

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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| UNITED STATES OF AMERICA, |) | |
| |) | |
| |) | |
| Plaintiff, |) | |
| v. |) | |
| |) | |
| ECOLAB INC. |) | |
| |) | |
| and |) | |
| |) | |
| PERMIAN MUD SERVICE, INC., |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

HOLD SEPARATE STIPULATION AND ORDER

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

I. DEFINITIONS

As used in this Hold Separate Stipulation and Order (“Stipulation”):

- A. “Acquirer” means Clariant, the entity to which Defendants shall divest the Divestiture Assets.
- B. “AKA” means a Production Chemical that has an identical formulation or chemical makeup as a Champion Deepwater Production Chemical but has a different SKU or product name.
- C. “Broussard Facility” means Champion’s facility and other assets located at 304 Ida Rd., Broussard, Louisiana 70518.

D. “Champion” means Champion Technologies, Inc., a Texas corporation with its headquarters in Houston, Texas, its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

E. “Champion Deepwater Gulf PCMS Customer” means any entity to which Champion provided PCMS in the Deepwater Gulf at any time between January 1, 2011 and the date the divestitures contemplated by this Final Judgment are completed.

F. “Champion Deepwater Gulf Production Chemical” means any Production Chemical used to treat an oil or gas producing well in the Deepwater Gulf, including, but not limited to, HI43 and those chemicals listed in Schedule A of the Proposed Final Judgment, and all related tangible and intangible assets.

G. “Clariant” means Clariant Corporation, the legal U.S. affiliate of Clariant International Ltd., headquartered in Charlotte, North Carolina, its successors, assigns, subsidiaries, divisions, groups, affiliates, owners, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

H. “Deepwater Gulf” means the areas of the United States Gulf of Mexico that have water depths exceeding 1,000 feet.

I. “Deepwater Gulf Well or Platform” means a well, cluster of wells, or production facility associated with a well found in the Deepwater Gulf.

J. “Divestiture Assets” means:

- (1) HI43 and all related Intellectual Property Rights;
- (2) Exclusive, perpetual, paid-up, non-transferable licenses for use in the Deepwater Gulf to all Intellectual Property Rights related to Champion’s provision of Deepwater Gulf PCMS and Champion Deepwater Gulf Production Chemicals that Champion has provided

to a Deepwater Gulf PCMS Customer since January 1, 2012 for use in the Deepwater Gulf and any AKAs of such products. Such licenses will not be subject to any requirement to grant back to the Defendants any improvements or modifications made to these assets;

(3) All Intangible Assets, excluding Intellectual Property Rights, related to Champion's provision of Deepwater Gulf PCMS;

(4) The option to acquire the Broussard Facility and all tangible and intangible assets used by or located at the Broussard Facility that are used to design, develop, manufacture, market, service, package, filter, blend, distribute, or test Deepwater Gulf Production Chemicals or provide PCMS to Champion Deepwater Gulf PCMS Customers;

(5) The option to acquire the Deepwater Gulf Production Chemical Equipment listed in Schedule B of the Proposed Final Judgment, delivered to the Broussard Facility or to a U.S. location specified by the Acquirer; and

(6) For each Champion Deepwater Gulf PCMS Customer who elects to transition its contract or business to the Acquirer, the option to acquire the tangible assets maintained at that Deepwater Gulf PCMS Customer's Deepwater Gulf Well(s) or Platform(s).

K. "Ecolab" means Ecolab Inc., a Delaware corporation with its headquarters in St. Paul, MN, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

L. "Gulf" means the United States Gulf of Mexico.

M. "HI43" means Champion's low dose hydrate inhibitor Production Chemical claimed in U.S. Patent No. 7,381,689 and any reissue (and any foreign counterparts).

N. "Intangible Assets" means:

(1) know-how, including, but not limited to, recipes, formulas, machine settings, drawings, blueprints, designs, design protocols, standards, design tools, simulation capability, specifications, and application, manufacturing, blending, filtration, and testing techniques or processes;

(2) confidential information or any information that provides an advantage with respect to competitors by virtue of not being known by those competitors, including strategic information, business plans, contract terms, pricing, processes and compilations of information, information concerning customers or vendors, including vendor and customer lists, sales materials, and information regarding methods of doing business.

(3) data concerning historic and current research and development, including but not limited to, designs of experiments, and the results of unsuccessful designs and experiments;

(4) computer software, databases (*e.g.* databases containing technical job histories) and related documentation;

(5) contractual rights, to the extent they are assignable;

(6) all authorizations, permits, licenses, registrations, or other forms of permission, consent, or authority issued, granted, or otherwise made available by or under the authority of any governmental authority; and

(7) Intellectual Property Rights.

O. “Intellectual Property Rights” means information, designs, creations, inventions, and other intangible property for which exclusive rights are recognized, including but not limited to, patents or patent applications, licenses and sublicenses, copyrights, trademarks, trade secrets, trade names, service marks, and service names.

P. “Permian” means Permian Mud Service, Inc., a Texas corporation with its headquarters in Houston, Texas, its successors and assigns, and its subsidiaries (including Champion Technologies, Inc.), divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

Q. “Production Chemicals” means the blends of chemical intermediates and solvents that are introduced to the wellbore, topside equipment, umbilicals, flowlines or other well infrastructure of an oil or gas well to facilitate the production or flow of hydrocarbons from the wellbore to the topside equipment, protect the well’s infrastructure and equipment, remove hazardous or undesirable elements from the hydrocarbons or produced water, and facilitate the separation of oil, gas, and water in the topside equipment.

R. “PCMS” means the provision of production chemical management services, including but not limited to product selection or design, front-end engineering design assistance, manufacture or blending of production chemicals, application of chemicals, or monitoring and testing of well conditions and product efficacy.

S. “Relevant Employees” means all Champion employees whose job responsibilities at any time between January 1, 2012 and the closing of the Transaction related to the provision of Deepwater Gulf PCMS.

T. “Transaction” means Ecolab’s acquisition of Permian described in the “Agreement and Plan of Merger” between Ecolab, Permian, OFC Technologies Corp., and John W. Johnson, Steven J. Lindley, and J. Loren Ross, solely in their capacity as the Representatives, dated October 11, 2012, as amended.

U. “Tangible Asset” means any physical asset (excluding real property), including but not limited to:

(1) all machinery, equipment, hardware, spare parts, tools, fixtures, business machines, computer hardware, other information technology assets, furniture, laboratories, supplies, and materials, including but not limited to testing equipment, injection equipment, monitoring equipment, and storage vessels;

(2) improvements, fixed assets, and fixtures pertaining to the real property identified as a Divestiture Asset;

(3) all inventories, raw materials, work-in-process, finished goods, supplies, stock, parts, packaging materials and other accessories related thereto; and

(4) business records including financial records, accounting and credit records, tax records, governmental licenses and permits, bid records, customer lists, customer contracts, supplier contracts, service agreements; operations records including vessel logs, treatment logs, calendars, and schedules; job records, research and development records, health, environment and safety records, repair and performance records, training records, and all manuals and technical information Defendants provide to their own employees, customers, suppliers, agents or licensees.

II. OBJECTIVES

The proposed Final Judgment filed in this case is meant to ensure Defendants' prompt divestiture of the Divestiture Assets for the purpose of maintaining competition in the provision of production chemical management services in the Deepwater Gulf in order to remedy the effects that the United States alleges would otherwise result from the Transaction. This Stipulation ensures that prior to such divestitures, Champion's Deepwater Gulf PMCS business remains an economically viable and ongoing business concern and that competition between

Ecolab and Champion is maintained until the divestiture of the Divestiture Assets under the proposed Final Judgment is accomplished.

III. JURISDICTION AND VENUE

The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

IV. COMPLIANCE WITH AND ENTRY OF FINAL JUDGMENT

A. The parties stipulate that a Final Judgment in the form attached hereto as Exhibit A may be filed with and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

B. Defendants agree to arrange, at their expense, publication as quickly as possible of the newspaper notice required by the APPA, which shall be drafted by the United States in its sole discretion. The publication shall be arranged no later than five (5) calendar days after Defendants' receipt from the United States of the text of the notice and the identity of the newspaper within which the publication shall be made. Defendants shall promptly send to the United States (1) confirmation that publication of the newspaper notice has been arranged, and (2) the certification of the publication prepared by the newspaper within which the notice was published.

C. Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

D. Defendants shall not consummate the Transaction before the Court has signed this Hold Separate Stipulation and Order.

E. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

F. In the event that (1) the United States has withdrawn its consent, as provided in Section IV(A) above, or (2) the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

G. Defendants represent that the divestiture ordered in the proposed Final Judgment can and will be made and that Defendants will later raise no claim of mistake, hardship, or difficulty of compliance as grounds for asking the Court to modify any provisions contained therein.

V. HOLD SEPARATE AND PRESERVATION OF DIVESTITURE ASSETS

Until the divestitures required by the Final Judgment have been accomplished:

A. Defendants shall preserve, maintain, and continue to operate Champion as an independent, ongoing, economically viable competitive business, held entirely separate, distinct and apart from those of Ecolab's other operations. Defendants shall not coordinate any aspect of their commercial operations, including research and development, design, testing, manufacture, bidding, provision of services, marketing or sales. Defendants shall take all steps necessary to ensure that the management of Champion will not be influenced by Ecolab. The books, records, competitively sensitive sales, marketing, and pricing information, and decision-making concerning research and development, design, provision of services, bidding, marketing, and sales of Champion will be kept separate and apart. Within twenty (20) days after the entry of the Hold Separate Stipulation and Order, Defendants will inform the United States of the steps Defendants have taken to comply with this Hold Separate Stipulation and Order.

B. Defendants shall appoint, subject to the approval of the United States, a person or persons to oversee Champion who will be responsible for Defendants' compliance with this Section. This person shall have complete managerial responsibility for Champion, subject to the provisions of this Final Judgment. In the event such person is unable to perform his duties, Defendants shall appoint, subject to the approval of the United States, a replacement within ten (10) working days. Should Defendants fail to appoint a replacement acceptable to the United States within this time period, the United States shall appoint a replacement.

C. Defendants shall provide sufficient working capital and lines and sources of credit to continue to maintain Champion as an economically viable and competitive ongoing business, consistent with the requirements of Section V(A).

D. Defendants shall take all steps necessary to ensure that the Divestiture Assets are fully maintained in operable condition at no less than their capacity and shall maintain and adhere to normal repair and maintenance schedules for the Divestiture Assets.

E. Defendants shall use all reasonable efforts to maintain and increase the sales and revenues of Champion's Deepwater Gulf PCMS business and shall maintain at 2012 or previously approved levels for 2013, whichever are higher, all promotional, advertising, sales, technical assistance, marketing and merchandising support for Champion's Deepwater Gulf PCMS business.

F. Defendants shall maintain, in accordance with sound accounting principles, separate, accurate, and complete financial ledgers, books, and records for Champion that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues, and income from Champion's operations.

G. Defendants shall not, except as part of a divestiture in accordance with Sections IV or VI of the proposed Final Judgment, remove, sell, lease, assign, transfer, pledge, or otherwise dispose of any of the Divestiture Assets.

H. Defendants shall not transfer or terminate, or alter to the detriment of any employee, any current employment or salary agreements for any Relevant Employee who is subject to the Acquirer's right to hire, as set forth in Section V of the proposed Final Judgment.

I. Defendants shall take no action that would jeopardize, delay, or impede the sale of the Divestiture Assets.

J. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the sale of the Divestiture Assets pursuant to the Final Judgment to an Acquirer or Acquirers acceptable to the United States.

**VI. DURATION OF HOLD SEPARATE AND
ASSET PRESERVATION OBLIGATIONS**

Defendants' obligations under Section V of this Hold Separate Stipulation and Order shall remain in effect until (1) consummation of the divestitures required by the proposed Final Judgment or (2) further order of the Court. If the United States voluntarily dismisses the Complaint in this matter, Defendants are released from all further obligations under this Stipulation.

Dated: April 8, 2013

Respectfully submitted,

FOR PLAINTIFF
UNITED STATES OF AMERICA:




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ORDER

It is SO ORDERED, this _____ day of _____, 2013.

United States District Court Judge