STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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| **IN THE MATTER OF:** | * | **Settlement Tracking No.** |
| | * | **SA-MM-05-0070** |
| **PRIME COATINGS, INC.** | * | |
| | * | **Enforcement Tracking No.** |
| **AI # 27596 & 98992** | * | **MM-CN-04-0103** |
| | * | |
| **PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT LA. R.S. 30:2001, ET SEQ.** | * | |

# SETTLEMENT

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

I

Respondent is a corporation that operates two blasting and painting facilities, one located at 1000 Lake Palourde Road (Agency Interest No. 27596) in Amelia, St. Mary Parish, Louisiana and the other located at a dock east of Tesoro Street (Agency Interest No. 98992) in Amelia, St. Mary Parish, Louisiana.

II

On February 25, 2005, the Department issued a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-04-0103 to Respondent, which was based upon the following findings of fact:

IIa.

The main activities at each facility include cleaning, sand blasting, painting (finishing), and paint thinning operations. The Lake Palourde facility (Agency Interest No. 27596) was constructed and began operating about March of 1991. The Respondent submitted a permit application to the Department that was received on July 1, 2002. The facility currently operates under Air Permit No. 2660-00238-00 issued on September 23, 2004. The Respondent does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit or other authority to discharge wastes and/or other substances to waters of the state.

IIb.

On or about February 20, 2002, an inspection of the Lake Palourde facility (Agency Interest No. 27596) was performed to determine the degree of compliance with the Act, Air Quality Regulations, and the Water Quality Regulations.

The following violations were noted during the course of the inspection:

A. The Respondent had not submitted an application to the Department for an air permit. The Respondent's failure to submit a timely and complete permit application in accordance with the procedures delineated in LAC 33:III Chapter 5 is a violation of LAC 33:III.501.C.1 and Sections 2057(A)(1) and 2057(A)(2) of the Act. Additionally, the Respondent's failure to obtain permit application approval, pay the appropriate permit fee, and receive approval from the permitting authority prior to the construction, modification, and/or operation of a facility which ultimately may have resulted in the initiation or increase in emission of air contaminants is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

B. The Respondent's operations at its facility are classified under standard Industrial Classification (SIC) code number 3732. The operations at the facility are industrial activity subject to permitting, and the Respondent is required to make application for and obtain permit coverage under the LPDES Storm Water Multi-

Sector General Permit for Industrial Activities. The Respondent's failure to apply for and obtain permit coverage is in violation of La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, and LAC 33:IX.2511.C.1.

C. The inspector witnessed spent sandblasting debris/paint chips being sand and paint overspray into Bayou Boeuf. All unauthorized discharges of pollutants to waters of the state are in violation of La. R.S. 30:2075, La. R.S. 30:2076(A)(1)(a), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, and LAC 33:IX.2311.A.1.

IIc.

On or about May 8, 2002, while inspecting an adjacent property, the inspector noted sandblasting being conducted on a barge on Bayou Boeuf. On or about May 9, 2002, an inspection of the facility east of Tesoro Street (Agency Interest No. 98992) was performed to determine the degree of compliance with the Act, Air Quality Regulations, and the Water Quality Regulations.

The following violations were noted during the course of the inspection:

A. According to the facility representative, sandblasting operations took place on May 8, 2002. The Respondent maintains that no screens were in place during the sandblasting or the subsequent spray-painting. According to LAC 33:III.1305.A.3, "Adequate containment methods shall be employed during sandblasting or other similar operations." The Respondent's failure to provide an adequate means of containment by installing dust collectors, enclosing, or venting the handling of dusty materials which may have resulted in fugitive particulate matter becoming airborne is a violation of LAC 33:III.1305.A.3 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

B. At the time of the inspection, the inspector witnessed spent sandblasting debris/paint chips being sand and paint overspray into Bayou Boeuf. All unauthorized discharges of pollutants to waters of the state are in violation of La. R.S. 30:2075, La. R.S. 30:2076(A)(1)(a), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, and LAC 33:IX.2311.A.1.

IId.

On or about July 29, 2002, a complaint inspection of the Lake Palourde Street facility (Agency Interest No. 27596) was performed to determine the degree of compliance with the Act, Air Quality Regulations, and the Water Quality Regulations. The complainant stated that sandblasting material was running off into Bayou Boeuf.

The following violation was noted during the course of the inspection:

A. The inspector witnessed spent sandblasting debris/paint chips being shoveled into Bayou Boeuf. All unauthorized discharges of pollutants to waters of the state are in violation of La. R.S. 30:2075, La. R.S. 30:2076(A)(1)(a), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, and LAC 33:IX.2311.A.1.

IIe.

On or about October 19, 2004 a complaint inspection and, on or about December 9, 2004, a compliance inspection of the Lake Palourde facility (Agency Interest No. 27596) were performed to determine the degree of compliance with the Act, Air Quality Regulations, and the Water Quality Regulations.

The following violations were noted during the course of the inspections:

A. Evidence of sandblasting and painting activities was present at the site. The inspector noted that there were no containment screens in place to prevent particulates from becoming airborne. The Respondent's failure to provide an adequate means of containment by installing dust collectors, enclosing, or venting the handling of dusty materials which may have resulted in fugitive particulate matter becoming airborne is a violation of LAC 33:III.1305.A.3. In addition, the Respondent's failure to operate proposed control equipment as specified in the permit application and as described in Air Permit No. 2660-00238-00 is a violation of Louisiana Air

Emission Permit General Condition I of Air Permit No. 2660-00238-00, LAC 33:501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

B. The inspector witnessed spent sandblasting debris/paint chips being sand and paint overspray into Bayou Boeuf. All unauthorized discharges of pollutants to waters of the state are in violation of La. R.S. 30:2075, La. R.S. 30:2076(A)(1)(a), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, and LAC 33:IX.2311.A.1.

IIf.

The Respondent was issued a Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. MM-CN-04-0103, on or about February 25, 2005. The CONOPP was served on the Respondent on or about March 4, 2005. A thirty (30) day extension was requested by the Respondent and was granted by the Department on March 23, 2005. The Respondent was to submit by May 6, 2005, a Storm Water Pollution Prevention Plan (SWP[3]), Louisiana Pollutant Discharge Elimination System (LPDES) Notice of Intent (NOI) for Storm Water Discharges, and a written report detailing the circumstances of the violations described in the Findings of Fact portion of the Compliance Order. The Respondent submitted the aforementioned items in an Enforcement meeting held with the Department on May 25, 2005. The Respondent's failure to take corrective action within the time specified in a Compliance Order is a violation of Section 2025(E)(2) of the Act.

III

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

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of EIGHTEEN THOUSAND AND NO/100 DOLLARS ($18,000.00), of which TWO HUNDRED SIXTY FIVE AND 84/100 DOLLARS ($265.84) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement.

V

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

VI

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

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing

to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

VIII

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

IX

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

X

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

XI

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

**PRIME COATINGS, INC.**

BY: _____
(Signature)

_____
(Printed or Typed)

TITLE: _____

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

_____
NOTARY PUBLIC (ID # )

_____
(Printed or Typed)

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**
Mike D. McDaniel, Ph.D., Secretary

BY: _____
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

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

_____
NOTARY PUBLIC (ID # )

_____
(Printed or Typed)

Approved: _____
Harold Leggett, Ph.D., Assistant Secretary