

SETTLEMENT AGREEMENT AND RELEASE BETWEEN THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT AND CHEMTRADE WEST US LLC

- The BAY AREA AIR QUALITY MANAGEMENT DISTRICT ("DISTRICT") and CHEMTRADE WEST US LLC ("CHEMTRADE") knowingly and of their own free will enter into this Settlement Agreement.
- The DISTRICT and CHEMTRADE (collectively, "PARTIES") are separately represented by counsel of their choosing and have consulted about the terms of this Settlement Agreement with their separate and individual counsel.
- 3. The settlement of the matters addressed in this Settlement Agreement is fair, reasonable and in the interests of the DISTRICT, CHEMTRADE, and the public.
- 4. This Settlement Agreement covers DISTRICT Notices of Violations Nos. A59546, A59547, A59548, A59549, A59905, A60628, and A60647 ("the NOVs") and the factual allegations underlying them. The DISTRICT has issued the NOVs to CHEMTRADE alleging that, as described in the NOVs, CHEMTRADE has violated various DISTRICT regulations at the 525 Castro Street, Richmond, CA facility.
- 5. The PARTIES agree to settle the NOVs for a total payment by CHEMTRADE to the DISTRICT of a civil penalty in the amount of ONE MILLION ONE HUNDRED FIFTY THOUSAND DOLLARS (\$1,150,000), as set forth in Paragraph 9 below.
- 6. CHEMTRADE's payment in full of the civil penalty described in Paragraph 5 above will settle, resolve, and conclude all claims that have been or could have been asserted between the DISTRICT on the one hand and CHEMTRADE on the other arising out of or relating to the NOVs. As consideration for payment of the civil penalty, the DISTRICT hereby releases CHEMTRADE, its parents, affiliates, subsidiaries, divisions, predecessors and successors-in-interest, including any of their officers, directors, agents, servants, employees or representatives, from any and all liabilities, claims, causes of action, damages, fines, costs, attorneys' fees, or civil or criminal penalties that the DISTRICT

has claimed in the past, now claims, or may be able to claim in the future, arising directly or indirectly out of the NOVs and all alleged violations referenced in the NOVs.

- 7. This Settlement Agreement precludes the DISTRICT from seeking criminal or civil penalties under California Health and Safety Code Sections 42400 et seq. or taking administrative action based on claims arising out of or relating to the NOVs.
- Upon execution, this Settlement Agreement will become final and binding upon both
 PARTIES and their respective predecessors, successors, subsidiaries, partners, limited partners, agents, principals, and assigns.
- 9. Within thirty (30) days of the execution of this Settlement Agreement, CHEMTRADE shall pay by check, made payable to the "Bay Area Air Quality Management District," the amount of ONE MILLION ONE HUNDRED FIFTY THOUSAND DOLLARS (\$1,150,000). The payment shall be mailed or delivered to:

BAY AREA AIR QUALITY MANAGEMENT DISTRICT OFFICE OF DISTRICT COUNSEL ALEXANDER G. CROCKETT, ESQ., DISTRICT COUNSEL 375 BEALE STREET, SUITE 600 SAN FRANCISCO, CALIFORNIA 94105

- 10. This Settlement Agreement constitutes the entire agreement and understanding between the DISTRICT and CHEMTRADE and fully supersedes and replaces any and all prior negotiations and agreements of any kind or nature, whether written or oral, between the DISTRICT and CHEMTRADE concerning the NOVs.
- 11. CHEMTRADE's entry into this Settlement Agreement is not and shall not be construed as an admission of any alleged underlying fact or liability associated with or relating to the alleged conduct, actions or violations of law that are the subject of the NOVs.
- 12. The DISTRICT reserves the right to take future enforcement actions arising out of violations or alleged violations not covered by this Settlement Agreement; in addition, the DISTRICT reserves the right to demand increased penalties in connection with any future violations or alleged violations based on compliance history. CHEMTRADE reserves the right to challenge an increase in penalties based upon its contention that certain violations or alleged violations did not occur, that an

increase in penalties based on compliance history is not appropriate under the circumstances, or any other reason CHEMTRADE believes should be considered in establishing a penalty.

- may offer proof thereof in connection with any other administrative or judicial proceeding not related to this Settlement Agreement for the purpose of showing a history of violation. CHEMTRADE reserves the right to contest any offers of proof and to present any evidence related to events or allegations made in any such proceeding referenced in this Paragraph 13, including evidence demonstrating that increased penalties for compliance history are not appropriate.
- 14. CHEMTRADE's failure to perform any of the terms or conditions of this Settlement Agreement will render CHEMTRADE in violation of this Settlement Agreement.
- 15. No agreement to modify, amend, extend, supersede, terminate, or discharge this Settlement Agreement, or any portion thereof, shall be valid or enforceable unless it is in writing and signed by all PARTIES to this Settlement Agreement.
- 16. This Settlement 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.
- 17. Each of the undersigned expressly represents that he or she is authorized to execute this Settlement Agreement on behalf of the party for whom he or she signs below.

* * * * *

| 1 | SO AGREED, STIPULATED AND EXECUTED: | |
|-----|--|---|
| 2 | | |
| 3 | BAY AREA AIR QUALITY | CHEMTRADE WEST US LLC |
| 4 | MANAGEMENT DISTRICT 375 Beale Street, Suite 600 | 90 East Halsey Road Parsippany, NJ 07054 |
| 5 | San Francisco, CA 94105 | |
| 6 | Phil S | Don !: |
| 7 | By: | By: Pharom |
| 8 | PHILIP M. FINE EXECUTIVE OFFICER/APCO | ROHIT BHARDWAJ CHIEF FINANCIAL OFFICER |
| 9 | | |
| 10 | Date: July 27, 2023 | Date: July 10, 2023 |
| 11 | | |
| 12 | APPROVED AS TO FORM BY: | |
| 13 | BAY AREA AIR QUALITY | BARG COFFIN LEWIS & TRAPP, LLP |
| 14 | MANAGEMENT DISTRICT DISTRICT COUNSEL | 600 Montgomery Street, Suite 525 San Francisco, CA 94111 |
| 15 | 375 Beale Street, Suite 600 San Francisco, CA 94105 | |
| 16 | | 71 11 1 |
| 17 | Poel Freid | morlin |
| 18 | By: JOEL FREID | By: R. MORGAN GILHULY |
| 19 | ASSISTANT COUNSEL II | ATTORNEYS FOR CHEMTRADE WEST US LLC |
| 20 | | |
| 21 | Date: July 26, 2023 | Date: Thy 10, 2027 |
| 22 | | |
| 23 | | |
| 24 | | |
| 25 | | |
| - 1 | I . | |