

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 ARBOC Specialty Vehicles, LLC (ARBOC), with its principal location at 51165 Greenfield Parkway, Middlebury, Indiana 46540 (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 in California 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 Regulation (Vehicle Standards)*" (Cal. Code Regs., tit. 13, §§ 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 vehicles or 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 vehicles and engines must 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 a computer-sensed emission-related component to inform the vehicle operator of a malfunction (On-board Diagnostic System (OBD)), and come with an emission control system warranty. (Cal. Code Regs., tit. 13, §§ 1900-2048.)
- (4) Regulatory Exemption. The Executive Officer may authorize use of engines certified to meet federal emission standards, or which are demonstrated to meet appropriate federal emission standards, in up to a total of 100 heavy-duty vehicles per calendar year for use in California. To qualify for an exemption, the vehicle manufacturer must submit, in writing, to the Executive Officer, the justification for such exemption. (Cal. Code Regs., tit. 13, § 1956.8(f).) If CARB grants the exemption, an EO will be issued for the specific vehicle.
- (5) Penalty Provisions. Failure to comply with the regulatory requirements 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 Vehicle Standards, respectively. (Health & Saf. Code, §§ 43154, 43211, 43212; Cal. Code Regs., tit. 13, § 1900 et seq.)

CASE BACKGROUND

- (6) Corporate Entity. At all relevant times, ARBOC was organized under the laws of Delaware as a limited liability company and conducting business in the State of California.
- (7) Allegations. ARBOC self-disclosed the sales of thirty-seven (37) new uncertified model year 2019-2020 EQUSS model wheelchair-accessible buses in California. CARB alleges that ARBOC violated the Vehicle Standards by introducing into commerce new motor vehicles into California that were not certified by CARB, resulting in 37 violations. CARB alleges that if paragraphs 1 through 7 were proven, civil penalties could be imposed against ARBOC for each vehicle involved in the violations.
- (8) Acknowledgment. ARBOC admits to the facts in paragraphs 1 through 7, but denies any liability resulting from said allegations.
- (9) 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. To resolve the violations described herein, ARBOC 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 ARBOC for the alleged violations referred to above in the Legal Background and Case Background, and ARBOC's agreement to complete all terms and conditions set forth below, CARB and ARBOC agree as follows:

- (10) Settlement Amount. ARBOC shall pay a civil penalty of thirty-seven thousand dollars (\$37,000 USD). ARBOC shall make all payments in accordance with the payment schedule in Paragraph 11 (Payment Plan and Schedule).
- (11) Payment Plan and Schedule. Pursuant to this Settlement Agreement, ARBOC shall make payments according to the following table. As used in the table, the Notification Date is the date CARB notifies ARBOC according to Paragraph 15 (Notices), that the Settlement Agreement is fully executed or when CARB sends

the fully executed Settlement Agreement to ARBOC as provided in Paragraph 15 (Notices).

Days After the Notification Date	In the Amount of and Payable To:
15 Days	\$11,000 California Air Resources Board
365 Days	\$13,000 California Air Resources Board
730 Days	\$13,000 California Air Resources Board

- (12) Civil Penalty Payment Method. ARBOC 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. ARBOC 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 ARBOC in accordance with Paragraph 15 (Notices).
- (13) Acceleration. If any payment is more than fifteen (15) calendar days late from the payment schedule deadline, the entire remaining balance is accelerated to become due and payable immediately without notice or demand.
- (14) Documents. ARBOC shall promptly email or mail the signed and dated Settlement Agreement to the CARB address or email in Paragraph 15 (Notices).
- (15) 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, and Consumer Products Enforcement Branch / Vehicle
Enforcement Section
P.O. Box 2815
Sacramento, California 95812-2815
Settlement_Agreement@arb.ca.gov

As to ARBOC:

Legal Department
ARBOC Specialty Vehicles, LLC
51165 Springfield Pkwy
Middlebury, Indiana 46540
legal@nfigroup.com

As to ARBOC's Legal Representation:

Michael Vergara
Somach, Simmons and Dunn
500 Capitol Mall, Suite 1000
Sacramento, California 95814
mvergara@somachlaw.com

Any Party may, by written notice to the other Party, change its designated notice recipient or notice address provided above in Paragraph 15 (Notices). Notices submitted pursuant to this section shall be deemed submitted upon emailing or mailing.

- (16) Recovery of Costs. If the Attorney General files a civil action to enforce this Settlement Agreement, ARBOC shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorneys' fees, and costs.
- (17) Repeat Violations. ARBOC 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 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 9 pages and 36 numbered paragraphs.
- (19) Binding Effect. This Settlement Agreement binds ARBOC, 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 should 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) 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.
- (26) 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.
- (27) 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.
- (28) Venue. The Superior Court of California, located in the County of Sacramento, shall hear any dispute between the Parties arising from this Settlement Agreement.

- (29) Counterparts and Electronic Signatures. This Settlement Agreement may be executed in counterparts. Electronic, facsimile, or photocopied signatures shall be considered as valid signatures.
- (30) Release. In consideration of full payment of the of civil penalty and all other undertakings above, CARB hereby releases ARBOC and its principals, officers, managers, receivers, trustees, successors and assignees, subsidiary, and parent corporations, from any claims CARB may have based on the circumstances described in Paragraph 7 (Allegations) above.
- (31) Authority. The undersigned represents that he or she has full authority to enter into this Settlement Agreement.

PENALTY BASIS

- (32) Per Unit Penalty. The potential 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 action under Health and Safety Code section 43154, for violations of the Vehicle Standards (Cal. Code Regs., tit. 13, §§ 1900 et seq.). In recognition of ARBOC's self-disclosure and cooperation with CARB's investigation in this matter, CARB will not assess the maximum penalty and instead will assess a negotiated penalty of thirty-seven thousand dollars (\$37,000.00 USD) for 37 noncompliant vehicles or engines. The per unit penalty in this case is one thousand dollars (\$1,000.00 USD) per noncompliant unit.
- (33) Emissions. The provisions cited in Paragraph 7 (Allegations) above do not prohibit emissions above a specified level.
- (34) 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 the 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, if any, in future cases might be smaller or larger depending on the unique circumstances of the case.

(35) Confidential Business Information. CARB may have based this penalty in part on confidential business information provided by ARBOC or confidential settlement communications.

(36) 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 ARBOC 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 ARBOC with respect to:
 - (i) Noncompliance with or enforcement of any provision of this Settlement Agreement.
 - (ii) Facts that were not disclosed by ARBOC 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, ARBOC 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 ARBOC 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 ARBOC, 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. ARBOC is responsible for achieving and maintaining compliance with all applicable federal, State, and local laws, regulations, and permits; ARBOC'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 ARBOC'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: Heather L. Quiros

Title: Chief, Enforcement Division

Date: May 29, 2024

ARBOC Specialty Vehicles, LLC (1 of 2 ARBOC signatories)

Signature: /S/

Name: Paul Soubry

Title: President and Chief Executive Officer

Date: May 24, 2024

ARBOC Specialty Vehicles, LLC (2 of 2 ARBOC signatories)

Signature: /S/

Name: Brian Dewsnup

Title: Chief Financial Officer

Date: May 24, 2024