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USNRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
RULEMAKING AND  
ADJUDICATION STAFF

In the Matter of )

21st CENTURY TECHNOLOGIES, INC. )

Docket No. 030-30266

(Fort Worth, Texas) )

JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT

The parties to the above-captioned proceeding, the staff of the Nuclear Regulatory Commission (Staff) and 21st Century Technologies, Inc. (Licensee), jointly move the Atomic Safety and Licensing Board (Board) to approve the Joint Settlement Agreement attached to this Joint Motion, pursuant to 10 C.F.R. § 2.203 of the Commission's regulations. The parties submit that this Settlement Agreement is in the public interest. The parties request that the Board, in accordance with 10 C.F.R. § 2.203, enter an order terminating this proceeding, embodying the terms of the Settlement Agreement without any finding with respect to any fact in dispute between the parties, or any resolution of any dispute arising from the order imposing a civil penalty issued to 21st Century Technologies, Inc.

Respectfully submitted,

FOR 21ST CENTURY TECHNOLOGIES, INC.

FOR THE NRC STAFF



James R. Tourtellone  
Counsel for 21st Century Technologies, Inc.

Catherine L. Marco  
Counsel for NRC staff

Dated this 28<sup>th</sup> day of November, 1997

SECY-EHD-006

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
 )  
21st CENTURY TECHNOLOGIES, INC. ) Docket No. 030-30266  
 )  
(Fort Worth, Texas) )

JOINT SETTLEMENT AGREEMENT

On April 10, 1997, the staff of the Nuclear Regulatory Commission (Staff) issued an "Order Imposing a Civil Monetary Penalty" (Order) in the amount of \$2,500 to 21st Century Technologies, Inc. (Licensee). 62 Fed. Reg. 19,816 (1997). On April 25, 1997, the Licensee requested a hearing on the Order, and on June 23, 1997, an Atomic Safety and Licensing Board (Board) was established to preside in the proceeding.

The Staff and the Licensee agree that it is in their respective interests and in the public interest to settle the enforcement action and agree to the following terms and conditions:

1. The Licensee withdraws its request for a hearing.
2. The Licensee agrees to pay a civil penalty in the amount of \$2,000.00 in four installments, as set forth below. The first payment is to be received thirty days after this Settlement Agreement has become final agency action (unless such day falls on a Saturday, Sunday, or federal holiday, in which case payment is to be received by the next business day), plus interest on the unpaid principal balance accruing at the

rate of 5 percent per year, as well as an administrative charge of \$10.00 per month. Subsequent payments shall be received by the first day of the month upon which payment is due as shown in the schedule in this paragraph. Payments shall be made payable to the United States Treasury and received at the address below until the principal sum and all interest and other charges assessed under the provisions of this Settlement Agreement have been fully paid.

Payments will be mailed or otherwise delivered to the following address:

U.S. Nuclear Regulatory Commission  
Office of Enforcement  
Attn: James Lieberman  
Mail Stop 0-7H5  
Washington, DC 20555-0001

The following is a schedule of monthly installments:

21ST CENTURY TECHNOLOGIES, INC.

PAYMENT NUMBER	PAYMENT DATE*	TOTAL PAYMENT	INTEREST AMOUNT	ADMIN. AMOUNT	PRINCIPAL AMOUNT	REMAINING BALANCE
BEGINNING BALANCE	.....	.....	.....	.....	.....	\$2,000.00
1		500.00	8.33	10.00	481.67	1,518.33
2		500.00	6.33	10.00	483.67	1,034.66
3		500.00	4.31	10.00	485.69	548.97
4		561.26	2.29	10.00	548.97	0
TOTAL		\$2,061.26	\$21.26	\$40.00	\$2,000.00	

\* The payment dates will be determined when the Settlement Agreement becomes final agency action. At that time, the NRC Office of Enforcement will inform the Licensee of the dates by letter.

3. If any installment remains unpaid for a period of thirty (30) days or more, the Staff may, in its discretion, consider this Settlement Agreement as materially breached. In the event of a breach of this Settlement Agreement, the full amount of the civil penalty imposed on the Licensee, \$2,500 (plus interest and administrative charges, less any payments already made hereunder), will become due. In this event, the Licensee agrees to waive any right to contest or seek review of the imposition of the civil penalty before the NRC or in any court.
4. The Staff will make itself available to meet with the Licensee at a mutually agreeable time at the Staff's Rockville, MD offices for the purpose of discussing the Licensee's current license and possible changes to it to address the Licensee's needs to broaden gunsight distribution. The Staff will also discuss with the Licensee the information necessary to allow modification of the sealed source and device registration sheets.
5. The parties understand that the Staff will not prejudge the acceptability of any proposed license amendment request and will not consider itself bound by statements made at the meeting to approve any such request. The Staff, however, will offer guidance and suggestions to the Licensee, as it would for any licensee seeking the Staff's assistance.
6. In the event of a material breach of this Settlement, the Licensee agrees to pay all reasonable collection costs, court costs, and attorney's fees incurred by the Nuclear Regulatory Commission and/or the United States for any appropriate collection actions taken by the Nuclear Regulatory Commission and/or the United States.

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7. Failure or failures by the Staff to exercise any rights in this Settlement Agreement with respect to a material breach shall not be construed as a waiver of its right to exercise the same or any other right at any other time thereafter.
8. The provisions of this Settlement Agreement may not be changed except by a prior written agreement which specifies the agreed-upon changes and which is signed by the Staff and the Licensee.
9. The parties agree and understand that this Settlement Agreement is only binding on the NRC and the Licensee and relates only to NRC's authority to take civil enforcement action. This Settlement Agreement shall be binding upon the legal representatives, successors and assigns of the Licensee.
10. The Staff and the Licensee shall jointly move the Atomic Safety and Licensing Board designated in the above-captioned proceeding for an order approving this Settlement Agreement and terminating the proceeding.

In Witness Whereof, the parties have caused this Settlement Agreement to be executed by their authorized representatives.

FOR 21ST CENTURY TECHNOLOGIES, INC.



James R. Tourtellotte  
Counsel for 21st Century Technologies, Inc.

Dated this 28<sup>th</sup> day of November, 1997

FOR THE NRC STAFF



Catherine L. Marco  
Counsel for NRC staff

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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(Fort Worth, Texas) )  
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CERTIFICATE OF SERVICE

I hereby certify that copies of "JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT" and "JOINT SETTLEMENT AGREEMENT" in the above-captioned matter have been served on the following by deposit in the United States mail, first class, as indicated by asterisk or through deposit in the Nuclear Regulatory Commission's internal mail system this 2nd day of December, 1997.

Thomas S. Moore, Chairman  
Atomic Safety and Licensing Board Panel  
Mail Stop: T-3F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Dr. Jerry R. Kline  
Administrative Judge  
Atomic Safety and Licensing Panel  
Mail Stop: T-3F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Office of the Secretary  
Attn.: Rulemakings and Adjudications  
Staff  
Mail Stop: 16-G-15 OWFN  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Lester S. Rubenstein\*  
Administrative Judge  
4760 East Country Villa Drive  
Tucson, AZ 85718

James R. Tourtellotte, Esq.\*  
1200 N. Nash #1141  
Arlington, Virginia 22209

Adjudicatory File (2)  
Atomic Safety and Licensing Board  
Mail Stop: T-3F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Atomic Safety and Licensing Board  
Panel  
Mail Stop: T-3F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Office of the Commission Appellate  
Adjudication  
Mail Stop: 16-G-15 OWFN  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Catherine L. Marco  
Catherine L. Marco  
Counsel for NRC Staff