SECOND AGREEMENT REGARDING ALLEGED NON-COMPLIANCE WITH CONSENT DECREE

WHEREAS,

A. The United States, on behalf of the U.S. Environmental Protection Agency ("EPA"), and Cummins Engine Company, Inc. (now called Cummins Inc.) ("Cummins") (collectively, the "Parties") are parties to a Consent Decree entered in this action on July 1, 1999, as amended, and Cummins and the California Air Resources Board ("CARB") are parties to a California Settlement Agreement of July 1, 1999, as amended;

B. The United States and Cummins, and separately CARB and Cummins, entered into settlement agreements in September 2006 to resolve prior allegations of noncompliance with, respectively, the Consent Decree and the California Settlement Agreement, and Cummins' settlement agreement with the United States has been filed with the Court and is pending public comment;

C. The United States contends that Cummins violated several provisions of the Consent Decree's Section IX (Additional Injunctive Relief/Offset Projects) that were not addressed in the settlement agreements referred to above;

D. Specifically, the United States contends that Cummins: used in its Averaging, Banking and Trading ("AB&T") program credits from 192 model year 2003 and 130 model year 2004 compressed natural gas engines that were subsidized as part of a Consent Decree Offset Project, leading to the improper generation of 243.5 megagrams (Mg) of NOx + NMHC and 13.9 Mg of PM urban bus credits (disclosed in its letter of September 7, 2006, Attachment A hereto); and failed to timely complete work on, or to timely submit an adequate completion report for, several work plans for its offset Projects approved by EPA under the Consent Decree (a list of these projects and their status is in Attachment B hereto);

E. The Parties have engaged in good faith, arms-length negotiations to address the United States' contentions of non-compliance, and, as a result of their negotiations, have consented to the Agreement ("Second Agreement") set forth herein;

F. Cummins and CARB are simultaneously entering into a separate Second Agreement addressing issues similar to several of the issues addressed herein.

NOW, THEREFORE, without trial, litigation, or adjudication of any issue of fact or law, and without this Second Agreement constituting an admission by any Party with respect to the matters described above, it is AGREED between the Parties as follows:

I. APPLICABILITY

1. This Second Agreement applies to and is binding upon the United States and upon Cummins, its employees, contractors, agents, successors, and assigns. Unless approved by the Parties in writing, any change in Cummins' ownership or corporate status shall in no way alter Cummins' responsibilities under this Second Agreement. In any action to enforce this Second Agreement, Cummins shall not raise as a defense the failure of its officers, directors, agents, servants, contractors, or employees or their successors to take actions necessary to comply with the provisions hereof.

2. Cummins shall provide a copy of this Second Agreement to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Second Agreement, as well as to any contractor retained to perform work required under this Second Agreement. Cummins shall require as a term of any such contract performance of the work in conformity with the terms of this Second Agreement.

II. DEFINITIONS

Unless specifically defined in this Section or elsewhere in this Second Agreement, terms used herein shall have the meanings referred to or set forth in Section II (Definitions) of the Consent Decree. The following definitions shall apply for purposes of this Second Agreement:

"Effective Date" means the date upon which the United States provides written notice to Cummins and the Court that the public comment period has closed and that comments received, if any, do not require modification of or the United States' withdrawal from this Second Agreement.

III. REMEDIAL MEASURES

3. By December 31, 2006, Cummins shall permanently retire the following from Cummins AB&T accounts: 292.2 Mg of NOx + NMHC credits and 16.7 Mg of PM credits.

IV. REPORTING

4. By January 31, 2007, Cummins shall transmit proof of its compliance with Paragraph 3 of this Second Agreement to the United States in accordance with Paragraph 111 of the Consent Decree.

V. AGREED PENALTY UNDER CONSENT DECREE

5. Cummins shall pay a total penalty of $2,170,000.00 to the United States within thirty days of the Effective Date of this Second Agreement. Payment shall be made by Electronic Funds Transfer by 4:00 p.m. Eastern Standard Time on the due date to the Department of Justice lockbox bank in accordance with specific instructions to be provided to Cummins upon the Effective Date and shall reference Department of Justice Case No. 90-5-2-1-

2136A/1, the civil action number of this matter, and this Paragraph of the Second Agreement. Cummins shall transmit notice of such payments to the United States in accordance with Paragraph 111 of the Consent Decree. Cummins shall not deduct the payment required by this Paragraph in calculating its federal income tax.

VI. ADDITIONAL STIPULATED PENALTIES UNDER THIS SECOND AGREEMENT

6. If Cummins fails to retire the approved number of Tons of NOx + NMHC credits and PM credits by the deadlines set forth in Paragraph 3 of this Second Agreement, it shall pay to the United States a stipulated penalty of $500 per day for each day the retirement is late.

7. If Cummins fails to pay the penalty set forth in Paragraph 5 by the deadline, it shall pay to the United States a stipulated penalty of $1000 per day for each day the payment is late.

VII. EFFECT OF THIS SECOND AGREEMENT

8. Upon completion by Cummins of all its obligations under this Second Agreement, this Second Agreement resolves the United States' potential claims for stipulated, administrative, and civil penalties and other relief enforcing the Consent Decree with respect to:

(a) Cummins' generation and use of AB&T credits from the 2003 and 2004 Urban Bus Engines as disclosed in Attachment A; and

(b) Cummins' failure to timely complete work on, failure to submit an adequate completion report for, or other deficiencies relating to the EPA-approved work plans for offset projects set forth in Attachment B.

The United States reserves its right to seek further penalties or other relief should Cummins fail to complete the Hybrid Bus Project by the date set forth in Attachment B or should there be any other deficiencies with regard to that Project.

9. In consideration of the actions that will be performed and the payments that will be made by Cummins under the terms of this Second Agreement, EPA shall not base a determination under Section 207(c)(1) of the Act, 42 U.S.C. § 7541, that Cummins 2003-2006 urban bus engines do not conform to the regulations prescribed under Section 202 of the Act, 42 U.S.C. § 7521, or a determination under Section 206(b) of the Act, 42 U.S.C. § 7525(b), to suspend or revoke a Certificate of Conformity, on the basis that Cummins had insufficient AB&T credits to offset the projected emissions from such engines due to the activities disclosed in Attachment A.

10. This Second Agreement does not pertain to any matter other than those expressly specified in Paragraphs 8-9. Nothing in this Second Agreement shall relieve Cummins of its obligation to comply with applicable Federal, State and local laws and regulations, and this Second Agreement does not resolve the liability, if any, of any person or entity for any civil

claims or claims for stipulated penalties other than the claims referred to in Paragraphs 8-9, or for any criminal claims.

11. This Second Agreement does not limit, enlarge, or affect the rights of any Party to the Consent Decree as against any third parties. Nothing in this Second Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Second Agreement.

VIII. GENERAL PROVISIONS

12. The provisions of Section XV (Force Majeure) of the Consent Decree shall apply to any Force Majeure event asserted by Cummins in connection with this Second Agreement. Any dispute arising under this Second Agreement shall be resolved in accordance with the Section XVI (Dispute Resolution) of the Consent Decree. This Second Agreement is entered into in furtherance of the objectives of the Consent Decree. Cummins shall allow access, provide access to information, and retain documents relating to the implementation of this Second Agreement in accordance with Sections XVIII (Right of Entry) and XIX (Access to Information and Retention of Documents) of the Consent Decree.

13. The records required by this Second Agreement, including those required by Paragraph 4, shall be retained by Cummins in accordance with the record retention requirements of Section XVIII (Access to Information and Retention of Documents) of the Consent Decree.

14. There shall be no modification of this Second Agreement without written agreement of the Parties.

15. This Second Agreement contains the entire agreement between the United States and Cummins with respect to the subject matter hereof. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Second Agreement.

16. The Assistant Attorney General of the Environment and Natural Resources Division of the Department of Justice and the undersigned representative of Cummins each certify that he or she is fully authorized to enter into the terms and conditions of this Second Agreement and to execute and legally bind the Party he or she represents.

17. The United States intends to file a "Notice of Second Agreement Regarding Alleged Non-compliance with Consent Decree" with the Court advising it of the issues addressed herein and the Parties' agreement. Following the filing of the Notice, the United States will publish notice of this Second Agreement in the Federal Register and the Second Agreement shall be subject to a public comment period. The United States may withdraw or withhold its consent to this Second Agreement if comments received disclose facts or considerations indicating that this Second Agreement is inappropriate, improper, or inadequate. After the conclusion of the comment period, the United States will advise Cummins and the Court whether it continues to consent to this Second Agreement.

18. The United States and Cummins agree that the provisions of paragraph 151 of the Consent Decree apply to this Second Agreement.

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Signature Page

FOR PLAINTIFF, UNITED STATES OF AMERICA

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FOR DEFENDANT, Cummins Inc.

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Vice President
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Columbus, IN 47203-3005

Attachment A

COMPRESSED NATURAL GAS CREDITS

Cummins disclosed to EPA on September 7, 2006 that it had collected emissions credits in the course of performing three Offset Projects under the Consent Decree (United States v. Cummins, Case No. 98 2546).

A total of 361 compressed natural gas engines were subsidized under these projects. Of the 361 engine subsidized, 322 were incorrectly used to generate AB&T credits. The number of credits generated was as follows: 243.5 mega grams ("Mg") of NOx + NMHC (268 tons) and 13.9 Mg of Urban Bus PM credits (15 tons) for these 322 engines. Two families of engines were involved in this matter. These are composed of 192 model year 2003 family 3CEXH0505CBK engines and 130 model year 2004 family 4CEXH0505CBK engines.

Of the 243.5 Mg of NOx + NMHC generated by these engines, none was used for production from 2003 to date. Of the 13.9 MG of UBUS PM generated by these engines, 10.8 Mg were used by the end of 2004.

The Consent Decree and the Settlement Agreement contain the following statement: "No emission reductions generated by the engines required by the (offset) project may be used or relied on for purposes of Federal or State emission averaging, banking, trading or other emission compliance programs." (Section 101)

In order to correct this mistake, Cummins proposes the following:

1. Cummins will correct the Nox + NMHC AB&T record by deducting 292.2 (243.5 times 120%) Mg of credits at the end of 2006.

2. Cummins will correct the PM record by deducting 16.7 (13.9 times 120%) Mg of PM credits at the end of 2006.

Attachment B

EPA
OFFSET PROJECTS

Project	Incomplete (Revised Completion Due Date)	Complete (Final Completion Report Submitted)
King County Retrofit		4/4/2006
Gwinnett Co.		4/4/2006
MBTA		4/4/2006
MARTA		4/4/2006
NYDOS		4/4/2006
WMATA		4/4/2006
Exhaust Aftertreatment Research		9/08/2006
Low Nox Incentive - 49 States		9/08/2006
Hybrid Bus	3/31/2007	