

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 Great Outdoor Products LLC (Great Outdoor), with its principal location at 2083 Thunderbird Drive, Wood Cross, Utah 84087 (collectively, the "Parties," or individually, "Party").

LEGAL BACKGROUND

- (1) Purpose. The California Health and Safety Code mandates CARB to reduce emissions from vehicular and other mobile sources, including emissions of reactive organic gases, oxides of nitrogen, particulates, carbon monoxide, and toxic air contaminants through regulations of vehicle emission standards, in-use performance standards, and motor vehicle fuel specifications. (Health & Saf. Code §§ 43013, 43018.)
- (2) Regulation. CARB adopted certification standards, test procedures, and administrative requirements in its *Portable Fuel Containers and Spill-Proof Spouts Regulation* (Portable Fuel Container Regulation) to reduce emissions and spills from portable fuel containers. (Cal. Code Regs., tit.13, § 2467 et seq.)
- (3) Regulatory Provisions. Any person who sells, supplies, offers for sale, advertises or manufactures for sale in California portable fuel containers or spouts or components, for use in California must certify these containers, spouts, or components for use and sale, obtain an executive order, and properly label the portable fuel container(s) or spout(s) with the month and year of manufacture and the CARB Executive Order number. (Cal. Code Regs., tit.13, §§ 2467, 2467.2, 2467.5.)
- (4) Penalty Provisions. Failure to comply with the regulatory requirements is a violation of state law that may result in penalties up to five hundred thirty-four dollars (\$534.00) for each strict liability violation of the Portable Fuel Container Regulation, respectively, for each noncompliant portable fuel container, spout, or component. (Cal. Code Regs., tit.13, § 2467-2467.9; Health & Saf. Code § 43016.)

CASE BACKGROUND

- (5) Corporate Entity. At all relevant times, Great Outdoor was organized under the laws of Utah as a limited liability company and conducted business in the State of California.
- (6) Allegations. This Settlement Agreement resolves Notice of Violation (NOV) # EPES-2021-C00550, which was issued on June 17, 2021. CARB alleges Great Outdoor violated the Portable Fuel Container Regulation by selling, supplying, offering for sale, advertising or manufacturing for sale in California, portable fuel

container spouts, for use in California, and failing to obtain Executive Orders for the portable fuel container spouts, resulting in 3,949 violations, as outlined in NOV # EPES-2021-C00550. CARB alleges that if the allegations described in paragraphs 1 through 6 were proven, civil penalties could be imposed against Great Outdoor for each and every violation.

- (7) Acknowledgment. Great Outdoor 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, Great Outdoor 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 Great Outdoor for the alleged violations referred to above in the Legal Background and Case Background, and Great Outdoor's agreement to complete all terms and conditions set forth below, CARB and Great Outdoor agree as follows:

- (9) Settlement Amount. Great Outdoor shall pay a civil penalty of nine thousand, eight hundred seventy-two dollars, and fifty cents (\$9,872.50 USD), and agrees to fund a Supplemental Environmental Project entitled Marine Vessel Speed Reduction Incentive Program Phase 2 (SEP) in the amount of nine thousand, eight hundred seventy-two dollars, and fifty cents (\$9,872.50 USD), consistent with CARB's SEP Policy, for a total settlement of nineteen thousand, seven hundred forty-five dollars (\$19,745.00 USD). Great Outdoor shall make all payments within 30 calendar days from the date CARB notifies Great Outdoor of the full execution of the Settlement Agreement.
- (10) Civil Penalty Payment Method. Great Outdoor 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. Great Outdoor 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 Great Outdoor in accordance with Paragraph 16 (Notices).

- (11) SEP Payment Method. Great Outdoor shall fund the SEP by wire transfer, payable to the SEP implementer/recipient, Ventura County Air Pollution Control District using instructions provided separately by CARB in a Payment Transmittal Form. Great Outdoor is responsible for all payment processing fees. Payments shall be accompanied by the Payment Transmittal Form to ensure proper application. Should payment instructions change, CARB will provide notice to Great Outdoor in accordance with Paragraph 16 (Notices).
- (12) Prohibition Against Financial Benefit. Great Outdoor has agreed that by funding the SEP entitled Marine Vessel Speed Reduction Incentive Program Phase 2, Great Outdoor will not receive any direct or indirect financial benefit, and that whenever Great Outdoor publicizes or refers to the SEP or the results of the SEP, Great Outdoor will state that the SEP is being undertaken as part of the settlement of a CARB enforcement action.
- (13) Assignment of Rights. In the event the SEP Recipient/Administrator does not fully implement or complete the SEP in accordance with the terms of the SEP Agreement, CARB shall be entitled to recover the full amount of the SEP from the SEP implementer, less any amount expended on the timely and successful completion of any previously agreed upon interim milestone(s). CARB will deposit any such recovery into the Air Pollution Control Fund. Accordingly, Great Outdoor assigns any and all rights against the SEP implementer to CARB.
- (14) Advertising. Whenever Great Outdoor advertises any spout intended for use with water containers, it shall state the intended use of the spout and shall not advertise or depict the spout for use with portable fuel containers.
- (15) Documents. Great Outdoor shall promptly email or mail the signed and dated Settlement Agreement, copy of proof of payment of the penalty and SEP, and a copy of the Payment Transmittal Form(s) to the address or email in Paragraph 16 (Notices).
- (16) 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
Vehicle, Parts, Consumer Products Enforcement Branch / Engine and
Parts Enforcement Section
P.O. Box 2815
Sacramento, California 95812-2815
Settlement_Agreement@arb.ca.gov

Great Outdoor Products LLC Settlement Agreement
Notice of Violation: EPES-2021-C00550

As to Great Outdoor:

Great Outdoor Products LLC
2083 Thunderbird Drive
Wood Cross, Utah, 84087
Hunter@rotopax.com

As to Great Outdoor's Legal Representation:

Tim Swickard
Greenberg Traurig, LLP
1201 K Street, Suite 1100
Sacramento, California 95814
Swickardt@gtlaw.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.

- (17) Recovery of Costs. If the Attorney General files a civil action to enforce this Settlement Agreement, Great Outdoor shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorneys' fees, and costs.
- (18) Repeat Violations. Great Outdoor agrees to comply with all regulatory requirements and acknowledges that repeat violations could result in increased penalties in the future.
- (19) 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 37 paragraphs.
- (20) Binding Effect. This Settlement Agreement binds Great Outdoor, 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.
- (21) Effective Date. The effective date shall be the date upon which this Settlement Agreement is fully executed.
- (22) 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.

- (23) 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.
- (24) 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.
- (25) 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.
- (26) Not Tax Deductible. For purposes of this Settlement Agreement, Great Outdoor 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.
- (27) 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.
- (28) 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.
- (29) 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.

- (30) Venue. The Superior Court of California, located in the County of Sacramento, shall hear any dispute between the Parties arising from this Settlement Agreement.
- (31) Counterparts and Electronic Signatures. This Settlement Agreement may be executed in counterparts. Electronic, facsimile or photocopied signatures shall be considered as valid signatures.
- (32) Release. In consideration of the full completion of civil penalty and SEP payment, and all other undertakings above, CARB hereby releases Great Outdoor 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.
- (33) Authority. The undersigned represents that he or she has full authority to enter into this Settlement Agreement.

PENALTY BASIS

- (34) Per Unit Penalty. The per unit penalty in this case is a maximum of five hundred thirty-four dollars (\$534.00) per action under Health and Safety Code section 43016, for violations of the Portable Fuel Container Regulation. (Cal. Code Regs., tit.13, § 2467-2467.9; Health & Saf. Code § 43016.) The penalty of \$19,745.00 is for 3,949 noncompliant portable fuel container spouts. The per unit penalty in this case is \$5.00 per noncompliant unit.
- (35) Emissions. The provisions cited above do not prohibit emissions above a specified level. Without information on usage and emission rates, it is not practicable to quantify the excess emissions. However, since CARB has alleged that the portable fuel container spouts did not meet the regulatory requirements, any emissions resulting from the use of the spouts were excess and illegal.
- (36) Aggravating and Mitigating Factors. The penalties in this matter were determined in consideration of all relevant circumstances, including statutory factors as described in 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.

- (37) Confidential Business Information. CARB may have based this penalty in part on confidential business information provided by Great Outdoor and confidential settlement communications.

ACKNOWLEDGED AND ACCEPTED BY:

California Air Resources Board

Signature: /S/

Name: Todd P. Sax, D.Env.

Title: Chief, Enforcement Division

Date: February 27, 2022

Great Outdoor Products LLC

Signature: /S/

Name: Jason Wallin

Title: Managing Member

Date: February 7, 2022