SETTLEMENT AGREEMENT AND RELEASE

This SETTLEMENT AGREEMENT AND RELEASE (hereinafter "Agreement") is entered into by and between the STATE OF CALIFORNIA AIR RESOURCES BOARD (hereinafter "ARB"), with its principal office at 1001 I Street, Sacramento, California 95814 and AMERICAN HONDA MOTOR CO., INC. (hereinafter "HONDA"), with its principal place of business at 1919 Torrance Blvd., Torrance, California 90501-2746.

RECITALS

(1) California Health and Safety Code (H&SC) Section 43151 states, "No person who is a resident of, or who operates an established place of business within this state shall import, deliver, purchase, rent, lease, acquire, or receive a new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine for use, registration, or resale in this state unless such motor vehicle engine or motor vehicle has been certified pursuant to this chapter. No person shall attempt or assist in any such action."

(2) H&SC section 43152 states, "No person who is engaged in this state in the business of selling to an ultimate purchaser, or renting or leasing new motor vehicles or new motor vehicle engines, including, but not limited to, manufacturers, distributors, and dealers, shall intentionally or negligently import, deliver, purchase, receive, or otherwise acquire a new motor vehicle, new motor vehicle engine, or vehicle with a new motor vehicle engine which is intended for use primarily in this state, for sale or resale to an ultimate purchaser who is a resident of or doing business in this state, or for registration, leasing or rental in this state, which has not been certified pursuant to this chapter. No person shall attempt or assist in any such act."

(3) H&SC section 43153 states, "No person who is engaged in this state in the business of selling to an ultimate purchaser or renting or leasing new motor vehicles or new motor vehicle engines, including, but not limited to, manufacturers, distributors, and dealers, shall intentionally or negligently sell, or offer to sell, to an ultimate purchaser who is a resident of or doing business in this state, or lease, offer to lease, rent, or offer to rent, in this state any new motor vehicle, new motor vehicle engine, or vehicle with a new motor vehicle engine, which is intended primarily for use or for registration in this state, and which has not been certified pursuant to this chapter. No person shall attempt or assist in any such action."

(4) H&SC section 43154(a) states, "Any person who violates any provision of this article shall be liable for a civil penalty not to exceed five thousand dollars ($5,000) per vehicle."

(5) Vehicle Code section 27156(c) provides that "No person shall install, sell, offer for sale, or advertise any device intended for use with, or as a part of, any required motor vehicle pollution control device or system which alters or modifies the original design or performance of any such motor vehicle pollution control device or system."

(6) Vehicle Code section 27156(h) provides that this section shall not apply to an alteration, modification, or modifying device found by resolution of the State Air Resources Board to either not reduce the effectiveness of any required motor vehicle pollution control device or result in emissions from any such modified or altered vehicle which are at levels that comply with existing state or federal standards for the model year of the vehicle being modified or converted.

(7) California Code of Regulations, title 13, section 2222(e) provides, "The Executive Officer may exempt add-on and modified parts based on an evaluation conducted in accordance with the 'Procedures for Exemption of Add-on and Modified Parts,' [The Procedures] adopted by the state board on November 4, 1977, as amended June 1, 1990."

(8) California Code of Regulations, title 13, section 2222(b) provides that "no person or company doing business in interstate commerce shall advertise in California any device, apparatus, or mechanism which alters or modifies the original design or performance of any required motor vehicle pollution control device or system and not exempted from Vehicle Code section 27156 unless each advertisement contains a legally adequate disclaimer."

(9) California Code of Regulations, title 13, section 2222(f) provides, "Each person engaged in the business of retail sale or installation of an add-on or modified part which has not been exempted from Vehicle Code section 27156 shall maintain records of such activity which indicate date of sale, purchaser name and address, vehicle model and work performed if applicable. Such records shall be open for reasonable inspection by the Executive Officer or his/her representative. All such records shall be maintained for four years from the date of sale or installation."

(10) In addition, California Code of Regulations, title 13, section 2225(a) provides, in pertinent part, that the Executive Officer may seek fines for violations of Vehicle Code section 27156 or other laws or regulations, as applicable.

(11) Health and Safety Code section 43016 states "Any person who violates any provision of this part, or any order, rule, or regulation of the state board adopted pursuant to this part, and for which violation there is not provided in this part any other specific civil penalty or fine, shall be subject to a civil penalty not to exceed five hundred dollars ($500) per vehicle, portable fuel container, spout, engine, or other unit subject to regulation under this part, as these terms are defined in this division or state board regulations."

(12) On September 23, 2014, HONDA met with ARB certification staff to discuss its 2015 model year (MY) certification applications for its CRF 250X and 450X off-road motorcycle models, which applications disclosed the existence of dual ignition maps on the supplied ignition control module. This type of information is required to be included in certification application submittals to ARB. Accessing the maps changed the vehicles' ignition timing, but did not change the vehicles' fuel mapping or other characteristics. After ascertaining that the motorcycles would meet ARB emissions requirements with either map accessed, ARB issued executive orders allowing these models to be sold in California.

(13) Previously, on July 23, 2014, HONDA self-disclosed the existence of the same dual ignition maps (on the same ignition control module) in three (3) of its prior model year off-road vehicle models, and admitted that it had inadvertently failed to include both maps in the original certification applications for the vehicles, which information is required to be included in certification application submittals to ARB. In its July 23, 2014, submission, HONDA indicated that the dual maps were intended for use by customers engaged in closed course competition activities. HONDA further indicated that internal tests conducted in accordance with ARB procedures showed that accessing the secondary maps had negligible impact on vehicle emissions. Later third party tests provided similar results.

(14) HONDA imported and delivered for sale 2012 through 2014 MY off-highway motorcycles and all-terrain vehicles into California (858 vehicles) that were equipped with the two (2) ignition maps. HONDA did describe one of these maps in the applications for California certification, but admits that it did not describe the second ignition map. Therefore, these off-highway motorcycles and all-terrain vehicles were not certified by ARB for sale or use in California pursuant to Article 1.5 of Chapter 2, Part 5, Division 26 of the California Health and Safety Code when HONDA sold them in California. As noted above, HONDA was later able to obtain certification of vehicles in this same configuration after it disclosed this configuration to ARB.

(15) HONDA further disclosed that it sold seven (7) different modification parts for the CRF 250X off-road motorcycles and six (6) modification parts for the CRF 450X model off-road motorcycles. HONDA did not obtain an exemption from ARB and therefore these parts should not have been sold. HONDA provided sales data for the modification part kits. It was determined that 30 kits had been sold in California.

(16) HONDA has fully cooperated with ARB in resolving this matter by self-disclosing the facts and circumstances regarding the vehicles described in recital paragraphs 12 - 15 of this agreement. ARB would likely not have discovered the information that was self-disclosed by HONDA through traditional investigatory means. HONDA's self-disclosure saved ARB resources and negated the need to allege violations against HONDA.

(17) HONDA is willing to enter into this Agreement solely for the purpose of settlement and resolution of this matter with ARB. ARB accepts this Agreement in termination of this matter. Accordingly, the parties agree to resolve this matter completely by means of this Agreement, without the need for formal litigation.

TERMS AND RELEASE

In consideration of ARB not filing a legal action against HONDA for the violations referred to above, ARB and HONDA agree as follows:

(1) Within thirty (30) days after execution of this agreement by both parties, HONDA shall make full payment of penalties in the sum of one million thirty seven thousand one hundred dollars ($1,037,100) as follows:

- $777,825 payable to the **California Air Pollution Control Fund**
- $259,275 payable to the **San Joaquin Valley School Bus Supplemental Environmental Project**

The signed Agreement and any future mailings or documents required per the terms of this Agreement shall be mailed to:

Duong Trinh, Air Pollution Specialist
Air Resources Board, Enforcement Division
9480 Telstar Ave. No.4
El Monte, CA 91731

Please submit payment with the attached "Settlement Agreement Payment Transmittal Form" (Attachment A) and send to:

Certified or Cashier's Checks:

California Air Resources Board
Accounting Office
P.O. Box 1436
Sacramento, California 95812-1436

Wire Transfers:

State of California Air Resources Board
c/o Bank of America, Inter Branch to 0148
Routing No. 0260-0959-3 Account No. 01482-80005
Notice of Transfer: Asha Sharma Fax: (916) 322-9612
Reference: ARB Case # MSES-15-004

Wire Transfer Fee: Vendor is responsible for any bank charges incurred for processing wire transfers.

Notification of each wire transfer shall be provided to:

Duong Trinh
California Air Resources Board
Enforcement Division
duong.trinh@arb.ca.gov
(626) 350-6560

(2) Effect of Untimely Payment. If a payment or payment installment is not made within ten (10) business days of the date specified above without first obtaining written permission from ARB Enforcement, the entire remaining balance, plus a penalty interest rate of 10% per annum on the entire remaining balance from the date initially due shall become immediately due and payable without notice or demand.

(3) If the Attorney General files a civil action to enforce this settlement agreement, HONDA shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs.

(4) It is agreed that if HONDA at any time becomes insolvent, or makes an assignment for the benefit of creditors or similar action adversely involving HONDA, or a proceeding or petition under any bankruptcy, reorganization, arrangement of debt, insolvency, readjustment of debt, or receivership law or statute is filed by or against HONDA, or a trustee in bankruptcy, custodian, receiver or agent is appointed or authorized to take charge of any of HONDA's properties, or if any deposit account or other property of HONDA be attempted to be obtained or held by writ of execution, garnishment, attachment, condemnation, levy, forfeiture or other legal process, or HONDA takes any action to authorize any of the foregoing, the entire remaining balance becomes immediately due and payable without notice or demand.

(5) This Agreement shall apply to and be binding upon HONDA and its principals, officers, directors, agents, dealers, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations and upon ARB and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Agreement.

(6) Now therefore, in consideration of the payment by HONDA in the amount of one million thirty seven thousand one hundred dollars ($1,037,100) to the California Air Pollution Control Fund and the San Joaquin Valley School Bus SEP, ARB hereby releases HONDA and its principals, officers, directors, agents, dealers, parents, subsidiaries, predecessors, and successors from any and all claims ARB may have based upon the events described in recital paragraphs 12 – 15

above. The undersigned represent that they have the authority to enter this Agreement.

(7) This Agreement constitutes the entire agreement and understanding between ARB and HONDA concerning the claims and settlement in this Agreement, and this Agreement fully supersedes and replaces any and all prior negotiations and agreement of any kind or nature, whether written or oral, between ARB and HONDA concerning these claims.

(8) No agreement to modify, amend, extend, supersede, terminate, or discharge this Agreement, or any portion thereof, shall be valid or enforceable unless it is in writing and signed by all parties to this Agreement.

(9) Advice of Counsel. Each Party to this Agreement has reviewed the Agreement independently, has had the opportunity to consult counsel, is fully informed of the terms and effect of this Agreement, and has not relied in any way on any inducement, representation, or advice of any other Party in deciding to enter into this Agreement.

(10) This 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.

(11) Severability. Each provision of this Agreement is severable, and in the event that any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement remains in full force and effect.

(12) This Agreement is deemed to have been drafted equally by the Parties; it will not be interpreted for or against either party on the ground that said party drafted it.

(13) Waiver. The failure of any Party to enforce any provision of this 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 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 Agreement or otherwise provided by law.

(14) **SB 1402 Statement**

Senate Bill 1402 (Dutton, chapter 413, statutes of 2010) requires ARB to provide information on the basis for the penalties it seeks (see H&SC section 39619.7). This information, which is provided throughout this settlement agreement, is summarized here.

The manner in which the penalty amount was determined, including a per unit or per vehicle penalty.

Penalties must be set at levels sufficient to discourage violations. The penalties in this matter were determined in consideration of all relevant circumstances, including the eight factors specified in H&SC section 43024 (H&SC § 43024). The per-vehicle penalty in this case is a maximum of $5,000.00 per unit per strict liability violation. The penalty obtained in this case is approximately $1,200.00 per vehicle for 858 vehicles, for a total of $1,029,600.00. The per unit penalty in this case for the aftermarket kits is a maximum of $500 per unit per strict liability violation under Health and Safety Code section 43016. The penalty obtained in this case is approximately $250.00 per unit for 30 units, for a total of $7,500.00. The penalty was significantly reduced because HONDA self-disclosed the violations, fully cooperated with the investigation and the other factors discussed in the Recitals.

The provision of law the penalty is being assessed under and why that provision is most appropriate for that violation.

The penalty provision being applied is this case is § 43154 because HONDA brought into commerce uncertified off-highway vehicles into California, in violation of H&SC § 43151-43153 and H&SC § 43016 because HONDA sold, offered for sale, or advertised, a device, apparatus, or mechanism intended for use with, or as part of, a required motor vehicle pollution control device or system that alters or modifies the original design or performance of the motor vehicle pollution control device or system, in violation of Vehicle Code 27156 described above.

Is the penalty being assessed under a provision of law that prohibits the emission of pollution at a specified level, and, if so a quantification of excess emissions, if it is practicable to do so?

The provisions cited above do not prohibit emissions above a specified level. However, since the vehicles and units were not certified by ARB, all emissions attributable to them are illegal and excess, but quantifying them is not practicable because the information required to do so is unavailable.

(2) HONDA acknowledges that ARB has complied with SB 1402 in prosecuting and settling this case. Specifically, ARB has considered all relevant facts, including those listed at H&SC § 43024, has explained the manner in which the penalty amount was calculated, has identified the provision of law under which the penalty is being assessed, and has considered and determined that this penalty is not being assessed under a provision of law that prohibits the emission of pollutants at a specified level.

(3) Penalties were determined based on the unique circumstances of this matter, considered together with the need to remove any economic benefit from

noncompliance, the goal of deterring future violations and obtaining swift compliance, the consideration of past penalties in similar cases, and the potential costs and risk associated with litigating these particular violations. Penalties in future cases might be smaller or larger on a per unit basis.

(4) The penalty was also based on confidential business information provided by HONDA that is not retained by ARB in the ordinary course of business. The penalty was also based on confidential settlement communications between ARB and HONDA that ARB does not retain in the ordinary course of business either. The penalty is the product of an arm's-length negotiation between ARB and HONDA and reflects ARB's assessment of the relative strength of its case against HONDA, the desire to avoid the uncertainty, burden, and expense of litigation, to obtain swift compliance with the law, and to remove any unfair advantage that HONDA may have secured from its actions.

(5) HONDA represents that it understands the legal requirements applicable to introducing uncertified vehicles into California.

California Air Resources Board

By: _____

Name: Richard W. Corey

Title: Executive Officer

Date: 9/28/2016

AMERICAN HONDA MOTOR CO., INC.

By: Steven Center

Name: Steven Center

Title: Vice President

Date: 8.5.16