STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-14-0021**
UNION CARBIDE CORPORATION	*	
	*	**Enforcement Tracking No.**
AI # 2083	*	**AE-PP-09-0651**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Union Carbide Corporation ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a Corporation that owns and/or operates the Olefins 1 and 2 Plants. The Olefins 1 and 2 Plants are chemical plants at a site known as the St. Charles Operations located in St. Charles Parish, Louisiana ("the Facility").

II

On December 22, 2009, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. **AE-PP-09-0651**, which was based upon the following findings of fact:

"On or about July 8-November 4, 2009, an inspection of St. Charles Operations owned and/or operated by Union Carbide Corporation (RESPONDENT), was performed in response to a reported release and to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at

355 Louisiana Highway 3142 in Taft, St. Charles Parish, Louisiana. The facility operates under multiple Title V Permits. On March 28, 2007, Title V Permit No. 2656-V0, a permit for the Olefins Distribution/Site Logistic Units was issued to the facility.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspection:

A. The Respondent failed to notify either the Department or the Louisiana State Police within the required one (1) hour as required by Louisiana Regulation LAC 33:I.3915.A. The roof of Tank 2310 (EQT 184) failed at approximately at 5:54 a.m. on July 7, 2009. However, the Department was not notified until approximately 7:47 a.m. and the Louisiana State Police was not notified until approximately 8:25 a.m. Failure to notify the Department or the Louisiana State Police within one (1) hour of an emergency is a violation of Title V Permit No. 2656-V0, LAC 33:I.3915.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

B. According to the final written report dated November 4, 2009, on July 7, 2009, the Respondent experienced an incident at it's facility. Approximately 26,720 lbs of Ethyl Acrylate (EA), a Class II toxic air pollutant, was released into the atmosphere during this incident. This release was above the minimum emission rate of 1500 lbs. The root cause of the incident was failed instrumentation. The failed instrumentation caused a lack of oxygen in Tank 2310 (EQT 184) headspace. Oxygen is needed to the inhibitor in the EA from polymerizing. The polymerization of EA was self-sustaining and exotheric. The resulting heat caused the tank to vent vaporized EA. The roof on the tank collapsed during this incident. Also there were offsite impacts from this incident. The instrumentation that failed is routinely checked. However the part (relay) that failed was not in the routine checks. Also there was no system in place to notify the operators that the instrument had failed and that the amount of oxygen in the tank was too low or depleted. Failure to operate Tank 2310 (EQT 184) in a manner that provided enough oxygen to keep the inhibitor active is a violation of Title V Permit No. 2656-V0, LAC 33:III.905, LAC 33:III.5109.A,LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057 (A)(2)."

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of THIRTY SIX THOUSAND FOUR HUNDRED SEVENTY-NINE AND 04/100 DOLLARS ($36,479.04), of which Eleven Thousand Four Hundred Seventy-Nine and 04/100 Dollars ($11,479.04) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Charles Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XII

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XIII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

UNION CARBIDE CORPORATION

BY: _____
(Signature)

_____
(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

_____
NOTARY PUBLIC (ID #_____)

_____
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: _____
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

_____
NOTARY PUBLIC (ID # _____)

_____
(stamped or printed)

Approved: _____
Cheryl Sonnier Nolan, Assistant Secretary