SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into by and between the California Air Resources Board (ARB), principally located at 1001 I Street, Sacramento, California, and IMEX Model Company Inc. (IMEX) with its principal place of business at 15391 Flight Path Drive, Brooksville, Florida.

RECITALS

1. ARB alleges that between January 2012, and February 2015, IMEX manufactured for sale, offered for sale, and sold in California, their Nitro Power Kleen product that was subject to the volatile organic compound (VOC) limit for aerosol general purpose degreaser, California Code of Regulations (CCR), title 17, section 94509 (17 CCR § 94509)(a).

2. ARB alleges that the IMEX product referenced in Recital paragraph 1 contained concentrations of VOCs exceeding the 10 percent VOC limit for aerosol general purpose degreaser specified 17 CCR § 94509 (a).

3. ARB alleges that if the allegations described in Recital paragraphs 1 and 2 were proven, civil penalties could be imposed against IMEX as provided in Health and Safety Code (H&SC) sections 42402 et seq (H&SC § 42402). for each and every unit involved in the violation.

4. IMEX 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. IMEX 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 CCR, title 17, 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. IMEX in settlement of the above-described violation of 17 CCR § 94509 (a) agrees to pay a penalty to ARB in the amount of fifteen thousand five hundred fifty eight dollars ($15,558.00) to the California Air Pollution Control Fund in three payments.

The first payment of $5,186.00 shall be made no later than February 22, 2016, and will be concurrent with the execution of this Agreement. Two additional payments of $5,186.00 each shall be made on June 1, 2016, and December 1, 2016. If any payment is more than 15 days late, the entire remaining balance becomes immediately due and payable.

3. This settlement shall apply to and be binding upon IMEX 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 violation and shall have the same res judicata effect as a judgment in terms of acting as bar to any civil action by ARB against IMEX, 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 H&SC 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 IMEX 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 IMEX 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**.

   H&SC 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 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 is this case is H&SC § 42402, et seq. because IMEX sold, supplied, offered for sale, or manufactured for sale consumer products

for commerce in California; in violation of the Consumer Products Regulations CCR, title 17, section 94507, et seq. The penalty provisions of H&SC § 42402, et seq. apply to violations of the Consumer Products Regulations because the regulations were adopted under authority of section 41712 which is in Part 4 of Division 26 of the H&SC. The penalty provisions of H&SC § 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 H&SC section 42403.

Under H&SC § 42402, et seq. the penalties for strict liability violations of the Consumer Product Regulations are a maximum of $1,000.00 per day of violation, with each day being a separate violation. In cases like this one involving unintentional first time violations of the Consumer Products Regulations, ARB has sought and obtained penalties of approximately $20,000.00 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. In this case the total penalty is $15,558.00. There were 0.88 tons of excess VOC emissions attributable to the violation.

The penalty in this case was reduced because some of the products were self-disclosed. Penalties in future cases might be smaller or larger on a per ton 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 of ARB's lab results and IMEX made the product sales data necessary to make this quantification available to the ARB. Based upon this information (which IMEX has designated as confidential), the violations were calculated to have caused 0.88 tons of excess emissions of VOCs to be emitted to the atmosphere in California.

10. IMEX acknowledges that ARB has complied with SB1402 in investigating and settling this case. Specifically, ARB has considered all relevant facts, including those listed at H&SC 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 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 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.

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

California Air Resources Board

By: _____

Name: Dr. Todd P. Sax
Title: Chief, Enforcement Division
Date: 5/6/16

IMEX Model Company Inc

By: _____

Name: Bill Molyneaux
Title: President
Date: 2/28/16

1/3 FEB 28th 2016
1/3 JUNE 30th 2016
1/3 DEC 31 2016