

COMMONWEALTH OF MASSACHUSETTS

_____)	
IN THE MATTER OF ARISTA)	BROWNFIELDS COVENANT
DEVELOPMENT, LLC, 72 ELM STREET, LLC)	NOT TO SUE AGREEMENT
AND HANDY & HARMAN ELECTRONIC)	
MATERIALS CORPORATION)	MassDEP RTN 4-0958
REDEVELOPMENT OF 72 AND 102)	
ELM STREET, NORTH ATTLEBOROUGH,)	
MASSACHUSETTS)	
_____)	

I: STATEMENT OF PURPOSE

A. This Agreement is made and entered into by and between the Office of the Attorney General (the "OAG") on behalf of the Commonwealth of Massachusetts (the "Commonwealth"), Arista Development, LLC, 72 Elm Street LLC (Arista Development, LLC and 72 Elm Street LLC will be known as the "Arista Entities"), and Handy & Harman Electronic Materials Corporation ("HHEM"). Collectively, the OAG, the Arista Entities and HHEM are referred to as the "Parties."

B. This Agreement is entered into pursuant to the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, as amended and codified in Massachusetts General Laws Chapter 21E ("G.L. c. 21E"), and the OAG's Brownfields Covenant Not to Sue Agreement Regulations at 940 CMR 23.00 ("Brownfields Covenant Regulations"), with reference to the Massachusetts Contingency Plan, 310 CMR 40.0000 (the "MCP"). This Agreement relates to the remediation and redevelopment of the former HHEM facility located at 72 and 102 Elm Street, North Attleborough, Massachusetts, in order to facilitate the Arista Entities' development project (the "Arista Development Project").

C. The Parties intend to set forth in this Agreement their respective duties, obligations and understanding so that the Arista Development Project can contribute to the physical and economic revitalization of an area of North Attleborough, Massachusetts. The Parties agree that this Agreement, pursuant to G.L. c. 21E, §3A(j)(3), addresses potential claims by the Commonwealth as to the Arista Entities and HHEM and is predicated upon their compliance with the terms and conditions of this Agreement. This Agreement also addresses potential claims brought by third parties for contribution, response action costs or property damage pursuant to G.L. c. 21E, §§ 4 and 5 or for property damage under common law. This Agreement also addresses potential claims for natural resource damages. This Agreement does not, however, address liability arising under contract law.

D. The Parties agree that the Arista Entities' ability to conduct the Arista Development Project may be contingent upon independent approval processes of other departments, agencies and instrumentalities of the federal, state and local governments. Nothing in this Agreement should be construed as an endorsement by the OAG of the proposed project for such approval processes.

E. The Commonwealth believes that this Agreement is fair, consistent with G.L. c. 21E and in the public interest, and has entered into this Agreement as part of an effort to revitalize an area of North Attleborough, Massachusetts.

II. THE PARTIES

A. The OAG is a duly constituted agency of the Commonwealth of Massachusetts charged with the legal representation of the Commonwealth and maintains offices at One Ashburton Place, Boston, Massachusetts 02108. Included within the OAG's authority is the authority to enter into Brownfields Covenant Not to Sue Agreements pursuant to G.L. c. 21E, §3A(j)(3).

B. Arista Development, LLC is a Massachusetts Limited Liability Company with a principal mailing address of P.O. Box 201, Centerville, Massachusetts 02632. In accordance with this Agreement, Arista Development LLC intends to undertake the Arista Development Project as discussed in Section IV, Paragraph A, subparagraph 2, below.

C. 72 Elm Street, LLC is a Delaware Limited Liability Company with a mailing address of 450 Station Avenue, South Yarmouth, Massachusetts 02664. In accordance with this Agreement, 72 Elm Street LLC intends to undertake the Arista Development Project as discussed in Section IV, Paragraph A, subparagraph 2, below.

D. HHEM is a Florida corporation with a principal place of business at 1133 Westchester Avenue, Suite N222, White Plains, New York 10604. In accordance with this Agreement, HHEM shall undertake the remediation as discussed in Section IV, Paragraph A, subparagraph 4, below.

III. STATEMENT OF FACT AND LAW

A. The Commonwealth enters into this Agreement pursuant to its authority under G.L. c. 21E, §3A(j)(3), and the Brownfields Covenant Regulations.

B. Unless otherwise expressly provided, terms used in this Agreement which are defined in the Brownfields Covenant Regulations shall have the meaning assigned to them under such regulations. Terms not defined in the Brownfields Covenant Regulations, but defined under G.L. c. 21E and/or the MCP, shall have the meaning assigned to them under G.L. c. 21E and/or the MCP. Terms used in this agreement which are defined in the Brownfields Covenant Regulations, G.L. c. 21E, or the MCP are capitalized.

C. The Arista Development Project involves a tract of land consisting of 292,849 square feet located at 72 and 102 Elm Street, North Attleborough (the "Property"). The Property is more fully described on Exhibit A, which is attached and incorporated into this Agreement. Due to historic industrial activities at this location, petroleum, volatile organic compounds (VOCs), and metals are present in the soils at the Property. In addition, groundwater beneath the Property and several downgradient properties contains VOCs and metals.

D. In 1990, the Massachusetts Department of Environmental Protection ("MassDEP") received notice of Releases of Oil and/or Hazardous Materials ("OHM") at the

Property. MassDEP has assigned Release Tracking Number ("RTN") 4-0958 (which incorporates RTN 4-19121 and RTN 4-20744) to those Releases. The areas where OHM have come to be located as a result of the Releases assigned RTN 4-0958 (including Releases associated with RTN 4-19121 and RTN 4-20744) constitute the "Site," as that term is defined at 310 CMR 40.0006, for the purposes of this Agreement. The Site is also the property addressed by this Agreement for the purposes of 940 CMR 23.08(1) in the Brownfields Covenant Regulations. HHEM has performed Response Actions at the Site and has filed a January 2009 Class A-3 Partial Response Action Outcome Statement for RTN 4-0958 ("Partial RAO Statement") stating that a Permanent Solution has been achieved for shallow soil at the Site (as defined in the Partial RAO Statement). Response Actions addressing the remaining portions of the Site (not included in the Partial RAO Statement) are ongoing. The following documents filed with MassDEP (together referred to as the "Remediation Documents") relate to the Site:

- December 2004 Tier Classification Submittal and Tier I Permit Application for RTN 4-0958;
- May 2006 Tier Classification Submittal for RTN 4-19121;
- August 2007 Release Abatement Measure Plan for RTN 4-0958;
- October 2007 Phase II Report/Remedial Action Plan;
- October 2007 Immediate Response Action Completion Report for RTN 4-20744;
- November 2007 Release Abatement Measure Plan for RTN 4-0958;
- August 2008 Release Abatement Measure Plan for RTN 4-0958;
- October 2008 Release Abatement Measure Completion Report for RTN 4-0958;
- January 2009 Revised Phase II Report/Remedial Action Plan and Remedy Implementation Plan; and
- January 2009 Partial RAO Statement.

MassDEP has sent Notices of Audit Findings (dated March 24, 2009 and April 16, 2009, respectively) to HHEM in response to, and after reviewing, the Partial RAO Statement and the Activity and Use Limitation ("AUL") in place at the Site. The Site is more fully described in Exhibit B, which is attached and incorporated into this Agreement. Exhibit B describes the environmental conditions in detail, including the nature and extent of contamination detected at the Site.

E. MassDEP initially asserted jurisdiction with respect to the Site under Massachusetts General Laws Chapter 21C, the Massachusetts Hazardous Waste Management Act, and the hazardous waste regulations at 310 CMR 30.000. In accordance with 310 CMR 30.000, Site Response Actions shall be completed pursuant to G.L. c. 21E and the MCP.

IV. COMMITMENTS AND OBLIGATIONS

In consideration of the representations made and promises exchanged by and between the Parties, each of them covenants and agrees to the terms and conditions which follow.

A. REPRESENTATIONS AND COMMITMENTS BY APPLICANTS

1. Each of the Arista Entities represents that:

- a. it is an Eligible Person;
- b. it is not at the time of execution of this Agreement a person with potential liability for the Site pursuant to G.L. c. 21E;
- c. it is not now nor has it ever been previously affiliated with any person having potential liability for the Site pursuant to G.L. c. 21E, except as set forth below.
- d. its involvement with the Site has been limited to:
 - i. evaluating the Property for purposes of acquiring the Property;
 - ii. negotiating to acquire the Property; and
 - iii. communicating with the Commonwealth and local authorities with respect to the design and planning of the Arista Development Project and various permitting issues with respect to the Property.
- e. none of the Arista Entities' activities has caused or contributed to the Release or threatened release of OHM at the Site under G.L. c. 21E and/or the MCP.
- f. Neither of the Arista Entities is at the time of execution of this Agreement subject to any outstanding administrative or judicial environmental enforcement action arising under any applicable federal, state or local law or regulation.

2. The Arista Entities agree to the following terms and conditions:

- a. The Arista Entities shall endeavor to acquire the Property and undertake the Arista Development Project by demolishing the existing structures on the Property and erecting one or more commercial buildings with associated parking, access aisles and landscaping for commercial retail development such as a pharmacy, bank, retail, restaurant or other similar use that would benefit from the high volume of traffic that utilizes the abutting intersection. In addition, should the Arista Entities acquire and develop the Property, the Arista Entities shall endeavor to: (i) install subsurface utilities including, but not limited to, water, sewer, gas and electricity to serve these proposed commercial uses; (ii) create at least 24 new, permanent jobs; and (iii) improve a section of the Ten Mile River that traverses the Property by

removing existing debris, stabilizing the existing slopes with man-made and natural material, remove unsightly vegetation, and improving the stream flow. A copy of the Arista Development Project proposed conceptual plan is attached as Exhibit C.

b. With respect to shallow soil contamination at the Site, the Arista Entities, if they acquire or otherwise become an owner or operator of the Property, shall maintain or arrange for the maintenance of the Partial RAO, in accordance with G.L. c. 21E and the MCP. The Arista Entities shall, if they acquire or otherwise become an owner or operator of the Property, achieve and maintain or arrange for the achievement and maintenance of Remedy Operation Status ("ROS") and/or a Permanent Solution (Class A Response Action Outcome ("RAO")) for the remainder of the Site in accordance with G.L. c. 21E and the MCP, and, consistent with the requirements of the Remediation Documents, cooperate fully with HHEM in connection with HHEM's achieving and maintaining ROS and/or a Permanent Solution (Class A RAO) at the Property. If the Arista Entities acquire or otherwise become an owner or operator of the Property, the Arista Entities shall also cooperate fully with MassDEP. Without limiting the Arista Entities' obligations in the foregoing provisions of this Paragraph 2, the Commonwealth acknowledges that the Arista Entities intend to arrange for the maintenance of the Partial RAO and achievement and maintenance of ROS and/or a Permanent Solution (Class A RAO) by and through their negotiations and plan to undertake the Arista Development Project, and that the Arista Entities presently do not intend to prepare MCP filings for HHEM.

c. To cooperate fully includes, without limitation:

i. providing prompt and reasonable access to the portion of the Site owned or operated by either of the Arista Entities to MassDEP for any purpose consistent with G.L. c. 21E and the MCP;

ii. complying with the Release notification provisions established by G.L. c. 21E and the MCP;

iii. responding in a timely manner to any request made by the MassDEP or OAG to produce information as required pursuant to G.L. c. 21E;

iv. taking reasonable steps to prevent the Exposure of people to OHM, such as by fencing or otherwise preventing access to the Site or portion of the Site under either of the Arista Entities' control if appropriate and/or necessary to prevent Exposure or as otherwise required by G.L. c. 21E, the MCP or MassDEP;

v. containing any further Release or Threat of Release of OHM from a structure or container under either of the Arista Entities' control, to the extent necessary under, and in accordance with, G.L. c. 21E and MCP, upon obtaining knowledge of a Release or Threat of Release of OHM;

vi. to the extent either of the Arista Entities conducts, or causes to be conducted, Response Actions at the Site, doing so in accordance with G.L. c. 21E, the Standard of Care defined in G.L. c. 21E, and the MCP; and

vii. managing OHM-impacted soils in accordance with the terms and conditions of the Soil Management Plan attached as Exhibit E to the AUL recorded with the Bristol County Registry of Deeds on February 27, 2009 and filed to support the January 20, 2009 Class A-3 Partial Response Action Outcome Statement. The AUL is attached to Exhibit B of this Agreement.

3. HHEM represents that:

a. it is the current owner and operator of the Property and, as such, may be liable pursuant to G.L. c. 21E, §5;

b. with respect to shallow soil contamination at the Site, HHEM has achieved a Partial RAO in accordance with G.L. c. 21E and the MCP; and

c. other than the Consent Order and Notice of Noncompliance: In the Matter of Handy & Harman Electronic Materials Corporation, N. Attleboro, MA executed by HHEM on September 24, 1987, HHEM is not at the time of execution of this Agreement subject to any outstanding administrative or judicial environmental enforcement action arising under any applicable federal, state or local law or regulation in the Commonwealth.

4. HHEM agrees to the following terms and conditions:

a. With respect to soil contamination at the Site, HHEM shall maintain a Partial RAO in accordance with G.L. c. 21E and the MCP. HHEM shall achieve and maintain, or arrange for the achievement and maintenance of ROS and/or a Permanent Solution (Class A RAO) for the remainder of the Site in accordance with G.L. c. 21E, and the MCP. HHEM shall cooperate fully with the Arista Entities, their successors and assigns, and MassDEP in achieving and maintaining ROS and/or a Permanent Solution (Class A RAO) at the Site.

b. To cooperate fully includes, without limitation:

i. providing prompt and reasonable access to the to the portion of the Site owned or operated by HHEM to MassDEP for any purpose consistent with G.L. c. 21E and the MCP;

ii. complying with the Release notification provisions established by G.L. c. 21E and the MCP;

iii. responding in a timely manner to any request made by MassDEP or OAG to produce information as required pursuant to G.L. c. 21E;

iv. taking reasonable steps to prevent the Exposure of OHM to people, such as by fencing or otherwise preventing access to the Site or portion of the Site under the HHEM's control if appropriate and/or necessary to prevent Exposure or as otherwise required by G.L. c. 21E, the MCP or MassDEP;

v. containing any further Release or Threat of Release of OHM from a structure or container under HHEM's control, to the extent necessary under, and in accordance with, G.L. c. 21E and MCP, upon obtaining knowledge of a Release or Threat of Release of OHM;

vi. to the extent HHEM conducts, or causes to be conducted, Response Actions at the Site, doing so in accordance with G.L. c. 21E, the Standard of Care defined in G.L. c. 21E, and the MCP;

vii. conduct such public involvement activities as are required by the Brownfields Covenant Regulations; and

viii. conduct Response Actions as required by the MCP so as to achieve a Permanent Solution (Class A RAO) for the whole Site.

B. COVENANT NOT TO SUE BY THE COMMONWEALTH

1. The Arista Entities

Pursuant to G.L. c. 21E, §3A(j)(3), in consideration of the representations and commitments by the Arista Entities set forth in Section IV, Paragraph A of this Agreement, and subject to either of the Arista Entities' compliance with the terms and conditions of this Agreement and the Termination for Cause provisions described below in Section IV, Paragraph B, subparagraph 6, the Commonwealth covenants not to sue against the Arista Entities, pursuant to G.L. c. 21E, for Response Action costs, contribution, property damage, natural resource damages and/or injunctive relief, or for property damage under the common law, relating to a Release of OHM occurring at the Site prior to the execution of this Agreement that is fully described and delineated in an RAO Statement (including the Partial RAO Statement) or ROS Submittal submitted to MassDEP with respect to the Site, so long as the Response Actions upon which the RAO Statement or ROS Submittal relies meet the Standard of Care in effect when the RAO Statement or ROS Submittal is submitted to MassDEP. The covenant as to the Arista Entities shall vest according to the terms of Section IV, Paragraph E, subparagraph 5, below. The Agreement shall not affect any liability established by contract.

2. HHEM

Pursuant to G.L. c. 21E, §3A(j)(3), in consideration of the representations and commitments by HHEM set forth in Section IV, Paragraph A of this Agreement, and subject to HHEM's compliance with the terms and conditions of this Agreement and the Termination for Cause provisions described below in Section IV, Paragraph B, subparagraph 6, the Commonwealth covenants not to sue HHEM pursuant to G.L. c. 21E, for Response Action costs, contribution, property damage and/or injunctive relief, or for property damage under the common law, relating to a Release of OHM occurring at the Site prior to the execution of this Agreement that is fully described and delineated in an RAO Statement (including the Partial RAO Statement) or ROS Submittal submitted to MassDEP with respect to the Site, so long as any the Response Actions upon which the RAO Statement or ROS Submittal relies meet the Standard of Care in effect when the RAO Statement or ROS Submittal is submitted to MassDEP.

The covenant as to HHEM in this Paragraph shall vest according to the terms of Section IV, Paragraph E, subparagraph 5, below. This Agreement shall not affect any liability established by contract.

3. Subsequent Owners and/or Operators

The Commonwealth also covenants not to sue Eligible Persons who are successors (including successors by foreclosure or deed in lieu of foreclosure), assigns, lessees or licensees of the Arista Entities' ownership or operational interests in the Property or any portion of the Property, or who are lessees or licensees of their successors and assigns (the "Subsequent Owners and/or Operators") pursuant to G.L. c. 21E for Response Action costs, contribution, property damage, natural resource damages or injunctive relief, or for property damage under the common law, relating to any Release of OHM occurring at the Site prior to the execution of this Agreement that is fully described and delineated in an RAO Statement (including the Partial RAO Statement) or ROS Submittal submitted to MassDEP with respect to the Site, so long as the Response Actions upon which the RAO Statement or ROS Submittal relies meet the Standard of Care in effect when the RAO Statement or ROS Submittal is submitted to MassDEP. The liability relief available to Subsequent Owners and/or Operators shall be subject to the same terms and conditions as those that apply to the Arista Entities, and the Subsequent Owner's and/or Operator's covenant not to sue the Commonwealth in Section IV, paragraph C, below.

4. Applicability of the Agreement

a. With respect to the Arista Entities, this Agreement, except as it applies to claims for natural resource damages, shall be in effect unless and until the statutory protections are available to the Arista Entities or Subsequent Owners and/or Operators pursuant to G.L. c. 21E, §5C are in effect. Protections in this Agreement from claims for natural resource damages shall not be affected if the statutory protections available under G.L. c. 21E, §5C are in effect. This Agreement is subject to the Termination for Cause provisions described below in Section IV, Paragraph B, subparagraph 6.

b. With respect to HHEM, upon vesting, this Agreement shall remain in effect, provided that HHEM and any parent, corporate affiliates, successors or assigns continue to comply with the terms and conditions of this Agreement. This Agreement is subject to the Termination for Cause provisions described below in Section IV, Paragraph B, subparagraph 6.

5. Reservations of Rights

The Commonwealth's covenants in this Agreement shall not apply to:

a. any new Release of OHM at or from the Property that occurs after the date of execution of this Agreement;

b. with respect to the Arista Entities, any Release of OHM which either of the Arista Entities causes or contributes to or causes to become worse, and any Release or Threat of Release of OHM from which there is a new Exposure that results from any action or

failure to act pursuant to G.L. c. 21E by either of the Arista Entities during its ownership or operation of the Property, but if the action or failure to act is that of either of the Arista Entities, such reservation shall affect the liability protection applicable only to the Arista Entities and shall not affect HHEM's liability protection under this Agreement;

c. with respect to HHEM, any new Release of OHM which HHEM causes or contributes to or causes to become worse, and any Release or Threat of Release of OHM from which there is a new Exposure that results from any action or failure to act pursuant to G.L. c. 21E by HHEM during its ownership or operation of the Property;

d. with respect to any Subsequent Owner and/or Operator, any Release of OHM which any Subsequent Owner and/or Operator causes or contributes to or causes to become worse, and any Release or Threat of Release of OHM from which there is a new Exposure that results from any action or failure to act pursuant to G.L. c. 21E by a Subsequent Owner and/or Operator during its ownership or operation of the Site, but if the action or failure to act is that of a Subsequent Owner and/or Operator, such reservation shall affect the liability protection applicable only to such Subsequent Owner and/or Operator and shall not affect HHEM's or the Arista Entities' liability protection under this Agreement;

e. any Release of OHM not discovered when an RAO Statement or ROS Submittal is submitted to MassDEP that would have been discovered if an assessment of the Site covered by or addressed in the RAO Statement or ROS Submittal had been performed consistent with the Standard of Care in effect when the RAO Statement or ROS Submittal was submitted;

f. any Release of OHM not described and delineated in an RAO Statement or ROS Submittal submitted to MassDEP with respect to the Site;

g. with respect to HHEM, any claims for damages for injury to, destruction of, or loss of natural resources; and

h. with respect to the Arista Entities or a Subsequent Owner and/or Operator, any claims (i) for damages for injury to, destruction of, or loss of natural resources due to a Release of Oil and/or Hazardous Material occurring after the execution of this Agreement, (ii) for exacerbation of injury to, destruction of, or loss of natural resources occurring after the execution of this Agreement, where original injury, destruction or loss of natural resources was due to a Release of Oil and/or Hazardous Material occurring after the execution of this Agreement, (iii) for the costs of any natural resource damage assessment relating to conditions first caused or exacerbated after the execution of this Agreement, and (iv) for damages for injury to, destruction of, or loss of natural resources due to a Release of OHM not described and delineated in an RAO Statement or ROS Submittal submitted to MassDEP with respect to the Site. If, however, injury to, destruction of, or loss of natural resources, or the exacerbation of such conditions, is caused by a Subsequent Owner and/or Operator, this reservation shall affect the liability protection applicable only to such Subsequent Owner and/or Operator, and shall not affect the Arista Entities' liability protection.

6. Termination for Cause

a. If the OAG or MassDEP determines that either of the Arista Entities or HHEM submitted materially false or misleading information as part of their Application to Enter into a Brownfields Covenant Not to Sue Agreement, the OAG may terminate the liability protection offered by this Agreement for the offending party in accordance with subparagraph 6.d. below. A statement made by either of the Arista Entities and/or HHEM regarding the anticipated benefits or impacts of the proposed Project will not be considered false or misleading for purposes of this subparagraph if the statement was asserted in good faith at the time it was made.

b. If the OAG or MassDEP determines that HHEM has violated the terms and conditions of this Agreement, including, but not limited to, failure to achieve and maintain an ROS and/or a Permanent Solution for RTN 4-0958, failure to meet regulatory deadlines for RTN 4-0958, failure to perform Response Actions that may be required following receipt of a Notice of Audit Findings for RTN 4-0958 pursuant to applicable regulations, or failure to perform Response Actions in accordance with the Standard of Care, the OAG may terminate the liability protection offered by this Agreement in accordance with subparagraph 6.d. below. In the event that the liability protection is terminated solely because of a violation of one or more of the conditions set forth in 940 CMR 23.08(3)(a) through (d) by HHEM, such termination shall affect the liability protection applicable only to HHEM and shall not affect the Arista Entities' or a Subsequent Owner and/or Operator's liability protection.

c. If the OAG or MassDEP determines that either of the Arista Entities or a Subsequent Owner and/or Operator has violated the terms and conditions of this Agreement, including, but not limited to, failure to maintain a Permanent Solution or ROS at the Site, the OAG may terminate the liability protection offered by this Agreement in accordance with subparagraph 6.d. below. In the event that the liability protection is terminated solely because of a violation of one or more of the conditions set forth in 940 CMR 23.08(3)(a) through (d) by the Arista Entities, such termination shall affect the liability protection applicable only to the Arista Entities and shall not affect HHEM's liability protection. In the event that the liability protection is terminated solely because of a violation of one or more of the conditions set forth in 940 CMR 23.08(3)(a) through (d) by a Subsequent Owner and/or Operator, such termination shall affect the liability protection applicable only to the Subsequent Owner and/or Operator and shall not affect the Arista Entities' or HHEM's liability protection.

d. Before terminating the liability relief provided by this Agreement, the OAG will provide the Arista Entities, HHEM or a Subsequent Owner and/or Operator, as appropriate, with written notice of the proposed basis for, and a 60-day opportunity to comment on, the proposed termination. If the OAG, in its sole reasonable discretion, deems it appropriate, the notice from the OAG shall provide a reasonable period of time for the Arista Entities, HHEM or a Subsequent Owner and/or Operator, as appropriate, to cure an ongoing violation in lieu of termination of the liability relief provided by this Agreement.

e. Termination of liability relief pursuant to this section shall not affect any defense that the Arista Entities, HHEM or a Subsequent Owner and/or Operator might otherwise have pursuant to G.L. c. 21E.

C. COVENANT NOT TO SUE BY THE ARISTA ENTITIES, HHEM AND/OR ANY SUBSEQUENT OWNER AND/OR OPERATOR

1. In consideration of the Commonwealth's covenants not to sue in Section IV, Paragraph B, the Arista Entities and HHEM covenant not to sue and not to assert any claims or causes of action against the Commonwealth, including any department, agency, or instrumentality, and its authorized officers, employees, or representatives with respect to the following matters as they relate to the Site or this Agreement:

a. any direct or indirect claims for reimbursement, recovery, injunctive relief, contribution or equitable share of response costs or for property damage pursuant to G.L. c. 21E in connection with any Release that is subject to the Commonwealth's covenants not to sue in Section IV, Paragraph B (the "Covered Releases");

b. any claims for "takings" under the Fifth Amendment to the United States Constitution, under the Massachusetts Constitution, or under G.L. c. 79 based on the argument that, with respect to a Covered Release, the requirements of Chapter 21E, the MCP, or the requirements of this Agreement constitute a taking;

c. any claims for monetary damages arising out of Response Actions at the Site and/or the Property;

d. any claims or causes of action for interference with contracts, business relations or economic advantage based upon the conduct of MassDEP pursuant to Chapter 21E prior to the date of this Agreement concerning the Covered Releases; or

e. any claims for costs, attorneys fees, other fees or expenses incurred in connection with the Covered Releases.

2. Subsequent Owners and/or Operators shall be bound by the Arista Entities' and HHEM's covenants in this Paragraph C. In the event that, despite these covenants, a Subsequent Owner and/or Operator asserts any claims or causes of action against the Commonwealth, including any department, agency, or instrumentality, and its authorized officers, employees, or representatives with respect to the claims listed in this Section C, such claims or causes of action shall have no effect on the rights, benefits, and protections secured under this Agreement for any other entity.

D. CONTRIBUTION PROTECTION AND RIGHTS OF AFFECTED THIRD PARTIES

With regard to any Release of Oil and/or Hazardous Material occurring at the Site prior to the execution of this Agreement, so long as the Response Actions upon which the RAO Statement or ROS Submittal relies meet the Standard of Care in effect when the RAO Statement or ROS Submittal is or was submitted to MassDEP, the Arista Entities, HHEM, and any Subsequent Owner or Operator are entitled to the protection G.L. c. 21E §3A(j)(3) provides from claims for contribution, Response Action costs or property damage brought by third parties

pursuant to G.L. c. 21E, §§ 4 and/or 5, or third party claims brought for property damage claims under common law, based solely on the status of the Arista Entities, HHEM, and/or any Subsequent Owner or Operator as owner or operator of the Property and/or the Site, provided that HHEM or the Arista Entities have satisfied the notification provisions of G.L. c. 21E, §3A(j)(3), and 940 CMR 23.06(1). However, this Paragraph does not affect potential claims brought by Leslie A. and Christopher C. Pin as owners of 14 Grant Street, North Attleborough, Massachusetts, and Adrian and Nora Herson as owners of 157 Elm Street, North Attleborough, Massachusetts.


E. GENERAL PROVISIONS

1. This Agreement may be modified only upon the written consent of all Parties.
2. If any court of competent jurisdiction finds any term or condition of this Agreement or its application to any person or circumstance unenforceable, the remainder of this Agreement shall not be affected and each remaining term and provision shall be valid and enforceable to the full extent permitted by law.
3. Each Party warrants and represents to the others that it has the authority to enter into this Agreement and to carry out its terms and conditions.
4. This Agreement may be fully executed by all Parties in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.
5. Effectiveness
 - a. The Commonwealth's covenant not to sue the Arista Entities, as described in Section IV, Paragraph B, subparagraph 1, and the protections from third party claims provided to the Arista Entities in Section IV, Paragraph D, shall be effective as of the transfer and deed of the Property to one of the Arista Entities (the "Closing"). By executing this Agreement, neither the Arista Entities nor HHEM is obligated to purchase or sell (respectively) the Property;
 - b. The Commonwealth's covenant not to sue HHEM, as described in Section IV, Paragraph B, subparagraph 2, and the protections from third party claims provided to HHEM in Section IV, Paragraph D shall be effective when any combination of RAO Statements for a Permanent Solution and/or ROS Submittals are submitted to DEP with respect to both soil and waterborne contamination at the entire Site, as long as the Response Actions upon which the RAO Statements and/or ROS Submittals rely meet the Standard of Care in effect when the RAO Statements and/or ROS Submittals are submitted to MassDEP.

In the matter of Arista Development, LLC, 72 Elm Street, LLC
and HHEM Electronic Materials Corp.
Brownfields Covenant Not To Sue Agreement


IT IS SO AGREED:

OFFICE OF THE ATTORNEY GENERAL

By: 
Benjamin J. Ericson
Assistant Attorney General
Environmental Protection Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Date: 3/31/10

ARISTA DEVELOPMENT, LLC

By: 

Name: GREGORY BOTSIWALES

Title: MANAGER

Date: 3-25-10

72 ELM STREET, LLC

By: 


Name: Gregory Botsivales

Title: TREASURER
~~President~~ of Botsini Corporation, which is Manager of 72 Elm Street LLC, II, which is
Manager of 72 Elm Street LLC

Date: 3-25-10

In the matter of Arista Development, LLC, 72 Elm Street, LLC
and HHEM Electronic Materials Corp.
Brownfields Covenant Not To Sue Agreement

HANDY & HARMAN ELECTRONIC
MATERIALS CORPORATION

By:  _____

Name: JAMES F. MCCABE JR.

Title: SVP

Date: 3/22/10

In the matter of Arista Development, LLC, 72 Elm Street, LLC
and HHEM Electronic Materials Corp.
Brownfields Covenant Not To Sue Agreement

As to protections for Arista Development, LLC and 72 Elm Street, LLC from claims for natural
resource damages:

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS

By:



Ian A. Bowles
Secretary of Energy and Environmental Affairs

Date:

3/19/10