except as otherwise provided by law.

#### 8.9 RWQCB Review and Approval.

(a) If the RWQCB determines pursuant to this PPA that any report, plan, schedule or other document submitted by New PSM fails to comply in any material respect with the intent of this PPA, the RWQCB may make written recommended changes to said documents and return them to New PSM. The Parties shall then negotiate a new date by which New PSM must submit to the RWQCB the revised document(s) with respect to the recommended changes. Nothing in this paragraph shall limit the RWQCB's authority and responsibility under State law to protect human health, safety, or the environment, or to prevent pollution or a condition of nuisance, including without limitation its authority under Water Code sections 13267 and 13304, except as specifically limited by this PPA.

(b) Any modifications pursuant to this PPA to such reports, plans, schedules or other documents must be consented to by the Parties, and shall be incorporated into this PPA. Any modifications not consented to shall be discussed by the Parties who shall undertake reasonable efforts to resolve any disputes. Any noncompliance with modifications or directives which the Parties consented to shall be deemed a failure or refusal to comply with this PPA.

8.10 **Extensions.** If New PSM is unable to perform any activity or submit any document within the time required under this PPA, New PSM may, prior to expiration of the time, request an extension of the time in writing. The extension request shall include a justification for the delay. All such requests shall be in advance of the date on which the activity or document is due. If the RWQCB determines that good cause exists for an extension, it shall grant the request, negotiate a new schedule and specify these in writing. New PSM shall comply with the new schedule incorporated in this PPA.

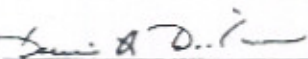
8.11 **Severability.** The requirements of this PPA are severable, and New PSM and the RWQCB shall comply with each and every provision hereof, notwithstanding the effectiveness of any other provision.

8.12 **Actions by Other Parties.** In the event that New PSM is a party to any suit or claim for damages or contribution relating to Existing Contamination at the Property to which the RWQCB is not a party, New PSM shall notify the RWQCB in writing within twenty (20) days after service of the complaint.

8.13 **Representative Authority.** Each undersigned representative of the Parties to this PPA certifies that she or he is fully authorized to enter into the terms and conditions of this PPA and to execute and legally bind the Parties to this PPA. The authorization of the RWQCB shall be confirmed by adoption by the Board of a resolution at the public hearing concerning this PPA by the Board authorizing the Executive Officer to execute this PPA.

IN WITNESS WHEREOF, the Effective Date of this PPA shall be the date last set forth below.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,  
LOS ANGELES REGION

By:   
Dennis A. Dickerson  
Its: Executive Officer  
Date: March 9, 2004



Prospective Purchaser Agreement

RWQCB SLIC File No. SLIC No. 0881

28

PRECISION SPECIALTY METALS, INC. (formerly known as PSM Acquisition Co.)  
a Delaware corporation

By: *C Edwin Brady*  
Name: C EDWIN BRADY  
Its: Chairman & CEO  
Date: 3/12/04

APPROVED AS TO FORM:

*Michael A.M. Lauffer* 3-3-2004  
By: Michael A.M. Lauffer, Esq.  
Attorney For RWQCB

*Jon L. Benjamin* 3/11/04  
By: Jon L. Benjamin, Esq.  
Attorney For New PSM



## Exhibit "A"

## LEGAL DESCRIPTION OF PROPERTY

## PARCEL 1

LOTS 35 TO 39 INCLUSIVE IN BLOCK "B", TRACT 6333, PARTLY WITHIN AND PARTLY WITHOUT THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 71, PAGES 11 TO 14 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY

## PARCEL 2

LOT 1 OF TRACT 8093, PARTLY WITHIN AND PARTLY WITHOUT THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 100, PAGES 28 AND 29, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY

## PARCEL 3

LOT 25 IN BLOCK "A" TRACT 6333, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 71, PAGES 11 TO 14, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY

## PARCEL 4

LOTS 32, 33 AND 34 IN BLOCK "B" OF TRACT 6333, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 71, PAGES 11 TO 14, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY

ALSO THAT PORTION OF LOT 31 OF SAID TRACT LYING NORTHERLY OF A STRAIGHT LINE EXTENDING FROM A POINT IN THE WEST LINE OF SAID LOT DISTANT NORTHERLY 216 30 FEET FROM THE SOUTHWEST CORNER EASTERLY TO A POINT IN THE EAST LINE OF SAID LOT DISTANT NORTHERLY 196 16 FEET FROM THE SOUTHEAST CORNER OF SAID LOT 31



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Exhibit "B"

NOTICE OF PROPERTY TRANSFER AND COVENANT NOT TO SUE

\_\_\_\_\_ [name of Owner or Occupant] (the "Undersigned") [became/may become] an Owner or Occupant [circle appropriate description] of \_\_\_\_\_, located at 3301 Medford Street in the City of Los Angeles, County of Los Angeles, California (the "Site") on \_\_\_\_\_, 20\_\_\_. Capitalized terms not defined herein shall have the meaning ascribed in the PPA.

1. The Undersigned, by signing below, verifies that it has read the PPA effective on \_\_\_\_\_.
2. The Undersigned understands and agrees that section 4.1 of the PPA contains a covenant not to sue by the California Regional Water Quality Control Board, Los Angeles Region ("RWQCB") not to pursue enforcement actions against Owners and Occupants of the Site (the "RWQCB Covenant").
3. The Undersigned also understands and agrees that it may enjoy the benefits of the RWQCB Covenant only if the Undersigned covenants not to sue the RWQCB in connection with the Covenant.
4. The Undersigned further understands and agrees that its right to rely upon and benefit from the RWQCB Covenant is expressly subject to and conditioned upon its own, and only its own, material compliance with its obligations under the PPA, including all amendments, exhibits, attachments and appendices thereto.
5. Notices to the Undersigned, pursuant to section 8.2 of the PPA, shall be addressed as follows:

Name of Company \_\_\_\_\_

Street Address \_\_\_\_\_

City, County \_\_\_\_\_

State, Zip Code \_\_\_\_\_

Attention \_\_\_\_\_

Telephone \_\_\_\_\_

Facsimile \_\_\_\_\_

The undersigned, by signing below, verifies that: (i) it is aware that hazardous substances, contaminants, or pollutants have been found within the boundaries of the Site; and (ii) such condition renders its interest in the Site subject to the PPA and to all applicable laws and regulations of the State of California.



4/89083

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Prospective Purchaser Agreement

RWQCB SLIC File No. SLIC No. 0881

The undersigned, by signing below, certifies that he or she is fully authorized to enter into the terms and conditions of this Notice and to execute and legally bind the current/potential Owner or Occupant to this Notice.

Date: \_\_\_\_\_

\_\_\_\_\_  
Typed name of person authorized to sign on behalf of the Current/Potential Owner/Occupant

To become effective, this Notice must be sent by United States mail, postage paid, certified, return receipt requested, to:

California Regional Water Quality Control Board  
Los Angeles Region  
Attention: Executive Officer  
320 W. 4th Street, Suite 200  
Los Angeles, CA 90013

This Notice shall be effective upon receipt by the California Regional Water Quality Control Board.

05 1208378

Exhibit B - Page 2



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Exhibit "C"

RWQCB ACKNOWLEDGEMENT  
[Section 3.3.3]

[To: Owner or Occupant from whom notice was received pursuant to ¶ 3.2.1]

ACKNOWLEDGEMENT PURSUANT TO PROSPECTIVE PURCHASER AGREEMENT  
(RWQCB SLIC FILE NO. 0881) OF NEW OWNER OR OCCUPANT AT 3301 MEDFORD  
STREET, LOS ANGELES, CALIFORNIA

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) has received a notice of new owner or occupant for property located at 3301 Medford Street, Los Angeles, California (Medford Street Property). The Medford Street Property is covered by a prospective purchaser agreement effective [effective date] (PPA), to which the Regional Board is a party. Pursuant to Article IV of the PPA, the Regional Board has covenanted not to sue certain prospective purchasers, as limited by paragraph 1.7 and other applicable provisions of the PPA, of the Medford Street Property.

After reviewing the Notice of new owner or occupant along with other relevant information, including information submitted by the new owner or occupant to demonstrate that it is not otherwise disqualified pursuant to paragraph 1.7 of the PPA, the Regional Board has determined that at this time it appears [Owner or Occupant from whom notice was received pursuant to ¶ 3.2.1] is operating in compliance with the provisions of the PPA. As a result, to the Regional Board's knowledge [Owner or Occupant from whom notice was received pursuant to ¶ 3.2.1] is deemed a "Prospective Purchaser" as meant by the PPA.

[Signature]  
Executive Officer



3/24/05

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Exhibit "D"

LIST OF REPORTS AND DOCUMENTS  
CONCERNING EXISTING CONTAMINATION

[Section 1.6]

1. Soil Investigation Report/Slitter Line Installation, prepared by Nunez Engineering, April 10, 1985.
2. Site Investigation/Underground Tank Removal, prepared by Converse Environmental Consultants California, May 28, 1986.
3. Report of Phase II Investigation, prepared by C-E Environmental, October, 1989.
4. Phase I Environmental Site Assessment, prepared by Lockman & Associates consulting Engineers, May 7, 1992.
5. Report on Results of Soil Sampling at the Precision Specialty Metals, prepared by Erler & Kalinowski, Inc., April 15, 1993.
6. Limited Environmental Subsurface Investigation Report, prepared by A& S Environmental Recovery, Inc., May 7, 1996.
7. Phase I Environmental Site Assessment, prepared by Environ International Corporation, May 5, 1999.
8. Site Investigation Workplan, prepared by TRC, November, 2000.
9. Site Assessment Report, TRC, June 2001.
10. Phase II Site Investigation Workplan, October 2001.



05 1208378

HISTORY OF OWNERSHIP OF LOTS 1 (Tract 8093) and LOTS 32-39 (Tract 6333)  
Precision Specialty Metals, Inc. / 3301 Medford Street, Los Angeles, CA

YEAR	OWNER	1	32	33	34	35	36	37	38	39	SOURCE
1933	Los Angeles Valve & Fittings Co.; E.M. Buckius; Jesse E.A. Buckius										TR <sup>1</sup> 1, 3, 5,
1938	Security-First National Bank of Los Angeles, foreclosed on Lots 32-35 on 1/13/38										TR 7
1941	Taylor Milling Co. (Security-First National Bank granted Lots 1, 32-39)										TR 16
1942	Western Industrial Engineering Co. (Taylor grants to Western Industrial Engineering Co. Lots 1, 35-39 on 7/8/42) <sup>2</sup>										TR 14, 21
1945	Ralston Purina Co. (Taylor Milling Corp. grants lots 32-34 to Ralston Purina 12/26/45)										TR 20
1948	Naco Fertilizer Co. (Ralston grants Lots 32-34 to Naco 11/1/48)										TR 22
1948	Mid-Town Investment Corp., M. Lombardi, Fred and Marie Lombardi, Edward and Mildred Lombardi James and Francis Lombardi, and John and Marie Pover (Western Indus. Egr. grants Lots 1, 35-39 11/2/48)										TR 23, 29

<sup>1</sup> Exhibit to Title Report prepared by First American Title Insurance Company, 6/6/01

<sup>2</sup> TR 10 shows that Western Industrial Engineering Co granted easement 10/3/41 to Edison over Lot 36 (TR10) although Taylor apparently owned Lot 36 until 7/8/42 (TR 14).; Drayer-Hanson (partnership) leased Lots 1, 35-39 from Western Industrial Engr. Co. 10/1/45 (TR 19; also see list of Drayer-Hanson equipment at TR 28)



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HISTORY OF OWNERSHIP OF LOTS 1 (Tract 8093) and LOTS 32-39 (Tract 6333)  
Precision Specialty Metals, Inc. / 3301 Medford Street, Los Angeles, CA

YEAR	OWNER	1	32	33	34	35	36	37	38	39	SOURCE
1951	George Morton (Mid-Town Investment Corp., M. Lombardi, Fred and Marie Lombardi, Edward and Mildred Lombardi James and Francis Lombardi, and John and Marie Poyer grants Lots 1, 35-39)										TR 32, 34
1951	Drayer-Hanson, Inc. (George and Kathryn Morton grants Lots 1, 35-39 6/2/51) (see list of equipment at TR40)										TR 36
1956	National-U.S. Radiator Corporation (Drayer Hanson, Inc. grants Lots 1, 35-39 3/31/56)										TR 58
1959	W. R. Grace & Co. (Naco quitclaims Lots 32-34 4/16/59)										TR 60
1959	The Synkoloid Company and The Synkoloid Company of Texas (W.R. Grace grants Lots 32-34 12/22/59) <sup>3</sup>										TR 61
1959	Harry Schneider and George Jaffin (The Synkoloid Company, The Synkoloid Company of Texas., Lillian Schneider, and Janet Jaffin grant Lots 32-24 12/29/59) <sup>4</sup>										TR 62-64
1960	Crane Co. (National U. S. Radiator Corp. grants Lots 1, 35-39 1/22/60)										TR 66
1960	Hi-Press Air Conditioning of America, Inc. (Crane Co. granted Lots 1, 35-39 12/15/60) (see list of equipment at TR 71)										TR 67, 69-70, 71

<sup>3</sup>Synkoloid noted as fee owner as of filing date of 7/22/57 Notice of Completion (TR 59) for 3409 Medford Street and 3345 Medford, lot designation unknown.

<sup>4</sup> Harry Schneider and George Jaffin simultaneously leased Lots 32-24 to The Synkoloid Company and the Synkoloid Company of Texas 12/29/59 (TR 65)

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HISTORY OF OWNERSHIP OF LOTS 1 (Tract 8093) and LOTS 32-39 (Tract 6333)  
 Precision Specialty Metals, Inc. / 3301 Medford Street, Los Angeles, CA

YEAR	OWNER	1	32	33	34	35	36	37	38	39	SOURCE
1964	Crane Co. (Hi-Press Air Conditioning of America defaulted on mortgage, Lots 1, 35-39 reverted to Crane Co. 1/31/64)										TR 92
1964	Affiliated Metal Products (Crane Co. grants Lots 1, 35-39 9/1/64) <sup>5</sup>										TR 96
1983	Precision Specialty Metals Inc. (Plessey Incorporated., successor in interest to Affiliated Metals Inc. grants Lots 1, 35-39 June 16, 1983)										TR 119
1989	Precision Specialty Metals, Inc. (George Jaffin and Harry Schneider quitclaim Lots 32-34 5/1/89)										TR 133
1989	Precision Specialty Metals, Inc. (ownership status as of 5/1/89)										TR 119, 133
1989	PSM Acquisition Corporation (Precision Specialty Metals, Inc. granted Lots 1, 32-39 11/3/89) <sup>6</sup>										TR 134
1999	Precision Specialty Metals, Inc. (PSM Acquisition Corporation changed name to Precision Specialty Metals, Inc. in 1989 and granted Lots 1, 32-39 to itself under its new name in 1999)										TR 137

<sup>5</sup> Synkaloid assigned its lease of Lots 32-34 to Affiliated 12/15/70 (TR 110); Plessey Incorporated., successor in interest to Affiliated Metals Inc., then assigned lease of Lots 32-34 to Precision Specialty Metals, Inc. on 6/15/83 (TR 118).

<sup>6</sup> PSM Acquisition Corporation changed its name to Precision Specialty Metals, Inc. on November 13, 1989.

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## Exhibit "F"

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ACQUISITION OF PRECISIONS SPECIALTY METALS, INC.  
BY PSM ACQUISITION CO.STATEMENT OF ROSE A. COUGHLIN

The undersigned does state that the facts stated below are true and correct to the best of her own knowledge and, if called upon to testify, could and would testify thereto.

1. My name is Rose A. Coughlin. I am an environmental consultant employed as a Senior Associate by the consulting firm of LFR Levine-Fricke (LFR) and work at that firm's office at 3150 Bristol Street, Suite 250, Costa Mesa, California, 92626. I received a Bachelor of Science degree in Geology from San Diego State University. I have 16 years of experience as an environmental consultant, including performing audits and inspections of workplaces to identify chemicals being used and the hazards of such chemicals. I am familiar with chemical solvents typically found in industrial workplaces, including trichloroethylene (TCE), perchloroethylene (PCE), and products which contain TCE and PCE.

2. LFR served as the environmental due diligence consultant for the buyer, PSM Acquisition Co., in the acquisition of Precision Specialty Metals, Inc., in a transaction that closed effective May 31, 2002. I participated throughout that due diligence effort, including making two visits to the Precision Specialty Metals facility at 3301 Medford St., Los Angeles, California, 90063. On the morning of May 31, 2002, I inspected that facility. That inspection involved two hours for a site reconnaissance, for the purpose of determining whether any chlorinated solvents previously detected in soil and groundwater at the facility, or products containing those solvents, including but not limited to Turco, remained at the facility. Also in attendance on this tour was Tony Gallegos, Director of Engineering.



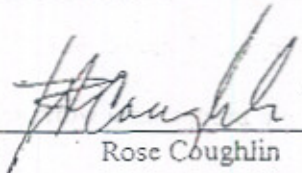
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ACQUISITION OF PRECISIONS SPECIALTY METALS, INC.  
BY PSM ACQUISITION CO.

STATEMENT OF ROSE A. COUGHLIN

3. In the course of this inspection, I did not see any containers of Turco, or any other products which contained TCE or PCE, or any containers which were labeled as having TCE or PCE. In addition, all unlabeled containers that could potentially have contained such solvents had been removed by EnviroServe. This inspection encompassed the locations where such products, or containers of such products, would likely have been found.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 11<sup>th</sup> day of June, 2002, at Costa Mesa, California.

  
\_\_\_\_\_  
Rose Coughlin



New Jersey

THIS DOCUMENT SHALL BE SUBMITTED TO THE DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR REVIEW AND APPROVAL PRIOR TO RECORDING.

TERMINATION OF DEED NOTICE  
FILED AT THE OFFICE OF THE REGISTER OF [county] COUNTY  
IN DEED BOOK [volume], Pages [pages]

AS TO

BLOCK(S) \_\_\_\_\_, LOT(S) \_\_\_\_\_, TAX MAP OF THE [county] County  
*[example with multiple blocks/lots-- block 1 lots 1 and 2 and also block 2 lots 3, 4 and 5 would be represented as blocks 1; 2 lots 1 and 2; 3, 4 and 5]*

IN ACCORDANCE WITH N.J.S.A. 58:10B-13, THIS DOCUMENT IS TO BE RECORDED IN THE SAME MANNER AS DEEDS AND OTHER INTERESTS IN REAL PROPERTY.

Prepared by: \_\_\_\_\_

Recorded by: \_\_\_\_\_  
[Signature, Officer of County Recording Office]  
[Print name below signature]

This Termination of Deed Notice is made as of [month day, year] by [name of property owner], and approved by the New Jersey Department of Environmental Protection.

1. DEED NOTICE RECORDED IN THE OFFICE OF THE REGISTER OF [county] COUNTY, AT BOOK [book number/vol.], PAGES [page numbers]. By way of a Declaration of Environmental Restriction (DER) or Deed Notice (Deed Notice) dated [month day, year], [name of the original responsible party(s) that filed the DER or Deed Notice] advised of: (a) the existence of soil contamination in concentrations at the real property situated in the [city/town/borough name] and designated as Block(s) [see example above for multiples], Lot(s) [see example above for multiples] ("the Property") on the Tax Map of [city/town/borough name] that do not allow for the unrestricted use of the Property; (b) the existence of institutional and/or engineering controls selected as part of the remedial action for the Property; and (c) the continuing obligation of [name of original responsible party(s) that filed the DER or Deed Notice], subsequent owners, and others to monitor and maintain those institutional and/or engineering controls. The Deed Notice was part of the remedial action the New Jersey Department of Environmental Protection ("Department") approved for the Property and was recorded in the Office of the Register of [county] County on [month day, year] in Deed Book [book number/volume], Pages [page numbers] by [name of original responsible party(s) that filed the DER or Deed Notice], the then owner of the Property. Pursuant to Paragraph 10, the Deed Notice was to remain in effect until such time as the Department approved the termination of the Deed Notice by executing a document expressly terminating the Deed Notice.







2. **TRANSFER OF THE PROPERTY.** By Deed dated [month day, year] and recorded in the Office of the Register of [county] County on [month day, year] in Book [book number/vol], Pages [page numbers], [name of person appearing on deed] transferred ownership of Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_ subject to the Deed Notice.

3. **TERMINATION OF DEED NOTICE RECORDED IN THE OFFICE OF THE REGISTER OF [county] COUNTY AT BOOK \_\_\_\_\_, PAGES \_\_\_\_\_ AS TO BLOCK(S) \_\_\_\_\_, LOT(S) \_\_\_\_\_.** By way of letter dated [month day, year], [name of person/corporation etc.] requested approval from the Department to terminate the Deed Notice because conditions that required the execution and recording of the Deed Notice no longer exist on Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_. The Department approved the request by way of letter dated [month day, year]. Accordingly, the Department hereby executes this Termination of Deed Notice. Subject to the provisions of paragraph 5 below, the Department directs that the Deed Notice recorded in the Office of the Register of [county] County in Deed Book \_\_\_\_\_, Pages \_\_\_\_\_ shall be terminated and discharged. A metes and bounds description of Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_ and a scaled map showing the boundaries of Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_ are attached hereto as Exhibits A and B, respectively.

4. **EXECUTION OF NEW DEED NOTICE FOR BLOCK(S) \_\_\_\_\_, LOT(S) \_\_\_\_\_.** Although the Department has determined that a change in conditions warrants the termination of the Deed Notice as to Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_, the Department also has determined that soil contamination remains on Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_, in concentrations that do not allow for the unrestricted use of the Property. Thus, the Department has approved a remedy that includes a new Deed Notice for Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_. The new Deed Notice shall be executed and recorded by [name of person or corporation etc. filing new Deed Notice].

5. **EFFECTIVE DATE OF TERMINATION OF DEED NOTICE.** This Termination of Deed Notice shall take effect on the date this Termination of Deed Notice or the date the new Deed Notice for Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_ is recorded in the Office of the Register of [county], whichever is later, or, if this Termination of Deed Notice and the new Deed Notice are simultaneously recorded in the Office of the Register of [county], on the date of such simultaneous recording.

*[Note: The language of the following two (2) consecutive paragraphs shall be substituted for the language of paragraphs 3 and 4 above where the subject property is proposed to be subdivided]*

{Appropriate consecutive paragraph number}. **TERMINATION OF DEED NOTICE RECORDED IN THE OFFICE OF THE REGISTER OF \_\_\_\_\_ AT BOOK \_\_\_\_\_, PAGE \_\_\_\_\_ AS TO BLOCK(S) \_\_\_\_\_, LOT(S) \_\_\_\_\_.** By way of letter dated \_\_\_\_\_, [name of person/corporation etc.] requested approval from the Department to terminate the Deed Notice as to Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_ because Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_, has been subdivided from the Property, and the conditions that required the execution and recording of the Deed Notice no longer exist on Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_.



. The Department approved the request by way of letter dated \_\_\_\_\_. Accordingly, the Department hereby executes this Termination of Deed Notice. Subject to the provisions of paragraph 5 below, the Department directs that the Deed Notice recorded in the Office of the Register of \_\_\_\_\_ in Deed Book \_\_\_\_\_, Page \_\_\_\_\_ shall be terminated and discharged as it applies to Block(s) \_\_\_\_\_ Lot(s) \_\_\_\_\_. Such termination, however, is limited to Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_, and the Deed Notice remains in full force and effect as to such other portions of the Property for which the Department has not approved termination of the Deed Notice. A metes and bounds description of Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_ and a scaled map showing the boundaries of Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_ are attached hereto as Exhibits A and B, respectively.

{Appropriate consecutive paragraph number}. EXECUTION OF NEW DEED NOTICE FOR BLOCK(S) \_\_\_\_\_, LOT(S) \_\_\_\_\_. Although the Department has determined that a change in conditions warrants the termination of the Deed Notice as to Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_, the Department also has determined that soil contamination remains on Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_, in concentrations that do not allow for the unrestricted use of the Property. Thus, the Department has approved a remedy that includes a new Deed Notice for Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_. The new Deed Notice shall be executed and recorded by

*[Note: The language of the following paragraph shall be substituted for that of paragraph number 5 above where no new Deed Notice would be filed for the subject property]*

{Appropriate consecutive paragraph number}. EFFECTIVE DATE OF TERMINATION OF DEED NOTICE. This Termination of Deed Notice shall take effect on the date this Termination of Deed Notice is recorded in the Office of the Register of [county].

*[Note: The following paragraph is required for all versions of this form]*

{Appropriate consecutive paragraph number}. SIGNATURES IN WITNESS WHEREOF, [name of person/corporation etc. executing the Termination of Deed Notice] and the New Jersey Department of Environmental Protection have executed this Termination of Deed Notice, as of the date first written above.



A. [If Owner is an individual]

WITNESS:

\_\_\_\_\_  
[Signature]  
\_\_\_\_\_  
[Print name]

\_\_\_\_\_  
[Signature]  
\_\_\_\_\_  
[Print name]

STATE OF [State where document is executed] SS.:  
COUNTY OF [County where document is executed]

I certify that on [month day, year], [name of owner] personally came before me, and this person acknowledged under oath, to my satisfaction, that this person [or if more than one, each person]

- (a) is named in and personally signed this document; and
- (b) signed, sealed and delivered this document as his or her act and deed.

\_\_\_\_\_, Notary Public  
[Signature]  
\_\_\_\_\_  
[Print name]







C. *[If owner is a general or limited partnership]*

WITNESS:

*[name of partnership]*

\_\_\_\_\_  
*[Signature]*

By: \_\_\_\_\_, General Partner  
*[Signature]*

\_\_\_\_\_  
*[Print name and title]*

\_\_\_\_\_  
*[Print name]*

STATE OF *[State where document is executed]* SS.:  
COUNTY OF *[County where document is executed]*

I certify that on *[month day, year]*, *[name of person executing document on behalf of owner partnership]* personally came before me, and this person acknowledged under oath, to my satisfaction, that this person:

- (a) is a general partner of *[name of partnership owner]*, the partnership named in this document;
- (b) signed, sealed and delivered this document as his or her act and deed in his capacity as a general partner of *[name of partnership owner]*; and
- (c) this document was signed and delivered by such partnership as its voluntary act, duly authorized.

\_\_\_\_\_, Notary Public  
*[Signature]*

\_\_\_\_\_  
*[Print name]*



D. [If Owner is a Limited Liability Company]

WITNESS:

[Name of Limited Liability Company]

\_\_\_\_\_  
[Signature]

By: \_\_\_\_\_

[Signature]

\_\_\_\_\_  
[Print name and title of witness]

\_\_\_\_\_  
[Print name and title]

STATE OF [State where document is executed]      SS.:  
COUNTY OF [County where document is executed]

I certify that on [month day, year], [Name of Witness] personally came before me, and this person acknowledged under oath, to my satisfaction, that:

(a) This person is the [insert either secretary/assistant secretary of the owner limited liability company] of [insert full name of limited liability company];

(b) This person is the attesting witness to the signing of this document by the proper officer who is the [insert title of person signing on behalf of limited liability company] of the [insert name of owner limited liability company];

(c) This document was signed and delivered by the limited liability company as its voluntary act and was duly authorized;

(d) This person knows the proper seal of the limited liability company which was affixed to this document; and

(e) This person signed this proof to attest to the truth of these facts.

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Print Name and Title of Attesting Witness]

\_\_\_\_\_, Notary Public

[Signature]

\_\_\_\_\_  
[Print name]

[Note: In situations where the person signing the document on behalf of the owner limited liability company is a member of the



limited liability company, the attesting witness shall certify under oath that he/she knows that the document was signed and delivered by the owner limited liability company as its voluntary act, that the member is authorized to execute the document on behalf of the owner limited liability company, and that the person signing the document is authorized to sign the document on behalf of the member. Where the member is a partnership, corporation or other limited liability company, the attesting witness shall also certify that the person signing the document is authorized to sign on behalf of the corporation, partnership or limited liability company, as the case may be. To the extent that such corporation, partnership, or limited liability company, in turn, is directly or indirectly controlled by another corporation, limited liability company, or partnership, and the person signing the document is an officer of that corporation or limited liability company or a partner of that partnership, the attesting witness shall also certify under oath that such person is authorized to sign on behalf of the corporation, limited liability company, or partnership, as the case may be.]

WITNESS:

New Jersey Department of Environmental  
Protection

\_\_\_\_\_  
[Signature]

By: \_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Print name and title]

\_\_\_\_\_  
[Print name and title]

STATE OF NEW JERSEY    SS.:  
COUNTY OF MERCER

I certify that on [Month day, year], [Insert name of person executing document on behalf of the New Jersey Department Environmental Protection] personally came before me, and this person acknowledged under oath, to my satisfaction, that this person:

(a) Is [insert title] and is authorized to execute this document on behalf of the New Jersey Department of Environmental Protection;

(b) Signed, sealed and delivered this document as his or her act and deed in his capacity as [title] of the New Jersey Department of Environmental Protection; and

(c) This document was signed and delivered by the New Jersey Department of Environmental Protection as its voluntary act, duly authorized.



\_\_\_\_\_, Notary Public  
[Signature]

\_\_\_\_\_  
[Print name]

**RECORD AND RETURN TO:**

[Name of person who prepared the Termination of Deed Notice]  
[Address]



EXHIBIT A

Metes and Bounds Description



EXHIBIT B

Scaled Tax Map of the Property and Institutional/Engineering Control Boundaries