

its Northeast District Office.

- c. "Director" means the Director of Environmental Protection.
- d. "Air contaminant source" or "source" has the same meaning as set forth in R.C. 3704.01(C) and Ohio Administrative Code ("Ohio Adm.Code") 3745-31-01(I) and 3745-35-01(B)(4).
- e. "Permit to Operate" or "PTO" has the same meaning as set forth in Ohio Adm.Code Chapter 3745-35.
- f. "Permit to Install" or "PTI" has the same meaning as set forth in Ohio Adm.Code Chapter 3745-31.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over the parties and the subject matter of this case. The Complaint states a claim for which relief can be granted pursuant to R.C. Chapter 3704. Venue is proper in this Court.

III. PERSONS BOUND

3. The provisions of this Consent Order shall apply to and be binding upon the parties to this action and, in accordance with Rule 65(D) of the Ohio Rules of Civil Procedure.

IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

4. The Plaintiff alleges in its Complaint that Defendant has owned and operated the Facility in such a manner as to result in permitting, record keeping, and reporting violations of the air pollution control laws and regulations of the State of Ohio. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of the Defendant to the Plaintiff for the claims alleged in the Plaintiff's Complaint.

5. This Consent Order shall not be construed to limit the authority of the Plaintiff to seek relief for violations not alleged in the Complaint, nor shall this Consent Order bar the State of Ohio from bringing any action against the Defendant for any violations that occur after the

entry of this Order. Nothing in this Consent Order shall be construed to relieve the Defendant of its obligations to comply with applicable federal, state or local statutes, regulations, or ordinances.

V. PERMANENT INJUNCTION

6. Defendant is hereby enjoined and ordered to immediately and permanently comply with R.C. Chapter 3704 and the regulations adopted thereunder, including all terms and conditions of any currently effective Permits to Install, Permits to Operate, and any subsequent renewals or modifications thereafter that pertain to this Facility.

7. Defendant is enjoined and ordered to comply, immediately upon entry of this Consent Order, with all record keeping and reporting requirements of PTI 02-5189.

8. Defendant is enjoined and ordered to comply, immediately upon entry of this Consent Order, with all record keeping and reporting requirements of PTI 02-18619.

9. Defendant is enjoined and ordered to comply, immediately upon entry of this Consent Order, with all record keeping and reporting requirements of PTI 02-21422.

10. Defendant agrees to refrain and is hereby permanently enjoined from "installing" or "modifying" any air contaminant source or "future air contaminant source", as those terms are defined by Ohio Adm.Code Chapter 3745-31-01, without first applying for and obtaining a Permit to Install from the Director in accordance with Ohio Adm.Code Chapter 3745-31. In addition, Defendant agrees to refrain and is hereby permanently enjoined from operating any future air contaminant source without first applying for and receiving the appropriate operating permit from the Director in accordance with Ohio Adm.Code Chapter 3745-35.

11. Defendant agrees and is hereby permanently and immediately enjoined and ordered to comply with all terms and conditions of any Permit to Install and Permit to Operate

for any future air contaminant source included in paragraph 10 and any subsequent renewals or modifications thereof which have been or which are issued to Defendant by the Director, including, but not limited to, all reporting and record keeping requirements and all emission limitations.

VI. CIVIL PENALTY

12. Pursuant to R. C. 3704.06, Defendant shall pay to the State of Ohio a civil penalty of \$52,360.00. Of this amount, Defendant is ordered to pay \$41,888.00 in cash by delivering a cashier's or certified check payable to the Order of "Treasurer, State of Ohio" within 30 days of entry of this Consent Order to Martha Sexton, Paralegal, or her successor, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400.

13. Defendant shall pay as a Supplemental Environmental Project Ten Thousand Four Hundred Seventy-two Dollars (\$10,472) of the total civil penalty referenced in paragraph 12 within thirty (30) days of entry of this Consent Order to the Clean Diesel School Bus Program established by the Director of Ohio EPA for the purpose of installing, in accordance with Ohio EPA guidelines, diesel particulate filters for school buses operated by school districts in the State of Ohio. Money in the fund shall be made available to school districts in accordance with a grant established by the Director of Ohio EPA. Defendant shall make payment by cashier's or certified check made payable to "Treasurer, State of Ohio" and submitted to Martha A. Sexton, Paralegal, or her successor, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio, 43215-3400. The check shall specify that such monies are to be deposited into the fund established by Ohio EPA for the Clean Diesel School Bus Program by writing "Fund 5CD" on the memo line of the check.

VII. STIPULATED PENALTIES

14. Except as otherwise provided in paragraph 15, in the event that Defendant fails to comply with any of the requirements imposed by paragraphs 6 through 13 of this Consent Order, Defendant shall immediately be liable for and shall pay a stipulated penalty according to the following payment schedule:

- a. for each day of failure to meet a requirement, up to thirty (30) days – Five Hundred Dollars (\$500.00) per day for each requirement not met;
- b. for each day of failure to meet a requirement, from thirty-one (31) to sixty (60) days – Seven Hundred Fifty Dollars (\$750.00) per day for each requirement not met;
- c. for each day of failure to meet a requirement, from sixty-one (61) to ninety (90) days – One Thousand Dollars (\$1000.00) per day for each requirement not met.

15. In the event that Defendant fails to submit quarterly deviation reports and annual reports in accordance with PTI 02-5189, PTI 02-18619, and PTI 02-21422, Defendant shall immediately be liable for and shall pay a stipulated penalty according to the following payment schedule:

- a. for each day of failure to meet a requirement, up to thirty (30) days – Three Hundred Dollars (\$300.00) per day for each requirement not met;
- b. for each day of failure to meet a requirement, from thirty-one (31) to sixty (60) days – Six Hundred Dollars (\$600.00) per day for each requirement not met;
- c. for each day of failure to meet a requirement, from sixty-one (61) to ninety (90) days – Nine Hundred Dollars (\$900.00) per day for each requirement not met.

16. In the event Defendant fails to meet any of the requirements of this Consent Order, Defendant shall immediately be liable for payment of stipulated penalties imposed by this Consent Order without prior demand by the State of Ohio. Payment of all stipulated penalties

shall be paid by Defendant by its delivering to Martha Sexton, Paralegal, or her successor, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400, a cashier's or certified check in that amount, payable to the Order of "Treasurer, State of Ohio," immediately upon becoming aware of the violation giving rise to the penalty.

17. The payment of stipulated penalties by Defendant and the acceptance of such stipulated penalties by Plaintiff for specific violations pursuant to Section VI shall not be construed to limit Plaintiff's authority to seek additional relief or to otherwise seek judicial enforcement of this Consent Order.

VIII. RETENTION OF JURISDICTION

18. The Court will retain jurisdiction of this action for purposes of enforcing this Consent Order.

IX. TERMINATION CLAUSE

18. No earlier than two (2) years after the entry of this Consent Order, and after Defendant has paid all civil penalties that are or may be due, Defendant may move the Court, pursuant to Rule 60(B) of the Ohio Rules of Civil Procedure, to terminate this Consent Order. Plaintiff takes no position with regard to such motion at this time, and reserves its rights to oppose the motion. Termination of any or all of the provisions of this Consent Order may also be granted upon joint motion of the parties.

X. POTENTIAL FORCE MAJEURE

19. If any event occurs which causes or may cause a delay in Defendant's compliance with any requirement of this Consent Order, Defendant shall notify the Ohio EPA in writing within ten (10) days from when the Defendant knew, or by the exercise of due diligence should

have known, of the event. The notification of Ohio EPA shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measure taken and to be taken by the Defendant to prevent or minimize the delay, and the timetable by which those measures will be implemented. Defendant shall adopt all reasonable measures to avoid or minimize any such delay.

20. In any action by the Plaintiff to enforce any of the provisions of this Consent Order, Defendant may raise that it is entitled to a defense that its conduct was caused by reasons entirely beyond its control such as, by way of example and not limitation, acts of God, strikes, acts of war or civil disturbances. While the Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by Defendant and the Plaintiff that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time, if ever, that a court proceeding to enforce this Consent Order is brought by the Plaintiff. At that time, Defendant will bear the burden of proving that any delay was or will be caused by circumstances entirely beyond the control of Defendant. Unanticipated or increased costs associated with the implementation of any action required by this Consent Order, or a change in Defendant's financial circumstances, shall not constitute circumstances entirely beyond the control of Defendant or serve as a basis for an extension of time under this Consent Order. Failure by Defendant to timely comply with the notice requirements of this Section shall render this Section void and of no force and effect as to the particular incident involved and shall constitute a waiver of Defendant's right to request an extension of its obligations under this Consent Order based on such incident. An extension of one date based on a particular incident does not mean that Defendant qualifies for an extension of a subsequent date or dates. Defendant must make an individual showing of proof regarding

each incremental step or other requirement for which an extension is sought.

XI. COURT COSTS

21. The Defendant is hereby ordered to pay all court costs of this action.

XII. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

22. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, upon signing of this Consent Order by the Court, the clerk is directed to enter it upon the journal. Within three days of entering the judgment upon the journal, the clerk is directed to serve upon all parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

XIII. AUTHORITY TO ENTER INTO THE CONSENT ORDER

23. Defendant represents and warrants that the representative executing this Consent Order on behalf of Swiss Woodcraft, Inc. has been duly authorized to sign this document and so bind the respective corporation to all terms and conditions thereof.

IT IS SO ORDERED

10/22/07
DATE

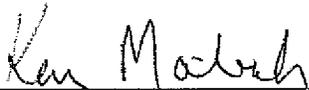

JUDGE ROBERT J. BROWN,
COURT OF COMMON PLEAS
WAYNE COUNTY
JOURNALIZED

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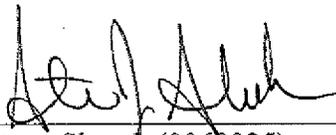
APPROVED:

SWISS WOODCRAFT, INC.

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TIM NEAL
CLERK, WAYNE COUNTY, OHIO


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