

SETTLEMENT AGREEMENT AND RELEASE

This SETTLEMENT AGREEMENT AND RELEASE (hereinafter "Agreement") is entered into by and between the STATE OF CALIFORNIA AIR RESOURCES BOARD (hereinafter "CARB"), with its principal office at 1001 I Street, Sacramento, California 95814 and Dr. Ing. h.c. F. Porsche AG and Porsche Cars North America, Inc., with their principle offices at Porscheplatz 1, D-70435 Stuttgart, Germany, and 1 Porsche Drive, Atlanta, GA 30354, respectively (hereinafter "PORSCHE"), collectively, "the Parties."

RECITALS

1. Health and Safety Code section 43151 provides, "A person shall not offer for sale, introduce into commerce, import, deliver, purchase, rent, lease, acquire, or receive a new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine for use, registration, or resale in this state unless the motor vehicle engine or motor vehicle has been certified pursuant to this chapter. A person shall not attempt or assist in any such action."
2. Health and Safety Code section 43152 provides, "No person who is engaged in this state in the business of selling to an ultimate purchaser, or renting or leasing new motor vehicles or new motor vehicle engines, including, but not limited to, manufacturers, distributors, and dealers, shall intentionally or negligently import, deliver, purchase, receive, or otherwise acquire a new motor vehicle, new motor vehicle engine, or vehicle with a new motor vehicle engine which is intended for use primarily in this state, for sale or resale to an ultimate purchaser who is a resident of or doing business in this state, or for registration, leasing or rental in this state, which has not been certified pursuant to this chapter."
3. Health and Safety Code section 43153 provides, "No person who is engaged in this state in the business of selling to an ultimate purchaser or renting or leasing new motor vehicles or new motor vehicle engines, including, but not limited to, manufacturers, distributors, and dealers, shall intentionally or negligently sell, or offer to sell, to an ultimate purchaser who is a resident of or doing business in this state, or lease, offer to lease, rent, or offer to rent, in this state any new motor vehicle, new motor vehicle engine, or vehicle with a new motor vehicle engine, which is intended primarily for use or for registration in this state, and which has not been certified pursuant to this chapter."
4. Health and Safety Code section 43154(a), as in effect through December 31, 2016, and applicable at all relevant times listed herein, states, in pertinent part, "Any person who violates any provision of this article shall be liable for a civil penalty not to exceed five thousand dollars (\$5,000) per vehicle."
5. In relevant part, California Code of Regulations (CCR), title 13, section 1968.2(k)(1) provides, "For 2004 and subsequent model year vehicles, the Executive Officer, upon

SETTLEMENT AGREEMENT AND RELEASE

CARB and PORSCHE

Page 2 of 13

receipt of an application from the manufacturer, may certify vehicles even though said vehicles may not comply with one or more of the requirements of title 13, CCR section 1968.2.”

6. In relevant part, title 13, CCR section 1968.2(k)(3), as effective July 31, 2013, through July 24, 2016, provides, “The fines are in the amount of \$50 per deficiency per vehicle for non-compliance with any of the monitoring requirements specified in sections (e)(1) through (e)(8), (e)(11), (e)(13)(e)(14), (e)(16), (f)(1) through (f)(9), (f)(13), and (f)(16) and \$25 per deficiency per vehicle for non-compliance with any other requirement of section 1968.2.”
7. In relevant part, title 13, CCR section 1968.2(k)(4) provides, “Manufacturers must re-apply for Executive Officer approval of a deficiency each model year.”
8. In relevant part, title 13, CCR section 1968.2(k)(6.1) provides, “Manufacturers may request that the Executive Officer grant a deficiency and amend a vehicle’s certification to conform to the granting of the deficiencies during the first 6 months after commencement of normal production for each aspect of the monitoring system...”
9. In relevant part, title 13, CCR section 1968.2(k)(8) provides, “Any OBD II system installed on a production vehicle that fails to conform with the certified OBD II system for that vehicle or otherwise fails to meet the requirements of section 1968.2 and has not been granted a deficiency pursuant to the provisions of section (k)(1) through (k)(7) are considered non-compliant.”
10. In relevant part, title 13, CCR section 1968.2(k)(2) provides, “Manufacturers of non-complying systems are subject to fines pursuant to section 43016 of the California Health and Safety Code.”
11. For all relevant times listed herein, Health and Safety Code section 43016, as effective January 1, 2009, to December 31, 2016, provides in pertinent part, “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) per vehicle, portable fuel container, spout, engine, or other unit subject to regulation under this part, as these terms are defined in this division or state board regulations.”
12. Code of Federal Regulations, title 40, section 86.1844-01(f) as incorporated in Part I: H.4 of the “California 2015 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017 and Subsequent Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles,” as amended December 19,

SETTLEMENT AGREEMENT AND RELEASE

CARB and PORSCHE

Page 3 of 13

2018 (hereinafter "2015 TP") and Part 1, H.4 of the "California 2001 Through 2014 Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2009 Through 2016 Model Greenhouse Gas Exhaust Emission Standards and Test Procedures For Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended December 6, 2012 (hereinafter, "2001-2014 TP") provides, "A manufacturer shall submit to the Administrator a notification of all running changes as required in accordance with §§ 86.1842-01 and 86.1843-01 at the time each change is incorporated into production. Each running change notification shall include: (1) A detailed description of the change; (2) The reason for the change; (3) The portion of the product line that is affected by the change, including information sufficient to identify whether any given in-use vehicle includes the change; (4) The effect the change will have on emissions; (5) Any test data that is determined to be necessary to demonstrate compliance with applicable emission standards; and (6) A summary report for each test group which provides an overview of all running changes that have been incorporated since certification."

13. Code of Federal Regulations, title 40, section 86.1842-01, as incorporated in Part I, H.2 of the 2015 TP and 2001-2014 TP, provides, "A manufacturer will notify the Administrator concurrently with (or in advance of) any change or addition in production vehicles which creates a new vehicle configuration within the car lines covered in a certified test group, giving a full description of the change."
14. Health and Safety Code section 43106 provides, "Each new motor vehicle or engine required pursuant to this part to meet the emission standards established pursuant to Section 43101 shall be, in all material respects, substantially the same in construction as the test motor vehicle or engine, as the case may be which has been certified by the state board in accordance with this article."
15. Title 13, CCR section 1968.1(h) requires, inter alia, the manufacturer to submit emission test data for each engine family at the time of certification.
16. Title 13, CCR section 1968.1(g)(1.0) requires demonstration tests to be conducted on the certification durability vehicle or engine at the end of the required mileage or operating-hour accumulation.
17. Code of Federal Regulations, title 40, section 1068.101(a)(2), as effective June 29, 2010, to December 26, 2016, specifies that the manufacturer must provide complete and accurate reports and information without delay as required under this chapter. For all relevant times listed herein, failure to comply with the requirements of this paragraph is subject to a civil penalty up to \$37,500 for each day a manufacturer is in violation.
18. Health and Safety Code section 43212, as effective through December 31, 2016, for all relevant times listed herein, provides, "Any manufacturer or distributor who does

SETTLEMENT AGREEMENT AND RELEASE

CARB and PORSCHE

Page 4 of 13

not comply with the emission standards or the test procedures adopted by the state board shall be subject to a civil penalty of fifty dollars (\$50) for each vehicle which does not comply with the standards or procedures and which is first sold in this state.”

19. Part I: G. 2.2.1 of the 2015 TP requires the manufacturer to select at least three emission data and/or engineering development vehicles each year from PC or LDT test groups and at least three emission data and/or engineering development vehicles from MDV test groups.
20. Part I: G.2.2.2 of the 2015 TP provides, “The same test group shall not be selected in the succeeding two years unless the manufacturer produces fewer than three test groups.”
21. With certain modifications that are not applicable here, the 2015 TP, Part 2: D. specifies that the NMOG, CO, NO_x and formaldehyde emissions from all light- and medium-duty vehicles shall be measured according to the Federal Test Procedure as set forth in Subpart B, 40 CFR Part 86 at a nominal temperature of 50 degree F.
22. Part 1: D.1.6.5 of the 2015 TP provides “For all vehicles certified to the SFTP standards, a single-roll electric dynamometer or a dynamometer that produces equivalent results, as set forth in 40 CFR §86.108-00 or §1066.210, must be used for all types of emission testing to determine compliance with the applicable standards.”
23. Title 13, CCR, section 1968.2(j)(2) requires manufacturers to conduct a complete evaluation of the onboard diagnostic system (OBD II system) of one or more production vehicles (test vehicles) and submit the results of the evaluation to the Executive Officer.
24. In accordance with title 13, CCR, section 1968.5 (c)(3)(A)(ii) a vehicle is subject to ordered recall when the vehicle is “tested on-road and driven so as to reasonably encounter all monitoring conditions disclosed in the manufacturer’s certification application, the OBD II system is unable to detect and illuminate the MIL for a malfunction of a component/system monitored by a major monitor . . . prior to emissions exceeding two times the malfunction criteria of title 13, CCR sections 1968.2(e) and (f).” In relevant part, California Code of Regulations, title 13, section 1968.2(k)(1) provides, “The Executive Officer may not grant certification to a vehicle in which the reported noncompliance for which a deficiency is sought would be subject to ordered recall pursuant to section 1968.5 (c)(3)(A).”
25. CARB alleges that PORSCHE submitted false verification of OBD monitoring demonstration test results to CARB for diagnostic trouble codes P1346, P1347, and P12A2 in its OBD verification of monitoring requirements report documents for the model year (MY) 2014-2016 Panamera V6 vehicles (Test Group EPRXV03.6PBD,

SETTLEMENT AGREEMENT AND RELEASE

CARB and PORSCHE

Page 5 of 13

FPRXV03.6PV6, and GPRXJ03.6PV6). Had PORSCHE submitted the correct information within the first six months after commencement of normal production, these vehicles would have been eligible for retroactive deficiencies, and that lacking this information, these vehicles are considered non-compliant with the OBD II requirements of section 1968.2. Additionally, CARB alleges that PORSCHE implemented software updates for the MY 2014-2016 Panamera V6 vehicles (Test Groups EPRXV03.6PBD, FPRXV03.6PV6, and GPRXJ03.6PV6, respectively) and MY 2014-2017 Cayenne V8 Turbo/Turbo S (Test Groups EPRXT04.8CTD, FPRXT04.8CTD, GPRXT04.8CTD, and HPRXT04.8CTD, respectively) without first reporting these running changes to CARB.

26. CARB alleges that PORSCHE failed to disclose to CARB noncompliant OBD emission test data subject to title 13, CCR section 1968.5 (c)(3)(A)(ii) for the MY 2016-2017 Cayenne VR6 vehicles (Test Groups GPRXJ03.6PV6 and HPRXT03.6PV6, respectively). Additionally, CARB alleges that PORSCHE implemented software updates for the MY 2016-2017 Cayenne VR6 without first reporting these running changes to CARB.
27. CARB alleges that PORSCHE submitted on-board diagnostic (OBD) demo test data for catalyst monitoring from a 981 Cayman MY 2016 for the 981 Boxster MY 2016 DDV data in its certification documents (Test Group GPRXV02.7B81 for MY 2016).
28. CARB alleges that PORSCHE submitted incorrect evaporative test data for the MY 2014-2016 Panamera V6T (Test Group EPRXV03.0PTD, FPRXV03.6PV6, and GPRXV03.6PV6, respectively) in its certification documents.
29. CARB alleges that PORSCHE implemented running changes and/or field fixes to extend the cooling fan run time in the MY 2014-2016 Panamera V6T (Test Group EPRXV03.0PTD, FPRXV03.6PV6, and GPRXV03.6PV6, respectively), but failed to disclose these running changes and/or field fixes to CARB.
30. CARB alleges that PORSCHE conducted requisite 50 degree F testing on the MY 2017 Panamera G2 using a twin roll dynamometer instead of a prescribed single roll dynamometer, and submitted the data from the twin roll dynamometer in its certification documents.
31. CARB alleges that PORSCHE's submittal of incorrect evaporative test data for the MY 2014-2016 Panamera V6T were in violation of Code of Federal Regulations, title 40, section 1068.101(a)(2).
32. CARB alleges that PORSCHE's implementation of the software updates for the MY 2016-2017 Cayenne VR6 and MY 2014-2017 Cayenne V8 Turbo/Turbo S and running changes and/or field fixes to extend the cooling fan run time in the MY 2014-2016 Panamera V6T were in violation of Code of Federal Regulations, title 40, sections 86.1844-01(f) and 86.1842-01, the 2001-2014 TP and 2015 TP, and Health and Safety

SETTLEMENT AGREEMENT AND RELEASE

CARB and PORSCHE

Page 6 of 13

Code section 43106.

33. CARB alleges that PORSCHE's submittal of catalyst monitoring data from a 981 Cayman MY 2016 for the 981 Boxster MY 2016 and use of the twin roll dynamometer for 50° testing of the MY 2017 Panamera G2 were both in violation of the 2015 TP.
34. Dr. Ing. h.c. F. Porsche AG is a German vehicle manufacturer. Porsche Cars North America, Inc. is a Delaware corporation headquartered in Atlanta, Georgia; it submits motor vehicle certification applications to CARB and EPA for Dr. Ing. h.c. F. Porsche AG.
35. PORSCHE promptly and fully cooperated with CARB throughout its investigation.
36. PORSCHE self-reported the alleged violations listed in recital paragraphs 25-33 pursuant to EPA's "Incentives for self-Policing, Discovery, Disclosure, Correction and Prevention of Violations" ("EPA Audit Policy"), 65 Fed. Reg. 19,618 (Apr. 11, 2000) and "CAL/EPA Recommended Guidance on Incentives for Voluntary Disclosure" (Oct. 2003) ("CA Audit Policy").
37. CARB alleges that if the facts described in recital paragraphs 25-33 were proven, civil penalties could be imposed against PORSCHE as provided in Health and Safety Code sections 43016, 43154, and 43212.
38. PORSCHE admits the facts in recital paragraphs 25 through 33, but denies any liability arising thereunder.
39. PORSCHE is willing to enter into this Agreement solely for the purpose of settlement and resolution of this matter with CARB. CARB accepts this Agreement in termination of this matter. Accordingly, the Parties agree to resolve this matter completely by means of this Agreement, without the need for formal litigation.

TERMS AND RELEASE

In consideration of CARB not filing a legal action against PORSCHE for the violations alleged above, and in consideration of the other terms set out below, CARB and PORSCHE agree as follows:

1. As a condition of this Agreement, PORSCHE shall pay two million nine hundred forty-six thousand eight hundred sixty-eight dollars (\$2,946,868) as a civil penalty to the **California Air Pollution Control Fund**. Payment shall be tendered within thirty (30) days of full execution of this Agreement.

SETTLEMENT AGREEMENT AND RELEASE

CARB and PORSCHE

Page 7 of 13

PORSCHE shall mail the signed Agreement and any other required documentation per the terms of this Agreement to:

Mr. Dean Hermano
Staff Air Pollution Specialist
California Air Resources Board
Enforcement Division
9480 Telstar Avenue, Suite 4
El Monte, California 91731

PORSCHE shall send the payment along with the attached "Settlement Agreement Payment Transmittal Form" (Attachment A-1) to:

California Air Resources Board
Accounting Office
P.O. Box 1436
Sacramento, California 95812-1536

2. As a further condition of this Agreement, PORSCHE has agreed to fund two Supplemental Environmental Projects (SEPs) (described in ATTACHMENTS B and C) in the total amount of two million nine hundred twenty-nine thousand four hundred seventy dollars (\$2,929,470), consistent with CARB's SEP Policy.
3. Within thirty (30) days of full execution of this Agreement, PORSCHE shall perform the following actions relative to the two subject SEPs:
 - a. Send a check or wire transfer in the amount of two million eight hundred twenty-one thousand one hundred fifty-three dollars and fifty cents (\$2,821,153.50) payable to the **IQAir Foundation**, with the annotation "Coachella/Oakland/Seeley SEP Programs" in the check's or wire transfer's note or memo line. This payment will be disbursed by IQAir Foundation to the following three programs:
 - i. Coachella Valley Mitigation Project (2018-2023)
 - ii. Oakland Unified School District Project 2019-2023
 - iii. Seeley Elementary School 2019-2023
 - b. Send a check or wire transfer in the amount of one hundred eight thousand three hundred sixteen dollars and fifty cents (\$108,316.50) payable to the **Placer County Air Pollution Control District**, with the annotation "Placer County Community Based SEP Program" in the check's or wire transfer's note or memo line.
 - c. For each SEP payment above, send a copy of the check or wire transfer

SETTLEMENT AGREEMENT AND RELEASE

CARB and PORSCHE

Page 8 of 13

confirmation and corresponding "Supplemental Environmental Project Payment Transmittal Form" (ATTACHMENTS A-2 and A-3) to CARB's Accounting Office listed above.

4. PORSCHE has agreed that by funding the two subject SEPs, it will not receive any direct or indirect benefit, and that whenever it publicizes the SEPs or the results of the SEPs, it will state that the project is being undertaken as part of the settlement of a CARB enforcement action.
5. Upon agreeing to the terms set forth in Terms and Release paragraphs 2-4, PORSCHE is released of all liabilities as they relate to the two subject SEPs as reflected in this underlying Agreement.
6. PORSCHE agrees to voluntarily recall the Cayenne 3.6L VR6 MY 2016 vehicles in California (to the extent the specific VIN still has a pre-July 2016 ECU software version) pursuant to title 13, CCR sections 2111 et seq. and 1968.5(c)/(d).
7. PORSCHE agrees to offer and provide a complimentary extended warranty for the cooling fan for the full useful life of the Panamera S 3.0L V6 MY 2014 and Panamera 4S 3.0L V6 MY 2014 vehicles ("Subject Vehicles"). Within 30 days of the full execution of this Agreement, PORSCHE shall submit for CARB approval a draft extended warranty package providing the information listed in title 13, CCR section 2114(a) and a customer notification letter to be used to notify affected vehicle owners by regular mail. This extended warranty shall be associated with the Subject Vehicles, and remain available to any and all subsequent owners.
8. Effect of Untimely Payment. If a payment or payment installment is not tendered within thirty (30) business days of full execution of this Agreement, the entire remaining balance, plus a penalty interest rate of 10% per annum on the entire remaining balance from the date initially due shall become immediately due and payable without notice or demand. In addition, if the Attorney General files a civil action to enforce the Agreement, PORSCHE shall pay all costs of investigation and prosecuting the action, including expert fees, reasonable attorney's fees, and costs, provided the Attorney General prevails in that action.
9. It is agreed that the penalty described in terms and release paragraph 1 is punitive in nature, rather than compensatory. Furthermore, this penalty is payable to and for the benefit of CARB, a governmental unit. Therefore, it is agreed that this penalty imposed on PORSCHE by CARB arising from the facts described in recital paragraphs 25 through 33 are nondischargeable 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 the benefit of a governmental unit, and is not compensation

SETTLEMENT AGREEMENT AND RELEASE

CARB and PORSCHE

Page 9 of 13

for actual pecuniary loss, other than certain types of tax penalties.

10. Without creating any new, independent or additional obligations for PORSCHE, reference is herein made to the following California laws and regulations:
 - a. PORSCHE hereafter shall not import, deliver, receive, acquire, sell, or offer for sale any new motor vehicle or new motor vehicle engine in violation of Health and Safety Code sections 43151-43153.
 - b. PORSCHE hereafter shall timely disclose all OBD deficiencies to CARB in accordance with California Code of Regulations, title 13, section 1968.2.
 - c. PORSCHE hereafter shall not import, deliver, receive, acquire, sell, or offer for sale any new motor vehicle or new motor vehicle engine that is not compliant with the OBD II system requirements of California Code of Regulations, title 13, section 1968.2 in violation of Health and Safety Code sections 43151-43153.
 - d. PORSCHE hereafter shall submit running changes and field fixes in accordance with 40 C.F.R. § 86.1842-01.
 - e. PORSCHE hereafter shall conduct all certification emission testing in compliance with the applicable test procedures.
11. The payment and recall obligations under "Terms and Release" sections 1.-4 and 6.-7. shall be binding upon PORSCHE and its successors and assignees, or other entities or persons otherwise bound by law. The release obligations under "Terms and Release" sections 5 and 12 shall be binding upon CARB and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Agreement.
12. Now, therefore, in consideration of the settlement payments by PORSCHE to the California Air Pollution Control Fund and the two subject SEPs as specified in Terms and Release paragraphs 1-3, CARB hereby fully, finally, irrevocably, and forever releases PORSCHE and its principals, officers, shareholders, directors, agents, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations, and predecessors from any and all claims, demands, actions, or causes of action that CARB has brought or could have brought based on or related to the facts and allegations described in recital paragraphs 1-33, above.
13. The undersigned represent that they have the authority to enter this Agreement.
14. This Agreement constitutes the entire agreement and understanding between CARB and PORSCHE concerning the claims and settlement in this Agreement,

SETTLEMENT AGREEMENT AND RELEASE

CARB and PORSCHE

Page 10 of 13

and this Agreement fully supersedes and replaces any and all prior negotiations and agreement of any kind or nature, whether written or oral, between CARB and PORSCHE concerning these claims.

15. No agreement to modify, amend, extend, supersede, terminate, or discharge this Agreement, or any portion thereof, shall be valid or enforceable unless it is in writing and signed by all parties to this Agreement.
16. Advice of Counsel. Each Party to this Agreement has reviewed the Agreement independently, has had the opportunity to consult counsel, is fully informed of the terms and effect of this Agreement, and has not relied in any way on any inducement, representation, or advice of any other Party in deciding to enter into this Agreement.
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. 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 to the extent necessary to fulfill the Agreement's purpose and the intent of the Parties.
19. 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.
20. Waiver. The failure of any Party to enforce any provision of this Agreement shall not be construed as a waiver of any such provision, nor prevent such Party thereafter from enforcing such provision or any other provision of this Agreement. The rights and remedies granted all Parties herein are cumulative and the election of one right or remedy by a Party shall not constitute a waiver of such Party's right to assert all other legal remedies available under this Agreement or otherwise provided by law.
21. Captions. The captions by which the sections and subsections of this Agreement are identified are for convenience only, and shall have no effect whatsoever upon their interpretation.
22. The Parties agree that this Settlement Agreement may be executed in counterparts by the Parties and their representatives, and the counterparts shall collectively constitute a single, original document, notwithstanding the fact that the signatures may not appear on the same page. True and correct copies of signed counterparts shall be deemed effective as originals for all purposes.

23. SB 1402 Statement

Senate Bill 1402 (Dutton, Chapter 413, statutes of 2010, Health and Safety Code section 39619.7) requires CARB to provide information on the basis for the penalties it seeks. This required 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 Health and Safety Code section 43024.

The per unit, or vehicle, penalty in this case is a maximum of \$5000 per unit, \$500 per unit, and \$50 per unit per strict liability violation for the sale of illegal vehicles; per non-complying OBD, undisclosed running changes and/or field fixes; and per test program violation, respectively. The penalty obtained in this case is on average \$252.41 per unit for 23,281 units. This reflects the facts that PORSCHE timely and thoroughly self-disclosed these violations, these were first time violations, and PORSCHE's 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.

CARB alleges that the penalty provisions being applied in this case, Health and Safety Code sections 43016, 43154, and 43212, are appropriate because PORSCHE allegedly imported, delivered, received, acquired, sold, and/or offered for sale new motor vehicle engines in violation of Health and Safety Code sections 43151-43153, sold OBD non-compliant vehicles, implemented undisclosed running changes and/or field fixes, and failed to comply with the 2015 TP.

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.

The provisions cited above prohibit emissions above a specified level. However, it is not practicable to quantify these emissions, to the extent there are any, because the information necessary to do so, such as emission rates and time of use, would require a large expenditure of resources by the Parties to obtain. There are no testing results readily available that would indicate how much emissions increased, if at all, as a result of the use of the vehicles impacted by the facts and allegations described in paragraphs 1-33 above. However, since the Subject Vehicles are deemed to be not certified for sale in California, emissions attributable to them are illegal. In the interests of settlement and because of the time and expense involved, the Parties elected

SETTLEMENT AGREEMENT AND RELEASE

CARB and PORSCHE

Page 12 of 13

not to do such testing.

24. PORSCHE acknowledges that CARB has complied with SB 1402 in settling this case. Specifically, Porsche was informed that CARB has considered – and has no reason to believe that CARB did not consider - all relevant facts, including those listed at Health and Safety Code 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 in this Settlement Agreement and Release 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 but that excess emissions, if there are any, were not quantified.
25. Penalties were determined based on PORSCHE's thorough and timely self-disclosures, 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 negotiation, and the potential costs and risk associated with litigating these particular violations. The penalty reflects violations extending over a certain period of time, considered together with the complete circumstances of this case. The penalty was discounted in this matter based on the fact that this was a first time violation, PORSCHE's self-disclosure, and because PORSCHE made diligent efforts to comply and to cooperate with the CARB's investigation. Penalties in future cases might be smaller or larger on a per unit basis.
26. The penalty in this case was based in part on confidential business information provided by PORSCHE that is not retained by CARB in the ordinary course of business. The penalty in this case was also based on confidential settlement communications between CARB and PORSCHE that CARB 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 PORSCHE, the desire to avoid the uncertainty, burden and expense of litigation, obtain swift compliance with the law and remove any unfair advantage that PORSCHE may have secured from its alleged actions.

SETTLEMENT AGREEMENT AND RELEASE

CARB and PORSCHE

Page 13 of 13

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

California Air Resources Board

Dr. Ing. h.c. F. Porsche AG

By: _____ /S/

By: _____ /S/

Name: Richard W. Corey

Name: Robert Schmidt

Title: Executive Officer

Title: Director, ETB

Date: 9/23/2019

Date: 8/23/2019

Porsche Cars North America, Inc.

By: _____ /S/

Name: George Feygin

Title: Vice President, Legal & General
Counsel

Date: 8/28/2019