

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 PACCAR Inc. (herein, PACCAR), with its principal location at 777 106th Avenue, NE, Bellevue, Washington 98004 (collectively, the "Parties," or individually, "Party").

LEGAL BACKGROUND

- (1) Purpose. The California Health and Safety Code mandates implementation of emission standards for new motor vehicle and motor vehicle engines to control emissions; allows CARB to certify these vehicles; and prohibits any person from selling, introducing into commerce, importing, delivering, purchasing, renting, leasing, acquiring, or receiving a new motor vehicle or new motor vehicle engine for use, registration, or resale unless it is certified. This includes attempts or assistance. (Health & Saf. Code §§ 43100, 43101, 43151, 43153, 43211, and 43212.)
- (2) Regulation. CARB adopted the "*Motor Vehicle Pollution Control Devices Regulations*" (which include *Engine Standards*), as codified in the California Code of Regulations, title 13, sections 1900-2048, to reduce emissions of, inter alia, oxides of nitrogen (NOx) and hydrocarbons (HC) from new and used motor vehicles and motor vehicle engines in California.
- (3) Regulatory Provisions. Prior to engines being sold, introduced into commerce, imported, delivered, purchased, rented, leased, acquired, or received into California, they must be certified based on reliable test data and procedures and obtain an Executive Order (EO) from CARB. The engines must, inter alia, meet the emission standards (either through a direct standard or through a fleet wide phase-in requirement), cannot contain a defeat device, must have an Emission Control Label (ECL) and be equipped with an On-Board Diagnostic (OBD) system that monitors emission-related components and informs the vehicle operator of an emission related component malfunction, and come with an emission control system warranty. (Cal. Code Regs., tit. 13, §§ 1900-2048.)
- (4) Penalty Provisions. Failure to comply with the regulatory requirements is a violation of state law that may result in penalties up to forty-two thousand four hundred fifty dollars (\$42,450.00 USD) for each strict liability violation of the Engine Standards, respectively, for each engine. (Health & Saf. Code, §§ 43016, 43154, 43211, 43212; Cal. Code Regs., tit.13, § 1900 et seq.)

CASE BACKGROUND

- (5) Corporate Entity. At all relevant times PACCAR Inc. was organized under the laws of Delaware as a corporation and conducted business in the State of California.

- (6) Allegations. CARB alleges PACCAR violated the Engine Standards by selling, introducing into commerce, importing, delivering new motor vehicle engines into California that did not meet the Heavy-Duty OBD Regulation (Cal. Code Regs., tit. 13, § 1971.1) requirements, resulting in 16,928 violations. CARB alleges that if paragraphs 1 through 6 were proven, civil penalties could be imposed against PACCAR for each and every engine involved in the violations and each day.
- (7) Acknowledgment. PACCAR 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, PACCAR 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 PACCAR for the alleged violations referred to above in the Legal Background and Case Background, and PACCAR's agreement to complete all terms and conditions set forth below, CARB and PACCAR agree as follows:

- (9) Settlement Amount. PACCAR shall pay a total settlement amount of two million five hundred thirty-nine thousand, two hundred dollars (\$2,539,200.00 USD), including the civil penalty of one million seven hundred eighty-six thousand, one hundred twelve dollars and fifty cents (\$1,786,112.50), and agrees to fund the following four Supplemental Environmental Projects (SEPs) in the combined amount of seven hundred fifty-three thousand, eighty-seven dollars and fifty cents (\$753,087.50 USD), consistent with CARB's SEP Policy:
- a) Reforestation of Native Trees in Sacramento County in the amount of seventeen thousand eighty-seven dollars and fifty cents (\$17,087.50 USD).
 - b) Installation of School Air Filtration Systems – Calexico (Imperial County) in the amount of two hundred twelve thousand dollars (\$212,000.00 USD).
 - c) Installation of School Air Filtration Systems – El Centro (Imperial County) in the amount of four hundred twenty-four thousand dollars (\$424,000.00 USD).
 - d) California Clean Air Day in the amount of one hundred thousand dollars (\$100,000.00 USD).

PACCAR shall make all payments within 30 calendar days from the date CARB notifies PACCAR of the full execution of the Settlement.

- (10) Civil Penalty Payment Method. PACCAR 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. PACCAR is responsible for all payment processing fees. Payments shall be accompanied by the Payment Transmittal Form to ensure proper application. At the time payment is made, PACCAR shall provide CARB with proof of payment and a copy of the Payment Transmittal Form at the email address listed in Paragraph 16 (Notices). CARB shall deposit the civil penalty amount into its 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 PACCAR in accordance with Paragraph 16 (Notices).
- (11) SEP Payment Method(s). PACCAR shall fund the SEPs listed in Paragraph 9 (Settlement Amount), subparagraphs a) through d), by wire transfer (if available), credit card, or check, payable to the SEP Administrator/Recipient, using instructions provided separately by CARB in a Payment Transmittal Form. PACCAR is responsible for all payment processing fees. At the time payment is made, PACCAR shall provide CARB with proof of payment and a copy of the SEP Payment Transmittal Form at the email address listed in Paragraph 16 (Notices). Payments shall be accompanied by the SEP Payment Transmittal Form to ensure proper application. Should payment instructions change, CARB will provide notice to PACCAR in accordance with Paragraph 16 (Notices).
- (12) Prohibition Against Financial Benefit. PACCAR has agreed that by funding the SEPs listed in Paragraph 9 (Settlement Amount), subparagraphs a) through d), PACCAR will not receive any direct or indirect financial benefit, and that whenever PACCAR publicizes or refers to the SEPs or the results of the SEPs, PACCAR will state that the SEPs are being undertaken as part of the settlement of a CARB enforcement action.
- (13) Assignment of Rights. In the event the SEP Administrators/Recipients do not fully implement or complete the SEPs in accordance with the terms of the SEP Agreements, CARB shall be entitled to recover the full amount of the SEPs from the SEP Administrators/Recipients, 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 its Air Pollution Control Fund. Accordingly, PACCAR assigns any and all rights against the SEP Administrators/Recipients to CARB.
- (14) Other Relief. PACCAR shall complete proposed or active recalls as part of any pre-existing or on-going corrective action plan(s) that were previously discussed with CARB, including corrective action plan(s) submitted as a result of California Code of Regulations, title 13, section 1971.5(c)(4)(F)(iii).

- (15) Documents. PACCAR shall promptly email or mail the signed and dated Settlement Agreement to the address or email in Paragraph 16 (Notices). Alternatively, PACCAR may email the signed and dated Settlement Agreement directly to the CARB Enforcement Division Investigator managing the settlement.
- (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
Engine and Parts Enforcement Section
P.O. Box 2815
Sacramento, California 95812-2815
Settlement_Agreement@arb.ca.gov (Send proof of payment)

As to PACCAR:

PACCAR Inc.
777 106th Avenue, NE
Bellevue, Washington 98004
cynthia.webb@paccar.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) Repeat Violations. PACCAR agrees to comply with all regulatory requirements and acknowledges that repeat violations could result in increased penalties in the future.
- (18) 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 8 pages and 37 paragraphs.
- (19) Binding Effect. This Settlement Agreement binds PACCAR, 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.
- (20) Effective Date. The effective date shall be the date upon which this Settlement Agreement is fully executed.

- (21) 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.
- (22) 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.
- (23) 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.
- (24) 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.
- (25) Not Tax Deductible. For purposes of this Settlement Agreement, PACCAR 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.
- (26) 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.
- (27) 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.
- (28) 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.

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

PENALTY BASIS

- (33) Per Unit Penalty. The per unit or per engine penalty in this case is a maximum of forty-two thousand four hundred fifty dollars (\$42,450.00 USD) per action under Health and Safety Code section 43016 and 43154, for violations of the Engine Standards (Cal. Code Regs., tit.13, §§ 1900 et seq.). The penalty of \$2,539,200.00 is for 16,928 noncompliant engines. The per unit penalty in this case is approximately \$150.00 per noncompliant unit.
- (34) Emissions. The provisions cited in Paragraph 6 (Allegations) above do 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 engines did not meet the regulatory requirements, all of the emissions were excess and illegal.
- (35) 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.

- (36) Confidential Business Information. CARB may have based this penalty in part on confidential business information provided by PACCAR or confidential settlement communications.
- (37) 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 PACCAR 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 PACCAR with respect to:
 - (i) Noncompliance with or enforcement of any provision of this Settlement Agreement.
 - (ii) Facts that were not disclosed by PACCAR 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, PACCAR 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 PACCAR 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 PACCAR, 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. PACCAR is responsible for achieving and maintaining compliance with all applicable federal, State, and local laws, regulations, and permits; PACCAR's compliance with this Settlement Agreement shall not be a defense to any action commenced pursuant to any such laws, regulations, or permits. CARB does not, by its execution of this Settlement Agreement, warrant or aver in any manner that PACCAR's compliance with any aspect of this Settlement Agreement will result in compliance with any provisions of federal, State, or local laws, regulations, or permits.

ACKNOWLEDGED AND ACCEPTED BY:

California Air Resources Board

Signature: /S/

Name: Steven S. Cliff, Ph.D.

Title: Executive Officer

Date: August 4, 2023

PACCAR, Inc.

Signature: /S/

Name: Cynthia Webb

Title: Director of Emissions Compliance

Date: July 12, 2023