

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into as of this 26th day of May, 2023, (the “Effective Date”), by and between GT USA Wilmington, LLC, (“GTW”) and the Delaware Department of Natural Resources and Environmental Control (“DNREC”) (collectively the “Parties”) to resolve certain matters associated with the installation and operation of non-compliant distributed generators by GTW at the Port of Wilmington (“Port”) located at 1 Hausel Road in Wilmington, Delaware (“Facility”), without a permit.

**WHEREAS**, GTW operates the Facility;

**WHEREAS**, on March 18, 2021, the Secretary of DNREC issued to GT USA Wilmington, LLC a Notice of Administrative Penalty Assessment and Secretary's Order No. 2021-A-0011 (the "Secretary's Order"), alleging that, on or about December 2019 through June 14, 2021, GTW had installed, without a permit, 15 generators for the purpose of supplying electrical power to the Facility during renovation activities at the Facility. Of the 15 generators cited, one was owned by GTW and the rest were rentals, with 4 having already been removed when the Department first learned of the unpermitted installation. The generator owned by GTW had not been operated, however, the remaining 14 non-emergency, distributed generators had been operated without a permit and did not meet regulatory standards for distributed generators;

**WHEREAS**, the Secretary's Order includes an administrative penalty assessment of \$530,000;

**WHEREAS**, in response to and pursuant to the terms of the Secretary's Order, GTW filed with the Environmental Appeals Board for the State of Delaware (the “EAB”), an appeal of the Secretary's Order, contesting the allegations of noncompliance and the penalty assessment

on various legal and factual grounds (the “EAB Appeal No. 2021-02-*GT USA Wilmington, LLC*”);

**WHEREAS**, the Parties are in disagreement as to the status of the EAB Appeal;

**WHEREAS**, without admitting to the alleged facts or conclusions of law asserted therein, GTW has agreed to pay an administrative penalty and perform several Environmental Improvement Projects (“EIPs”) in resolution of DNREC's claims regarding the incidents governed by the Secretary’s Order;

**WHEREAS**, the Parties have agreed that settlement of the matters addressed by this Agreement is in the best interest of the Parties, and that entry of this Agreement is the most appropriate means of resolving the matters addressed herein.

**NOW THEREFORE**, without any admission of fact or law, it is hereby stipulated and agreed as follows:

I. APPLICATION AND SCOPE

1. The provisions of this Agreement shall apply to and be binding upon both DNREC and GTW, and their respective officers, employees, agents, successors, and assigns as it pertains to resolution of the Secretary’s Order for the Facility.

II. ADMINISTRATIVE PENALTY

2. GTW shall pay to DNREC an administrative penalty of \$150,000 (the “Administrative Penalty”).

3. Within ninety (90) days of the Effective Date of this Agreement, GTW shall submit to DNREC the Administrative Penalty by corporate check, payable to the State of Delaware, and mailed to the following address:

**Valerie S. Edge  
Deputy Attorney General  
Delaware Department of Justice  
Environmental Unit-Third Floor  
102 W. Water Street  
Dover DE 19904**

### III. ENVIRONMENTAL IMPROVEMENT PROJECTS

4. GTW shall complete the Environmental Improvement Projects (“EIPs”) set forth in this Section and/or any Appendices to this Agreement.
5. GTW shall implement the Street Sweeping Project substantially similar to that described in Appendix A for a period of at least two years that will begin after community input and after sweeping begins. Eligible costs for implementation of this project must be a minimum of \$100,000. The proposed plan in Appendix A includes street sweeping on residential roads. GTW must solicit community input prior to implementing this plan and must adjust the location appropriately if community opposition is expressed or upon request by DNREC.
6. GTW shall implement and undertake the tasks associated with DelDOT’s “Adopt- a-Highway” for Terminal Avenue in Wilmington, Delaware as presented in the attached and incorporated herein, Appendix B, or if Terminal Avenue does not qualify as part of the “Adopt-a-Highway” program, conduct activities similar to those set forth in the program for Terminal Avenue. These tasks shall be undertaken until GTW and/or any predecessor in interest operates the facility for a period of at least two years.

7. GTW shall achieve reductions in permitted NO<sub>x</sub> from Engines C4 and C5 governed by Permit APC-2017/0143-Construction/Operation (Engine C4) and Permit APC-2017/0144-Construction/Operation (Engine C5). Within 60 days of the executed agreement, GT will submit a written request to modify the permits. The requirements of this paragraph shall not be complete until after the modifications to the permits are completed.
8. GTW shall install and maintain a Purple Air Particulate Matter Monitor, or equivalent if Purple Air Particulate Matter Monitors are not available near the entrance gate for the Port for at least 10 years as described in Appendix C. GT shall ensure that data from this device is publicly available on the Purple Air website and EPA's Air Now website.

#### IV. EFFECT OF SETTLEMENT

9. GTW's satisfaction of the payment obligations under Section II and completion of the EIPs under Section III shall resolve all civil and administrative liability of GTW to DNREC for the claims asserted by DNREC against GTW in the Secretary's Order.
10. GTW's liability for these matters is resolved without any admission as to any matter of fact or law.

#### V. GENERAL PROVISIONS

11. This Agreement shall be governed by, and interpreted under, the laws of the State of Delaware.
12. This Agreement is not a permit. Compliance with its terms does not guarantee compliance with any applicable federal, state, or local law or regulation. Nothing in this Agreement shall be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

13. Nothing in this Agreement shall relieve GTW of its obligation to comply with all applicable federal, state, and local laws and regulations. Other than as expressly provided for in Section V, nothing contained in this Agreement shall be construed to prevent, alter, or limit DNREC's ability to seek or obtain other remedies or sanctions available under federal, state, or local statutes or regulations in response to a violation by GTW of applicable statutes and regulations, nor to limit any defenses otherwise available to GTW including with respect to any such alleged violation.
14. No later than 15 days after signing this Settlement Agreement, GTW shall inform the EAB in writing that despite the Parties disagreement as to the status of EAB Appeal No. 2021-02-GT USA *Wilmington, LLC*, the Parties have settled all matters that had been raised in the Appeal and asking that any residual file of the EAB be closed.
15. This Agreement does not limit or affect the rights of GTW or DNREC against any person or entity not party to this Agreement. This Agreement shall not be considered to create rights in, or grants any cause of action to, any third party not a party to this agreement, nor does it limit the rights of any person or entity not a party to this Agreement against GTW, except as otherwise provided by law.
16. This Agreement shall be binding upon the parties to this action, and their successors and assigns. The undersigned representative of each Party to this Agreement is authorized by the Party whom he or she represents to enter into the terms of this Agreement and bind that Party to them.
17. This Agreement may be modified only by the written consent of DNREC and GTW.
18. This Agreement is entered into notwithstanding any other agreement between the Parties and constitutes the entire agreement and settlement between the Parties.

19. To the extent of any irreconcilable conflict between this Agreement and the requirements of federal and/or state law, the latter controls.

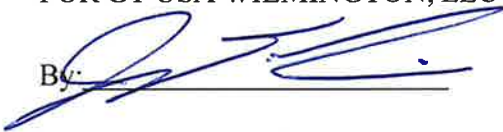
**SIGNATURE PAGE FOLLOWS**

FOR THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

By:  Date: 5/26/23

Shawn M. Garvin, Secretary  
Delaware Department of Natural Resources and Environmental Control

FOR GT USA WILMINGTON, LLC

By:  Date: 5/22/23

Joseph F. Cruise, Chief Executive Officer  
GT USA Wilmington, LLC

## Appendix A





## Appendix B



## Appendix C



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## PurpleAir Flex Air Quality Monitor

The PurpleAir Flex is the latest air quality monitor from PurpleAir, measuring real-time PM2.5 concentrations for residential, commercial, or industrial use. Containing a full-color LED, the resulting glow indicates real-time air quality at a glance and can be installed indoors or outdoors. Built-in WiFi enables the air quality monitor to transmit data to the real-time PurpleAir Map, which is stored and made available to any smart device.

For locations with limited WiFi access, the PurpleAir Flex PM2.5 measurement device incorporates real-time clock and SD card capabilities, allowing the sensor to record and store data on a micro $\square$ card.

The PurpleAir Flex features user-replaceable PMS6003 laser counters and an expansion port that allows easy swapping of the temperature sensors (yes, there are two) or expands the sensor's capabilities in the future.

**Please note: This sensor does not come with a power adaptor. Find a suitable OUTDOOR-rated adaptor [here](#) or use your own USB power source (any 5V, 1.2 to 2.4 amp adaptor will work).**

## Laser Particle Counters

Class I Laser. A Class I laser is safe under all conditions of normal use.

Manufacturer Plantower

This device contains two particle detectors to provide redundancy and help determine sensor health.

Type PMS-5003 (2)

Range of measurement 0.3, 0.5, 1.0, 2.5, 5.0, & 10  $\mu\text{m}$

Counting efficiency 50% at 0.3 $\mu\text{m}$  & 98% at 2.5-5.0 $\mu\text{m}$

Effective range (PM2.5 standard)\* 0 to 500  $\mu\text{g}/\text{m}^3$

Maximum range (PM2.5 standard)\* 2,000  $\mu\text{g}/\text{m}^3$

Maximum consistency error (PM2.5 standard)  $\pm 10\%$  at 100 to 500  $\mu\text{g}/\text{m}^3$  &  $\pm 10\mu\text{g}/\text{m}^3$  at 0 to 100  $\mu\text{g}/\text{m}^3$

Standard Volume 0.1 liter

Single response time  $\leq 1$  second

Total response time  $\leq 10$  seconds

## Pressure, Temperature, & Humidity Sensor

Manufacturer BOSCH

Model Number BME280

Temperature range  $-40^{\circ}\text{F}$  to  $185^{\circ}\text{F}$  ( $-40^{\circ}\text{C}$  to  $85^{\circ}\text{C}$ )

Pressure range 300to 1100hPa

Humidity Response time ('t63%): 1s  
Accuracy tolerance: ±3% RH  
Hysteresis: :S2% RH

### Wireless

Contains Transmitter Module FCC ID: 2AC7Z-ESPWROOM02D

Wireless Networks 802.11b/g/n @ 2.4GHz  
(WPA2 pre-shared key or open networks)

Certificates FCC/CE/TELEC/SRRC

Tx Power 802.11 b: +20 dBm  
802.11 g: +17 dBm  
802.11 n: +14 dBm

Rx Sensitivity 802.11 b: -91 dbm (11 Mbps)  
802.11 g: -75 dbm (54 Mbps)  
802.11 n: -72 dbm (MCS7)

Antenna Type 2 dBi on-board PCB antenna

#### **FCC Compliance Statement (Part 15.19)**

This device complies with Part 15 of the FCC Rules. Operation is subject to the following two conditions:

1. This device may not cause harmful interference, and
2. This device must accept any interference received, including interference that may cause undesired operation.

#### **Warning (Part 15.21)**

Changes or modifications not expressly approved by the party responsible for compliance could void the user's authority to operate the equipment.

#### **FCC Interference Statement (Part 15.105 (b))**

This equipment has been tested and found to comply with the limits for a Class B digital device, pursuant to Part 15 of the FCC Rules. These limits are designed to provide reasonable protection against harmful interference in a residential installation. This equipment generates uses and can

radiate radio frequency energy and, if not installed and used in accordance with the instructions, may cause harmful interference to radio communications. However, there is no guarantee that interference will not occur in a particular installation. If this equipment does cause harmful interference to radio or television reception, which can be determined by turning the equipment off and on, the user is encouraged to try to correct the interference by one of the following measures:

- Reorient or relocate the receiving antenna.
- Increase the separation between the equipment and receiver.
- Connect the equipment into an outlet on a circuit different from that to which the receiver is connected.
- Consult the dealer or an experienced radio/TV technician for help.

To comply with FCC/IC RF exposure limits for general population / uncontrolled exposure, the antenna(s) used for this transmitter must be installed to provide a separation distance of at least 20 cm from all persons and must not be co-located or operating in conjunction with any other antenna or transmitter.