

## SETTLEMENT AND RELEASE AGREEMENT

### 1. INTRODUCTION

#### 1.1. Ecological Alliance, LLC, Cummins Inc., and Camping World, LLC

This Settlement Agreement is entered into by and between Ecological Alliance, LLC ("Alliance"), on the one hand, and Cummins Inc. ("Cummins") and Camping World, LLC ("Camping World"), on the other hand, with Alliance, Cummins, and Camping World collectively referred to as the "Parties."

#### 1.2. General Allegations

Alliance alleges that Cummins and Camping World manufactured and/or distributed and/or offered for sale in the State of California Cummins generator covers, including but not limited to UPC# 690781008007, that allegedly contain Perfluorooctanoic Acid ["PFOA"] ("Product") and that such sales have not included warnings pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code sections 25249.6 *et seq.* ("Proposition 65"). California has identified and listed PFOA under Proposition 65 as a chemical known to the State of California to cause cancer, birth defects or other reproductive harm.

#### 1.3. Product Description

The Products that are covered by this Settlement Agreement are defined as generator covers, that allegedly contain PFOA that Cummins, Camping World, their subsidiaries, affiliates, related companies, suppliers, and/or distributors have sold, offered for sale, supplied, and/or distributed in California.

#### **1.4. Notice of Violation**

On November 7, 2024, Alliance served Cummins, Camping World, and the requisite public enforcement agencies eligible to initiate Proposition 65 actions on behalf of the People of the State of California with documents entitled "60-Day Notice of Violation" ("Notice") that provided Cummins, Camping World, and such public enforcers with notice that Cummins and Camping World were allegedly in violation of California Health & Safety Code section 25249.6 for failing to warn consumers and customers that the Products exposed users in California to PFOA. To the best of the Parties' knowledge, no public enforcer has commenced or is diligently prosecuting the allegations set forth in the Notice.

#### **1.5. No Admission**

The Parties enter into this Settlement Agreement to settle disputed claims between them as set forth herein and in the Notice concerning compliance with Proposition 65. Specifically, Cummins and Camping World deny the material factual and legal allegations contained in Alliance's Notice and maintain that the Products have been and are in compliance with Proposition 65 and every applicable other statutory, regulatory, common law or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by Cummins, Camping World, or any of their subsidiaries, affiliates, related companies, suppliers, or distributors of any fact, finding, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Cummins, Camping World, or any of their subsidiaries, affiliates, related companies, suppliers, or distributors of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Cummins, Camping World, and all of their subsidiaries, affiliates, related companies, suppliers, and distributors. Cummins and Camping World enter into this Agreement merely to avoid the

expense litigation. However, nothing in this section shall diminish or otherwise affect the obligations, responsibilities, and duties of Cummins under this Settlement Agreement.

**1.6. Effective Date**

For purposes of this Settlement Agreement, the term "Effective Date" shall mean the date this Settlement Agreement is fully executed.

**2. INJUNCTIVE RELIEF: WARNING**


**2.1. Warning**


Except as otherwise provided in the sentence following this one, Cummins shall not sell into, nor manufacture, distribute, or offer for sale in, California any Product, as that term is defined above, that knowingly contains any intentionally added PFOA, unless Cummins complies with Section 2.2 below. Notwithstanding the foregoing, in no case shall any of the Products that are already in the stream of commerce as of the Effective Date, or enter into the stream of commerce within 90 days after the Effective Date, be subject to any Proposition 65 warning requirement, including but not limited to those in this Section and Section 2.2 below.

**2.2. Warning Language**

Where required, Cummins shall provide Proposition 65 warnings as follows on the Products:

(a) Cummins may use any of the following warning statements in full compliance with this Section:

- (1)  **WARNING:** This product can expose you to Perfluorooctanoic Acid [PFOA], which is known to the State of California to cause cancer and birth defects or other reproductive harm. For more info go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

(2)  **WARNING:** Risk of Cancer and Reproductive Harm from exposure to Perfluorooctanoic Acid [PFOA]. See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

(b) Where the sign, label or shelf tag for the product is not printed using the color yellow, the symbol may be printed in black and white. The symbol shall be placed to the left of the text of the warning, in a size no smaller than the height of the word "WARNING".

(c) The requirements for warnings, set forth in subsection (a) above are imposed pursuant to the terms of this Settlement Agreement. The Parties recognize that these are not the exclusive methods of providing a warning under Proposition 65 and its implementing regulations.

(d) Foreign Languages. Additionally, if a Product's labeling is provided in a language other than English, the warning will be provided in that language in addition to English.

(e) Online Sales. If Cummins sells any of the Products via an internet website it controls to customers located in California, the warning requirements of this section shall be satisfied if the foregoing warning appears either: (a) on the same web page on which a Product is displayed and/or described; (b) on the same page as the price for the Product; (c) on one or more web pages displayed to a California purchaser prior to purchase during the checkout process; or (d) via a hyperlink taking the customer to a separate page containing the warning language, provided that the hyperlink appears on the same page as either the product description or product price are displayed, or appears

prior to completion of the sale at checkout. Alternatively, a symbol consisting of a black exclamation point in a yellow or white equilateral triangle may appear adjacent to or immediately following the display, description, price, or checkout listing of the Product, if the warning statement appears elsewhere on the same web page in a manner that clearly associates it with the product(s) to which the warning applies.

(f) If Proposition 65 warnings for PFOA should no longer be required, Cummins shall have no further obligations pursuant to this Settlement Agreement.

**3. PENALTIES PURSUANT TO HEALTH & SAFETY CODE SECTION 25249.7(b)**

In settlement of all the claims referred to in this Settlement Agreement, Cummins shall pay a total of \$800 in civil penalties in accordance with this Section. The penalty payment will be allocated in accordance with California Health & Safety Code section 25249.12(c)(1) & (d), with 75% of the funds remitted to the California Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty remitted to Alliance. Alliance's counsel shall be responsible for delivering OEHHA's portion of any penalty payment made under this Settlement Agreement and provide Cummins counsel with confirmation of such delivery at the time it is made pursuant to Paragraph 8 below.

**4. REIMBURSEMENT OF FEES AND COSTS**

The Parties reached an accord on the compensation due to Alliance and its counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, Cummins shall reimburse Alliance's counsel for fees and costs, incurred because of investigating and bringing this matter to Cummins's attention. Cummins shall pay Alliance's counsel \$13,000

for all attorneys' fees, expert and investigation fees, and related costs associated with this matter and the Notice.

**5. PAYMENT INFORMATION**

By April 11, 2025, Cummins shall make a total payment of Thirteen Thousand Eight Hundred Dollars (\$13,800) for the civil penalties and attorney's fees / costs by wire transfer to Plaintiff's counsel Custodio & Dubey LLP:

Bank: Bank of America, N.A.

Routing No.: 026009593

Account No.: 325149324377

Beneficiary: Custodio & Dubey LLP

Other than this payment, each side is to bear its own attorneys' fees and costs.

**6. RELEASE OF ALL CLAIMS**

**6.1. Release of Cummins, Camping World, and Downstream Customers and Upstream Vendors**

In further consideration of the promises and agreements herein contained, including but not limited to the payments to be made pursuant to Sections 3 and 4 above, Alliance, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives and releases all rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims relating to the Products, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses (including, but not limited to, investigation fees, expert fees and attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "Claims"), against Cummins, Camping World, and each entity to whom Cummins

and/or Camping World directly or indirectly distributes any of the Products to, sells any of the Products to, or purchases any of the Products from, including upstream and downstream suppliers, distributors, wholesalers, vendors, licensors, licensees, auctioneers, retailers, franchisees, dealers, shareholders, cooperative members, customers, owners, sellers, purchasers, users, including but not limited to each and every of their respective subsidiaries, affiliates and all of their directors, officers, employees, and agents (collectively with Cummins and Camping World, the "Releasees"), as well as each of the Releasees' respective sister and parent entities, subsidiaries, affiliated entities, shareholders, marketplaces, directors, officers, agents, employees, attorneys, successors, and assignees.

Alliance also, in its capacity, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees and *not* in its representative capacity, provides a general release herein which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of any nature, character or kind, known or unknown, suspected or unsuspected, against the Releasees. Alliance acknowledges that it is familiar with California Civil Code section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Alliance, in its capacity only, and on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on it by the provisions of California Civil Code section 1542 as well as under any other state or federal statute or common

law principle of similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters.

**6.2. Cummins's Release of Alliance**

Cummins waives any and all claims against Alliance, its attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Alliance and its attorneys and other representatives, whether in the course of investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to the Products.

**7. GOVERNING LAW**

The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. If Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then Cummins shall have no further obligations pursuant to this Settlement Agreement.

**8. NOTICES**

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be in writing and personally delivered or sent by: (a) first-class, (registered or certified mail) return receipt requested; (ii.) email; or (iii) overnight courier on any party by the other party at the following addresses:

For Cummins and/or Camping World:

Matthew M. Mendoza, Esq.  
Calfee, Halter & Griswold LLP  
The Calfee Building  
1405 East Sixth Street  
Cleveland, OH 44114

[mmendoza@calfee.com](mailto:mmendoza@calfee.com)



For Alliance:

Vineet Dubey, Esq.  
Custodio & Dubey LLP  
445 S. Figueroa St., Suite 2520  
Los Angeles, CA 90071

dubey@cd-lawyers.com

Any party, from time to time, may specify in writing to the other party a change of address to which all notices and other communications shall be sent.

**9. COUNTERPARTS; FACSIMILE/E-SIGNATURES**

This Settlement Agreement may be executed in counterparts and by facsimile or e-signatures, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

**10. ENFORCEMENT**

If a dispute should arise concerning a modification of this Agreement, then the Parties shall meet and confer in good faith to attempt to resolve the dispute, but if it cannot be resolved in that manner, either Party may present the dispute to the court for resolution.

**11. COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(f)**

Alliance agrees to comply with the reporting form requirements referenced in California Health & Safety Code § 25249.7(f).

**12. ENTIRE AGREEMENT**


This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and all related prior discussions, negotiations, commitments and understandings. No other agreements, oral or otherwise, exist to bind either of the Parties.

**13. MODIFICATION**

This Settlement Agreement may be modified only by a written agreement signed by the Parties.

**14. AUTHORIZATION**

The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this Settlement Agreement.

<p style="text-align: center;"><b>AGREED TO:</b></p> <p>Date: March <u>12</u>, 2025</p> <p>By:  On Behalf of Ecological Alliance, LLC</p>	<p style="text-align: center;"><b>AGREED TO:</b></p> <p>Date: March __, 2025</p> <p>By: _____ On Behalf of Cummins Inc.</p> <p>Date: March <u>4/3</u>, 2025</p> <p>By: <u>Kate Christy</u> <small>Kate Christy (Apr 3, 2025 09:39 CDT)</small> On Behalf of Camping World, LLC</p>
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