



STATE OF DELAWARE  
**DEPARTMENT OF NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL**  
RICHARDSON & ROBBINS BUILDING  
89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

OFFICE OF THE  
SECRETARY

PHONE  
(302) 739-9000

**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is made and entered into as of February 26, 2021 (the “Effective Date”), by and between Croda, Incorporated (“Croda”) and the State of Delaware Department of Natural Resources and Environmental Control (“DNREC” or the “Department”) (collectively the “Parties”) to resolve certain matters arising from performance testing done on equipment at Croda’s Ethylene Oxide Plant (“the EO Plant”) located in New Castle, Delaware on September 17, 2020, and January 13-14, 2021, and the revised semi-annual report submitted on September 28, 2020.

**BACKGROUND**

Croda owns and operates a facility located at 315 Cherry Lane in New Castle, Delaware, where it manufactures surfactants that promote the mixing of oil and water-based ingredients in consumer products such as shaving cream and pharmaceuticals. The manufacture of these surfactants requires the use of ethylene oxide (“EO”), a colorless and highly flammable gas. Croda has recently expanded its facility by adding an EO Plant. The EO Plant is a multi-step continuous process to produce EO from ethanol. Among the equipment at the EO Plant is the T-330 Vent Scrubber (“the scrubber”) used to control EO emissions from two EO storage tanks; the F-610 Drying Column Hotwell (“the hotwell”); the D-430 Purification Column Reflux Drum (“the reflux drum”) that has a vent; the B-1210 Ethanol Dehydration Furnace (“the EDF”) and the U-240 Catalytic Combustion Unit (“the CCU”).

Croda’s operations require permits issued by the Division of Air Quality (“DAQ”). These include permits issued pursuant to 7 DE Admin. Code 1102 (“Regulation 1102”) and 7 DE

Admin. Code 1130 (“Regulation 1130” or “Title V”). The facility currently operates under the governance of Title V Permit: AQM-003/00058(Renewal 3)(Revision 5) dated November 18, 2019 (“Title V Permit”).

Construction of the EO Plant was authorized by Federally Enforceable Regulation 1102 Permit: APC-2016/0068-Construction dated June 30, 2016 and extended via Permit : APC-2016/0068-Construction(Amendment 2)(NSPS)(MACT)(VOC RACT)((MNSR)(FE) dated December 8, 2017 and extended again via Permit : APC-2016/0068-Construction(Amendment 3)(NSPS)(MACT)(VOC RACT)((MNSR)(FE)(EXT) dated June 14, 2019 (collectively, “Construction Permit”). Croda’s application for the Construction Permit identified two EO storage tanks as the only connections to the scrubber and the potential to emit calculations were based solely on the two EO storage tank connections. Upon completion of the EO Plant construction, the conditions of the Construction Permit were incorporated into Croda’s November 28, 2019, Title V Permit.

A leak at the EO Plant on November 25, 2018, resulted in a shutdown of the EO Plant and operation of the EO Plant did not resume until January 13, 2020. Croda’s Title V Permit and Federal regulation required performance testing of equipment be conducted no later than 180 days after startup, July 13, 2020<sup>1</sup>. Croda delayed the testing due to ethanol supply chain issues associated with the COVID-19 pandemic. A formal approval of this delay was not issued by the Department.

Croda conducted the late performance testing of the scrubber and hotwell on September 17, 2020. After only 2 of the 3 runs, it was apparent the hotwell was not in compliance with permitted limits. Testing was stopped as a result of an unplanned shutdown. Croda submitted the preliminary report for the partial performance test to the Department on October 6, 2020, that showed the scrubber emissions were much higher than expected. An investigation found that there was a source of emissions, the reflux drum vent line, connected to the scrubber that was not included in the permit application. Also on October 6, 2020, Croda submitted its calculations

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<sup>1</sup> 180 days after the January 13, 2020 startup would be July 11, 2020. However, as that was a Saturday, the Department would accept the performance testing as being timely if it was completed by Monday, July 13, 2020.

for the scrubber efficiency using data from the September 17, 2020, performance test and other factors resulting in a destruction efficiency of 95.64%. The Department did not agree with Croda's analysis and calculations as the scrubber efficiency calculations were based on the vent from the reflux drum valve being 100% open which was not the case during the performance test. The Department reevaluated the calculations including the percent the reflux drum valve was open during the performance test and determined a scrubber efficiency of 93.46% which is below the required minimum of 95%. Department calculations for emissions based on the corrected scrubber efficiency of 93.46% were 1.139 tons of ethylene oxide, 0.014 tons of ethylene and a total of 1.153 tons of VOC per rolling 12-month period as of October 1, 2020. Further calculations determined that the permitted emission limit of 0.29 tons per 12-month rolling period was exceeded beginning March 1, 2020. The Department issued a November 11, 2020, Notice of Violation to Croda for violations associated with the September 17, 2020, performance testing.

Croda submitted a revised semi-annual report on September 28, 2020, and reported several instances of non-compliance during the reporting period covering January 1 through June 30, 2020. The Leak Detection and Repair ("LDAR") program identified four valves for which a first repair attempt was not made within the required five calendar days, and one valve which was not repaired within the required 15 calendar days. The LDAR program further identified three connectors for which the first repair attempt was not made within the required five calendar days, and one connector which was not repaired within the required 15 calendar days. While this connector was subsequently classified as a Delay of Repair, this was not done until after the 15-calendar day repair requirement had passed. Lastly, monitoring showed that the ethanol vent condenser outlet temperature exceeded the permit limit on 18 occasions for a total of 14 hours and 21 minutes.

Croda conducted performance testing on the EDF and the CCU on January 13-14, 2021, and on February 8, 2021, reported the results to the Department which included non-compliance by the EDF of the permitted emission limit for NO<sub>x</sub> and non-compliance by the CCU of the permitted emission limit for CO, VOC and PM<sub>10</sub>.

### **DNREC'S CONCLUSIONS**

DNREC has concluded that Croda is in violation of the following statutory and regulatory requirements and conditions of Permit: **APC-2016/0068-CONSTRUCTION(NSPS)(MACT)(VOC RACT)(MNSR)(FE)** ("the Construction Permit") and Permit: **AQM-003/00058-Renewal 3 (Rev. 5)** ("the Title V Permit").

1. Seven Del. C. § 6003(a)(1) states:

*"No person shall, without first having obtained a permit from the Secretary, undertake any activity in a way which may cause or contribute to the discharge of an air contaminant."*

2. Seven Del. C. § 6003(b)(1) states:

*"No person shall, without first having obtained a permit from the Secretary, construct, install, replace, modify or use any equipment or device or other article which may cause or contribute to the discharge of an air contaminant."*

3. Section 2.1 of 7 DE Admin. Code 1102 states:

*"Except as exempted in Section 2.2, no person shall initiate construction, install, alter or initiate operation of any equipment or facility or air contaminant control device which will emit or prevent the emission of an air contaminant prior to receiving approval of his application from the Department, or, if eligible, prior to submitting to the Department a completed registration form."*

4. Condition 1.2 of the Construction Permit states:

*"The project shall be constructed in accordance with the information described above. If changes are necessary, revised plans must be submitted and a supplemental approval issued prior to actual construction. [Reference 7 DE Admin Code 1102, Section 11 dated 6/1/1997.]"*

5. Condition 2(d) of the Title V Permit states:

*"The Owner and/or Operator shall not initiate construction, installation, or alteration of any equipment or facility or air contaminant control device which will emit or prevent the emission of an air contaminant prior to submitting an application to the Department under 7 DE Admin. Code 1102, and, when applicable, 7 DE Admin. Code 1125, and receiving approval of such application from the Department; except as exempted in 7 DE Admin. Code 1102 Section 2.2."*

Croda is in violation of 7 Del. C. § 6003(a)(1), 7 Del. C. § 6003(b)(1), Section 2.1 of 7 DE Admin. Code 1102, Condition 1.2 of the Construction Permit and Condition 2(d) of the Title V Permit by connecting the reflux drum vent line to the scrubber which was not included in the Construction Permit application thereby constructing and operating without a permit.

Croda is also in violation of 7 Del. C. § 6003(a)(1) and Section 2.1 of 7 DE Admin. Code 1102, for the unpermitted emission of EO from the hotwell that was discovered during the September 17, 2020 performance testing.

6. Forty CFR Part 60 Subpart Kb §60.112b(a)(3)(ii) states:  
*"The control device shall be designed and operated to reduce inlet VOC emissions by 95 percent or greater. If a flare is used as the control device, it shall meet the specifications described in the general control device requirements (§60.18) of the General Provisions."*
7. Condition 3 Table 1(q)(1)(iii)(A) of the Title V Permit states:  
*"The 30,000 gallon ethylene oxide tanks' scrubber shall be designed and operated to reduce inlet VOC emissions by 95 percent or greater."*
8. Condition 3 Table 1(q)(1)(ii)(C) of the Title V Permit states:  
*"Air contaminant emission levels from the EO Storage Tanks Scrubber shall not exceed those specified in 7 DE Admin. Code 1102 and the following: Volatile Organic Compound (VOC) Emissions: VOC emissions shall not exceed 0.29 tons per twelve (12) month rolling period."*

Croda violated 40 CFR Part 60 Subpart Kb §60.112b(a)(3)(ii), Condition 3 Table 1(q)(1)(iii)(A) and Condition 3 Table 1(q)(1)(ii)(C) of Title V Permit when performance testing conducted on September 17, 2020, showed the weighted average efficiency of the scrubber was 93.46% and subsequent emission calculations based on that efficiency were 1.139 tons of ethylene oxide, 0.014 tons of ethylene and a total of 1.153 tons of VOC per 12-month rolling period as of October 1, 2020. The emission limit of 0.29 tons of VOC per 12-month rolling period was exceeded beginning March 1, 2020.

9. Forty CFR Part 60 Subpart VVa §60.482-7a(d)(1) states:

*“When a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in §60.482-9a.”*

10. Forty CFR Part 60 Subpart VVa §60.482-7a(d)(2) states:

*“A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.”*

Croda is in violation of 40 CFR Part 60 Subpart VVa §60.482-7a(d)(1) and 40 CFR Part 60 Subpart VVa §60.482-7a(d)(2) when it reported in the September 28, 2020, semi-annual report that the LDAR program identified four valves for which the first attempt was not made within 5 calendar days, and one valve which was not repaired within 15 calendar days.

11. Forty CFR Part 60 Subpart VVa §60.482-11a(d) states:

*“When a leak is detected pursuant to paragraphs (a) and (b) of this section, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in §60.482-9a. A first attempt at repair as defined in this subpart shall be made no later than 5 calendar days after the leak is detected.”*

Croda is in violation of 40 CFR Part 60 Subpart VVa §60.482-11a(d) when it reported in the September 28, 2020, semi-annual report that the LDAR program identified 3 connectors for which the first attempt was not made within 5 calendar days as required and 1 connector which was not repaired within the required 15 calendar days.

12. Condition 3 – Table 1(q)(1)(iii)(G) of the Title V Permit states:

*“The 50,000 gallon ethanol tanks’ condenser shall be designed to reduce inlet VOC emissions by 95 percent or greater, and operated such that the outlet temperature shall not exceed -14.4°C (6°F).”*

Croda is in violation of Condition 3 – Table 1(q)(1)(iii)(G) of the Title V Permit when it identified in the September 28, 2020, semi-annual report that there were 18 occasions, for a total of 14 hours and 21 minutes, that the condenser outlet temperature exceeded -14.4°C.

13. Condition 3 – Table 1(q)(1)(ii)(A)(2) of the Title V Permit states:

*“NOx emissions shall not exceed 0.33 pounds per hour and 1.4 tons per twelve (12) month rolling period.”*

Croda violated Condition 3 – Table 1(q)(1)(ii)(A)(2) of the Title V Permit when performance testing conducted on the EDF on January 13, 2021, showed NO<sub>x</sub> emissions of 0.37 lbs/hr.

14. Condition 3 – Table 1(q)(1)(ii)(B)(1) of the Title V Permit states:  
*“CO emissions shall not exceed 0.07 pounds per hour and 0.29 tons per twelve (12) month rolling period.”*
15. Condition 3 – Table 1(q)(1)(ii)(B)(4) of the Title V Permit states:  
*“VOC emissions shall not exceed 0.03 pounds per hour and 0.11 tons per twelve (12) month rolling period.”*
16. Condition 3 – Table 1(q)(1)(ii)(B)(5) of the Title V Permit states:  
*“PM<sub>10</sub> emissions shall not exceed 0.01 pounds per hour and 0.026 tons per twelve (12) month rolling period.”*

Croda violated Condition 3 – Table 1(q)(1)(ii)(B)(1); Condition 3 – Table 1(q)(1)(ii)(B)(4); and Condition 3 – Table 1(q)(1)(ii)(B)(5) of the Title V Permit when performance testing of the CCU on January 14, 2021, showed CO emissions of 0.26 lbs/hr, VOC emissions of 0.68 lbs/hr and PM<sub>10</sub> emissions of 0.015 lbs/hr.

17. Forty CFR 60 Subpart RRR §60.702 it states in part:  
*“Each owner or operator of any affected facility shall comply with paragraph (a), (b), or (c) of this section for each vent stream on and after the date on which the initial performance test required by §§60.8 and 60.704 is completed, but not later than 60 days after achieving the maximum production rate at which the affected facility will be operated, or 180 days after the initial start-up, whichever date comes first.”*
18. Condition 3 – Table 1(q)(1)(vii)(A) of Title V Permit states:  
*“Within 60 days of achieving the maximum production rate at which the facility will operate this process, but no later than 180 days afterwards, the owner or operator shall conduct performance tests according to Condition 3- Table 1(q)(1)(vii)(C) and furnish the Department with a written report of the results in accordance with Condition 3- Table 1(q)(1)(vii)(B).”*

Croda violated 40 CFR 60 Subpart RRR §60.702 and Condition 3 – Table 1(q)(1)(vii)(A) of the Title V Permit when it conducted performance testing of the scrubber and the hotwell on

September 17, 2020, and the EDU and CCU on January 13-14, 2021, which was after the due date of July 13, 2020, 180 days after the January 13, 2020 startup of the EO Plant.

## **SETTLEMENT AGREEMENT BETWEEN THE PARTIES**

The Parties agree that settlement of the matters addressed by this Agreement is in the best interest of the Parties, and that entry of this Agreement is the most appropriate means of resolving the matters addressed herein.

NOW THEREFORE, it is hereby stipulated and agreed as follows:

### **I. APPLICATION AND SCOPE**

1. The provisions of this Settlement Agreement shall apply to and be binding upon DNREC and Respondent, its and their officers, employees, agents, successors and assigns.

### **II. PENALTY**

2. Croda shall pay a penalty of \$300,000.

3. Within 60 days of the Effective Date of this Agreement, Croda shall submit to DNREC a corporate check to pay the penalty, payable to the State of Delaware, and mailed to the following address:

Valerie S. Edge  
Deputy Attorney General  
Department of Justice  
State of Delaware  
Environmental Unit - Third Floor  
102 W. Water Street  
Dover, Delaware 19904

### **III. PROJECT**

4. Expanded Alarm System Project. Croda will expand its alarm system to a location North of Interstate 295 as expeditiously as possible, but no later than December 31,

2021 which will be designed to be capable of providing notice to neighborhoods in that area, including but not limited to, Holloway Terrace.

5. Within 30 days of the execution of this agreement, Croda will submit a proposal to expand the alarm system, which shall include a projected time line for completion.

6. DNREC shall notify Croda if it believes the concept is insufficient to fulfill the intended purpose and Croda will respond to and address any concerns.

7. Within 5 business days of finalization with the Department, Croda will share with the public the final proposal to expand the alarm system, at a minimum, by posting on its website.

8. Croda will issue monthly updates of their progress on the project to the community via their website (no later than the 15<sup>th</sup> of each month), which will be shared with DNREC via email contemporaneous with the public update.

9. Croda shall not use any state, federal or local funds, including but not limited to grants, to fund the project.

10. Croda shall also not publicize the undertaking of said project or the results thereof, without clearly stating in a prominent manner that it was undertaken as part of the settlement of an enforcement action. This does not apply to instructional communications.

11. The cost to Croda for completion of the Project will be no less than \$100,000.

#### **IV. SOURCE SPECIFIC REQUIREMENTS**

12. Croda shall undertake the actions outlined below and provide the Department with a monthly progress report by the 15<sup>th</sup> of each month for the previous month, detailing the

progress and status of the requirements listed below, including but not limited to, meeting deadlines.

#### **F-610 Drying Column Hotwell**

13. Croda shall operate the facility so that no emissions are released into the atmosphere from the hotwell emission point.

14. Croda shall, as expeditiously as practicable, permanently eliminate the hotwell emission point. Croda submitted a Regulation 1102 permit application to DNREC in December of 2020 to make physical modifications to the process to reroute the outlet of the hotwell to the EDF. Within 60 days of issuance by DNREC of the amended construction permit, Croda shall complete any necessary construction to permanently eliminate the hotwell emission point. Croda will not appeal or contest the amended construction permit.

#### **T-330 Vent Scrubber**

15. Croda shall operate the facility to achieve additional VOC emissions reductions beyond the 95 percent or greater reduction in VOCs from the scrubber found in Condition 3 – Table 1(q)(1)(iii)(A) of the Title V Permit from the date of signing on this agreement.

16. DNREC will, at its earliest opportunity, administratively amend the VOC emissions reduction operational requirement found in Condition 3 – Table 1(q)(1)(iii)(A) of the Title V Permit to increase the required VOC efficiency reduction to 99 percent or greater from the current 95 percent or greater requirement. Croda will not appeal or contest the administrative amendment.

17. Croda agrees that failure to achieve the 99 percent or greater reduction in VOCs from the scrubber from the Effective Date of this Agreement will subject Croda to the same enforcement penalties that it would have been subject to had it failed to meet the 95 percent or greater reduction in VOCs found in Condition 3 – Table 1(q)(1)(iii)(A) of the Title V Permit.

18. Restart of this unit will result in Croda violating its rolling 12-month annual VOC emission limit set forth in Condition 3 – Table 1(q)(1)(ii)(C) of the Title V Permit for a period of time due to the prior excess emissions. From the Effective Date of this Agreement, if Croda complies with the new per calendar month limit set forth in Paragraph 19 below, DNREC will seek no penalty or take other enforcement action for continued violation of the rolling 12-month emission limit resulting from the prior excess emissions identified in the September 17, 2020, stack test.

19. From the Effective Date of this Agreement, Croda will comply with a new monthly VOC emission limit of 0.024 tons/month in addition to the annual VOC emission limit set forth in Condition 3 – Table 1(q)(1)(ii)(C) of the Title V Permit which is currently expressed as a rolling 12-month annual limit.

20. DNREC will, at its earliest opportunity, administratively amend the annual VOC emissions limit found in Condition 3 – Table 1(q)(1)(ii)(C) of the Title V Permit, which is currently expressed as a rolling 12-month annual limit, to also include a per calendar month limit of 0.024 tons. Croda will not appeal or contest the administrative amendment.

21. Croda agrees that failure to achieve the per calendar month limit of 0.024 tons of VOCs from the scrubber from the Effective Date of this Agreement will subject Croda to the same enforcement penalties that it would have been subject to had it failed to meet the rolling 12-month annual limit found in Condition 3 – Table 1(q)(1)(ii)(C) of the Title V Permit.

22. Upon restart, Croda shall monitor the minimum scrubbing water flow rate for the scrubber and maintain a minimum scrubbing water flow rate of 7,400 lbs/hr until this requirement changes pursuant to Paragraph 24 below.

23. Upon restart, Croda shall monitor the daily hourly average EO production rate and shall not exceed a production rate of 5,800 lbs/hr until this requirement changes pursuant to Paragraph 24 below.

24. DNREC will, at its earliest opportunity, administratively amend the Title V permit to incorporate the minimum scrubbing water flow rate and daily average maximum EO production rate as shown in the last passing stack test. Croda will not appeal or contest these administrative amendments.

25. Croda submitted a Regulation 1102 permit application in December of 2020 to reroute the EO emissions from the scrubber during normal operations to the T-320 Reabsorber Tower. Within 60 days of receiving the requested construction permit, Croda will construct the rerouted piping.

26. Croda shall evaluate the impacts of the modification and within six months of resuming normal operations after rerouting the flow, Croda shall submit a proposal to the Department requesting amendments to the Title V Permit to accommodate one of the following scenarios:

A. Croda will request a Title V Permit amendment limiting the use of scrubber, reducing the permitted emissions and establishing additional monitoring, recordkeeping, and reporting requirements to demonstrate compliance, or

B. Croda will request a Title V Permit amendment to install and operate a continuous emission monitoring system (CEMS) for EO. If scrubber operations are required more than 10 percent of the time in order to comply with permit limitations, a CEMS unit will be installed within 9 months of the decision of which scenario, Paragraph 26A or Paragraph 26B, is chosen.

#### **D-430 Purification Column Reflux Drum Vent**

27. Croda shall lock the reflux drum vent valve in the closed position prior to restarting production, and it will remain locked unless and until the scrubber emission point is permanently removed from service or permitted for use pursuant to a Department issued construction permit. Croda must propose a path forward for the reflux drum and include this in the proposal required by Paragraph 26 above. If the emission point remains in operation,

operation of the vent line can only be allowed if the scrubber is able to pass a stack test with the vent line operating.

#### **B-1210 Ethanol Dehydration Furnace**

28. NO<sub>x</sub> emissions from the EDF shall not exceed the design value for the unit of 0.74 lb/hr and 3.2 tons per year. Within 60 days of the Effective Date of this Agreement, Croda shall submit a permit application to DNREC requesting that the NO<sub>x</sub> emission limit found in Condition 3 – Table 1(q)(1)(ii)(A)(2) be increased from 0.33 pounds per hour and 1.4 tons per twelve (12) month rolling period to 0.74 pounds per hour and 3.2 tons per twelve (12) month rolling period.

29. Croda shall reduce annual NO<sub>x</sub> emissions from other emission units at the Facility to offset the requested increase in the annual NO<sub>x</sub> emission limit for the EDF, at a ratio of at least 1:1.3. This will require Croda to obtain a total reduction of at least 2.34 tons NO<sub>x</sub> per year from other emissions units at the Facility. Croda shall submit a permit application to request the emission reductions necessary for the offset to be incorporated as enforceable emission reductions in the permit. The application shall be submitted within 60 days if coastal zone approval is not required or within 15 days following coastal zone approval if it is required.

#### **U-240 Catalytic Combustion Unit**

30. Prior to restarting the CCU, Croda shall replace the catalyst, reinforce the support screen, and install an exhaust stack rain cover.

31. Within 30 days of restart, and prior to the initial tests required in Paragraph 33, Croda shall install a flue gas analyzer in the CCU exhaust stream as an indication of catalyst performance to provide data on combustibles, including CO and VOC concentration combined (expressed in carbon monoxide equivalent). The analyzer shall be operated during the initial tests and within 30 days of completion of those tests, Croda shall notify DNREC of the threshold reading that Croda will use to indicate when the operation is not maintaining compliance. If the

analyzer shows non-compliance, and adjustments to the operation to regain compliance are not successful within an hour, Croda will immediately shutdown and submit a plan to the Department on how it intends to achieve compliance. This shutdown provision will ultimately be incorporated as a requirement in the permit. Croda will not appeal or contest these administrative amendments.

32. Croda shall prepare and implement a preventive maintenance plan for the CCU which shall consider any recommendations received from the catalyst supplier. Croda shall submit this plan to the Department prior to restart.

33. Within 60 days of restarting the CCU (unless the Department approves an extension), Croda shall perform EPA Test Methods 5, 10, 25A, and 202 ("initial tests") on the CCU to demonstrate compliance with the applicable emission limitations for PM, CO, and VOC. The final test reports shall be submitted to the Department within 60 days of each test. If any of the initial tests, for any pollutant, demonstrates significant non-compliance, Croda shall shutdown the EO Plant and submit a plan to the Department for obtaining compliance with the applicable emission limits.

34. Within 60 days of the submission of the report for the initial tests of the CCU required by Paragraph 33 this Agreement, Croda shall submit to the Department for approval an operating and monitoring plan, including recommended ranges for the following operating parameters:

Minimum operating temperature; and  
Minimum differential pressure across the catalyst.

35. Croda shall conduct a full repeat stack testing at the EO plant within 12 months (+/- 1 month) of the date of the restart testing. Croda shall utilize the January 2021 testing protocol for the retesting unless an alternative protocol is authorized by the Department.

## **V. STIPULATED PENALTIES**

36. If Croda fails to meet the deadlines set forth herein, except for completion of the Project set forth in Section III of this Agreement, Croda must pay a stipulated penalty of \$500 each day, for each action item not completed on time, not to exceed \$3,000 per day. For violations occurring more than 30 consecutive days, the amounts of the stipulated penalties, including the daily maximum, shall double.

37. If Croda fails to timely complete the Project set forth in Section III of this Agreement, Croda must pay a stipulated penalty of \$5,000 per day.

38. Croda's obligation to pay stipulated penalties is triggered by missing any deadline. At the latest, Croda shall submit to DNREC any applicable stipulated penalties concurrently with the progress and status report submitted pursuant to Paragraph 12, that identified the missed deadline. Croda shall pay stipulated penalties in the manner and form provided for payment of the Penalty in Section II. DNREC may waive stipulated penalties where a failure to meet a deadline is caused by circumstances beyond Croda's control (e.g., acts of God, pandemic restrictions).

## **VI. EFFECT OF SETTLEMENT**

39. Croda's implementation of the Project in Section III, completion of the Source Specific Requirements in Section IV, Payment of the Penalty in Section II, and payment of any stipulated penalties in Section V, shall resolve all civil and administrative liability of Croda to DNREC for the violations that DNREC concluded occurred herein above.

## **VII. GENERAL PROVISIONS**

40. Croda agrees to the resolution of these claims without any admission as to any matter of fact or law.

41. This Settlement Agreement shall be governed by, and interpreted under, the laws of the State of Delaware.

42. This Settlement Agreement is not a permit. Compliance with its terms does not guarantee compliance with any applicable federal, state or local law or regulation. Nothing in this Agreement, shall be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

43. Other Laws. Nothing in this Agreement shall relieve Respondent of its obligations to comply with all applicable federal, state and local laws and regulations. Nothing contained in this Agreement, other than as expressly provided for in Section VI, shall be construed to prevent, alter, or limit DNREC's ability to seek or obtain other remedies or sanctions available under federal, state, or local statutes or regulations, in response to violations by Respondent of applicable statutes, regulations and permits.

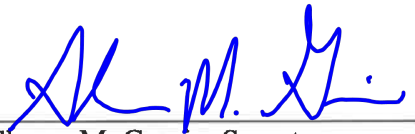
44. Third Parties

A. This Agreement does not limit or affect the right of Croda or DNREC against any person or entity not party to this Agreement.

B. This Agreement shall not be considered to create rights in, or grant any cause of action to, any third party to this Agreement, nor does it limit the rights of any person or entity not party to this Agreement against Croda, except as otherwise provided by law.

45. Modification. This Agreement may be modified only by the written consent of DNREC and Croda.

FOR THE STATE OF DELAWARE

By:   
Shawn M. Garvin, Secretary  
Department of Natural Resources  
and Environmental Control

Date: 2/26/21

Approved as to Form

By: /s/ Valerie S. Edge  
Valerie S. Edge  
Deputy Attorney General  
State of Delaware  
Office of the Attorney General

Date: February 26, 2021

FOR CRODA, INC.

By:   
Christopher Barnett  
Site Director

Date: 2-26-2021

By:   
Michelle M. Skjoldal  
Attorney for Croda, Inc.

Date: February 26, 2021

