

## **STIPULATION AND SETTLEMENT AGREEMENT**

This Stipulation and Settlement Agreement (the “Agreement”) is made and entered into as of the date last written below, by and between the Board of Education of NEW TRIER HIGH SCHOOL DISTRICT NO. 203 (the “District”) and MAREK KRUK (“Mr. Kruk”). The District and Mr. Kruk may each be referred to as a “Party” and also may be collectively referred to as the “Parties” in this Agreement.

**WHEREAS**, on August 23, 2019, Mr. Kruk filed a complaint with the Illinois Pollution Control Board (Docket No. PCB 2020-010, the “Complaint”) alleging a violation of Illinois noise limits from the District’s dust collector and Mr. Kruk also raised noise concerns with other District equipment (collectively “Equipment”) used within its newly built service dock to include garbage/recycling compactors and from the rooftop equipment on the District’s campus located at 385 Winnetka Avenue, Winnetka, Illinois (the “Campus”);

**WHEREAS**, the dust collector is a new, non-essential piece of equipment used for non-mandatory elective classes and extracurricular activities and has only been in operation since 2017.

**WHEREAS**, on June 20, 2023, Shiner Acoustics performed noise measurements in compliance with the Illinois Administrative Code at the property line of Mr. Kruk’s residence at 124 Woodland Avenue, Winnetka, Illinois, measuring daytime Equipment, nighttime Equipment, and the dust collector (See “Shiner Report” attached as Exhibit A);

**WHEREAS**, the district did not perform noise measurements in front of other homes, residential properties on Woodland Avenue located in closer proximity to the dust collector citing absence of formal complaints from those property owners at this time.

**WHEREAS**, the above mentioned noise measurements did not address the line of sight noise exposure, discussed at the time of testing, as it may not be covered under the Illinois Administrative Code, at this time. Furthermore, other sources of noise to include the back-up generator and high impulsive noise (generated when garbage and recycling compactors are dropped onto the service dock floor after being picked up to be emptied) have not been tested. The testing also did not account for noise generated in the service dock during the night hours when garbage and recycling compactors are being used.

**WHEREAS**, further and additional non-compliance may be discovered in the future.

**WHEREAS**, the complainant retains all rights to institute another proceeding if the district's noise emissions are found to be in violation of the applicable noise standards.

**WHEREAS**, the Parties intend that the purpose of the settlement is to avoid potential expense and inconvenience of further proceedings.

**WHEREFORE**, in consideration of the covenants contained herein, the Parties agree as follows:

Facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved, including:

1. **The character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people.** New Trier High School hired experts who conducted noise measurements in 2018 and advised the district that the school dust collector produced noise emissions that exceeded limits established by Illinois Pollution Control Boards Regulations, Sections 901.102(a) and

(b) (35 Ill. Admin. Code 901.102(a), (b)) In turn, after initial nondisclosure, the district made admissions to the complainant about being noncompliant. Despite numerous admissions by the district and sound reports produced by Shiner Acoustics that indicated the dust collector non-compliance the district continued to operate the dust collector before any meaningful noise mitigating measures (to include the noise barrier wall) were implemented. Furthermore, the district continued to operate the dust collector during summer and winter breaks and on Saturdays. The noise emissions produced by the school dust collector constituted a nuisance and interfered with the complainant's welfare, enjoyment of life and use of his property.

**2. The social and economic value of the pollution source;**

The dust collector is used for a new, non-essential woodworking shop that supports non-mandatory elective classes and extracurricular activities and has only been in operation since 2017.

In itself, the operation of the school's new dust collector/woodworking shop does not have significant social and economic value;

**3. The suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved.**

The New Trier High School's new addition service dock introduced in 2017 along with all of the equipment it houses including the dust collector is not suitable to the area in which it is located. The district had to install a removable noise barrier wall because the dust collector is not suitable for the location. The dust collector along with the garbage and recycling compactors should have been and could be located on another portion of the school property.

In 2023, the district completed construction of another school addition with another service dock on the opposite side of the campus, that would have been a lot more suitable for the dust collector and the garbage compactors as it is located away from residential properties.

The district was advised by Woodland Ave residents about noise concerns during the planning stages of the newly designed buildings of the campus.

4. **The technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source.** It would be technically practicable and economically reasonable to relocate the dust collector and modify the roof top noise reducing shields as recommended by the district's engineers.

5. **Any subsequent compliance.** The district shall not operate any equipment that is found to be in violation of the applicable noise standards. Under this Agreement, the Complainant retains all rights to institute another proceeding if the Respondent does not remain in compliance. In the event that the Complainant demonstrates non-compliance with applicable noise standards, the Illinois Pollution Control Board retains jurisdiction to enforce the terms of this Stipulation and Settlement Agreement, including the District's promise to take all reasonable steps to correct the violations in a reasonably timely manner.

6. **Time records of dust collector operation.** The district shall provide the complainant with the dust collector operating schedule before this agreement can be executed.

7. **Designated representatives.** The district shall provide the complainant with the name of their representative to be contacted for assistance in case dust collector is found to be running after hours.

8. **Governing Law.** This Agreement will be interpreted in accordance with and governed by the laws of the state of Illinois.

9. **Term of agreement.** This agreement shall remain in effect for a period of three (3) years after the Effective Date (the “Initial Term”) Following the expiration of the Initial Term, the agreement will automatically renew for a period of one (1) year (the “Renewal Period”) unless one of the parties gives the other party written notice of intent not to renew at least (90) days before the expiration of the Initial Term. If the Agreement enters into a Renewal Period, it will automatically renew annually for a period of one (1) year at the end of each Renewal Period, and shall continue to renew for successive one (1) year Renewal Periods unless one of the parties gives the other party written notice of its intent not to renew at least ninety (90) days before the expiration of the applicable Renewal Period.

10. **Enforcement of agreement.** This agreement shall be filed with the Illinois Pollution Control Board as soon as practicable after execution. In the event that the complainant believes that a breach of this agreement has occurred, the complainant will notify the district of the alleged breach in writing, specifying the nature of the alleged breach and the date and time that it occurred. The district will respond to complainant’s allegations in writing within three (3) business days and will subsequently meet with the complainant at a mutually agreeable date and time to discuss complainant’s allegations. It is understood that if these written exchanges and meeting do not suffice to resolve any dispute surrounding the alleged breach, the complainant may pursue an appropriate action to enforce the agreement in the courts of the state of Illinois.

11. **Warranty/Covenant not to assert claim.** The complainant warrants that, other than the Complaint, he has no claims pending against the district with any court, governmental or administrative agency. Nothing in this Agreement shall prevent the complainant from reinstating a proper proceeding, or otherwise seeking relief from the Illinois Pollution Control Board or the courts, in the event that in the future New Trier

High School's noise emissions exceed Illinois Environmental Protection Agency limits with respect to the dust collector that was the subject of this dispute or any other equipment installed on the school property.

12. **Severability**. The parties acknowledge and agree that the provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity and enforceability of other provisions herein. If any provision of this Agreement is deemed unenforceable for any reason whatsoever, such provision shall be appropriately limited and given effect to the extent that it may be enforceable and all other provisions of this Agreement shall remain fully enforceable.

13. **Counterparts**. This Agreement may be executed in counterparts by the parties.

14. **Effective date**. This Agreement shall be effective on the date it is signed by the last party hereto.

**MAREK KRUK**

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

Name (Printed): \_\_\_\_\_

Date: \_\_\_\_\_

**NEW TRIER HIGH SCHOOL DISTRICT NO. 203**

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

Name (Printed): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_