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 Sportsman's Warehouse with its principal place of business at 7035 South High Tech Drive, Midvale, Utah.

RECITALS

1. ARB alleges that between January 1, 2010 and January 15, 2013, Sportsman's Warehouse sold, supplied, and offered for sale in California **"Flush-Out,"** subject to the volatile organic compound (VOC) limit for the General Purpose Degreaser category in Title 17, California Code of Regulations (CCR), section 94509(a). The label stated the product was "not for sale or use in the State of California."

2. ARB alleges that the "**Flush-Out"** referenced in recital paragraph 1 contained concentrations of VOCs exceeding the 10 percent VOC limit for the General Purpose Degreaser category specified in Title 17, CCR, section 94509(a).

3. ARB alleges that the "**Flush-Out"** referenced in recital paragraph 1 contained concentrations of Methylene Chloride and Perchloroethylene in a combined amount of more than 0.01 percent by weight in violation of Title 17, CCR, section 94509(m)(1).

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

5. Sportsman's Warehouse admits the allegations described in recital paragraphs 1, 2 and 3, but denies any liability resulting from said allegations.

6. 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. Sportsman's Warehouse 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. Sportsman's Warehouse, 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 $5,000 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 Sportsman's Warehouse 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 Sportsman's Warehouse, 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 Sportsman's Warehouse 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 Sportsman's Warehouse 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.

   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 **Sportsman's Warehouse** 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 Health and Safety Code.

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 $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. In addition, the cases involving emissions of toxic air contaminants (TAC) have resulted in penalties of approximately $25,000 per ton. However, in similar cases with extremely small amounts of excess emissions, ARB has historically obtained penalties that reflect that both violations occurred on at least 3 days (the day the product was purchased by ARB, the day it was supplied to the retailer, and the day it was manufactured for sale) and the penalty includes the cost of investigating the violation. In this case the total penalty is $5000.00 which includes a penalty for VOC and TAC violations on each day and investigative costs. The penalty was reduced due to cooperation. 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 violations was practicable because Sportsman's Warehouse made the product formulation and sales data necessary to make this quantification available to ARB. Based upon this information (which the Sportsman's Warehouse has designated as confidential), the violations were calculated to

have caused 0.005 tons of excess emissions of VOC and 0.02 tons of TAC to be emitted to the atmosphere in California.

10. Sportsman's Warehouse 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 violations extending over a number of days resulting in quantifiable harm to the environment considered together with the complete circumstances of this case. 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 Sportsman's Warehouse 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 Sportsman's Warehouse 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 Sportsman's Warehouse, the desire to avoid the uncertainty, burden and expense of litigation, obtain swift compliance with the law and remove any unfair advantage that Sportsman's Warehouse may have secured from its actions.

CALIFORNIA AIR RESOURCES BOARD

By: _____
James R. Ryden, Chief
Enforcement Division

Dated: 4/30/13

SPORTSMAN'S WAREHOUSE

By: _____
Name: Kevan P. Talbot
Title: CFO

Dated: 4/8/13