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 BRIDGE TERMINAL TRANSPORT (hereinafter "BTT"), 445 9th Avenue, Oakland, CA 94606.

I. RECITALS

(1) California Health and Safety Code (HSC) Sections 39650-39675 mandate the reduction of the emission of substances that have been determined to be toxic air contaminants (TACs). In 1998, following an exhaustive 10-year scientific assessment process, the ARB identified particulate matter (PM) from diesel-fueled engines as a toxic air contaminant. Drayage trucks are controlled under the Drayage Truck Regulation as codified in Title 13, CCR Section 2027.

(2) Title 13 CCR, Section 2027 (d)(3)(A) requires drayage truck owners meet all applicable emission requirements and deadlines set forth in Phases 1 and 2 detailed in Section 2027 (d).

(3) Title 13 CCR, Section 2027 (d)(5)(A)(2) requires drayage truck motor carriers only dispatch drayage trucks that meet emission standards and compliance deadlines set forth in Phases 1 and 2 in Section 2027 (d).

(4) The ARB Enforcement Division has documented that BTT, as a motor carrier, dispatched drayage trucks that are not compliant with the emissions standards set forth in the Drayage Truck Regulation.

(5) Failure to comply with Title 13 CCR, Section 2027 (d)(5)(A)(2) and Section 2027 (d) is a violation of state law resulting in penalties. HSC, Section 39674, authorize civil or administrative penalties not to exceed one thousand dollars ($1,000) or ten thousand dollars ($10,000) for each day that the violation occurs.

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

(7) 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, the ARB and BTT agree as follows:

II. TERMS & RELEASE

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

(1) Upon execution of this Agreement, BTT shall pay a civil penalty of $11,025.00. Payment shall be made in check form as described below and the payments shall be submitted no later than January 9, 2014:

- **$ 8,268.75** made out to **Air Pollution Control Fund**
- **$ 2,756.25** made out to **Peralta Colleges Foundation**

All payments and documents shall be sent to the attention of:

Mr. Sidney Lau, Air Resources Engineer
California Air Resources Board
Enforcement Division
P.O. Box 2815
Sacramento, CA 95812

(2) BTT shall not violate HSC Section 43701 et seq., 44011.6 et seq. and Title 13 CCR Sections 2027 et seq., 2180 et seq., 2183 et seq., 2190 et seq., and 2485 et seq., or any other provision or law under the jurisdiction of ARB.

(3) BTT shall instruct all owner-operators who operate diesel fueled commercial vehicles to comply with the idling regulations set forth in CCR, Title 13, Section 2485, within 45 days of this Agreement.

(4) BTT shall not violate the Drayage Truck Regulation, as codified in Title 13 CCR, Section 2027.

(5) BTT shall not dispatch drayage trucks that are not compliant with the emission standards set forth in the Drayage Truck Regulation or trucks that are not registered with the DTR. The ARB reserves the right to audit the dispatch records of BTT for compliance with Title 13 CCR, Section 2027 (d)(5) any time in the future.

(6) BTT shall not violate the Truck and Bus Regulation as codified in Title 13 CCR, Section 2025.

(7) This Agreement shall apply to and be binding upon BTT, 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.

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

(9) 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.

(10) 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.

(11) 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.

(12) 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.

(13) Now, therefore, in consideration of the payment by BTT, in the amount of eleven thousand and twenty five dollars ($11,025.00), ARB hereby releases BTT and its principals, officers, directors, agents, subsidiaries, predecessors, and successors from any and all claims that ARB may have based on the facts and allegations described in recital paragraphs (1) – (6) above. The undersigned represent that they have the authority to enter into this Agreement.

(14) 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 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 sections 42403 and 43024.

Drayage Violations

The per vehicle penalty for the drayage 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 pursuant to HSC Section 39674. The penalty obtained for the drayage motor carrier violations involved in this case is $11,025 for the year 2013. The penalty obtained is as follows: $11,025 for dispatching 147 noncompliant dispatches, or $75 per noncompliant dispatch. After considering all factors specified in 43024, the penalty reflects that fact these were first time violations and that BTT cooperated with the investigation.

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

Drayage Violations

The penalty provision being applied for the Drayage Truck Regulation (Title 13 CCR, Section 2027) violations in this case is HSC Section 39674 because the Drayage Truck Regulation is a Toxic Air Contaminant Control Measure adopted pursuant to authority contained in HSC Sections 39650 – 39675.

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

(15) BTT acknowledges that ARB has complied with SB 1402 in prosecuting or settling this case. Specifically, ARB has considered all relevant facts, including those listed at HSC section 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.

(16) Penalties were determined based on the unique circumstances of this matter, considered together with the need to remove any economic benefit from noncompliance, the consideration of past penalties in similar cases, and the potential costs and risk associated with litigating these particular

violations. Penalties in further cases might be smaller or larger on a per unit basis.

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

California Air Resources Board

By: _____

Name: James Ryden

Title: Chief, Enforcement Division

Date: 1-7-14

Bridge Terminal Transport

By: BRENT M. TAYLOR

Name: Brent M. Taylor

Title: CFO

Date: December 31, 2013