

**UNITED STATES DEPARTMENT OF TRANSPORTATION  
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**  
1200 New Jersey Avenue SE  
Washington, DC 20590

<b>In re:</b>	)
	)
AQ14-002	)
Forest River, Inc.	)
	)

**CONSENT ORDER**

This Consent Order, dated and effective July 8, 2015 (“Effective Date”), is issued pursuant to the authority of the National Highway Traffic Safety Administration (“NHTSA”), an operating administration of the U.S. Department of Transportation, to resolve administratively a NHTSA enforcement action, mitigate and control risks of harm, and promote safety. It sets forth the requirements and performance obligations of Forest River, Inc. and its subsidiary company (together, “Forest River”) with regard to: (a) reporting obligations under the National Traffic and Motor Vehicle Safety Act of 1966 as amended and recodified (the “Safety Act”), 49 U.S.C. § 30101, *et seq.*, and regulations promulgated thereunder, as set forth below; and (b) past violations of the reporting requirements under 49 U.S.C. § 30166(f), (l), (m) and 49 C.F.R. Part 579, the recall reporting and notification requirements under 49 U.S.C. §§ 30118-30119 and 49 C.F.R. Parts 573 and 577, untimely notifications of safety-related defects under 49 U.S.C. § 30119(c)(2) and 49 C.F.R. Part 573, and failure to respond fully to compulsory process issued by NHTSA pursuant to 49 U.S.C. § 30166(g) and 49 C.F.R. Part 510, under the terms and conditions set forth below.

## I. NATURE OF THE ACTION

1. The Safety Act provides for regulation of motor vehicles and motor vehicle equipment by the Secretary of Transportation. The Secretary has delegated his authorities under the Safety Act to the NHTSA Administrator, 49 C.F.R. §§ 1.95(a), 501.2(a)(1).

2. Pursuant to the Transportation Recall Enhancement, Accountability, and Documentation (“TREAD”) Act, Pub. L. No. 106-414, 114 Stat. 1800 (2000), NHTSA established early warning reporting requirements for vehicle manufacturers.

49 U.S.C. § 30166(m); 49 C.F.R. Part 579, Subpart C.

3. Manufacturers of 100 or more buses and manufacturers of 5,000 or more medium-heavy vehicles are required to submit comprehensive quarterly reports, including production numbers and information on incidents involving death or injury, the number of property damage claims, consumer complaints, warranty claims, and field reports, and copies of field reports. *See* 49 C.F.R. § 579.22. Manufacturers of 5,000 or more trailers must also submit comprehensive quarterly reports with this same information. *See* 49 C.F.R. § 579.24.

4. Under the Safety Act, each manufacturer is required to submit to NHTSA copies of all notices, bulletins, and other communications, including those related to any defect in its vehicles or items of equipment, a customer satisfaction campaign, consumer advisory, recall, or other safety activity involving the repair or replacement of motor vehicles or equipment (collectively, “service bulletins”), sent to other manufacturers, distributors, dealers, owners, or purchasers. *See* 49 U.S.C. § 30166(f), (m)(3)(A)(ii); 49 C.F.R. § 579.5(a)-(b). A copy of each service bulletin shall be submitted to NHTSA not later than five working days after the end of the month in which it was issued. 49 C.F.R. § 579.5(d). A manufacturer is also required to report to NHTSA not later than five working days after a manufacturer determines to conduct a

safety recall or other safety campaign in a foreign country covering a motor vehicle that is identical or substantially similar to a vehicle sold or offered for sale in the United States.

49 U.S.C. § 30166(i); 49 C.F.R. § 579.11.

5. A manufacturer of motor vehicles is required to notify owners, purchasers, and dealers when the manufacturer determines that its vehicles contain a defect related to motor vehicle safety or do not comply with a federal motor vehicle safety standard. *See* 49 U.S.C. §§ 30118-30119. NHTSA's regulations set forth the contents of the notification that must be sent to vehicle owners or purchasers, 49 C.F.R. § 577.5, and the manner in which they must be notified, *id.* § 577.7. NHTSA's regulations also prescribe the contents of the notification that manufacturers must send to dealers and distributors to notify them of the presence of a defect or noncompliance. *See id.* § 577.13. The notification that manufacturers send to dealers and distributors must state "that it is a violation of Federal law for a dealer to deliver a new motor vehicle . . . covered by the notification under a sale or lease until the defect or noncompliance is remedied." *See id.* § 577.13(b). Manufacturers are required to submit copies of their notices to owners, purchasers, and dealers, along with any bulletins or other communications related to the recall, to NHTSA. 49 U.S.C. § 30166(f); 49 C.F.R. §§ 573.6(c)(10), 577.5(a), 577.7(c)(1).

6. A manufacturer conducting a recall to remedy a defect or noncompliance must submit a report to NHTSA containing information about the manufacturer's progress in completing the recall "for each of six consecutive quarters beginning with the quarter in which the campaign was initiated . . . or [until] corrective action has been completed on all defective or noncomplying vehicles." 49 C.F.R. § 573.7.

7. Under the Safety Act, a manufacturer of motor vehicles or equipment has a duty to notify NHTSA, owners, purchasers, and dealers of the vehicle or equipment if the

manufacturer learns the vehicle or equipment contains a defect and decides in good faith that the defect is related to motor vehicle safety. 49 U.S.C. § 30118(c)(1); 49 C.F.R. § 573.6(a). The manufacturer must provide this notice to NHTSA not more than five working days after a defect in a vehicle or an item of equipment has been determined to be safety-related. 49 C.F.R. § 573.6(b). The manufacturer's notice to NHTSA must be in the form specified by regulation, and is known as a "Defect Information Report" or "Part 573 Report." In the case of a defect or noncompliance decided to exist in a vehicle manufactured in two or more stages, compliance with 49 C.F.R. § 573.6 and §573.7 by either the manufacturer of the incomplete vehicle or any subsequent manufacturer of the vehicle shall be considered compliance by all manufacturers.. *See* 49 C.F.R. § 573.3(c).

8. NHTSA has the power to issue compulsory process, including general and special orders requiring a person to provide documents and answer specific questions under oath. *See* 49 U.S.C. § 30166(g); 49 C.F.R. Part 510; *id.* § 1.95(a).

9. A person who violates 49 U.S.C. § 30166 or a regulation prescribed under that section is liable to the United States for daily civil penalties. 49 U.S.C. § 30165(a)(3); 49 C.F.R. § 578.6(a)(3). A person who violates NHTSA's early warning reporting regulation (49 C.F.R. Part 579, Subpart C), the requirement to submit technical service bulletins and other communications to NHTSA (*id.* § 579.5), the requirement to submit foreign recalls and safety campaigns to NHTSA (*id.* § 579.11), NHTSA's quarterly recall reporting regulation (*id.* § 573.7), or fails to respond fully to a special order issued by NHTSA (*id.* Part 510) is subject to daily civil penalties. Effective December 27, 2012, the maximum civil penalty increased from \$6,000 to \$7,000 per day. Final Rule, 77 FED. REG. 70,710, 70,713 (Nov. 27, 2012) (codified at 49 C.F.R. § 578.6(a)(3)).

10. A person who violates the Safety Act and NHTSA's defect and noncompliance notification requirements is liable to the United States for each violation. *See* 49 U.S.C. § 30118(c); *id.* § 30119(a); *id.* § 30165(a)(1); 49 C.F.R. Part 573; 49 C.F.R. Part 577. "A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by . . .," *id.* § 30165(a)(1), the defect and noncompliance notification requirements. *Id.* Effective December 27, 2012, the maximum civil penalty increased from \$6,000 to \$7,000 per violation. Final Rule, 77 FED. REG. 70,710, 70,713 (Nov. 27, 2012) (codified at 49 C.F.R. § 578.6(a)(3)).

## **II. FACTUAL BACKGROUND**

11. Forest River is a manufacturer of motor vehicles within the meaning of the Safety Act, *see* 49 U.S.C. § 30102(a)(5), and a person within the meaning of 49 U.S.C. § 30165.

12. On September 30, 2014, NHTSA opened audit query AQ14-002 to investigate potential violations of the Safety Act.

13. On October 2, 2014, NHTSA issued a Special Order directed to Forest River requiring Forest River to produce documents related to Forest River's reporting pursuant to 49 C.F.R. Part 579, and its obligations under 49 U.S.C. § 30118 to notify owners, purchasers, and dealers, and its obligations to file quarterly reports pursuant to 49 C.F.R. Part 573 after Forest River determined that there was a safety-related defect in vehicles it manufactured.

14. On February 24, 2015, Forest River notified NHTSA that it had determined a defect, related to motor vehicle safety, existed in 726 Rockwood and Flagstaff camper trailers manufactured in 2014. According to Forest River's Part 573 Report, the safety-related defect concerned a condition in which loose wiring could contact a heating element resulting in a fire. NHTSA designated this recall as Recall No. 15V-080. The defective condition was previously

identified by Forest River in a service bulletin sent to vehicle owners on November 12, 2014. Forest River transformed the action to a safety recall when notified by NHTSA of the need to do so.

15. On March 17, 2015, Forest River notified NHTSA that it had determined a defect, related to motor vehicle safety, existed in 200 Palomino camper trailers manufactured in 2014. According to Forest River's Part 573 Report, the safety-related defect concerned a condition in which the trailers were manufactured without an exhaust/fresh air intake vent which could lead to carbon-monoxide exposure and/or a fire due to the potential lack of the furnace ventilation. NHTSA designated this recall as Recall No. 15V-156. The defective condition was previously identified by Forest River in a service bulletin issued March 3, 2015. Forest River transformed the action to a safety recall when notified by NHTSA of the need to do so.

16. NHTSA issues this Consent Order pursuant to its authority under the Safety Act, 49 U.S.C. § 30101, *et seq.*, as delegated by the Secretary of Transportation, 49 C.F.R. §§ 1.95, 501.2(a)(1), to compromise the amount of civil penalties for violations of the Safety Act and regulations thereunder, 49 U.S.C. § 30165(b), to inspect and investigate, 49 U.S.C. § 30166(b)(1), to ensure that defective vehicles and equipment are recalled, 49 U.S.C. §§ 30118-30119, and to require any person to file reports or answers to specific questions, 49 U.S.C. § 30166(g).

It is AGREED by Forest River and ORDERED by NHTSA as follows:

### **III. TERMS AND CONDITIONS OF CONSENT ORDER**

#### **Admissions of Violations of the Safety Act**

17. Forest River admits that it violated the Safety Act by failing to submit accurate early warning reports as required by 49 U.S.C. § 30166(m) and 49 C.F.R. § 579. Forest River

acknowledges that it failed to report to NHTSA accurate information on deaths and injuries, the number of property damage claims, consumer complaints, warranty claims, and field reports as required by 49 C.F.R. §§ 579.21, 579.22, and 579.24.

18. Forest River further admits that it violated the Safety Act to the extent that it did not file certain field communications or reports of Canadian safety campaigns pursuant to 49 C.F.R. §§ 579.5 and 579.11. Forest River further acknowledges that it may have failed to provide to NHTSA copies of notices, bulletins, and other communications sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser as required by 49 U.S.C. § 30166(f), (m)(3)(B), and 49 C.F.R. § 579.5.

19. Forest River admits that it violated the Safety Act by failing to file certain quarterly recall response rate reports in a timely manner and that some reports may not have contained complete information. Forest River further admits that in many instances Dealer Notifications were sent to dealers without the required statement informing dealers that federal law prohibits the sale of the vehicles, as set forth above, in violation of 49 C.F.R. § 577.

20. Forest River admits that it violated the Safety Act in some instances when it failed to submit to NHTSA communications to manufacturers, dealers, owners and purchasers directly related to a defect or noncompliance and failed to notify dealers of defects and noncompliances, and to notify vehicle owners of the existence of a defect or noncompliance as required by 49 U.S.C. §§ 30118-30119 and 49 C.F.R. Parts 573 and 577.

21. Forest River admits that it violated the Safety Act when it submitted Part 573 Reports in February and March 2014 that related to service bulletins issued more than five days prior to submission of the Part 573 Reports. Forest River further admits that it knew, or should have known, that a safety-related defect existed at the time the service bulletins were issued.

Accordingly, Forest River admits that it did not timely notify NHTSA of these safety-related defects within five days in violation of 49 U.S.C. § 30119(c)(2) and 49 C.F.R. § 573.6(b), and that it failed to conduct timely recalls for Recall Nos. 15V-080 and 15V-156.

22. Forest River admits that it violated the Safety Act when it failed to respond fully to NHTSA's October 2, 2014 Special Order by the November 1, 2014, deadline. Forest River states that it had informed NHTSA that it was unable to respond within that timeframe and that NHTSA denied its request for an extension of time, leading to the violation.

### **Civil Penalties**

23. Forest River agrees that the United States is entitled to a civil penalty of up to thirty-five million (\$35,000,000) for the violations set forth above, subject to the provisions of this Consent Order and applicable law, including the Federal Claims Collection Act of 1966 as amended and codified at 31 U.S.C. § 3701, *et seq.*

24. To satisfy its obligations to pay a civil penalty, as authorized by 49 U.S.C. § 30165(b), Forest River shall pay the sum of five million dollars (\$5,000,000) (the "Cash Amount") in one lump-sum payment by electronic funds transfer to the U.S. Treasury, in accordance with the instructions provided by NHTSA, no later than ten (10) calendar days following execution of this Consent Order. In the event it commits further violations of the Safety Act or this Consent Order during the term of this Consent Order, Forest River may be potentially obligated to pay additional sums totaling up to a maximum of thirty million dollars (\$30,000,000) in accordance with the terms and conditions set forth below ("Stipulated Civil Penalties").

25. The Stipulated Civil Penalties shall only become due and owing in accordance with and subject to the provisions set forth in Paragraph 54 to 59 below, including the notice and



cure provisions. NHTSA and Forest River expect that Forest River will comply fully with this Consent Order and the Safety Act and that the Stipulated Civil Penalties accordingly will not become due and will be released at the termination of this Consent Order. In the event Forest River is required to pay any of the Stipulated Civil Penalties, such payments will be made by electronic funds transfer to the U.S. Treasury, in accordance with the instructions provided by NHTSA, no later than ten (10) calendar days following a Final Determination that they are due and owing.

26. If Forest River fails to make any of the payments set forth above within ten (10) days of when they become due and owing, then Forest River shall become subject to additional stipulated penalties in the amount of Seven Thousand Dollars (\$7,000) per day. NHTSA in its sole discretion may waive or reduce any stipulated penalties owing under this Consent Order.

## **VI. SAFETY ACT COMPLIANCE**

### **In-House Consultant**

27. Forest River shall, within 60 days after signing this Consent Order, retain a consultant with experience and expertise in motor vehicle safety and the requirements of the Safety Act (the "In-House Consultant"). For good cause shown, NHTSA may extend for an additional 30 days the period to select the In-House Consultant. Such extension shall not be unreasonably withheld.

28. Prior to retaining the In-House Consultant, Forest River shall submit to NHTSA the name of the individual whom it intends to retain as the In-House Consultant for approval. The In-House Consultant is a position separate from the Monitor described below and shall be held by a separate individual. Forest River shall retain the In-House Consultant at its sole

expense for the term of this Consent Order. Failure to retain the In-House Consultant shall not relieve Forest River of any obligation under this Consent Order.

29. The In-House Consultant shall advise and assist Forest River in performing the obligations set forth in this Consent Order, including in particular: (a) confirming that Forest River has, to the extent the information is available, populated the applicable NHTSA databases with information previously required to be submitted; (b) developing processes and procedures for Safety Act compliance; (c) conducting training sessions required by this Consent Order; (d) leading “Best Practices” (as defined below) meetings with other companies in the Recreational Vehicle industry; and (e) interacting with the Monitor to ensure any potential Safety Act violations or violations of this Consent Order are appropriately cured within the timeframes specified in this Consent Order.

30. The In-House Consultant shall also review “service bulletins,” as that term is used in Paragraph 4 of this Consent Order, issued by Forest River during the term of this Consent Order and advise Forest River whether the subject matter of the “service bulletin” concerns a defect related to motor vehicle safety. The review by the In-House Consultant shall be in addition to, and separate from, Forest River’s procedures for making safety-related defect determinations.

31. Forest River will report to NHTSA in writing when it has retained the In-House Consultant as set forth above, including the identity of the In-House Consultant and the date upon which the In-House Consultant was officially retained.

#### **Remedying Past Noncompliance**

32. Pursuant to the reporting obligations set forth below, Forest River shall confirm to NHTSA that it has provided the agency to the best of its ability with all available information

responsive to the Special Order dated October 2, 2014. To the extent that certain information may no longer be available, Forest River will describe the efforts made to collect the information and shall ensure that the prospective processes and procedures are designed to ensure such information is obtained and retained in the future.

33. Pursuant to the reporting obligations set forth below, Forest River shall make best efforts to determine whether any “service bulletins” or reports of foreign safety campaigns were not reported to NHTSA as required. Forest River will provide NHTSA with a list of each known “service bulletin” or foreign safety campaign since 2010 the company is able to identify. Forest River will describe the efforts made to collect the information and shall ensure that the prospective processes and procedures are designed to ensure such information is obtained and retained in the future.

34. It is anticipated that the In-House Consultant will assist Forest River in complying with these obligations.

35. No later than 30 calendar days after the execution of this Consent Order, Forest River shall submit to NHTSA a Part 573 Report to include all vehicles subject to the settlement agreement in *The Church of Christ at Azalea Drive v. Forest River, Inc., et al.*, Case No. 2:11-cv-03371-PMD in the U.S. District Court for the District of South Carolina and *New Mount Zion African Methodist Episcopal Church, Tallahassee, Florida v. Forest River, Inc., et al.*, Case No.4:12-cv-00221-MW-CAS in the U.S. District Court for the Northern District of Florida not already covered by Recall No. 13V-100.

## **Training and Industry Outreach**

### Written Procedures

36. Forest River shall develop new written procedures for: (a) comprehensive reporting in compliance with 49 C.F.R. Part 579; (b) making safety-related defect determinations and notifying NHTSA of such safety-related defects in compliance with 49 C.F.R. Part 573; (c) responding to NHTSA's requests for information sent during the course of defect and noncompliance investigations; and (d) notifying dealers, owners, and purchasers of defects or noncompliances under 49 C.F.R. Part 577 (the "Written Procedures").

37. Pursuant to the reporting obligations set forth below, Forest River shall provide a copy of Forest River's Written Procedures to NHTSA. If NHTSA reasonably determines that any changes need to be made, Forest River agrees to revise the Written Procedures to incorporate NHTSA's feedback. Forest River shall provide a revised copy of the Written Procedures to NHTSA no later than 30 calendar days after receiving any such feedback from NHTSA.

38. It is anticipated that the In-House Consultant will assist Forest River in complying with these obligations.

39. Forest River agrees that the final set of Written Procedures will be publicly available. Forest River shall not claim any portion of the Written Procedures is subject to attorney-client privilege or attorney work product, or confidential business information not subject to public disclosure by NHTSA.

### Training

40. Forest River shall recruit, employ, retain, and/or train qualified (and a reasonable number of) personnel, whose responsibilities in whole or in part relate to Safety Act obligations

and “Best Practices” (defined below). Forest River’s training shall be recurrent on at least an annual basis.

Best Practices

41. Forest River will work with NHTSA to transform the Written Procedures into a set of best practices for the Recreational Vehicle industry that can be distributed through the industry and be publicly available (the “Best Practices”). Forest River will make the final Best Practices available to other companies and industry trade associations, and at trade shows such as National RV Trade Show, NADA Vegas, Great America Trucking Show, and the Great American RV Show.

42. Forest River will encourage its suppliers to provide information with regard to potential defects in product sold to Forest River and incorporated into Forest River’s vehicles, including by providing notices to Forest River of warranty claims or other customer complaints involving products or equipment supplied to Forest River.

43. Forest River will provide information on its website, Facebook page, or other social media with regard to how customers can reach Forest River and NHTSA to report concerns with their vehicles.

44. Forest River will work with partners and suppliers to increase responsiveness to NHTSA requests for information issued during the course of defect or noncompliance investigations, mitigate the impact of recalls on consumers, develop their own safety outreach programs, and educate them on their record retention obligations under 49 C.F.R. Part 576.

45. Forest River will prepare a report which includes a plan and procedures for fulfilling the Industry Outreach obligations set forth above in Paragraphs 41 to 44. This report shall be submitted to NHTSA no later than 120 calendar days after the execution of the Consent

Order. NHTSA may reject or revise any part of the proposed report and may submit it back to Forest River for further revision, if necessary. NHTSA must give its full approval, which will not be unreasonably withheld, to the proposed report before work towards fulfilling those obligations may begin.

#### **Schedule of Reporting Obligations**

46. Within 60 days after retaining the In-House Consultant, Forest River shall provide NHTSA with the reports on remedying past noncompliance as set forth above.

47. Within 90 days after retaining the In-House Consultant, Forest River shall provide NHTSA with the initial set of Written Procedures as set forth above.

48. Within 120 calendar days after retaining the In-House Consultant, Forest River will submit a report detailing Forest River's training plan, including details on the subjects to be taught and individuals to be trained (the "Training Plan"). NHTSA may, at its option, accept, reject or revise any part of the proposed Training Plan and may submit it back to Forest River for further revision, if reasonably necessary.

49. On a recurring quarterly basis during the "Term" (as defined below), Forest River shall meet with NHTSA to discuss the actions it has taken to satisfy the requirements of this Consent Order. The first meeting shall take place 120 calendar days after retention of the In-House Consultant, and subsequent meetings shall occur every 90 days thereafter. NHTSA and Forest River expect to agree upon a final set of Written Procedures at the first meeting.

50. Within 90 days after the first quarterly meeting, and having had experience with the implementation of the Written Procedures, Forest River will provide NHTSA with an initial set of Best Practices for NHTSA's review and input.

## **Independent Monitor**

51. Forest River and NHTSA agree to retain, at Forest River's sole cost and expense, an independent monitor ("the Monitor"), whose powers, rights and responsibilities shall be as set forth below.

### The Monitor's Powers, Rights, and Responsibilities

52. The Monitor shall have the authority to audit the following: (a) Forest River's performance with the terms of this Consent Order; (b) Forest River's adherence to the Written Procedures, including in particular Forest River's compliance with Safety Act requirements relating to TREAD and early warning reporting, reporting defects posing an unreasonable risk to motor vehicle safety, and recall implementation; and (c) Forest River's efforts to disseminate Best Practices within the Recreational Vehicle industry and to implement its Industry Outreach obligations.

53. It is expected and agreed that the Monitor may make additional recommendations aimed at enhancing Forest River's ability to detect, investigate, and resolve potential safety related concerns, and Forest River's recall implementation program. Such suggestions shall not constitute violations giving rise to the Stipulated Civil Penalties.

### Audits

54. The Monitor shall conduct five audits pursuant to this Consent Order ("Audits"). The first Audit shall take place not sooner than 120 calendar days after Forest River's retention of the Monitor. It is expected and agreed that the Audits will take place in six-month intervals. Should NHTSA extend the Term of the Consent Order pursuant to Paragraph 74 below, the Monitor will conduct an additional Audit during the extended Term.

55. Upon conducting an Audit, the Monitor shall provide Forest River, the In-House Consultant, and Forest River's General Counsel with an Initial Set of Findings regarding any alleged violation of the Safety Act or terms of this Consent Order. The Monitor shall provide the Initial Set of Findings within 7 calendar days. Forest River shall then be provided 21 business days to address the items on the Initial Set of Findings (the "21-day cure period"). Forest River may address the items by: (a) providing any requisite notices or remedying any omissions within the 21-day cure period; or (b) resolving the concern directly with the Monitor without taking further action should the Monitor determine no further action is required.

56. Within 14 business days following the end of the 21-day cure period, the Monitor shall provide Forest River and NHTSA with a Final Report with regard to the Audit. The Final Report shall describe the steps taken to conduct the Audit, the Initial Set of Findings, Forest River's response to the Initial Set of Findings, and the Monitor's determination as to whether the Initial Set of Findings were cured within the 21-day cure period.

57. Forest River shall have 7 business days within which to contest any adverse Findings in the Final Report from the Monitor by providing NHTSA and the Monitor with a written explanation as to why the Monitor's finding does not constitute a violation of the Consent Order or of the Safety Act ("Response").

58. NHTSA may determine, based on the Monitor's Final Report and taking into consideration Forest River's Response, whether Forest River may become subject to any of the Stipulated Civil Penalties. NHTSA shall provide its determination to Forest River in writing and shall include its analysis with regard to Forest River's stated Response ("Final Determination"). In making the Final Determination, NHTSA shall consider all items raised within an Audit's Final Report as one violation for purposes of applying the Stipulated Civil Penalties. A violation



is deemed to occur only after NHTSA issues its Final Determination finding that Forest River should be subject to the Stipulated Civil Penalties (“Violation”).

59. If, following an Audit, Forest River is found to have committed a Violation of the Safety Act or the terms of this Consent Order, then the Stipulated Civil Penalties will become due and owing as follows:

1. The first Violation of an Audit: \$3,000,000.00;
2. Second Violation of an Audit: \$7,000,000.00; and
3. Third Violation of an Audit: \$20,000,000.00.

60. The Monitor shall submit a written recommendation to NHTSA 60 days prior to the three-year anniversary of this Consent Order assessing whether Forest River has complied with the terms of the Consent Order and shall make a recommendation whether Forest River should be released from the Consent Order under Paragraph 74 or whether this Consent Order should be extended for an additional year as set forth herein.

#### Selection of Monitor

61. NHTSA and Forest River will cooperate in an effort to select a mutually acceptable Monitor. Forest River shall provide to NHTSA the names of three (3) individuals qualified to serve as the Monitor no later than 60 days after the execution of this Consent Order (or in the event that replacement of the Monitor is required) from which NHTSA will select the Monitor.

62. In the event that none of the individuals nominated by Forest River are qualified to serve as the Monitor, NHTSA reserves the right unilaterally to appoint the Monitor. The following persons shall not be eligible as either the Monitor or as an agent or employee of the

Monitor: (a) any person previously employed by Forest River; or (b) any person who has been directly adverse to Forest River in any proceeding.

63. The Monitor shall operate under the supervision of NHTSA and NHTSA shall reserve the right to dismiss the Monitor for failing to perform satisfactorily his or her duties under this Consent Order. NHTSA shall notify the Monitor and Forest River in writing should NHTSA decide to dismiss the Monitor.

Payment of Monitor Services

64. The Monitor shall have the authority to employ a reasonable number of personnel necessary to assist in proper discharge of the Monitor's duties. Forest River shall pay the reasonable compensation and expenses of the Monitor and of persons hired by the Monitor. The Monitor, and any persons hired by the Monitor, shall be compensated in accordance with their regular hourly rates. It is understood and agreed that this obligation will be based on the Monitor's normal rates and expense practices, and shall not require Forest River to pay any premium to comply with this Consent Order. Prior to performing an Audit, the Monitor shall provide Forest River and NHTSA with a written estimate of the total cost to perform the Audit. Within seven (7) calendar days following receipt of the written estimate, Forest River shall have the right to contest any of the Monitor's proposed costs to NHTSA. NHTSA, working with Forest River, shall make the final determination regarding the amount the Monitor can reasonably charge Forest River for an Audit.

65. The Monitor will give Forest River at least 30 calendar days written notice prior to conducting the Audit in order to ensure that Forest River can provide reasonable access and support to the Monitor during the course of the Audits.

66. Forest River shall pay bills for compensation and expenses to the Monitor within 30 days after receiving an itemized invoice of expenses and time spent, provided, however, that such invoice is consistent with the estimate approved by Forest River and NHTSA.

67. Forest River shall reasonably make available office space, telephone, and information technology services as well as clerical assistance necessary for the Monitor to carry out his or her duties.

#### Monitor's Access to Information and Services

68. The Monitor shall have the access to, and the right to make copies of, any and all non-privileged books, records, accounts, correspondence, files, and any other documents or electronic records, including emails, of Forest River for the Monitor to fulfill his or her duties under this Consent Order.

69. The Monitor shall have the right to interview any officer, employee, agent, or consultant of Forest River concerning any matter reasonably related to the implementation of this Consent Order or Forest River's compliance with the Safety Act and regulations thereunder.

70. The Monitor shall work with Forest River to arrange for reasonable access to documents and personnel. Forest River shall reasonably cooperate with the Monitor to ensure such reasonable access.

71. Forest River and all of its officers, directors, employees, agents, and consultants and all officers, directors, employees, agents, and consultants of Forest River's subsidiary, shall have the affirmative duty to reasonably cooperate with and assist the Monitor in the execution of his or her duties provided in this Consent Order. Failure of any Forest River officers, directors, employees, or agents to cooperate with the Monitor will constitute a breach of this Consent Order.

### Nondisclosure and Indemnification

72. The Monitor shall sign a non-disclosure agreement with Forest River prohibiting disclosure of information received from Forest River to anyone other than NHTSA, anyone designated by NHTSA, or hired by the Monitor. Within 30 days of the end of the Monitor's term, the Monitor shall either return anything obtained from Forest River or certify that such information has been destroyed. Anyone hired by the Monitor shall also sign a non-disclosure agreement with similar return or destruction requirements as set forth in this Paragraph.

73. Forest River shall indemnify the Monitor, as appropriate, with respect to any claims arising out of the performance of the Monitor's duties. The Monitor is not, and shall not be treated for any purpose, as an officer, employee, agent, or affiliate of Forest River.

### **IV. MISCELLANEOUS**

74. The term of this Consent Order is three years from the Effective Date ("Term"), provided, however, NHTSA may, at its option, extend the Term of this Consent Order for the term of one year if the Monitor recommends that Forest River should not be released from the this Consent Order as set forth in Paragraph 60. NHTSA will notify Forest River in writing 30 days prior to the expiration of this Consent Order should NHTSA decide to extend the term of this Consent Order based on the Monitor's recommendation.

75. Upon the termination of this Consent Order, the Secretary of Transportation, by and through the Administrator of NHTSA, releases Forest River, including its current and former directors, officers, employees, agents, parents, subsidiaries, affiliates, successors, and assigns from liability for civil penalties pursuant to 49 U.S.C. § 30165 in connection with any and all violations of Forest River's Safety Act obligations, including those expressly identified in this

Consent Order, from the inception of the Safety Act through the termination date of this Consent Order.

76. This Consent Order does not release Forest River from civil or criminal liabilities, if any, that may be asserted by the United States, the Department of Transportation, NHTSA, or any other governmental entity for violations not set forth in this Consent Order.

77. Forest River shall provide written notice of each required submission under this Consent Order by electronic mail to NHTSA's Medium & Heavy Duty Vehicle Division Chief (currently Bruce York, Bruce.York@dot.gov), and with copies to NHTSA's Acting Associate Administrator for Enforcement (currently Frank Borris, Frank.Borris@dot.gov) and NHTSA's Assistant Chief Counsel for Litigation and Enforcement (currently Timothy H. Goodman, tim.goodman@dot.gov).

78. NHTSA shall provide notice to Forest River pursuant to this Consent Order by sending notices to Michael C. Terrell (Taft Stettinius & Hollister LLP) and to Jacqueline Glassman (Hogan Lovells US LLP).

79. This Consent Order cannot be modified, amended, or waived except by an instrument in writing signed by all parties, and no provision may be modified, amended, or waived other than by a writing setting forth such modification, amendment, or waiver and signed by the party making the modification, amendment, or waiver.

80. Nothing in this Consent Order shall be interpreted or construed in a manner inconsistent with, or contravening, any federal law, rule, or regulation at the time of the execution of this Consent Order, or as amended thereafter.

81. None of the specific reporting obligations described in this Consent Order relieve Forest River of its obligation to submit any other reports required by the Safety Act or its

corresponding regulations, including any information requests, Special Orders, or other compulsory process issued by NHTSA.

82. This Consent Order shall be effective following its execution. Any breach of the obligations under this Consent Order may, at NHTSA's option, be immediately enforceable in any United States District Court. Forest River agrees that it will not raise any objection as to venue for an action arising from a violation of this Consent Order.

83. In the event of Forest River's breach of, or failure to perform any term of, this Consent Order, NHTSA reserves the right to pursue any and all appropriate administrative and/or judicial remedies, including, but not limited to, assessing interest for untimely settlement payments and/or commencing litigation to enforce this Consent Order in any United States District Court. Forest River and NHTSA agree that Forest River's civil penalty liability to NHTSA for a breach of, or failure to perform any term of, this Consent Order shall be no more than the Stipulated Civil Penalties totaling a maximum of \$30 million.

84. The parties who are the signatories to this Consent Order have the legal authority to enter into this Consent Order, and each party has authorized its undersigned to execute this Consent Order on its behalf.

85. Forest River expressly waives any and all defenses and agrees not to plead, argue, or otherwise raise any defenses other than that the payment of the Cash Amount set forth in Paragraph 24 or payment of the Stipulated Civil Penalties was made to NHTSA, if applicable.

86. This Consent Order shall be binding upon, and inure to the benefit of, Forest River and its current and former directors, officers, employees, agents, subsidiary, successors, and assigns. Forest River agrees to waive any and all defenses that may exist or arise in

connection with any person or entity succeeding to the interests or obligations herein, in whole or in part, including as a result of any changes in corporate structure.

87. Should any condition or other provision contained herein be held invalid, void or illegal by any court of competent jurisdiction, it shall be deemed severable from the remainder of this Consent Order and shall in no way affect, impair, or invalidate any other provision of this Consent Order.

88. This Consent Order shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Order. This Consent Order may be executed in counterparts, each of which shall be considered effective as an original signature.

89. This Consent Order is a fully integrated agreement and shall in all respects be interpreted, enforced, and governed under the federal law of the United States. There are no promises, agreements, or conditions, express or implied, other than those set forth in this Consent Order and the attachments thereto.

[SIGNATURE PAGES FOLLOW]

APPROVED AND SO ORDERED:

NATIONAL HIGHWAY TRAFFIC SAFETY  
ADMINISTRATION,  
U.S. DEPARTMENT OF TRANSPORTATION

Dated: July 8, 2015

By: // ORIGINAL SIGNED BY //

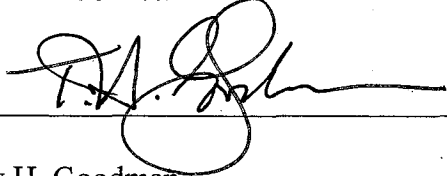
Mark R. Rosekind, Ph.D.  
Administrator

Dated: July 8, 2015

By: 


Paul A. Hemmersbaugh  
Acting Chief Counsel

Dated: July 8, 2015

By: 

Timothy H. Goodman  
Assistant Chief Counsel  
for Litigation and Enforcement

Dated: July 8, 2015

By: 

Kerry E. Kolodziej  
Senior Trial Attorney

Dated: July 8, 2015

By: 

Thomas P. Healy  
Trial Attorney



AGREED:

FOREST RIVER, INC.

Dated: July 7, 2015

By: \_\_\_\_\_



Peter J. Liegl  
President and Chief Executive Officer

Dated: July \_\_\_\_, 2015

By: \_\_\_\_\_

Michael C. Terrell  
Taft Stettinius & Hollister LLP  
Counsel for Forest River, Inc.

Dated: July \_\_\_\_, 2015

By: \_\_\_\_\_

Jacqueline S. Glassman  
Hogan Lovells US LLP  
Counsel for Forest River, Inc.

AGREED:

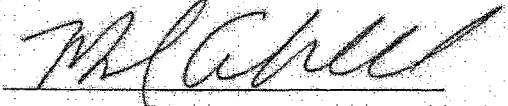
FOREST RIVER, INC.

Dated: July \_\_\_\_\_, 2015

By: \_\_\_\_\_

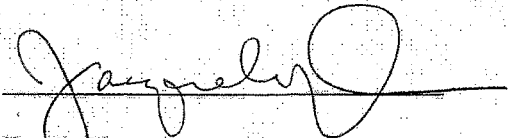
Peter J. Liegl  
President and Chief Executive Officer

Dated: July 8, 2015

By: 

Michael C. Terrell  
Taft Stettinius & Hollister LLP  
Counsel for Forest River, Inc.

Dated: July 8, 2015

By: 

Jacqueline S. Glassman  
Hogan Lovells US LLP  
Counsel for Forest River, Inc.