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 CHEMICAL TRANSFER CO. (hereinafter "CTC"), 3105 S. El Dorado Street, Stockton, CA 95206-0245.

I. RECITALS

(1) California Health and Safety Code, Section 39650-39675 mandates 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, ARB identified particulate matter (PM) from diesel-fueled engines as a toxic air contaminant. In-use Off-road diesel vehicles (off-road vehicles) are powered by diesel fueled engines that emit toxic particulate matter. Off-road vehicles are controlled under section 2449 within chapter 9, article 4.8, title 13 of the CCR.

(2) CCR, Title13, section 2449 (b) states except as provided in section 2449 (b)(2)(G) this regulation applies to any person, business, or government agency who owns or operates within California any vehicles with a diesel-fueled or alternative diesel fueled off-road compression-ignition engine with maximum power (max hp) of 25 horsepower (hp) or greater provided that the vehicle cannot be registered and driven safely on-road or was not designed to be driven on-road, even if it has been modified so that it can be driven safely on-road.

(3) CCR, Title 13, section 2449 (g) sets forth the requirements for registering all vehicles with engines subject to the regulation.

(4) CCR, Title 13, section 2449 (f) sets forth the requirements for labeling all vehicles with engines subject to the regulation with an ARB-issued equipment identification number (EIN).

(5) ARB contends Chemical failed to register and label equipment prior to the August 1, 2009 deadline.

(6) Failure to register and label equipment is a violation of state law resulting in penalties. Health and Safety Code, 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.

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

(8) 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 CTC agree as follows:

II. TERMS AND RELEASE

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

(1) Upon execution of this Agreement, the sum of three thousand, five hundred dollars ($3,500.00). Payment shall be made in check form as described below.

- Two thousand six hundred and twenty five dollars ($2,625.00) by check payable to the **California Air Pollution Control Fund, submitted by November 16, 2012.**

- Eight hundred and seventy five dollars ($875.00) to the **Peralta Community College District submitted by November 16, 2012.**

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

Mr. Ryman Simangan
Air Resources Board, Enforcement Division
P.O. Box 2815
Sacramento, CA 95812

(2) CTC shall comply for the off-road equipment set forth in title 13 CCR, sections 2249.

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

(4) Each 1974 or newer diesel powered heavy-duty vehicle in the CTC fleet shall comply with the emission control label (ECL) requirements set forth in the title 13 CCR section 2183(c) within 45 days of this Agreement.

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

(6) This Agreement shall apply to and be binding upon CTC 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.

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

(8) 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.

(9) 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.

(10) 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.

(11) 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.

(12) 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 HSC sections 42403 and 43024.

Off-Road Vehicle Violations

The per vehicle penalty for the Off-Road 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 CTC violations involved in this case is $500.00 per vehicle for seven vehicles.

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

Off-Road Vehicle Violations

The penalty provision being applied for the In-Use Off-Road Diesel Regulation (Title 13, CCR, section 2449 et seq.) violations (including labeling) is Health and Safety Code section 39674 because the Off-Road rule is a Toxic Air Contaminant Control Measure adopted pursuant to authority contained in Health and Safety Code Section 39660, et seq. and because CTC failed to register and label seven vehicles prior to the August 1, 2009 deadline as required by the In-Use Off-Road Diesel Regulation.

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 currently prohibit emissions above a specified level of g/hp-hr. Emission standards for the off-road regulation have not gone into effect at this time. CTC failed to register and label seven vehicles prior to the August 1, 2009 deadline as required by the In-Use Off-Road Diesel Regulation.

(13) CTC 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.

(14) 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.

(15) The penalty was based on confidential settlement communications between ARB and CTC 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 CTC and reflects ARB's assessment of the relative strength of its case against CTC, the desire to avoid the uncertainty, burden and expense of litigation, obtain swift compliance with the law and

remove any unfair advantage that CTC may have secured from its actions.

(16) Now therefore, in consideration of the payment on behalf of CTC to the California Air Pollution Control Fund and the Peralta Community College District, the ARB hereby releases CTC 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 (8) of the Recitals. The undersigned represent that they have the authority to enter into this Agreement

California Air Resources Board

By: _____

Name: James Ryden

Title: Chief, Enforcement Division

Date: 11/14/12

CHEMICAL TRANSFER CO.

By: Jack Bishop

Name: Mr. Jack Bishop

Title: Fleet Manager

Date: 11-9-12