

## 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; Zep Inc., and its subsidiary Amrep, (Zep) with its principal place of business at 1310 Seaboard Industrial Boulevard, Atlanta, Georgia;

### RECITALS

1. ARB alleges that between 2011 and 2013, Zep sold, supplied, and offered for sale in California **Zep 40 Non-Streaking Cleaner** subject to the volatile organic compound (VOC) limit for General Purpose Cleaner, aerosol category in title 17, California Code of Regulations (CCR), section 94509(a).
2. ARB alleges that the **Zep 40 Non-Streaking Cleaner** referenced in recital paragraph 1 contained concentrations of VOCs exceeding the 8 percent VOC limit for General Purpose Cleaner, aerosol category as specified in title 17, CCR, section 94509(a).
3. ARB alleges that between 2011 and 2013, Zep sold, supplied, and offered for sale in California **Selig Citrus Multi-Purpose Cleaner** subject to the volatile organic compound (VOC) limit for General Purpose Cleaner, non-aerosol category title 17, California Code of Regulations (CCR), section 94509(a).
4. ARB alleges that the **Selig Citrus Multi-Purpose Cleaner** referenced in recital paragraph 3 contained concentrations of VOCs exceeding the 4 percent VOC limit for General Purpose Cleaner, non-aerosol category as specified in title 17, CCR, section 94509(a).
5. ARB alleges that Zep sold, supplied, and offered for sale in California **Zep 40 Non-Streaking Cleaner** and **Selig Citrus Multi-Purpose Cleaner** products that were subject to the Product Dating requirements per Title 17, California Code of Regulations (CCR), § 94512(b) and 94512(c).
6. ARB alleges that the **Zep 40 Non-Streaking Cleaner** and **Selig Citrus Multi-Purpose Cleaner** referenced in recital paragraph 5 displayed a code representing the date of manufacture for which an explanation had not been submitted on an annual basis as specified in title 17, CCR, section 94509(c). The last submission by Zep was on January 1, 2011. The previously submitted date code was still in use by Zep allowing ARB to interpret the date code on these two products.
7. ARB alleges that between January 2012 and March 2015, Amrep a subsidiary of Zep, sold, supplied, and offered for sale in California "**FarmGard Farm & Dairy Fly Spray**" subject to the volatile organic compound (VOC) limit for Insecticides: Crawling Bug, aerosol category in title 17, California Code of Regulations (CCR), section 94509(a).

8. ARB alleges that the "FarmGard Farm & Dairy Fly Spray" referenced in recital paragraph 5 contained concentrations of VOCs exceeding the 15 percent VOC limit for Insecticides: Crawling Bug, aerosol category as specified in title 17, CCR, section 94509(a).
9. ARB alleges that if the allegations described in recital paragraphs 1 through 8 were proven, civil penalties could be imposed against Zep as provided in Health and Safety Code sections 42402 et seq. for each and every unit involved in the violations.
10. Zep admits the allegations described in recital paragraphs 1 through 8, but denies any liability resulting from said allegations.
11. 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. Zep shall not manufacture for sale in California, supply, or sell 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. ZEP in settlement of the above-described violations of Title 17, CCR, section 94509(a) agrees to pay a penalty to ARB in the amount one hundred fifty two thousand dollars (\$152,000.00) payable within ten (10) days of the full execution of this Agreement. This amount shall be paid in two parts. One payment of thirty eight thousand dollars (\$38,000.00) shall be to the School Bus and Diesel Emission Reduction Supplemental Environmental Project (SEP). Payment shall be made by check to the "**San Joaquin Valley Air Pollution Control District**" and "For School Bus and Diesel Emission Reduction SEP" shall be annotated in the Note or Memo line of the check. The second payment of one hundred fourteen thousand dollars (\$114,000.00) shall be made to the "**Air Pollution Control Fund**".
3. Both checks shall be mailed to the addresses shown on the attached Settlement Agreement Payment Transmittal Forms.
4. This settlement shall apply to and be binding upon, Zep 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.

5. 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 Zep and its officers, directors, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations. ARB agrees to and hereby does settle and release any and all claims against Zep, its successors, affiliates and assigns of the allegations described in Recital paragraphs 1 through 8. This Agreement shall be deemed the recovery of civil penalties for purposes of precluding subsequent criminal action as provided in Health and Safety Code section 42400.7(a).
6. 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.
7. This Agreement constitutes the entire agreement and understanding between ARB and Zep 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 the ARB and Zep concerning these claims.
8. 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.
9. Each of the undersigned represents and warrants that he or she has full power and authority to enter into this Agreement.
10. **SB 1402 Statement.** California Health and Safety Code (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.

**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 in this case is HSC section 42402, et seq. because Zep sold, supplied, offered for sale, or manufactured for sale consumer products for commerce in California in violation of the Consumer Products Regulations (Title 17 California Code of Regulations (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 Health and Safety Code. The penalty provisions of HSC section 42402, et seq. apply to requirements adopted pursuant to Part 4.

**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 penalties, including the eight factors specified in HSC section 42403.

Under HSC section 42402, et seq. the penalties for strict liability violations of the Consumer Product Regulations are a maximum of \$1,000 per day of violation, with each day being a separate violation. In cases like this one involving unintentional violations of the Consumer Products Regulations where the violator cooperates with the investigation, the ARB has sought and obtained penalties of approximately \$20,000.00 per ton of excess emissions of volatile organic compounds attributable to the violation. This represents an average cost to retire a ton of volatile organic compound emission credits and reformulate a product to comply with the Consumer Product Regulations. In this case the total amount to be paid by Zep is \$152,000.00 and there were 10.06 tons of excess VOC's attributable to the violation. This represents a payment of approximately \$15,000.00 per ton of excess emissions plus the cost of investigating the violation. The payment in this case was reduced because Zep fully cooperated with the investigation. Penalties in future cases might be higher or lower on a 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 the excess emissions, if it is practicable to do so.**

The Consumer Product Regulations do not prohibit emissions above a specific level, but they do limit the concentration of VOCs in regulated products. In this case a quantification of the excess emissions attributable to the violations was practicable because Zep made the product formulation and sales data necessary to make this quantification available to the ARB. Based upon this information (which Zep has designated as confidential), the violations were calculated to have caused the 10.06 tons of excess emissions of volatile organic compounds to be emitted to the atmosphere in California.

11. Zep acknowledges that ARB has complied with SB1402 in investigating and settling this case. Specifically, ARB has considered all relevant facts, including those listed at HSC section 42403, has explained the manner in which the penalty amount was calculated, has identified the provision of law under which the penalty amount is being assessed and had considered and determined that while this penalty is not being assessed 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.
12. The final penalty was 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,

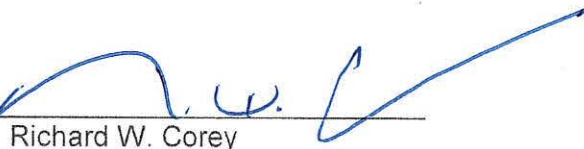
the consideration of past penalties in similar negotiated cases, and the potential costs and risk associated with litigating these particular violations. The penalty reflects violations extending over a number of days resulting in quantifiable harm to the environment considered together with the complete circumstances of this case listed above. The penalty was discounted in this matter based on the fact that violator made diligent efforts to comply and to cooperate with the investigation. Penalties in future cases might be smaller or larger on a per ton basis.

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

**CALIFORNIA AIR RESOURCES BOARD**

Dated: 10/20/2015

By:



Richard W. Corey  
Executive Officer

**ZEP INC.**

Dated: 10/7/15

By:



Name: ROBERT NOVO

Title: Chief Administrative Officer