



“SECTION B”

BUNKER FUEL OIL AGREEMENT

AN AGREEMENT MADE BETWEEN

(hereinafter called “the Buyer”) as party of the first part and I.C.S. Petroleum Ltd., a company with offices at 2360 – 555 West Hastings Street, Vancouver, British Columbia, Canada (hereinafter called “the Seller”) or I.C.S. Petroleum, as a party of the second part.

WHEREBY IT IS AGREED AS FOLLOWS:

1. PORTS

Buyer agrees to buy and Seller agrees to sell bunker fuel oil in the ports of Vancouver, B.C., and/or Victoria, B.C. and/or Prince Rupert, B.C. and/or Montreal, Q.C. and/or Quebec City, Q.C., or ports geographically proximate to said ports, or other ports as specified in Section A of this Agreement.

2. PRICE

The price to be paid Seller by Buyer shall be as indicated in Section A of this agreement. In the absence of an agreement on price terms, the price to be paid shall be I.C.S. Petroleum’s posted price on the date of delivery.

3. SELLER’S ARRANGEMENTS

The Seller shall be at liberty to make arrangements with any other fuel oil companies to supply the whole or any part of the fuel which under this agreement is to be sold and delivered at any particular port or upon terms and conditions similar in every respect to this agreement hereunder.

4. NOMINATIONS AND NOTICES OF READINESS

The buyer shall give to the Seller a nomination of each vessel’s expected date of arrival and estimated oil bunker requirements at each port. Such nomination shall be given as soon as possible and not less than ten days before the expected date of arrival (this period of time may be reduced at Seller’s discretion). If the vessel shall not have arrived within ten days after the

expected date of arrival or if the vessel arrives, and requires bunker fuel oil up to three days prior to the expected date of arrival, the nomination shall be cancelable by I.C.S. Petroleum. In addition, the Buyer or his agent shall give Seller at least 72 hours clear notice of the vessel's readiness to receive her fuel oil together with all details of the ship's exact location and any special limitations on the ship's ability to receive bunkers. In the event 72 hours notice is not given, the vessel will be fueled as soon as circumstances permit. However, Seller shall not be liable for demurrage or for any loss which may arise owing to congestion affecting the supplier's or any independent agent's delivery facility, adverse weather, the unavailability of barges or trucks, or any reason beyond Seller's control. In the absence of such notice of special limitations or requirements, I.C.S. Petroleum will work with the ship's agent to schedule all details of the delivery in accordance with its normal practices and based upon the information and representations of the ship's agent.

Any changes (such as barge demurrage or overtime charges) which result from lack of information, ship delays, loading cancellations, port or government regulations, special ship or loading limitations or special directions or orders of the vessel master or pilot or Buyer's appointed agent which are not part of this agreement shall be chargeable to Buyer who expressly agrees to pay any such charges.

The Buyer or his agent shall ensure that the vessel is in all respects ready to receive bunker fuel at the time and date previously advised by I.C.S. Petroleum and shall pay particular attention to ensuring that the vessel, Master and crew strictly adhere to local government or port regulations regarding bunkering and pollution control that may be in force at time of delivery.

If Buyer cancels its order, it shall be liable for liquidated damages of \$10.00 U.S. per tonne plus any charges incurred by Seller on the vessel's behalf. Seller's labour charges upon delays or cancellations will be an additional \$25.00 U.S./manhour incurred, based upon a minimum four-hour call out.

5. PARTICULARS OF SALE

- A) If I.C.S. Petroleum agrees in advance to supply a particular grade of fuel at a particular port, and if, for any reason whatsoever, that grade or type of fuel oil becomes unavailable to I.C.S. Petroleum, it may cancel this agreement upon 48 hours notice. In such a case, Seller shall not be bound to sell, and Buyer shall be at liberty to buy from other sources, the fuel oil contemplated in Section A of this agreement.
- B) All measurement of quantities actually purchased shall be made based upon barge tank soundings in the case of barge deliveries, or truck rack gauges in the case of tank truck deliveries which are loaded directly at a refinery or storage facility. In the case of truck delivery, the bunker fuel for which was loaded from rail tank cars, then the quantity sold shall be measured upon the meter bill of lading issued at the supplying refinery or storage facility. If no barge tank soundings are taken or such readings are shown to be in error, then the quantity sold shall be measured upon shore gauges at Seller's or Seller's nominee's terminal.
- C) Delivery: all parties F.O.B. Seller's terminal unless specifically stated otherwise in Section A of this agreement. Buyer appoints Seller as agents to procure barge or truck delivery

and agrees to reimburse Seller according to terms and conditions of I.C.S. Petroleum's most recent barge/truck tariff, which is in Buyer's possession.

6. GOVERNMENTAL OR OTHER CHARGES AND DUTIES

Any duties, taxes or charges levied by a Federal, Provincial or Local government, entity or incurred as a result of compliance with regulations or orders issued by such entities, including the Canadian Coast Guard, National Energy Board, National Harbours Board or local Port Authority, shall be payable by Buyer in addition to any other monies agreed to herein.

7. CREDIT TERMS

Any credit terms extended shall be only as specified in Section A of this agreement. All payments shall be made without discount or set-off. Buyer and Seller agree that "invoice" as used in Section A of this agreement may include telex or facsimiles invoice specifying the exact quantity sold and any other charges to be paid by Buyer. Seller agrees to provide reasonable documentation of the invoiced items for the carrier involved. Said documentation shall be furnished in a timely manner as it becomes available, but in no event shall said documentation be a condition precedent payment upon the face of the invoice. If the documentation reveals a mistake in the invoice when it is received, the party benefiting from said mistake shall reimburse the other to reflect the correct charges as documented.

8. INTEREST

If the Buyer does not make its payment in accordance with the credit terms specified in Section A, it agrees to pay, in addition to the balance in full, interest on the overdue amount at the rate of 2.00% per month, or the maximum allowed by law, until both principal and interest are paid in full.

9. EXPRESS WARRANTY OF QUALITY AND EXCLUSIONS THEREFROM

SPECIFICATIONS: Maximum and minimum specifications for I.C.S. Petroleum fuel are as follows:

	<u>M.D.O.</u>	<u>IF-180</u>	<u>IF-380</u>
API Gravity (min.)	29.0	11.4	11.4
Flash Point (min)	140.0	150.0	150.0
Viscosity Kin Cst @ 50 deg. C (max)	9.5	180	380

Typical inspection data of fuel oil delivered to the Buyer's barge/truck will be furnished to Buyer on a "Technical Report", "Specification Sheet" or similar document. I.C.S. Petroleum or its appointed agents will keep a retained sample of the oil supplied Buyer in its, or its appointed agents' custody. In most cases, duplicate retain samples will be placed in the custody of the

vessel however, it is agreed that the sample retained by I.C.S. Petroleum or its agents shall constitute the controlling sample for purposes of determining the quality of fuel oil supplied Buyer. Both parties shall have equal access to the retained sample for purposes of analysis.

Buyer waives the specification limits set out above or otherwise agreed on if the vessel's master, chief engineer or other representative with apparent authority accepts the oil onboard the vessel and signs the barge discharge documents, so long as that person is presented with a document containing the typical inspection data of the product.

Both parties agree that if the product is higher in viscosity than ordered, the sole damages payable by I.C.S. Petroleum to Buyer shall be the premium of 0.35 cents/degree centistoke at 50 degree celsius for each degree over specification times each barrel so supplied. Buyer agrees to indemnify and hold Seller harmless for claims from third party purchasers to whom Buyer has supplied I.C.S. Petroleum's fuel oil

Buyer agrees that where a claim or legal action of any type has been initiated in respect of fuel quality, that this in no way whatsoever relieves Buyer of his obligation to make payment for fuel oil supplied, in accordance with parts 7 and 8 or this agreement shown above.

WHEREAS THE BUYER AND THE SELLER UNDERSTAND THAT, DUE TO THE WIDE VARIETY OF ENGINE AND BOILER REQUIREMENTS ABOUT WHICH THE SELLER HAS NO KNOWLEDGE, AS WELL AS THE POSSIBLE MIXTURES OF OIL AND OTHER MATERIALS WHICH THE FUEL OIL SOLD HEREUNDER MAY COME INTO CONTACT WITH, WHICH THE SELLER HAS NO CONTROL OVER, AND THAT THE FUEL OIL SOLD HEREUNDER, CANNOT REASONABLY BE EXPECTED TO REACH THE CONSUMING VESSEL'S ENGINE WITHOUT SUBSTANTIAL CHANGE IN SPECIFICATION FROM THE TIME OF SUPPLY, THE PARTIES HERETO AGREE THAT THE SELLER WILL DELIVER FUEL OIL WHICH, AT THE TIME OF DELIVERY TO THE BUYER, MEETS THE SPECIFICATIONS SET OUT HEREIN, BUT IT IS EXPRESSLY AGREED THAT THE SELLER DOES NOT WARRANT THE FITNESS OF THE OIL SUPPLIED FOR ITS INTENDED OR ANY OTHER PURPOSE AND THE SELLER SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGES ARISING IN CONNECTION WITH THE OIL OR ITS USE, HOWSOEVER OR WHENSOEVER CAUSED, AND OF WHAT KINDSOEVER, WHETHER OR NOT SUCH LOSS OR DAMAGE IS A RESULT OF ANY ACT, NEGLIGENCE OR DEFAULT OF THE SELLER OR ITS SERVANTS OR AGENTS OR OTHERS FOR WHOM IT MAY BE RESPONSIBLE, OR RESULTED FROM SOME DEFECT, LATENT OR OTHERWISE, IN THE OIL SUPPLIED. FURTHER, IT IS AGREED THAT THERE ARE NO CONDITIONS, WARRANTIES OR REPRESENTATIONS MADE BY THE SELLER WITH RESPECT TO THE OIL, OTHER THAN THOSE EXPRESSLY SET OUT IN WRITING HEREIN.

10. TERM OF SALE

Title to and risk of loss of all oil sold hereunder shall be determined by the terms of sale specified in Section A of this contract, which terms shall be defined as follows irrespective of any other definitions which may exist.

“FOB” means Free on Board at the place of shipment. I.C.S. Petroleum shall tender for possession at its designated shore terminals the oil required hereunder. Title to and risk of loss on said oil shall pass to Buyer when the oil passes from the riser flange on said pier or facility in the hose or carrying compartment of Buyer’s common carrier agent.

“Delivered” means delivered to the vessel nominated to receive said fuel oil. Risk of loss and title to said fuel oil shall pass to the Buyer at the time and place when said oil passes by the flange on the common carrier involved into the discharge hose carrying the oil to the vessel.

11. BARGE AND TRUCKS

I.C.S. Petroleum does not have its own barges or trucks. All barges and trucks used in this contract are independent sub-contractors and are not the agents of I.C.S. Petroleum. I.C.S. Petroleum is hereby authorized by Buyer to select and schedule a barge or truck for the delivery in question when sales are made on a FOB basis. Notwithstanding this fact, the barges and trucks and their operators are exclusively the delivery agents of Buyer, and Seller's scheduling and selection is solely a service to expedite the sale hereunder. Buyer will be informed of the proposed selection prior to shipping and is fully entitled to reject the selected barge or truck. Buyer has full authority to select, give special direction to, and otherwise control the actions of its barging agents.

All barge, truck and oil terminal facilities used herein have surcharges or overtime charges for overtime incurred in shipments during weekends and, in some cases, for hours worked after 1700 hours and prior to 0800 hours local time. Buyer agrees to pay, in addition to other charges included hereunder, overtime charges incurred in said shipment.

12. QUANTITY

Quantity shall be measured on barge soundings or truck rack gauges (unless demonstrably in error), whose determination shall be conclusive whether terms of delivery are “FOB” or “Delivered”. Changes of less than five percent will be made by verbal instructions of agent or master. Changes of more than five percent will be made by telex or facsimile only. If Buyer so wishes, it may employ an independent inspection company such as E.W. Saybolt & Co. to make an independent determination of quantity on board said barge, whose determination shall then be conclusive as to volume. Unless otherwise specified in Section A of this contract, the cost of such an independent inspection shall be the sole responsibility of Buyer.

13. GOVERNMENT REGULATIONS

Each party fully understands that petroleum products, and the storage thereof, are subject to Federal, Provincial and local laws and regulations which are subject to change. The parties agree that any failure to perform any of the covenants and agreements recited herein as a result of these laws, regulations, rulings or orders issued thereunder shall not be considered in default of this contract and shall excuse any such performance.

14. 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 shall give rise to any claim against that party, or be deemed to be a breach of this 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 labor disputes, strikes, governmental intervention, or Seller's response to the insistence or request of any governmental instrumentality or person purporting to act therefor, 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 the Supplying Company, I.C.S. Petroleum. Under no circumstances, however, shall Buyer be excused under this paragraph of Buyer's obligation to make payment for all amounts due on account of Marine Fuel previously delivered hereunder. The quantity of Marine Fuel which has not been delivered for the reasons stated in this Item 14, shall be deducted from the quantity of Marine Fuel to be sold and purchased under this contract. Failure to deliver or accept delivery of Marine Fuel which is excused by, or results from, the operation of this Item 14 shall not extend the term of this contract.

15. PAYMENT

Buyer shall pay Seller for oil and other charges in accordance with the credit terms hereunder. Buyer agrees not to withhold all or any part of payment for any reason, including for purposes of counterclaim. Buyer agrees to stand bound for all payments agreed to herein, irrespective of whether it's relationship to the vessel owner is as agent, independent contractors, reseller, parent corporation, subsidiary, employee or other.

16. ATTORNEY FEES AND COLLECTION COSTS

Buyer agrees to pay, in addition to any other charges contained herein, reasonable attorney's fees for the collection of any non-payment or under-payment as well as any other charges occasioned by I.C.S. Petroleum in such collection including, but not limited to, the cost of bonds and fees associated with procuring and executing a maritime lien on the vessel fueled.

17. ARBITRATION

Any and all differences and disputes of whatever nature arising out of this contract shall be put to arbitration in the City of Vancouver, British Columbia, and where this clause is silent, pursuant to the Arbitration Act, R.S.B.C. 1960, Chapter 14, as amended, before a board of three persons, who shall be commercial persons, consisting of one arbitrator to be appointed by the Seller, one by the Buyer, and one by the two so chosen. The decision of any two of the three on any point or points shall be final. Either party hereto may call for such arbitration by service upon any officer of the other, wherever he may be found, of a written notice specifying the name and address of the arbitrator chosen by the first moving party and a brief description of the disputes or differences which such party desires to put to arbitration. If the other party shall not, by notice served upon an officer of the first moving party within twenty days of the service of such first notice, appoint its arbitrator to arbitrate the disputes or differences specified, then the first moving party shall have the right without further notice to appoint a second arbitrator,

who shall be a disinterested person with precisely the same force and effect as if said second arbitrator had been appointed by the other party. In the event that the two arbitrators fail to appoint a third arbitrator within twenty days of the appointment of the second arbitrator, either arbitrator may apply to a Judge on such application shall have precisely the same force and effect as if such arbitrator had been appointed by the two arbitrators. Until such time as arbitrators finally close the hearing, either party shall have the right by written notice served on the arbitrators and on an officer of the other party to specify further disputes or differences under this contract for hearing and determination. Awards made in pursuance to this clause may include costs, including a reasonable allowance for attorney's fees. Seller and Buyer agree to be bound by decision of said arbitration, and judgement may be entered upon any award made hereunder in any Court having jurisdiction on the premises. Said arbitration shall not preclude or otherwise prejudice Seller's collection of charges owing under this contract including Seller's ability to place and enforce a maritime lien upon the vessel prior to or during the pending of said arbitration.

18. ACCEPTANCE OF TERMS AND CONDITIONS

The parties hereto have indicated their agreement to the terms and conditions hereunder by their acceptance of Section A of this agreement which incorporates this document by reference and without which incorporation Section A would be unacceptable to I.C.S. Petroleum. Any direct inconsistency between the terms written in Section A and those contained in Sections B shall be resolved in favor of Section A of this agreement.

Every attempt shall be made to put Section B in the possession of Buyer prior to the shipment contemplated hereunder. Any disagreement with the terms and conditions of this document shall be reduced to writing and communicated to Seller no later than 30 days after receipt thereof or 48 hours prior to shipment, whichever is the sooner. If no notice is received within that time period, Buyer's acceptance of the terms and conditions specified in Section B shall be assumed to have been complete and I.C.S. Petroleum will supply fuel oil in accordance with that assumption.