

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF: )
AlphaPet, Inc )
Decatur, Morgan County, Alabama ) CONSENT ORDER NO. 26-XXX-CAP
ADEM Air Facility ID No. 712-0097 )

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management ("Department" or "ADEM") and AlphaPet, Inc ("Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 through 22-22A-17, as amended, the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 through 22-28-23, as amended, and the regulations promulgated pursuant thereto.

STIPULATIONS

- 1. The Permittee operates a chemical manufacturing facility, Air Division Facility No. 712-0097 ("Facility"), located at 1301 Finley Island Road, Decatur, Morgan County, Alabama.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 through 22-22A-17, as amended.
3. Pursuant to Ala. Code §§ 22-22A-4(n), as amended, the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. §7401 et seq., as amended. In addition, the Department is authorized to administer and enforce the

provisions of the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 through 22-28-23, *as amended*.

4. The Department issued the current Major Source Operating Permit No. 712-0097 (“Permit”) to the Permittee on October 26, 2022.

5. Permit Proviso No. 3 of the Emission Standards section for the Process Lines 1 and 2 states: *“The standards for the leak detection and repair (LDAR) program of 40 [Code of Federal Regulations] Part 63, Subpart JJJ, as listed in 63.1313, shall be met.”*

#### *DEPARTMENT'S CONTENTIONS*

6. On June 17, 2020, the Permittee sent the Department an application for the modification of the facilities polyethylene terephthalate (PET) processing area. The application requested permission to install a separation column (T-62) to remove residual organic impurities from the process wastewater from an upstream tower (T-61). The application stated that, “the additional equipment components associated with the T-62 Separation Column that are in organic hazardous air pollutant (HAP) service at least 300 hours per year and contain a gas or liquid that is at least 5 percent by weight of organic HAPs will be incorporated into the existing leak detection and repair program” (Construction Permit Application T-62 Column Installation Project, page 4-6). On July 8, 2020, the Department responded to the Permittee’s application with a letter stating that a permit or modification of the Permit would not be required for the installation of the T-62 column.

7. On October 16, 2025, the Permittee scheduled a conference call with several members of the Air Division at ADEM. During this call, the representative for the Permittee reported that they had discovered that the components related to the T-62 had never been tagged and monitored following construction as required by the LDAR program. The Permittee did

state that some of the components were in the LDAR inventory. At the time of the meeting, the Permittee did not know how many components would need to be added to the LDAR program and monitoring had not yet been performed.

8. On November 3, 2025, the Department received a letter from the Permittee stating that the omission had been discovered during a recent internal assessment of the LDAR program, that the components were added into the program on October 14-15, 2025, that monitoring was performed on October 20, 2025 with no leaks being detected, and that 51 components were identified as being in light liquid or gas vapor service. On January 22, 2026, in a response to questions from the Department related to the Permittee's 40 CFR Part 63 Subpart JJJ semiannual report for the period of May 25, 2025, through November 24, 2025, the Permittee reported that 2 components had been incorrectly labeled as being in light liquid or gas vapor service, and there were actually 49 new components related to the T-62, not 51 new components as reported in the November 3, 2025 letter. This represents 49 discrete violations of Permit Proviso No. 3 of the Emission Standards section for the Process Lines 1 and 2.

9. During the Department's review of the Permittee's 40 CFR Part 63 Subpart JJJ semiannual report for the period of November 25, 2024, through May 24, 2025, the Department noted that the Permittee had not monitored any connectors in light liquid or gas vapor service during the reporting period, and that the Permittee had last monitored connectors on February 11, 2021. The Permittee had been monitoring connectors under a four-year monitoring frequency as outlined in 40 CFR 63.174(b)(3)(iii). The Department noted that it had been more than four years since the Permittee had monitored the connectors. This represents an additional violation of Proviso No. 3 of the Emission Standards section for the Process Lines 1 and 2.

10. On November 25, 2025, the Department issued the Permittee a Notice of Violation (NOV) for the failure to include the components associated with the T-62 separation column in the LDAR program, and the failure to monitor connectors in light liquid or gas vapor service within the required frequency.

11. On January 27, 2026, the Department received a response to the NOV indicating several reasons for the failures in the Permittee's LDAR program. This response also included the results of an internal audit by the Permittee of their LDAR program, and an independent review performed by the Permittee's consultant. Key findings from these reviews are as follows:

- A. Equipment identification was incomplete, and component classification was inconsistent.
- B. The LDAR database did not accurately reflect the current conditions and rules for calculating component monitoring frequency were incomplete.
- C. Monitoring frequencies were not consistently aligned with regulatory requirements.
- D. Exemptions related to certain LDAR component types were not documented as required.
- E. LDAR was not sufficiently integrated into the management of change (MOC) process.
- F. 51 additional components in light liquid or gas vapor service not previously identified were discovered (100 total components including the 49 previously reported).

12. The NOV response also stated that the Permittee has reviewed process and maintenance documentation to determine if any leaks occurred while components were not

monitored. The Permittee did not find any work orders or shift reports that indicated leaks had occurred in non-monitored components over the four-year period from 2021-2025.

13. Pursuant to Ala. Code § 22-22A-5(18) c., *as amended*, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent, and degree of success of such person's efforts to minimize the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day such violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: The Department considers the Permittee's failure to comply with the permitted LDAR requirements to be a serious violation. The Permittee failed to follow the monitoring requirements of Subpart JJJ from the construction of the T-62 column in 2021, until the monitoring performed in October of 2025. The Permittee also failed to monitor any connectors in light liquid or gas vapor service for more than 4 years.

B. THE STANDARD OF CARE: The Permittee failed to adequately perform their responsibilities under the LDAR program. Therefore, the Permittee did not exhibit the requisite standard of care to comply with the requirements of the Permit and applicable regulatory standards.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department is not aware of any economic benefits the Permittee may have gained as a result of the violations referenced herein.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIROMENT: The Permittee performed an internal audit of the LDAR program and hired Trinity Consultants to perform an independent review. The Permittee has updated their LDAR procedures, LDAR training, and MOC system. The Permittee has returned to monitoring connectors in light liquid or gas vapor service on an annual basis.

E. HISTORY OF PREVIOUS VIOLATIONS: The Permittee was issued a NOV in 2023 for excursions from the minimum daily average firebox temperature of HTM Heater No. 2. This NOV resulted in no further enforcement. The Permittee does not have previous history of violations related to their LDAR program.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty to resolve this matter amicably without incurring the unwarranted expense of litigation.

14. The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended*, as well as the need for timely and effective enforcement and, based upon the foregoing and attached contentions, has concluded that the civil penalty is appropriate (*See* "Attachment A", which is hereby made a part of Department's Contentions).

15. The Department neither admits nor denies Permittee's Contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violations cited herein without unwarranted expenditure of State resources in prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

#### *PERMITTEE'S CONTENTIONS*

16. The Permittee neither admits nor denies the Department's contentions. The Permittee consents to abide by the terms of this Consent Order and pay the civil penalty assessed herein.

#### *ORDER*

THEREFORE, the Permittee, along with the Department, desires to resolve and settle the compliance issues cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended*, as well as the need for timely and effective enforcement and has determined that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to enter into this Consent Order with the following terms and conditions:

A. The Permittee agrees to pay to the Department a civil penalty in the amount of \$36,960.00 in settlement of the violations alleged herein within forty-five days from the effective date of this Consent Order. Failure to pay the civil penalty within forty-five days from the

effective date may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. The Permittee agrees to complete a full audit of their LDAR program to identify any additional components in light liquid or gas vapor service that were not monitored under the Permittee's LDAR program. This audit shall be completed no later than December 31, 2026, and the results of the audit shall be submitted by January 31, 2027.

C. The Permittee agrees that, after the effective date of this Consent Order, it will pay stipulated civil penalties for each newly identified liquid or gas vapor component found following the audit of the LDAR program required by Condition B. The stipulated penalty shall be \$377.55 for each newly identified component.

D. The parties agree that the cumulative stipulated penalties and the initial settlement penalty combined shall not exceed \$250,000. Once stipulated penalties of \$250,000 are due to the Department and violations continue to occur, or should violations continue to occur 365 days after the effective date of this Consent Order, whichever comes first, then the Department shall be free to issue additional orders or to file suit against the Permittee in the Circuit Court of Montgomery County or in another court of competent jurisdiction to enforce compliance of this Order.

E. The Permittee agrees to submit payment of stipulated penalties due so that they are received by the Department no later than thirty days following the date it is determined that a stipulated penalty is due.

F. The Permittee agrees that all penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel  
Alabama Department of Environmental Management  
P.O. Box 301463  
Montgomery, Alabama 36130-1463

Or, in the alternative, payment of the civil penalties assessed herein shall be made in the form of a wire transfer payable to the Alabama Department of Environmental Management pursuant to the wire transfer instructions to be provided to the Permittee by the Department.

G. The Permittee agrees to comply with all other requirements of ADEM Administrative Code Div. 335-3 and the Permit immediately upon the effective date of this Order and continuing every day thereafter.

H. The parties agree that this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

I. The parties agree that, subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Consent Order.

J. The Permittee agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

K. For purposes of this Consent Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. The Permittee also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, the Permittee shall be limited to the defenses of *Force Majeure*, compliance with this Agreement

and physical impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of the Permittee, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of the Permittee) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increase costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain federal, state, or local permits shall not constitute *Force Majeure*. Any request for a modification of a deadline must be accompanied by the reasons (including documentation) for each extension and the proposed extension time. This information shall be submitted to the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Permittee, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but it is not obligated to do so.

L. The Department and the Permittee agree that the purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances reference herein. Should additional facts and circumstances be discovered concerning current allegations and contentions which would constitute violations not addressed in this Consent Order, then such violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate. The Permittee shall not object to such future orders, litigation, or enforcement action based on the issuance of this Consent Order.

M. The Department and the Permittee agree that this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Permittee does hereby waive any hearing on the terms and conditions of the same.

N. The Department and the Permittee agree that this Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

O. The Department and the Permittee agree that final approval and entry into this Order are subject to the requirements that the Department give notice of proposed Orders to the public, and that the public has, at a minimum, a thirty-day comment period for the proposed Order.

P. The Department and the Permittee agree that, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

Q. The Department and the Permittee agree that any modifications of this Order must be agreed to in writing signed by both parties. Any modification would require an additional public notice and comment period.

R. The Department and the Permittee agree that, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State, or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

S. The Department and Permittee agree that compliance with Section described as "Order" of this consent order, including payment of any stipulated penalties, constitutes full

satisfaction of all requirements pertaining to the specific violations described in the Section titled  
“Department's Contentions” of this consent order.

Executed in duplicate, with each part being an original.

ALPHAPET, INC

ENVIRONMENTAL MANAGEMENT

Karla Shinkunas for Uday Garg  
(Signature of Authorized Representative)

\_\_\_\_\_  
Edward F. Poolos  
Director

Karla Shinkunas for Uday Garg  
(Printed Name)

VP of Operations, AlphaPet, Inc.  
(Printed Title)

4/22/2026  
(Date)

\_\_\_\_\_  
(Date Executed)

