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**FILED**  
 EXEMPT FROM ALAMEDA COUNTY  
 FILING FEES  
 GOVERNMENT CODE § 6103  
 NOV 21 2019  
 CLERK OF THE SUPERIOR COURT

By Jaywana Deputy

7 *Attorneys for the People of the State of*  
 8 *California, ex rel. Meredith J. Williams, Acting*  
 9 *Director, California Department of Toxic*  
*Substances Control*

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 11 FOR THE COUNTY OF ALAMEDA

14 **PEOPLE OF THE STATE OF**  
**CALIFORNIA, ex rel. MEREDITH J.**  
 15 **WILLIAMS, ACTING DIRECTOR,**  
**CALIFORNIA DEPARTMENT OF TOXIC**  
 16 **SUBSTANCES CONTROL,**

17 Plaintiff,

18 v.

19 **FREON FREE, INCORPORATED,**

20 Defendant.

Case No. **RG19044270**

[PROPOSED]

**STIPULATION FOR ENTRY OF  
 JUDGMENT AND PERMANENT  
 INJUNCTION ON CONSENT**

(Code of Civ. Proc. § 664.6)

22 Plaintiff, the People of the State of California, ex rel. Meredith J. Williams, Acting  
 23 Director, California Department of Toxic Substances Control (the "Department"), and  
 24 Defendant Freon Free, Incorporated ("Freon Free") enter into this Stipulation for Entry of  
 25 Judgment and Permanent Injunction on Consent ("Stipulation") and stipulate as follows.  
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1                   **A. THE COMPLAINT AND INTRODUCTION**

2           1.       The Department filed this enforcement action against Freon Free, for  
3 Permanent Injunction, Civil Penalties, and Other Equitable Relief (“Complaint”) under the  
4 California Hazardous Waste Control Law, Health and Safety Code section 25100 et seq.,  
5 (“HWCL”) and its implementing regulations, California Code of Regulations, title 22,  
6 division 4.5, section 66260.1, et seq. (“Title 22”) in connection with Freon Free’s  
7 collection, dismantling, and recycling of electronic waste and discarded major appliances at  
8 three facilities located at: (1) 2350 South Watney Way, Fairfield, California (“Fairfield  
9 Facility”); (2) 120 Klamath Ct, American Canyon, California (“American Canyon  
10 Facility”); and (3) 6378 County Road 5, Orland, California (“Orland Facility”), collectively  
11 the “Facilities.”

12           2.       On or about May 25, 2016, the Department conducted on-site inspections at  
13 the Fairfield Facility. The Department observed multiple violations of the HWCL in  
14 connection with Freon Free’s operations at the Fairfield Facility.

15           3.       As set forth more fully in the Complaint in this action, the Department  
16 alleges that at the Fairfield Facility, Freon Free violated the HWCL and Title 22 by: storing  
17 hazardous waste without a permit or other grant of authorization from the Department;  
18 disposing of universal waste as a universal waste handler; treating universal waste without  
19 first providing notice to the Department of its intent to do so; failing to adequately train all  
20 personnel who manage universal waste; and storing universal waste with no label or other  
21 means to demonstrate the length of time the universal waste has been accumulated from the  
22 date it became waste or was received.

23           4.       On or about November 1, 2016 and November 2, 2016, the Department  
24 conducted on-site inspections at the American Canyon Facility. The Department observed  
25 multiple violations of the HWCL in connection with Freon Free’s operations at the  
26 American Canyon Facility.  
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1           5.       As set forth more fully in the Complaint in this action, the Department  
2 alleges that at the American Canyon Facility, Freon Free violated the HWCL and Title 22  
3 by: removing materials requiring special handling (MRSB), as that term is defined in Public  
4 Resource Code section 42167, from major appliances without first obtaining certification  
5 from the Department; improperly storing universal waste lamps in open containers; and  
6 storing mercury-containing waste equipment in unlabeled containers.

7           6.       On or about January 24, 2017 the Department conducted on-site inspections  
8 at the Orland Facility. The Department observed multiple violations of the HWCL in  
9 connection with Freon Free's operations at the Orland Facility.

10          7.       As set forth more fully in the Complaint in this action, the Department  
11 alleges that at the Orland Facility, Freon Free violated the HWCL and Title 22 by: treating  
12 hazardous waste without a permit or other grant of authorization from the Department;  
13 burning or incinerating hazardous waste without a permit from the Department; failing to  
14 maintain on-site records regarding its management of Materials Requiring Special  
15 Handling; failing to maintain and operate the facility to minimize the possibility of a fire,  
16 explosion, or unplanned release of hazardous waste; failing to notify the Department of  
17 acceptance and accumulation of universal waste; and removing MRSB from major  
18 appliances without first obtaining certification from the Department.

19           **B.    AGREEMENT TO SETTLE DISPUTE**

20          8.       The Department and Freon Free, collectively "the Parties," enter into this  
21 Stipulation pursuant to a compromise and settlement and mutually consent to the entry by  
22 the Superior Court of the State of California for the County of Alameda ("Court") of the  
23 agreed upon Judgment on Consent and Permanent Injunction ("Judgment"), which is  
24 lodged concurrently with this Stipulation. A copy of the proposed Judgment is attached to  
25 this Stipulation as Exhibit 1. The Office of the Attorney General of California represents  
26 the Department. Freon Free is not represented by counsel. Freon Free had an opportunity to  
27 review the Complaint, this Stipulation and the Proposed Judgment and agrees to the terms  
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1 of this Stipulation and entry of judgment to avoid expensive and protracted litigation  
2 regarding the alleged violations of the HWCL and Title 22 and to further the public interest.

3 **C. JURISDICTION AND VENUE**

4 9. The Parties agree and hereby stipulate that for purposes of this Stipulation  
5 and the Judgment, the Court has subject matter jurisdiction over the matters alleged in the  
6 Complaint, personal jurisdiction over the Parties, and that venue in this Court is proper  
7 under Health and Safety Code sections 25181 and 25183.

8 **D. WAIVER OF HEARING AND TRIAL AND ENTRY OF JUDGMENT**

9 10. By signing and entering into this Stipulation, Freon Free waives its right to a  
10 hearing and trial on the matters alleged in the Complaint and waives its right to appeal.

11 **E. APPLICABILITY**

12 11. This Stipulation and the Judgment shall apply to: (1) the Department and any  
13 successor agency, and (2) Freon Free, and its officers, directors, managers, employees, agents,  
14 contractors, representatives, and any successors and assigns in their official capacity.

15 **F. DEFINITIONS**

16 12. Except where otherwise expressly defined herein, all terms in this  
17 Stipulation shall be interpreted as set forth in, and consistent with, the HWCL and Title 22.

18 **G. CIVIL PENALTY**

19 13. Freon Free shall pay the Department a total of \$145,760 (One Hundred  
20 Forty-Five Thousand Seven Hundred and Sixty) in civil penalties as set forth herein.

21 **1. SETTLEMENT PAYMENTS**

22 14. Within one hundred eighty (180) calendar days of entry of the Judgment in  
23 this matter, Freon Free shall pay to the Department an initial sum of \$29,152 (twenty nine  
24 thousand one hundred fifty two) ("Initial Settlement Payment"). Upon receipt, the  
25 Department shall notify Freon Free by certified letter that it has received the Initial  
26 Settlement Payment. Freon Free shall also make 4 (four) payments, one every six months  
27 on the first day of the month for the following 24 months, in the amount of \$29,152  
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1 (twenty-nine thousand one hundred fifty-two) (“Biannual Payment”). The first Biannual  
2 Payment shall be due on the first day of the sixth month after the Department receives  
3 Freon Free’s Initial Settlement Payment. Thereafter, Freon Free shall make Biannual  
4 Payments every six months on the first day of the month for the next 24 (twenty four)  
5 months until such time as it has made cash payments totaling \$145,760 (One Hundred  
6 Forty-Five Thousand Seven Hundred and Sixty).

7 15. The Initial Settlement Payment and the Biannual Payments may be made by  
8 electronic funds transfer as set forth in Exhibit 2 or by cashier’s check. If paid by cashier’s  
9 check, the cashier’s check shall be made payable to “the Department of Toxic Substances  
10 Control,” and sent via certified mail to:

11 Cashier  
12 Accounting Office  
13 Department of Toxic Substances Control  
14 P.O. Box 806  
15 Sacramento, CA 95812-0806

16 The check for the Initial Settlement Payment and each Biannual Payment shall bear the name of  
17 this case and the court number. An electronic (e.g., Adobe PDF) copy or paper photocopy of the  
18 Initial Settlement Payment and each Biannual Payment shall be sent, at the same time, to those  
19 persons identified in Section L.

20 **2. LATE PAYMENTS, POST JUDGMENT INTEREST and ENFORCEMENT**  
21 **of JUDGMENT COSTS**

22 16. Freon Free shall pay a late payment of three hundred dollars (\$300) per day  
23 for each day the Initial Settlement Payment, or any Biannual Payment is late. In addition,  
24 Freon Free shall pay the Department post-judgment interest as provided in Code of Civil  
25 Procedure section 685.010 (10 percent) from any date of default. If any payment due under  
26 this Stipulation is late by more than twenty days, the remaining balance plus any applicable  
27 penalty and post-judgment interest will immediately be due. Further, Freon Free is  
28 obligated to pay attorneys fees and costs incurred by DTSC in enforcing the money  
judgment against Freon Free, in this matter.

1           **H. INJUNCTIVE RELIEF**

2           In connection with its operations at the Facilities, Freon Free, shall be, and is permanently  
3 enjoined as follows:

4           17. Pursuant to the provisions of Health and Safety Code sections 25181 and  
5 25184, Freon Free shall comply with the HWCL and Title 22 at and in connection with  
6 operations.

7           18. Freon Free shall comply with Health and Safety Code section 25201(a) for  
8 hazardous waste management, as that term is defined at Health and Safety Code section  
9 25117.2, requiring a permit or other grant of authorization from the Department.

10          19. Freon Free shall comply with California Code of Regulations, title 22,  
11 Section 66273.31(a), which prohibits a universal waste handler from disposing of universal  
12 waste other than as provided in this regulation.

13          20. Freon Free shall comply with California Code of Regulations, title 22,  
14 Section 66273.74(a), which requires that universal waste handlers must notify the  
15 Department of their intent to treat universal waste and provide a description of the treatment  
16 process to be used.

17          21. Freon Free shall comply with the requirements California Code of  
18 Regulations, title 22, Sections 66273.32 and 66273.36 for personnel who manage hazardous  
19 waste and/ or universal at the Facilities.

20          22. Freon Free shall comply with California Code of Regulations, title 22,  
21 Section 66273.35(a) and (b), shall not accumulate waste for longer than one year from the  
22 date the universal waste was generated, or was received from another waste handler, and  
23 shall be able to demonstrate the length of time that the universal waste has been  
24 accumulated from the initial date it became waste or was received as provided in Section  
25 66273.35(b).

26          23. Freon Free shall comply with Health and Safety Code Section 25211.1(a),  
27 and not remove MRSH from major appliances without proper authorization.

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1           24.     Freon Free shall comply with California Code of Regulations, title 22,  
2 Sections 66273.33(b), 66273.34(b), and 66273.34(c), regarding the management of  
3 universal waste in closed and clearly labelled containers.

4           25.     Freon Free shall comply with Health and Safety Code Section 25189.7(a),  
5 which provides that it is unlawful to burn or incinerate hazardous waste without a permit  
6 issued by the Department.

7           26.     Freon Free shall comply with Health and Safety Code Section 25211.3.(a),  
8 which requires that a person who removes Materials Requiring Special Handling must  
9 maintain onsite records regarding the management of those materials.

10          27.     Freon Free shall comply with California Code of Regulations, title 22,  
11 Sections 66265.31, which provides that facilities must be maintained and operated to  
12 minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden  
13 release of hazardous waste or hazardous waste constituents to air, soil, or surface water,  
14 which could threaten human health or the environment. Freon Free shall cease treating  
15 ammonia and sulfur dioxide refrigerants. Freon Free shall store any surplus propane  
16 cylinders it receives in structurally sound secondary containers that prevent exposure of the  
17 cylinders to the elements. Freon Free shall ensure that all cylinders are closed, and shall  
18 label all secondary containers as propane.

19          28.     Freon Free shall comply with California Code of Regulations, title 22,  
20 Sections 66273.32(c), which provides that a universal waste handler who might accept and  
21 accumulate any electronic device, CRT, and or CRT glass from an offsite source shall  
22 submit to the Department notification no later than 30 days prior to accepting any electronic  
23 device, CRT, and/or CRT glass.

24           **I.     ENFORCEMENT OF CONSENT JUDGMENT**

25          29.     The Department has the right to enforce this Stipulation and the Judgment as  
26 provided herein and pursuant to applicable law.  
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1           30.     Freon Free reserves all rights to oppose any motion brought by DTSC to  
2 enforce any provision of the Judgment.

3           31.     Nothing in the forgoing is intended to, nor shall be construed to, restrict the  
4 Department's authority to pursue a new action under the HWCL and or Title 22 against  
5 Freon Free and to seek injunctive relief and penalties, except as provided below in  
6 Paragraph K, "Matters Covered and Reserved Claims."

7           32.     By filing and serving a regularly noticed motion in accordance with Code of  
8 Civil Procedure section 1005, the Department may move this Court to enforce any  
9 provision of the Judgment and to award other appropriate relief, including penalties for  
10 contempt, additional penalties consistent with the provisions of the Judgment or the  
11 provisions of the HWCL.

12           **J.     EFFECT OF CONSENT JUDGMENT**

13           33.     Other than "Covered Matters" as defined in Paragraph K.1 below, nothing  
14 herein is intended, nor shall it be construed, to preclude the Department, or any state,  
15 county, or local agency, department, board, or entity from exercising its authority under any  
16 law, statute, or regulation.

17           **K.     MATTERS COVERED AND RESERVED CLAIMS**

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1           34. This Stipulation and the Judgment entered in this matter is a final and  
2 binding resolution and settlement of the violations specifically alleged by the Department  
3 against Freon Free in the Complaint. The matters described in the previous sentence are  
4 “Covered Matters.” The Department reserves its authority to pursue any claim, violation,  
5 or cause of action that is not a Covered Matter (“Reserved Claims”). Any claim, violation,  
6 or cause of action that is not within Covered Matters is a Reserved Claim. Reserved Claims  
7 include, without limitations, claims for corrective action under Health & Safety Code  
8 section 25187, and claims under the HSAA and CERCLA. Nothing herein shall be  
9 interpreted to limit or restrict any claims that the Department may assert against any  
10 independent contractor or subcontractors of Freon Free. The Department reserves the right  
11 to pursue any Reserved Claim, and Freon Free reserves the right to assert any and all other  
12 defenses to any Reserved Claim.

13           35. In any subsequent action that may be brought by the Department based on  
14 any Reserved Claim, Freon Free agrees that it will not assert that failing to pursue such  
15 Reserved Claim as part of this action constitutes claim-splitting.

16           36. Freon Free covenants not to pursue any civil or administrative claims against  
17 the Department or against any agency of the State of California, arising out of or related to  
18 any Covered Matter; provided, however, that if any agency initiates claims against Freon  
19 Free that are independent of the claims asserted in this action, Freon Free reserves any and  
20 all rights, claims, demands, and defenses against such agency

21           **L. NOTICE**

22           37. All submissions and notices required by this Stipulation shall be sent to:

23           a. For Plaintiff:

24                   Dylan Clark

25                   Senior Environmental Scientist, Supervisory

26                   Office of Criminal Investigations

27                   Department of Toxic Substances Control  
28

1 Email: Dylan.clark@dtsc.ca.gov

2 With a copy to:

3 Nancy Bothwell,

4 Senior Attorney

5 Office of Legal Counsel

6 Department of Toxic Substances Control

7 Mail Station 23A, PO Box 806

8 Sacramento, CA 95812-0806

9 Email: Nancy.Bothwell@dtsc.ca.gov

10 and

11 Andrew Wiener

12 Deputy Attorney General

13 Office of the Attorney General

14 1515 Clay Street, 20th Floor

15 Oakland, CA 94612-0550

16 Email: Andrew.Wiener@doj.ca.gov

17 b. For Freon Free:

18 Henry Warner

19 1881 Walters Ct Suite A

20 Fairfield, CA 94533

21 Email: Freonfreeworker@aol.com

22 38. Each Party may change its respective representative(s) for purposes of notice  
23 by providing the name and address of the new representative, in writing by certified mail, to  
24 those persons identified in Paragraph L. The change shall be effective upon receipt of the  
25 certified mail.

26 **M. NECESSITY FOR WRITTEN APPROVALS**

1           39.   . All notices, approvals, and decisions of the Department under the terms of  
2 this Stipulation or the Judgment shall be communicated to Freon Free in writing. No oral  
3 advice, guidance, suggestions, or comments by employees or officials of DTSC regarding  
4 submissions or notices shall be construed to relieve Freon Free of its obligations to obtain  
5 any final written approval required by this Stipulation or the Judgment.

6           **N.   NO LIABILITY OF THE DEPARTMENT**

7           40.   The Department shall not be liable for any injury or damage to persons or  
8 property resulting from acts or omissions by Freon Free or its respective officers, directors,  
9 employees, agents, representatives, contractors, successors, or assigns, acting in concert or  
10 participating with Freon Free in carrying out activities pursuant to the Judgment, nor shall  
11 the Department be held as a party to or guarantor of any contract entered into by Freon Free  
12 or its respective officers, directors, employees, agents, representatives, contractors,  
13 successors, or assigns, acting in concert or participating with Freon Free in carrying out the  
14 requirements of this Stipulation or the Judgment.

15           **O.   ADMISSION OF LIABILITY BY FREON FREE**

16           41.   Freon Free admits the violations of law as set forth in each of the causes of  
17 action alleged in the Complaint. Freon Free agrees that in the event of future violations by  
18 Freon Free of the HWCL and/or Title 22, these admitted violations may be considered for  
19 purpose of imposition of enhanced penalties under HSC 25189.4 Freon Free also agrees  
20 not to assert any defenses based on the passage of time, including, but not limited to, laches,  
21 estoppel, and statute of limitations, in connection with the Department's use of the  
22 violations alleged in the Complaint in future enforcement actions or proceeding(s) and/or  
23 decision(s) involving any permit, registration, or authorization issued by the Department.

24           **P.   NO WAIVER OF RIGHT TO ENFORCE**

1           42.     The non-enforcement by the Department of any provision of this Stipulation  
2 or the Judgment shall neither be deemed a waiver of such provision, nor in any way affect  
3 the validity of this Stipulation or the Judgment. The non-enforcement by the Department of  
4 any such provision shall not preclude it from later enforcing the same or other provision of  
5 this Stipulation or the Judgment. No oral advice, guidance, suggestions, or comments by  
6 employees or officials of the Department regarding matters covered in this Stipulation or  
7 the Judgment shall be construed to relieve Freon Free of its obligations under this  
8 Stipulation or the Judgment.

9           **Q.     FUTURE REGULATORY CHANGES**

10           43.     Nothing in this Stipulation or the Judgment shall excuse Freon Free from  
11 meeting any more stringent requirements that may be imposed by changes in applicable  
12 law.

13           **R.     AUTHORITY TO ENTER INTO STIPULATION**

14           44.     Each signatory to this Stipulation certifies that he or she is fully authorized  
15 by the Party he or she represents to enter into this Stipulation, to execute it on behalf of that  
16 Party, and to legally bind that Party.

17           **S.     CONTINUING JURISDICTION**

18           45.     The Parties agree that this Court has continuing jurisdiction to interpret and  
19 enforce this Stipulation and the Judgment. The Court shall retain continuing jurisdiction to  
20 enforce the terms of this Stipulation and the Judgment and to address any other matters  
21 arising out of or regarding this Stipulation and the Judgment.

22           **T.     ABILITY TO INSPECT AND COPY RECORDS AND DOCUMENTS**

23           46.     Freon Free shall permit any duly authorized representative of the  
24 Department, as authorized by law, to exercise their respective regulatory authority to  
25 inspect and copy Freon Free's records and documents to, inter alia, determine whether  
26 Freon Free is in compliance with the terms of this Stipulation and the Judgment.

27           **U.     INTERPRETATION OF STIPULATION AND JUDGMENT**

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1           47.     The Department and Freon Free agree that the rule of construction holding  
2 that ambiguity is construed against the drafting party shall not apply to the interpretation of  
3 this Stipulation and the Judgment.

4           **V.     JUDGMENT PURSUANT TO STIPULATION**

5           48.     Pursuant to Code of Civil Procedure section 664.6, the Parties further  
6 stipulate that upon approval of this Stipulation by the Court, the Court may enter Judgment  
7 in this matter in the form set forth in the attached Exhibit 1. If the Court does not approve  
8 this Stipulation and the agreed upon Judgment in the form and substance proposed in  
9 Exhibit 1 hereto, each Party reserves the right to withdraw both the Stipulation and the  
10 proposed Judgement, upon written notice to all Parties and the Court.

11           **W.     COUNTERPART SIGNATURES**

12           49.     This Stipulation may be executed in several counterpart originals, each of  
13 which taken together shall constitute an integrated document.

14           **X.     INTEGRATION**

15           50.     This Stipulation and the Judgment constitutes the entire agreement between  
16 the Department and Freon Free with respect to the Covered Matters and may not be  
17 amended or supplemented except as provided for in this Stipulation or the Judgment. No  
18 oral representations have been made or relied on other than as expressly set forth herein.

19           **Y.     MODIFICATION OF JUDGMENT**

20           51.     This Stipulation and the Final Judgment may be amended or supplemented  
21 only pursuant to a written agreement signed by the Parties, followed by written approval by  
22 the Court, or by order of the Court following the filing of a duly noticed motion.

23           **Z.     COSTS AND ATTORNEYS' FEES**

24           52.     Except as otherwise provided in this Stipulation and the Judgment, each  
25 Party to this Stipulation and the Judgment shall bear its own costs and attorneys' fees.  
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**IT IS SO STIPULATED**  
**Plaintiff, PEOPLE OF THE STATE OF CALIFORNIA,**  
**ex rel. Meredith J. Williams, Acting Director,**  
**California Department of Toxic Substances Control**

DATED: 11-15-2019

By: Antonia Becker  
Antonia Becker,  
Environmental Program Manager  
Plaintiff People of the State of California, ex rel.  
Meredith J. Williams, Acting Director, California  
Department of Toxic Substances Control

**Freon Free, Incorporated**

DATED: 10-25-19

By: Henry Warner  
Henry Warner

Title: Owner, Freon Free Inc.

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Approved as to form by:

XAVIER BECERRA  
Attorney General of California

Margarita Padilla  
Supervising Deputy Attorney General




Andrew Wiener  
Deputy Attorney General

Date: 11/20/19

Attorneys for California Department of Toxic Substances Control

Dated: November 20, 2019

Respectfully Submitted,  
  
XAVIER BECERRA  
Attorney General of California  
MARGARITA PADILLA  
Supervising Deputy Attorney General



ANDREW WIENER  
Deputy Attorney General  
*Attorneys for California Department of  
Toxic Substances Control*



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 8 *Attorneys for Plaintiff, People of the State of*  
*California, ex rel. Meredith J. Williams, Acting*  
 9 *Director, California Department of Toxic*  
*Substances Control*

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 11 FOR THE COUNTY OF ALAMEDA

13 **PEOPLE OF THE STATE OF**  
 14 **CALIFORNIA, ex rel. MEREDITH J.**  
 15 **WILLIAMS, ACTING DIRECTOR**  
 16 **CALIFORNIA DEPARTMENT OF TOXIC**  
 17 **SUBSTANCES CONTROL,**

Case No. **RG19044270**

Plaintiff,

**[PROPOSED] FINAL**  
**JUDGMENT AND PERMANENT**  
**INJUNCTION ON CONSENT**

v.

18 **FREON FREE, INC.**

Defendant.

21 Having reviewed the Stipulation for Entry of Order and Final Judgment on Consent  
 22 (the "Stipulation") executed by Plaintiff the People of the State of California, ex rel. Meredith  
 23 J. Williams, Acting Director, California Department of Toxic Substances Control ("DTSC")  
 24 and Defendant Freon Free Inc., and good cause appearing herein, the Court finds that the  
 25 settlement between the Plaintiff and the Defendant as set forth in the Stipulation is fair and in  
 26 the public interest and approves the Stipulation.

27 Accordingly, the Court enters this Final Judgment on Consent on the terms set forth in  
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the Stipulation.

**IT IS SO ORDERED AND ADJUDGED.**

DATED: December 3, 2019

*Winifred G. Arnett*  
HON. JUDGE OF THE SUPERIOR COURT