SETTLEMENT AGREEMENT AND RELEASE

This SETTLEMENT AGREEMENT AND RELEASE (hereinafter "Agreement") is entered into between the STATE OF CALIFORNIA AIR RESOURCES BOARD (hereinafter "ARB") 1001 I Street, Sacramento, California 95814, and PVJ TRANSPORTATION, INC. (hereinafter "PVJ"), 422 S. Chicago St., Los Angeles, CA 90033.

I. RECITALS

(1) HSC §§ 39650-39675 mandate the reduction of the emissions of substances that have been determined to be toxic air contaminants (TAC). In 1998, following an exhaustive 10-year scientific assessment process, ARB identified particulate matter (PM) from diesel-fueled engines as a toxic air contaminant. Transport Refrigeration Units (TRU) are powered by diesel fueled engines that emit this toxic particulate matter. TRUs are regulated under the Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units and TRU Generator Sets, and Facilities Where TRUs Operate (TRU ATCM) as codified in 13 CCR § 2477.1 through 2477.21.

(2) 13 CCR § 2477.5(a) provides that no owner/operator shall operate a TRU or TRU generator (gen) set in California unless it meets in-use performance standards established in § 2477.5.

(3) ARB Enforcement Division has documented that PVJ failed to bring the TRUs it operates in California into compliance with the in-use performance standards before the deadlines set forth in the regulation.

(4) CCR, Title 13, section 2477.6 (a) states: All operators subject to this regulation shall submit an Operator Report to ARB by January, 31, 2009.

(5) CCR, Title13, section 2477.6 (a) (2) states: The Operator Report shall be updated within 30 days when any changes to any operator information occur.

(6) CCR, Title13, section 2477.6 (a) (3) states: Failure to report or submittal of false information is a violation of state law subject to civil penalty.

(7) The ARB Enforcement Division has documented that PVJ, failed to update their Operator Report within 30 days of changes to their TRU fleet information, resulting in false information.

(8) Failure to bring the TRU fleet in compliance with applicable in-use emission standards, and submittal of false information are violations of state law resulting in penalties. HSC § 39674 authorizes civil penalties of up to ten thousand dollars ($10,000) for each day that the violation occurs.

(9) In order to resolve these alleged violations, PVJ has taken, or agreed to take, the actions enumerated below under "RELEASE". Further, ARB accepts this Agreement in termination and settlement of this matter.

(10) In consideration of the foregoing, and of the promises and facts set forth herein, the parties desire to settle and resolve all claims, disputes, and obligations relating to the above-listed violations, and voluntarily agree to resolve this matter by means of this Agreement. Specifically, ARB and PVJ agree as follows:

II. TERMS AND RELEASE

In consideration of ARB not filing a legal action against PVJ for the alleged violations referred to above, and PVJ's payment of the penalties set forth in Section 1 below, ARB and PVJ agree as follows:

(1) Upon execution of this Agreement, the sum of three thousand dollars ($3,000.00) shall be paid on behalf of PVJ no later than November 17, 2014, as follows:

- $2,250.00 to the **Air Pollution Control Fund**
- $750.00 to the **Peralta Colleges Foundation**

Please send the signed Settlement Agreement and any future mailings or documents required per the terms of this Settlement Agreement to:

Mr. Eric Bissinger
Air Pollution Specialist
California Air Resources Board
Enforcement Division
P.O. Box 2815
Sacramento, CA 95812

Please submit the payment along with the attached "Settlement Agreement Payment Transmittal Form" (Attachment A) to:

California Air Resources Board
Accounting Office
P.O. Box 1436
Sacramento, CA 95812-1436

(2) If the Attorney General files a civil action to enforce this settlement agreement, PVJ shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's costs, and costs.

(3) It is further agreed that the penalties described in "Terms and Release", paragraph 1 are punitive in nature, rather than compensatory. Furthermore, the

penalty is intended to deter and punish PVJ for violations of state environmental statutes, and these penalties are payable to and for the benefit of ARB, a governmental unit. Therefore, it is agreed that these penalties imposed on PVJ through by ARB arising from the facts described in recital paragraphs (1) through (10) are non-dischargeable under 11 United States Code § 523 (a)(7), which provides an exception from discharge for any debt to the extent such debt is for a fine, penalty or forfeiture payable to and for benefit of governmental unit, and is not compensation for actual pecuniary loss, other than certain types of tax penalties.

(4) PVJ shall not violate HSC §§ 43701 *et seq.*, 44011.6 *et seq.*, and 13 CCR §§ 2180 *et seq.*, 2190 *et seq.*, and 2485 *et seq.*

(5) Within 45 days of the execution of this Agreement, PVJ shall bring its fleet of TRUs operating in California in compliance with the applicable in-use emission standards as required by 13 CCR § 2477.5(a) and apply for an ARB Identification Number (IDN) for each of the California-based TRUs or TRU gen sets that it owns and/or operates as required by 13 CCR § 2477.5(e)(1)(A) and affix the IDN to both sides of each TRU or TRU gen set within 30 days of receiving the number from ARB as required by 13 CCR § 2477.5(e)(1)(F). PVJ shall submit the proof of registration in ARB's Equipment Registration system (ARBER) to Eric Bissinger, Air Pollution Specialist, ARB Enforcement Division, P.O. Box 2815, Sacramento, CA 95812.

(6) PVJ shall not violate TRU ATCM as codified in 13 CCR § 2477.

(7) PVJ shall complete Low NOx Software Upgrades (reflash) on all applicable heavy-duty diesel engines operating in California and report to ARB within 45 days of this agreement.

(8) PVJ shall instruct all employees who operate diesel-fueled vehicles to comply with the idling regulations set forth in 13 CCR § 2485, within 45 days of this Agreement.

(9) PVJ shall not violate the Truck & Bus regulation as codified in 13 CCR § 2025 *et seq.*

(10) PVJ, by December 31, 2014, shall submit proof of compliance with the January 1, 2015 Truck & Bus deadline, for all regulated heavy-duty diesel vehicles, to **Mr. Eric Bissinger, Air Pollution Specialist, California Air Resources Board, Enforcement Division, P.O. Box 2815, Sacramento, CA 95812**.

(11) This Agreement shall apply to and be binding upon PVJ, and its officers, directors, receivers, trustees, employees, successors and assignees, subsidiary

and parent corporations and upon ARB and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Agreement.

(12) This Agreement constitutes the entire agreement and understanding between ARB and PVJ concerning the subject matter hereof, and supersedes and replaces all prior negotiations and agreements between ARB and PVJ concerning the subject matter hereof.

(13) No agreement to modify, amend, extend, supersede, terminate, or discharge this Agreement, or any portion thereof, is valid or enforceable unless it is in writing and signed by all parties to this Agreement.

(14) Severability. Each provision of this Agreement is severable, and in the event that any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement remains in full force and effect.

(15) This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice-of-law rules.

(16) This Agreement is deemed to have been drafted equally by the Parties; it will not be interpreted for or against either party on the ground that said party drafted it.

(17) Senate Bill 1402 (Dutton, Chapter 413, statutes of 2010) requires ARB to provide information on the basis for the penalties it seeks (HSC § 39619.7). This information, which is provided throughout this settlement agreement, is summarized here:

The manner in which the penalty amount was determined, including a per unit or per vehicle penalty.

Penalties must be set at levels sufficient to discourage violations. The penalties in this matter were determined in consideration of all relevant circumstances, including the eight factors specified in HSC §§42403 and 43024.

TRU Violations

The per unit penalty for the TRU violations involved in this case is a maximum of $1,000 per unit per day for strict liability violations or $10,000 per vehicle per day for negligent or intentional violations pursuant to HSC § 39674. The penalty obtained for the TRU violations involved in this case is $2000.00 for two non-compliant TRUs operated by PVJ or $1,000.00 for each violation.

Outstanding Citation

PVJ received a citation on August 30, 2012 for violating the Statewide Truck and Bus Regulation (citation number STB083012002CJP). The per unit penalty for the Truck and Bus violations involved in this case is a maximum of $1,000 per vehicle per day for strict liability violations or $10,000 per vehicle per day for negligent or intentional violations. The penalty obtained for the Truck and Bus citation involved in this case for failure to meet PM BACT requirement for one truck is $1,000.00.

The provision of law the penalty is being assessed under and why that provision is most appropriate for that violation.

TRU Violations

The penalty provision being applied for the TRU ATCM (13 CCR § 2477) violations (including registration and labeling) is HSC § 39674 because the TRU rule is an Air Toxic Control Measure adopted pursuant to authority contained in HSC §§ 39002 et seq., 39650-39675 and PVJ, as an owner of TRUs, failed to bring all TRUs in its fleet into compliance by the deadlines set forth in the TRU ATCM and failed to update changes to their Operator Report within 30 days for eight TRUs in the ARBER database.

Outstanding Citation

The penalty provision being applied for the Truck and Bus regulation (13 CCR § 2025) violations in this case is HSC § 39674 because the Truck and Bus regulation is a Toxic Air Contaminant Control Measure adopted pursuant to authority contained in HSC §§ 39002 et seq., 39650-39675 and because PVJ failed to meet PM BACT requirement.

Is the penalty being assessed under a provision of law that prohibits the emission of pollution at a specified level, and, if so a quantification of excess emissions, if it is practicable to do so.

TRU Violations

The provisions cited above do prohibit emissions above a specified level of g/hp-hr. However, since the hours of operation of the non-compliant units involved and their individual emission rates are not known, it is not practicable to quantify the excess emissions.

Outstanding Citation

The provisions cited above do prohibit emissions above a specified level of g/hp-hr. However, since the hours of operation of the non-compliant truck involved

and its individual emission rate is not known, it is not practicable to quantify the excess emissions.

(18) PVJ acknowledges that ARB has complied with Senate Bill 1402 in prosecuting or settling this case. Specifically, ARB has considered all relevant facts, including those listed at HSC § 43024, has explained the manner in which the penalty amount was calculated, has identified the provision of law under which the penalty is being assessed and has considered and determined that this penalty is being assessed under a provision of law that prohibits the emission of pollutants at a specified level.

(19) Penalties were determined based on the unique circumstances of this matter, considered together with the need to remove any economic benefit from noncompliance, the goal of deterring future violations and obtaining swift compliance, the consideration of past penalties in similar cases, and the potential costs and risk associated with litigating these particular violations. Penalties in future cases might be smaller or larger on a per unit basis.

(20) The penalty was based on confidential settlement communications between ARB and PVJ that ARB does not retain in the ordinary course of business. The penalty is the product of an arms length negotiation between ARB and PVJ and reflects ARB's assessment of the relative strength of its case against PVJ, the desire to avoid the uncertainty, burden and expense of litigation, obtain swift compliance with the law and remove any unfair advantage that PVJ may have secured from its actions.

(21) Now therefore, in consideration of the payment on behalf of PVJ to the Air Pollution Control Fund and the Peralta Colleges Foundation, ARB hereby releases PVJ and their principals, officers, agents, predecessors and successors from any and all claims, the ARB may have or have in the future based on the circumstances described in paragraph (1) through (10) of the Recitals. The undersigned represent that they have the authority to enter into this Agreement

California Air Resources Board		**PVJ Transportation Inc.**	
Signature:		Signature:	Pedro Palanco
Print Name:	James R. Ryden	Print Name:	Pedro Palanco
Title:	Chief Enforcement Division	Title:	President / CEO.
Date:	11/24/14	Date:	NOV. 16, 14