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 ALL-WAYS EXPRESS CO. (hereinafter "ALL-WAYS"), P.O. Box 16234, Irvine, CA 92623-3982.

I. RECITALS

(1) California Health and Safety Code sections 39650-39675 (HSC §§ 39650-39675) mandate the reduction of the emissions of substances that have been determined to be toxic air contaminants. 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 PM. 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 California Code of Regulations, title 13, section 2477.1 through 2477.21 (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) 13 CCR § 2477.5(e) requires that owner/operators of all California-based TRUs and TRU gen sets subject to this regulation shall apply for an ARB Identification Number (IDN) for all California-based TRUs or TRU gen sets operated by the operator by submitting an application to ARB.

(4) 13 CCR § 2477.5(e)(1)(F) requires that within 30 days of receipt of the ARB-issued IDN, owners/operators of California-based TRUs and TRU gen sets permanently affix or paint the IDN to both sides of the TRU chassis housing.

(5) 13 CCR § 2477.6(a) requires all operators to submit an Operator Report to ARB which includes TRU and TRU gen set inventory information for each TRU and TRU gen set based in California that is owned or leased by the operator. The Operator Report shall be updated within 30 days when changes to any of the operator information occur. An Operator Report shall be submitted to ARB's Equipment Registration system (ARBER) within 30 days of the start-up of any new facility and shall be removed from ARBER within 30 days of a terminal shutting down.

(6) ARB Enforcement Division has documented that ALL-WAYS failed to submit a complete and correct TRU Operator Report, and failed to correctly register their TRUs in ARBER. ALL-WAYS also failed to remove the Operator Report from ARBER within 30 days of a terminal shutting down.

(7) Failure to apply for and affix ARB IDNs; failure to submit a complete and correct operator report; and failure to remove Operator Report 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.

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

(9) 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 ALL-WAYS agree as follows:

II. TERMS AND RELEASE

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

(1) Upon execution of this Agreement, the sum of two thousand two hundred fifty dollars shall be paid on behalf of ALL-WAYS no later than July 13, 2015, as follows:

- $1,687.00 payable to the **Air Pollution Control Fund**
- $563.00 payable 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. Nelson Van
Air Pollution Specialist
California Air Resources Board
Enforcement Division
P.O. Box 2815
Sacramento, California 95812

Please send 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, California 95812-1436

(2) If the Attorney General files a civil action to enforce this settlement agreement, ALL-WAYS 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 ALL-WAYS 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 ALL-WAYS by ARB arising from the facts described in recital paragraphs (1) through (7) 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) ALL-WAYS 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) ALL-WAYS 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.

(6) ALL-WAYS shall not violate the Truck and Bus regulation as codified in 13 CCR § 2025.

(7) ALL-WAYS shall remove TRU Operator Report as required by 13 CCR § 2477.6(a) within 45 days of execution of this Agreement to Nelson Van, Air Pollution Specialist, ARB Enforcement Division, P.O. Box 2815, Sacramento, CA 95812.

(8) ALL-WAYS shall not violate TRU ATCM as codified in 13 CCR § 2477.

(9) This Agreement shall apply to and be binding upon ALL-WAYS, 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.

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

(11) 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.

(12) 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.

(13) 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.

(14) 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.

(15) 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 $2,250.00 for failing to register TRUs it owns in ARBER completely and correctly and for failing to remove Operator Report for nine TRUs or $250.00 for each violation.

The penalty was discounted based on the fact that this was a first time violation and the violator made diligent efforts to comply and to cooperate with the investigation

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 ALL-WAYS, as an owner of TRUs, failed to register the TRUs in its fleet in ARBER system completely and correctly.

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 not prohibit emissions above a specified level of g/hp-hr. ALL-WAYS failed to register TRUs it owns in ARBER completely and correctly and failed to remove Operator Report.

(16) ALL-WAYS 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.

(17) 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.

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

(19) Now therefore, in consideration of the payment on behalf of ALL-WAYS to the Air Pollution Control Fund and the Peralta Colleges Foundation, ARB hereby releases ALL-WAYS and their principals, officers, agents, predecessors and

successors from any and all claims, ARB may have or have in the future based on the circumstances described in paragraphs (1) through (7) of the Recitals. The undersigned represent that they have the authority to enter into this Agreement.

California Air Resources Board		**ALL-WAYS EXPRESS CO.**	
Signature:	[signature]	Signature:	Lyn Mocaby
Print Name:	Dr. Todd P. Sax	Print Name:	LYN MocABY
Title:	Chief, Enforcement Division	Title:	President
Date:	7/24/15	Date:	7-9-15