SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into between the State of California Air Resources Board (ARB) with its principal office at 1001 "I" Street, Sacramento, California 95814, and Valley Fine Foods, 3909 Park Road, Benicia, California 94510.

RECITALS

1. The Global Warming Solutions Act of 2006 authorizes ARB to adopt regulations to reduce greenhouse gas emissions (Health & Safety Code section 38530).

2. Pursuant to that authority, ARB adopted the Regulation for the Management of High Global Warming (GWP) Potential Refrigerants for Stationary Sources (RMP Regulation), California Code of Regulations (CCR), title 17, section 95380, et seq., which became effective on November 19, 2010.

3. The RMP Regulation establishes registration, reporting, leak inspection, repair and recordkeeping requirements applicable to owners of stationary refrigeration systems with a full charge of greater than 50 pounds of high GWP refrigerants (title 17, CCR sections 95383, 95385, 95386, 95388 and 95389).

4. The RMP Regulation requires owners of stationary refrigeration systems with a full charge of greater than 2,000 pounds of high global warming potential (GWP) refrigerants to register by March 1, 2012 (title 17, CCR section 95383).

5. The RMP Regulation requires owners of stationary refrigeration systems with a full charge of greater than 2,000 pounds of high global warming potential (GWP) refrigerants to file an annual report for the previous year by March 1 each year beginning in March 1, 2012 (title 17, CCR section 95388).

6. The RMP Regulation requires owners of a stationary refrigeration system with a full charge of greater than 2,000 pounds of high GWP refrigerants to install an automatic leak detection system by January 1, 2012, if the refrigeration system(s) operates year-round, or is intended to be operated year-round; if the refrigerant circuit is located entirely within an enclosed building or structure; or if the compressor, evaporator, condenser, or any other component of the refrigeration system(s) with a high potential for a refrigerant leak is located inside an enclosed building or structure (title 17, CCR § 95385(a)(2)).

7. Valley Fine Foods owns and operates one or more stationary refrigeration systems with a full charge of greater than 2,000 pounds of a high GWP refrigerant that is operated year round, or is intended to operate year round, in

which all or part of the refrigeration system(s) is located inside an enclosed building or structure.

8. ARB alleges that Valley Fine Foods violated the RMP Regulation by failing to submit one or more annual reports by the submittal date in accordance with the RMP Regulation.

9. ARB alleges that Valley Fine Foods violated the RMP Regulation by failing to retain required records in accordance with the RMP Regulation.

10. ARB alleges that Valley Fine Foods violated the RMP regulations by failing to install an automatic leak system by January 1, 2012, on one or more stationary refrigeration systems with a full charge of greater than 2,000 pounds of a high GWP refrigerant that is operated year round, or is intended to operate year round, in which all or part of the refrigeration system is located inside an enclosed building or structure.

11. Valley Fine Foods admits to the facts in the recitals listed above.

12. The RMP Regulation provides that each day or portion thereof that any leak inspection or leak repair is not completed after the date the leak inspection or leak repair is required to be completed, or each day or portion thereof that any registration, report, or plan required by the RMP Regulation remains unsubmitted, is submitted late, or contains incomplete or inaccurate information, shall constitute a single, separate violation (title 17, CCR section 95395(b)).

13. Violations of the RMP Regulation are a violation of State law. Health and Safety Code sections 38580 and 42400, et seq., authorize strict liability penalties not to exceed ten thousand ($10,000) per day, for each day that the violation occurs.

14. ARB and Valley Fine Foods desire to resolve these violations completely under the terms of this Agreement, in lieu of litigation. In order to resolve these violations, Valley Fine agrees to take the actions enumerated below under "TERMS AND CONDITIONS."

TERMS AND CONDITIONS

15. Upon execution of this Agreement, Valley Fine Foods agrees to pay civil penalties in the amount of $65,000.00. Payment shall be handled in accordance with the instructions in Attachment A to this Agreement.

16. Effect of Untimely Payment. If any payment is more than 15 days late, the entire remaining balance becomes immediately due and payable without further notice. In addition, if the Attorney General files a civil action to enforce this settlement agreement, Valley Fine Foods shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs.

17. Valley Fine Foods shall not violate the RMP Regulation.

18. It is further agreed that the Effective Date of this shall be the date upon which Valley Fine Foods executes this Agreement.

19. It is further agreed that the penalties described in this Agreement are punitive in nature, rather than compensatory. Furthermore, the penalty is intended to deter and punish Valley Fine Foods for alleged violations of the RMP Regulation, and these penalties are payable to a governmental unit. Therefore, it is agreed that these penalties imposed on Valley Fine Foods by ARB arising from the facts described in recitals are non-dischargeable under United States Code, title 11, section 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.

20. This Agreement shall apply to and be binding upon Valley Fine Foods, 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.

21. This Agreement constitutes the entire agreement and understanding between ARB and Valley Fine Foods concerning the subject matter hereof, and supersedes and replaces all prior negotiations and agreements between ARB and Valley Fine concerning the subject matter hereof.

22. 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. This Agreement shall further serve to toll any statute of limitation until six months after all terms and conditions of this Agreement have been fulfilled.

23. Failure to comply with any of the terms of this Agreement shall void the agreement and ARB may take enforcement action based on the initial violation and any subsequent violations of this Agreement.

24. 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.

25. 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.

26. **SB 1402 Statement**. Health & Safety Code section 39619.7 (Senate Bill 1402, Dutton, chapter 413, statutes of 2010) requires ARB to explain the basis for the penalties it seeks. This information is provided throughout this Agreement and is summarized here.

    The manner in which the penalty was determined.
    Penalties must be set at levels sufficient to deter violations. The penalties in this matter were determined based on all relevant circumstances, including the unique circumstances of this case, giving consideration to the eight factors specified in Health & Safety Code section 42403. Those circumstances were considered together with the need to remove any economic benefit from noncompliance, the goal of deterring future violations and obtaining swift compliance, penalties sought in other cases, and the potential costs and risk associated with litigating these particular violations. Specifically, this penalty reflects a penalty of approximately $152 per day for 429 days of violation for violations occurring between January 1, 2014 and March 6, 2015. Penalties in future cases might be smaller or larger. In this matter ARB concluded there were a number of mitigating factors including:

    (a) The fact that this was a first time violation;
    (b) Valley Fine Foods cooperated fully with the investigation;
    (c) Valley Fine Foods overall compliance history; and
    (d) Valley Fine Foods commitment to using 100% renewable electricity.

The legal provisions under which the penalty was assessed.
The penalty is based on Health & Safety Code section 42402 and title 17, CCR section 95395, the provisions intended to govern RMP Regulation violations.

Whether the governing provisions prohibit emissions at a specified level, and, if so, a quantification of excess emissions if it is practicable to do so.
The RMP Regulation does not prohibit emissions of high GWP refrigerants above a specified level, but Health & Safety Code section 38580(b)(2) specifies that violations of any regulation under the Global Warming Solutions Act of 2006 shall be deemed to result in an emission for purposes of the governing penalty statutes.

27. Valley Fine Foods acknowledges that ARB has complied with Senate Bill 1402 in investigating, prosecuting and settling this case. Specifically, ARB has considered all relevant facts, including those listed at Health & Safety Code section 42403, 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.

28. The penalty was based on confidential settlement communications between ARB and Valley Fine Foods. The penalty is the product of an arm's length negotiation between ARB and Valley Fine Foods and reflects ARB's assessment of the relative strength of its case against Valley Fine Foods, the desire to avoid the uncertainty, burden and expense of litigation, obtain swift compliance with the law and remove any unfair advantage that Valley Fine Foods may have secured from its actions.

29. Now therefore, in consideration of the payment on behalf of Valley Fine Foods to the California Air Resources Board, ARB hereby resolves with Valley Fine Foods and its principals, officers, agents, predecessors and successors any and all claims for the past violations of the RMP Regulation that ARB may have based on the circumstances described in the Recitals.

30. The undersigned represent that they have the authority to enter into this Agreement.

SIGNATURES

California Air Resources Board

By: _____ for

Name: Ellen M. Peter
Title: Chief Counsel

Date: June 1, 2016

Valley Fine Foods

By: _____

Name: David Weber
Title: Chief Financial Officer

Date: 4/11/16