

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into between the California Air Resources Board (CARB), with its principal location at 1001 I Street, Sacramento, California 95814; and Huss Inc. ("Huss"), with its principal location at 2074 NE Aloclek Drive Suite 401 Hillsboro, Oregon 97124 (collectively, the "Parties," or individually, "Party").

LEGAL BACKGROUND

- (1) Purpose. The California Health and Safety Code mandates the reduction of the emission of toxic air contaminants (TAC) (Health & Saf. Code §§ 39002, et seq.). CARB has determined that particulate matter (PM) from diesel-fueled engines is a TAC. (Health & Saf. Code §§ 39002, et seq., 39650-39675.) Transport Refrigeration Units (TRUs) are powered by diesel fueled engines that emit toxic PM.
- (2) Regulation. CARB adopted the *"Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines"* Regulation (Verification Regulation) to reduce PM emissions from diesel-fueled engines. (Cal. Code Regs., tit.13, § 2700 et seq.)
- (3) Regulatory Provisions. Holders of approved Executive Orders for diesel emissions control strategies must comply with the in-use compliance requirements, in-use field testing requirements, and submit revised testing proposals by the deadlines set forth in the Verification Regulation. (Cal. Code Regs., tit. 13, § 2709(a) & (d).)
- (4) Penalty Provisions. Failure to comply with the regulatory requirements is a violation of state law that may result in penalties up to ten thousand dollars (\$10,300) for strict liability violations; respectively, for each day in which the violation occurs. (Cal. Code Regs., tit.13, § 2700 et seq.; Health & Saf. Code §§ 39674, 39675, 42400 et seq., 42402 et seq., and 42410.)

CASE BACKGROUND

- (5) Corporate Entity. At all relevant times, Huss was organized under the laws of Delaware as a corporation and conducted business in the State of California.
- (6) Allegations. This Settlement Agreement resolves Notice of Violation (NOV) HDD-2018-0001, which was issued on January 22, 2020. CARB alleges Huss violated the in-use compliance requirements by failing to submit in-use compliance testing proposals and failing to submit a revised testing proposal (Cal. Code Regs., tit 13 § 2709(d)) as well as by failing to complete in-use field testing and in-use emission testing (Cal. Code Regs., tit. 13 § 2709(a)), as outlined in Notice of Violation HDD-2018-0001. CARB alleges that if paragraphs 1 through 6 were

proven, civil penalties could be imposed against Huss for each and every unit involved in the violations and for each day.

- (7) Acknowledgment. Huss admits to the facts in paragraphs 1 through 6, but denies any liability resulting from said allegations.
- (8) Consideration. In consideration of the foregoing, and of the promises and facts set forth herein, the Parties desire to settle and resolve all claims, disputes, and obligations relating to the above-listed alleged violations and voluntarily agree to resolve this matter by means of this Settlement Agreement. In order to resolve the violations described herein, Huss has taken, or agrees to take, the actions enumerated below within the Terms and Conditions. Further, CARB accepts this Settlement Agreement in termination and full settlement of this matter.

TERMS AND CONDITIONS

In consideration of CARB not filing a legal action against Huss for the alleged violations referred to above in the Legal Background and Case Background, and Huss's agreement to complete all terms and conditions set forth below, CARB and Huss agree as follows:

- (9) Suspended Penalties. CARB will suspend all of the penalties arising out of the violations described in paragraph 6 as long as Huss complies with all conditions set forth in this Settlement Agreement. If Huss fails to comply with each and every requirement set out in this Settlement Agreement within the timeframe specified for each action, the Parties agree that Huss shall pay the suspended portion of this penalty of fifty thousand dollars (\$50,000.00 USD). In the event Huss does not comply with all conditions in this Settlement Agreement and needs to pay suspended penalties, CARB shall deposit the funds into the Air Pollution Control Fund for the purpose of carrying out CARB's functions and duties. Huss shall make payment within sixty (60) calendar days of the notice by CARB to Huss of the Settlement Agreement violation.
- (10) Compliance Plan. Huss shall comply with the following:
 - (a) Arrange for the removal of units with family number: CA/HUS/2011/PM3+/N00/TR/DPF10 for all end users who submit a removal request by December 31, 2022, at no cost to the current end user, providing the units have not been modified or tampered.
 - (b) Provide CARB with approved resolution in writing for all units within ten calendar days of complete resolution.

- (c) Respond to all CARB correspondence within 15 business days.
 - (d) Comply with the requirements set forth in the Verification Regulation (Cal. Code Regs., tit.13, § 2700 et seq.).
 - (e) If end users with tampered or modified units submit removal requests, provide information to CARB regarding the nature of modification and the owner or operator of the unit.
- (11) Civil Penalty Payment Method. In the event Huss must pay the suspended penalty, Huss shall pay the civil penalty by check, credit card, wire transfer, or portal, payable to CARB, using instructions provided separately by CARB in a Payment Transmittal Form. Huss is responsible for all payment processing fees. Payments shall be accompanied by the Payment Transmittal Form to ensure proper application. CARB shall deposit the civil penalty amount into the Air Pollution Control Fund for the purpose of carrying out CARB's duties and functions to ensure the integrity of its air pollution control programs. Should payment instructions change, CARB will provide notice to Huss in accordance with Paragraph 13 (Notices).
- (12) Documents. Huss shall promptly email or mail the signed and dated Settlement Agreement, with copy of proof of payment of the penalty, and a copy of the Payment Transmittal Form(s) to the address or email in Paragraph 13 (Notices).
- (13) Notices. Unless otherwise specified in this Settlement Agreement, whenever notifications, submissions, or communications are required by this Settlement Agreement, they shall be submitted in writing to the address or email below:

As to CARB:

California Air Resources Board
Enforcement Division / Settlement Agreements
Diesel Programs Enforcement Branch/ Diesel Equipment Enforcement
Section
P.O. Box 2815
Sacramento, California 95812-2815
Settlement_Agreement@arb.ca.gov

As to Huss:

Huss Inc.
2074 NE Aloclek Drive Suite 401
Hillsboro, Oregon 97124
eric.mixon@hussfilters.com

Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above. Notices submitted pursuant to this section shall be deemed submitted upon emailing or mailing.

- (14) Repeat Violations. Huss agrees to comply with all regulatory requirements and acknowledges that repeat violations could result in increased penalties in the future.
- (15) Entirety. This Settlement Agreement constitutes the entire agreement and understanding between the Parties concerning the Case Background, and supersedes and replaces any and all prior negotiations and agreements of any kind, whether written or oral, between the Parties concerning the Case Background hereof. This Settlement Agreement consists of 7 pages and 33 paragraphs.
- (16) Binding Effect. This Settlement Agreement binds Huss and any principals, officers, receivers, trustees, successors and assignees, subsidiary and parent corporations and CARB and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Settlement Agreement.
- (17) Effective Date. The effective date shall be the date upon which this Settlement Agreement is fully executed.
- (18) Modification and Termination. No agreement to modify, amend, extend, supersede, terminate, or discharge this Settlement Agreement, or any portion thereof, is valid or enforceable unless it is in writing and signed by all Parties to this Settlement Agreement.
- (19) Severability. Each provision of this Settlement Agreement is severable, and in the event that any provision of this Settlement Agreement is held to be illegal, invalid or unenforceable in any jurisdiction, the remainder of this Settlement Agreement remains in full force and effect.
- (20) Choice of Law. This Settlement Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice-of-law rules.
- (21) Non-Discharge. It is further agreed that the penalties described in this Settlement Agreement are non-dischargeable under United States Code, title 11, section 523(a)(7), which provides an exception from discharge for any debt to the extent such debt is for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit.
- (22) Not Tax Deductible. For purposes of this Settlement Agreement, Huss shall not deduct any monies spent to comply with any provision of this Settlement Agreement in calculating and submitting its federal, state, or local income tax.

- (23) Rules of Construction. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Settlement Agreement.
- (24) Non-Waiver. The failure to enforce any provision of this Settlement Agreement shall not be construed as a waiver of any such provision, nor prevent such Party thereafter from enforcing such provision or any other provision of this Settlement Agreement. The rights and remedies granted all Parties herein are cumulative and the election of one right or remedy by a Party shall not constitute a waiver of such Party's right to assert all other legal remedies available under this Settlement Agreement or otherwise provided by law.
- (25) Intent to be Bound. The Parties represent that: They have participated fully in the review and drafting of this Settlement Agreement; understand and accept all terms; enter into this Settlement Agreement freely and voluntarily; have had an opportunity to consult with legal counsel; are fully informed of the terms and effect of this Settlement Agreement; have agreed to this Settlement Agreement after independent investigation and agree it was not arrived at through fraud, duress, or undue influence; and knowingly and voluntarily intend to be legally bound by this Settlement Agreement.
- (26) Venue. The Superior Court of California, located in the County of Sacramento, shall hear any dispute between the Parties arising from this Settlement Agreement.
- (27) Counterparts and Electronic Signatures. This Settlement Agreement may be executed in counterparts. Electronic, facsimile or photocopied signatures shall be considered as valid signatures.
- (28) Release. In consideration of full payment of the civil penalty, and all other undertakings above, CARB hereby releases Huss and its principals, officers, receivers, trustees, successors and assignees, subsidiary and parent corporations, from any claims CARB may have based on the circumstances described in all paragraphs contained in the Case Background above.
- (29) Authority. The undersigned represents that he or she has full authority to enter into this Settlement Agreement.

PENALTY BASIS

- (30) Per Unit Penalty. The per unit or per vehicle penalty in this case is a maximum of ten thousand dollars (\$10,000) per day under Health and Safety Code section 39674, for violations of the Verification Regulation. (Cal. Code Regs., tit.13,

§ 2700 et seq.) This case was not settled based on a per unit penalty basis and was discounted due to financial hardship.

- (31) Emissions. The provisions cited above do prohibit emissions above a specified level. Without information on engine usage and emission rates, it is not practicable to quantify the excess emissions. However, since CARB has alleged that the units did not meet the regulatory requirements, all of the emissions from it were excess and illegal.
- (32) Aggravating and Mitigating Factors. The penalties in this matter were determined in consideration of all relevant circumstances, including statutory factors as described by CARB's Enforcement Policy. CARB considered whether the violator came into compliance quickly and cooperated with the investigation; the extent of harm to public health, safety and welfare; nature and persistence of the violation, including the magnitude of the excess emissions; compliance history; preventative efforts taken; innovative nature and the magnitude of the effort required to comply, and the accuracy, reproducibility, and repeatability of the available test methods; efforts to attain, or provide for, compliance prior to violation; action taken to mitigate the violation; financial burden to the violator; and voluntary disclosure. The penalties are set at levels sufficient to deter violations, to remove any economic benefit or unfair advantage from noncompliance, to obtain swift compliance, and the potential costs, risks, and uncertainty associated with litigation. Penalties in future cases might be smaller or larger depending on the unique circumstances of the case.
- (33) Confidential Business Information. CARB may have based this penalty in part on confidential business information provided by Huss or confidential settlement communications.

ACKNOWLEDGED AND ACCEPTED BY:

California Air Resources Board

Signature: /S/

Name: Ellen M. Peter

Title: Chief Counsel

Date: December 30, 2021

Huss Inc. Settlement Agreement
Notice of Violation: NOV HDD-2018-001

Huss Inc.

Signature: /S/

Name: Eric Mixon

Title: Operations Manager

Date: December 22, 2021