SETTLEMENT AGREEMENT AND RELEASE
NOV F09-2-1

This SETTLEMENT AGREEMENT AND RELEASE (hereinafter "Agreement") is entered into between, the STATE OF CALIFORNIA AIR RESOURCES BOARD (hereinafter "ARB") with the principal office at 1001 I Street, Sacramento, California 95814, and Ultramar Inc., a Valero Company, (hereinafter "Valero") with the principal place of business at Wilmington Refinery, 2402 East Anaheim Street, Wilmington, California, 90744.

I. RECITALS

(1) California Code of Regulation (hereinafter ("CCR"), Title 13, Section 2282(a)(1) states, except as otherwise provided in this subsection (a), no person shall sell, offer for sale, or supply any vehicular diesel fuel unless: A)The aromatic hydrocarbon content does not exceed 10 percent by volume; or (B) The vehicular diesel fuel has been reported in accordance with all of the requirements of subsection (d), and: i. The aromatic hydrocarbon content does not exceed the designated alternative aromatic hydrocarbon limit, and ii. Where the designated alternative aromatic hydrocarbon limit exceeds 10 percent by volume, the excess aromatic hydrocarbon content is fully offset in accordance with subsection (d); or (C) The vehicular diesel fuel has been reported in accordance with all of the requirements of subsection (g)(7), and meets all of the specifications for a certified diesel fuel formulation identified in an applicable Executive Order issued pursuant to subsection (g)(6); or (D)The vehicular diesel fuel has been reported in accordance with all of the requirements of subsection (h)(2), and meets all of the designated equivalent limits set forth in subsection (h)(1); or (E)The vehicular diesel fuel is exempt under subsection (e) and: i. The aromatic hydrocarbon content does not exceed 20 percent by volume; or ii. The vehicular diesel fuel has been reported in accordance with all of the requirements of subsection (d), and a. The aromatic hydrocarbon content does not exceed the designated alternative limit, and b. Where the designated alternative limit exceeds 20 percent by volume, the excess aromatic hydrocarbon content is fully offset in accordance with subsection (d), treating all references in subsection (d) to 10 percent by volume as references to 20 percent by volume; or iii. The vehicular diesel fuel has been reported in accordance with all of the requirements of subsection (g)(7), and meets all of the specifications for a certified diesel fuel formulation identified in an applicable Executive Order issued pursuant to subsections (g)(6) and (g)(8).

(2) CCR Title 13, section 2282(a)(3) Subsection (a)(1) shall not apply to a sale, offer for sale, or supply of vehicular diesel fuel to a refiner where the refiner further processes the diesel fuel at the refiner's refinery prior to any subsequent sale, offer for sale, or supply of the diesel fuel.

(3) CCR 13, section 2282(b)(0.5) "Aromatic hydrocarbon" has the same meaning as "total aromatic hydrocarbons."

(4) CCR 13, section(b)(2) "Designated alternative limit" means an alternative aromatic hydrocarbon limit, expressed in percent aromatic hydrocarbon content by volume, which is assigned by a producer or importer to a final blend of vehicular diesel fuel pursuant to subsection (d).

(5) CCR 13, section 2282(b)(3) "Diesel fuel" means any fuel that is commonly or commercially known, sold or represented as diesel fuel, including any mixture of primarily liquid hydrocarbons – organic compounds consisting exclusively of the elements carbon and hydrogen – that is sold or represented as suitable for use in an internal combustion, compression-ignition engine.

(6) CCR 13, section(b)(5) "Executive Officer" means the executive officer of the Air Resources Board, or his or her designee.

(7) CCR 13, section(b)(6) "Final blend" means a distinct quantity of diesel fuel which is introduced into commerce in California without further alteration which would tend to affect the fuel's aromatic hydrocarbon content.

(8) CCR 13, section(b)(7) "Formulation" means the composition of a diesel fuel represented by a test fuel submitted pursuant to subsection (g).

(9) CCR 13, section(b)(13) "Motor vehicle" has the same meaning as defined in Section 415 of the Vehicle Code.

(10) CCR 13, section(b)(22) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

(11) CCR 13, section (b)(23) "Vehicular diesel fuel" means any diesel fuel (A) which is not conspicuously identified as a fuel which may not lawfully be dispensed into motor vehicle fuel tanks in California; or (B) which the person selling, offering for sale, or supplying the diesel fuel knows will be dispensed into motor vehicle fuel tanks in California; or (C) which the person selling, offering for sale, or supplying the diesel fuel in the exercise of reasonable prudence should know will be dispensed into motor vehicle fuel tanks in California, and that is not the subject of a declaration under penalty of perjury by the purchaser, offeree or recipient stating that s/he will not sell, offer for sale, or transfer the fuel for dispensing, or dispense the fuel, into motor vehicle fuel tanks in California.

(12) CCR 13, section 2262(d)(1) A producer or importer may assign a designated alternative limit in accordance with this subsection (d) to a final blend of vehicular diesel fuel produced or imported by the producer or importer. In no case may the designated alternative limit be less than the aromatic hydrocarbon content of the final blend shown by the sample and test conducted pursuant to subsection (f).

(2) The producer or importer shall notify the executive officer of the volume (in gallons) and the designated alternative limit of the final blend. This notification shall be received by the executive officer before the start of physical transfer of the diesel fuel from the production or import facility, and in no case less than 12 hours before the producer either completes physical transfer or commingles the final blend. (3) Within 90 days before or after the start of physical transfer of any final blend of vehicular diesel fuel to which a producer or importer has assigned a designated alternative limit exceeding 10 percent, the producer or importer shall complete physical transfer from the production or import facility of vehicular diesel fuel in sufficient quantity and with a designated alternative limit sufficiently below the limit specified in subsection (a)(1)(A) to offset the volume of aromatic hydrocarbons in the diesel fuel reported in excess of the limit. (4) If, through no intentional or negligent conduct, a producer or importer cannot report within the time period specified in subsection (d)(2), then the producer or importer shall notify the executive officer of the required data as soon as reasonably possible and shall provide a written explanation of the cause of the delay in reporting. If, based on the written explanation and the surrounding circumstances, the executive officer determines that the conditions of this subsection (d)(4) are met, timely notification shall be deemed to have occurred.

(13) California Health and Safety Code (hereinafter "H&SC") section 43027(a) states, "[a]ny person who willfully and intentionally violates any provision of this part, or any rule, regulation, permit, variance, or order of the state board, pertaining to fuel requirements and standards, is liable for a civil penalty of not more than two hundred fifty thousand dollars ($250,000), and the prosecuting agency shall include a claim for an additional penalty in the amount of any economic gain that otherwise would not have been realized from the sale of the fuel determined to be in noncompliance."

(14) H&SC section 43027(b) states, "[a]ny person who negligently violates any provision of this part, or any rule, regulation, permit, variance, or order of the state board, pertaining to fuel requirements and standards, exclusive of the documentation requirements specified in subdivision (d), is liable for a civil penalty of not more than fifty thousand dollars ($50,000)."

(15) H&SC section 43027(c) states, "[a]ny person who violates any provision of this part, or any rule, regulation, permit, variance, or order of the state board, pertaining to fuel requirements and standards, exclusive of the documentation requirements specified in subdivision (d), is strictly liable for a civil penalty of not more than thirty-five thousand dollars ($35,000)."

(16) H&SC section 43027(d) states, "[a]ny person who enters false information in, or fails to keep, any document required to be kept pursuant to any provision of this part, or any rule, regulation, permit, variance, or order of the state board, pertaining to fuel requirements and standards, is strictly liable for a civil penalty of not more than twenty-five thousand dollars ($25,000)...."

(17) H&SC section 43029 requires the prosecuting agency to include a claim for an additional penalty designed to eliminate the economic benefits from noncompliance against any person who violates any provision of this part, or any rule, regulation, permit, variance, or order of the state board pertaining to fuel requirements or standards as follows: "(a) For violations of gasoline requirements, the amount of the penalty shall equal the product of the number of tons of incremental increased vehicular emissions resulting from the manufacture, distribution, and sale of the specified volume of noncompliant fuel and nine thousand one hundred dollars ($9,100) per ton, which is the maximum calculated cost-effectiveness for California Phase 2 Reformulated Gasoline..."

(18) H&SC section 43030(a) states, "for the penalties prescribed in Sections 43027..., each day during any portion of which a violation occurs is a separate offense."

(19) H&SC section 43031(b) states, "[i]n determining the amount assessed, ...the state board, in reaching any settlement, shall take into consideration all relevant circumstances, including, but not limited to, all of the following: (1) The extent of harm to public health, safety, and welfare caused by the violation. (2) The nature and persistence of the violation, including the magnitude of the excess emissions. (3) The compliance history of the defendant, including the frequency of past violations. (4) The preventive efforts taken by the defendant, including the record of maintenance and any program to ensure compliance. (5) The innovative nature and the magnitude of the effort required to comply, and the accuracy, reproducibility, and repeatability of the available test methods. (6) The efforts to attain, or provide for, compliance. (7) The cooperation of the defendant during the course of the investigation and any action taken by the defendant, including the nature, extent, and time of response of any action taken to mitigate the violation. (8) For a person who owns a single retail service station, the size of the business."

(20) ARB alleges in the Notice of Violation F09-2-1 the following: On March 17, 2008, VALERO certified diesel batch 08-80-016 in Tank 581 at Shell Carson Terminal, using a designated alternative limit option. Diesel fuel from this batch was first transferred on March 19, 2008; notification of the batch was not made until March 24, 2008, which was made after the transfer.

(22) VALERO has provided full cooperation during the course of the investigation.

(23) VALERO is entering into this Agreement solely for the purpose of settlement and resolution of this matter with ARB. Further, ARB accepts this Agreement in termination of this matter. Accordingly, the parties agree to resolve this matter completely by means of this Agreement, without the need for formal litigation.

II. TERMS AND RELEASE

In consideration of ARB not filing a legal action against VALERO for the violations referred to above, ARB and VALERO agree as follows:

(1) Valero shall pay, a one day violation, the total amount of $15,000.00, and payment shall be made by check payable to the California Air Pollution Control Fund and addressed to:

Maria Loera
Air Resources Board
1001 I Street
Sacramento, CA 95814

Valero shall not seek to reduce any tax liability by virtue of paying the above amounts.

(2) This Agreement shall apply to and be binding upon VALERO and its principals, officers, directors, agents, 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.

(3) Now therefore, in consideration of the payment of VALERO to the California Air Pollution Control Fund, ARB hereby releases VALERO and its principals, officers, directors, agents, employees, parents, subsidiaries, predecessors, and successors, and each of their officers, directors, agents, and employees from any and all claims that ARB may have based on the facts and allegations described in recital paragraphs 1 - 14. The undersigned represent that they have the authority to enter this Agreement.

(4) This Agreement constitutes the entire agreement and understanding between ARB and VALERO concerning the claims and settlement in this Agreement, and this Agreement fully supersedes and replaces any and all prior negotiations and agreement of any kind or nature, whether written or oral, between ARB and VALERO concerning these claims.

(5) If any court of competent jurisdiction declares or determines any provision of this Agreement to be illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining parts, terms, and provisions shall not be affected thereby, and said illegal, unenforceable, or invalid part, term, or provision will be deemed not to be part of this Agreement.

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

(7) 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.

(8) **SB 1402 Statement**

Senate Bill 1402 (Dutton, Chapter 413, statutes of 2010) requires the ARB to provide information on the basis for the penalties it seeks (see Health and Safety Code section 39619.7). This information, which is provided throughout this settlement agreement, is also 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 Health and Safety Code section 43031.

The per unit penalty in this case is a maximum of $35,000 per day per strict liability violation.

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

The penalty provision being applied is this case is Health and Safety Code section 43027 because Valero put fuel into commerce in California in violation of Title 13 California Code of Regulations section 2265.

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.

The provisions cited above do not prohibit emissions above a specified level. Since the fuels did not meet California air pollution standards, any emissions attributable to them are illegal. However, it is not practicable to quantify these emissions because the information necessary to do so is not available.

(9) Valero acknowledges that ARB has complied with SB 1402 in prosecuting and settling this case. Specifically, ARB has considered all relevant facts, including those listed at Health and Safety Code section 43031, has explained the manner in which the penalty amount was calculated (including a per unit or per vehicle penalty, if appropriate), has identified the provision of law under which the

penalty is being assessed and has considered and determined that this penalty is not being assessed under a provision of law that prohibits the emission of pollutants at a specified level.

(10) 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. The penalty reflects violations extending over a certain number of days considered together with the complete circumstances of this case. The penalty was discounted in this matter based in part on the fact that this was a first time violation and the violator made unusually diligent efforts to comply, to cooperate with the investigation and to mitigate any potential emissions consequences. Penalties in future cases might be smaller or larger on a per day basis.

(11) The penalty in this case was based in part on confidential financial information or confidential business information provided by Valero that has not been retained by ARB in the ordinary course of business. The penalty in this case was also based on confidential settlement communications between ARB and Valero that ARB does not retain in the ordinary course of business either. The penalty is the product of an arm's length negotiation between ARB and Valero and reflects ARB's assessment of the relative strength of its case against Valero, the desire to avoid the uncertainty, burden and expense of litigation, obtain swift compliance with the law and remove any unfair advantage that Valero may have secured from its actions.

CALIFORNIA AIR RESOURCES BOARD

By: _____
Name: James Ryden, Chief
Title: Enforcement Division
Date: 6/21/11

ULTRAMAR INC.

By: _____
Name: Elizabeth Bourbon
Title: Managing Counsel
Date: June 15, 2011