

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 Amazon Logistics, Inc. (Amazon),¹ with its principal location at 410 Terry Avenue N, Seattle, Washington 98109 (collectively, the "Parties," or individually, "Party").

LEGAL BACKGROUND

- (1) Purpose. 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.
- (2) Regulation. 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.)
- (3) Regulatory Provisions.
 - a. The Truck and Bus Regulation applies to any person, business, federal government agency, school district or school transportation provider, or broker, that owns, operates, leases, rents or sells vehicles in California. (Cal. Code Regs., tit. 13, § 2025(b).) Affected vehicles are those 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. *Id.*
 - b. The Truck and Bus Regulation requires that in-state or out-of-state motor carriers, California brokers, and California residents who operate or direct the operation of any vehicle subject to this regulation verify that each hired or dispatched vehicle is in compliance with the regulation,

¹ The Notice of Violation in this matter (CARB Case Identification Number: I00637) was issued to Amazon.com, Inc.; however, the conduct alleged in that NOV and resolved by this Settlement Agreement pertains to Amazon Logistics, Inc.

and with the record-keeping requirements of section 2025(s)(4). (Cal. Code Regs., tit. 13, § 2025(X)(2).)

- c. Affected vehicles must be certified to the 2010 model year engines or newer heavy-duty diesel engines. Exceptions may apply to vehicles that meet engine model year schedule requirements for PM filters.
- (4) Penalty Provisions. Under Health and Safety Code section code 39674, failure to comply with the regulatory requirements is a violation of state law that may result in penalties up to ten thousand dollars (\$10,000.00 USD) for strict liability violations, respectively, 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.)

CARB asserts that under Health and Safety Code section 43016, 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 (\$47,363.00² USD) for strict liability violations; respectively, for each action in which the violation occurs. (Cal. Code Regs., tit. 13, § 2025; Health & Saf. Code §§ 39674, 39675, 42400, and 43016.)

CASE BACKGROUND

- (5) Corporate Entity. At all relevant times, Amazon was organized under the laws of the State of Washington. Amazon conducted business in the State of California.
- (6) Allegations. CARB alleges that Amazon violated the Truck and Bus Regulation by failing to comply with the recordkeeping requirements (Cal. Code Regs., tit. 13, § 2025(s)) and compliance requirements (Cal. Code Regs., tit. 13, § 2025(x)) from 2019 through 2021, resulting in violations of verification requirements of the Truck and Bus Regulation. CARB alleges that if paragraphs 1 through 6 were proven, civil penalties could be imposed against Amazon for each and every vehicle involved in the violations and each day.
- (7) Disclosure. Amazon disclosed to CARB facts that CARB alleged were violations of the Truck and Bus Regulation alleged in the preceding paragraph and Amazon took proactive actions to mitigate those violations quickly.
- (8) Acknowledgment. Amazon admits to the facts in paragraphs 5 and 7, and the fact that CARB alleges the violations in paragraph 6. Amazon denies any liability

² As of January 1, 2018, maximum penalties assessed by CARB are increased annually based on the California Consumer Price Index as compiled. (Health & Saf. Code § 42411.)

resulting from the facts and allegations in paragraphs 1 through 7. CARB acknowledges that Amazon has implemented a verification program.

- (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. In order to resolve the violations described herein, Amazon 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 Amazon for the alleged violations referred to above in the Legal Background and Case Background, and Amazon's agreement to complete all terms and conditions set forth below, CARB and Amazon agree as follows:

- (10) Settlement Amount. Amazon shall pay a civil penalty of one million six hundred thousand dollars (\$1,600,000 USD) and agrees to fund a Supplemental Environmental Project (SEP) entitled El Sol Environmental Community Health Worker Learning Hub, through the El Sol Neighborhood Educational Center in the amount of one million six hundred thousand dollars (\$1,600,000 USD), consistent with CARB's SEP Policy, for a **total settlement of three million two hundred thousand dollars (\$3,200,000 USD)**. Amazon shall make both payments within thirty (30) calendar days from the Notification Date.
- (11) Notification Date. The date upon which CARB notifies Amazon according to paragraph 17 (Notices), that the Settlement Agreement is fully executed or when CARB sends the fully executed Settlement Agreement to Amazon.
- (12) Civil Penalty Payment Method. Amazon 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. Amazon 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 Amazon in accordance with paragraph 17 (Notices).
- (13) SEP Payment Method(s). Amazon shall fund the SEP by wire transfer payable to the SEP implementer/recipient, El Sol Neighborhood Educational Center, using instructions provided separately by CARB in a SEP Payment Transmittal Form.

Amazon 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 Amazon in accordance with paragraph 17 (Notices).

- (14) Prohibition Against Financial Benefit. Amazon has agreed that by funding the SEP entitled El Sol Environmental Community Health Worker Learning Hub, Amazon will not receive any direct or indirect financial benefit, and that whenever Amazon publicizes or refers to the SEP or the results of the SEP, Amazon 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 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, Amazon assigns any and all rights against the SEP implementer to CARB.
- (16) Documents. Amazon shall promptly email or mail the signed and dated Settlement Agreement, with a copy of proof of payment of the penalty, mitigation, and/or SEP (if applicable), a copy of the Payment Transmittal Form(s) (if applicable), and the signed and dated Compliance Plan (if applicable) to the address or email in paragraph 17 (Notices).
- (17) 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
Freight Hub Enforcement Branch, Freight Hub Enforcement Section
P.O. Box 2815
Sacramento, California 95812-2815
Settlement_Agreement@arb.ca.gov

As to Amazon:

Amazon Logistics, Inc.
410 Terry Avenue N
Seattle, Washington 98109
regulatoryinquiries@amazon.com

As to Amazon's Legal Representation:

David Metcalf
410 Terry Avenue N
Seattle, Washington 98109
ddmetcal@amazon.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.

- (18) Recovery of Costs. If the Attorney General files a civil action to enforce this Settlement Agreement, Amazon shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorneys' fees, and costs, in the event that CARB is determined to be the prevailing party.
- (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 9 pages and 37 paragraphs.
- (20) Binding Effect. This Settlement Agreement binds Amazon, 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) 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 Amazon 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 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.) CARB asserts that 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) for each action in which the violation occurs under Health and Safety Code section 43016, for violations of the Truck and Bus Regulation. (Cal. Code Regs., tit. 13, § 2025.) This case was not settled based on a per unit penalty.
- (34) Emissions. The provisions cited in paragraph 6 (Allegations) above do not prohibit emissions above a specified level. Without information on engine usage and emission rates, it is not practicable to quantify the excess emissions.
- (35) 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 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. Amazon complied early with the verification requirements of the Heavy-Duty Inspection and Maintenance (HD I/M) Regulation, helping to ensure compliance of tens-of-thousands of hired fleets per year.
- (36) Confidential Business Information. CARB may have based this penalty in part on confidential business information provided by Amazon 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 Amazon 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 Amazon with respect to:

- (i) Noncompliance with or enforcement of any provision of this Settlement Agreement.
 - (ii) Facts that were not disclosed by Amazon 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 to enforce the Settlement Agreement, Amazon 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. For the avoidance of doubt, nothing herein prevents Amazon from asserting any defense to any proceeding initiated by CARB other than a proceeding to enforce this Settlement Agreement.
- (d) This Settlement Agreement does not limit or affect the rights of Amazon 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 Amazon, 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. Amazon is responsible for achieving and maintaining compliance with all applicable federal, State, and local laws, regulations, and permits; Amazon'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 Amazon'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: Steve S. Cliff, Ph.D.

Title: Executive Officer

Date: December 31, 2024

Amazon Logistics, Inc.

Signature: /S/

Name: John Stone

Title: Authorized Representative

Date: December 31, 2024