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 EAGLE SIGNS & PRINTING INC. (hereinafter "EAGLE SIGNS"), located at 1028 East Acacia St., Ontario, CA 91761.

I. RECITALS

(1) California Health and Safety Code (HSC) section 44011.6 established the Heavy Duty Vehicle Inspection Program (HDVIP). It authorizes ARB to inspect on-road heavy-duty vehicles for excessive smoke emissions and engine tampering and to issue citations, accordingly. The program also requires the vehicle owner to repair its engines that exceed the prescribed ARB smoke opacity standards, perform a post-repair opacity test, and submit proof of repairs and any assessed penalties under the Regulations of the Heavy-Duty Smoke Inspection Program, California Code of Regulations (CCR), title 13, chapter 3.5, sections 2180-2188.

(2) HSC section 43701 provides that ARB shall adopt regulations that require owners or operators of heavy-duty diesel motor vehicles to perform regular inspections of their vehicles for excess smoke emissions.

(3) CCR, title 13, section 2190 *et seq.* was adopted under the authority of HSC section 43701 and, with limited exceptions, which are not applicable here, apply to all heavy-duty diesel powered vehicles with gross vehicle weight ratings greater than 6,000 pounds that operate on the streets or highways within the State of California.

(4) CCR, title 13, section 2190 *et seq.* authorizes the Periodic Smoke Inspection Program (PSIP) which requires the owners and operators of California based vehicle fleets of two or more heavy duty diesel motor vehicles with gross vehicle weight ratings greater than 6,000 pounds that operate on the streets or highways within the State of California to conduct annual smoke opacity inspections of their vehicles that are four years older than the model year of the vehicle's engine.

(5) CCR, title 13, section 2192(a) requires inter alia that the owner of the vehicle "[t]est the vehicle for excessive smoke emissions periodically according to the inspection intervals specified in section 2193(a), (b), and (c)", "[m]easure the smoke emissions for each test…", "[r]ecord the smoke test opacity levels

and other required test information as specified in section 2194..." and "[k]eep the records specified in section 2194 for two years after the date of inspection."

(6) HSC section 43016 states, "Any person who violates any provision of this part, or any order, rule, or regulation of the state board adopted pursuant to this part, and for which violation there is not provided in this part any other specific civil penalty or fine, shall be subject to a civil penalty not to exceed five hundred dollars ($500.00) per vehicle...."

(7) ARB considers testing, measuring, recording, and recordkeeping to be critical components in reducing excessive smoke emissions from these heavy-duty vehicles.

(8) The ARB has documented that EAGLE SIGNS failed to provide evidence that their vehicle has an emission control label (ECL) attached to the engine of the heavy-duty diesel vehicle in its fleet in violation of HSC, section 44011.6, and title 13 CCR section 2183, *et seq*. Civil penalties for violations of the regulation covering ECLs have been set per title 13 CCR, section 2185(a)(2)(B) at $300 per vehicle per violation.

(9) HSC sections 39650-39675 mandate the reduction of the emissions 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 TAC. In-use on-road diesel vehicles are powered by diesel fuel engines that emit toxic PM. On-road vehicles are controlled under California Code of Regulations (CCR), title 13, section 2025.

(10) CCR, title 13, section 2025(e)(8) states: "All information specified in section 2025(r) must be reported to the Executive Officer."

(11) CCR, title 13, section 2025(r) sets forth the requirements for reporting all vehicles with engines subject to the regulation if the owner of a fleet has elected to utilize the compliance options of section 2025(f)(4), 2025(g)(3), 2025(g)(4), 2025(h), 2025(i), the credits of section 2025(j), and the agricultural provisions of section 2025(m), single-engine and two-engine street sweeper provisions of section 2025(n), extension or exemptions for vehicles used exclusively in NOx exempt areas of section 2025(p)(1), and the extension for low-mileage construction trucks of section 2025(p)(2).

(12) Failure to comply with the requirements of CCR, title 13, section 2025 is a violation of state law resulting in penalties. HSC section 39674 authorizes civil or administrative penalties not to exceed one thousand dollars ($1,000) or ten thousand dollars ($10,000) for each day in which the violation occurs.

(13) EAGLE SIGNS has elected to utilize the compliance option of section 2025(h) for Small Fleets.

(14) The ARB has documented that EAGLE SIGNS has failed to timely report all required information for all vehicles in the fleet for which the owner has elected to utilize the compliance option of section 2025(h) for Small Fleets.

(15) In order to resolve these alleged violations, EAGLE SIGNS 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.

(16) 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 EAGLE SIGNS agree as follows:

II. TERMS AND RELEASE

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

(1) Upon execution of this Agreement, EAGLE SIGNS shall pay a civil penalty of six hundred dollars ($600.00). Payment shall be made in check form as described below and the payments will be made no later than September 24, 2013.

SETTLEMENT AGREEMENT AND RELEASE ARB AND EAGLE SIGNS:

- $450.00 made out to **California Air Pollution Control Fund**
- $150.00 made out to **Peralta Colleges Foundation**

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

Heather Brown, Air Pollution Specialist
Air Resources Board, Enforcement Division
9480 Telstar Ave., No. 4
El Monte, CA 91731

(2) EAGLE SIGNS shall not violate HSC sections 43701 *et seq*. and 44011.6 *et seq*., and CCR, title 13, sections 2180 *et seq*., 2190 *et seq*., and 2485 *et seq*.

(3) EAGLE SIGNS shall comply with one or both of the following options to attend the CCDET II class (Diesel Exhaust After Treatment and Maintenance), described on the ARB's webpage http://www.arb.ca.gov/enf/hdvip/ccdet/ccdet.htm. This class is conducted by various California Community Colleges and instructs attendees on California's emission regulations and the proper care and maintenance of exhaust after treatment systems (EATS).

a. EAGLE SIGNS shall have the fleet maintenance manager (or equivalent) and all staff responsible for maintenance of EATS and attend the CCDET II class. Proof of CCDET II completion shall be provided to ARB within six months of the date of this Agreement and also be maintained in each applicable employee's file for the term of his or her employment.

b. In case EAGLE SIGNS uses a contractor for the maintenance of EATS, in addition to having the fleet maintenance manager (or equivalent) attend the CCDET II course, EAGLE SIGNS shall obtain proof that the contractor's staff maintaining the EATS device(s) completed the CCDET II course within the last four years. This proof of the CCDET II completion shall be provided by EAGLE SIGNS to the ARB within six months of the date of this settlement and be maintained with the EATS installation and maintenance records.

(4) EAGLE SIGNS shall complete Low NOx Software Upgrades (reflash) on all applicable heavy duty diesel engines operating in California and report back to the ARB within 45 days of this Agreement. Proof of compliance shall be sent to Heather Brown, Air Pollution Specialist, Air Resources Board, Enforcement Division, 9480 Telstar Ave. No. 4, El Monte, CA 91731.

(5) Each 1974 or newer diesel powered heavy-duty vehicle in the EAGLE SIGNS fleet shall comply with the emission control label (ECL) requirements set forth in the CCR, title 13, section 2183(c) within 45 days of this agreement. Proof of compliance shall be sent to Heather Brown, Air Pollution Specialist, Air Resources Board, Enforcement Division, 9480 Telstar Ave. No. 4, El Monte, CA 91731.

(6) EAGLE SIGNS shall instruct all employees who operate diesel fueled commercial vehicles in California to comply with the idling regulations set forth in CCR, title 13, section 2485 within 45 days of the execution of this agreement. Proof of compliance shall be sent to Heather Brown, Air Pollution Specialist, Air Resources Board, Enforcement Division, 9480 Telstar Ave. No. 4, El Monte, CA 91731.

(7) EAGLE SIGNS shall comply with the Truck & Bus regulation as codified in CCR, title 13, section 2025 et seq. no later than January 1, 2014. By December 31, 2013, EAGLE SIGNS shall submit the proof of compliance, for all regulated heavy-duty diesel vehicles, to Heather Brown, Air Pollution Specialist, Air Resources Board, Enforcement Division, 9480 Telstar Ave. No. 4, El Monte, CA 91731.

(8) EAGLE SIGNS shall not violate the Truck and Bus regulation as codified in CCR, title 13, section 2025.

(9) This Agreement shall apply to and be binding upon EAGLE SIGNS 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 EAGLE SIGNS concerning the subject matter hereof, and supersedes and replaces all prior negotiations and agreements between ARB and EAGLE SIGNS 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**

Senate Bill 1402 (Dutton, Chapter 413, statutes of 2010) requires the ARB to provide information on the basis for the penalties it seeks (see HSC 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.

- ECL Violations

  The per vehicle penalty for the labeling violations involved in this case is a maximum of $300 per vehicle per violation. The penalty obtained for the ECL violations involved in this case is $225 for 1 vehicle.

  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.

- Truck and Bus Violations

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.

Reporting Violations

The penalty obtained for the Truck and Bus violations involved in this case for failure to timely report all required information for all vehicles in the fleet is $375 or $375 per vehicle per violation for 1 truck.

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.

- ECL Violations

  The penalty provision being applied to the ECL requirements set forth in title 13 CCR section 2185(a)(2) because EAGLE SIGNS failed to provide evidence that 1 of their vehicles has an ECL label attached as required.

- Truck and Bus Violations

  The penalty provision being applied for the Truck and Bus regulation (CCR, title 13, section 2025) violation in this case is HSC section 39674 because the Truck and Bus regulation is a Toxic Air Contaminant Control Measure adopted pursuant to authority contained in HSC section 39002 et seq., 39650-39675 and because EAGLE SIGNS failed to timely report all required information for all vehicles in the fleet for which they have elected to utilize compliance option of section 2025(h) as required in CCR, title 13, section 2025(r).

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.

- ECL and Truck and Bus Violations

  The ECL and Truck and Bus provisions cited above do not prohibit emissions above a specified opacity or level of g/hp-hr.

(16) EAGLE SIGNS acknowledges that ARB has complied with SB 1402 in prosecuting and settling the 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.

(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.

(18) Penalties in future cases might be smaller or larger on a per unit/vehicle basis.

(19) The penalty was based on confidential settlement communications between ARB and EAGLE SIGNS 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 EAGLE SIGNS and reflects ARB's assessment of the relative strength of its case against EAGLE SIGNS, the desire to avoid the uncertainty, burden and expense of litigation, obtain swift compliance with the law and remove any unfair advantage that EAGLE SIGNS may have secured from its actions.

(20) Now, therefore, in consideration of the payment by EAGLE SIGNS, in the amount of six hundred dollars ($600.00), ARB hereby releases EAGLE SIGNS 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) through (14) above. The undersigned represent that they have the authority to enter into this Agreement.

California Air Resources Board		**Eagle Signs & Printing Inc.**	
By:		By:	
Name:	James R. Ryden	Name:	ROBERT S. KNEEVERS
Title:	Chief, Enforcement Division	Title:	PTNR
Date:	10/2/13	Date:	09-23-2013