



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 more than one manufacturer, distributor, dealer, owner or purchaser. *See* 49 U.S.C. § 30166(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).

3. A person who violates the Safety Act’s reporting requirements, or a regulation prescribed thereunder, is liable to the United States Government for daily civil penalties. *See* 49 U.S.C. §§ 30166(m), 30165(a)(3). As of July 1, 2003, the maximum daily penalty was \$5,000 per day. That daily penalty increased from \$5,000 to \$6,000 effective June 15, 2006. *See* 71 Fed. Reg. 28,279 (May 16, 2006). Effective December 27, 2012, the maximum civil penalty was further increased from \$6,000 to \$7,000 per day. *See* 77 Fed. Reg. 70,710, 70,713 (Nov. 27, 2012) (codified at 49 C.F.R. § 578.6(a)(3)).

4. Under the Safety Act and implementing regulations, 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 or determines that 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). NHTSA’s regulations require manufacturers to notify 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.” Where a vehicle is manufactured in two or more

stages, both the manufacturer of the incomplete vehicle or original equipment, and any subsequent manufacturer, are required to comply with 49 C.F.R. § 573.6. *See* 49 C.F.R. § 573.3(c). Compliance with 49 C.F.R. §§ 573.6 and 573.7 by the manufacturer of the incomplete vehicle or any subsequent manufacturer of the vehicle shall be considered compliance by all manufacturers. *Id.*

5. A person who violates the defect notification requirements of the Safety Act, or a regulation thereunder, is liable to the United States Government for a civil penalty of not more than \$7,000 for each violation. 49 U.S.C. § 30165(a)(1); 49 C.F.R. § 578.6(a). A separate violation occurs for each 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).

6. Spartan is a manufacturer of motor vehicle equipment within the meaning of the Safety Act, *see* 49 U.S.C. § 30102(a)(7), and a person within the meaning of 49 U.S.C. § 30165.

7. Spartan violated the Safety Act by failing to submit service bulletins in accordance with 49 C.F.R. § 579.5 for a ten year period commencing in April 2003, including at least 244 service bulletins issued by Spartan during that time.<sup>1</sup>

8. After discovering that Spartan had not been submitting service bulletins, NHTSA contacted Spartan on March 15, 2013, about its obligation to comply with 49 C.F.R. § 579.5. In response, in mid-April 2013, Spartan advised NHTSA that, in not submitting service bulletins, it was relying on a 2003 interpretation letter issued to Spartan. *See* Apr. 11, 2003 letter from J. Glassman to K. Boucher *available at* [http://isearch.nhtsa.gov/files/boucher\\_ztv.html](http://isearch.nhtsa.gov/files/boucher_ztv.html). Spartan

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<sup>1</sup> On April 15, 2003, the requirement to report service bulletins was revised and moved from 49 C.F.R. § 573.8 to 49 C.F.R. § 579.5 as part of the Transportation, Recall Enhancement, Accountability and Documentation (TREAD) Act. *See* 68 Fed. Reg. 18142 (Apr. 15, 2003). In its Notice of Proposed Rulemaking, NHTSA anticipated that there would be relatively few documents covered by section 579.5(b) that would not have been previously covered under section 573.8. *See* 66 Fed. Reg. 66191 (Dec. 21, 2001).

acknowledged that it misunderstood the 2003 interpretation letter and, at NHTSA's request, began submitting copies of the service bulletins it had issued during the previous year. Spartan also began to timely report newly issued service bulletins. During a meeting between Spartan and NHTSA on May 8, 2013, NHTSA made a request for all service bulletins released during the previous ten years that may have been subject to the reporting requirements set forth in 49 C.F.R. § 579.5.

9. In reviewing service bulletins from the April 2012 to March 2013 time period, NHTSA staff concluded that the conditions addressed in six of the service bulletins, which had been handled by Spartan as non-safety campaigns, should have been reported to NHTSA under Part 573 as safety-related defects. Spartan ultimately agreed to submit Part 573 Reports for three of the six defect conditions and initiated safety recalls to remedy the condition.<sup>2</sup> See Recall Nos. 13V-353, 13V-392, and 14V-020.

10. More specifically, on August 9, 2013, Spartan notified NHTSA that it had determined a defect, related to motor vehicle safety, existed in 85 aerial fire apparatus vehicles (model years 2004 through 2010). According to Spartan's Part 573 Report, the safety-related defect concerned a condition in which the adhesive used to attach the rotation interlock magnet degrades, allowing the magnet to detach and be free to move without warning. The defect condition had been previously identified by Spartan in CSB13-ERV-005, which was issued in March 2013. NHTSA designated this recall as Recall No. 13V-353.

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<sup>2</sup> NHTSA staff also expressed their belief that Spartan should have submitted a Part 573 Report or conducted a safety recall concerning a defect existing in 56 emergency vehicles' aerial guide block bearings, which was the subject of CSB13-ERV-004. However, on or about February 20, 2014, Spartan informed NHTSA that it had repaired 100% of the vehicles under CSB13-ERV-004. Due to the complete remedy of the affected vehicles, and to avoid the legal expense and other costs of a protracted dispute and potential litigation, the parties have agreed that the issues surrounding CSB13-ERV-004 have been resolved, without the need for Spartan to file a Part 573 Report.

11. On August 29, 2013, Spartan notified NHTSA that it had determined a defect, related to motor vehicle safety, existed in 113 motor home chassis (model years 2011 and 2012). According to Spartan's Part 573 Report, the safety-related defect involved a situation where the relay arm may come into contact with the ABS modulator valve while the wheels are turning and the relay rod arm is in the full forward position. Such circumstances may reduce stopping distance or cause the vehicle to pull to one side. The defect condition had been previously identified by Spartan in CSB12-250-003 and CSB12-250-005, which were issued in November 2012 and March 2013, respectively. NHTSA designated this recall as Recall No. 13V-392.

12. On January 27, 2014, Spartan notified NHTSA that it had determined a defect, related to motor vehicle safety, existed in 452 motor home chassis (model years 2010 through 2014). Spartan's Part 573 Report indicated that the safety-related defect concerned a condition where the sway bar end links may bend or break during a binding condition when the vehicle suspension is in jounce. The defect condition had been previously identified by Spartan in CSB12-250-002, which was issued in March 2013. NHTSA designated this recall as Recall No. 14V-020.

13. Spartan asserts that it is not aware of any accidents or injuries related to the conditions addressed in the recalls identified in Paragraphs 10-12, above.

14. To date, Spartan has not submitted a Part 573 Report or conducted a safety recall with respect to the three other defect conditions described in Paragraph 9, which NHTSA has concluded should have been reported under Part 573: (i) CSB07-001B issued in August 2007 and TSB09-340-001 issued in May 2009, both involving a Hendrickson Tag Axle Wheel Bearing Failure; (ii) TSB11-150-002 issued in June 2011, which involved Retractable Side Mirrors; and (iii) CSB05-230-004 issued in November 2005 (and modified in June 2006), and CSB07-270a-001

through CSB07-270h-001 issued in March 2007, all of which involve certain engine cooling fans. Spartan has stated that the conditions addressed in these service bulletins do not present an unreasonable risk to motor vehicle safety. Spartan has further stated that, as of the date of this Consent Order, it is not aware of any accidents or injuries related to the conditions addressed in these service bulletins.

15. On July 7, 2014, NHTSA opened a timeliness query investigation, TQ14-003, to investigate whether Spartan had made timely defect decisions with respect to Recall Nos. 13V-353, 13V-392, and 14V-020, as described in Paragraphs 9-12 above, as well as Spartan's failure to timely report service bulletins between April 2003 and March 2013, as described in Paragraph 7.

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 regulation 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 Spartan and ORDERED by NHTSA as follows:

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

### **A. Admission of Violations of the Safety Act**

17. Spartan admits that it violated the Safety Act when, between April 2003 and March 2013, it failed to furnish NHTSA with copies of service bulletins as required by 49 U.S.C. § 30166(m)(3)(B) and 49 C.F.R. § 579.5, and as referenced in Paragraph 7 above.

18. Spartan admits that it did not timely determine whether safety-related defects existed in the vehicles and/or equipment that are the subject of Recall Nos. 13V-353, 13V-392, and 14V-020. Accordingly, Spartan did not submit the required Part 573 Report to NHTSA within five working days after it should have known that the defects related to a safety-related defect in violation of 49 C.F.R. § 573.6(b).

19. Spartan further admits that it violated the Safety Act, 49 U.S.C. § 30118(c)(1) and 49 C.F.R. § 573.6, when it failed to submit Part 573 Reports for the service bulletins referenced in Paragraph 14 above, all three of which Spartan now concedes involve safety-related defects: (i) CSB07-001B issued in August 2007 and TSB09-340-001 issued in May 2009, both involving a Hendrickson Tag Axle Wheel Bearing Failure; (ii) TSB11-150-002 issued in June 2011, which involved Retrac Side Mirrors; and (iii) CSB05-230-004 issued in November 2005 (and modified in June 2006), and CSB07-270a-001 through CSB07-270h-001 issued in March 2007, all of which involve certain engine cooling fans.

**B. Civil Penalty**

20. Spartan shall pay a civil penalty in the total sum of nine million dollars (\$9,000,000.00) for Spartan's failure to timely report service bulletins during the period April 2003 through March 2013 under the Safety Act; Spartan's failure to provide timely notice to NHTSA of the safety-related defects that are the subject of Recall Nos. 13V-353, 13V-392, and 14V-020 within five working days; Spartan's failure to submit Part 573 Reports for three service bulletins that involve safety-related defects; and to encourage Spartan to make timely notifications in the future (the "Total Civil Penalty"). The sum of one million dollars (\$1,000,000.00) shall be paid in accordance with the instructions provided in Paragraph 22 below (the "Non-Deferred Amount"). The payment of the sum of five million dollars (\$5,000,000.00)

shall be deferred and held in abeyance by NHTSA pending Spartan's satisfactory completion, as reasonably determined by NHTSA, of the obligations described below in Paragraphs 26-27 (the "Deferred Amount"). Spartan shall use the remaining sum of three million dollars (\$3,000,000.00) to ensure satisfactory completion, as reasonably determined by NHTSA, of certain performance obligations described below in Paragraphs 29-36, and Attachments A and B.

21. Spartan admits that it has a debt in the amount of nine million dollars (\$9,000,000.00) due and owing to the United States under the Federal Claims Collection Act of 1966, as amended and codified at 31 U.S.C. § 3701, *et seq.* (hereinafter the "Debt Collection Act"), arising from activities under the jurisdiction of the U.S. Department of Transportation.

22. Spartan shall pay the Non-Deferred Amount in three equal installments 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 60 calendar days following execution of this Consent Order. The second installment shall be due no later than 60 days after the first anniversary of this Consent Order and the final installment shall be due no later than 60 days after the second anniversary of this Consent Order.

23. If Spartan fails to make the payments of the Non-Deferred Amount set forth in Paragraphs 20 and 22 above on or before their respective due dates, Spartan 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) Spartan 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. § 89, either administratively or in any court, and (ii) Spartan 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, Spartan shall pay the United States all reasonable costs of collection and enforcement, including attorneys' fees and expenses.

**C. The Deferred Amount of the Civil Penalty**

24. In accordance with this Consent Order, Spartan shall satisfactorily perform the obligations set forth in Paragraphs 26-27, below. If Spartan has reasonably completed the performance obligations in Paragraphs 26-27, then on the third anniversary of this Consent Order, NHTSA will release Spartan from any and all obligations to pay the Deferred Amount, totaling five million dollars (\$5,000,000.00), described in Paragraph 20.

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

26. No later than 60 calendar days after the execution of this Consent Order, Spartan shall submit to NHTSA a Part 573 Report for the safety-related defects referenced in Paragraph 19 above: (i) CSB07-001B issued in August 2007 and TSB09-340-001 issued in May 2009, both involving a Hendrickson Tag Axle Wheel Bearing Failure; (ii) TSB11-150-002 issued in June 2011, which involved Retractable Side Mirrors; and (iii) CSB05-230-004 issued in November 2005 (and modified in June 2006) and CSB07-270a-001 through CSB07-270h-001 issued in March 2007, all of which involve certain engine cooling fans.

27. Spartan agrees to undertake its reasonable best efforts to comply with all aspects of the Safety Act. If any material violation of the Safety Act, not expressly identified in this Consent Order or otherwise brought to NHTSA's attention in accordance with Paragraph 29 below, occurs after the execution date of this Consent Order and during the pendency of this Consent Order, then the balance of the Deferred Amount shall become immediately due and

owing to NHTSA, unless Spartan demonstrates that it acted in good faith and exercised reasonable best efforts to comply.

**D. Performance Obligations**

28. This Consent Order requires Spartan 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 Spartan's processes and procedures for complying with reporting requirements, making safety-related defects determinations, and reporting defects to NHTSA. These performance obligations will be satisfied through the activities described in Attachment A ("General Performance Obligations") and Attachment B ("Industry Education and Outreach"), which are incorporated herein by reference, and as set forth in Paragraphs 29-36, below.

**1. *General Performance Obligations***

29. No later than 90 calendar days after the execution of this Consent Order,<sup>3</sup> Spartan shall submit a report to NHTSA, confirming that it has submitted all previously unreported service bulletins, required to be submitted under 49 C.F.R. § 579.5(a) - (b), issued between April 1, 2008 and March 31, 2013, by submitting a schedule listing each such service bulletin and the date on which it was issued. Spartan shall also submit a report to NHTSA, notifying the agency of all safety-related defects of which it has actual knowledge or that are currently under review by Spartan's Corrective Action Review Team ("CART"), for which notice has not previously been given to NHTSA. Spartan shall promptly notify NHTSA if it discovers any previously unreported service bulletins that have not been reported in accordance with this Paragraph.

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<sup>3</sup> A schedule of Spartan's performance obligations under this Consent Order is attached as Attachment C.

30. No later than 90 calendar days after the execution of this Consent Order, Spartan shall complete a third-party audit of Spartan's processes and procedures for complying with its reporting obligations under 49 C.F.R. Part 579, its processes and procedures for records retention under 49 C.F.R. Part 576, and its processes and procedures for defects decision-making and reporting under 49 C.F.R. Part 573. No later than 30 calendar days after the completion of the audit, Spartan shall submit to NHTSA a report detailing the findings of the audit. Spartan agrees that the audit report required in this Paragraph shall be publicly available. Spartan shall not claim any portion of the audit report is (i) subject to attorney-client privilege or attorney work product, or (ii) confidential business information, not subject to public disclosure by NHTSA.

31. Spartan shall develop new written procedures for: (a) comprehensive reporting in compliance with 49 C.F.R. Part 579; and (b) making safety-related defect determinations and notifying NHTSA of such safety-related defects in compliance with 49 C.F.R. Part 573 (collectively, "Best Practices"). No later than 120 calendar days after execution of this Consent Order, Spartan shall provide a copy of such Best Practices to NHTSA. If NHTSA reasonably determines that any changes to the written procedures are warranted, Spartan shall revise its written procedures to incorporate NHTSA's feedback. Spartan shall provide a revised copy of the Best Practices to NHTSA no later than 30 calendar days after receiving any such feedback from NHTSA. Spartan agrees that the Best Practices required in this Paragraph shall be publicly available. Spartan shall not claim any portion of the Best Practices is (i) subject to attorney-client privilege or attorney work product, or (ii) confidential business information, not subject to public disclosure by NHTSA.

32. Spartan shall train appropriate personnel on its Safety Act reporting requirements and Best Practices. Spartan's training shall be recurrent on at least an annual basis. No later

than 120 calendar days after the execution date of this Consent Order, Spartan shall submit a report detailing Spartan'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 Spartan for further revision, if necessary.

33. No later than 180 calendar days after the execution of this Consent Order, Spartan shall submit a report detailing its efforts to implement the Best Practices specified in Paragraph 31 and the Training Plan specified in Paragraph 32.

34. One year from the execution date of this Consent Order, Spartan shall complete a third-party audit of all aspects of Spartan's Safety Act reporting and defects notification. No later than 30 calendar days after the one-year anniversary of the execution date of this Consent Order, Spartan shall submit to NHTSA a report detailing the findings of the audit. Spartan agrees the audit report required in this Paragraph shall be made publicly available. Spartan shall not claim any portion of the report is (i) subject to attorney-client privilege or attorney work product, or (ii) confidential business information, not subject to public disclosure by NHTSA.

## ***2. The Industry Outreach Performance Obligations***

35. In addition to Spartan's general performance obligations described in Paragraphs 29-34 above, this Consent Order requires Spartan to execute certain performance obligations directed at industry education and outreach, the objectives of which are to further the goals of the Safety Act, particularly with regard to educating the medium and heavy duty vehicle industry and component manufacturers of their obligations under the Safety Act, and regulations thereunder, for reporting information to NHTSA and making safety-related defect

determinations. These industry outreach performance obligations will be satisfied through the activities described in Attachment B to this Consent Order.

36. Spartan will prepare a report that includes a plan and procedures for addressing the targeted performance obligations set forth in Attachment B and will submit this report to NHTSA no later than 60 calendar days after the execution of this Consent Order. NHTSA, at its option, may accept, reject or revise any part of the proposed report at any time during the pendency of this Consent Order, including on the basis that the proposed report does not include a sufficient number or variety of performance obligations, and may submit it back to Spartan for further revision, if necessary. The proposed report shall include metrics of success for the performance obligations specified in the report. NHTSA must give its approval, which will not be unreasonably withheld, to the proposed report before work on any of the performance obligations may begin.

**3. *Performance Obligation Amount***

37. The parties to this Consent Order agree that the value of Spartan's execution of the performance obligations set forth in Paragraphs 29-36 and Attachments A and B is at least three million dollars (\$3,000,000.00), taking into consideration amounts expended by whatever source, including participation expenditures incurred by other industry participants. In assessing the aggregate value of the Performance Obligation, reasonable continuing and future costs to Spartan associated with Spartan carrying out the performance obligations beyond the term of this Consent Order have been considered. To substantiate completion of its performance, Spartan shall provide to NHTSA, on an annual basis, a declaration from an officer of the company documenting the completion of its obligations, as defined in Attachment D, during the prior year. The declaration shall be submitted to NHTSA pursuant to 28 U.S.C. § 1746.

38. In accordance with this Consent Order, Spartan is responsible for the satisfactory completion of the performance obligations set forth in Paragraphs 29-36 and Attachments A and B. No later than 30 days after the conclusion of the term of the Consent Order, Spartan shall submit a Completion Report to NHTSA and, at NHTSA's election, Spartan will make a presentation of its performance obligations under the Consent Order. The Completion Report shall address the metrics of success for each of the targeted performance obligations and objectives. If Spartan has reasonably completed the performance obligations in Paragraphs 29-36 and Attachments A and B, as detailed in Attachment D, then NHTSA will release Spartan from any and all obligations to pay the Performance Obligation Amount, or any remaining portion thereof, to NHTSA. If, however, Spartan has not reasonably achieved the requirements of the performance obligations set out in Paragraphs 29-36 and Attachments A and B, as detailed in Attachment D, then the value for the unachieved portion of Spartan's performance obligation, as determined in good faith by the parties, shall become immediately due and owing to NHTSA. In the event obligations remain to be performed by Spartan notwithstanding Spartan's best efforts to complete same, NHTSA will not unreasonably deny a request by Spartan to extend the time to complete the performance obligations.

**E. Monitoring**

39. On a recurring quarterly basis, Spartan shall meet with NHTSA to discuss the actions it has taken to satisfy Paragraphs 29-36 and Attachments A and B of this Consent Order. The first meeting shall take place no later than 120 calendar days after the execution of this Consent Order, and subsequent meetings shall occur every 90 days thereafter.

40. Spartan 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. Spartan's reasonable best efforts shall include, but shall not be limited to: (i) providing prompt notice to NHTSA in the event any requirement of this Consent Order cannot be met or timely met, and (ii) ensuring that employees involved with implementation of the performance requirements of this Consent Order are kept well-informed and are allocated sufficient time during their working hours to enable them to thoroughly and effectively perform actions to carry out or implement the performance requirements of this Consent Order.

41. Spartan 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 Frank Borris, Frank.Borris@dot.gov) and NHTSA's Assistant Chief Counsel for Litigation and Enforcement (currently Timothy H. Goodman, Tim.Goodman@dot.gov).

### **III. TERM OF CONSENT ORDER**

42. Unless otherwise specified, the term of this Consent Order and Spartan's performance obligations thereunder is three years from the date of execution, provided, however, that the commitments in Paragraphs 24-38 and Attachments A and B shall survive the term of this Consent Order until the obligations with respect to the Deferred Amount and Performance Obligation Amount are reasonably satisfied.

### **IV. AMENDMENT**

43. 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.

## **V. MISCELLANEOUS**

44. 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.

45. Upon receipt of the Non-Deferred Amount set forth in Paragraphs 20 and 22, and NHTSA's determination that Spartan has reasonably achieved all of the industry outreach performance obligations, set forth in Paragraphs 35-36 and Attachment B, on or before the third anniversary of this Consent Order (or such extended time agreed upon), the Secretary of Transportation, by and through the Administrator of NHTSA, will release Spartan, 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 Spartan's Safety Act reporting obligations, including those expressly identified in this Consent Order or identified in any schedules and reports submitted pursuant to Paragraphs 29, 30, and 34, 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 Spartan (including its current and former directors, officers, employees, agents, parents, subsidiaries, affiliates, successors, and assigns) for civil penalties solely with respect to potential violations of the Safety Act or its implementing regulations that are disclosed pursuant to Paragraphs 29, 30, and 34, and subject to Spartan's satisfactory fulfillment of its other obligations under this Consent Order.



46. This Consent Order does not release Spartan 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 liability under 49 U.S.C. § 30165 as described in this Consent Order.

47. None of the specific reporting obligations described in this Consent Order, or in Attachment A or Attachment B, relieve Spartan of its obligation to submit any other reports required by the Safety Act or its corresponding regulations.

48. The parties shall each bear their own respective attorneys' fees, costs, and expenses, except as provided in Paragraph 23 above.

49. This Consent Order shall be effective following its execution. Any breach of the obligations under this Consent Order, including Attachment A and Attachment B, may, at NHTSA's option, be immediately enforceable in any United States District Court. Spartan agrees that it will not raise any objection as to venue.

50. In the event of Spartan's breach of, or failure to perform, any term of this Consent Order, or Attachment A or Attachment B, 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.

51. 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.

52. Spartan 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, set

forth in Paragraphs 20 and 22, was made to NHTSA, if applicable, and (ii) that Spartan has substantially complied with the terms of this Consent Order.

53. This Consent Order shall be binding upon, and inure to the benefit of, Spartan and its current and former directors, officers, employees, agents, parents, subsidiaries, affiliates, successors, and assigns. Spartan 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 Spartan and any of its parents, subsidiaries, or affiliates.

54. 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, or Attachment A or Attachment B hereto.

55. 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.

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

57. 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, including Attachment A and Attachment B, which are fully incorporated by reference, 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 and the attachments thereto.

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: 

Elizabeth H. Mykytiuk  
Trial Attorney

Dated: July 8, 2015

By: 

Justine S. Casselle  
Trial Attorney

AGREED:

SPARTAN MOTORS, INC.

Dated: July 07, 2015

By: 

\_\_\_\_\_  
Daryl M. Adams  
President and CEO

Dated: July \_\_, 2015

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

Thomas T. Kivell  
Vice President, Secretary & General Counsel

Dated: July \_\_, 2015

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

Christopher H. Grigorian  
Foley & Lardner LLP  
Counsel for Spartan Motors, Inc.

AGREED:


SPARTAN MOTORS, INC.

Dated: June \_\_, 2015

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

Daryl M. Adams  
President and CEO

Dated: July 7, 2015

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

Thomas T. Kivell  
Vice President, Secretary & General Counsel

Dated: June \_\_, 2015

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

Christopher H. Grigorian  
Foley & Lardner LLP  
Counsel for Spartan Motors, Inc.

AGREED:

SPARTAN MOTORS, INC.

Dated: July \_\_, 2015

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

Daryl M. Adams  
President and CEO

Dated: July \_\_, 2015

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

Thomas T. Kivell  
Vice President, Secretary & General Counsel

Dated: July 1, 2015

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

Christopher H. Grigorian  
Foley & Lardner LLP  
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## ATTACHMENT A

### General Performance Obligations

#### A. Purpose of the Performance Obligations.

NHTSA and Spartan agree that the performance obligations included below are intended to secure a significant benefit to the interests of public safety, and that the following performance obligations are consistent with the purpose of the National Traffic and Motor Vehicle Safety Act of 1966 as amended and recodified (the "Safety Act"), 49 U.S.C. § 30103, *et seq.*

#### B. Targeted Performance Obligations.

In executing the terms of the Consent Order, Spartan must complete certain performance obligations, which shall include the following improvements to Spartan's safety policies and procedures:

(1) Develop Best Practices for: (a) comprehensive reporting in compliance with 49 C.F.R. Part 579; and (b) making safety-related defect determinations and notifying NHTSA of such safety-related defects in compliance with 49 C.F.R. Part 573. (*See* Consent Order ¶ 31.)

(2) Train appropriate personnel on Spartan's Safety Act reporting requirements and the written procedures for comprehensive reporting to ensure full and timely implementation of the procedures. Training shall be recurrent on at least an annual basis for all appropriate personnel. (*See* Consent Order ¶32.)

(3) Improve the process of Spartan's Corrective Action Review Team (CART) to incorporate issues identified by the third party audit (if any), and in accordance with the Best Practices. (*See* Consent Order ¶¶ 30-31.)

(4) Improve the Campaign Approval Board process by changing all decision-making votes from a unanimous vote to a majority vote to prevent unnecessary obstacles to safety.

(5) Improve Spartan's awareness and understanding of potential safety issues by establishing a position of a Manager, Product Safety & Compliance, which is currently known as the Group Lead for Product Compliance, and allowing the Manager, Product Safety & Compliance direct access to Spartan's Board of Directors and Executive Officers.

**C. Development of Written Plan and Procedures.**

As set forth in Paragraphs 31 and 32 of the Consent Order, Spartan will prepare Best Practices and a Training Plan, which includes a plan and procedures for comprehensive reporting, making safety-related defects determinations, and training appropriate personnel on the requirements of the Safety Act and Spartan's Best Practices. These documents shall be submitted to NHTSA no later than 120 calendar days after the execution of the Consent Order. NHTSA, at its option, may accept, reject or revise any part of the Best Practices and/or Training Plan at any time during the pendency of this Consent Order and may submit it back to Spartan for further revision, if necessary.



## ATTACHMENT B

### Industry Education and Outreach

#### **A. Purpose of the Performance Obligations.**

NHTSA and Spartan agree that the performance obligations included below are intended to secure a significant benefit to the interests of public safety, and that the following performance obligations are consistent with the purpose of the National Traffic and Motor Vehicle Safety Act of 1966 as amended and recodified (the "Safety Act"), 49 U.S.C. § 30103, *et seq.*

#### **B. Targeted Performance Obligations.**

In executing the terms of the Consent Order, Spartan must file certain reports related to its plan for industry and consumer outreach, which will include the following and which are to be completed over the next three years:

(1) Educate manufacturers on the importance of meeting their Safety Act obligations, including early warning and other reporting requirements under 49 C.F.R. Part 579, records retention under 49 C.F.R. Part 576, and safety-related defects notification under 49 C.F.R. Part 573.

(2) Develop Safety Act educational materials for distribution to manufacturers and equipment suppliers.

(3) Attend and participate in trade shows such as Mid-America, NADA Vegas, Great America Trucking Show, Life Saver, and the Great American RV Show.

(4) Assist partners and suppliers in developing their own safety outreach programs.

(5) Educate consumers on the importance of reporting potential defects directly to NHTSA, through VOQ complaints and otherwise.

(6) Work with partners and suppliers to enhance recall effectiveness and mitigate impact of recalls on consumers.

**C. Development of Written Plan and Procedures.**

As set forth in Paragraph 36 of the Consent Order, Spartan will prepare a report which includes a plan and procedures for fulfilling the targeted performance obligations set forth in Section B above. This report shall be submitted to NHTSA no later than 60 calendar days after the execution of the Consent Order, and shall include metrics of success for the targeted performance obligations contained in Section B above. NHTSA, at its option, may accept, reject or revise any part of the proposed report at any time during the pendency of this Consent Order and submit it back to Spartan for further revision, if necessary. NHTSA must give its approval, which will not be unreasonably withheld, to the proposed report before work on any of the targeted performance obligations may begin.

The targeted performance obligations outlined in Section B may be carried out, at Spartan's discretion, with the assistance and participation of other designers, engineers and manufacturers of specialty chassis, specialty vehicles, truck bodies and aftermarket parts for the recreational vehicle, emergency response, government services, defense, and delivery and service markets. At Spartan's discretion, the targeted performance obligations outlined in Section B may also be carried out with the assistance and participation of industry trade associations, such as the Fire Apparatus Manufacturers' Association, the Recreation Vehicle Industry Association, and the Association for the Work Truck Industry. Any non-Spartan assistance and participation shall be done in a manner consistent with antitrust guidelines.

## ATTACHMENT C

### **Schedule of Performance Obligations** **(for the first year of the Consent Order term)**

<b>Due Date</b>	<b>Description</b>	<b>Consent Order</b>
60 days	Payment of Non-Deferred Amount	Paragraph 22
60 days	Part 573 Defects Information Report for three outstanding service bulletins	Paragraph 26
60 days	Industry outreach plan	Paragraph 36 and Attachment B
90 days	Report confirming that all unreported service bulletins have been submitted, and identifying all safety-related defects currently under review	Paragraph 29
90 days	First third party audit	Paragraph 30
120 days	First quarterly meeting	Paragraph 39
120 days	Report detailing the findings of the first third party audit	Paragraph 30
120 days	Best Practices	Paragraph 31 and Attachment A
120 days	Training plan	Paragraph 32 and Attachment A
180 days	Report detailing efforts to implement Best Practices and Training Plan	Paragraph 33
210 days	Second quarterly meeting	Paragraph 39
300 days	Third quarterly meeting	Paragraph 39
365 days	Second third party audit	Paragraph 34
365 days	Declaration regarding completion of performance obligations	Paragraph 37
390 days	Fourth quarterly meeting	Paragraph 39
395 days	Report detailing the findings of the second third party audit	Paragraph 34

## ATTACHMENT D

### **Annual Declaration of Performance Obligation Completion**

In accordance with Paragraph 37 of the Consent Order, Spartan shall provide to NHTSA, on an annual basis, a declaration from an officer of the company pursuant to 28 U.S.C. § 1746, documenting the completion of its performance obligations during the prior year. Spartan's performance obligations include the following:

#### **Paragraph 29 - Submit report confirming all previously unreported service bulletins have been submitted**

##### High Level Summary:

Within the agreed upon time period, as stated in Paragraph 29, Spartan will:

- Provide a report to NHTSA confirming that all unreported service bulletins have been reported; and
- Notify the agency of all safety-related defects of which it has actual knowledge or that are currently under review in CART.

##### Measurement of Completion:

- Report submitted and all unreported service bulletins submitted to NHTSA within the agreed upon time period; and
- Report submitted to NHTSA for all issues currently in CART review.

#### **Paragraph 30 – Third-party to perform audit on Spartan's processes and procedures for complying with its reporting obligation**

##### High Level Summary:

- Within agreed upon time period, as stated in Paragraph 30, Spartan will engage a third-party to audit its processes and procedures as it relates to reporting obligations, records retention, and defects decision-making.

##### Measurement of Completion:

- Report submitted to NHTSA, detailing findings of the third-party audit.

#### **Paragraph 31 - Develop new written procedures (also Attachment A(B)1)**

##### High Level Summary:

- Spartan will develop new "Best Practice" written procedures.

##### Measurement of Completion:

- Submit a copy of Best Practices/Procedures to NHTSA and gain acceptance of proposal from the agency.

## **Paragraph 32 – Train appropriate Spartan personnel (also Attachment A(B)2)**

### High Level Summary:

- Spartan will prepare a “Training Plan” and will annually train its personnel on Safety Act reporting requirements and Best Practices written procedures.

### Measurement of Completion:

- Training Plan submitted and approved by NHTSA.
- Training log detailing what individuals were trained and what training was received.

## **Paragraph 33 – Report on Paragraphs 31 and 32 above**

### High Level Summary:

- Spartan will submit a report detailing its efforts to implement Best Practices as described in Paragraph 31 and train its personnel as detailed in Paragraph 32.

### Measurement of Completion:

- Report submitted to NHTSA within the defined time period.

## **Paragraph 34 – Third-party to perform audit on Spartan’s processes and procedures for complying with its reporting obligation**

### High Level Summary:

- Within agreed upon time period, as stated in Paragraph 34, Spartan will engage a third-party to perform a second audit of its processes and procedures as it relates to reporting obligations, records retention, and defects decision-making.

### Measurement of Completion:

- Report submitted to NHTSA, detailing findings of the third-party audit.

## **Paragraph 35 and 36 - Industry Outreach**

### High Level Summary:

- Spartan will perform industry outreach, educating the medium and heavy duty vehicle industry and component manufacturers of their obligations under the Safety Act and reporting regulations.

### Measurement of Completion:

- Within the agreed upon time period, as stated in Paragraph 36, submit a report to NHTSA that details the plan and procedures for addressing the obligations set forth in Attachment B.

## **Educate manufacturers - Attachment B(B)1**

### High Level Summary:

- Spartan will undertake a good faith attempt to reach and train Spartan’s customer base (which includes 58 OEMs based upon 2015 current customer base).

### Measurement of Completion:

- Evidence of 19 completions/attempts per year to perform training

## **Develop Safety Act education materials – Attachment B(B)2**

### High Level Summary:

- Spartan will prepare educational materials regarding NHTSA, the Safety Act, and manufacturer reporting responsibilities to be shared with other members of the industry.

### Measurement of completion:

- Approval from NHTSA of materials.

## **Attend and Participate in trade shows - Attachment B(B)3**

### High Level Summary:

- Spartan will attend and participate in shows such as: Mid-America, NADA Vegas, Great American Trucking Show, Life Saver, and the Great American RV Show.

### Measurement of Completion:

- Submit to NHTSA evidence of participation in ten trade shows over a three-year period.

## **Assist partners and suppliers in developing their own safety outreach program – Attachment B(B)4**

### High Level Summary:

- Spartan will share educational materials and Best Practice written procedures with other members of the industry.

### Measurement of completion:

- Submit to NHTSA a list of partners and suppliers with whom Spartan has shared its educational materials and/or Best Practice policies and procedures.

## **Educate consumers on the importance of reporting potential defects directly to NHTSA – Attachment B(B)5**

### High Level Summary:

- Spartan will prepare educational materials regarding NHTSA, the Safety Act, and manufacturer reporting responsibilities to be shared with other members of the industry.

### Measurement of completion:

- Submit to NHTSA evidence of presentations made by Spartan at selected events.

## **Work with partners and suppliers to enhance recall effectiveness – Attachment B(B)6**

### High Level Summary:

- Spartan will share educational materials and Best Practice written procedures with other members of the industry.

### Measurement of completion:

- Submit to NHTSA a list of partners and suppliers with whom Spartan has shared its educational materials and/or Best Practice policies and procedures.

### **Attachment A(B)3 - Improve the CART process**

#### High Level Summary:

- Spartan will improve the process of Spartan's Corrective Action Review Team (CART).

#### Measurement of completion:

- Policy changed.

### **Attachment A(B)4 - Improve the Campaign Approval Board process**

#### High Level Summary:

- Spartan will improve its Campaign Approval Board process to change all decision-making votes from unanimous vote to majority vote.

#### Measurement of completion:

- Policy changed.

### **Attachment A(B)5 - Establish position of Manager, Product Safety and Compliance**

#### High Level Summary:

- Spartan will establish a position of Manager, Product Safety and Compliance and will ensure that the new position has direct access to Spartan's Board of Directors and Executive Officers.

#### Measurement of completion:

- Announcement, Job Description, and confirmation that position has been filled.

### **Paragraph 38 – Report on Paragraphs 31 and 32 above**

#### High Level Summary:

- At the end of the term of the Consent Order, within the specified time, Spartan will submit a Completion Report to NHTSA and may give a presentation to the agency of its performance under the Consent Order.

#### Measurement of Completion:

- Report submitted to NHTSA within the defined time period.