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 GMI LLC with its principal place of business at PO Box 399, Valley Park, Missouri 63088-0399.

RECITALS

1. ARB alleges that from January 1, 2012, and March 31, 2013, GMI LLC sold, supplied, and offered for sale in California quantities of *Carbon-Off! Heavy-Duty Carbon Remover* in both aerosol and non-aerosol forms, subject to the methylene chloride prohibition for the Oven or Grill Cleaner category title 17, California Code of Regulations (CCR), section 94509(m).

2. ARB alleges that both the aerosol and non-aerosol forms of the product, referenced in recital paragraph 2, violated the prohibition for the use of methylene chloride in the Oven or Grill Cleaner category specified in title 17, CCR, section 94509(m).

3. ARB alleges that from January 1, 2012, and March 31, 2013, GMI LLC sold, supplied, and offered for sale in California quantities of *Carbon-Off! Heavy-Duty Carbon Remover* in both aerosol and non-aerosol forms, subject to the volatile organic compound (VOC) limit for the Oven or Grill Cleaner category title 17, CCR, section 94509(a).

4. ARB alleges that the aerosol form of the product referenced in recital paragraph 1 contained concentrations of VOCs exceeding the 8 percent VOC limit for the Oven or Grill Cleaner – Aerosol category specified in title 17, CCR, section 94509(a).

5. ARB alleges that the non-aerosol form of the product referenced in recital paragraph 1 contained concentrations of VOCs exceeding the 4 percent VOC limit for the Oven or Grill Cleaner – Non-Aerosol category specified in title 17, CCR, section 94509(a).

6. ARB alleges that if the allegations described in recital paragraphs 1 through 5 were proven, civil penalties could be imposed on GMI LLC as provided in Health and Safety Code (HSC) sections 42402, et seq. for each and every unit involved in the violations.

7. GMI LLC admits the allegations described in recital paragraphs 1 through 5, but denies any liability resulting from said allegations.

8. 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. GMI LLC 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. GMI LLC, in settlement of the above-described violations of title17, CCR, section 94509(a), and 94509(m), agrees to pay a penalty to ARB in the amount of $113,000 payable to the California Air Resources Board pursuant to the following payment schedule:

   a. $18,500 with the execution of this agreement, by September 1, 2013.
   b. $10,500 by October 1, 2013.
   c. $10,500 by November 1, 2013.
   d. $10,500 by December 1, 2013.
   e. $10,500 by January 1, 2014.
   f. $10,500 by February 1, 2014.
   g. $10,500 by March 1, 2014.
   h. $10,500 by April 1, 2014.
   i. $10,500 by May 1, 2014.
   j. $10,500 by June 1, 2014.

   If any payment is more than 15 days late, the entire amount becomes due and payable.

3. This settlement shall apply to and be binding upon GMI LLC 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 GMI LLC, 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 GMI LLC 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 GMI LLC 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 GMI LLC 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 the regulations were adopted under authority of HSC section 41712, which is in Part 4 of Division 26 of the HSC. 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.

   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 involving unintentional first time violations of the Consumer Products Regulations, 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 emission credits and reformulate a product to comply with the Consumer Product Regulations. In addition, in violations involving toxic air contaminants, ARB has sought and obtained penalties of $25,000 per ton of excess emissions of methylene chloride attributable to the violation. In this case, the total penalty is $113,000, and there were 5.5 tons of excess methylene chloride and 0.6 tons of excess VOC attributable to the violations. This represents a penalty of approximately $19,000 per ton of excess methylene chloride emissions and $13,000 per ton of excess VOC emissions. The penalty in this case was reduced because GMI LLC made diligent efforts to comply, cooperated with the investigation, and mitigated emissions by recalling products from California. 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 and other compounds in regulated products. In this case a quantification of the excess emissions attributable to the violations was practicable because GMI LLC made the product formulation and sales data necessary to make this quantification available to ARB. Based upon this information (which GMI LLC has designated as confidential), the violations were calculated to have caused 5.5 tons of excess methylene chloride and 0.6 tons of excess emissions of VOCs to be emitted to the atmosphere in California.

10. GMI LLC 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 has considered and determined that this penalty is not being assessed under a provision of law that prohibits the emission of pollutants at a specified level.

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. Penalties in future cases might be smaller or larger on a per ton basis.

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

CALIFORNIA AIR RESOURCES BOARD

Dated: 9/16/2013

By: _____

Richard W. Corey
Executive Officer

GMI LLC

Dated: 8/29/2013

By: _____

Mitch Whitney
Owner