I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By Dorothy Lassiter Date: 8-17-12

OHIO E.P.A.

AUG 17 2012

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Towlift, Inc. dba Wilson Barrett Battery Power Systems 2840 Innovative Drive Northwood, Ohio 43619	:	**Expedited Settlement Agreement and Director's Order**
Respondent	:	

I. JURISDICTION

This Expedited Settlement Agreement and Director's Order (ESA) is issued to Towlift, Inc., dba Wilson Barrett Battery Power Systems (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.13 and 3745.01.

II. FINDINGS

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

2. Respondent operates as a supplier of industrial batteries, chargers, and accessories and also conducts battery repairs and battery maintenance at its facility located at 2840 Innovative Drive, Northwood, Wood County, Ohio 43619 (Facility).

3. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent is a small quantity generator of hazardous waste and has been assigned EPA ID number OHR000127944. The hazardous wastes generated by Respondent at the Facility include corrosive waste D002 as described in OAC rule 3745-51-22 which consists of battery rinse water and waste battery acid that have been comingled (hereinafter defined as battery maintenance waste).

4. Ohio EPA conducted a compliance evaluation inspection on October 13, 2011. As a result of the inspection Ohio EPA determined Respondent had, *inter alia*, failed to evaluate the battery maintenance waste to determine if this waste was a hazardous waste, in violation of OAC rule 3745-52-11. Also, at the time of the inspection, Respondent was transporting the waste to a facility that reclaims industrial batteries.

5. By letter dated November 2, 2011, Respondent was notified of the violations referenced in Finding No. 4. of this ESA. On November 28, 2011, Ohio EPA went to the Facility and observed Respondent's representative collect samples of the waste. On December 16, 2011, Respondent submitted analytical results for the waste that indicated the battery maintenance waste was hazardous waste (D002) due to corrosivity.

6. Based on the information in Finding Nos. 4. and 5. of this ESA, Ohio EPA determined that Respondent, *inter alia*, caused the hazardous waste battery maintenance waste to be transported to an unauthorized facility, in violation of ORC § 3734.02(F). By letter dated January 23, 2012, Respondent was notified of the violations referenced in this Finding. In electronic correspondences on January 27, February 1, February 2, February 6, February 13, February 20 and February 23, 2012, Respondent submitted information in response to Ohio EPA's January 23, 2012, letter.

7. On January 27, 2012, Respondent submitted a copy of the manifest and land disposal restriction form demonstrating twelve drums of hazardous waste battery maintenance waste (D002) were shipped offsite to an authorized facility. In electronic correspondence dated February 2, 2012, Respondent provided the document "Hazardous Waste Management Program" which outlined a hazardous waste management plan for the Facility. Based on this information the Director has determined no further action is required by Respondent to abate the violation of ORC § 3734.02(F).

8. In consideration of Respondent's compliance history, its good faith effort to comply in this matter, the benefits of prompt compliance to the public, and other factors as justice may require, and upon consideration of the entire record, this ESA is an appropriate mechanism to resolve the noncompliance detailed in these Findings.

III. ORDER

Within sixty (60) days from the date of the Director's letter inviting Respondent to sign this ESA, Respondent shall pay to the Ohio EPA the amount of $7,000.00 in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to Chapter

3734.13 of the Ohio Revised Code. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for the full amount, and shall be deposited in the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be mailed to the following address: Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A photocopy of this check shall be sent to Supervisor, Processing Records Management Unit, Ohio Environmental Protection Agency, Division of Materials and Waste Management, P.O. Box 1049, Columbus, Ohio 43216-1049.

IV. TERMINATION

Respondent's obligations under this ESA shall terminate upon both Ohio EPA's entry of this ESA in the Ohio EPA Director's journal and Ohio EPA's receipt of the civil penalty payment required by this ESA.

V. RESERVATION OF RIGHTS AND WAIVER

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived herein.

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in this ESA, Respondent consents to the issuance of this ESA and agrees to comply with this ESA. Compliance with this ESA shall be a full accord and satisfaction of Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of this ESA, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of this ESA either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if this ESA is appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall comply with this ESA notwithstanding such appeal and intervention unless this ESA is stayed, vacated, or modified.

VI. EFFECTIVE DATE

The effective date of this ESA is the date this ESA is entered into the Ohio EPA Director's journal.

VII. SIGNATORY AUTHORITY

Each undersigned representative or party to this ESA certifies that he or she is fully authorized to enter into this ESA and to legally bind such party to this ESA.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Scott J. Nally, Director

August 17, 2012
Date

IT IS SO AGREED:

Towlift, Inc.
dba Wilson Barrett Battery Power Systems

Signature

July 23, 2012
Date

David H. Cannon
Printed or Typed Name

President, Towlift, Inc.
Title

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