

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

<b>Ultium Cells, LLC</b>	:	<b><u>Director's Final Findings</u></b>
<b>7400 Tod Ave SW</b>	:	<b><u>and Orders</u></b>
<b>Warren, Ohio 44481</b>	:	

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Ultium Cells, LLC (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3704.03 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the facility (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a battery manufacturing facility (Facility ID#0278112018) located at 7400 Tod Ave SW, in Warren, Ohio (Trumbull County). At this facility, among other emissions units (EUs), Respondent operates P003: Formation Degas. The current permit-to-install ("PTI") P0131268 was issued on December 13, 2021.

2. ORC § 3704.05(C) prohibits any person who is a holder of a permit issued by the Director of Ohio EPA pursuant to ORC § 3704.03 from violating any of its terms and conditions.

3. ORC § 3704.05(G) states that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704. Ohio Administrative Code ("OAC") Rule 3745-31-05(E) was adopted by the Director pursuant to ORC Chapter 3704.

4. Term C.5.c)(1) of PTI P0131268 specifies that the permittee shall install an activated carbon tower designed to meet 98% overall control efficiency for volatile organic compounds (“VOCs”).

5. On April 24, 2023, Ohio EPA issued a stack test extension letter to Respondent allowing them until July 29, 2023 to conduct emissions testing on EU P003. The emissions testing was scheduled to be conducted on June 21, 2023. During the initial setup for the June 21, 2023 emissions testing on EU P003, inlet and outlet concentrations of total organic compounds indicated that the required control efficiency of the activated carbon tower was not being achieved, and the emissions testing on EU P003 was not ultimately able to be completed. EU P003’s activated carbon tower failed to meet the required 98% overall control efficiency for VOCs, in violation of ORC Sections 3704.05(C), OAC rule 3745-31-05(E) and PTI P0131268 Section C.5.c)(1).

6. On August 24, 2023, Ohio EPA issued Respondent a notice of violation (“NOV”) letter for the violations outlined in Finding #5.

7. As a result of not achieving the 98% overall control efficiency, Respondent brought on a rental activated carbon system and a rental combustion unit to reduce VOC emissions. Testing conducted from June 27, 2023, through July 5, 2023, indicated the rental activated carbon system was removing an estimated 65% of VOC emissions from EU P003. Stack testing conducted on July 13, 2023, indicated the rental combustion unit was destroying 74.2% of VOC emissions from EU P003. The rental combustion unit, which was serving Lines 1-5 of degas, was decommissioned on November 4, 2023, consistent with direction from Ohio EPA. The rental activated carbon system, which serves Lines 6-7 of degas, remained in operation.

8. On September 1, 2023, Respondent submitted an application to modify the existing permit. In addition, on September 7, 2023, Respondent submitted a compliance plan to Ohio EPA in response to the August 24, 2023 NOV that included a Best Available Control Technology (BACT) review demonstrating that control options are not feasible and referenced the submittal of the permit modification application as the path to compliance by changing the permit.

9. The Director has given consideration to, and based her determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

## **V. ORDERS**

The Director hereby issues the following Orders:

1. Respondent shall demonstrate compliance with the emissions limits established for P003 in accordance with the permit issued as a result of the application submitted on September 1, 2023.

2. Respondent shall pay the amount of thirteen thousand five hundred dollars (\$13,500) in settlement of Ohio EPA’s claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to “Treasurer, State of Ohio” thirteen

thousand five hundred dollars (\$13,500). The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying Respondent, to:

Ohio EPA  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders, these obligations have been embedded in operation permits, and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-77-01(JJ) for a corporation, or a corporate officer who is in charge of a principal business function of Respondent.

#### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, operations by Respondent.

#### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

#### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

## **X. NOTICE**

All documents required to be submitted by Respondents pursuant to these Orders shall be addressed to:

Ohio EPA  
Northeast District Office  
Air Pollution Control Division  
2110 East Aurora Road  
Twinsburg, Ohio 44087-1924  
Attention: Tim Fischer

and to:

Ohio EPA  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Josh Koch, Manager  
Compliance and Enforcement Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

## **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

## **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondents may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

**XIII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**



\_\_\_\_\_  
Anne M. Vogel  
Director

December 8, 2023

\_\_\_\_\_  
Date

**AGREED:**

**Ultium Cells LLC.**



\_\_\_\_\_  
Signature



\_\_\_\_\_  
Date

**THOMAS A. GALLAGHER**

\_\_\_\_\_  
Printed or Typed Name

**VICE PRESIDENT OF OPERATIONS**

\_\_\_\_\_  
Title