

**FAIRFIELD TOWNSHIP**  
**RESOLUTION NO. 18-153**

**RESOLUTION APPROVING REPAIRS TO BE DONE ON THE FIRE DEPARTMENT ENGINE  
212 TRUCK IN THE AMOUNT OF \$7,790.09, FROM CUMMINS INC.**

**WHEREAS:** The Fire Chief has submitted necessary repairs for Fire Truck 212, as set forth on the attached exhibit A;

**WHEREAS:** The payment for the repairs will be paid from Fund No. 2111-220-323;

**NOW, THEREFORE, BE IT RESOLVED,** by the Board of Trustees of Fairfield Township, Butler County, Ohio, as follows;

**SECTION 1:** The Board hereby approves the repairs to be done on the Fire Engine 212 from Cummins Inc. in the amount of \$7,790.09, as listed on the attached Exhibit "A". The payment for the repairs will be paid from Fund No. 2111-220-323.

**SECTION 2:** The Board hereby dispenses with the requirement that this resolution be read on two separate days, pursuant to RC 504.10, and authorizes the adoption of this resolution upon its first reading.

**SECTION 3** This resolution is the subject of the general authority granted to the Board of Trustees through the Ohio Revised Code and not the specific authority granted to the Board of Trustees through the status as a Limited Home Rule Township.

**SECTION 4:** That it is hereby found and determined that all formal actions of this Board concerning and relating to the passage of this Resolution were taken in meetings open to the public, in compliance with all legal requirements including §121.22 of the Ohio Revised Code.

**SECTION 5:** This resolution shall take effect at the earliest period allowed by law.

**Adopted:** September 19, 2018

**Board of Trustees**

Susan Berding: Susan Berding  
Shannon Hartkemeyer: Shannon Hartkemeyer  
Joe McAbee: Joe McAbee

**Vote of Trustees**

Yes  
Yes  
Yes

**AUTHENTICATION**

This is to certify that this is a resolution which was duly passed and filed with the Fairfield Township Fiscal Officer this 19 day of September, 2018.

**ATTEST:**

Shelly Schultz  
Shelly Schultz, Fairfield Township Fiscal Officer

**APPROVED AS TO FORM:**

L. E. Barbieri  
Lawrence E. Barbieri, Township Law Director



Payment terms are 30 days from invoice date unless otherwise agreed upon in writing. Remit to:  
 #774494  
 4494 Solutions Center  
 Chicago, IL 60677-4004

CINCINNATI OH BRANCH  
 5400 RIALTO ROAD  
 WEST CHESTER, OH 45069-  
 (513)563-6670

<b>INVOICE NO</b>
PREVIEW
REMIT TO:#774494 4494 Solutions Center Chicago,IL 60677-4004

**BILL TO**

FAIRFIELD TOWNSHIP  
 6048 MORRIS RD  
 HAMILTON, OH 45011-5118

**OWNER**

FAIRFIELD TOWNSHIP  
 6032 MORRIS  
 HAMILTON, OH 45011-  
 MATT SCHUMANN - 513 785-2243

PAGE 1 OF 2

\*\*\* CHARGE \*\*\*

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
		05-JUN-2013	ISC CM2150		UNLISTED
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
183404		11-SEP-2018	73031850		ALL
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
267744					212

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	UNIT PRICE	AMOUNT
OSN/MSN/VIN ....							
<b>COMPLAINT</b> SERVICE CALL ENGINE 212 TURBO FAILURE							
SITE LOCATION: 6048 MORRIS RD. FAIRFIELD, OH							
<b>CAUSE</b> EGR COOLER FAILED PROGRESSIVE DAMAGE TO TURBO							
<b>COVERAGE</b> CUSTOMER BILLABLE							
1		1	4352253RX	KIT,EGR COOLER	DRC	1,268.65	1,268.65
1		1	5297551D	KIT, EGR COOLER	CLEAN	50.00	50.00
-1		-1	5297551D	KIT, EGR COOLER	DIRTY	50.00	- 50.00
1		1	4352363	KIT,EGR COOLER	CECO	555.90	555.90
1		0	5315014	TUBE,VENT	CECO	57.65	57.65
1		0	5297814	TUBE,AIR TRANSFER	CECO	137.05	137.05
1		1	5319449	TUBE,WATER INLET	CECO	122.19	122.19
2		2	4076823	SEAL,RECTANGULAR RING	CECO	16.50	33.00
1		0	4352529RX	KIT,ICP TURBOCHARGER	DRC	3,968.05	3,968.05
1		0	4955403D	TURBO, HE431Ve	CLEAN	875.00	875.00
-1		-1	4955403D	TURBO, HE431VE	DIRTY	875.00	- 875.00
1		1	CV50628-MF	ELEMENT,CV	FLG	78.59	78.59
1		1	LF9009	PAC, LF	FLG	39.10	39.10
6		6	773780	PREM BLUE 15W40 3 GA CASE	E1- VALVOLINE	15.44	92.64

Billing Inquiries? Call (877)480-6970

THERE ARE ADDITIONAL CONTRACT TERMS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATION ON WARRANTIES AND REMEDIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN AND WHICH PURCHASER ACKNOWLEDGES HAVE BEEN READ AND FULLY UNDERSTOOD.

AUTHORIZED BY (print name) \_\_\_\_\_ SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

## PARTS AND/OR SERVICE AGREEMENT TERMS AND CONDITIONS

These Parts and/or Service Agreement Terms and Conditions, together with the Quote and/or Invoice on the front side are hereinafter referred to as this "Agreement" and shall constitute the entire agreement between the customer identified in the Quote and/or Invoice ("Customer") and Cummins and supersede any previous agreement or understanding (oral or written) between the parties with respect to the subject matter of this Agreement.

1. **SCOPE OF SERVICES; PERFORMANCE OF SERVICES.** Cummins shall supply the parts ("Parts") and/or perform the maintenance and/or repair ("Service") on the equipment identified in the Quote and/or Invoice. No additional services, parts or materials are included in this Agreement unless agreed upon by the parties in writing.

2. **PAYMENT TERMS.** Unless otherwise provided for in this Agreement and subject to credit approval, payments are due thirty (30) days from the date of the invoice. If Customer does not have approved credit, as determined by Cummins, payments are due in advance or at the time of the sale or Service. If payment is not received when due, in addition to any rights Cummins has under the law and charges that Cummins may levy under statute, Cummins may charge Customer eighteen percent (18%) interest annually, or the maximum amount allowed by law, on late payments. Customer agrees to pay all costs of collection and attorneys' fees for any late payments.

3. **DELIVERY.** F.O.B. shipping point, unless otherwise stated in this Agreement. Charges for third party freight are subject to adjustment to reflect any change in price at time of shipment, which has not yet been reported to Cummins. Cummins' responsibility for any products sold ceases at the time of delivery to a freight carrier.

4. **DELAYS.** Cummins shall not be liable for any delays in performance that result directly or indirectly from acts of Customer or causes beyond Cummins' control including, but not limited to, acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, delays in transportation, fuel or materials, accidents, embargos, or labor disputes.

### 5. WARRANTY AND PROCEDURE.

**New Cummins Parts, Components, and Accessories:** The standard warranty of Cummins (or other manufacturers) for new parts, accessories and components will apply. In the event of defect of such items, only manufacturer's warranty will apply. Copies of the warranty are available upon request.

**Exchange Components Warranties, ReCon and Other Exchange Components:** Cummins will administer the warranties of other manufacturers' exchange components which are sold by Cummins. In the event of defects in such items, only manufacturers' warranties will apply. Copies are available upon request.

**Rebuilt Exchange Components:** Cummins rebuilt exchange components will be free from defects in material and workmanship in accordance with Cummins' standard warranty which is available upon request. Cummins' obligations under this warranty are limited to repair or replacement, at Cummins' option, of any defective component. Cummins warrants any rebuilt exchange (DX) cylinder heads to be free from defects in material or workmanship under normal use and service for a period of three months from the date of sale to the first retail purchaser or 25,000 miles, whichever first occurs.

**General Service Work:** Cummins warrants repair work to be free from defects in workmanship under normal use and service for three months or 25,000 miles or 900 hours of operation, whichever occurs first. In the event of a warrantable defect in workmanship, Cummins' obligation shall be limited to correcting the defective workmanship. Cummins shall correct the nonconforming Services where (i) such nonconformity becomes apparent to Customer during the warranty period; (ii) Cummins receives written notice of any nonconformity within thirty (30) days following discovery by Customer; and (iii) Cummins has determined that the Services are nonconforming. Services corrected or re-performed shall be subject to the remaining warranty period of the original warranty of the Services. New Parts supplied during correction or re-performance of Services are warranted for the balance of the warranty period still available from the original warranty of such parts.

**Used Equipment and Materials:** Equipment and materials are sold "as is, where is" unless exception is made in writing between Cummins and Customer. Customer agrees to inspect all used equipment and materials before completing the purchase.

The remedies set forth in this Section 5 shall not be deemed to have failed of their essential purpose so long as Cummins is willing to correct defective Services or refund the purchase price therefor. Cummins' complete liability for any failures resulting from improper workmanship performed by Cummins, and the Customer's exclusive remedy are limited to correction of improperly performed workmanship at the expense of Cummins. If Cummins determines, in its sole discretion, that it is impractical to remedy defects by service or repair, Cummins may refund part of the purchase price attributable to the defective service or repair paid by the Customer, and such refund shall be the sole and exclusive remedy for any such claim. This is the sole warranty with regard to service or repairs performed by Cummins.

### 6. LIMITATIONS ON WARRANTIES AND REMEDIES

Cummins expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability and warranty for fitness of a particular purpose, to the extent permitted by law. The warranties set forth herein are the sole warranties made by Cummins. Some states do not allow limitation on warranties, so these limitations may not apply to you.

THE MAXIMUM LIABILITY, IF ANY, OF EITHER PARTY FOR ANY DAMAGES, INCLUDING WITHOUT LIMITATION, AGREEMENT DAMAGES AND DAMAGES FOR PROPERTY, WHETHER ARISING FROM CUMMINS' BREACH OF AGREEMENT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER TORT, IS LIMITED TO AN AMOUNT NOT TO EXCEED THE PRICE OF THE PARTS AND/OR SERVICES PAID BY CUSTOMER UNDER THIS AGREEMENT WHICH SHALL BE THE SOLE REMEDY UNDER THIS AGREEMENT. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, PROPERTY DAMAGE, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, DAMAGE TO GOODWILL) HOWSOEVER CAUSED ARISING FROM THIS AGREEMENT OR THE BREACH OF THIS AGREEMENT, WHETHER IN INDEMNITY, TORT, CONTRACT, OR OTHERWISE. NOTHING IN THIS AGREEMENT EXCLUDES OR LIMITS LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN.

7. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the courts of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

8. **INSURANCE.** Upon Customer's request, Cummins will provide to Customer a Certificate of Insurance evidencing Cummins' relevant insurance coverage.

9. **ASSIGNMENT.** This Agreement is binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

10. **CANCELLATION.** Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent.

11. **REFUNDS/CREDITS.** All Parts returned to Cummins for credit must be in saleable condition and presented with a copy of the original invoice. Credits for returns will be subject to up to a 15% handling/restocking charge and are limited to eligible items purchased from Cummins. Items not included are: chemicals, electronics control modules, electrical components, gaskets, literature, open or resealed kits, paint, rubber parts, sensors, service tools and software.

12. **DISPOSITION OF PARTS.** All Parts replaced by Cummins as a result of making repairs covered by any warranty or for which claims will be presented to the manufacturer shall become the property of Cummins. All other products replaced in making repairs, unless otherwise a condition of the sale or unless Customer requests and removes promptly at the time products are delivered, shall become the property of Cummins. Any materials left on the premises of Cummins after repair work has been completed will be considered abandoned. Such materials may be scrapped or sold at the sole discretion of Cummins.

13. **MISCELLANEOUS.** Cummins shall be an independent contractor with respect to the Services performed under this Agreement. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote and/or Invoice. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof.

14. **ADDITIONAL CHARGES.** In carrying out the Services, Cummins may incur additional charges which will be passed on to the Customer as applicable.

15. **INDEMNIFICATION.** Each party shall indemnify and hold harmless the other party, its affiliates, subsidiaries, officers, directors, agents and employees from and against any and all third party losses, costs, liabilities, damages and expense, including reasonable attorney and expert fees (collectively, "Losses"), subject to the Limitations on Remedies, attributable to bodily injury or property damage to the extent it is conclusively determined that such Losses were directly caused by the gross negligence or willful misconduct of such party. The party seeking indemnification shall give written notice to the other party promptly upon learning of the events giving rise to such claim; provided, however, that failure to provide such notice promptly shall only relieve an indemnifying party of its obligations hereunder to the extent it is prejudiced by such delay. The indemnifying party shall select counsel to control and manage the defense of a claim and the settlement thereof and shall keep the indemnified party apprised of all material developments with respect to such claim. The indemnified party may, at its expense, select additional co-counsel. The indemnifying party shall have no obligation to indemnify or hold harmless the indemnified party for any Losses conclusively determined to be caused by the negligence or willful misconduct of the indemnified party.



Payment terms are 30 days from invoice date unless otherwise agreed upon in writing. Remit to:  
 #774494  
 4494 Solutions Center  
 Chicago, IL 60677-4004

CINCINNATI OH BRANCH  
 5400 RIALTO ROAD  
 WEST CHESTER, OH 45069-  
 (513)563-6670

INVOICE NO
PREVIEW
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 MATT SCHUMANN - 513 785-2243

PAGE 2 OF 2

\*\*\* CHARGE \*\*\*

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
		05-JUN-2013	ISC CM2150		UNLISTED
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
183404		11-SEP-2018	73031850		ALL
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
267744					212

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	UNIT PRICE	AMOUNT
3		3	CC36077	OAT	FLG	12.57	37.71
PARTS:							6,390.53
PARTS COVERAGE CREDIT:							0.00CR
TOTAL PARTS:							6,390.53
SURCHARGE TOTAL:							0.00
LABOR:							1,123.50
LABOR COVERAGE CREDIT:							0.00CR
TOTAL LABOR:							1,123.50
MISC.:							276.06
MISC. COVERAGE CREDIT:							0.00CR
TOTAL MISC.:							276.06
ROAD MILEAGE FS ENG							80.00
ELECTRONIC TOOLING FEE							50.00
HAZ WASTE DISPOSAL							56.18
SHOP SUPPLIES							89.88
TAX EXEMPT NUMBERS:							
LOCAL							0.00

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SUB TOTAL:	7,790.09
TOTAL TAX:	0.00
<b>TOTAL AMOUNT: US \$</b>	<b>7,790.09</b>

AUTHORIZED BY (print name) \_\_\_\_\_ SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

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THE MAXIMUM LIABILITY, IF ANY, OF EITHER PARTY FOR ANY DAMAGES, INCLUDING WITHOUT LIMITATION, AGREEMENT DAMAGES AND DAMAGES FOR PROPERTY, WHETHER ARISING FROM CUMMINS' BREACH OF AGREEMENT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER TORT, IS LIMITED TO AN AMOUNT NOT TO EXCEED THE PRICE OF THE PARTS AND/OR SERVICES PAID BY CUSTOMER UNDER THIS AGREEMENT WHICH SHALL BE THE SOLE REMEDY UNDER THIS AGREEMENT. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, PROPERTY DAMAGE, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, DAMAGE TO GOODWILL) HOWSOEVER CAUSED ARISING FROM THIS AGREEMENT OR THE BREACH OF THIS AGREEMENT, WHETHER IN INDEMNITY, TORT, CONTRACT, OR OTHERWISE. NOTHING IN THIS AGREEMENT EXCLUDES OR LIMITS LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN.

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