

**U.S. ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, DC**

In the Matter of:

Auto Easy Finance, Inc., d/b/a Daelim Motor USA  
Respondent

Administrative Settlement  
Agreement

AED/MSEB # 7273

This Administrative Settlement Agreement is made and entered into by and between the United States Environmental Protection Agency (EPA), and Auto Easy Finance, Inc., d/b/a Daelim Motor Corp. (Auto Easy or Respondent), located at 12901 SW 122<sup>nd</sup> Ave. #105, Miami, FL 33186, regarding Respondent's compliance with the requirements of the Clean Air Act (Act) and the Emission Regulations for New Motorcycles codified at 40 C.F.R. Part 86.

**Purpose**

1. The purpose of this Administrative Settlement Agreement (Agreement) is to resolve any and all claims by EPA under the Act and EPA's Emissions Regulations for 1978 and Later Motorcycles, 40 C.F.R. Part 86 resulting from Respondent's importation of 260 motorcycles imported in Customs and Border Protection (CPB) entry number 110-08720778 and identified in the table below (Subject Motorcycles).

**Subject Motorcycles**

Claimed Manufacturer	Model	Engine Size	Quantity
Daelim, USA	SE50	50cc	58
Daelim, USA	SJ50	50cc	54
Daelim, USA	SH100	100cc	52
Daelim, USA	SL125U	125cc	96

**Statutory Authority**

2. Section 203(a)(1) of the Act, 42 U.S.C. § 7522(a)(1), prohibits the importation into the United States of any new motor vehicle manufactured after the effective date of the

regulations unless the motor vehicle is covered by an EPA certificate of conformity that is issued, and in effect.

3. Under Section 205(a) of the Act, 42 U.S.C. § 7524(a), any person who violates Section 203(a)(1), 42 U.S.C. § 7522(a)(1), is subject to a civil penalty of not more than \$32,500 for each motor vehicle.
4. Section 216 of the Act, 42 U.S.C. § 7550, defines a manufacturer as any person engaged in the manufacturing or assembling of new motor vehicles, or importing such motor vehicles for resale.

#### **Regulatory Authority**

5. 40 C.F.R. § 86.401-97 provides that the motorcycle regulations apply to new gasoline-fueled motorcycles built after December 31, 1977, that have an engine displacement of at least 50 cubic centimeters (cc).
6. 40 C.F.R. § 86.402-98 defines a motorcycle as any motor vehicle with a headlight, taillight and stoplight, two or three wheels, and a curb mass less than or equal to 793 kilograms (1,749 pounds).
7. 40 C.F.R. § 86.407-78 prohibits a new motorcycle from being manufactured for sale, sold, offered for sale, introduced or delivered for introduction into commerce, or imported into the United States unless the motorcycle is covered by an EPA-issued certificate of conformity (Certificate of Conformity).
8. 40 C.F.R. § 86.402-78(a) provides that a Certificate of Conformity is issued for a period not to exceed one model year.
9. 40 C.F.R. § 86.413-78 requires the manufacturer who has been issued a Certificate of Conformity for a vehicle to affix to the vehicle at the time of manufacture a permanent and legible emission information label (Emissions Label) with prescribed information.

## **Definitions**

10. For the purposes of this Agreement, the following definitions apply:
- a. *Applicable regulations and dates:* Applicable regulation means 40 C.F.R. Part 86, Subpart E, and applicable date means December 31, 1977.
  - b. *This matter:* Respondent's importation of the Subject Motorcycles and any civil liability arising therefrom under the Clean Air Act and implementing regulations at 40 C.F.R. Part 86.
  - c. *Certificate of Conformity:* The document issued by EPA to a manufacturer of motorcycles after EPA has determined that the manufacturer's application is complete and that the engine family meets the applicable requirements of 40 C.F.R. Part 86 and the Act. Issuance of the Certificate of Conformity permits production and introduction into commerce of vehicles or engines built in accordance with the manufacturer's application as long as they are built after the effective date of the certificate and before the end of the calendar year for which the model year indicated on the certificate is named.
  - d. *Certificate Holder:* Certificate Holder means the manufacturer whose name appears a Certificate of Conformity issued for the engine or vehicles.
  - e. *Destroy:* The term destroy means the complete destruction of the engine and the complete disassembly of the equipment. The water jackets of the cylinder block and the head shall be impaled in multiple locations such that they can not thereafter be made to retain oil or coolant regardless of whether repair is attempted, and the equipment shall be crushed, or disassembled and damaged, in such a manner that it can never be reassembled.
  - f. *Export:* The term export means to transport to a location that is not part of the United States and its territories, Canada, or Mexico.

- g. *Labeling requirements:* Labeling requirements means the requirements found at 40 C.F.R. § 86.413-78 that require that certified engines be labeled in a certain manner at the time of manufacture.

**Alleged Violations**

11. On or about July 12, 2007 Respondent imported the Subject Motorcycles.
12. Respondent represented that the Subject Motorcycles were covered by a Certificate of Conformity. However, the labels on the Subject Motorcycles cite a 2006 engine family name, yet declare that the vehicles conform to 2007 Model Year (MY) standards. Vehicle identification numbers (VINs) for the Subject Motorcycles indicate that they were manufactured in the 2008 MY. EPA has determined that the supposed Certificate Holder, Daelim U.S.A., (Daelim) has not obtained an EPA Certificate of Conformity for the 2008 model year.
13. The models listed in the invoice and on documentation submitted as attachments to the EPA declaration form submitted to CBP are not listed on any EPA Certificate of Conformity issued to Daelim.
14. Due to the fact that the Subject Motorcycles were not manufactured when a Certificate of Conformity was effective the Subject Motorcycles are deemed uncertified, and imported in violation of the Act.
15. Based on the forgoing, EPA alleges that Respondent committed 260 separate violations of Section 203(a)(1) of the Act, 42 U.S.C. § 7522(a)(1), and the Applicable Regulations.

**Civil Penalty**

16. Respondent shall pay to the United States a civil penalty of sixty seven thousand dollars (\$67,000) (EPA penalty).
17. Respondent agrees to pay one half of the EPA penalty (i.e. \$33,500) to the United States of America within thirty (30) calendar days of the effective date of this Agreement, but not before the effective date. Respondent further agrees to pay the remainder of the EPA

penalty (i.e. an additional \$33,500) within sixty (60) calendar days of the effective date of this Agreement. Late payment of the EPA penalty, or any fraction thereof, is subject to interest and fees as specified in 31 U.S.C. § 3717. Respondent agrees to pay the amount in the manner specified in paragraph a or b below:

- a. Send a certified check or cashier's check payable to the United States of America, and mailed via United States Postal Service to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000  
ATTN: AED/MSEB # 7273

Simultaneously, fax a photocopy of the check to (202) 564-0069 to the attention of David Alexander, or scan and email a copy of the check to alexander.david@epa.gov. This check shall be identified with the case number, AED/MSEB # 7273, and Respondent's name; or

- b. Pay online through the Department of the Treasury using WWW.PAY.GOV. In the Search Public Form field, enter SFO 1.1, click EPA Miscellaneous Payments - Cincinnati Finance Center and complete the SFO Form Number 1.1. The payment shall be identified with case number AED/MSEB # 7273. Within twenty-four hours of payment, fax a photocopy of the receipt of payment to (202) 564-2109 to the attention of David Alexander, or scan and email a copy of the receipt to alexander.david@epa.gov.
18. Separate and apart from the EPA penalty, CBP may require payment of a forfeiture remission amount for the release of the goods from seizure.
  19. Respondent shall Destroy the Subject Motorcycles within thirty days of this Agreement, or shall Export the Subject Motorcycles within 30 days of their release for export by U.S. Customs and Border Protection (Customs). This exportation or destruction shall be

carried out under the supervision of Customs. Respondent shall, within the same time, certify to EPA that the Subject Motorcycles were either exported or destroyed and shall provide supporting documents issued by Customs proving exportation or destruction.

**Notice**

20. All written correspondence to EPA concerning this Agreement shall be sent to:

**(Postal Service Mail)**

David E. Alexander  
U.S. EPA  
Mail Code 2242A  
1200 Pennsylvania Ave., NW  
Washington, DC 20460  
Attn: AED/MSEB # 7273

**(Courier Service)**

David E. Alexander  
U.S. EPA  
Ariel Rios South, Room 1111A  
1200 Pennsylvania Ave., NW  
Washington, DC 20004  
Attn: AED/MSEB # 7273

**General Provisions**

21. This Agreement becomes effective upon the date executed by EPA (effective date of the Agreement), at which time a copy will be returned to Respondent.
22. Notwithstanding any other provision of this Agreement, the parties agree that upon default or failure of Respondent to comply with the terms of this Agreement, EPA may refer this matter to the United States Attorney General for collection pursuant to Section 205(d) of the Act, 42 U.S.C. § 7524(d), commence an action to enforce this Agreement or to recover the civil penalty pursuant to Section 205 of the Act, or pursue any other remedies available to it. Respondent expressly waives its right to assert that such engines are certified or exempt from the certification requirements, or that such action is barred by 28 U.S.C. § 2462, other statutes of limitation, or other provisions limiting actions as a result of passage of time.
23. The parties represent that the individual or individuals executing this Agreement on behalf of Respondent are authorized to do so on behalf of Respondent and that such execution is intended and is sufficient to bind Respondent, its agents, assigns, or successors.

24. Respondent waives its rights, if any, to a hearing, trial or any other proceeding on any issue of fact or law relating to the matters agreed to herein.
25. The validity, enforceability, and construction of all matters pertaining to this Agreement shall be determined in accordance with applicable federal law.
26. This Settlement is contingent upon the truthfulness, accuracy and completeness of Respondent's disclosures and representations to EPA under this Agreement, including but not limited to representations regarding importations, and the prompt and complete remediation of any violations in accordance with this Agreement.

**Stipulated Penalties**

27. Time is of the essence to this Agreement. Upon the failure to comply or timely perform pursuant to Paragraphs 16, 17, 19 and 20 of this Agreement, Respondent agrees to the following stipulated penalties:
  - a. For the failure to timely pay each half of the civil penalty, or provide proof of such payment, pursuant to Paragraphs 16, 17 and 20 of this Agreement, Respondent shall pay a stipulated penalty of \$250 per day.
  - b. For the failure to timely export or destroy any Subject Motorcycle, or provide proof of such exportation or destruction as required by Paragraphs 19 and 20 of this Agreement, Respondent shall pay a stipulated penalty of \$2,500.
28. All stipulated penalties shall be paid in the manner specified in Paragraph 17 of this Agreement. In addition, a copy of the transmittal letter(s) and receipts(s) shall be sent to David E. Alexander in the manner specified in Paragraph 20.

**Effect of Agreement**

29. Upon completion of the terms of this Agreement, the alleged violations described in this Agreement shall be deemed terminated and resolved. Nothing herein shall limit the right of EPA to proceed against Respondent in the event of default or noncompliance with this Agreement, for violations of Sections 203 or 213 of the Act, 42 U.S.C. §§ 7522 or 7547,

which are not the subject matter of this Agreement, for other violations of law, or with respect to other matters not within the scope of the Agreement. This Agreement in no way affects or relieves Respondent of responsibility to comply with other state, federal, or local laws or regulations.



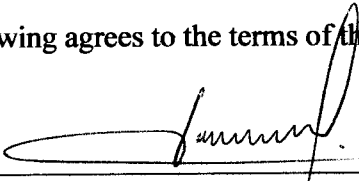
**U.S. Environmental Protection Agency**

**Settlement Agreement In the Matter of Auto Easy Finance, Inc.,**

**d/b/a Daelim USA, respondent**

**AED/MSEB # 7273**

The following agrees to the terms of this Agreement:

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

Date: 9-30-2008

Typed or Printed Name: FABIAN TARABORELLI

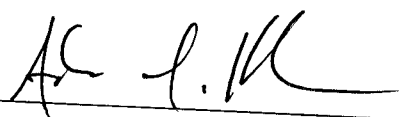
Typed or Printed Title: PRESIDENT

Federal Tax Identification Number: 020603250

**U.S. Environmental Protection Agency**  
**Settlement Agreement In the Matter of Auto Easy Finance, Inc. d/b/a Daelim Motor Corp.**  
**AED/MSEB # 7273**

The following agrees to the terms of this Agreement:

**United States Environmental Protection Agency**

By: 

Adam M. Kushner, Director  
Air Enforcement Division  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency

Date: 10/21/08