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Agreement Between IBC Refurbisher and Emptiers

In consideration of mutual benefits of proper container disposition and reuse of valuable industrial packaging, FDS Packaging, Inc., (Refurbisher) a company engaged in routine maintenance, repair, and remanufacturing of intermediate bulk containers (IBCs) and _____, an emptier of IBCs ("Emptier"), agree as follows:

1. IBCs that will be offered by Emptier to Refurbisher shall have been thoroughly emptied, not damaged beyond a serviceable condition and shall meet the quantitative definition of an empty container in the Environmental Protection Agency's definition of that term in title 40 of the Code of Federal Regulations, Section 261.7 (*see page 2*). This requirement and definition shall apply to all former contents, not just those regulated by the Environmental Protection Agency.

2. The IBCs shall contain only residue of their former original contents and shall not contain other materials, contaminants, or excessive external residues. All IBCs shall continue to bear original product markings and labels, and all closures shall be in place and tight.

3. Refurbisher shall accept properly emptied IBCs and shall manage the IBCs and former contents in accordance with applicable laws and regulations.

4. It is agreed that any IBC sent by the Emptier and received by the Refurbisher that has not been emptied in complete satisfaction of items 1 and 2 listed above shall be returned to Emptier as if it were still full of its original product contents. When not rejected upon arrival and sent back with the same shipping papers, an appropriate signed shipping paper for the return of the IBC shall be provided to the Refurbisher by the Emptier or a designated third party. The Emptier agrees to accept the collect freight charges for the returned IBC(s) and its' contents and shall reimburse the Refurbisher for the costs of initial transportation of the non-empty IBC(s) to the Refurbisher. All liabilities associated with the handling and transportation of the non-empty IBC(s) shall be the responsibility of the Emptier.

Agreed:

For Refurbisher

For Emptier

Date: _____

U.S. EPA Empty Container Rule (40 CFR 261.7)

The U.S. Environmental Protection Agency (EPA) regulates the status of IBCs that retain residues of hazardous materials. The general policy is that containers which retain any amount of hazardous material must be treated as hazardous waste unless the following standards are met **by the emptier**:

(a) All residues have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating; and

(b) No more than 2.5 centimeters (one inch) of residue remain on the bottom or inner container; or

(c) No more than 0.3 percent by weight of the total capacity of the container remain in the container or inner liner if the container is greater than 110 gallons in size.

Note: Paragraph (c) has been interpreted to mean that for IBCs with capacities between 275 and 330 gallons, slightly less than one gallon of product may remain in an "empty" IBC.