

## **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 ZIM Integrated Shipping Services Ltd. (ZIM), through its agent, ZIM American Integrated Shipping Services Co. LLC (ZIM USA), with its principal location at 4425 Zim Way, Virginia Beach, Virginia 23462 (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 §§ 39650-39675.)
- (2) Regulation. CARB adopted the *Airborne Toxic Control Measure for Auxiliary Diesel Engines Operated On Ocean-Going Vessels At-Berth in a California Port* (At Berth Regulation) to reduce diesel PM and criteria pollutant emissions from ocean going vessels. (Cal. Code Regs., tit. 17, § 93118.3.)
- (3) Regulatory Provisions. Any person who owns, operates, charters, rents, or leases any United States (U.S.) or foreign flagged container vessel, passenger vessel, or refrigerated cargo vessel that visits a California port is required to meet the operational time limit during 80 percent of each fleet's visits, reduce the baseline fleet power generation (BFPG) by 80 percent for each fleet, as well as submit statements of compliance by March 1 following each compliance year, and maintain records. (Cal. Code Regs., tit. 17, §§ 93118.3(d), and (g).)
- (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 eighty dollars (\$12,180.00 USD) for strict liability violations for each day in which the violation occurs. (Cal. Code Regs., tit. 17, § 93118.3; Health & Saf. Code §§ 39674, 39675, 42400 et seq., 42402 et seq., and 42410.)

### **CASE BACKGROUND**

- (5) Corporate Entity. At all relevant times, ZIM was organized under the laws of the Nation of Israel, and ZIM USA was organized under the laws of New York as a limited liability company. ZIM and ZIM USA conducted business in the State of California.
- (6) Allegations. CARB alleges that ZIM and ZIM USA violated the At Berth Regulation by failing to achieve the baseline power reduction requirements and failing to achieve the operational time limit requirements, as outlined in Notice of Violations SP03012020\_ZIM and SP03012022\_ZIM. CARB alleges that if

paragraphs 1 through 6 were proven, civil penalties could be imposed against ZIM and ZIM USA for each and every megawatt hour involved in the violations and for each day.

- (7) Acknowledgment. ZIM and ZIM USA admit to the facts in paragraphs 1 through 6, but deny 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, ZIM and ZIM USA have taken, or agree 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 ZIM and ZIM USA for the alleged violations referred to above in the Legal Background and Case Background, and ZIM's and ZIM USA's agreement to complete all terms and conditions set forth below, CARB, ZIM and ZIM USA agree as follows:

- (9) Settlement Amount. ZIM and ZIM USA shall pay a civil penalty of one million eight hundred nine thousand six hundred dollars (\$1,809,600.00 USD) to CARB into the Air Pollution Control Fund (civil penalty payment). ZIM and ZIM USA shall make this civil penalty payment within thirty (30) calendar days from the Notification Date.
- (10) Mitigation Amount. ZIM and ZIM USA shall pay for mitigation in the amount of ten million six hundred ninety thousand four hundred dollars (\$10,690,400.00 USD) to CARB into the Air Pollution Control Fund (Mitigation Payment). In lieu of the Mitigation Payment to CARB, ZIM and ZIM USA may implement a mitigation project in California (the Mitigation Project), subject to CARB's approval.
  - a. ZIM and ZIM USA shall, within ninety (90) days of full execution of the Settlement Agreement, submit a proposed Mitigation Project to CARB with an outline for its implementation (the Implementation Plan) for consideration and approval. CARB shall approve or reject the Implementation Plan within ninety (90) days of ZIM and ZIM USA's submittal. The Implementation Plan should demonstrate compliance with the criteria in this Paragraph 10(b), include a detailed description of the Mitigation Project, estimated project implementation costs, an estimated project timeline, and the intended emissions reductions

associated with the project. Upon CARB's approval of the Implementation Plan, ZIM and ZIM USA will provide, within thirty (30) days, a fully executed contract between ZIM and ZIM USA and an administrator of the Mitigation Project, if a third party is selected for the administration of the project.

- b. The Mitigation Project must meet the following criteria:
  - i. The project must be above and beyond any local, state, or federal regulatory requirements in order to mitigate the excess emissions.
  - ii. The project cannot directly or indirectly benefit ZIM or ZIM USA.
  - iii. The project must include milestones and enforceable commitments.
  - iv. The project's components must be submitted within the timeframe provided in this Paragraph 10.
- c. If CARB (through the Executive Officer or his delegate) approves the Implementation Plan, the Mitigation Payment identified in Paragraph 10 of this Settlement Agreement will be used by ZIM and ZIM USA to pay for the administration and project costs of the Mitigation Project. The administration costs should not exceed 3 percent of the Mitigation Payment.
- d. If CARB denies the Implementation Plan, ZIM and ZIM USA shall pay CARB the entire Mitigation Payment within thirty (30) days of any of the following:
  - i. ZIM and ZIM USA do not submit the Implementation Plan and an executed administrator contract pursuant to this Paragraph 10;
  - ii. CARB denies the Implementation Plan; or
  - iii. ZIM and ZIM USA provide notice to CARB that all or part of the Implementation Plan CARB approved cannot or will not be fully implemented.

(11) Notification Date. The date upon which CARB notifies ZIM and ZIM USA, according to Paragraph 17 (Notices), that the Settlement Agreement is fully executed or when CARB sends the fully executed Settlement Agreement to ZIM and ZIM USA, whichever shall occur first.

(12) Civil Penalty and Mitigation Payment Method. ZIM and ZIM USA shall pay the civil penalty and mitigation amounts by check, credit card, wire transfer, or

portal, payable to the "California Air Resources Board," using instructions provided by CARB in separate Payment Transmittal Forms for each of these payments. ZIM and ZIM USA are 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 payment 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. In the event that ZIM and ZIM USA pay CARB the Mitigation Payment under the circumstances under Paragraph 10 (Mitigation Amount), subd. (d), CARB shall deposit the Mitigation Payment into the Air Pollution Control Fund for the purpose of mitigating excess NOx and PM emissions from the alleged violations in the geographic areas impacted. Should payment instructions change, CARB will provide notice to ZIM and ZIM USA in accordance with Paragraph 17 (Notices).

- (13) SEP Payment Method. ZIM and ZIM USA shall fund the SEP by wire transfer, payable to the SEP Recipient/Administrator, Little Manila Foundation, using instructions provided by CARB in a separate SEP Payment Transmittal Form. ZIM and ZIM USA are 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 ZIM and ZIM USA in accordance with Paragraph 17 (Notices).
- (14) 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, ZIM and ZIM USA assign any and all rights against the SEP Recipient/Administrator to CARB.
- (15) Prohibition Against Financial Benefit. ZIM and ZIM USA have agreed that by implementing a Mitigation Project and funding the SEP entitled My Free Tree Project: Promoting Cleaner Air in AB 617 Areas through Strategic Urban Greening Partnerships, ZIM and ZIM USA will not receive any direct or indirect financial benefit, and that whenever ZIM and ZIM USA publicize or refer to the Mitigation Project, SEP or the results of the Mitigation Project and SEP, ZIM and ZIM USA will state that the Mitigation Project and SEP are being undertaken as part of the settlement of a CARB enforcement action.
- (16) Documents. ZIM and ZIM USA shall promptly email or mail the signed and dated Settlement Agreement 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 / Port and Rail Enforcement Section  
P.O. Box 2815  
Sacramento, California 95812-2815  
[Settlement\\_Agreement@arb.ca.gov](mailto:Settlement_Agreement@arb.ca.gov)

As to ZIM and ZIM USA:

Crystal Kennedy  
4425 Zim Way  
Virginia Beach, Virginia 23462  
[Kennedy.crystal@zim.com](mailto:Kennedy.crystal@zim.com)

As to ZIM and ZIM USA Legal Representation:

Joseph A. Walsh II  
180 E. Ocean Blvd., Suite 500  
Long Beach, California 90802  
[joe.walsh@cwn-law.com](mailto:joe.walsh@cwn-law.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) Repeat Violations. ZIM and ZIM USA agree to comply with all regulatory requirements and acknowledge 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 10 pages and 37 numbered paragraphs.
- (20) Binding Effect. This Settlement Agreement binds ZIM and ZIM USA, 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 payment, Mitigation Payment, and all other undertakings above, CARB hereby releases ZIM and ZIM USA and its principals, officers, receivers, trustees, successors and assignees, subsidiary and parent corporations, from any and all 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 penalty in this case could be a maximum of twelve thousand one hundred eighty dollars (\$12,180.00 USD) per day per violation under Health and Safety Code section 39674, for violations of the At Berth Regulation (Cal. Code Regs., tit. 17, § 93118.3). The final per unit penalty in this case is seven hundred fifty-two dollars (\$752.00 USD) for calendar year 2020 alleged violations, eight hundred twenty-seven dollars (\$827.00 USD) for calendar year 2021 alleged violations, and nine hundred forty-nine dollars (\$949.00 USD) for calendar year 2022 alleged violations. The total agreed upon civil penalty of one million eight hundred nine thousand six hundred dollars (\$1,809,600.00 USD) over an unspecified number of days of violation is based upon 2,127 alleged violations.
- (34) Emissions. The provisions cited in Paragraph 6 (Allegations) above do not prohibit emissions above a specified level. CARB alleges that the fleet did not meet the regulatory requirements, and that therefore, all of the emissions were in 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 alleged 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 alleged 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 ZIM and ZIM USA or confidential settlement communications.

(37) Effect of Settlement/Reservation of Rights. The following shall apply:

- (a) This Settlement Agreement resolves all 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 ZIM and ZIM USA 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 ZIM and ZIM USA with respect to:
  - (i) Noncompliance with or enforcement of any provision of this Settlement Agreement.
  - (ii) Facts that were not disclosed by ZIM and ZIM USA 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 alleged 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, ZIM and ZIM USA 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 ZIM and ZIM USA 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 ZIM and ZIM USA, 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. ZIM and ZIM USA are responsible for achieving and maintaining compliance with all applicable federal, State, and local laws, regulations, and permits; ZIM and ZIM USA'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 ZIM and ZIM USA'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: October 3, 2025

**ZIM Integrated Shipping Services Ltd.**

Signature: /S/

Name: Eli Glickman

Title: President & Chief Executive Officer

Date: September 29, 2025

**ZIM Integrated Shipping Services Ltd.**

Signature: /S/

Name: Noam Nativ

Title: Executive Vice President General Counsel

Date: September 29, 2025

**ZIM American Integrated Shipping Services Co. LLC**

Signature: /S/

Name: Crystal Kennedy

Title: General Counsel

Date: September 29, 2025

**ZIM American Integrated Shipping Services Co. LLC**

Signature: /S/

Name: Nissim Yochai

Title: President

Date: September 29, 2025