<u>SETTLEMENT AGREEMENT</u>

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 Mountain Cascade, Inc. (Mountain Cascade), with its principal location at 555 Exchange Court, Livermore, California 94551 (collectively, the "Parties," or individually, "Party").

LEGAL BACKGROUND

(1) <u>Purpose</u>.

(a) The California Health and Safety Code mandates the reduction of the emission of toxic air contaminants (TAC). CARB has determined that particulate matter (PM) from diesel-fueled engines is a TAC. (Health & Saf. Code §§ 39002 et seq., 39650-39675.) In-use on-road diesel vehicles are powered by diesel fueled engines that emit toxic PM.

(b) The California Health and Safety Code mandates the reduction of emission of air pollution from motor vehicles, creates the Motor Vehicle Inspection Program, and requires CARB to adopt regulations that require owners and operators of heavy-duty vehicles to perform regular inspections of their vehicles for excess emissions. (Health & Saf. Code §§ 43013, 43018, 43701, 44011.6.)

(2) <u>Regulation</u>.

(a) CARB adopted the *Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants, from In-Use Heavy-Duty Diesel-Fueled Vehicles* (Truck and Bus Regulation) to reduce diesel PM and criteria pollutant emissions from on-road heavy-duty diesel-fueled vehicles. (Cal. Code Regs., tit. 13, § 2025.)

(b) CARB adopted the *Heavy-Duty Diesel Smoke Emission Testing, and Heavy-Duty Vehicle Emission Control Inspections Regulation* (HDVIP Regulation) (Cal. Code Regs., tit. 13, §§ 2180-2189) to reduce excess smoke emissions from heavy-duty vehicles.

(c) CARB adopted the *Periodic Smoke Inspections of Heavy-Duty Diesel-Powered Vehicles Regulation* (PSIP Regulation) (Cal. Code Regs., tit. 13, §§ 2190 et seq.) to reduce excess smoke opacity emissions from heavy-duty vehicles.

(3) Regulatory Provisions.

(a) Any person, business, federal government agency, school district or school transportation provider, or broker, that owns, operates, leases, rents or sells vehicles in California that operate on diesel-fuel, dual-fuel, or alternative diesel-fuel, that are registered to be driven on public highways, were originally designed to be driven on public highways whether or not they are registered, yard trucks with on-road engines or yard trucks with off-road engines used for agricultural operations, both engines of two-engine sweepers, school buses, and have a manufacturer's gross vehicle weight rating (GVWR) greater than 14,000 pounds must comply with the schedule to upgrade the engine as subsequentially stated. Lighter vehicles with GVWR of 14,001 pounds up to 26,000 pounds and 2000 to 2003 engines must replace the engine with a 2010 or newer engine by January 1, 2023; Heavier vehicles with GVWR greater than 26,000 pounds and 2000 to 2004 engines must replace the engine with a 2010 or newer engine by January 1, 2021; Heavier vehicles with Gross Vehicle Weight Ratings greater than 26,000 and 2005 to 2006 engines must replace the engine with a 2010 or newer engine by January 1, 2022. (Cal. Code Regs., tit. 13, § 2025.)

(b) The HDVIP Regulation prohibits the operation of heavy-duty vehicles in California that exceed the applicable smoke opacity standards, as well as vehicles that are inadequately maintained or have defective emission control components. It authorizes CARB to inspect on-road heavy-duty vehicles for excess smoke emissions and engine tampering, and to issue citations to the vehicle owner, who must repair the engines exceeding the smoke opacity standards, perform post-repair opacity testing, and submit proof of the repairs along with assessed penalties. Owners of heavy-duty vehicles must also affix an Emission Control Label (ECL). (Cal. Code Regs., tit. 13, §§ 2180-2189.)

(c) The PSIP Regulation requires owners and operators of heavy-duty diesel vehicles with gross vehicle weight ratings greater than 6,000 pounds that operate within the State of California to conduct annual smoke opacity inspections (or on-board diagnostic review for model year 2013 engines or newer) of their vehicles by a CARB-approved trained smoke tester, using smoke test equipment and procedures that comply with the Society of Automotive Engineers (SAE) procedures J1667, "Snap Acceleration Smoke Test Procedure for Heavy-Duty Powered Vehicles." Owners and Operators must also keep records of this data and provide it to CARB upon request. (Cal. Code Regs., tit. 13, §§ 2190-2194.)

(4) Penalty Provisions.

(a) Failure to comply with the regulatory requirements of the Truck and Bus Regulation is a violation of State law that may result in penalties up to ten thousand dollars ($10,000.00 USD) for strict liability violations for each day in which the violation occurs. (Cal. Code Regs., tit. 13, § 2025; Health & Saf. Code §§ 39674, 39675, 42400 et seq., 42402 et seq., and 42410.)

(b) Failure to comply with the regulatory requirements of the HDVIP Regulation is a violation of State law that may result in penalties up to one thousand eight hundred dollars ($1,800.00 USD) for each strict liability violation of the HDVIP Regulation, respectively, for each day in which the violation occurs. (Health & Saf. Code, § 44011.6; Cal. Code Regs., tit. 13, § 2185.)

(c) Failure to comply with the regulatory requirements of the PSIP Regulation is a violation of State law that may result in penalties up to forty-seven thousand three hundred sixty-three dollars ($47,363.00 USD) for each strict liability violation of the PSIP Regulation, respectively, for each day in which the violation occurs. (Health & Saf. Code, § 43016; Cal. Code Regs., tit. 13, § 2190 et seq.)

CASE BACKGROUND

(5) Corporate Entity. At all relevant times, Mountain Cascade was organized under the laws of the State of California as a corporation and conducted business in the State of California.

(6) Allegations.

(a) CARB alleges that Mountain Cascade violated the Truck and Bus Regulation by failing to comply with the compliance schedule (Cal. Code Regs., tit. 13, § 2025 (f) and (g)) resulting in five violations, as outlined in the Notice of Violation [NOV # I00657]. CARB alleges that if paragraphs 1 through 6 were proven, civil penalties could be imposed against Mountain Cascade for each and every vehicle involved in the violations and each day.

(b) CARB alleges that Mountain Cascade violated the HDVIP Regulation by failing to provide evidence that all vehicles of their heavy-duty vehicle fleet have ECLs attached to the engines, resulting in five violations, as outlined in the Notice of Violation [NOV # I00657]. CARB alleges that if paragraphs 1 through 6 were proven, civil penalties could be imposed against Mountain Cascade for each and every vehicle involved in the violations and each day.

(c) CARB alleges that Mountain Cascade violated the PSIP Regulation by owning or operating heavy-duty vehicles with gross vehicle weight greater than 6,000 pounds in California and failing to conduct annual smoke opacity inspections, resulting in 37 violations in 2020, and 39 violations in 2021, as outlined in the Notice of Violation [NOV # I00657]. CARB alleges that if paragraphs 1 through 6 were proven, civil penalties could be imposed against Mountain Cascade for each and every vehicle involved in the violations and each day.

(7) Acknowledgment. Mountain Cascade admits to the facts in paragraphs 1 through 5 and admits that CARB has alleged the matters set forth in paragraph 6, but denies any liability resulting from said allegations and NOV I00657.

(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 allegations described herein, Mountain Cascade 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 Mountain Cascade for the alleged violations referred to above in the Legal Background and Case Background, and Mountain Cascade's agreement to complete all terms and conditions set forth below, CARB and Mountain Cascade agree as follows:

(9) Settlement Amount. Mountain Cascade shall pay a civil penalty of ninety-three thousand five hundred dollars ($93,500.00 USD). Mountain Cascade shall make all payments within thirty (30) calendar days from the Notification Date.

(10) Notification Date. The date upon which CARB notifies Mountain Cascade according to Paragraph 13 (Notices), that the Settlement Agreement is fully executed or when CARB sends the fully executed Settlement Agreement to Mountain Cascade.

(11) Civil Penalty Payment Method. Mountain Cascade shall pay the civil penalty by check, credit card, wire transfer, or portal, payable to the "California Air Resources Board," using instructions provided separately by CARB in a Payment Transmittal Form. Mountain Cascade 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 Mountain Cascade in accordance with Paragraph 13 (Notices).

(12) Documents. Mountain Cascade shall promptly email or mail the signed and dated Settlement Agreement, 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 / Specialized Fleet Enforcement Section
P.O. Box 2815
Sacramento, California 95812-2815
Settlement_Agreement@arb.ca.gov

As to Mountain Cascade:
Mountain Cascade, Inc.
555 Exchange Court
Livermore, California 94551
davidb@mountaincascade.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. Mountain Cascade 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 10 pages and 33 numbered paragraphs.

(16) Binding Effect. This Settlement Agreement binds Mountain Cascade, 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. The signing of this Settlement Agreement does not constitute an admission of liability or of any issue of fact or law by Mountain Cascade.

(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) 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.

(23) 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.

(24) 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.

(25) Venue. The Superior Court of California, located in the County of Alameda , shall hear any dispute between the Parties arising from this Settlement Agreement.

(26) Counterparts and Electronic Signatures. This Settlement Agreement may be executed in counterparts. Electronic, facsimile or photocopied signatures shall be considered as valid signatures.

(27) Release. In consideration of full payment of the civil penalty, and all other undertakings above, CARB hereby releases Mountain Cascade 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 Paragraph 6 (Allegations) above.

(28) Authority. The undersigned represents that he or she has full authority to enter into this Settlement Agreement.

PENALTY BASIS

(29) Per Unit Penalty.

(a) The per unit or per vehicle penalty in this case is a maximum of ten thousand dollars ($10,000.00 USD) per day under Health and Safety Code section 39674, for violations of the Truck and Bus Regulation. (Cal. Code Regs., tit. 13, § 2025.) The penalty of fifteen thousand dollars ($15,000.00 USD) over an unspecified number of days of violation is for five noncompliant vehicles with 2000 to 2006 model year engines and a GVWR of greater than 14,000 pounds. The per unit penalty in this case is three thousand dollars ($3,000.00 USD) per noncompliant vehicle.

(b) The per unit or per vehicle penalty in this case is a maximum of one thousand eight hundred dollars ($1,800.00 USD) per day for each day the vehicle is in violation of the Health and Safety Code section 44011.6 and the HDVIP Regulation. (Cal. Code Regs., tit. 13, § 2185.) The penalty of two thousand five hundred dollars ($2,500.00 USD) over an unspecified number of days of violation is for five noncompliant heavy-duty vehicles. The per unit penalty in this case is five hundred dollars ($500.00 USD) per noncompliant vehicle.

(c) The per unit or per vehicle penalty in this case is a maximum of forty-seven thousand three hundred sixty-three dollars ($47,363.00 USD) per day for each day the vehicle is in violation of the Health and Safety Code section 44011.6 and the PSIP Regulation. (Cal. Code Regs., tit. 13, § 2190 et seq.) The penalty of seventy-six thousand dollars ($76,000.00 USD) over an unspecified number of days of violation is for 76 noncompliant heavy-duty vehicles. The per unit penalty in this case is one thousand dollars ($1,000.00 USD) per noncompliant vehicle.

(30) Emissions.

(a) The provisions cited in Paragraph 6 (Allegations) above regarding the Truck and Bus and PSIP Regulation violations 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 vehicles did not meet the regulatory requirements, all of the emissions from it were excess and illegal.

(b) The provisions cited in Paragraph 6 (Allegations) above regarding the HDVIP violations do not prohibit emissions above a specified level.

(31) 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 alleged violator came into compliance quickly and cooperated with the investigation, and CARB determined that Mountain Cascade cooperated and quickly complied during the settlement process; 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.

(32) Confidential Business Information. CARB may have based this penalty in part on confidential business information provided by Mountain Cascade or confidential settlement communications. In any subsequent court action, CARB and the Attorney General's Office will make an effort to seal any confidential confirmation.

(33) Effect of Settlement/Reservation of Rights. The following shall apply:

(a) This Settlement Agreement resolves the civil claims of CARB for the violations alleged in this Settlement Agreement.

(b) CARB reserves, and this Settlement Agreement is without prejudice to, all claims, rights, and remedies against Mountain Cascade with respect to all matters not expressly resolved in this Settlement Agreement. Notwithstanding any other provision of the Settlement Agreement, CARB reserves all claims, rights, and remedies, whether in law or equity, against Mountain Cascade with respect to:

(i) Noncompliance with or enforcement of any provision of this Settlement Agreement.

(ii) Facts that were not disclosed by Mountain Cascade to CARB.

(iii) Violation of the California Health and Safety Code and its implementing regulations, or other State laws, regulations, or permit condition(s) not expressly resolved in this Settlement Agreement.

(iv) Any imminent and substantial endangerment to the public health, welfare, or the environment in California, whether related to the violations addressed in this Settlement Agreement or otherwise.

(v) Any criminal liability.

(vi) Any claim(s) of any officer or agency of the United States or California, other than CARB.

(c) In any subsequent administrative or judicial proceeding initiated by CARB for injunctive relief, civil penalties, or other appropriate relief relating to enforcement of the Settlement Agreement, Mountain Cascade shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by CARB in the subsequent proceeding were or should have been brought in the instant case.

(d) This Settlement Agreement does not limit or affect the rights of Mountain Cascade or of CARB against any third parties not covered by this Settlement Agreement, nor does it limit the rights of third parties not covered by this Settlement Agreement against Mountain Cascade, except as otherwise provided by law. This Settlement Agreement shall not be construed to create rights in, or grant any cause of action to, any third party not covered by this Settlement Agreement.

(e) This Settlement Agreement is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Mountain Cascade is responsible for achieving and maintaining compliance with all applicable federal, State, and local laws, regulations, and permits.

ACKNOWLEDGED AND ACCEPTED BY:

California Air Resources Board

Signature: /S/

Name: Heather L. Quiros

Title: Chief, Enforcement Division

Date: October 17, 2025

Mountain Cascade, Inc.

Signature: /S/

Name: Michael Duke Fuller

Title: President and Chief Executive Officer

Date: October 7, 2025