

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; Tristar Products, Inc. (Tristar), with its principal location at 111 North County Highway 393, Suite 203, Santa Rosa Beach, Florida 32459; and Trend Makers, LLC (Trend Makers), with its principal location at 2113 Lewis Turner Boulevard, Suite 100, Fort Walton Beach, Florida 32547 (collectively, the "Parties," or individually, "Party").

LEGAL BACKGROUND

- (1) Purpose. The California Health and Safety Code mandates CARB adopt regulations to protect public health from ozone emitted by indoor air cleaning devices, including medical and nonmedical devices used in occupied spaces. (Health & Saf. Code § 41986.)
- (2) Regulation. CARB adopted the *Regulation for Limiting Ozone Emissions From Indoor Air Cleaning Devices* (Indoor ACD Regulation) to create standards for indoor air cleaning devices. (Cal. Code Regs., tit. 17, §§ 94800 et seq.)
- (3) Regulatory Provisions. Any person who manufactures for use in California, sells, supplies, offers for sale, or introduces into commerce in California, any indoor air cleaning device shall comply with the standards set forth in the Indoor ACD Regulation, including the ozone emission concentration standard not exceeding 0.50 parts per million (ppm); certification requirements; test methods; labeling and safety mark; notice; recordkeeping; or other administrative requirements. (Cal. Code Regs., tit. 17, §§ 94802-94809.)
- (4) Penalty Provisions. Failure to comply with the regulatory requirements is a violation of state law that may result in penalties up to twelve thousand one hundred and eighty dollars (\$12,180.00 USD) for strict liability violations; for each day in which the violation occurs. (Cal. Code Regs., tit. 17, § 94800 et seq.; Health & Saf. Code §§ 42400 et seq., 42402 et seq., and 42410.)

CASE BACKGROUND

- (5) Corporate Entity. At all relevant times, Trend Makers was organized under the laws of Delaware as a limited liability company and Tristar was organized under the laws of Florida as a corporation. Tristar conducted business in the State of California.
- (6) Allegations. CARB alleges that Tristar violated the Indoor ACD Regulation by manufacturing for use in California, selling, supplying, offering for sale, and introducing into commerce California Breathe Pure Plus that was not certified by CARB, failed to display the required advisory, and failed to provide a copy of the Indoor Air Cleaner Regulation to known distributors as outlined in Notice of

Violation AC23-04-02. CARB alleges that if paragraphs 1 through 6 were proven, civil penalties could be imposed against Tristar for each and every noncompliant indoor air cleaning device and for each day those device(s) were manufactured, sold, supplied, offered for sale, or introduced into commerce in California.

- (7) Acknowledgment. Tristar 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, Tristar has taken or agrees to take, the actions enumerated below within the Terms and Conditions. Trend Makers agrees to pay the penalties for the above-listed alleged violations on behalf of Tristar in accordance with the Terms and Conditions listed below. 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 Tristar for the alleged violations referred to above in the Legal Background and Case Background, and Tristar's agreement to complete all terms and conditions set forth below, CARB, Tristar, and Trend Makers agree as follows:

- (9) Settlement Amount. Trend Makers shall pay on behalf of Tristar a civil penalty of sixty thousand eight hundred and nineteen dollars (\$60,819.00 USD) and agrees to fund a Supplemental Environmental Project (SEP) entitled Zero Emissions Farm and Garden Equipment in the amount of thirty-seven thousand one hundred eighty-one dollars (\$37,181.00 USD), consistent with CARB's SEP Policy, for a total settlement of ninety-eight thousand dollars (\$98,000.00 USD). Trend Makers shall make all payments in accordance with the payment schedule in Paragraph 11 (Payment Plan and Schedule).
- (10) Notification Date. The date upon which CARB notifies Tristar and Trend Makers according to Paragraph 18 (Notices), that the Settlement Agreement is fully executed or when CARB sends the fully executed Settlement Agreement to Tristar and Trend Makers.
- (11) Payment Plan and Schedule. Pursuant to this Settlement Agreement, Trend Makers shall make payments on behalf of Tristar according to the following table:

Days After the Notification Date	In the Amount of and Payable To:
30 Days	\$37,181 Soil Born Farms Urban Agriculture and Education Project
60 Days	\$30,409.50 California Air Resources Board
90 Days	\$30,409.50 California Air Resources Board

- (12) Civil Penalty Payment Method. Trend Makers 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. Trend Makers 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 Trend Makers in accordance with Paragraph 18 (Notices).
- (13) SEP Payment Method. Trend Makers shall fund the SEP by wire transfer or check payable to the SEP Recipient/Administrator, Soil Born Farms Urban Agriculture and Education Project, using instructions provided separately by CARB in a SEP Payment Transmittal Form. Trend Makers is responsible for all payment processing fees. Payments shall be accompanied by the SEP Payment Transmittal Form to ensure proper application. Should payment instructions change, CARB will provide notice to Trend Makers in accordance with Paragraph 18 (Notices).
- (14) Prohibition Against Financial Benefit. Trend Makers has agreed that by funding the SEP entitled Zero Emissions Farm and Garden Equipment, Trend Makers and Tristar will not receive any direct or indirect financial benefit, and that whenever Trend Makers and Tristar publicizes or refers to the SEP or the results of the SEP, Trend Makers and Tristar will state that the SEP is being undertaken as part of the settlement of a CARB enforcement action.
- (15) 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 Recipient/Administrator, 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, Trend Makers and Tristar assign any and all rights against the SEP Recipient/Administrator to CARB.

- (16) Acceleration. If any payment is more than thirty (30) calendar days late from the payment schedule deadline, the entire remaining balance is accelerated to become due and payable immediately without notice or demand.
- (17) Documents. Tristar and Trend Makers shall promptly email or mail the signed and dated Settlement Agreement, to the address or email in Paragraph 18 (Notices).
- (18) 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
Consumer Products Enforcement Section
P.O. Box 2815
Sacramento, California 95812-2815
Settlement_Agreement@arb.ca.gov

As to Trend Makers:

Trend Makers, LLC
2113 Lewis Turner Boulevard, Suite 100
Fort Walton Beach, Florida 32547

As to Tristar:

Tristar Products, Inc.
111 North County Highway 393, suite 203
Santa Rosa Beach, Florida 32459

As to Tristar's Legal Representation:

Alene Taber
Hanson Bridgett LLP
777 South Figueroa Street, Suite 4200
Los Angeles, California 90017
ATaber@hansonbridgett.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.

- (19) Repeat Violations. Tristar agrees to comply with all regulatory requirements and acknowledges that repeat violations could result in increased penalties in the future.

- (20) 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 9 pages and 38 numbered paragraphs.
- (21) Binding Effect. This Settlement Agreement binds Trend Makers and Tristar, 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.
- (22) Effective Date. The effective date shall be the date upon which this Settlement Agreement is fully executed.
- (23) 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.
- (24) 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.
- (25) 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.
- (26) 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.
- (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 full payment of the civil penalty and SEP payments, and all other undertakings above, CARB hereby releases Tristar 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.
- (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 twelve thousand one hundred eighty dollars (\$12,180.00 USD) per unit per day under Health and Safety Code section(s) 42400 et seq., for violations of the Indoor ACD Regulation. The penalty of ninety-eight thousand dollars (\$98,000.00 USD) over an unspecified number of days of violation is for non-compliant units. The per unit penalty in this case is approximately two thousand two hundred forty-three dollars and ninety cents (\$2,243.90 USD) per day for forty-one days the noncompliant device was offered for sale in California and one thousand dollars (\$1,000.00 USD) per day for six days of administrative violation.
- (35) Emissions. The provisions cited in Paragraph 6 (Allegations) above relate to a certification and do not prohibit emissions above a specified level.

- (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 Tristar or confidential settlement communications.
- (38) 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 Tristar 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 Trend Makers and Tristar with respect to:
 - (i) Noncompliance with or enforcement of any provision of this Settlement Agreement.
 - (ii) Facts that were not disclosed by Tristar 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, Trend Makers and Tristar 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 Trend Makers and Tristar 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 Trend Makers and Tristar, 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. Tristar is responsible for achieving and maintaining compliance with all applicable federal, State, and local laws, regulations, and permits; Tristar'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 Tristar'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: August 1, 2024

Tristar Products, Inc.

Signature: /S/

Name: Stephen R. Robinson

Title: General Counsel

Date: July 16, 2024

Trend Makers, LLC

Signature: /S/

Name: Stephen R. Robinson

Title: General Counsel

Date: July 16, 2024