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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1201 Elm Street, Suite 500

Dallas, Texas 75270

**REGIONAL HEARING CLERK
EPA REGION 6**

In the Matter of:

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§

Bio-Lab, Inc.

§

Docket No. CAA-06-2024-3315

Westlake, Louisiana

§

§

Respondent.

§

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 6 (“EPA” or “Complainant”), and Bio-Lab, Inc. (“Respondent”) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent has violated the CAA General Duty Clause, promulgated pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), and that Respondent is therefore in violation of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1). Furthermore, this Consent

Agreement and Final Order serves as notice pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), and 40 C.F.R. § 22.34, of the EPA's intent to issue an order assessing penalties for these violations.

Parties

3. Complainant is the Director of the Enforcement and Compliance Assurance Division of EPA, Region 6, as duly delegated by the Administrator of the EPA and the Regional Administrator, EPA, Region 6.

4. Respondent is Bio-Lab, Inc., a company authorized to conduct business in the state of Louisiana.

Statutory and Regulatory Background

5. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added Section 112(r) to Title I of the CAA, 42 U.S.C. § 7412(r). The objective of Section 112(r) is to prevent the accidental release of certain regulated substances and to minimize the consequences of any such release of any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance.

6. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), commonly referred to as the General Duty Clause, owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty in the same manner and the same extent as the Occupational Safety and Health Act, 29 U.S.C. § 654 et. seq., to identify hazards which may result from accidental releases using appropriate hazard assessment techniques, to design and maintain a safe facility, taking such steps as are

necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

7. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), requires the Administrator to promulgate a list of regulated substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), requires that the Administrator establish a threshold quantity for any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). The list of regulated substances and respective threshold quantities is codified at 40 C.F.R. § 68.130.

8. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$25,000 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred before November 2, 2015, and to \$55,808 for violations that occur after November 2, 2015, and are assessed after January 12, 2022.

Definitions

9. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include any individual, corporation, partnership, association, State, municipality, political subdivision of a

State, and any agency department, or instrumentality of the United States and any officer, agent, or employee thereof.

10. Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), and the regulation at 40 C.F.R. § 68.3 defines “accidental release” as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

11. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3 defines “stationary source,” in part, as any buildings, structures, equipment, installations or substance-emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

12. The term “extremely hazardous substance” means an extremely hazardous substance within the meaning of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1). Such substances include any chemical which may, as a result of short-term exposures associated with releases to the air, cause death, injury, or property damage due to its toxicity, reactivity, flammability or corrosivity.¹ The term includes, but is not limited to, regulated substances listed in Section 112(r)(3), 42 U.S.C. § 7412(r)(3), and 40 C.F.R. 68.130. Also, the release of any substance that causes death or serious injury because of its acute toxic effect or as a result of an explosion or fire or that causes substantial property damage by blast, fire, corrosion, or other reaction would create a presumption that such substance is extremely hazardous.²

¹ Senate Committee on Environment and Public Works, Clean Air Act Amendments of 1989, Sen. Report No. 228, 101st Congress, 1st Session 211 (1989).

² Id.

EPA Findings of Fact and Conclusions of Law

13. Respondent is, and at all times referred to herein was, a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

14. Respondent is the owner and operator of the facility located at: 910 Interstate 10, Westlake, LA 70669 (“the Facility”).

15. On March 22, 2023, a process upset within a particulate scrubber at the Facility caused an accidental release (the “Incident”). Following discovery of the accidental release, Bio-Lab made a timely notification to the National Response Center. There were no reported injuries or property damage as a result of this Incident.

16. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA requested on June 13, 2023, and Respondent provided on June 30, 2023, documentation and information concerning the Incident and Respondent’s compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 (the “Investigation”).

17. On November 7, 2023, the EPA sent Respondent a Notice of Potential Violation and Opportunity to Confer letter. On November 13, 2023, the EPA responded to the documentation and information received from Respondent as a result of the opportunity to confer and articulated the EPA’s position concerning Respondent’s compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

18. The Facility is a “stationary source” pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3.

19. The Respondent operates a chemical manufacturing and storage facility. The Bio-Lab Lake Charles facility manufactures powders containing trichloroisocyanuric acid (“trichlor”),

made from cyanuric acid and chlorine. Those powders are then processed at other facilities, including other Bio-Lab facilities, to produce tablets and other consumer products used as cleaning agents for swimming pools and hot tubs. With the exception of chlorine, which originates from a third-party supplier and is delivered by pipeline directly into the Bio-Lab facility process, the raw materials and finished powders containing trichlor are stored onsite.

20. Chlorine is a chemical that may, as a result of short-term exposures associated with releases to the air, cause death, injury, or property damage due to its toxicity, flammability, or volatility. Chlorine gas is irritating and corrosive to the eyes, skin, and respiratory tract. Exposure to chlorine may cause burning of the eyes, nose, and throat; cough as well as constriction and edema of the airway and lungs can occur. If concentrated chlorine gas or chlorine-generating solutions contact the skin, chemical burns may occur. Chlorine is not flammable, but reacts explosively or forms explosive compounds with many common substances. Chlorine is highly toxic and corrosive. An acute exposure to chlorine can cause severe injury. Chlorine gas may cause toxic effects if inhaled or absorbed through the skin, including but limited to cardiovascular collapse or a frostbite injury. Concentrated vapors may cause severe chemical burns, leading to cell death and ulceration. Accordingly, chlorine is an “extremely hazardous substance,” within the meaning of the General Duty Clause of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

21. The Facility is not a Risk Management Program covered process. Trichlor is not regulated under the OSHA Process Safety Management (“PSM”) Standard or the EPA’s Risk Management Program (RMP) rule. Bio-Lab was not required to implement baseline process safety management system elements to manage the safety of regulated operations under these

regulations. However, from the time Respondent first processed or handled chlorine at the Facility, Respondent was subject to the requirements of the General Duty Clause in Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

EPA Findings of Violation

22. The facts stated in the EPA Findings of Fact and Conclusions of Law above are herein incorporated.

23. Complainant hereby states and alleges that Respondent has violated the CAA and federal regulations promulgated thereunder as follows:

Count 1 – General Duty Clause (Failure to Maintain a Safe Facility)

24. The CAA Section 112(r)(1), 42 U.S.C. § 7412(r)(1), imposes a general duty on the owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, to design and maintain a safe facility, taking such steps as are necessary to prevent releases.

25. At the time of the Incident, the particulate scrubber at issue required additional neutralizing caustic, resulting in inadequate flow from the vessel and causing the pH condition within the scrubber to fall outside normal operating parameters, resulting in the release of trichloroethene and residual chlorine gas.

26. Respondent's failure to maintain normal operating parameters within the scrubber, was a failure to maintain a safe facility, taking such steps as are necessary to prevent releases, in violation of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

CONSENT AGREEMENT

27. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2),

Respondent:

- (a) admits the jurisdictional allegations set forth herein;
- (b) neither admits nor denies the specific factual allegations stated herein;
- (c) consents to the assessment of a civil penalty, as stated herein;
- (d) consents to any conditions specified herein;
- (e) waives any right to contest the allegations set forth herein; and
- (f) waives its rights to appeal the Final Order accompanying this Consent Agreement.

28. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

29. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

Penalty Payment

30. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of **thirteen thousand dollars (\$13,000)**, as set forth below.

31. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, MO 63045

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

32. A copy of the check or other information confirming payment shall simultaneously be sent by electronic email to the following:

Lorena S. Vaughn
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ORC)
Dallas, Texas 75270-2102
vaughn.lorena@epa.gov; and

Carlos Flores
Sr. Enforcement Officer
Enforcement and Compliance Assurance Division
Air Enforcement Branch
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ECDAC)
Dallas, Texas 75270-2101
flores.carlos@epa.gov

33. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six percent (6%) per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

Supplemental Environmental Project

34. In response to the alleged violations of 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), and in settlement of this matter, although not required by 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), or any other federal, state, or local law, Respondent agrees to implement a supplemental environmental project (SEP), as described below in Paragraph 35.

35. Respondent shall complete a purchase and the donation of the listed emergency response equipment to the local emergency response fire department, consisting of a donation of two (2) thermal imaging cameras and supporting equipment to the Westlake Fire Department.

36. Respondent shall spend no less than \$27,336.00 on implementing the SEP. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report. If Respondent's implementation of the SEP as described in Paragraph 35 does not expend the full amount set forth in this paragraph, and if EPA determines that the amount remaining reasonably could be applied towards the purchase of additional emergency response equipment, Respondent will identify, purchase, and provide additional emergency response equipment to the emergency response organization to the Westlake Fire Department.

37. The Respondent shall complete the SEP by April 30, 2024.

38. Identification of SEP Recipient

a. SEP Recipient

(i) Respondent has selected Westlake Fire Department to receive the SEP. The emergency response equipment donation of the two (2) thermal imaging cameras and the supporting equipment for the fire department.

- b. The EPA had no role in the selection of the SEP recipient, or specific equipment identified in the SEP, nor shall this CAFO be construed to constitute EPA approval or endorsement of any SEP recipient or specific equipment identified in this CAFO.

39. The SEP is consistent with applicable EPA policy and guidelines, specifically EPA's 2015 Update to the 1998 Supplemental Environmental Projects Policy, (March 10, 2015).

40. The SEP advances at least one of the objectives of the Chemical Accident Prevention Provisions in 40 C.F.R. Part 68, promulgated pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), by aiding in the safety of first responders and the public throughout a wide spectrum of chemical accident incident types. The SEP is not inconsistent with any provision of the Chemical Accident Prevention Provisions in 40 C.F.R. Part 68, promulgated pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r). The SEP relates to the alleged violation(s), and is designed to reduce the overall risk to public health and/or the environment potentially affected by the alleged violations by providing valuable information to local fire, police, and emergency response personnel to prepare for and respond to chemical emergencies in their community.

41. Respondent certifies the truth and accuracy of each of the following:

- a. That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that the Respondent in good faith estimates that the cost to implement the SEP is twenty-seven thousands, three hundred and thirty-six dollars (\$27,336.00).
- b. That, as of the date of executing this CAFO, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is

not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;

- c. That the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;
- d. That Respondent has not received and will not have received credit for the SEP in any other enforcement action;
- e. That Respondent will not receive reimbursement for any portion of the SEP from another person or entity;
- f. That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP; and
- g. That Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraph 35.
- h. That Respondent has inquired of the SEP recipient whether it is party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by the recipient that neither is a party to such a transaction.

42. Any public statement, oral or written, in print, film, or other media, made by Respondent or a representative of Respondent making reference to the SEP under this CAFO from the date of its execution of this CAFO shall include the following language: "This project

was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of the federal laws.”

43. SEP Reports.

- a. Respondent shall submit a SEP Completion Report to EPA by May 31, 2024. The SEP (Completion) Report shall contain the following information, with supporting documentation:
 - i. A detailed description of the SEP as implemented;
 - ii. A description of any operating problems encountered and the solutions thereto;
 - iii. Itemized costs;
 - iv. Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO; and
 - v. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).
- b. Respondent agrees that failure to submit the SEP Completion Report required by subsection (a) above shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to Paragraph 44 below.
- c. Respondent shall submit all notices and reports required by this CAFO to Carlos Flores, via electronic mail at flores.carlos@epa.gov.
- d. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP completion report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this paragraph, “acceptable documentation” includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or

services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

44. EPA acceptance of the SEP Report.

- a. After receipt of the SEP Completion Report described in paragraph 43 above, EPA will, in writing to the Respondent, either:
 - i. Identify any deficiencies in the SEP Completion Report itself along with a grant of an additional thirty (30) days for Respondent to correct any deficiencies;
 - ii. Indicate that EPA concludes that the project has been completed satisfactorily;or
 - iii. Determine that the project has not been completed satisfactorily and seek stipulated penalties in accordance with paragraph 58 herein.
- b. If EPA elects to exercise option (i) above, i.e., if the SEP Report is determined to be deficient but EPA has not yet made a final determination about the adequacy of SEP completion itself, Respondent may object in writing to the notification of deficiency given pursuant to this paragraph within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon Respondent.

45. Stipulated Penalties

- a. Except as provided in subparagraphs (b) and (c) below, if Respondent fails to satisfactorily complete the requirements regarding the SEP specified in Paragraph 35 by the deadline in Paragraph 37 Respondent agrees to pay, in addition to the civil penalty in Paragraph 30, the following per day per violation stipulated penalty for each day the Respondent is late meeting the applicable SEP requirement:
 - i. \$250 per day for days 1-30
 - ii. \$300 per day for days 31 – 60
 - iii. \$500 per day for days beyond 60 days
- b. If Respondent fails to timely submit any SEP reports, such as those referred to in Paragraph 43 in accordance with the timelines set forth in this CAFO, Respondent agrees to the following per day stipulated penalty for each day after the report was due until Respondent submits the report in its entirety:
 - i. \$100 per day for days 1-30
 - ii. \$150 per day for days 31 – 60
 - iii. \$250 per day for days beyond 60 days
- c. If Respondent does not satisfactorily complete the SEP, including spending the minimum amount on the SEP set forth in Paragraph 36 above, Respondent shall pay a stipulated penalty to the United States in the amount of \$30,010.

“Satisfactory completion” of the SEP is defined as Respondent spending no less than \$27,336.00 to purchase and donate two (2) thermal imaging cameras and

supporting equipment to the Westlake Fire Department in Westlake, Louisiana by April 30, 2024. The determinations of whether the SEP has been satisfactorily completed shall be in the sole discretion of EPA.

- d. EPA retains the right to waive or reduce a stipulated penalty at its sole discretion.
- e. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of Paragraphs 31 - 32 above. Interest and late charges shall be paid as stated in Paragraph 33.

Dispute Resolution

46. If the Respondent objects to any decision or directive of EPA, the Respondent shall notify the following persons in writing of its objections, and the basis for those objections, within fifteen (15) calendar days of receipt of EPA's decision or directive:

Supervisor, Chemical Accident Enforcement Section
Compliance Assurance and Enforcement Division
U.S. EPA - Region 6
1201 Elm St, Suite 500
Dallas, TX 75270-2101

Manager, RCRA & Toxics Enforcement Branch
Office of Regional Counsel
U.S. EPA - Region 6
1201 Elm St., Suite 500
Dallas, TX 75270-2101

47. The Chemical Accident Enforcement Section Supervisor or his designee, and the Respondent shall then have an additional fifteen (15) calendar days from receipt by EPA of the Respondent's written objections to attempt to resolve the dispute. If an agreement is reached between the Supervisor and the Respondent, the agreement shall be reduced to writing and

signed by the Supervisor and the Respondent and incorporated by reference into this Consent Agreement and Final Order.

48. If no agreement is reached between the Supervisor and the Respondent within that time period, the dispute shall be submitted to the Director of the Compliance Assurance and Enforcement Division (Division Director) or his designee. The Division Director and the Respondent shall then have a second 15-day period to resolve the dispute. If an agreement is reached between the Division Director and the Respondent, the resolution shall be reduced to writing and signed by the Division Director and Respondent and incorporated by reference into this Consent Agreement and Final Order. If the Division Director and the Respondent are unable to reach agreement within this second 15-day period, the Division Director shall provide a written statement of EPA's decision to the Respondent, which shall be binding upon the Respondent and incorporated by reference into the Consent Agreement and Final Order.

Notification

49. Unless otherwise specified elsewhere in this Consent Agreement and Final Order, whenever notice is required to be given, whenever a report or other document is required to be forwarded by one party to another, or whenever a submission or demonstration is required to be made, it shall be directed to the individuals specified below at the addresses given (in addition to any action specified by law or regulation), unless these individuals or their successors give notice in writing to the other parties that another individual has been designated to receive the communication:

EPA:	Carlos Flores
	Enforcement and Compliance Assurance Division
	Air Enforcement Branch
	U.S. Environmental Protection Agency, Region 6

1201 Elm Street, Suite 500 (ECDAC)
Dallas, Texas 75270-2101

Respondent: Michael Smith
Vice President of Environmental, Health and Safety
KIK Consumer Products
1725 North Brown Road
Lawrenceville, GA 30043
msmith1@KIKCORP.com
(770) 235-9592

Modification

50. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of all parties and approval of the Regional Judicial Officer except that the Regional Judicial Officer need not approve written agreements between the parties modifying the SEP schedules described in the above Supplemental Environmental Project section. The Branch Manager of the Enforcement and Compliance Assurance Division shall have the authority to extend the deadlines in the above Supplemental Environmental Project section for good cause.

Termination

51. At such time as Respondent believes that it has complied with all terms and conditions of this Consent Agreement and Final Order, Respondent may request that EPA advise whether this Consent Agreement and Final Order has been satisfied and terminated. EPA will respond to said request as expeditiously as possible. This Consent Agreement and Final Order shall terminate when all actions required to be taken by this Consent Agreement and Final Order have been completed, and Respondent has been notified by the EPA in writing that this Consent Agreement and Final Order has been satisfied and terminated.

Effect of Settlement and Reservation of Rights

52. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein.

53. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in paragraph directly below.

54. Full payment of the penalty proposed in this Consent Agreement shall not affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for violations of law not addressed in the Consent Agreement and Final Order. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA and regulations promulgated thereunder.

55. Complainant reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order.

General Provisions

56. By signing this Consent Agreement, the undersigned representative of Respondent certifies that it is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party it represents to this Consent Agreement.

57. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon filing of the Final Order by the Regional Hearing Clerk for EPA, Region 6. Unless otherwise stated, all time periods

stated herein shall be calculated in calendar days from such date.

58. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State, and local taxes.

59. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

60. The EPA and Respondent agree to the use of electronic signatures for this matter pursuant to 40 C.F.R. § 22.6. The EPA and Respondent further agree to electronic service of this Consent Agreement and Final Order by email to the following:

To EPA:

pittman.lawrence@epa.gov

flores.carlos@epa.gov

To Respondent:

peggy.otum@wilmerhale.com

msmith1@kikcorp.com

RESPONDENT:
BIO-LAB, INC.

Date: _____

Signature

Print Name

Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: _____

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

FINAL ORDER

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

This Final Order shall resolve only those causes of action alleged in the Consent Agreement. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action.

IT IS SO ORDERED.

Thomas Rucki
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was filed with me, to the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that I sent a true and correct copy on this day in the following manner to the email addresses:

Copy via Email to Complainant:

pittman.lawrence@epa.gov

Copy via Email to Respondent:

Peggy Otum
peggy.otum@wilmerhale.com
Wilmer Cutler Pickering Hale & Dorr LLP
One Front Street, Suite 3500
San Francisco, CA 94111 USA

Michael Smith
msmith1@kikcorp.com
Vice President of Environmental, Health and Safety
KIK Consumer Products
1725 North Brown Road
Lawrenceville, GA 30043
msmith1@KIKCORP.com

Dated this _____ day of _____, _____.

Signed
Office of Regional Counsel
U.S. EPA, Region 6