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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105**

In the Matter of:) **Docket No. CAA-09-2022-0051**
)
Remus Technology, Inc., dba Remus USA) **CONSENT AGREEMENT AND**
) **FINAL ORDER PURSUANT TO**
) **40 C.F.R. §§ 22.13 AND 22.18**
Respondent.)
_____)

I. CONSENT AGREEMENT

A. Preliminary Statement

1. This is a civil administrative penalty assessment proceeding brought under section 205(c)(1) of the Clean Air Act (“CAA” or the “Act”), 42 U.S.C. § 7524(c)(1), and sections 22.13 and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), as codified at 40 C.F.R. Part 22. In accordance with 40 C.F.R. §§ 22.13 and 22.18, entry of this Consent Agreement and Final Order (“CAFO”) simultaneously commences and concludes this matter.

2. Complainant is the Director of the Air, Waste & Chemicals Branch of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency Region IX (the “EPA”), who has been duly delegated the authority to commence and settle civil administrative penalty proceedings under section 205(c)(1) of the CAA, 42 U.S.C. § 7424(c)(1).

3. Respondent is Remus Technology, Inc., dba Remus USA (“Respondent”), a California corporation distributing motor vehicle parts.

4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this CAFO without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.

B. Governing Law

5. This proceeding arises under Part A of Title II of the CAA, CAA §§ 202-219, 42 U.S.C. §§ 7521-7554, and the regulations promulgated thereunder. These laws aim to reduce emissions from mobile sources of air pollution, including particulate matter (“PM”), non-methane hydrocarbons (“NMHC”), oxides of nitrogen (“NOx”), and carbon monoxide (“CO”). In creating the CAA, Congress found, in part, that “the increasing use of motor vehicles . . . has resulted in mounting dangers to the public health and welfare.” CAA § 101(a)(2), 42 U.S.C. § 7401(a)(2).

6. EPA’s allegations in this CAFO concern parts or components for motor vehicles and engines subject to emission standards. The CAA requires EPA to prescribe and revise, by regulation, standards applicable to the emission of any air pollutant from new motor vehicles or engines that cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare. *See* CAA § 202(a)(1) and (3)(B), 42 U.S.C. § 7521(a)(1)

and (3)(B). As required by the CAA, the emission standards must “reflect the greatest degree of emission reduction achievable through the application of [available] technology.” CAA § 202(a)(3)(A)(i), 42 U.S.C. § 7521(a)(3)(A)(i).

7. Under Section 202 of the CAA, 42 U.S.C. § 7521, EPA has promulgated emission standards for PM, NMHC, NO_x and CO that are applicable to motor vehicles and motor vehicle engines based on a vehicle’s or engine’s class and model year. *See generally* 40 C.F.R. Part 86.

8. Section 203(a)(1) of the CAA prohibits a vehicle manufacturer from selling a new motor vehicle in the United States unless the vehicle is covered by a certificate of conformity. 42 U.S.C. § 7522(a)(1).

9. The EPA issues certificates of conformity to vehicle manufacturers under section 206(a) of the CAA, 42 U.S.C. § 7525(a), to certify that a particular group of motor vehicles conforms to applicable EPA requirements governing motor vehicle emissions.

10. The application for a certificate of conformity must describe, among other things, the emissions-related elements of design of the motor vehicle or motor vehicle engine. *See* 40 C.F.R. § 86.1844-01.

11. Pursuant to Section 203(a)(3)(B) of CAA, 42 U.S.C. § 7522(a)(3)(B),

The following acts and the causing thereof are prohibited—for any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter, and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use[.]

12. “Person” is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), to include “an individual, corporation, partnership, association, State, municipality, political subdivision of a

State, and any agency, department, or instrumentality of the United States and any officer, agent or employee thereof.”

13. “Motor vehicle” is defined in Section 216(2) of the CAA, 42 U.S.C. § 7550(2), as “any self-propelled vehicle designed for transporting persons or property on a street or highway.”

14. “Element of design” is defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01 as “any control system (i.e., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine.”

15. Vehicle manufacturers employ certain hardware devices as emission control systems to manage and treat exhaust to reduce levels of regulated pollutants from being created or emitted into the ambient air. Such systems include the catalytic converter in gasoline-fueled motor vehicles that reduces NMHC, CO and/or NOx by routing exhaust through a precious metal coated honeycomb structure that causes a catalytic reaction that breaks down pollutants into less harmful components.

16. Any person who violates Section 203(a)(3)(B) of CAA, 42 U.S.C. § 7522(a)(3)(B), is subject to a civil penalty of up to \$5,179 for each violation. CAA § 205(a), 42 U.S.C. § 7524(a), 40 C.F.R. § 19.4, Table 1.

C. Allegations

17. Complainant re-alleges and incorporates by reference herein Paragraphs 1 through 16 of this CAFO.

18. At all times relevant to this CAFO, Respondent was a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

19. Respondent sells and distributes motor vehicle parts to various individual customers

located throughout the United States.

20. On September 20, 2018, EPA issued an information request pursuant to Section 208(a) of the CAA, 42 U.S.C. § 7542(a), to Respondent regarding hardware and software that Respondent sold and/or offered for sale from January 1, 2017.

21. In Respondent's response to EPA's information request, Respondent indicated that it sold and/or offered for sale at least nine hundred ten (910) parts or components ("Subject Parts," each of which is a "Subject Part") between January 1, 2017, and September 20, 2018, as identified in the Appendix to this CAFO.

22. The Subject Parts consist of nine hundred ten (910) motorcycle headers, motorcycle connectors, motorcycle mufflers, and automobile exhaust parts that delete (replace without re-installing) the original equipment catalytic converters.

23. A motor vehicle's catalytic converter is "a device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with [CAA] regulations" within the meaning of Section 203(a)(3)(B) of the CAA.

24. Each Subject Part is, and at all relevant times was, intended for use with certified motor vehicles and motor vehicle engines, including Bayerische Motoren Werke AG, Ducati Motor Holding, Honda Motor Co., Ltd., Triumph Motor Company, KTM Sportmotorcycle AG, Vespa, Yamaha Motor Corporation, Audi AG and Porsche ("Motor Vehicles").

25. Each Subject Part is designed to bypass, defeat or render inoperative emission control hardware such as catalytic converters.

26. A principal effect of each Subject Part is to bypass, defeat, or render inoperative device(s) and/or element(s) of design that were installed on Motor Vehicles.

27. Respondent knew or should have known that each Subject Part was being offered for

sale or installed for such use or put to such use.

28. Respondent's sales and/or offers for sale of nine hundred ten (910) Subject Parts between January 1, 2017, and September 20, 2018, constitute nine hundred ten (910) violations of Section 203(a)(3)(B) of CAA, 42 U.S.C. § 7522(a)(3)(B).

D. Terms of Consent Agreement

29. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent: a) admits that EPA has jurisdiction over the subject matter alleged in this CAFO and over Respondent; b) neither admits nor denies the specific factual allegations contained in Section I.C of this CAFO; c) consents to the assessment of a civil penalty as stated below; d) consents to the conditions specified in this CAFO; e) waives any right to contest the allegations set forth in Section I.C of this CAFO; and f) waives its rights to appeal the proposed Order contained in this CAFO.

Civil Penalty

30. Respondent agrees to the assessment of a civil penalty in the amount of forty thousand dollars (\$40,000) ("Assessed Penalty") as final settlement of the civil claims against Respondent arising under the CAA as alleged in Section I.C of this CAFO. The EPA has reduced the civil penalty on the basis of information produced by Respondent demonstrating its inability to pay a higher civil penalty.

31. Respondent agrees to pay the Assessed Penalty within thirty (30) days of the Effective Date of this CAFO.

32. Respondent agrees to pay the Assessed Penalty using any method, or combination of methods, provided on the website <https://www.epa.gov/financial/makepayment>, and identifying the payment with "Docket No. CAA-09-2022-0051." Within 24 hours of payment

of the Assessed Penalty, Respondent agrees to send proof of payment to Nathan Dancher at dancher.nathan@epa.gov and the EPA Region 9 Regional Hearing Clerk at R9HearingClerk@epa.gov. "Proof of payment" means a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate the payment of the Assessed Payment has been made in accordance with this CAFO. The proof of payment shall be identified with "Docket No. CAA-09-2022-0051."

33. Payments of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes.

34. If Respondent does not pay the Assessed Penalty within 30 days of the effective date of this CAFO, then Respondent shall pay to EPA a stipulated penalty in the amount of one thousand dollars (\$1,000) for each day the default continues plus the remaining balance of the Assessed Penalty upon written demand by EPA.

35. If Respondent fails to timely pay any portion of the penalty due under this CAFO, EPA may:

- a. request the Attorney General to bring a civil action in an appropriate district court to recover: the amount assessed; interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses; and a 10 percent quarterly nonpayment penalty, 42 U.S.C. § 7524(c)(6);
- b. refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7524(c)(6), 40 C.F.R. §§ 13.13, 13.14, and 13.33;
- c. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the

debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and

- d. suspend or revoke Respondent's licenses or other privileges granted by EPA, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

Respondent's Certification of Compliance

36. Respondent certifies that as of the date of its signing this Consent Agreement, Respondent is complying fully with section 203(a)(3) of the CAA, 42 U.S.C. § 7522(a)(3).

37. Respondent is aware of EPA's November 23, 2020 "Tampering Policy: The EPA Enforcement Policy on Vehicle and Engine Tampering and Aftermarket Defeat Devices under the Clean Air Act."

38. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. Prior to payment of the Assessed Penalty and providing payment notification in accordance with this CAFO, Respondent must give written notice and a copy of this CAFO to any successors in interest prior to any transfer of ownership or control of any portion of or interest in Respondent. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this CAFO unless EPA has provided written approval of the release of said obligations or liabilities.

39. By signing this CAFO, Respondent acknowledges that this CAFO will be available to

the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

40. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO. This CAFO may be signed in counterparts, and its validity shall not be challenged on that basis.

41. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

42. Each party agrees to bear its own costs and attorney's fees in this action.

E. Effect of Consent Agreement and Final Order

43. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in Section I.C of this CAFO.

44. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

45. This CAFO constitutes the entire agreement between the parties and supersedes any

prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

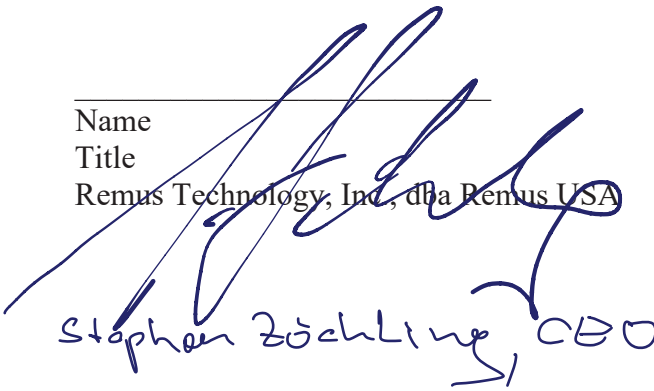
E. Effective Date

46. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, EPA will transmit a copy of the filed CAFO to the Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Regional Hearing Clerk.

The foregoing Consent Agreement In the Matter of: Remus Technology, Inc., dba Remus USA, Docket No. CAA-09-2022-0051 is hereby stipulated, agreed, and approved for entry:

FOR RESPONDENT, REMUS TECHNOLOGY, INC., DBA REMUS USA:

06-May-2022
Date

Name
Title
Remus Technology, Inc, dba Remus USA

Stephen Zöchling, CEO

The foregoing Consent Agreement In the Matter of: Remus Technology, Inc., dba Remus USA, Docket No. CAA-09-2022-0051 is hereby stipulated, agreed, and approved for entry:

FOR COMPLAINANT:

Date

**AMY
MILLER-
BOWEN**

 Digitally signed by
AMY MILLER-BOWEN
Date: 2022.05.26
14:13:10 -07'00'

Amy C. Miller-Bowen, Director
Enforcement & Compliance Assurance
Division
U.S. Environmental Protection Agency,
Region 9

II. FINAL ORDER

Complainant and Respondent, having entered into the foregoing Consent Agreement,
IT IS HEREBY ORDERED that this CAFO (Docket No. CAA-09-2022-0051) be
entered, and that Respondent shall comply with the terms set forth in the Consent Agreement.
This Consent Agreement and Final Order shall become effective upon filing.

STEVEN JAWGIEL Digitally signed by STEVEN JAWGIEL
Date: 2022.06.01 13:23:53 -07'00'

STEVEN L. JAWGIEL
Regional Judicial Officer
U.S. Environmental Protection Agency,
Region 9

APPENDIX

**Remus Technology, Inc., dba Remus USA
Violations of Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B)
For the Sale of 910 Parts or Components Between January 1, 2017, and September 20, 2018**

#	Part #	Part Name	Quantity Sold
1	0101 089911	Header System, Stainless Steel, BMW K1600GT/L 2011on, BMW K1600 Bagger 2017on	72
2	0101 082017	Header System, Stainless Steel, BMW G 310 R 2017on	32
3	0101 085208	Header System, Stainless Steel, BMW F650/700/800GS	18
4	0101 087514	Header System, Stainless Steel, BMW R Nine T 2014on	35
5	0101 088002	Header System, Stainless Steel, BMW K 1200 LT 2002on	1
6	0101 088004	Header System, Stainless Steel, BMW R1200GS/Adventure 2004-2009	5
7	0101 088005	Header System, Stainless Steel, BMW R1200RT/R 2005-2009	5
8	0101 088006	Header System, Stainless Steel, BMW R1200S 2006-2007	7
9	0101 088010	Header System, Stainless Steel, BMW R1200GS/Adventure 2010on	7
10	0101 088098	Header System, Stainless Steel, BMW K 1200 RS/GT 1997on	12
11	0101 088105	Header System, Stainless Steel, BMW K1200S/R 2005	2
12	0101 088110	Header System, Stainless Steel, BMW R1200RT/R 2010on	10
13	0101 088115	Header System, Stainless Steel, BMW R 1200 R/RS 2015on, BMW R1200GS '13on LC	69
14	0101 257016	Header System, Stainless Steel, Honda CRF 1000 L Africa Twin from 16, incl. black heat shield, fits to REMUS or original muffler	17
15	0101 652017	Header System, Stainless Steel, KTM 390 Duke 2017on	114
16	0101 654512	Header System, Stainless Steel, KTM 690 Duke 4/R 2012on	68
17	0101 655008	Header System, Stainless Steel, KTM 690 Enduro/690 SMC 2008on	1
18	0101 658013	Header System, Stainless Steel, KTM 1190 Adventure/R 2013on	13
19	0101 751117	Vespa GTS 125ie 2017 Euro 4, stainless steel header no cat., no EEC	1
20	0101 916016	Header System, Stainless Steel, Triumph Street Twin 2016on	3
21	0103 155215	Connector, Stainless Steel, Ducati Scrambler 2015on	8
22	0103 155217	Connector, Stainless Steel, Ducati Monster 797 2017on	9
23	0103 655111	Connector, Stainless Steel, KTM 690 SMC 2011on	3
24	0103 657011	Connector, Stainless Steel, KTM 950 Adventure 2005on, 990 Adventure 2006on	3
25	0103 658014	Connector, Stainless, Cat-Eliminator, KTM 1290 Super Duke 2014on	141
26	0103 658016	Connector, Stainless, Cat-Eliminator, KTM 1290 Super Duke 2017on	56
27	0103 658017	Mid-Pipe, Stainless, KTM 1290 Super Duke 2017on	6

28	0103 997016	Yamaha MT10 16-, Racing connecting tube instead of original front silencer	33
29	0105 084511	Connector, Stainless Steel, BMW G650GS 2011on	5
30	0105 088305	Connector, Stainless Steel, BMW K1200S/R/GT 2005on, K1300GT 2009on	1
31	0105 155218	Connector, Stainless Steel, Ducati Monster 821 2018on	3
32	0105 155512	Connector, Stainless Steel, Ducati Streetfighter 848/1098 2009on	1
33	0105 156516	Connector, Stainless Steel, Ducati Hypermotard 939/SP 2016on	23
34	0105 157111	Connector, Stainless Steel, Ducati Monster 1100EVO 2011on	3
35	0105 158014	Connector, Stainless Steel, Ducati Monster 1200/S 2014on	1
36	0105 158016	Connector, Stainless Steel, Ducati Monster 1200R 2016on	16
37	0105 158111	Connector, Stainless Steel, Ducati Diavel 2011on	44
38	0105 158114	Connector, Stainless Steel, Ducati Monster 1200/S 2014on, Ducati Monster 821 2015on	15
39	048017 1200	Stainless steel RACING replacement pipe -Down Pipe Back Tubes Original tube Ø 65 mm, REMUS tube Ø 70 mm	1
40	4884 088509	HexaCone, Titanium w./ Carbon End Caps, BMW K1300S/R 2009on	17
41	686106 1500	PORSCHE Boxster Type 987, 2006-2009 2.7l 176 kW; 2.7l 180 kW; PORSCHE Boxster S Type 987, 2006-2009 3.2l 206 kW; 3.4l 217 kW; PORSCHE Cayman Type 987, 2006-2009 2.7l 180kW; PORSCHE Cayman S Type 987, 2006-2009 3.4l 217 kW; RACING stainless steel sport exhaust system L/R	21
42	689109 0500	Porsche Cayman/S Facelift, Type 987, 2009on; 2.9l/3.4l; Sport Exhaust	8
		Total	910

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of **Remus Technology, Inc. dba Remus USA (Docket No. CAA-09-2022-0051)** was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties via electronic mail:

Respondent: Robert Bergman
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 RBergman@bdgfirm.com

Complainant: Brian Riedel
 Acting Manager, Air and Toxics Section 2
 U.S. EPA, Region IX
 75 Hawthorne Street
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 Riedel.Brian@epa.gov

Ponly J. Tu
Regional Hearing Clerk
U.S. EPA, Region IX

Date