

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:)
)
)
Refrigerant Exchange Corp.)
Irwindale, Los Angeles County, CA)
)
Refrigerant Exchange Corporations)
)
)
SETTLING PARTIES)
_____)

SETTLEMENT AGREEMENT

U.S. EPA Region IX
CERCLA Docket No. 2025-09

Proceeding Under Section 122(h)(1)
of the Comprehensive
Environmental Response,
Compensation, and Liability Act, as
amended, 42 U.S.C. § 9622(h)(1)

I. JURISDICTION

1. This Settlement Agreement is entered into pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9622(h)(1), which authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders) and redelegated to the Superfund Branch Managers pursuant to Regional Delegation R9-1200 TN 2018-01 (R9 14-14-D, May 9, 2018). This Settlement Agreement is also entered into pursuant to the authority of the Attorney General of the United States to compromise and settle claims of the United States, which authority, in the circumstances of this settlement, has been delegated to the Deputy Chief of the Environmental Enforcement Section of the United States Department of Justice.

2. This Settlement Agreement is made and entered into by EPA and both Refrigerant Exchange Corporations (“Settling Parties”). Settling Parties consent to and will not contest the authority of the United States to enter into this Settlement Agreement or to implement or enforce its terms.

II. BACKGROUND

3. This Settlement Agreement concerns the Refrigerant Exchange Corp. Removal Site (“Site”) located at 5263 N. 4th Street in Irwindale, Los Angeles County, California. EPA alleges that the Site is a facility as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4. Refrigerant Exchange Corp., a Wyoming corporation, is a refrigerant reclamation and recycling facility operating at the Site. According to the Wyoming Secretary of State records, this entity was formed in 2019 with its principal office at the Site. Refrigerant Exchange Corp., a Nevada corporation, is the current owner of the Site property. It acquired the property in 2005 but has operated at the Site since 1997. These corporations are collectively referred to as REFEX. Dennis O’Meara is the president of REFEX.

5. On July 5, 2021, a fire and explosion occurred at the Site causing the release and threatened release of hazardous substances.

6. In response to the release or threatened release of hazardous substances at or from the Site, EPA undertook response actions at the Site pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, specifically to remove waste and empty containers and perform soil and air monitoring, as generally described in Final Action Report For Refrigerant Exchange Site, Irwindale, Los Angeles County, CA dated December 2022. The hazardous substances EPA addressed included Lithium Bromide, chlorofluorocarbon (CFC)-11, R-22, and hydrofluorocarbon (HCFC)-123.

7. In performing response action at the Site, EPA has incurred response costs at the Site and will incur additional response costs in the future.

8. EPA alleges that Settling Parties are responsible parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and are jointly and severally liable for response costs incurred or to be incurred at the Site.

9. EPA and Settling Parties recognize that this Settlement Agreement has been negotiated in good faith and that this Settlement Agreement is entered into without the admission or adjudication of any issue of fact or law. The actions undertaken by Settling Parties in accordance with this Settlement Agreement do not constitute an admission of any liability. Settling Parties do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the facts or allegations contained in this Section.

III. PARTIES BOUND

10. This Settlement Agreement shall be binding upon EPA and upon Settling Parties and their heirs, successors, and assigns. Any change in ownership or corporate or other legal status of Settling Parties, including but not limited to any transfer of assets or real or personal property, shall in no way alter Settling Parties' responsibilities under this Settlement Agreement. Each signatory to this Settlement Agreement certifies that he or she is authorized to enter into the terms and conditions of this Settlement Agreement and to bind legally the party represented by him or her.

IV. DEFINITIONS

11. Unless otherwise expressly provided in this Settlement Agreement, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or its appendices, the following definitions shall apply:

“Affected Property” shall mean all real property at the Site and any other real property, owned or controlled by Settling Parties, where EPA determines, at any time, that access or land, water, or other resource use restrictions are needed to implement response actions at the Site, including, but not limited to, the following property: 5263 N. 4th Street in Irwindale, Los Angeles County, California 91706.

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675.

“Day” or “day” shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal or State holiday, the period shall run until the close of business of the next working day.

“Effective Date” shall mean the effective date of this Settlement Agreement as provided by Section XVII.

“EPA” shall mean the U.S. Environmental Protection Agency.

“EPA Hazardous Substance Superfund” shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

“Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest

shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. Rates are available online at http://www.epa.gov/ocfopage/finstatement/superfund/int_rate.htm.

“National Contingency Plan” or “NCP” shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

“Net Proceeds” shall mean proceeds that the Settling Parties receive in consideration of any sale of all or a portion of the real property that is the Site, after deduction for payment of all encumbrances and costs incurred in the sale, including but not limited to commissions, appraisal fees, escrow fees, title insurance and recordation and document fees.

“Paragraph” shall mean a portion of this Settlement Agreement identified by an Arabic numeral or an upper- or lower-case letter.

“Parties” shall mean EPA and Settling Parties.

“Property” shall mean the real property that is the Site, which has been owned by Settling Parties since March 31, 2005. The Property is located at 5263 N. 4th Street in Irwindale, Los Angeles County, California.

“RCRA” shall mean the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992 (also known as the Resource Conservation and Recovery Act).

“Section” shall mean a portion of this Settlement Agreement identified by a Roman numeral

“Settlement Agreement” shall mean this Settlement Agreement.

“Settling Parties” shall mean both Refrigerant Exchange Corps., the Wyoming and Nevada corporations. These corporations are collectively referred to as REFEX.

“Site” shall mean the Refrigerant Exchange Corp. Removal Site (“Site”) located at 5263 N. 4th Street in Irwindale, Los Angeles County, California 91706. The Site is also identified by Los Angeles County Assessor’s parcel numbers 8619-001-023 and 8619-001-017.

“Transfer” shall mean to sell, assign, convey, lease, mortgage, or grant a security interest in, or where used as a noun, a sale, assignment, conveyance, or other disposition of any interest by operation of law or otherwise

“State” shall mean the State of California.

“United States” shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

V. PAYMENT OF RESPONSE COSTS

12. Payment of Net Proceeds of Sale of Property

- a. **Maintenance of the Property.** Until the Property is sold, Settling Parties shall, at their own expense: (i) maintain and make necessary repairs to the

Property; (ii) keep the Property insured against loss from casualty and liability; (iii) timely pay or cause to be paid all real property taxes; and (iv) timely pay all water and sewer bills regarding the Property.

- b. **Rental Income.** Rental income from the Property may be used to pay expenses described in Paragraph 12.a (Maintenance of Property). All of the rental income earned from the date of Settling Parties' signature on this Settlement Agreement until the sale of the Property to the extent not required to pay the expenses described in Paragraph 12.a shall be deemed to be proceeds from the sale of the Property and shall be disbursed pursuant to Paragraph 12.g. Settling Parties shall not enter into any lease or rental agreement for the Property unless the agreement allows a purchaser of the Property to terminate the lease or rental agreement within ninety days of taking title to the Property.
- c. **Marketing of the Property.** Within thirty days after the date of the Effective Date, Settling Parties shall commence using best efforts to sell the Property. "Best efforts" for purposes of this Paragraph includes: (i) entering into a listing agreement, for the purpose of marketing and selling the property, with a real estate broker, dealer, or agent licensed in the State who customarily deals with real property similar to the Property; (ii) advertising the Property for sale in appropriate publications; (iii) listing the Property with appropriate real estate listing services; (iv) maintaining the Property in a condition suitable for showing to prospective buyers; and (v) providing access to the Property, at reasonable times, to real estate brokers, dealers or agents and prospective buyers. Settling Parties shall submit to EPA reports regarding Settling Parties' efforts to market the property. The first such report shall be due three months after commencement of efforts to sell the Property, and successive reports shall be due semi-annually thereafter.
- d. If the proposed contract for the sale of the Property provides for Settling Parties to receive all cash, is for at least 90% of the appraised value of the Property and provides for the property sale to occur within sixty days after the date of execution of the sales contract, then Settling Parties may execute the contract without EPA's prior written approval. Otherwise, Settling Parties shall provide to EPA a copy of the proposed Property sales contract, and must obtain EPA's written approval before executing the contract. Settling Parties shall provide to EPA a copy of any offer to purchase the Property within 48 hours after receipt of such offer in order to give EPA an opportunity to review and object to the offer. If EPA does not object to the offer within fifteen days after receipt of a copy of the offer, then Settling Parties may execute the contract for sale of the Property. Settling Parties shall provide to EPA a copy of the executed contract within seven days after signing the contract.
- e. Settling Parties shall submit to EPA, at least ten days prior to the date of the sale of the Property, a notice of the sale, Settling Parties' calculation of the net sales proceeds, and all documentation regarding the values used in the

calculation, including: (i) copies of all documents to be executed regarding the sale; (ii) documentation of the amounts to be paid to holders of any liens; (iii) documentation of the amounts of closing costs to be paid; (iv) documentation of any broker's fees regarding the sale; and (v) documentation of the amounts of State and/or municipal transfer taxes to be paid regarding the sale of the Property. Settling Parties may request that EPA approve the calculation of net sales proceeds prior to the sale. In that event, EPA's approval shall be binding in any subsequent dispute between the United States and Settling Parties regarding whether Settling Parties have complied with Paragraph 12.g.

- f. If within five years after commencement of efforts to market the Property, Settling Parties have not executed a contract for the sale of the Property, upon receipt of notice from EPA, Settling Parties shall commence best efforts to sell the Property to the highest bidder at a public auction. For purposes of this Paragraph, "best efforts" shall mean engaging the services of a professional auctioneer who will advertise the auction in at least two local newspapers for at least thirty days prior to the auction and who will conduct other marketing activities, as appropriate. The agreement with the professional auctioneer shall be provided to EPA for review and approval.
- g. At the time of the sale, Settling Parties shall pay to the United States 100 % of the net sales proceeds of the sale of the Property or \$2.56 million, plus an additional sum for Interest on that amount calculated through the date of payment, whichever is less. "Net sales proceeds" shall mean, for purposes of this Paragraph, all consideration received by Settling Parties from the sale of the Property, not including: (i) any payment in consideration of the release of any lien; (ii) any reasonable closing costs paid regarding the sale; (iii) any reasonable broker's fees regarding the sale; (iv) any State and/or municipal transfer taxes regarding the sale [and (v) any net rental income described in Paragraph 12.b. Provided that the amount of "net sales proceeds" is acceptable, EPA shall arrange for the execution or delivery, at the time of the sale, of a release of any federal lien regarding the Property.
- h. If 100% of the net sales proceeds are less than \$2.56 million, plus an additional sum for Interest on that amount calculated through the date of payment, then Settling Parties shall pay the United States the difference between the two amounts within sixty days after the date of sale.
- i. Settling Parties shall not be required to comply with this Paragraph with respect to the Property or a portion of the Property, in the event the Property or such portion thereof is transferred involuntarily by operation of law, including foreclosure or its equivalent of any lien, or is transferred by deed or other assignment in lieu of foreclosure due to a default on indebtedness secured by the Property or such portion thereof.

13. In the event of a sale or other transfer of the Property or any portion thereof, Settling Parties shall continue to be subject to all terms, conditions and benefits of this Settlement Agreement, except for Section XI (Property Requirements), to the extent it requires

Settling Parties to provide access to, or to abide by any land, water, or other resource use restrictions regarding the Property or portion thereof that was sold or transferred. Settling Parties shall continue to be subject to the requirement to enforce any agreements, pursuant to Section XI, for the new owner to provide access to the Property or portion thereof that was sold.

14. Settling Parties payment(s) shall be made to EPA at <https://www.pay.gov> in accordance with the following payment instructions: enter “sfo 1.1” in the search field to access EPA’s Miscellaneous Payment Form – Cincinnati Finance Center. Complete the form including the Site Name, docket number, and Site/Spill ID Number A9DJ. Settling Parties shall send to EPA, in accordance with Section XIV (Notices and Submissions), a notice of this payment including these references.

15. Deposit of Payment. The total amount to be paid pursuant to Paragraph 12 shall be deposited by EPA in the Refrigerant Exchange Site Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

VI. FAILURE TO COMPLY WITH SETTLEMENT AGREEMENT

16. **Interest on Late Payments.** If Settling Parties fail to make the payment required by Paragraph 12 (Payment of Net Proceeds of Sale of Property) by the required due date under Paragraph 12.g or 12.h, interest shall continue to accrue on the unpaid balance from the date payment was due through the date of payment.

17. Stipulated Penalty

a. If any amounts due to EPA under Paragraph 12 (Payment of Net Proceeds of Sale of Property) are not paid by the required date, Settling Parties shall be in violation of this Settlement Agreement and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 16 (Interest on Late Payments), \$1,500.00 per violation per day that such payment is late.

b. If Settling Parties fail to maintain the Property or use best efforts to sell the Property in accordance with Paragraph 12.a and c, Settling Parties shall be in violation of this Settlement Agreement and shall pay, as a stipulated penalty, \$500.00 per day for each day late in maintaining the Property or of failing to use best efforts to sell the Property.

c. Stipulated penalties are due and payable within thirty days after the date of demand for payment of the penalties by EPA. Settling Parties shall make all payments at <https://www.pay.gov> using the following instructions: enter “sfo 1.1” in the search field to access EPA’s Miscellaneous Payment Form - Cincinnati Finance Center. Complete the form including the Site Name, docket number, and Site/Spill ID Number A9DJ, and indicate in the comment field that the payment is for stipulated penalties. Settling Parties shall send to EPA, in accordance with Section XIV (Notices and Submissions), a notice of this payment including these references.

d. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Parties of the violation or made a demand for payment but need only be paid upon demand. All penalties shall begin to accrue on the day after payment or performance is due, or the day a violation occurs, and shall continue to accrue through the date

of payment or the final day of correction of the noncompliance or completion of the activity. Nothing in this Settlement Agreement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

18. In addition to the Interest and Stipulated Penalty payments required by this Section and any other remedies or sanctions available to the United States by virtue of Settling Parties' failure to comply with the requirements of this Settlement Agreement, if Settling Parties fail or refuse to comply with any term or condition of this Settlement Agreement, they shall be subject to enforcement action pursuant to Section 122(h)(3) of CERCLA, 42 U.S.C. § 9622(h)(3). If the United States brings an action to enforce this Settlement Agreement, Settling Parties shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

19. The obligations of Settling Parties to pay amounts owed to EPA under this Settlement Agreement are joint and several. In the event of the insolvency of any Settling Party or the failure by any Settling Party to make the payments required under this Settlement Agreement, the remaining Settling Party shall be responsible for such payments.

20. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Settlement Agreement. Payment of stipulated penalties shall not excuse Settling Parties from payment as required by Section V (Payment of Response Costs) or from performance of any other requirements of this Settlement Agreement.

VII. COVENANTS BY EPA

21. **Covenants for Settling Parties by EPA.** Except as specifically provided in Section VIII (Reservations of Rights by EPA), EPA covenants not to sue or take administrative action against Settling Parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), to recover Past Response Costs. These covenants shall take effect upon the Effective Date. These covenants are conditioned upon the satisfactory performance by Settling Parties of their obligations under this Settlement Agreement. These covenants extend only to Settling Parties and do not extend to any other persons.

VIII. RESERVATIONS OF RIGHTS BY EPA

22. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Settling Parties with respect to all matters not expressly included within Section VII (Covenants by EPA). Notwithstanding any other provision of this Settlement Agreement, EPA reserves all rights against Settling Parties with respect to:

- a. liability for failure of Settling Parties to meet a requirement of this Settlement Agreement;
- b. liability for costs incurred or to be incurred by the United States that are not within the definition of Past Response Costs;
- c. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 9606;

- d. criminal liability; and
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments.

23. Nothing in this Settlement Agreement is intended to be nor shall it be construed as a release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which EPA may have against any person, firm, corporation or other entity not a signatory to this Settlement Agreement.

IX. COVENANTS BY SETTLING PARTIES

24. Settling Parties covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Site and this Settlement Agreement, including but not limited to:

- a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

- b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the California Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, or at common law; and

- c. any claim pursuant to Section 107 or 113 of CERCLA, 42 U.S.C. § 9607 or 9613, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law for Past Response Costs.

25. Nothing in this Settlement Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

26. Waiver of Claims by Settling Parties

- a. Settling Parties agree not to assert any claims and to waive all claims or causes of action (including but not limited to claims or causes of action under Sections 107(a) and 113 of CERCLA) that they may have:

- (1) **De Micromis Waiver.** For all matters relating to the Site against any person where the person's liability to Settling Parties with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if all or part of the disposal, treatment, or transport occurred before April 1, 2001, and the total amount of material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid materials;

b. Exceptions to Waiver[s]

(1) The waiver under this Paragraph 26 shall not apply with respect to any defense, claim, or cause of action that a Settling Party may have against any person otherwise covered by such waiver if such person asserts a claim or cause of action relating to the Site against such Settling Party.

X. EFFECT OF SETTLEMENT/CONTRIBUTION

27. Except as provided in Paragraph 26 (Waiver of Claims by Settling Parties), nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement Agreement. Except as provided in Section IX (Covenants by Settling Parties), each of the Parties expressly reserves any and all rights (including, but not limited to, pursuant to Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action that it may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Settlement Agreement diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613 (f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

28. The Parties agree that this Settlement Agreement constitutes an administrative settlement pursuant to which Settling Parties have, as of the Effective Date, resolved liability to the United States within the meaning of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, or as may be otherwise provided by law, for the “matters addressed” in this Settlement Agreement. The “matters addressed” in this Settlement Agreement are all response actions and all response costs incurred at or in connection with the Site, by the United States or any other person, except for the State; provided, however, that if EPA exercises rights under the reservations in Section VIII (Reservations of Rights by EPA), other than in Paragraphs 22.a (liability for failure to meet a requirement of the Settlement Agreement) or 22.d (criminal liability), the “matters addressed” in this Settlement Agreement will no longer include those response costs or response actions that are within the scope of the exercised reservation.

29. The Parties further agree that this Settlement Agreement constitutes an administrative settlement pursuant to which each Settling Party has, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

30. Each Settling Party shall, with respect to any suit or claim brought by it for matters related to this Settlement Agreement, notify EPA in writing no later than sixty days prior to the initiation of such suit or claim. Each Settling Party also shall, with respect to any suit or claim brought against it for matters related to this Settlement Agreement, notify EPA in writing within ten days after service of the complaint or claim upon it. In addition, each Settling Party shall notify EPA within ten days after service or receipt of any Motion for Summary Judgment and within ten days after receipt of any order from a court setting a case for trial, for matters related to this Settlement Agreement.

31. In any subsequent administrative or judicial proceeding initiated by EPA, or by the United States on behalf of EPA, for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Parties shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenants by EPA set forth in Section VII.

32. Effective upon signature of this Settlement Agreement by a Settling Party, such Settling Party agrees that the time period commencing on the date of its signature and ending on the date EPA receives from such Settling Party the payment required by Section V (Payment of Response Costs) and, if any, Section VI (Failure to Comply with Settlement Agreement) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States related to the “matters addressed” as defined in Paragraph 28, and that, in any action brought by the United States related to the “matters addressed,” such Settling Party will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If EPA gives notice to Settling Parties that it will not make this Settlement Agreement effective, the statute of limitations shall begin to run again commencing ninety days after the date such notice is sent by EPA.

XI. PROPERTY REQUIREMENTS

33. **Agreements Regarding Access and Non-Interference.** Settling Parties shall, with respect to their Affected Property:

a. Provide the United States, State, potentially responsible parties who have entered or may enter into an agreement with the United States or State for performance of response actions at the Site (hereinafter “Performing Parties”), and their representatives, contractors, and subcontractors with access at all reasonable times to its Affected Property to conduct any activity relating to response actions at the Site including the following activities:

- (1) Verifying any data or information submitted to the United States or the State;
- (2) Conducting investigations regarding contamination at or near the Site;
- (3) Obtaining samples;
- (4) Assessing the need for, planning, implementing, or monitoring response actions;
- (5) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Parties or their agents, consistent with Section XII (Access to Information);

(6) Assessing Settling Parties' compliance with the Settlement Agreement; and

(7) Determining whether the Affected Property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted under the Settlement Agreement.

(8) Implementing, monitoring, maintaining, reporting on, and enforcing [any institutional controls or] any land, water, or other resource use restrictions regarding the Affected Property.

b. Refrain from using its Affected Property in any manner that EPA determines will (i) pose an unacceptable risk to human health or to the environment due to exposure to hazardous substances or (ii) interfere with or adversely affect the implementation, integrity, or protectiveness of response actions at the Site

34. If EPA determines in a decision document prepared in accordance with the NCP that institutional controls in the form of state or local laws, regulations, ordinances, zoning restrictions, or other governmental controls or notices are needed regarding the Affected Property, Settling Parties shall cooperate with EPA's and the State's efforts to secure and ensure compliance with such institutional controls.

35. Notice to Successors-in-Title

a. Settling Parties shall, within fifteen days after the Effective Date, submit for EPA approval a notice to be filed regarding the Affected Property in the appropriate land records. The notice must: (1) include a proper legal description of the Affected Property; (2) provide notice to all successors-in-title: (i) that the Affected Property is part of, or related to, the Site; (ii) that EPA performed a response action for the Site. Settling Parties shall record the notice within ten days after EPA's approval of the notice and submit to EPA, within ten days thereafter, a certified copy of the recorded notice.

b. Owner Settling Party shall, prior to entering into a contract to Transfer its Affected Property, or sixty days prior to Transferring its Affected Property, whichever is earlier:

(1) Notify the proposed transferee that EPA performed a response action regarding the Site; and

(2) Notify EPA and the State of the name and address of the proposed transferee and provide EPA and the State with a copy of the above notice that it provided to the proposed transferee.

36. In the event of any Transfer of the Affected Property, unless EPA otherwise consents in writing, Settling Parties shall continue to comply with their obligations under the Settlement Agreement.

37. Notwithstanding any provision of this Settlement Agreement, EPA and the State retain all of their access authorities and rights, as well as all of their rights to require institutional controls, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statute or regulations.

XII. ACCESS TO INFORMATION

38. Settling Parties shall provide to EPA, upon request, copies of all records, reports, documents, and other information (including records, reports, documents and other information in electronic form) (hereinafter referred to as “Records”) within their possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Settlement Agreement], including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information regarding the Site.

39. Privileged and Protected Claims

a. Settling Parties may assert that all or part of a Record is privileged or protected as provided under federal law, provided it complies with Paragraph 39.b, and except as provided in Paragraph 39.c.

b. If Settling Parties assert a claim of privilege or protection, it shall provide EPA with the following information regarding such Record: its title; its date; the name, title, affiliation (e.g., company or firm), and address of the author, each addressee, and of each recipient; a description of the Record’s contents; and the privilege or protection asserted. If a claim of privilege or protection applies only to a portion of a Record, Settling Parties shall provide the Record to EPA in redacted form to mask the privileged or protected portion only. Settling Parties shall retain all Records that they claim to be privileged or protected until EPA has had a reasonable opportunity to dispute the privilege or protection claim and any such dispute has been resolved in Settling Parties’ favor.

c. Settling Parties may make no claim of privilege or protection regarding:

(1) any data regarding the Site, including but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological, or engineering data, or the portion of any other Record that evidences conditions at or around the Site; or

(2) the portion of any Record that Settling Parties are required to create or generate pursuant to this Settlement Agreement.

40. **Business Confidentiality Claims.** Settling Parties may assert that all or part of a Record submitted to EPA under this Section or Section XIII (Retention of Records) is business confidential to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Settling Parties shall segregate and clearly identify all Records or parts thereof submitted under this Settlement Agreement for which Settling Parties asserts a business confidentiality claim. Records submitted to EPA determined to be confidential by EPA will be accorded the protection specified in 40 C.F.R. Part 2, Subpart B.

If no claim of confidentiality accompanies Records when they are submitted to EPA, or if EPA has notified Settling Parties that the Records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2 Subpart B, the public may be given access to such Records without further notice to Settling Parties.

41. Notwithstanding any provision of this Settlement Agreement, EPA and the State retain all of their information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, and any other applicable statute or regulations.

XIII. RETENTION OF RECORDS

42. Until ten years after the Effective Date, Settling Parties shall preserve and retain all non-identical copies of Records now in its possession or control, or that come into its possession or control, that relate in any manner to its liability under CERCLA with respect to the Site, provided, however, that if Settling Parties is potentially liable as an owner or operator of the Site, Settling Parties must retain, in addition, all Records that relate to the liability of any other person under CERCLA with respect to the Site. Each of these requirements shall apply regardless of any corporate retention policy to the contrary.

43. At the conclusion of the ten-year document retention period, Settling Parties shall notify EPA at least ninety days prior to the destruction of any such Records, and, upon request by EPA, and except as provided in Paragraph 39 (Privileged and Protected Claims), Settling Parties shall make available any such Records to EPA.

44. Settling Parties certify that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any Records (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by the United States or the State and that it has fully complied with any and all EPA and State requests for information regarding the Site and Settling Parties' financial circumstances, including but not limited to insurance and indemnity information, pursuant to Sections 104(e) and 122(e)(3)(B) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e)(3)(B), Section 3007 of RCRA, 42 U.S.C. § 6927, and state law.

XIV. NOTICES AND SUBMISSIONS

45. Whenever, under the terms of this Settlement Agreement, notice is required to be given or a document is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Party in writing. Except as otherwise provided, notice to a Party by email or by regular mail in accordance with this Section satisfies any notice requirement of this Settlement Agreement regarding such Party.

As to EPA:

Craig Whitenack
EPA, Region IX
75 Hawthorne Street
San Francisco, California 94105
whitenack.craig@epa.gov

As to Settling Parties:

Dennis O'Meara
President, Refrigerant Exchange Corp., (REFEX)
15920 Pomona Rincon Rd. Unit 7902
Chino Hills, CA 91709
dennis@refex.com

XV. INTEGRATION/APPENDICES

46. This Settlement Agreement constitutes the final, complete, and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Settlement Agreement. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Settlement Agreement.

XVI. PUBLIC COMMENT

47. This Settlement Agreement shall be subject to a public comment period of at least thirty days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, the United States may modify or withdraw its consent to this Settlement Agreement if comments received disclose facts or considerations that indicate that this Settlement Agreement is inappropriate, improper, or inadequate.

XVII. EFFECTIVE DATE

48. The effective date of this Settlement Agreement shall be the date upon which EPA issues written notice that the public comment period pursuant to Paragraph 47 has closed and the United States has determined not to withhold its consent or seek to modify this Settlement Agreement based on the comments received, if any.

IT IS SO AGREED:

U.S. ENVIRONMENTAL PROTECTION AGENCY:

Dated

MICHAEL
MONTGOMERY

Digitally signed by
MICHAEL MONTGOMERY
Date: 2026.02.02 17:18:56
-08'00'

Michael Montgomery
Director, Superfund Division Region 9
U.S. Environmental Protection Agency

Signature Page for Settlement Agreement Regarding Refrigerant Exchange Removal Site

REFRIGERANT EXCHANGE CORP.:

Dated: 11/24/25

By: Dennis O'Meara

Title: President