SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into between the State of California Air Resources Board (ARB) principally located at 1001 I Street, Sacramento, California 95814, and Zodiac Maritime Agencies Ltd. (ZMA) principally located at 5th Floor, Portman House, 2 Portman Street, London WJH 6DU UK

RECITALS

(1) Health and Safety Code (H&SC) sections 39650-39675 (H&SC §§ 39650-39675) mandate the reduction of the emission of substances that have been determined to be toxic air contaminants (TAC). In 1998, following an exhaustive 10-year scientific assessment process, ARB identified particulate matter from diesel-powered engines as a TAC.

(2) California Code of Regulations (CCR), title 13, section 2299.2 (13 CCR § 2299.2) (b) provides that the regulation applies to any person who owns, operates, charters, rents, or leases any ocean-going vessel (OGV) that operates in Regulated California Waters (RCW).

(3) 13 CCR § 2299.2 (e) (1) sets forth the operational requirements for fuel sulfur content limits for auxiliary diesel engines, main engines, and auxiliary boilers.

(4) 13 CCR § 2299.2 (e) (2) sets forth the recordkeeping, reporting, and monitoring requirements.

(5) ARB, with the cooperation of ZMA, has documented that ZMA failed to properly complete the operational requirements of the regulation on March 13, 2014. On this date, the vessel *YM Modesty* operated within RCW on noncompliant fuel in violation of this regulation.

(6) Failure to properly complete the operational requirements of the regulation is a violation of State law resulting in penalties. H&SC sections 39674, 39675, 42400 et seq., 42402 et seq., and 42410 (H&SC §§ 39674, 39675, 42400 et seq., 42402 et seq., 42410) authorize civil or administrative penalties not to exceed $1,000.00 or $10,000.00 for each day that the violation occurs.

(7) In order to resolve these violations, ZMA has taken, or agrees to take, the actions enumerated below, within the Terms and Release. Further, 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, ARB and ZMA agree as follows:

TERMS AND RELEASE

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

(1) Upon execution of this Agreement, the sum of seven thousand five hundred dollars ($7,500.00) USD shall be paid on behalf of ZMA no later than January 14, 2015, as follows:

- $7,500.00 USD to the California Air Pollution Control Fund

Please submit the signed Agreement and 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 Agreement, ZMA shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs.

(3) ZMA shall not violate 13 CCR § 2299.2, nor CCR, title 17, section 93118.2 ATCM.

(4) ZMA shall accurately comply with fuel switchover and keep accurate records.

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

(6) 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.

(7) 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.

(8) 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.

(9) 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.

(10) SB 1402 Statement

Senate Bill 1402 (Dutton, Chapter 413, statutes of 2010) requires ARB to provide information on the basis for the penalties it seeks (see H&SC section 39619.7). This information, which is provided throughout this 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 8 factors specified in H&SC section 43024 (H&SC § 43024).

The per unit penalty in this case is a maximum of $10,000.00 per unit per day for strict liability violations pursuant to H&SC § 39674. The penalty obtained in this case is $7,500.00 after considering all factors specified in H&SC § 43024. In particular, the penalty reflects penalties obtained in other OGV fuels violation cases and the cooperation of ZMA with the investigation.

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

The penalty provision being applied in this case is H&SC § 39674 because ZMA failed to comply with ATCM adopted under H&SC § 39600 et seq.

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.

Since the fuel used did not meet regulatory requirements, all of the emissions from it were excess and illegal. Without information on engine usage and emission rates, however, quantifying these excess emissions is not practicable.

(11) ZMA acknowledges that ARB has complied with SB 1402 in prosecuting and settling this case. Specifically, ARB has considered all relevant facts, including those listed at H&SC §§ 42403 and 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 exact hours of noncompliant operation and the individual emission rates of the engines in violation are not known, it is not practical to quantify the excess emissions.

(12) 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 case negotiations, and the potential cost and risk associated with litigating these particular violations. Penalties in future cases might be smaller or larger on a per unit basis.

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

(14) Now therefore, in consideration of the payment on behalf of ZMA to the California Air Pollution Control Fund, ARB hereby releases ZMA and its principals, officers, directors, employees, agents, predecessors, and successors, and the M/V YM Modesty, its owners, operators, managers, charterers, agents, officers and members of crew, and each of them, from any and all claims for past violations of H&SC §§ 39650-39675 and 13 CCR § 2299.2, which ARB may have based on the circumstances described in paragraph (5) of the Recitals. The undersigned represent that they have the authority to enter into this Agreement.

California Air Resources Board

By: _____

Name: James R. Ryden
Title: Enforcement Division Chief
Date: 11/19/15

Zodiac Maritime Agencies Ltd.

By: _____

Name: ALAN NAKAZAWA of Cogswell Nakazawa + Chang LLP
Title: PARTNER – ATTORNEY-IN-FACT
Date: 12/11/14