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 RENTRAC INC. (hereinafter "Rentrac") 1700 Growest Avenue, Riverside, CA 92504

I. RECITALS

(1) Health and Safety Code (H&SC), 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, the Air Resources Board (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 California Code of Regulations (CCR).

(2) CCR, Title13, section 2449 (b) states the regulation applies to any person, business, or government agency who owns or operates within California any diesel fueled or alternative diesel fueled off-road compression ignition vehicle engine with maximum power of 25 horsepower (hp) or greater that is used in a two-engine crane or to provide motive power in a workover rig or to provide motive power in any other motor vehicle that (1) cannot be registered and driven safely on-road or was not designed to be driven on-road, and (2) is not an implement of husbandry or recreational off-highway vehicle.

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

(4) CCR, Title 13, section 2449 (f) (1) sets forth the requirements for labeling all vehicles with engines subject to the regulation with an ARB-issued equipment identification number (EIN).

(5) The ARB, has documented that Rentrac failed to report and label equipment within their fleet.

(6) Failure to report and label equipment is a violation of state law resulting in penalties. H&SC, 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) H&SC 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, Chapter 3.5, Sections 2180-2188, Title 13, CCR.

(8) H&SC 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.

(9) Title 13, CCR sections 2190 et seq. was adopted under the authority of H&SC 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 which operate on the streets or highways within the State of California.

(10) Title 13, CCR sections 2190 et seq. authorize 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.

(11) Title 13, CCR 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."

(12) H&SC 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 of not to exceed five hundred dollars ($500.00) per vehicle."

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

(14) ARB contends Rentrac failed to test, measure, record, and maintain records of smoke emissions from its fleet of heavy duty diesel vehicles for two years, in violation of Title 13, CCR sections 2190 et seq.

(15) In order to resolve these alleged violations, Rentrac 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 Rentrac agree as follows:

II. TERMS AND RELEASE

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

(1) Upon execution of this Agreement, the sum of nine thousand, five hundred dollars and zero cents ($9,500.00) shall be paid on behalf of Rentrac, as follows:

- $7,125.00 to the **California Air Pollution Control Fund**
- $2,375.00 to the **Peralta Community College District**

Checks with the signed settlement agreement shall be sent to:

Mr. Christopher Patno, Air Resources Engineer
Air Resources Board, Enforcement Division
9480 Telstar Avenue, Suite 4
El Monte, CA 91731

(2) If the Attorney General files a civil action to enforce this settlement agreement, the prevailing party shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs.

(3) Rentrac shall not violate Title 13, CCR sections 2025 et seq., 2449 et seq., 2180 et seq., 2190 et seq., and 2485 et seq.

(4) CCR, Title13, section 2449 (e)(11) states: "A vehicle that is used by its owner for agricultural operations for over half of its annual operating hours but that is not used exclusively for agricultural operations is exempt from the performance requirements in section 2449(d), 2449.1(a), and 2449.2(a), but still must be labeled and reported in accordance with sections 2449(f) and(g)." Rentrac must register and label any vehicles into the Diesel Off-Road On-Line Reporting System (DOORS) that meet the above definition.

(5) Rentrac shall comply with all requirements found in Title 13, CCR section 2449 et seq.

(6) Rentrac shall comply with one or both of the following options to attend the California Council on Diesel Education and Technology (CCDET I) class, (SAE J1667 Snap Acceleration Smoke Test Procedure for Heavy-Duty Diesel Powered Vehicles) as described on the ARB webpage at http://www.arb.ca.gov/enf/hdvip/ccdet/ccdet.htm. This class is conducted by various California Community Colleges and instructs attendees on compliance with the PSIP, ECL and the HDVIP.

(a) Rentrac shall have the fleet maintenance manager (or equivalent) and all staff performing opacity tests for compliance with PSIP and the HDVIP attend the CCDET I class. Proof of CCDET I completion shall be provided to ARB within one year of the date of this Agreement and be maintained in each applicable employee's file for the term of his or her employment.

(b) If Rentrac uses a contractor to perform the annual smoke opacity testing required under the PSIP, in addition to having the fleet maintenance manager (or equivalent) attend the CCDET I course, Rentrac shall obtain proof that the contractor's staff conducting the smoke opacity tests completed the CCDET course within the past four years. This proof of CCDET completion shall be provided to ARB with PSIP records as required by this Agreement and be maintained with the annual PSIP records.

(7) Rentrac 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) Rentrac shall have the fleet maintenance manager (or equivalent) and all staff responsible for maintenance of EATS attend the CCDET II class. Proof of CCDET II completion shall be provided to ARB within one year 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 Rentrac uses a contractor for the maintenance of EATS, in addition to having the fleet maintenance manager (or equivalent) attend the CCDET II course; Rentrac 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 Rentrac to the ARB within one year of the date of this settlement and be maintained with the EATS installation and maintenance records.

(8) Rentrac shall provide copies of all PSIP compliance records for 2012 and 2013 to the ARB by January 31 of the following year. Copies shall be addressed to the attention of Mr. Christopher Patno, ARB Enforcement Division, 9480 Telstar Avenue, Suite 4, El Monte, CA 91731. The ARB reserves the right to visit any Rentrac fleet location at any time to conduct compliance audits for the HDVIP and PSIP, or any other applicable ARB program, in accordance with ARB's ability to conduct such audits under the law.

(9) Rentrac shall not violate the requirements of the Statewide Truck and Bus regulation set forth in Title 13, CCR, section 2025.

(10) Rentrac 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.

(11) Each 1974 or newer diesel powered heavy-duty commercial vehicle in the Rentrac fleet shall comply with the emission control label (ECL) requirements set forth in the CCR, Title 13, section 2183 (c).

(12) Rentrac shall instruct all employees who operate diesel fueled commercial vehicles to comply with the idling regulations set forth in CCR, Title 13, section 2485.

(13) Rentrac shall instruct all employees who operate diesel fueled commercial off-road vehicles to comply with the idling regulations set forth in CCR, Title 13, section 2449(d)(3).

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

(15) 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.

(16) 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.

(17) 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.

(18) 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.

(19) **SB 1402 Statement**

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 H&SC sections 42403 and 43024.

PSIP Violations

The per vehicle penalty for the PSIP violations involved in this case is a maximum of $500 per vehicle per violation per year. The penalty obtained for the PSIP violations involved in this case is $8,000 for 16 violations over two years.

Off-Road Violations

The per unit or 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 the Rentrac's violations involved in this case is $1,500 or $500 per vehicle for 3 vehicles for an unspecified number of days. This penalty was calculated by considering all factors specified in H&SC section 43024. This penalty represents the minimum amount required under H&SC section 39674 and the fact that this is an innocent, first time violation and that Rentrac has cooperated fully with the investigation.

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

PSIP Violations

The penalty provision being applied to the PSIP violations is H&SC section 43016 because Rentrac failed to test, measure, record, and maintain records of smoke emissions from its fleet of heavy duty diesel vehicles for years 2009 and 2010 in violation of the PSIP regulation in Title 13, CCR sections 2190 et seq, for 16 violations. Since the PSIP regulation was adopted pursuant to authority granted in Part 5 of Division 26 of the H&SC and since there is no specific penalty or fine provided for PSIP violations in Part 5, H&SC section 43016 is the applicable penalty provision.

Off-Road 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 H&SC section 39674 because the Off-Road rule is a Toxic Air Contaminant Control Measure adopted pursuant to authority contained in H&SC section 39660, et seq. and because Rentrac failed to register and label 3 vehicles 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.

PSIP Violations

The provisions cited above do prohibit emissions above a specified opacity level. 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.

Off-Road Violations

The provisions cited above do not currently prohibit emissions for off-road vehicles.

(20) Rentrac 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 H&SC section 43024, has explained the manner in which the penalty amount was calculated (including a per unit or per vehicle penalty, if appropriate), 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. However, since the hours of operation of the non-compliant vehicles involved and their individual emission rates are not known, it is not practical for ARB to quantify the excess emissions.

(21) 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 negotiation, and the potential costs and risk associated with litigating these particular violations. The penalty was discounted based on the fact that the Off-Road and PSIP violations were first time violations and the violator made unusually diligent efforts to comply and to cooperate with the investigation. Penalties in future cases might be smaller or larger on a per unit basis.

(22) The penalty in this case was based in part on confidential business information provided by Rentrac that is not retained by ARB in the ordinary course of business. The penalty in this case was also based on confidential settlement communications between ARB and Rentrac that ARB does not retain in the ordinary course of business either. The

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

(23) Now therefore, in consideration of the payment on behalf of Rentrac to the California Air Pollution Control Fund and the Peralta Community College District, the ARB hereby releases Rentrac 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 (14) 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: 8/16/12

Rentrac, Inc.

By: _____

Name: John Bremer
Title: President
Date: August 1, 2012