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 HERC Rentals, Inc. (hereinafter "HERC"), 27500 Riverview Center Boulevard, Bonita Springs, Florida 34134.

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 ten-year scientific assessment process, ARB identified particulate matter (PM) from diesel-fueled engines as a toxic air contaminant. In-use on-road diesel vehicles are powered by diesel fueled engines that emit toxic PM. On-road vehicles are controlled under the Truck and Bus regulation, as codified in 13 CCR § 2025.

(2) 13 CCR § 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 13 CCR §§ 2025(f)(4), 2025(g)(3), 2025(g)(4), 2025(h), 2025(i), the credits of 13 CCR § 2025(j), and the agricultural provisions of 13 CCR § 2025(m), single-engine and two-engine street sweeper provisions of 13 CCR § 2025(n), extension or exemptions for vehicles used exclusively in NOx exempt areas of 13 CCR § 2025(p)(1), the extension for work trucks of 13 CCR § 2025(p)(2), and the low-use vehicle provision of 13 CCR § 2025(p)(4).

(3) Failure to comply with the requirements of 13 CCR § 2025 is a violation of state law resulting in penalties. HSC §§ 39674(a) and (b) authorize civil penalties for the violation of the programs for the regulation of toxic air contaminants not to exceed one thousand dollars ($1,000) or ten thousand dollars ($10,000), respectively, for each day in which the violation occurs.

(4) 13 CCR § 2025(e)(8) states: "All information specified in 13 CCR § 2025(r) must be reported to the Executive Officer."

(5) HERC has elected to utilize the compliance options/credits/provisions of section 2025(p)(2).

(6) ARB has documented that HERC failed to report all vehicles with engines subject to the regulation for which the fleet owner has elected to utilize the compliance options of 13 CCR § 2025(p)(2).

(7) 13 CCR § 2025(w), Disclosure of Regulation Applicability, requires that any person residing in California selling a vehicle with an engine subject to this

regulation provide the specified disclosure in writing to the buyer on the bill of sale, sales contract addendum, or invoice.

(8) ARB has documented that HERC failed to include the Disclosure of Regulation Applicability on the bill of sales, contract addendums, or invoices, in violation of 13 CCR § 2025(w).

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

(10) 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 HERC agree as follows:

II. TERMS AND RELEASE

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

(1) Upon execution of this Agreement, the sum of twelve thousand five hundred twenty five dollars ($12,525.00) shall be paid on behalf of HERC no later than November 21, 2016, as follows:

- $9,395.00 payable to the **Air Pollution Control Fund**
- $3,130.00 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. Julian Ortiz
Air Pollution Specialist
California Air Resources Board
Enforcement Division
9480 Telstar Avenue, Suite 4
El Monte, California 91731

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, HERC 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 HERC 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 HERC by ARB arising from the facts described in recital paragraphs (1) through (8) 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) HERC 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) HERC shall remain in compliance with the Emission Control Label (ECL) regulation as codified in 13 CCR § 2183.

(6) HERC 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.

(7) HERC shall not violate the Truck and Bus regulation as codified in 13 CCR § 2025.

(8) This Agreement shall apply to and be binding upon HERC, 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.

(9) This Agreement constitutes the entire agreement and understanding between ARB and HERC concerning the subject matter hereof, and supersedes and

replaces all prior negotiations and agreements between ARB and HERC concerning the subject matter hereof.

(10) 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.

(11) 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.

(12) 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.

(13) 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.

(14) 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.

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.

The penalty obtained for the Truck and Bus violations involved in this case for failure to report all required information for all vehicles in the fleet is $3,750.00 or $375.00 per vehicle per violation for ten vehicles.

The penalty obtained for the Truck and Bus violations involved in this case for failure to disclose appropriate language on the bills of sales, sales contract addendums, or invoices is $8775.00 or $225.00 per vehicle per violation for thirty-nine vehicles.

The penalties were 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.

Truck and Bus Violations

The penalty provision being applied for the Truck and Bus regulation (13 CCR § 2025) violations in this case is HSC § 39674 because the Truck and Bus regulation is an Airborne Toxic Control Measure adopted pursuant to authority contained in HSC §§ 39002 et seq., 39650-39675 and because HERC failed to report all required information for all vehicles in the fleet for which they have elected to utilize compliance options/credits/provisions as required in 13 CCR § 2025(r) and also failed to include the Disclosure of Regulation Applicability on the bill of sales, contract addendums, or invoices..

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.

Truck and Bus Violations

The provisions cited above do not prohibit emissions above a specified level.

(15) HERC 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.

(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 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.

(17) The penalty was based on confidential settlement communications between ARB and HERC that ARB does not retain in the ordinary course of business. The penalty is the product of an arms length negotiation between ARB and HERC

and reflects ARB's assessment of the relative strength of its case against HERC, the desire to avoid the uncertainty, burden and expense of litigation, obtain swift compliance with the law and remove any unfair advantage that HERC may have secured from its actions.

(18) Now therefore, in consideration of the payment on behalf of HERC to the Air Pollution Control Fund, ARB hereby releases HERC 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 (8) of the Recitals. The undersigned represent that they have the authority to enter into this Agreement.

California Air Resources Board		**HERC Rentals, Inc.**	
Signature:		Signature:	
Print Name:	Dr. Todd P. Sax	Print Name:	Charles Miller
Title:	Chief, Enforcement Division	Title:	VP OPS
Date:	12/23/16	Date:	12/9/16