SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into by and between the California Air Resources Board (ARB), with its principal office at 1001 I Street, Sacramento, California, and OPI Products Incorporated (OPI) with its principal place of business at 13034 Saticoy Street, North Hollywood, California.

RECITALS

1. ARB alleges that between January 2006 and October 2010, OPI sold, supplied, and offered for sale in California "**OPI Acetone Free Polish Remover with Aloe Vera**" subject to the volatile organic compound (VOC) limit for Nail Polish Remover category in Title 17, California Code of Regulations (CCR), section 94509(a).

2. ARB alleges that the "**OPI Acetone Free Polish Remover with Aloe Vera**" referenced in recital paragraph 1 contained concentrations of VOCs exceeding the 1 percent VOC limit for Nail Polish Remover specified in Title 17, CCR, section 94509(a).

3. ARB alleges that if the allegations described in recital paragraphs 1 and 2 were proven, civil penalties could be imposed against OPI as provided in Health and Safety Code (HSC) sections 42402 et seq. for each and every unit involved in the violations.

4. OPI admits the allegations described in recital paragraphs 1 and 2, but denies any liability resulting from said allegations.

5. The parties agree to resolve this matter completely by means of this Agreement, without the need for formal litigation.

Therefore, the parties agree as follows:

TERMS AND CONDITIONS

1. OPI shall not sell, supply, or offer for sale for use in California any consumer products in violation of ARB Consumer Products Regulations set forth in Title 17, CCR, section 94500 et seq.; however, the terms and conditions set forth in this agreement will remain valid and enforceable notwithstanding any future violations that may occur.

2. OPI in settlement of the above-described violations of Title 17, CCR, section 94509(a) agrees to pay a penalty to ARB in the amount of $58,000, payable to the California Air Pollution Control Fund, concurrent with the execution of this Agreement.

3. This settlement shall apply to, and be binding upon, OPI and its officers, directors, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations and upon ARB and any successor agency that may have responsibility for, and jurisdiction over, the subject matter of this settlement.

4. The parties stipulate that this Agreement shall be the final resolution of ARB claims regarding the above-described violations and shall have the same res judicata effect as a

judgment in terms of acting as bar to any civil action by ARB against OPI, its officers, directors, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations. This Agreement shall be deemed the recovery of civil penalties for purposes of precluding subsequent criminal action as provided in HSC section 42400.7(a).

5. This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice of law rules.

6. This Agreement constitutes the entire agreement and understanding between ARB and OPI concerning the claims and settlement in this Agreement, and this Agreement fully supersedes and replaces any and all prior negotiations and agreement of any kind or nature, whether written or oral, between ARB and OPI concerning these claims.

7. No agreement to modify, amend, extend, supersede, terminate, or discharge this Agreement, or any portion thereof, shall be valid or enforceable unless it is in writing and signed by all parties to this Agreement.

8. Each of the undersigned represents and warrants that he or she has full power and authority to enter into this Agreement.

9. **SB 1402 Statement**. California HSC section 39619.7 (Senate Bill 1402 - Dutton, Chapter 413, statutes of 2010) requires ARB to provide information on the basis for the penalties it seeks. This Settlement Agreement includes this information, which is also summarized here. This terms and conditions paragraph 9 sets forth the ARB methodology for arriving at a final civil penalty amount and is not intended to constitute an admission of liability by OPI.

The provision of law the penalty is being assessed under and why that provision is most appropriate for that violation.

The penalty provision being applied is this case is HSC section 42402, et seq. because ARB alleges that OPI sold, supplied, offered for sale, or manufactured for sale consumer products for commerce in California in violation of the Consumer Products Regulations (Title 17, CCR, section 94507, et seq.). The penalty provisions of HSC section 42402, et seq. apply to violations of the Consumer Products Regulations because these regulations were adopted under authority of HSC section 41712 which is in Part 4 of Division 26 of the HSC.

The manner in which the penalty amount was determined, including aggravating and mitigating factors and per unit or per vehicle basis for the penalty.

Penalties must be set at levels sufficient to discourage violations. ARB considered all relevant circumstances in determining the penalty in this case, including the eight factors specified in HSC section 42403.

HSC section 42402, et seq. provides strict liability penalties of up to $1,000 per day for violations of the Consumer Product Regulations. In cases like this one involving unintentional first time violations of the Consumer Products Regulations where the violator cooperates with the investigation, ARB has sought and obtained penalties of approximately $17,000 per ton of excess emissions of VOCs attributable to the violation. This represents an average cost to retire a ton of VOC emission credits and reformulate a product to comply with the Consumer Product Regulations. The penalty in this case is $58,000 and there were 6.6 tons of excess emissions attributable to the alleged violation. The penalty in this case was reduced because OPI has no prior violations, made diligent efforts to comply, cooperated with the investigation, and undertook significant steps to go beyond the requirements of the Consumer Products Regulations. At the end of 2007, OPI voluntarily reformulated its nail coatings to lower the Maximum Incremental Reactivity and to remove toluene and dibutyl phthalate. OPI estimated that this voluntary reformulation of its non-regulated nail coating products resulted in material reductions of OPI's VOC emissions. OPI's voluntary reformulation prevented the formation of 65 tons of ozone in just 2009 and will continue to result in an ongoing significant public health and air quality benefits. The final penalty amounted to $8,500 per ton plus investigative costs. Penalties in future cases might be higher or lower on a per ton or per unit basis.

Is the penalty being assessed under a provision of law that prohibits the emission of pollution at a specified level, and, if so a quantification of excess emissions, if it is practicable to do so.

The Consumer Product Regulations do not prohibit emissions above a specified level, but they do limit the concentration of VOCs in regulated products. In this case a quantification of the excess emissions attributable to the alleged violations was practicable because OPI made the product formulation and sales data necessary to make this quantification available to ARB. Based upon this information (which OPI has designated as confidential), the alleged violations were calculated to have caused 6.6 tons of excess emissions of volatile organic chemicals to be emitted to the atmosphere in California.

10. OPI acknowledges that ARB has complied with SB1402 in investigating, prosecuting and settling this case. Specifically, ARB has considered all relevant facts, including those listed at HSC sections 42403, has explained the manner in which the penalty amount was calculated, has identified the provision of law under which the penalty is being assessed and has considered and determined that while this penalty is not being assessed under a provision of law that prohibits the emission of pollutants at a specified level, it is practicable for ARB to quantify the excess emissions from the alleged violations, has done so and has included this information in this Settlement Agreement.

11. Final penalties were determined based on the unique circumstances of this matter, considered together with the need to remove any economic benefit from noncompliance, the goal of deterring future violations and obtaining swift compliance, the consideration of past penalties in similar negotiated cases, and the potential costs and risk associated with litigating these particular violations. The penalty reflects alleged violations extending over a number of days resulting in quantifiable harm to the environment considered together with the complete circumstances of this case. The penalty was discounted in this matter based on the fact that this was a first time violation and the OPI

made unusually diligent efforts to comply and to cooperate with the investigation. Penalties in future cases might be smaller or larger on a per ton or per unit basis.

12. The final penalty in this case was based in part on confidential financial information or confidential business information provided by OPI that is not retained by ARB in the ordinary course of business. The penalty in this case was also based on confidential settlement communications between ARB and OPI that ARB does not retain in the ordinary course of business. The penalty also reflects ARB's assessment of the relative strength of its case against OPI, the desire to avoid the uncertainty, burden and expense of litigation, obtain swift compliance with the law and remove any unfair advantage that OPI may have secured from its actions.

CALIFORNIA AIR RESOURCES BOARD	**OPI PRODUCTS INC.**
By: Ellen M. Peter	By:
Ellen M. Peter Chief Counsel	Eric Schwartz Chief Operating Officer OPI Products, Inc.
Dated: 5/22/2013	Dated: May 13, 2013