

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

In re: _____)
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C&M Trailers, Inc.)
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_____)

CONSENT ORDER

This Consent Order 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 administratively resolve a NHTSA enforcement action, mitigate and control risks of harm, and promote safety. It sets forth the requirements and performance obligations of C&M Trailers, Inc. (“C&M”), in connection with C&M’s violations of 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 thereunder, under the following terms and conditions.

I. NATURE OF THE ACTION

1. The Safety Act provides for regulation of motor vehicles and motor vehicle equipment by the Secretary of Transportation. 49 U.S.C. § 30111. The Secretary has delegated her authorities under the Safety Act to the NHTSA Administrator. 49 C.F.R. §§ 1.95(a), 501.3(a)(1).

2. The Safety Act applies to manufacturers. 49 U.S.C. § 30102(a)(6). A manufacturer is defined as a person “manufacturing or assembling motor vehicles or motor vehicle equipment.” *Id.*

3. The Safety Act applies to motor vehicles, defined as vehicles “driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.” 49 U.S.C. § 30102(a)(7).

4. Trailers are motor vehicles. A trailer is a “motor vehicle with or without motive power, designed for carrying persons or property and for being drawn by another motor vehicle.” 49 C.F.R. § 571.3(b).

5. In general, only motor vehicles that comply with applicable Federal motor vehicle safety standards (“FMVSS”) and that are so certified can be sold. 49 U.S.C. §§ 30112(a), 30115. Motor vehicles must bear a label certifying such compliance with applicable FMVSS that is permanently affixed by the manufacturer. 49 U.S.C. § 30115; 49 C.F.R. Part 567. Manufacturers of motor vehicles are responsible for “self-certifying” that their products meet all applicable FMVSS before they are offered for sale. *See* 49 U.S.C. §§ 30112, 30115.

6. Under 49 U.S.C. § 30166(e), the Secretary of Transportation may reasonably require a manufacturer of a motor vehicle to keep records and make reports to enable the Secretary to decide whether the manufacturer has complied with or is complying with 49 U.S.C. Chapter 301 or a regulation prescribed or order issued under Chapter 301.

7. Manufacturers of motor vehicles are required to submit identifying information and a description of the items they produce to NHTSA. 49 U.S.C. § 30166(e) and 49 C.F.R. Part 566. Manufacturers must report this information no later than 30 days after manufacturing begins. 49 C.F.R. § 566.6.

8. Manufacturers of motor vehicles are also required to assign Vehicle Identification Numbers (“VINs”) in accordance with 49 C.F.R. Part 565 and provide VIN deciphering information to NHTSA. 49 U.S.C. § 30166(e) and 49 C.F.R. Part 565.

9. A manufacturer has a duty to notify NHTSA, owners, purchasers, and dealers of the motor vehicle if the manufacturer learns or determines that the vehicle has a safety-related defect or noncompliance with an FMVSS. 49 U.S.C. § 30118(c)(1); 49 C.F.R. § 573.6(a). NHTSA’s regulations require manufacturers to notify NHTSA not more than five working days after a safety-related defect or noncompliance with an FMVSS has been determined. 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 "Part 573 Report."

10. As required by the Transportation, Recall Enhancement, Accountability, and Documentation ("TREAD") Act, NHTSA requires reporting of "Early Warning Information" based on the type of manufacturer. The first group consists of larger manufacturers of motor vehicles and manufacturers of child restraint systems and tires. *See* 49 C.F.R. §§ 579.21-579.26. A manufacturer of 5,000 or more trailers annually falls within this first group. 49 C.F.R. § 579.24. These trailer manufacturers are required to report, on a quarterly basis, production information, information on incidents involving death or injury, and data regarding property damage claims, consumer complaints, warranty claims, and field reports. *See* 49 C.F.R. § 579.24. The second group consists of all other manufacturers of motor vehicles and motor vehicle equipment, including manufacturers of fewer than 5,000 trailers annually. *See* 49 C.F.R. § 579.27. This second group of manufacturers must report the same information about incidents involving deaths as the first group, but is not required to report any other "Early Warning Information." *Id.*

11. 49 U.S.C. § 30117(a) provides that the Secretary of Transportation may require that each manufacturer of a motor vehicle provide technical information related to performance and safety required to carry out Chapter 301, and the Secretary may require the manufacturer to give notice of that information to the first purchaser of a vehicle other than for resale when the vehicle is bought ("first retail customer") in printed matter placed in the vehicle. 49 U.S.C. § 30117(a)(2). 49 C.F.R. Part 575 contains requirements for the provision of consumer information.

12. 49 U.S.C. § 30117(b) contains provisions for maintaining purchaser records. 49 C.F.R. § 574.10 requires a motor vehicle manufacturer or its designee to maintain a record of the new tires on or in each vehicle shipped by it or a motor vehicle distributor or dealer and to

maintain a record of the name and address of the first purchaser for purposes other than resale of each vehicle equipped with such tires.

13. A person who violates 49 U.S.C. §§ 30112, 30115, 30117, 30118 or a regulation thereunder is liable to the United States Government for a civil penalty. 49 U.S.C. § 30165(a)(1); 49 C.F.R. § 578.6(a)(1). As of December 27, 2012, the maximum penalty was \$7,000 per violation. 77 Fed. Reg. 70,710, 70,713 (Nov. 27, 2012) (codified at 49 C.F.R. § 578.6). That penalty increased from \$7,000 to \$21,000 per violation effective March 17, 2016. 81 Fed. Reg. 15,413 (Mar. 22, 2016). The maximum penalty for a related series of violations is currently \$105 million. *See id.* A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform a required act. 49 U.S.C. § 30165(a)(1); 49 C.F.R. § 578.6(a)(1).

14. A person who violates 49 U.S.C. §§ 30166(e), 30166(m), or a regulation thereunder is liable to the United States for a civil penalty. *See* 49 U.S.C. § 30165(a)(3); 49 C.F.R. § 578.6(a)(3). As of December 27, 2012, the maximum penalty was \$7,000 per day. Effective March 17, 2016, the maximum civil penalty was increased from \$7,000 to \$21,000 per day. *See* 81 Fed. Reg. 15,413 (Mar. 22, 2016) (codified at 49 C.F.R. § 578.6(a)(3)). The maximum penalty for a related series of daily violations is currently \$105 million. *See id.*

15. C&M is a manufacturer of motor vehicles within the meaning of the Safety Act and a person within the meaning of 49 U.S.C. § 30165. 49 U.S.C. § 30102(a)(6).

16. C&M's trailers are motor vehicles under the Safety Act. 49 U.S.C. § 30102(a)(7); 49 C.F.R. § 571.3.

17. C&M has manufactured 5,000 or more trailers annually, and thus is subject to the reporting requirements of 49 C.F.R. § 579.24.

II. LEGAL AUTHORITY

18. 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(a), 501.3(a)(1), to compromise the amount of civil penalties for violations of the Safety Act and regulation thereunder, 49 U.S.C. § 30165(b), to inspect and investigate, 49 U.S.C. § 30166(b)(1), and to require any person to file reports or answers to specific questions, 49 U.S.C. § 30166(g).

It is AGREED by C&M and ORDERED by NHTSA as follows:

III. TERMS AND CONDITIONS OF CONSENT ORDER

A. Admission of Safety Act Violations

19. C&M admits that it did not comply with the legal obligations imposed on vehicle manufacturers under the Safety Act. C&M admits that its violations of the Safety Act include: its failure to submit early warning reports as required by 49 U.S.C. § 30166(m) and 49 C.F.R. § 579.24; manufacturing and certifying motor vehicles for sale that do not comply with applicable FMVSS, in violation of 49 U.S.C. §§ 30112 and 30115; failing to submit identifying information and a description of the items it produces not later than 30 days after manufacturing began, as required by 49 U.S.C. § 30166(e) and 49 C.F.R. Part 566; failing to comply with the Vehicle Identification Number requirements as required by 49 U.S.C. § 30166(e) and 49 C.F.R. Part 565; failing to provide information to first retail purchasers as required by 49 U.S.C. § 30117(a) and 49 C.F.R. § 575.6; failing to maintain a record of new tires on or in new vehicles shipped by it and the name and address of the first purchaser for purposes other than resale of each vehicle equipped with such tires as required by 49 U.S.C. § 30117(b) and 49 C.F.R. § 574.10, and failing to timely recall vehicles, as required by 49 U.S.C. § 30118 and 49 C.F.R. Part 573. A description of untimely recalls, identified by NHTSA identification number, follows: 16v909: The tire placard on the affected vehicles may not have the tire and rim size information. As such, these vehicles fail to comply with the requirements of 49 CFR Part 567,

Certification, and to FMVSS 110, "Tire Selection and Rims;" 16v912: The affected trailers may be missing front reflex reflectors. As such, these vehicles fail to comply with the requirements of FMVSS 108, "Lamps, Reflective Devices, and Associated Equipment;" 16v924: The affected trailers may be missing the required license plate illumination. As such, these vehicles fail to comply with the requirement of FMVSS 108; and 17v602: The affected trailers were built with side marker lamps mounted over 60 inches high. As such, these trailers fail to comply with the requirements of FMVSS 108.

B. Civil Penalty

20. C&M agrees that the United States is entitled to a civil penalty of up to one hundred and ten thousand dollars (\$110,000) 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.* (hereinafter the "Debt Collection Act") (the "Total Civil Penalty").

21. To satisfy its obligations to pay a civil penalty, as authorized by 49 U.S.C. § 30165(b), C&M shall pay the sum of ten thousand dollars (\$10,000) in accordance with the instructions provided in Paragraph 24 below (the "Non-Deferred Amount").

22. From the period September 1, 2016 until the end of this Consent Order, C&M shall spend at least fifty-eight thousand dollars (\$58,000) to ensure satisfactory completion of certain performance obligations described below in Paragraphs 31 through 58 (the "Compliance and Industry Outreach Amount"). To substantiate its performance, C&M will provide a copy of all billings from its outside consultant ("Consultant") and a record of all of its payments to the Consultant during this period no later than 330 days after execution of this Consent Order. If C&M has shown that it has spent the full amount as required, C&M will be released from any and all obligations to pay the Compliance and Industry Outreach Amount to NHTSA. If, however, C&M has not spent the full amount as required by the end of the term of the Consent

Order, the balance of the Compliance and Industry Outreach amount shall become immediately due and owing.

23. In the event C&M commits further violations of the Safety Act or this Consent Order during the term of this Consent Order, C&M may be potentially obligated to pay additional sums totaling up to a maximum of forty-two thousand dollars (\$42,000) in accordance with the terms and conditions set forth below (the "Deferred Amount"). The Deferred Amount is exclusive of any additional civil penalty liability that may accrue due to further violations of the Safety Act or this Consent Order.

24. C&M shall pay the Non-Deferred Amount in four equal installments of two thousand five hundred dollars (\$2,500) by electronic funds transfer to the U.S. Treasury, in accordance with the instructions provided by NHTSA, with the first such installment payable no later than 10 calendar days following execution of this Consent Order. The remaining installments will be paid quarterly thereafter.

25. The Deferred Amount shall only become due and owing in accordance with and subject to the provisions set forth in Paragraph 27 below. NHTSA and C&M expect that C&M will comply fully with this Consent Order and the Safety Act and that the Deferred Amount accordingly will not become due. In the event that C&M discovers additional violations of the Safety Act or regulations thereunder that have occurred prior to or during the term of the Consent Order, and C&M promptly brings those violations to NHTSA's attention, NHTSA agrees that it will not seek any of the Deferred Amount with respect to those violations. In the event C&M is required to pay any of the Deferred Amount, 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 determination that they are due and owing.

26. If C&M fails to make any of the payments set forth above, C&M shall be in default of this Consent Order and the balance of the Total Civil Penalty shall become

immediately due and owing. In such event: (i) C&M agrees not to contest any collection action undertaken by NHTSA or the United States pursuant to the Debt Collection Act and the U.S. Department of Transportation's regulations, 49 C.F.R. Part 89, either administratively or in any court, and (ii) C&M affirmatively waives any and all defenses or rights that would otherwise be available to it in any such proceeding. In addition, in such a proceeding, C&M shall pay the United States all reasonable costs of collection and enforcement, including attorneys' fees and expenses. NHTSA in its sole discretion may waive or reduce any stipulated penalties owing under this Consent Order.

27. Should NHTSA make its own determination that C&M has violated the Safety Act, regulations thereunder, or the terms of this Consent Order, and C&M has not corrected the violation within ten calendar days of written notification by NHTSA to C&M, a lump-sum payment of ten thousand dollars (\$10,000) of the Deferred Amount will become due and owing to the U.S. Treasury within ten calendar days, in accordance with instructions provided by NHTSA. Upon a second determination (involving a second incident with a separate vehicle or set of vehicles or separate obligation) by NHTSA that C&M has violated the Safety Act, regulations thereunder, or the terms of this Consent Order, and C&M has not corrected the violation within ten calendar days of written notification by NHTSA to C&M, a lump-sum payment of twelve thousand dollars (\$12,000) of the Deferred Amount will become due and owing to the U.S. Treasury within ten calendar days, in accordance with instructions provided by NHTSA. Upon a third determination (involving a third incident with a separate vehicle or set of vehicles or separate obligation) by NHTSA that C&M has violated the Safety Act, regulations thereunder, or the terms of this Consent Order, and C&M has not corrected the violation within ten calendar days of written notification by NHTSA to C&M, the remaining twenty thousand dollars (\$20,000) of the Deferred Amount will become due and owing to the U.S. Treasury within ten calendar days, in accordance with the instructions provided by NHTSA. C&M will

not be liable for the above amounts if C&M demonstrates to NHTSA's reasonable satisfaction that it acted in good faith and exercised reasonable best efforts to comply.

C. Performance Obligations

28. This Consent Order requires C&M to execute certain performance obligations, the objectives of which are to assist NHTSA in its mission to, among other things, carry out safety programs under the Safety Act and to improve C&M's processes and procedures for complying with the Safety Act. These performance obligations will be satisfied through the activities set forth in Paragraphs 31 through 58 below.

29. NHTSA will consider any and all remedial actions that C&M has undertaken prior to the execution of this Consent Order in determining whether C&M has carried out the performance requirements of this Consent Order.

30. C&M agrees to undertake its reasonable best efforts to comply with all aspects of the Safety Act.

1. Remediating Past Noncompliance with the Safety Act

31. To the extent not already provided to NHTSA, C&M shall submit all manufacturer identification information required under 49 C.F.R. Part 566 within 90 calendar days of the execution of this Consent Order.

32. To the extent not already provided to NHTSA, C&M shall submit all VIN deciphering information required under 49 C.F.R. Part 565 within 90 calendar days of the execution of this Consent Order.

33. To the extent not already provided to NHTSA, no later than 90 calendar days after the execution of this Consent Order, C&M shall report all unreported information required to be submitted under 49 C.F.R. § 579.24 that it has in its possession for the five years preceding the date of execution of this Consent Order.

34. No later than 30 calendar days after execution of this Consent Order, C&M shall propose a strategy to NHTSA, along with the proposed communication, to provide consumers with the information required by 49 C.F.R. Part 575. The strategy and communication shall include, at a minimum, providing the information required by 49 C.F.R. § 575.6(a)(2) to those individuals who purchased a trailer directly from C&M going back a period of 5 years from the date of the execution of the Consent Order. C&M shall discuss the strategy and communication with NHTSA. C&M shall provide such information to such consumers no later than 60 days after its discussion with NHTSA.

35. To the extent not already performed, C&M will use its best efforts to examine all complaints and reports received by it and in its possession related to trailer models manufactured prior to the execution of this Consent Order to determine whether a recall is required. If C&M determines that a recall is required, it will promptly initiate those recalls.

36. C&M shall confirm to NHTSA in its report required in Paragraph 56 below that it has now filed Part 573 reports for all noncompliances with applicable FMVSS and all safety-related defects for trailers manufactured by it for which it is aware after conducting due diligence.

37. C&M shall confirm to NHTSA in its report required in Paragraph 56 below that it has provided the agency to the best of its ability all information that is responsive to the Special Order dated September 19, 2016. To the extent that certain information may no longer be available, C&M will describe in that report the efforts made to collect the information and shall ensure that its Compliance Plan (referenced below) contains processes and procedures to ensure that such information is obtained and retained in the future.

2. Retention of Consultant

38. C&M represents that it has retained a Consultant with experience and expertise in motor vehicle safety and the requirements of the Safety Act and regulations thereunder. It further

represents that the Consultant is a separate individual from the individual(s) representing C&M in settlement negotiations. C&M represents that it has paid the Consultant approximately thirty-eight thousand dollars (\$38,000) in fees to correct C&M's Safety Act compliance deficiencies and to develop an on-going compliance program prior to the execution of this Consent Order. This amount will therefore be considered part of the Compliance and Industry Outreach Amount. C&M agrees to pay the Consultant an additional twenty thousand dollars (\$20,000) to assist C&M in meeting the performance obligations discussed below. The Consultant shall advise and assist C&M in developing a Compliance Plan and the Training Plan as referenced in Paragraphs 44 through 46. The Consultant shall assist C&M in developing an internal tire identification number recordkeeping system, as discussed in Paragraph 43. The Consultant shall assist C&M in developing materials for distribution to C&M dealers regarding dealer tire recordkeeping requirements, as discussed in Paragraph 49. The Consultant shall assist C&M in its outreach endeavors, as discussed in Paragraphs 49 through 53. The Consultant shall advise and assist C&M on all aspects of C&M's compliance with the Safety Act and regulations thereunder. C&M shall retain the Consultant at its sole expense as needed during the term of the Consent Order.

3. General Performance Obligations

39. C&M has represented that it has joined the National Association of Trailer Manufacturers ("NATM") and has undergone an audit. C&M agrees that it will remain a member in good standing of NATM. C&M agrees to provide any reports or documents by NATM relating to the compliance of trailers manufactured by C&M with federal safety regulations no later than 30 days after issuance of such reports or documents to C&M. These

obligations in Paragraph 39 will survive the term of the Consent Order and will continue for a period of three (3) years after the date of the conclusion of the Consent Order.

40. To the extent not already provided, and no later than 30 calendar days after execution of this Consent Order, C&M shall submit to NHTSA all communications sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser, in the United States, regarding any defect in its vehicles or items of equipment (including any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications), whether or not such defect is safety related. If C&M did not have such communications, or no longer has such communications in its possession, C&M is required to explain in its report required in Paragraph 56 below such circumstances.

41. To the extent not already provided, and no later than 30 calendar days after the execution of this Consent Order, C&M shall submit to NHTSA a copy of each communication relating to a customer satisfaction campaign, consumer advisory, recall, or other safety activity involving the repair or replacement of motor vehicles or motor vehicle equipment, that it issued to, or made available to, more than one dealer, distributor, lessor, lessee, other manufacturer, owner, or purchaser, in the United States. If C&M did not have such communications, or no longer has such communications in its possession, C&M is required to explain in its report required in Paragraph 56 below such circumstances.

42. No later than 90 calendar days after the execution of this Consent Order, C&M shall submit a report to NHTSA notifying the agency of all potential safety-related defects or noncompliances with applicable FMVSS that are currently under review by C&M as of the date of that report.

43. Within 30 days of the execution of this Consent Order, C&M shall provide NHTSA an estimated timeline for completion of the design of C&M's internal Tire Identification

Number recordkeeping system. The design of the internal Tire Identification Number recordkeeping system will be completed within 180 days of the execution of the Consent Order and C&M will commence implementation of the system thereafter.

4. Compliance, Training and Industry Outreach

Compliance Plan

44. C&M shall develop written procedures for ensuring compliance with the Safety Act, including procedures for: (a) making safety-related defect and noncompliance determinations and notifying NHTSA of such safety-related defects or noncompliances with FMVSS in accordance with 49 C.F.R. Part 573; (b) notifying dealers, owners, and purchasers of safety-related defects and noncompliances with applicable FMVSS in accordance with 49 C.F.R. Part 577; (c) comprehensive reporting in compliance with 49 C.F.R. Part 579; (d) ensuring vehicles comply with applicable FMVSS and all statutory and regulatory requirements, including that C&M has a good faith basis for certifying trailers manufactured by it as complying with applicable FMVSS; (e) maintaining a record of the new tires on or in each vehicle shipped by it or a motor vehicle distributor or dealer, and obtaining and maintaining a record of the first retail customer's contact information from dealers; (f) providing information in accordance with 49 C.F.R. Part 575; and (g) complying with record keeping requirements in accordance with 49 C.F.R. Part 576 (collectively, "Compliance Plan").

45. No later than 120 calendar days after execution of this Consent Order, C&M shall provide a copy of such Compliance Plan to NHTSA. If NHTSA reasonably determines that any changes to the written procedures are warranted, C&M shall revise its written procedures to incorporate NHTSA's feedback. C&M shall provide a revised copy of the Compliance Plan to NHTSA no later than 30 calendar days after receiving any such feedback from NHTSA. C&M agrees that it shall prepare a separate generic version of the Compliance Plan required in this Paragraph and such generic version shall be publicly available. C&M shall not claim any portion

of the generic version of the Compliance Plan is (i) subject to attorney-client privilege or attorney work product, or (ii) confidential business information, not subject to public disclosure by NHTSA.

Training

46. C&M shall train appropriate personnel on its Safety Act reporting requirements and Compliance Plan. No later than 120 calendar days after the execution date of this Consent Order, C&M shall submit a report describing C&M'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 C&M for further revision, if necessary.

47. No later than 210 calendar days after the execution of this Consent Order, C&M shall submit a report detailing its efforts to implement the Compliance Plan specified in Paragraphs 44 and 45, and the Training Plan specified in Paragraph 46.

Outreach

48. In addition to C&M's performance obligations described above, this Consent Order requires C&M to execute certain performance obligations directed at education and outreach, the objectives of which are to further the goals of the Safety Act. The outreach performance obligations will be satisfied through the activities as set forth in Paragraphs 49 through 53 below.

49. C&M will develop materials for distribution to C&M's dealers relating to dealer tire recordkeeping requirements, including information regarding tire recordkeeping requirements in connection with shipments of trailers to which wheels are not attached. C&M will submit these materials to NHTSA no later than 60 days after execution of this Consent Order for NHTSA's approval. If NHTSA reasonably determines that any changes to the materials are warranted, C&M shall revise its materials to incorporate NHTSA's feedback.

C&M shall provide a revised copy of the dealer tire recordkeeping requirements material to NHTSA no later than 30 calendar days after receiving any such feedback from NHTSA.

50. No later than 45 days after execution of this Consent Order, C&M will provide NHTSA a draft of a flyer to be mailed to all C&M dealers. This flyer will be aimed at educating consumer-purchasers about how they can report defects to NHTSA and will also focus on the obligations of a vehicle manufacturer to notify consumers of safety-related defects and to urge the consumers to have any recall remedy applied promptly. If NHTSA reasonably determines that any changes to the flyer are warranted, C&M shall revise its materials to incorporate NHTSA's feedback. C&M shall provide a revised copy of the flyer to NHTSA no later than 30 calendar days after receiving any such feedback from NHTSA. C&M will then mail the flyer to each C&M dealership and C&M will request that the dealers post the flyer in its dealerships.

51. Not less than 120 days after execution of this Consent Order, C&M shall provide NHTSA with a plan for additional outreach, which NHTSA, at its option, may accept, reject, or revise and submit back to C&M for further revision, if necessary (the "Outreach Plan"). The proposed Outreach Plan shall include posting information on C&M's website to educate consumer-purchasers about how they can report defects to NHTSA, the obligations of manufacturers to notify consumers of safety-related defects, and the importance of having a recall remedy applied to a recalled trailer promptly. The proposed Outreach Plan shall also include C&M providing outreach for at least one event sponsored by NATM and at least one event sponsored by the North American Trailer Dealers Association ("NATDA") focusing on educating dealers on their obligations for tracking TINs to facilitate potential recalls and discussing the obligations for trailer manufacturers under 49 CFR Parts 573 and 579. C&M's proposed Outreach Plan shall provide NHTSA with the proposed dates of these outreach events and may include C&M securing a booth at NATM and/or NATDA events to distribute materials required by Paragraphs 49 and 50 above and answer attendee questions in lieu of appearing on

their programs to make a presentation if C&M is unable to get on their programs before the expiration of the Consent Order after making best efforts to do so. C&M shall also provide NHTSA a draft of any additional materials that it or someone on its behalf plans to present at these outreach events no less than 30 days before the event is scheduled to take place.

52. The Outreach Plan, as accepted by NHTSA, shall be implemented. In the event that an outreach event does not occur prior to the expiration of the Consent Order, the outreach obligations as described in the accepted plan survive the term of the Consent Order and will continue until such obligations are satisfied.

53. C&M may carry out these performance obligations with the assistance and participation of industry trade associations. Any non-C&M assistance and participation shall be done in a manner consistent with antitrust guidelines.

5. Meetings

54. During the term of this Consent Order, C&M shall meet with NHTSA quarterly to discuss the actions it has taken to satisfy the terms of this Consent Order. Meetings may be conducted telephonically. The first meeting shall take place no later than 90 days after the execution of this Consent Order.

55. C&M shall also meet telephonically with NHTSA no later than 335 days after execution of this Consent Order to review the current status of C&M's obligations under the Consent Order and to discuss any open items. If there are unfulfilled items as of that meeting, C&M will provide a plan for completing those items within a reasonable time, which is to be determined in consultation with NHTSA. Any subsequent meetings will be scheduled by NHTSA on an as-needed basis.

6. Completion of Performance

56. No later than 300 calendar days after the execution of this Consent Order, C&M will submit a report to NHTSA detailing the amount of dollars that C&M actually expended on

Consultant fees since September 2016 furtherance of its obligations and confirming compliance with the requirements of Paragraphs 36, 37, 40, 41, and 42. In the event of a dispute as to whether C&M has expended any part or all of fifty-eight thousand dollars (\$58,000), NHTSA shall advise C&M of such in writing, to which C&M shall have 15 working days to respond.

57. C&M shall expend its best efforts to complete the performance obligations no later than 330 days after execution of this Consent Order. In the event that an outreach event cannot occur prior to 330 days after execution of this Consent Order, NHTSA will not consider it a breach. However, in such case, the term of the Consent Order with respect to that outreach obligation will automatically be extended for an additional year, so that the outreach event may occur while C&M is under the Consent Order.

58. C&M is responsible for the satisfactory completion of the performance obligations described above.

D. Compliance

59. C&M shall comply with its obligations under the Safety Act and regulations thereunder to take all actions necessary to comply with this Consent Order and to cooperate with NHTSA in carrying out the requirements of this Consent Order. C&M's reasonable best efforts shall include, but shall not be limited to, providing prompt notice to NHTSA in the event any requirement of this Consent Order cannot be met or timely met.

IV. TERM OF CONSENT ORDER

60. Unless otherwise specified, the term of this Consent Order and C&M's performance obligations thereunder is one year from the date of execution. NHTSA may, at its option, extend the period of the Consent Order not to exceed one year if not all terms of the Consent Order are met or if NHTSA believes that additional time is needed to for C&M to remedy issues or meet obligations under this Consent Order.

V. AMENDMENT

61. 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.

VI. MISCELLANEOUS

62. **Notice.** C&M 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 Associate Administrator for Enforcement (currently Jeffrey Giuseppe, Jeffrey.Giuseppe@dot.gov) and NHTSA's Assistant Chief Counsel for Litigation and Enforcement (currently Emily Su, Emily.Su@dot.gov).

63. **Application of Federal Law.** 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.

64. **Release.**

A. Upon expiration of this Consent Order, the Secretary of Transportation, through the Administrator of NHTSA, will be deemed to have released C&M, including its officers, from liability for civil penalties pursuant to 49 U.S.C. § 30165 in connection with any and all violations of C&M's Safety Act obligations as identified in this Consent Order, from the inception of the Safety Act through the execution date of this Consent Order. Additionally, the Secretary of Transportation, by and through the Administrator of NHTSA, hereby waives any and all enforcement action or claims against C&M (including its officers) for civil penalties solely with respect to potential violations of the Safety Act or its implementing regulations that

are disclosed pursuant to Paragraph 25, and subject to C&M's satisfactory fulfillment of its other obligations under this Consent Order.

B. This Consent Order does not release C&M 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, other than its civil penalty liabilities under 49 U.S.C. § 30165 as described in this Consent Order.

C. None of the specific reporting obligations described in this Consent Order relieve C&M of its obligation to submit any other reports required by the Safety Act or its corresponding regulations.

65. **Attorney Fees.** The parties shall each bear their own respective attorneys' fees, costs, and expenses, except as provided in Paragraph 26 above.

66. **Effective Date.** 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. C&M agrees that it will not raise any objection as to venue.

67. **Breach.** In the event of C&M'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. C&M expressly waives any and all defenses and agrees not to plead, argue, or otherwise raise any defenses other than (i) that the payment of the Non-Deferred Amount was made to NHTSA, if applicable, and (ii) that C&M has substantially complied with the terms of this Consent Order.

68. **Authority.** 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.

69. **Corporate Change.** This Consent Order shall be binding upon, and inure to the benefit of, C&M and its current and former directors, officers, employees, agents, parents, subsidiaries, affiliates, successors, and assigns. C&M 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, including as a result of any changes to the corporate structure or relationships among or between C&M and any of its parents, subsidiaries, or affiliates.

70. **Severability.** 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.

71. **Third Parties.** 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.

72. **Counterparts.** This Consent Order may be executed in counterparts, each of which shall be considered effective as an original signature.

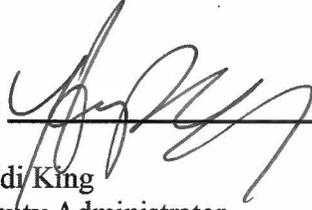
73. **Integration.** This Consent Order is a fully integrated agreement and shall in all respects be interpreted, enforced, and governed under the federal law of the United States. This Consent Order sets forth the entire agreement between the parties with regard to the subject matter hereof. There are no promises, agreements, or conditions, express or implied, other than those set forth in this Consent Order.

[SIGNATURES ON NEXT PAGE]

APPROVED AND SO ORDERED:

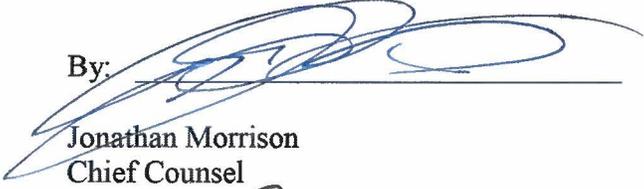
NATIONAL HIGHWAY TRAFFIC SAFETY
ADMINISTRATION,
U.S. DEPARTMENT OF TRANSPORTATION

Dated: December 11, 2017

By:  _____

Heidi King
Deputy Administrator

Dated: December 11, 2017

By:  _____

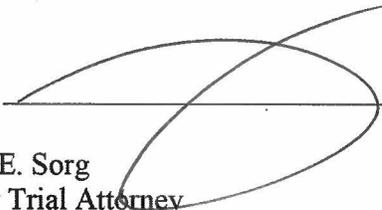
Jonathan Morrison
Chief Counsel

Dated: December 11, 2017

By:  _____

Emily Su
Assistant Chief Counsel
for Litigation and Enforcement

Dated: December 11, 2017

By:  _____

Sarah E. Sorg
Senior Trial Attorney

AGREED:

C&M TRAILERS, INC.

Dated: December 8, 2017

By: 

Mike Palmer
President

Dated: December 8, 2017

By: 

Annette Sandberg
Counsel for C&M Trailers, Inc.