

MARINE FUEL - BARGE TO SHIP OR PORT TO SHIP
{Internal_Company}
CONTRACT REFERENCE NUMBER: {Contract_Number}
VESSEL: {Vessel}

FEBRUARY 19, 2010

TO: {Counterpart_Legal_Name}
EPA REGISTRATION NO.: {Counterpart_EPA}

ATTN: {Contact}

FAX: {Counterpart_Fax_Number}

FROM: {Internal_Company}
EPA REGISTRATION NO.: 5005

{Trader}
FAX NO.: (212) 536-8621

BROKER: {Broker}
FAX NO.: {Broker_Fax_Number}

WE ARE PLEASED TO CONFIRM THE FOLLOWING TRANSACTION CONCLUDED ON
{Contract_Date}.

{Internal_Company} CONTRACT REFERENCE NUMBER {Contract_Number},
WILL COVER THIS TRANSACTION. PLEASE REFER TO THIS CONTRACT
REFERENCE NUMBER ON ALL CORRESPONDENCE CONCERNING THIS CONTRACT.

THIS FACSIMILE CANCELS AND SUPERSEDES ANY BROKER'S CORRESPONDENCE
IN RELATION TO THIS TRANSACTION WHICH SHALL BE FOR THE SOLE
PURPOSE OF DOCUMENTING COMMISSION, IF ANY.

AAA. SELLER: {Internal_Company} ("HESS")

BBB. BUYER: {Counterpart_Legal_Name}
"{Counterpart_Short_Name}"

CCC. PRODUCT: {Commodity}

DDD. QUANTITY: {Contract_Quantity} {Quantity_UOM}
{ToleranceText}

EEE. QUALITY: TO CONFORM TO ISO 8217:2005

	TYPICAL	MIN	MAX	DESCRIPTION
{Spec_Param_Name}	{Typical_Val ue}	{Min_Value }	{Max_Value }	{Description}

FFF. DELIVERY TERMS AND CONDITIONS:

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HESS DELIVERS TO {Vessel} {Reference_Theirs} AT
{UDF4_Contract_Basis_Location} VIA SELLER'S BARGE.
DATE RANGE: {Start_Delivery_Date} - {End_Delivery_Date}
ESTIMATED DELIVERY DATE:

GGG. PRICE: {PricingFixed}
{Pricing_Notes_1}{Pricing_Notes_2}{Pricing_Notes_3}

HHH. QUANTITY:

THE QUANTITY OF MARINE FUEL DELIVERED SHALL BE DETERMINED FROM THE OFFICIAL GAUGE OF THE BARGE EFFECTING DELIVERY OR BY GAUGING IN SUPPLIER'S SHORE TANK OR OIL METER AT SUPPLIER'S ELECTION. EXCEPT WHERE GOVERNMENT REGULATIONS OR LOCAL AUTHORITIES DETERMINE OTHERWISE, ADJUSTMENT IN VOLUME OWING TO DIFFERENCE IN TEMPERATURE SHALL BE MADE IN ACCORDANCE WITH API/ASTM-IP PETROLEUM MEASUREMENT STANDARDS FOR GENERALIZED PRODUCTS OR THE METHODS OF ANY OTHER RECOGNIZED STANDARDS AUTHORITY AT THE DISCRETION OF THE SUPPLIER. IN THE MEASUREMENT OF MARINE FUEL, SUPPLIER SHALL MAKE ALLOWANCE FOR ALL WATER AND NON-PETROLEUM SEDIMENT IN EXCESS OF ZERO POINT FIVE PERCENT (0.5%). BUYER MAY BE PRESENT OR REPRESENTED BY PROPERLY ACCREDITED AGENT WHEN SUCH MEASUREMENTS ARE TAKEN, BUT IF BUYER IS NOT PRESENT OR REPRESENTED, THEN SUPPLIER'S DETERMINATION OF QUANTITIES SHALL BE DEEMED TO BE CORRECT.

SAID UNIT PRICE IS EXCLUSIVE OF ANY AND ALL STATE AND FEDERAL MOTOR FUEL TAXES.

{EFPHeader}{EFPText1}

All general terms and conditions included in Annex A attached hereto are hereby included into and made a part of this Contract.

REGARDS,

{Internal_Company}

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VESSEL: **{Vessel}**

THE ENTIRETY OF THIS CONTRACT SET FORTH ABOVE AND REFERRED TO AS
OUR CONTRACT REFERENCE NUMBER **{Contract_Number}** IS HEREBY
ACKNOWLEDGED AND AGREED,
{Counterpart_Legal_Name}

Signature

Name

Title

Date

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ANNEX A

A. PAYMENT TERMS:

PAYMENT SHALL BE MADE IN U.S. DOLLARS WITHOUT DISCOUNT, DEDUCTION OR SETOFF WITHIN THIRTY (30) DAYS FROM DATE OF DELIVERY (THE "DUE DATE"). PAYMENT OF ALL SUMS DUE IN RESPECT OF MARINE FUELS DELIVERED HEREUNDER SHALL BE MADE IN FULL TO SELLER BY MEANS OF ELECTRONIC WIRE TRANSFER TO THE BANK ACCOUNT STATED ON THE INVOICE OR OTHERWISE PROVIDED, SUCH THAT FUNDS ARE RECEIVED INTO SUCH ACCOUNT BY THE DUE DATE. IF THE DUE DATE FALLS ON A SATURDAY, SUNDAY OR PUBLIC HOLIDAY, PAYMENT SHALL BE MADE SO AS TO REACH SELLER'S DESIGNATED BANK ACCOUNT NOT LATER THAN THE LAST BANKING DAY PRIOR TO THE DUE DATE. DELIVERY DOCUMENTS MAY BE PROVIDED TO THE BUYER IF REQUESTED, BUT PAYMENT SHALL NOT BE CONDITIONAL UPON THE BUYER'S RECEIPT OF SUCH DOCUMENTS.

IN THE EVENT THAT BUYER FAILS TO MAKE ANY PAYMENT WHEN DUE, SELLER SHALL HAVE THE RIGHT TO CHARGE INTEREST ON THE OUTSTANDING AMOUNT AT THE PRIME RATE QUOTED BY CITIBANK, N.A. NEW YORK, NEW YORK, ON THE DUE DATE, AND CALCULATED ON A THREE HUNDRED SIXTY (360) DAY PER YEAR BASIS FROM THE DUE DATE UNTIL THE DATE SUCH PAYMENT IS RECEIVED BY SELLER.

IN THE EVENT OF A DISPUTE WITH RESPECT TO PAYMENT AMOUNTS UNDER THIS CONTRACT, BUYER SHALL PAY SELLER THE UNDISPUTED AMOUNT ON THE DUE DATE.

B. CREDIT:
{CREDIT_TERMS}

IF MARINE FUELS ARE SUPPLIED OR TO BE SUPPLIED ON CREDIT AND THE FINANCIAL CONDITION OF THE BUYER BECOMES, IN THE OPINION OF THE SELLER, IMPAIRED OR UNSATISFACTORY, SELLER MAY DEMAND THAT PAYMENT BE MADE AT ANY TIME BEFORE THE DUE DATE OR MAY DEMAND SECURITY.

TO THE EXTENT BUYER HAS EXCEEDED ANY CREDIT LIMIT SET BY SELLER OR TO THE EXTENT BUYER HAS FAILED TO MAKE ANY PAYMENT OR GIVE ANY SECURITY REQUIRED, SELLER SHALL, IN ADDITION TO ANY OTHER REMEDY ALLOWED UNDER THIS CONTRACT OR AT LAW, SHALL HAVE THE RIGHT TO SUSPEND OR TERMINATE DELIVERIES UNDER ANY OTHER CONFIRMATION FOR MARINE FUELS AS BETWEEN THE BUYER AND

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SELLER. IN THE EVENT OF SUCH TERMINATION, THE BUYER SHALL HAVE NO RECOURSE AGAINST THE SELLER.

- C. MINIMUM INSURANCE AMOUNT AND INDEMNITY:
{INSURANCE_TERMS}
- D. GOVERNING LAW:
THIS CONTRACT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, U.S.A. (WITHOUT REFERENCE TO ANY CONFLICT OF LAW RULES). TO THE EXTENT NOT INCONSISTENT HERewith, INCOTERMS 2000, ICC PUBLICATION NO. 560, SHALL APPLY HERETO.
- E. JURISDICTION:
EACH PARTY EXPRESSLY SUBMITS TO THE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK, U.S.A. AND THE FEDERAL COURTS SITUATED IN NEW YORK CITY AND TO SERVICE OF PROCESS BY REGISTERED MAIL.
- F. ASSIGNMENT:
SELLER MAY ASSIGN ALL OR ANY OF ITS RIGHTS AND OBLIGATIONS WITHOUT NOTICE TO BUYER. BUYER CONSENTS, IRRESPECTIVE OF NOTICE, TO BE BOUND TO THE ASSIGNEE. DELIVERY OF THE MARINE FUELS BY THE ASSIGNEE SHALL CONSTITUTE ITS CONSENT TO BE BOUND TO BUYER UNDER THE TERMS SET OUT HEREIN. ANY ASSIGNMENT BY BUYER WITHOUT SELLER'S WRITTEN CONSENT SHALL BE VOID.
{UDF3_OTHER_TERMS}
{OPERATIONS_NOTES_1}{OPERATIONS_NOTES_2}{OPERATIONS_NOTES_3}
- G. GOVERNING TERMS:
AS **{Internal_Company}** IS THE SELLING PARTY IN THIS TRANSACTION, AND PER STANDARD INDUSTRY PRACTICE, THE **{Internal_Company}** CONTRACT, INCLUDING THIS ANNEX A, WILL GOVERN THE TERMS OF THIS TRANSACTION. IF ANYTHING IN THIS CONTRACT IS CONTRARY TO YOUR UNDERSTANDING OF OUR AGREEMENT, PLEASE RESPOND IMMEDIATELY VIA FACSIMILE WITH YOUR SPECIFIC POINTS OF DISAGREEMENT (NOT A FULL CONTRACT). IN THE EVENT THAT NO SUCH NOTIFICATION IS RECEIVED BY THE CLOSE OF BUSINESS IN THE 48 BUSINESS HOURS FOLLOWING THE DATE OF THIS CONTRACT, THE PROVISIONS SET FORTH IN THIS CONTRACT SHALL BE BINDING UPON BOTH PARTIES.
- H. GENERAL QUALITY TERMS:
BUYER SHALL HAVE SOLE RESPONSIBILITY FOR SELECTION AND ACCEPTANCE OF MARINE FUEL, INCLUDING DETERMINATION OF COMPATIBILITY WITH MARINE FUEL ALREADY ON BOARD THE VESSEL,

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FOR USE IN THE VESSEL TO WHICH IT IS DELIVERED. QUALITY TESTING SHALL BE BY AN INDEPENDENT LABORATORY CHOSEN BY SELLER FROM COMPOSITE SAMPLES TAKEN AT TIME OF DELIVERY FROM THE SHORE TANK OR BARGE FROM WHICH DELIVERY WAS MADE. THE TESTS TAKEN BY THIS INDEPENDENT LABORATORY SHALL BE CONCLUSIVE FOR PURPOSES OF DETERMINING THE QUALITY OF THE MARINE FUEL. UNLESS OTHERWISE INDICATED TO BUYER IN WRITING BY SELLER OR SUPPLIER, ANY INFORMATION PROVIDED TO BUYER REGARDING THE CHARACTERISTICS OF MARINE FUEL AT ANY DELIVERY LOCATION SHALL NOT BE CONSTRUED AS SPECIFICATIONS OF THE MARINE FUEL TO BE DELIVERED HEREUNDER, BUT ONLY AS INDICATIONS OF THE CHARACTERISTICS OF THE MARINE FUEL AVAILABLE AT THAT LOCATION FROM TIME TO TIME. THERE ARE NO GUARANTEES OR WARRANTIES, EXPRESS OR IMPLIED, AS TO THE SATISFACTORY QUALITY, MERCHANTABILITY, FITNESS OR SUITABILITY OF THE MARINE FUEL FOR ANY PARTICULAR PURPOSE OR OTHERWISE, WHICH EXTEND BEYOND THE DESCRIPTION IN THIS SECTION.

I. OTHER CHARGES AND TAXES:

BUYER SHALL BE LIABLE FOR ALL COSTS, EXPENSES AND/OR CHARGES INCURRED BY THE SELLER OR SUPPLIER ON ACCOUNT OF THE BUYER'S FAILURE, BREACH AND/OR NON-COMPLIANCE WITH ITS OBLIGATIONS UNDER ANY AGREED NOMINATION AS SET OUT IN THE NOMINATION SECTION BELOW. BUYER SHALL ALSO PAY ALL APPLICABLE DUTIES, TAXES, FEES AND OTHER COSTS INCLUDING, WITHOUT LIMITATION, THOSE IMPOSED BY GOVERNMENT AND AUTHORITIES, AND BARGING AND OTHER DELIVERY CHARGES, ALL OF WHICH SHALL BE INCLUDED IN SELLER'S INVOICES TO BUYER. WHERE MARINE FUEL INTENDED FOR EXPORT USE OR IS IMPORTED UNDER BOND, OR MARINE FUEL MANUFACTURED FROM IMPORTED CRUDE OIL AND ENTITLED TO A DUTY DRAWBACK IS DELIVERED FOR BUYER'S ACCOUNT WITHOUT PAYMENT BY BUYER OF THE APPLICABLE CUSTOMS DUTY, TARIFF, FEE OR OTHER CHARGE THEREON, BUYER SHALL BE LIABLE TO REIMBURSE SELLER OR SUPPLIER FOR ANY SUCH TAX OR CHARGE ASSESSED, INCLUDING INTEREST AND PENALTIES THEREON, OR FOR ANY DRAWBACK DENIED AFTER DELIVERY BY REASON OF FAILURE BY BUYER OR THE VESSEL TO QUALIFY THEREFORE OR TO FURNISH THE NECESSARY PROOF WITHIN THE REQUISITE TIME PERIOD SPECIFIED BY APPLICABLE REGULATION OR PROCEDURE.

THE PRICE SET FORTH ABOVE EXCLUDES ALL FEDERAL, STATE AND LOCAL EXCISE (INCLUDING SALES AND USE) TAXES. THE BUYER HAS STATED THAT THE FUEL PURCHASED IS TO BE USED OR CONSUMED SOLELY BY A VESSEL OR VESSELS **{USED_BY}** IN FOREIGN COMMERCE

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AND SAILING UNDER A FOREIGN FLAG. IN RELIANCE ON THIS STATEMENT, THE SELLER HAS CONCLUDED THAT THE SALE IS EXEMPT FROM THE **{STATE}** SALES AND USE TAX**{OTHER_TAX}**. IF REQUESTED BY TAX AUDITORS FROM THAT STATE, THE BUYER SHALL PROVIDE THE SELLER WITH A COMPLETED EXEMPTION CERTIFICATE.

THE BUYER EXPRESSLY AGREES TO PAY OR REIMBURSE **{Internal_Company}** FOR ANY TAXES (INCLUDING PENALTIES AND INTEREST) ON THE SALE OF FUEL WHICH **{Internal_Company}** IS REQUIRED TO COLLECT OR PAY AND WHICH RESULT FROM ANY UNTRUE STATEMENT MADE BY THE BUYER WHICH IS RELIED UPON BY THE SELLER OR ARE ASSESSED BECAUSE OF ANY OTHER REASON.

J. NOMINATIONS:

BUYER OR BUYER'S AGENT SHALL GIVE SELLER AT LEAST FIVE (5) DAYS PRIOR NOTICE OF DELIVERIES REQUIRED, SPECIFYING EITHER THE NAME OF THE VESSEL AND DELIVERY LOCATION OR THE PORT LOCATION, FOR A VESSEL DELIVERY, VESSEL'S AGENTS, APPROXIMATE DATE OF DELIVERY, AND GRADE AND QUANTITY OF MARINE FUEL. BUYER OR VESSEL'S LOCAL AGENT SHALL CONFIRM THE DETAILS ABOVE TO SELLER OR SUPPLIER AT LEAST FORTY-EIGHT (48) HOURS (EXCLUDING NON-BUSINESS DAYS) PRIOR TO DELIVERY. BUYER AGREES TO REIMBURSE SELLER OR SUPPLIER FOR OVERTIME AND/OR OTHER ADDITIONAL EXPENSES INCURRED DUE TO THE FAILURE OF BUYER, ITS SERVANTS, OR VESSEL'S LOCAL AGENTS TO PROVIDE SELLER OR SUPPLIER WITH SUFFICIENT PRIOR NOTICE OF AMENDMENTS OF DELIVERY TIME, QUANTITY CHANGES OR CANCELLATIONS. A NOTICE AS GIVEN ABOVE SHALL BE INVALID IF THE ESTIMATED ARRIVAL DATE GIVEN IN IT IS LATER THAN 3 CALENDAR DAYS BEYOND THE DELIVERY DATE AND SHALL BE DEEMED CANCELLED AND SUBJECT TO CANCELLATION PURSUANT TO PARAGRAPH L BELOW IF VESSEL HAS NOT ARRIVED WITHIN 3 CALENDAR DAYS AFTER THE SAID ESTIMATED ARRIVAL DATE.

K. DELIVERIES, DEMURRAGE TITLE AND RISK OF LOSS:

DELIVERIES SHALL BE MADE AT SELLER'S OPTION INTO BUYER'S VESSEL OR BARGES AT A TERMINAL OF SELLER OR INTO BUYER'S VESSEL VIA SELLER'S BARGE WHERE BARGING FACILITIES SATISFACTORY TO SELLER ARE AVAILABLE TO SELLER OR INTO BUYER'S VESSEL VIA SUPPLIER'S BARGE.

DELIVERY SHALL BE MADE DURING ORDINARY BUSINESS HOURS AT THE PLACE OF DELIVERY UNLESS OTHERWISE AGREED BY SELLER AND PERMITTED BY PORT REGULATIONS, IN WHICH EVENT BUYER SHALL PAY ANY EXTRA EXPENSE INCURRED. BUYER SHALL MAKE ALL

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CONNECTIONS AND DISCONNECTIONS OF DELIVERY HOSE TO BUYER'S VESSEL OR BARGE.

FOR DELIVERIES INTO BUYER'S VESSEL VIA SELLER'S OR SUPPLIER'S BARGE, THE FOLLOWING SHALL ALSO APPLY: DELIVERIES NEED NOT BE MADE WHENEVER, IN SELLER'S OPINION, A CLEAR AND SAFE BERTH FOR SELLER'S OR SUPPLIER'S BARGE IS NOT AVAILABLE. DELIVERY SHALL BE COMPLETE AND TITLE AND RISK OF LOSS SHALL PASS TO BUYER AT THE POINT AT WHICH THE MARINE FUELS PASS THE FLANGE CONNECTING THE BARGE LOADING ARM OR HOSE WITH THE PERMANENT LOADING CONNECTION OF BUYER'S VESSEL. SELLER OR SUPPLIER SHALL NOT BE LIABLE TO BUYER FOR ANY LOSS OR DEMURRAGE DUE DIRECTLY OR INDIRECTLY TO WEATHER (WHETHER OR NOT UNUSUAL), CONGESTION OF THE PORT, PRIOR COMMITMENTS OF AVAILABLE BARGES OR ANY FORCE MAJEURE CONTINGENCY. BUYER SHALL PAY ANY DEMURRAGE OR DETENTION CHARGES AT SUCH RATE AS MAY BE INVOICED BY SELLER OR SUPPLIER.

FOR DELIVERIES INTO BUYER'S VESSEL OR BARGE AT THE TERMINAL, THE FOLLOWING SHALL ALSO APPLY: DELIVERIES NEED NOT BE MADE WHENEVER, IN SELLER'S OPINION, A CLEAR AND SAFE BERTH FOR THE VESSEL OR BARGE IS NOT AVAILABLE. DELIVERY SHALL BE COMPLETE AND TITLE AND RISK OF LOSS SHALL PASS TO BUYER AT THE POINT AT WHICH THE MARINE FUELS PASS THE FLANGE CONNECTING THE SHORE LOADING ARM WITH THE PERMANENT LOADING CONNECTION OF BUYER'S VESSEL OR BARGE. DELIVERIES SHALL BE MADE ON A "FIRST COME, FIRST SERVED" BASIS. SELLER SHALL NOT BE LIABLE TO BUYER FOR ANY LOSS OR DEMURRAGE DUE DIRECTLY OR INDIRECTLY TO WEATHER (WHETHER OR NOT UNUSUAL), CONGESTION OF THE PORT OR ANY FORCE MAJEURE. BUYER SHALL RECEIVE MARINE FUELS INTO THE BUYER'S VESSEL OR BARGE AND THEN WITHDRAW THE VESSEL OR BARGE FROM THE TERMINAL BERTH. FOR DELAY BY BUYER IN THE USE OF DELIVERY FACILITIES OR IN VACATING BERTH, BUYER SHALL PAY ANY DEMURRAGE OR DETENTION CHARGES INCURRED BY SELLER.

WITH RESPECT TO ALL FORMS OF DELIVERY LISTED ABOVE, BUYER SHALL MAKE ALL CONNECTIONS AND DISCONNECTIONS BETWEEN THE DELIVERY HOSE AND THE VESSEL'S INTAKE PIPE, AND SHALL RENDER ALL OTHER NECESSARY ASSISTANCE AND PROVIDE SUFFICIENT TANKAGE AND EQUIPMENT TO RECEIVE PROMPTLY ALL DELIVERIES HEREUNDER. IN NO CASE SHALL SELLER OR SUPPLIER BE LIABLE FOR ANY DAMAGE OR DELAY RESULTING FROM CAUSES BEYOND THEIR

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CONTROL OR AVOIDABLE BY DUE CARE ON THE PART OF THE BUYER OR ITS VESSEL.

SELLER MAY ELECT TO DISCONTINUE OPERATIONS AT ANY DELIVERY LOCATION FOR ANY REASON WITHOUT OBLIGATION TO BUYER.

L. CANCELLATION:

IF BUYER CANCELS THIS ORDER IN WHOLE OR IN PART, FOR ANY REASON WHATSOEVER, THE SELLER WITHOUT PREJUDICE TO ANY OTHER RIGHTS IT MAY HAVE, SHALL BE ENTITLED TO A COVER REMEDY SUCH THAT THE BUYER SHALL OWE THE SELLER THE DIFFERENCE BETWEEN THE CONTRACTED FOR AMOUNT AND THE AMOUNT SELLER OBTAINED FROM A REPLACEMENT BUYER. TO THE EXTENT SELLER IS UNABLE TO RESELL THE MARINE FUEL IN A COMMERCIALY REASONABLE MANNER, BUYER SHALL PAY THE ENTIRE CONTRACT PRICE OR MAY ELECT TO TAKE DELIVERY OF THE MARINE FUEL.

M. TERMINATION:

SELLER MAY TERMINATE THIS CONTRACT IF THE BUYER: (I) IS THE SUBJECT OF A BANKRUPTCY, INSOLVENCY OR OTHER SIMILAR PROCEEDING; (II) FAILS TO MAKE PAYMENT IN ACCORDANCE WITH PARAGRAPH A; (III) IF APPLICABLE, FAILS TO PREPAY OR PAY AT DELIVERY OR PROVIDE A LETTER OF CREDIT IN ACCORDANCE WITH PARAGRAPH B; (IV) BREACHES ANY OTHER TERMS IN THIS CONTRACT. IN THE EVENT OF A TERMINATION UNDER THIS CONTRACT, THE SELLER MAY TERMINATE ANY OTHER AGREEMENT BETWEEN THE PARTIES AND SHALL CALCULATE THE DIFFERENCE, IF ANY, BETWEEN THE PRICE SPECIFIED UNDER THIS AGREEMENT AND THE MARKET PRICE FOR THE MARINE FUEL TOGETHER WITH ITS LOSSES UNDER ANY OTHER TERMINATED CONTRACT (IN EACH CASE AS DETERMINED BY SELLER IN A COMMERCIALY REASONABLE MANNER AT A TIME OR TIMES REASONABLY DETERMINED BY SUCH PARTY) AND AGGREGATING OR NETTING SUCH DIFFERENCES TO A SINGLE LIQUIDATED PAYMENT THAT WILL BE DUE AND PAYABLE BY ONE PARTY TO THE OTHER.

N. CLAIMS.

THE BUYER WAIVES ANY CLAIM AGAINST THE SELLER WITH RESPECT TO THE QUANTITY OR QUALITY OF THE MARINE FUELS SUPPLIED UNLESS THE BUYER'S CLAIM IS SUBMITTED TO THE SELLER IN WRITING WITHIN 20 DAYS AFTER THE DATE OF DELIVERY OF THE MARINE FUELS.

IT IS THE DUTY OF THE BUYER TO TAKE ALL REASONABLE ACTIONS, INCLUDING RETENTION AND BURNING OF FUEL, TO ELIMINATE OR MINIMIZE ANY DAMAGES OR COSTS ASSOCIATED WITH ANY OFF-SPECIFICATION OR SUSPECTED OFF-SPECIFICATION SUPPLY. CLAIMS

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AS TO QUALITY MUST BE BASED ON QUALITY REPORTS MADE BY AN INDEPENDENT LABORATORY CHOSEN BY SELLER IN REGARD TO THE COMPOSITE SAMPLES TAKEN AT THE TIME OF THE DELIVERY FROM THE SHORE TANK OR BARGE FROM WHICH DELIVERY WAS MADE. BUYER SHALL COOPERATE WITH THE SELLER OR SUPPLIER IN ACHIEVING THE MOST COST-EFFECTIVE SOLUTION AND IN ANY EVENT SELLER OR SUPPLIER'S OBLIGATION HEREUNDER SHALL NOT EXCEED THE PRICE OF THAT PORTION OF THE PRODUCT SOLD HEREUNDER ON WHICH LIABILITY IS ASSERTED. SELLER OR SUPPLIER MAY ALSO ELECT TO DELIVER THE SAME QUANTITY OF ON-SPECIFICATION MARINE FUELS TO BUYER IN SETTLEMENT OF ANY CLAIM HEREUNDER. NO LIABILITY WILL BE BORNE BY SELLER OR SUPPLIER FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO, LOSS OF PORT OR LOSS OF PERISHABLE ITEMS.

SHOULD ANY TIMELY CLAIM SUBMITTED BY BUYER NOT BE SETTLED TO BUYER'S SATISFACTION, ANY LEGAL ACTION BROUGHT BY IT THEREON SHALL BE TIME-BARRED UNLESS COMMENCED WITHIN SIX (6) MONTHS AFTER DELIVERY OR OTHER EVENT, ACTION, INACTION OR OMISSION FROM WHICH SUCH CLAIM ARISES. THIS PROVISION SHALL SURVIVE ANY TERMINATION OF THE CONTRACT ARISING BETWEEN SELLER OR SUPPLIER AND BUYER.

O. INDEMNITY:

THE BUYER SHALL DEFEND INDEMNIFY AND HOLD THE SELLER AND SUPPLIER HARMLESS WITH RESPECT TO ANY AND ALL LIABILITY, LOSS, CLAIMS, EXPENSES OR DAMAGE THE SELLER OR SUPPLIER MAY SUFFER OR INCUR BY REASON OF, OR IN ANY WAY CONCERNED WITH, THE FAULT OR DEFAULT OF THE BUYER OR ITS AGENTS IN THE PURCHASE, RECEIPT, USE, STORAGE, HANDLING OR TRANSPORTATION OF THE MARINE FUELS IN CONNECTION OF EACH MARINE FUELS TRANSACTION.

P. LIENS:

DELIVERIES OF MARINE FUEL HEREUNDER ARE MADE NOT ONLY ON THE CREDIT OF THE BUYER BUT ALSO ON THE FAITH AND CREDIT OF THE VESSEL WHICH USES THE MARINE FUEL AND IT IS AGREED THAT SELLER AND SUPPLIER WILL HAVE AND MAY ASSERT A LIEN AGAINST SUCH VESSEL FOR THE AMOUNT OF THE DELIVERED PRICE OF SAID MARINE FUEL. ADDITIONALLY, THE SELLER AND SUPPLIER WILL HAVE AND MAY ASSERT A LIEN FOR THE SAID AMOUNT OF THE DELIVERED PRICE AGAINST SUCH VESSEL, SHOULD THE LAWS APPLICABLE AT THE PLACE OF SELLER'S ADDRESS WHICH IS SET FORTH IN THE BEGINNING OF THIS ANNEX A, AT THE PLACE OF DELIVERY OF THE MARINE FUEL AND/OR AT THE PLACE OF SEIZURE

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OF SUCH VESSEL, GRANT OR RECOGNIZE A LIEN FOR MARINE FUEL DELIVERED TO A VESSEL. ALL COSTS ASSOCIATED WITH THE SEIZURE OF THE VESSEL SHALL BE FOR THE BUYER'S ACCOUNT. TAKING OF ANY ADDITIONAL SECURITY MEASURES BY SELLER OR SUPPLIER SHALL NOT OPERATE AS A WAIVER OF THIS PROVISION. IF AT ANY TIME A PRICE PROVIDED UNDER THIS ANNEX A SHALL NOT CONFORM TO THE APPLICABLE LAWS, REGULATIONS OR ORDERS OF A GOVERNMENT OR OTHER COMPETENT AUTHORITY, APPROPRIATE PRICE ADJUSTMENTS WILL BE MADE. FOR THE AVOIDANCE OF DOUBT THE BUYER SHALL NOT BE ENTITLED TO CANCEL THE EFFECT OF THE LIEN BY WORDING ON THE DELIVERY TICKET OR OTHERWISE

Q. FORCE MAJEURE:

IN ADDITION TO ANY OTHER EXCUSES (ARISING OUT OF THE SAME OR OTHER CAUSES) PROVIDED BY LAW, NO FAILURE OR OMISSION BY EITHER PARTY TO CARRY OUT OR OBSERVE ANY OF THE PROVISIONS OR CONDITIONS OF THIS CONTRACT OR BE DEEMED TO BE A BREACH OF CONTRACT, IF THE SAME SHALL ARISE OUT OF CAUSES NOT REASONABLY WITHIN THE CONTROL OF THAT PARTY, WHETHER OR NOT FORESEEN, INCLUDING (WITHOUT LIMITATION) SUCH CAUSES AS LABOUR DISPUTES, STRIKES, GOVERNMENTAL INTERVENTION, OR SELLER'S RESPONSE TO THE INSISTENCE OR REQUEST OF ANY GOVERNMENTAL INSTRUMENTALITY OR PERSON PURPORTING TO ACT THEREFORE, WARS, CIVIL COMMOTION, FIRE, FLOOD, ACCIDENT, STORM OR ANY ACT OF GOD- AND THE TERM "PARTY" WHEN USED WITH REFERENCE TO SELLER SHALL ALSO INCLUDE SUPPLIER AND ANY SUBSIDIARY OR AFFILIATED COMPANY OF **{Internal_Company}**. UNDER NO CIRCUMSTANCES, HOWEVER, SHALL BUYER BE EXCUSED FROM ITS OBLIGATION TO PAY ALL AMOUNTS DUE FOR MARINE FUEL ACTUALLY DELIVERED. A PARTY AFFECTED BY EVENTS DESCRIBED IN THIS SECTION SHALL GIVE PROMPT NOTICE TO THE OTHER PARTY DESCRIBING IN SUFFICIENT DETAIL THE EVENTS AND THE ESTIMATED SCOPE OF SUCH DISABILITY.

R. SHORTAGE OF MARINE FUEL:

IF, AS A RESULT OF ANY OF THE EVENTS, MATTER OR THINGS REFERRED TO IN THE SECTION ABOVE, OR ANY OTHER FORESEEABLE OR NON-FORESEEABLE EVENT, INCLUDING CONTRACTUAL CHANGES RELATING TO THE SUPPLY OF CRUDE OIL AND/OR PETROLEUM PRODUCTS FROM WHICH MARINE FUEL OF THE TYPE TO BE SOLD HEREUNDER IS DERIVED, SUPPLIES OF MARINE FUEL ARE CURTAILED, OR ARE AVAILABLE TO SELLER OR SUPPLIER ONLY UNDER CONDITIONS WHICH, IN SELLER'S OR SUPPLIER'S SOLE JUDGMENT ARE DEEMED UNACCEPTABLE, SELLER MAY ALLOCATE, ON ANY FAIR AND REASONABLE BASIS ACCORDING TO ITS OWN DISCRETION IT

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AVAILABLE SUPPLIES OF MARINE FUEL TO MEET ITS OWN REQUIREMENTS AND THOSE OF ITS SUBSIDIARIES AND AFFILIATED COMPANIES AND OTHER CUSTOMERS, INCLUDING BUYER AND, AT SELLER'S OR SUPPLIER'S OPTION, OTHER CUSTOMERS' AND SELLER AND SUPPLIER SHALL NOT BE REQUIRED TO INCREASE SUPPLIES FROM SOME OTHER SOURCE OF SUPPLY OR TO PURCHASE MARINE FUEL TO REPLACE THE SUPPLIES TO CURTAILED.

NO PARTY AFFECTED BY ANY CAUSE(S) DESCRIBED AS A FORCE MAJEURE OR A SHORTAGE OF MARINE FUEL SHALL BE REQUIRED TO REMOVE SUCH CAUSE(S) IF DOING SO WOULD CAUSE ANY ADDITIONAL EXPENSE. SELLER OR SUPPLIER SHALL NOT BE OBLIGATED TO PURCHASE ADDITIONAL SUPPLIES OF MARINE FUEL TO MAKE UP DELIVERIES OMITTED DURING THE PERIOD OF DISRUPTION, NOR WILL THE TERM OF THE AGREEMENT BE EXTENDED DUE TO THE CAUSES SET OUT IN THESE TWO SECTIONS.

S. ENVIRONMENTAL PROTECTION:

IF A SPILL OCCURS WHILE MARINE FUELS ARE BEING DELIVERED, BUYER SHALL PROMPTLY TAKE SUCH ACTION AS IS REASONABLY NECESSARY TO REMOVE THE SPILLED MARINE FUELS AND MITIGATE THE EFFECTS OF SUCH SPILLS. SELLER OR SUPPLIER, REGARDLESS OF CAUSE, ARE AUTHORIZED, AT THEIR OPTION AND AT THE BUYER'S EXPENSE TO TAKE SUCH MEASURES AND INCUR SUCH EXPENSES (WHETHER BY EMPLOYING ITS OWN RESOURCES OR BY CONTRACTING THE OTHERS) AS ARE REASONABLY NECESSARY IN THE JUDGEMENT OF THE SELLER TO REMOVE THE SPILLED MARINE FUELS AND MITIGATE THE EFFECTS OF SUCH SPILLS. ALL EXPENSE, CLAIMS, LOSS, DAMAGE, LIABILITY AND PENALTIES ARISING FROM SPILLS SHALL BE BORNE BY THE PARTY WHO CAUSED THE SPILL. IF BOTH PARTIES ARE AT FAULT, ALL EXPENSE, CLAIMS, LOSS, DAMAGE, LIABILITY AND PENALTIES SHALL BE DIVIDED BETWEEN THE PARTIES IN ACCORDANCE WITH THE PROSPECTIVE DEGREE OF FAULT. BUYER SHALL GIVE SELLER, AS SOON AS POSSIBLE, ALL DOCUMENTS AND OTHER INFORMATION CONCERNING ANY SPILL, OR ANY PROGRAM FOR PREVENTION THEREOF, AS MAY BE REQUIRED BY SELLER OR AS REQUIRED BY LAW OR REGULATION APPLICABLE AT THE TIME AND PLACE OF DELIVERY.

BUYER IS IN COMPLIANCE WITH ALL ANNEXES OF THE MARITIME PROTECTION CONVENTION - MARPOL 73/78 PROMULGATED BY THE INTERNATIONAL MARITIME ORGANIZATION ("MARPOL PROTOCOL") APPLICABLE TO MARINE FUELS. SELLER AND BUYER ARE IN COMPLIANCE WITH THE MARPOL PROTOCOL SPECIFICALLY AS ENACTED BY THE UNITED STATES IN THE ACT TO PREVENT POLLUTION FROM

MARINE FUEL - BARGE TO SHIP OR PORT TO SHIP
{Internal_Company}
CONTRACT REFERENCE NUMBER: **{Contract_Number}**
VESSEL: **{Vessel}**

SHIPS P.L. 96-478. THE SELLER OR SUPPLIER AGREES, TO THE EXTENT NECESSARY, TO PROVIDE A BUNKER DELIVERY NOTE AND WILL PROVIDE THE APPROPRIATE SAMPLES FOR COMPLIANCE UNDER MARPOL PROTOCOL ANNEX VI AND BUYER IS IN COMPLIANCE WITH MARPOL PROTOCOL ANNEX VI.

T. DEFINITIONS:

"DELIVERY PORT" MEANS THE PORT OR PLACE AT WHICH THE SUPPLIER DELIVERS MARINE FUELS UNDER THIS CONTRACT.

"MARINE FUELS" MEANS ANY OF MARINE FUEL OIL, THIN FUEL OIL, MARINE DIESEL FUEL, GAS OIL AND ANY OTHER FUEL WHICH CAN QUALIFY AS A BUNKER FUEL WHICH SHALL BE, FOR PURPOSES OF THIS CONTRACT, SPECIFIED AS PRODUCT 1 AND PRODUCT 2, IF APPLICABLE.

"SUPPLIER" MEANS THE DELIVERING COMPANY WHO HAS MARINE FUELS AVAILABLE AT A PORT AND AS REQUESTED BY SELLER MAKES THE DELIVERY TO THE BUYER. WHERE SELLER HAS MARINE FUELS AVAILABLE ITSELF, IT SHALL ACT BOTH IN ITS ROLE AS SELLER AND SUPPLIER HEREUNDER.

PLEASE ADVISE YOUR COMPANY CONTACT INFORMATION FOR SCHEDULING AND PAYABLES. OUR CONTACTS ARE AS FOLLOWS:

PLEASE ADVISE YOUR COMPANY CONTACT INFORMATION FOR SCHEDULING AND PAYABLES. OUR CONTACTS ARE AS FOLLOWS:

NY HARBOR RESIDUAL PRODUCTS:

Chris Roberts (212)536-8343 Fax:(212)536-8621
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Denise Hammill (212)536-8218 Fax:(866)741-0014
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