

1 Q. Reference: Hydro's 2015 & 2016 Supply Cost Recovery Application Evidence,
2 October 11, 2017, Page 10. Hydro states:

3
4 *"...No. 6 fuel deliveries in 2015 and 2016 contained a lower average BTU content*
5 *than what was forecast in the 2015 Test Year. This lower BTU content contributed*
6 *to the lower actual conversion rates in both 2015 and 2016. As a result of the actual*
7 *BTU variance, Hydro received a discount on its purchase of No. 6 fuel which was*
8 *passed on to customers through the RSP."*

9
10 Provide evidence, including calculations, showing the extent to which the discount
11 on the purchase of lower BTU content No. 6 fuel offsets the financial impact of the
12 lower BTU content on the Holyrood Conversion Deferral.

13
14
15 A. NP-NLH-037, Attachment 1 includes a redacted version of Hydro's No. 6 Fuel
16 Purchase Contract. Section IT 11.4, *Selling Price and Adjustments*, states that when
17 the heat content of the delivered product is less than specified (6,400,000 BTU/bbl
18 or 152,400 BTU/ U.S. gal), the selling price is adjusted on a percentage basis.
19 Therefore, a 1% reduction in delivered BTUs will result in a 1% price reduction. The
20 reduced price is reflected in the Rate Stabilization Plan (RSP).

21
22 Table 1 shows the estimated impact of both the price reduction as a result of lower
23 delivered BTUs in 2015 and the corresponding estimated impact on the 2015
24 Holyrood Conversion factor. This analysis assumes an average discount on the
25 purchase price of No. 6 fuel for all of 2015 based on the annual average delivered
26 BTU content and the estimated impact of that same BTU content on the Holyrood
27 Conversion rate.

1 Hydro notes that this analysis is limited by a number of factors: 1) the actual unit
2 loading at the time the lower BTU fuel was consumed as this will change the impact
3 on the conversion rate; 2) the use of an average discount for the entire year vs. the
4 discount on a per shipment basis; and 3) the time lag between the delivery of fuel
5 and eventual consumption.

6

7 The analysis provided in Table 1 indicates that, on average for 2015, the fuel price
8 savings flowed through the RSP when the heat content of the delivered fuel was
9 less than specified in the contract, more than offset the cost of the lower BTU
10 content to be recovered from the Holyrood Conversion Rate Deferral Account
11 balance.

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Table 1 BTU Impact on Conversion

Line No. Calculation of RSP Savings		
1	2015 Actual BTU	150,581
2	2015 Test Year BTU	<u>152,400</u>
3	BTU % of Test Year	98.8%
4	Average Discount Received (\$)	0.81
5	Actual Barrels Consumed (bbls)	<u>2,423,337</u>
6	RSP Savings (\$)	1,967,480
Calculation of Holyrood Conversion Cost		
7	Conversion at TY Fuel Spec (kWh/bbl)	618
8	Estimated Conversion at Actual Fuel Spec (kWh/bbl)	<u>609</u>
9	Variance	(9)
10	2015 Actual HTGS Production (kWh)	1,458,455,118
11	Bbls @ TY Conversion	2,359,960
12	Estimated Bbls @ Fuel Spec Conversion	<u>2,394,836</u>
13	Bbl Variance	34,876
14	TY Fuel Price (\$)	<u>64.41</u>
15	Holyrood Fuel Conversion Cost (\$)	2,246,363
16	Less: Deadband (\$)	<u>(500,000)</u>
17	Net Holyrood Fuel Conversion Cost (\$)	1,746,363
18	2015 Customer Savings on BTU Variance (\$)	221,116 [Line 17- Line 6]

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NEWFOUNDLAND AND LABRADOR HYDRO

CONTRACT

FOR

SUPPLY AND DELIVERY

OF

NO. 6 FUEL OIL

TO

HOLYROOD THERMAL GENERATING STATION

APPROVED BY:

NEWFOUNDLAND AND LABRADOR HYDRO

CONTRACT: 2015-63274-JW
DATE: 9/21/2015



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Supply Chain Management
Hydro Place, 500 Columbus Drive.
P.O. Box 12400, St. John's, NL
Canada A1B 4K7
t. 709.737.1335 f. 709.737.1795
nlh.nl.ca

Vendor Fax Number: 203-542-6000

ACKNOWLEDGEMENT COPY

September 23, 2015

Freepoint Commodities LLC
58 Commerce Road
Stamford, CT
USA
06902

Dear Sirs:

Re: 2015-63274 JW Supply and Delivery of No. 6 Fuel to the Holyrood Generating Station

Your tender dated August 10, 2015 in the amount of \$ 931,466,000.00 for the above has been accepted and you are awarded this contract.

Pricing Option 2 has been selected. For clarity please see the points below:

- Years 1 & 2 – premium of U \$3.23/bbl on the Platts U.S. mean cargo posting for 0.70 sulphur U.S. Atlantic Coast product assessment for No. 6 fuel oil.
- Optional years 3 – 5 premium of US \$5.03/bbl on the Platts U.S. mean cargo posting for 0.70 sulphur U.S. Atlantic Coast product assessment for No. 6 fuel oil.

Within the time restraints of the tendered specifications and prior to mobilization of the work, please forward to the undersigned the following documents:

1. Proof of Insurance coverage as per Article IT21 - Insurance, as evidenced by completion of the attached Certificate of Insurance, duly signed by an Officer or Authorized Representative of the Insurer. Required coverages are indicated by (X) mark, which include:
 - a. **Commercial General Liability Insurance** Seller shall provide Commercial General Liability insurance covering premises, operations, products, and completed operations. Extensions of coverage shall include broad form property damage on an occurrence basis, blanket contractual liability, contingent employer's liability, contractor's contingency liability with respect to the operations of sub-contractors, cross liability and employees as additional insured. Minimum limits shall be \$1 million combined for any occurrence involving property damage or loss or bodily injury or loss of life. Such insurance shall state that it is primary insurance and that any other insurance carried by the Buyer shall be excess and not contributing therewith.
 - b. **Marine Liability** Seller shall provide or cause to have provided protection and indemnity insurance including oil pollution coverage for each vessel with a minimum limit of One Billion U.S. Dollars (\$US 1,000,000,000) or equivalent currency. Seller shall declare the name of the protection and indemnity club.

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All insurances shall be maintained in full force during the performance of the work.

Nalcor Energy has no liability and no coverage under its insurance for contractor's equipment used in carrying out the work.

2. The successful Tenderer shall within fourteen (14) days from receipt of notification of acceptance of its Tender, furnish a Ten Million Dollar (\$10,000,000.00) Performance Bond in the form set out in Schedule B – Form of Tender included herein, and forming part of these Contract Documents and entitled, Form of Performance Bond.

We enclose two (2) copies of the tendered documents relative to the above, and request that both copies be signed by the appropriate signing officials of your company with your corporate seal affixed. Both documents should be promptly returned for execution by the Corporation. In turn one original document will be returned to you for your records.

Please sign the acknowledgement copy of this letter and return it to the undersigned along with the requested documentation at your earliest opportunity.

Regards,



Joe Watson, Buyer
Supply Chain Management
Newfoundland and Labrador Hydro
A Nalcor Energy Company

JW/lid

ACKNOWLEDGED BY:  Louis A. Santore

ON BEHALF: Managing Director
(company) FREEPOINT COMMODITIES LLC

DATE: 28 SEPT 2015

Schedule 1, Redacted

CERTIFICATE OF INSURANCE

DELIVER TO NEWFOUNDLAND & LABRADOR HYDRO SUPPLY CHAIN, 500 COLUMBUS DRIVE, OR MAIL TO ABOVE ADDRESS

DESCRIPTION & LOCATION OF WORK: 2015-63274 JW Supply and Delivery of No. 6 Fuel to the Holyrood Generating Station

CONTRACT NO.

AWARD DATE:

VALUE (incl. OWNER-FURNISHED MATERIALS)

INSURER

NAME:

ADDRESS:

BROKER

NAME:

ADDRESS:

INSURED

CONTRACTOR'S NAME: Freeport Commodities LLC

ADDRESS:

58 Commerce Road

Stamford, CT

USA

06902

ADDITIONAL INSURED (Excluding Automobile Liability Policy)

Newfoundland and Labrador Hydro

THIS DOCUMENT CERTIFIES THAT THE FOLLOWING POLICIES OF INSURANCE AND INDICATED COVERAGES ARE AT PRESENT IN FORCE SUBJECT TO THE TERMS, CONDITIONS AND EXCLUSIONS AS CONTAINED THEREIN COVERING THE OPERATIONS OF THE INSURED IN CONNECTION WITH THE ABOVE NOTED CONTRACT MADE BETWEEN THE NAMED INSURED AND NEWFOUNDLAND & LABRADOR HYDRO.

POLICY TYPE	NUMBER	INCEPTION DATE	EXPIRY DATE (Y/M/D)	LIMITS OF LIABILITY
1. <input checked="" type="checkbox"/> Commercial General Liability OR <input type="checkbox"/> Wrap-up Liability Including where indicated: <input type="checkbox"/> Blasting <input type="checkbox"/> Pile Driving or Caisson Work <input type="checkbox"/> Removal or Weakening of Support <input type="checkbox"/> Environmental Impairment <input type="checkbox"/> Forest Fire Fighting Expense (min. \$) <input type="checkbox"/> Hook/Hoist/Rigging (min. \$)				MINIMUM \$1,000,000.00
2. <input type="checkbox"/> Builders' Risk "Broad Form" OR <input type="checkbox"/> Installation Floater "Broad Form" OR <input type="checkbox"/> Piers, Wharves & Docks Rider				\$100% OF VALUE
3. <input checked="" type="checkbox"/> Marine Liability Insurance				MINIMUM \$1,000,000.00
4. <input type="checkbox"/> Aircraft and/or Watercraft Liability Insurance (If Applicable)				MINIMUM \$1,000,000.00

THE INSURER AGREES TO NOTIFY NEWFOUNDLAND & LABRADOR HYDRO, IN WRITING, THIRTY (30) DAYS PRIOR TO CANCELLATION OR MATERIAL CHANGE OF ANY POLICY, EXCEPT IN THE EVENT OF NON-PAYMENT WHERE POLICY CONDITIONS DEALING WITH TERMINATION WILL APPLY.

NAME (print):	SIGNATURE:	DATE
INSURER'S OFFICER OR AUTHORIZED REPRESENTATIVE		TEL. NO.

ISSUANCE OF THIS CERTIFICATE SHALL NOT LIMIT OR RESTRICT THE RIGHT OF NEWFOUNDLAND & LABRADOR HYDRO TO REQUEST AT ANY TIME DUPLICATE CERTIFIED COPIES OF SAID INSURANCE POLICIES.

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Page 5 of 63, Recovery of 2015 and 2016 Balances

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NEWFOUNDLAND AND LABRADOR HYDRO

CONTRACT

FOR

SUPPLY AND DELIVERY

OF

NO. 6 FUEL OIL

TO

HOLYROOD GENERATING STATION

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AGREEMENT
CONTRACT: 2015-63274-JW

**SUPPLY AND DELIVERY OF NO. 6 FUEL OIL
TO HOLYROOD THERMAL GENERATING STATION**

AGREEMENT

THIS AGREEMENT made as of the 13th day of September A.D. 2015.

BETWEEN: NEWFOUNDLAND AND LABRADOR HYDRO, a corporation constituted by statute and an agent of Her Majesty the Queen in right of the Province of Newfoundland and Labrador and having its head office at Hydro Place, St. John's, in the said Province (hereinafter called "Buyer") of the one part;

AND Freepoint Commodities LLC (hereinafter called "Seller") of the other part.

WHEREAS Buyer is the owner and operator of an oil-fired generating station located at Holyrood in the Province of Newfoundland and Labrador (hereinafter referred to as "Thermal Generating Station");

AND WHEREAS Buyer has invited Tenders for the supply and delivery of an estimated 10,200,000 Barrels of No. 6 fuel oil for the Thermal Generating Station for a term of two (2) years from the date of the first delivery in this contract, with Buyer's option of three (3) single year extensions;

AND WHEREAS Seller has submitted its Tender for supply and delivery of said No. 6 fuel oil and Buyer has accepted that Tender;

AND WHEREAS it is felt desirable to enter into this Agreement in order to prescribe the terms and conditions which shall apply to and in respect of the supply and delivery of the said No. 6 fuel oil;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT the Buyer and Seller in consideration of the premises and of the covenants, agreements and declarations made herein by the other, covenant, agree and declare as follows:

A 1 Interpretation

.1 In this Agreement and the schedules, unless the context otherwise requires,

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- (a) "Agreed Delivery Date" means the desired delivery date referenced in a Firm Order once confirmed in writing by the Seller, as provided for in Clause SC 2.
- (b) "Barrel" means the quantity of Product which when measured at 60°F equals 42 U.S. gallons;
- (c) "Contract" or "Contract Documents" means this Agreement and includes

- SCHEDULE A - INSTRUCTIONS AND INFORMATION TO TENDERERS
- SCHEDULE B - FORM OF TENDER
- SCHEDULE C - SPECIAL CONDITIONS
- SCHEDULE D - HOLYROOD THERMAL GENERATING STATION TERMINAL INFORMATION AND GUIDELINES BOOKLET

And any Addenda thereto which are incorporated therein by reference;

- (d) "Delivery Point" means the first permanent flange at Buyer's dock at the Thermal Generating Station.
- (e) "DES" means delivered ex ship as defined and construed in accordance with the provisions of ICC INCOTERMS (2010 edition).
- (f) "HST" means the tax exigible pursuant to Part IX of the *Excise Tax Act* (Canada), R.S.C. 1985, c. E-15, including, for greater certainty, the taxes commonly referred to as the goods and services tax and the harmonized sales tax.
- (g) "Lay Time" means the time allowed for the vessel to discharge its cargo and shall commence the earlier of 6 hours after the acceptance of Notice of Readiness given by the marine vessel or when the marine vessel is all fast in berth and shall end when the discharge hoses are disconnected;
- (h) "Firm Order" means a request by regular or electronic mail or fax transmission from Buyer to Seller specifying the desired delivery date and desired sulphur content of a quantity of Product.
- (i) "Notice of Readiness" means the notice given by the marine vessel to the Buyer that it is ready to discharge its cargo.
- (j) "Platt's Monthly Average Price" means the mean cargo posting for a specific sulphur content of fuel listed on the Product Price Assessments for New York for No.6 Fuel Oil rounded to three decimals, as reported in Platt's Marketscan Price Report, PUAHHOO for a particular month.
- (k) "Price Variance" means the difference between the Platt's Monthly Average Price for 0.7% sulphur fuel for the month of July 2015 and the Tendered Selling Price.
- (l) "Product", written alone, means No. 6 fuel oil having the specifications listed in Article SC 1 - Product Quality of SCHEDULE C - SPECIAL CONDITIONS;
- (m) "Province" means the Province of Newfoundland and Labrador;

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- (n) "Seller" means the party or parties executing the Agreement with Buyer for the Work, and the successors and permitted assigns of the said party or parties;
 - (o) "Selling Price" means the price of the Product delivered to Buyer DES at the Delivery Point in the currency of the United States of America excluding all "Taxes"
 - (p) "Site" means Buyer's dock at the Thermal Generating Station;
 - (q) "Tax" or "Taxes" means any tax, fee, levy, rental, duty, charge, royalty or similar charge including, for greater certainty, any federal, state, provincial, municipal, local, aboriginal, foreign or any other assessment, governmental charge, imposition or tariff wherever imposed, assessed or collected, and whether based on or measured by gross receipts, income, profits, sales, use and occupation or otherwise, and including, without limitation, any income tax, capital gains tax, payroll tax, fuel tax, capital tax, goods and services tax, harmonized sales tax, value added tax, sales tax, withholding tax, property tax, business tax, ad valorem tax, transfer tax, franchise tax, payroll tax or excise tax, together with all interest, penalties, fines or additions imposed, assessed or collected with respect to any such amounts.
 - (r) "Work" means work to be performed by Seller as described in the Contract.
- .2 Words in the Contract Documents importing the singular number shall include the plural and vice versa and words importing the masculine gender shall include the feminine and neuter genders.
 - .3 Where a word is defined anywhere in the Contract Documents, other parts of speech and tenses of the same word have a corresponding meaning.
 - .4 Wherever in the Contract Documents a number of days is prescribed for any purpose, the days shall be reckoned exclusively of the first and inclusively of the last.
 - .5 Whenever the Contract Documents require either a notice to be given or a request to be made, and the time within which any right will lapse or expire shall terminate on a Saturday, Sunday or legal holiday, such time will continue to run until the next succeeding normal business day.
 - .6 In the Contract Documents the headings and any tables of contents and indexes attached thereto are inserted for convenience of reference only and shall not affect the construction or interpretation thereof.
 - .7 Any reference in any Contract Document to an article, a clause, a subclause, a paragraph or a schedule shall, unless the context otherwise specifically requires, be taken as a reference to an article, a clause, a subclause, a paragraph or schedule to that Contract Document.
 - .8 This Agreement may be executed in more than one counterpart, each of which when so executed shall be deemed to be an original.
 - .9 The Contract embodies the entire agreement between the parties. The Contract Documents are intended to be correlative and complementary and any Work required by one document and not mentioned in another shall be executed as though required by all documents.

- .10 The Contract is intended to cover all the Work to be done by Seller; and, unless expressly excluded in the Contract, any Work not indicated herein but which may be necessary or required to complete any part of the Work in a proper, substantial and workmanlike manner shall be furnished by Seller.
- .11 If Seller, in the course of the Work, discovers any discrepancy between the Specifications and the physical conditions of the Site or finds any error, omission or ambiguity in the Contract Documents, Seller shall immediately apply in writing to Buyer for clarification. Buyer will promptly clarify such matters and so inform Seller.
- .12 In case of conflict between the Contract Documents, the said documents shall be considered in the following order of precedence, unless otherwise provided: this AGREEMENT, SPECIAL CONDITIONS, INSTRUCTIONS AND INFORMATION TO TENDERERS, FORM OF TENDER.

A 2 Execution of the Work

Seller for and in consideration of payment to be made to Seller as hereinafter provided, agrees to supply and deliver the Product required for the performance of the Contract as described in and in strict conformity with the terms and conditions of this Agreement and the other Contract Documents.

A 3 Execution of Contract Documents

Execution by Buyer and by Seller of this Agreement shall constitute acceptance and approval by the parties of all provisions, terms and conditions of all of the Contract Documents as if each had been executed by both parties.

A 4 Payment

- .1 Buyer, in consideration of the performance of the Contract by Seller, agrees to pay Seller in accordance with the Selling Price set forth in the Tender, subject to any changes provided for elsewhere in the Contract. Such payment shall be made in accordance with the procedures set forth in the Contract.

- .2 Terms of payment are net fifteen (15) days after:

- (a) completion of delivery of Product from Seller's marine vessel; or
- (b) completion of any other service required to be provided under the Contract;

whichever is applicable, and upon receipt of an acceptable invoice by Buyer, provided that the amounts so billed are correct and properly payable under the Contract. In the case of any disputed invoice due to apparent billing errors contained therein, Buyer shall pay the undisputed portion of any such invoice in accordance with Clause A 4.2. Seller and Buyer shall attempt to reach agreement in respect of any disputed amount within thirty (30) days following Seller's receipt of Buyer's payment of the undisputed amount. If Seller and Buyer fail to agree within such thirty (30) day period, the matter may be referred by either Seller or Buyer for resolution pursuant to Article

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SC 8 - Governing Law and Forum.

- .3 If the date payment becomes due and payable falls on a day other than a working day for Buyer then payment shall be made on the first working day thereafter.
- .4 Where delivery occurs fifteen (15) or more days before month end, a provisional invoice shall be submitted to Buyer for payment, using Selling Price as determined in Clause IT 7.2.
- .5 Within five (5) working days following a month end in which any provisional invoices have been submitted to Buyer, Seller shall adjust such provisional invoices to reflect the actual Selling Price as determined using Clause IT 7.1 and submit a final invoice to Buyer. Provided the invoice is not in dispute, settlement of this invoice by Buyer payment or Seller refund shall be made within five (5) working days from the date the adjusting invoice is submitted.
- .6 Delay by Buyer in making a payment when it becomes due and payable shall not be deemed to be a breach of the Contract by Buyer, but, except where specifically otherwise provided for, such a delay will, if the delay continues for more than fifteen (15) days beyond the date upon which the payment is due and payable, entitle Seller to interest on the amount overdue at the Prime Lending Rate of the Buyer's Bank.

A 5 Language of Contract

Documentation, required submittals and all other communications, whether verbal or written, shall be in English.

A 6 Notice to and Addresses of Parties

Any notice required or permitted to be given hereunder shall be given in writing, and shall either be given by hand delivery or by regular mail return receipt requested or by fax transmission addressed to the respective officers of the parties as set forth below:

If notice is by mail or fax transmission it shall be effective upon receipt.

Buyer: Newfoundland and Labrador Hydro
500 Columbus Drive
P.O. Box 12400
St. John's, Newfoundland and Labrador, A1B 4K7
CANADA

Attention: Manager, Supply Chain Management & Administration

Fax: 709-737-1795

e-mail: mikewhelan@nalcenergy.com

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AGREEMENT
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Seller: Freepoint Commodities LLC
58 Commerce Road
Stamford, CT 06902
Attention: legal Department
FAX: 203-724-0906
e-mail: dl-legalnotices@freepoint.com

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Seals as of the day and year first above written.

Signed and sealed in the presence of:

(Buyer)

~~(Witness)~~

BY:

(Name)

(Title)

(Witness)

AND:

(Name)

(Title)

Signed and sealed in the presence of:

(Seller)

~~(Witness)~~

BY:

(Name)

(Title)

AND:

(Witness)

(Name)

(Title)

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INSTRUCTIONS TO TENDERERS
CONTRACT: 2015-63274-JW

INSTRUCTIONS TO TENDERERS

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CONTRACT TITLE: Supply & Delivery of No. 6 Fuel Oil to the Holyrood Thermal Generating Station

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IT 1 Project Identification

Description of Project - The Work shall comprise the supply and delivery of an estimated 10,200,000 Barrels of No. 6 fuel oil for the Thermal Generating Station at Holyrood in the Province of Newfoundland and Labrador, as is more particularly described in the Contract Documents.

IT 2 Communications during Tendering

- .1 All communications during the period of the Tender process shall be addressed to:

Attention: Joe Watson, email: joewatson@nlh.nl.ca, tel: 709-737-1761
CONTRACT: 2015-63274-JW

NEWFOUNDLAND AND LABRADOR HYDRO
P.O. Box 12400
Supply Chain Management
4th Level, Hydro Place
St. John's, Newfoundland and Labrador
A1B 4K7
Fax: (709) 737-1795

- .2 Clarifications and changes will be issued to all Tenderers in writing.

IT 3 Tender Information

1. Nalcor posts all tenders on-line at Nalcor's website:
<http://bids.nalcorenergy.com/Module/Tenders/en>
Tenderers are required to set up an account on this website.
Registration as a plantaker is required for each tender posted to allow submission of a bid.
2. Tenders will be received at Hydro Place, 500 Columbus Drive, St. John's.
3. Tenders close at 3:00 p.m. NL Daylight Savings Time, at St. John's, NL on Monday, August 10, 2015 ("Tender Closing"). Tenders received after Tender Closing will be rejected..
4. Tenders will be opened at 9:00 a.m. NL Daylight Savings Time on the following business day at Hydro Place, Level 2 – Public Tender Room.
5. Tenders may be submitted:
 - (a) On-line through Nalcor's website
 - (b) in a sealed envelope showing Tenderer's name and return address and marked:

TENDER – 2015-63274-JW

by: (i) mail or courier delivery to:

Newfoundland and Labrador Hydro
P.O. Box 12400
Supply Chain Management
4th Level, Hydro Place
500 Columbus Drive
St. John's, Newfoundland and Labrador
A1B 4K7

Attention: TENDERS,
Supply Chain Management

or

(ii) hand delivery:

into the tender depository box located adjacent to Main Lobby Reception Area, Hydro Place. The sealed Tender envelope must be stamped using time clock located by the tender depository box before being placed into box:

or

(c) faxed delivery, to (709) 737-1795

6. The Schedule of Prices may be posted on-line unless the tender posting indicates otherwise. In the event of a conflict, the on-line submission shall prevail.

IT 4 Tender Submittal

1. In accordance with Clause IT 13 – Tenderer Verification, it is the responsibility of the Tenderer to ensure that all required documents identified in this Tender specification are included as part of the Tender submission. Failure to include all required documents may result in disqualification of a Tender.
2. Where tender security is required (Clause IT 9 – Tender Security), for an on-line submission or a faxed Tender to be valid, original Tender Security documentation identified with the Tender number must be received by not later than 4:00 p.m. NL Standard Time, on the second Business Day following the Tender Closing. The tender package submitted at Tender Closing must include a copy of the tender security documentation.
3. Tenders shall be prepared in accordance with Schedule A - TENDER SUBMISSION Included herein.
4. Completed Tender Submission must be uploaded with the on-line submission.
5. Tenders shall be properly executed by a duly authorized person on behalf of Tenderer.
6. If a partnership or joint venture tenders, it shall submit with its Tender, a Power of Attorney executed by all of the general partners or venturers designating and appointing one of the general partners or venturers as the Management Sponsor, and authorizing the Management Sponsor to sign the Tender on behalf of Tenderer, to act for and bind Tenderer in all matters relating to the

Tender and, in particular, to agree that each partner or venturer shall be jointly and severally liable for any and all of the duties and obligations of Tenderer assumed under the Tender and the Contract if awarded. The Tender shall be signed on behalf of the partnership or joint venture in its legal name by the authorized representative.

IT 5 Withdrawal of Tenders

1. Tenderers may revise their on-line submission by withdrawing their submission, revising and resubmitting at any time prior to Tender Closing.
2. For tenders submitted by fax, tenderers may revise their bid by facsimile or letter, provided that the revision is received prior to Tender Closing. Revisions by facsimile must be sent to the facsimile number as indicated in Clause IT 3 - Preparation and Submittal of Tenders. The Buyer will not be responsible for any failure attributable to the mechanical or electronic transmission or reception of the facsimile.
3. A Tender may be withdrawn electronically without penalty prior to Tender Closing. Faxed or delivered tenders may be withdrawn without penalty if the request is received by letter, facsimile or email prior to the time of Tender Closing.

IT 6 Dock Facilities

- .1 The successful Tenderer shall be required to deliver fuel to Buyer DES at the Delivery Point in marine vessels in quantities specific to that delivery as approved by Buyer.
- .2 Marine terminal facilities, capacities, and limitations are per the 'Holyrood Thermal Generating Station Terminal Information and Guidelines Booklet' attached as Schedule 'D' of this document.

IT 7 Prices

- .1 Tendered prices shall be stated in currency of the United States of America, payable at par in St. John's, Newfoundland and Labrador. Tender prices shall be firm except for any price adjustments specified in the Contract Documents.
- .2 Except for those items specifically identified in the Contract Documents as being furnished or performed by Buyer, Tenderer shall include, in the prices entered electronically on-line in the Schedule of Prices or Schedule A - TENDER SUBMISSION, amounts to cover the performance of the Work in accordance with the Contract Documents, including, where applicable, the provision of all plant, material, installation, labour and supervision, and the contingent expenses and risks of every kind necessary to complete the Work in accordance with the Contract Documents.
- .3 Except as otherwise provided in the Contract Documents and except in the case of lump sum items, if a unit price is not stated in Schedule A - TENDER SUBMISSION, for any item, the unit price shall be determined by dividing the Tender amount for the item by the estimated quantity. Where a unit price only is stated in Schedule A - TENDER SUBMISSION, or in the case of errors in the extension of the unit price, the Tender amount for the item shall be determined by multiplying the unit price by

the estimated quantity. In the case of discrepancy between words and figures, the words shall prevail. Where a Tenderer fails to include either a unit price or extension for any item, the Tender will be deemed incomplete.

IT 8 Scope of Work

Tenderer should note that Buyer's requirement for Product is based upon quantities required for Thermal Generating Station operations and these quantities may vary. Buyer does not guarantee or commit itself to any minimum quantity. The estimated quantity of product to be delivered over the potential five (5) year term of the Contract is 10,200,000 barrels. The Buyer shall place orders for a minimum of eighty percent (80%) of the Product requirement noted in Article IT 1 – Project Identification with the successful Tenderer, with no guarantee of any minimum quantity

IT 9 Validity of Tender and Performance Security

- .1 The Tender shall remain open for acceptance by Buyer and irrevocable for a period of sixty (60) days after the closing date for receipt of Tenders, and Buyer may accept a Tender whether any other Tender has been previously accepted or not.
- .2 Tender shall be accompanied by a Surety's Consent for a Ten Million Dollar (\$10,000,000.00) Performance Bond in the form set out in SCHEDULE B - FORM OF TENDER, and forming part thereof and entitled Surety's Consent.
- .3 The successful Tenderer shall within fourteen (14) days from receipt of notification of acceptance of its Tender, furnish a Ten Million Dollar (\$10,000,000.00) Performance Bond in the form set out in SCHEDULE B - FORM OF TENDER included herein, and forming part of these Contract Documents and entitled, Form of Performance Bond.
- .4 After receipt of notification in writing of the acceptance of its Tender and subject to compliance with Clause IT 19 – Notification to Successful Tenderer, the successful Tenderer shall commence performance of the Work and shall complete the Work and all parts thereof within the times set out in the Contract Documents.

IT 10 Taxes

1. Seller represents that Seller's residency status for the purposes of Canadian income tax legislation is as set forth in Exhibit 1 – Declaration of Residency. Seller shall advise Buyer of the country where Seller is a resident for income tax purposes and shall give thirty (30) days Notice to Buyer and obtain its prior written consent before making or allowing any change to its tax residency status.
- .2 If Seller's Declaration of Residency Indicates Seller is a Resident of Canada
 - .2.1 Seller represents and warrants that it is now and shall remain registered for the purposes of the HST in accordance with Part IX of the *Excise Tax Act* (Canada), R.S.C. 1985, c. E-15, for the Term and that its HST Registration number is _____.

- .2.2 Seller shall be the importer of record and shall pay all Taxes as may be applicable as the

importer of record for which Seller shall be reimbursed by Buyer.

.2.3 Seller shall apply for any Canadian import compensation that may be due Seller; In the event Seller obtains any rebate, refund or recovery in respect of any such Taxes, it shall immediately be paid to Buyer to the extent that such amounts were paid by Buyer or reimbursed to Seller by Buyer.

.2.4 All invoices shall include Seller's Registration Number for the Federal Goods and Services Tax/Harmonized Sales Tax (HST), and shall separately identify the amounts of HST, for which Seller shall be reimbursed.

.2.5 Seller shall provide, at all times when any HST is required to be collected, such documents and particulars relating to the supply as may be required by Buyer to substantiate a claim for any input tax credits as may be permitted pursuant to the *Excise Tax Act* (Canada), R.S.C. 1985, c. E-15, in respect of such HST.

.3 If Seller's Declaration of Residency Indicates Seller is Not a Resident of Canada

.3.1 Buyer shall be the importer of record and to pay all Taxes as may be applicable as the importer of record and to apply for any Canadian import compensation that may be due Buyer.

.3.2 Seller shall provide/obtain for the benefit of Buyer all available documentation to support a claim for exemption from or recovery of all applicable "Taxes"

.3.3 Buyer shall provide/obtain for the benefit of Seller all available documentation to support a claim for exemption from or recovery of all applicable "Taxes"

IT 11 Selling Price and Adjustments

.1 Selling Price

(a) The Selling Price per Barrel delivered to Buyer DES at the Delivery Point shall be stated in U.S. currency payable at par in St. John's, Newfoundland and Labrador. Selling Price shall be firm except for price adjustments provided for in the Contract Documents. Adjustments provided for in this Article shall be applied in sequence as they appear in this Article.

(b) The Selling Price shall change from and after July 31, 2015, up or down, cent for cent with changes in the Platt's Monthly Average Price. For the purposes of computing escalation no account shall be taken of temporary entitlement allowances or temporary voluntary allowances or other discounts or surcharges set forth in footnotes thereto. For greater certainty, the Platt's Monthly Average Price is understood to be determined by averaging the daily mean prices for each day during the month for which a price is published in Platt's US Marketscan Price Report.

(c) For each cargo, the Platt's Monthly Average Price that shall be used in the determination of the price of the cargo shall be the Platt's Monthly Average Price for the month of the nominated delivery date requested in the cargo's Firm Order.

.2 Selling Price for Provisional Invoices used where deliveries occur more than fifteen days before

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month end.

Where delivery occurs fifteen (15) or more days before month end, a provisional invoice shall be submitted to Buyer for payment. The Selling Price used shall be computed in a similar manner to that prescribed in Clause IT 7.1 except that the number of days used in computing the provisional monthly price shall be the number of days for which a price is published up to and including date of invoice preparation and as a minimum, the first fourteen (14) days of the month.

.3 Adjustment for Vanadium Content

The Selling Price for each Barrel delivered under the Contract shall be subject to a deduction of \$0.01 U.S. for each 5 parts per million or major fraction thereof that the vanadium content for each delivery is in excess of the specified maximum for vanadium in this Contract.

.4 Higher Heating Value Adjustment

When the Higher Heating Value content of the Product delivered is less than the Guaranteed Higher Heating Value the Selling Price for that delivery shall be adjusted in accordance with the following ratio:

Adjusted Price for Product is:

$$\frac{\text{BTU/Barrel delivered}}{\text{Guaranteed Higher Heating Value tendered BTU/Barrel}} \times \text{Selling Price}$$

IT 12 Changes and Clarifications Prior to Tender Closing

- .1 Changes in the Work or corrections to or interpretations of the Contract Documents, as may be issued by Buyer prior to Tender Closing, shall be in the form of addenda. Such addenda shall become part of the Contract Documents.**
- .2 Tenderer shall promptly acknowledge receipt in writing of any and all addenda and shall confirm in its Tender that the information contained in such addenda has been considered in preparing the Tender. Tenders that do not acknowledge all addenda may be rejected.**
- .3 Should Tenderer find discrepancies in, or omissions from, the Contract Documents, or have any doubt as to the meaning or intent of any part thereof, Tenderer shall at once notify Buyer in writing.**
- .4 Buyer shall not be bound by oral instructions. No corrections or interpretations shall be binding unless issued in the form of addenda.**
- .5 Addenda will not be issued by the Buyer after the fourth (4th) day prior to the Tender Closing without providing an extension to the time of the Tender Closing.**

IT 13 Tenderer Verification

- .1 Tenderers are required to submit the following documents:
 - (a) Schedule A - TENDER SUBMISSION (complete)
 - (b) Certificate of Insurance ; Appendix 11
 - (c) Tender Security;
 - (d) Tender Information (Appendix 6);
 - (e) Copy of Contractors Health and Safety Policy as required under Occupation Health and Safety Legislation
 - (f) Permission Letter (Appendix 9);
 - (g) Schedule of Prices (Appendix 10); and
- .2 Tenders that do not contain all required documentation may be considered non-compliant.

IT 14 Safety Record Information

- .1 Tenderer, as a part of its Tender submission, shall complete and sign the Permission Letter provided in Schedule A - TENDER SUBMISSION. The letter is addressed to Workplace Health Safety and Compensation Commission and the Occupational Health & Safety Branch of Services NL and gives permission for them to release to Buyer, Tenderer's injury statistics and safety record, which may be used as a part of the Tender evaluation process.

IT 15 Qualification of Tenderer

- .1 The Buyer may require the Tenderer and its Subcontractor(s) to submit qualification information with the Tender or prior to the award of any Contract.
- .2 If required by Buyer, before a contract is awarded, Tenderer shall furnish additional evidence satisfactory to Buyer:
 - (a) that it and its Subcontractor(s) have the necessary ability, experience, capital and construction equipment to perform the various classes of Work involved and to complete the Work within the times set out in the Contract Documents;
 - (b) that it and its Subcontractor(s) shall have previously and successfully completed undertakings of comparable nature and scope; and
 - (c) that it and its Subcontractor(s) provide a declaration as to any claims outstanding against them and that their respective sureties have been notified of such claims.

- .3 The Buyer may reserve the right to interpret the qualification information provided. Any decision made by the Buyer concerning the award of the Contract or the Tenderer's and/or Subcontractor(s) ability or otherwise to successfully perform the Work shall be final.
- .4 The successful Tenderer and its Subcontractor(s) must be authorized to do business in the Province of Newfoundland and Labrador prior to commencement of the Work under the Contract and, if a corporation, shall be registered to carry on business in compliance with the relevant Laws and shall be registered in good standing.

IT 16 Consideration of Tenders

- .1 A Tender that is incomplete, conditional, unbalanced or obscure or which contains additions not called for, erasures, alterations or irregularities of any kind, may be accepted or rejected.
- .2 Tenderer's prices must fairly represent proper compensation for various items of the Work to be done. Unbalanced Tenders, as determined by the Buyer, may be rejected.
- .3 Tenders not submitted electronically on-line, including Schedule A - TENDER SUBMISSION forms will be rejected.
- .4 The Buyer reserves the right to waive any informality or irregularity in a Tender.
- .5 In addition to any other provision of the Contract Documents which permitted Buyer to reject a Tender, the Buyer may reject a Tender where any of the following circumstances are present:
 - (a) the Tenderer is bankrupt or where, for whatever reason, its activities are rendered inoperable for an extended period of time;
 - (b) evidence, satisfactory to the Buyer, of fraud, bribery, fraudulent misrepresentation or failure to comply with any Laws protecting individuals against discrimination, has been received by the Buyer with respect to the (i) Tenderer, any of its shareholders, employees, its wholly owned or controlled enterprises, or (ii) any Subcontractor, any of its shareholders, employees or any of its wholly controlled enterprises included in part of the Tender;
 - (c) the Buyer or an Affiliate has exercised its contractual remedies of suspension or termination for default with respect to an existing or prior contract with the Tenderer, any of its shareholders, employees, its wholly owned or controlled enterprises or any Subcontractor included as part of its Tender; for a period subject to review by Buyer;
 - (d) the Buyer determines that the Tenderer's performance on other contracts with the Buyer or an Affiliate, including the health, safety and environmental performance, efficiency and workmanship as well as the extent to which the Tenderer performed the Work in accordance with the contractual clauses and conditions, is sufficiently poor and jeopardizes the successful completion of the Work being bid on; or
 - (e) the Buyer determines that the performance of one or more of the Tenderer's proposed Subcontractors on other contracts with the Buyer or an Affiliate, including the safety performance, efficiency and workmanship as well as the extent to which the Subcontractor performed the Work in accordance with the contractual clauses and conditions, is sufficiently poor to jeopardize the successful completion of the Work being bid on.

- .6 Tenders containing qualifications or additional clauses to the Schedule A - TENDER SUBMISSION may be rejected.
- .7 Upon withdrawal of a Tender by a Tenderer, the Buyer has the right to disqualify any Tender submitted by a related person of the Tenderer or an Affiliate of the Tenderer.

IT 17 Evaluation of Tender

- .1 Buyer reserves the right not to award the Contract. Buyer reserves the right to reject any or all Tenders or parts thereof.
- .2 The lowest Tender or part thereof will not necessarily be accepted. Price will not be the sole basis for evaluating Tenders.
- .3 In so far as consideration is given to price, for Tenders requiring unit prices, the Tender will be evaluated on the unit prices and not solely on the basis of the extensions of each unit price (unit price multiplied by quantity) or the sum of the extensions.
- .4 In awarding the Contract, the Buyer will take into account the Tender deemed most favourable to the interest of the Buyer. Buyer's evaluation will take into account the Tender which provides for the most cost effective completion of the Contract and the greatest value to the Buyer based on the following factors:
 - (a) Safety
 - (b) Quality
 - (c) Time
 - (d) Service
 - (e) Price
 - (f) Technical
 - (g) Environmental
 - (h) Legal
 - (i) Financial
- .5 Tenderer acknowledges that its injury statistics, safety record, and past performance as a Contractor for Buyer may form part of the tender evaluation process, and agrees that Buyer may use the Schedule A - TENDER SUBMISSION Appendix 9 - Permission Letter to obtain information from relevant Authorities.
- .6 Should a Tenderer, in its opinion, have any other considerations which might appear relevant in the Initial evaluation of tenders, it shall indicate same in its Tender.
- .7 Tendered prices shall be evaluated on the basis of adjustment of tendered Selling Price to a minimum Higher Heating Value content of 6,400,000 BTU's per Barrel, and for payment fifteen (15) days after date of delivery.
- .8 Reliability of supply is an important consideration. Tenderer should indicate the strength of its position in maintaining continuity of supply to Buyer as a public utility.

IT 18 Post-Tender Meeting

- .1 If required by Buyer before a Tender is accepted, Tenderer shall, at its cost, attend a post-Tender meeting to review its Tender submission, and such meeting shall be held at a time and place chosen by the Buyer.

IT 19 Notification to Successful Tenderer

- .1 The successful Tenderer must submit documentation as outlined in the "Letter of Award" within 10 business days from date of notification by the Buyer of the intent to award the Contract, unless such time frame is expressly abridged by Buyer or such shorter period as is specified. Failure to provide the required documentation may result in the Tenderer not being awarded the Contract.

IT 20 Contract

- .1 The successful Tenderer will be expected to enter into a contract with the Buyer substantially similar to the Contract included with the Tender package. All Tenderers should become familiar with the Contract terms before submitting the Tender.

IT 21 Insurance**.1 Liability - General**

Seller shall provide Commercial General Liability insurance covering premises, operations, products and completed operations. Extensions of coverage shall include broad form property damage on an occurrence basis, blanket contractual liability, contingent employer's liability, contractor's contingency liability with respect to the operations of sub-contractors, cross liability and employees as additional insured.

Minimum limits shall be \$1 million combined for any one occurrence involving property damage or loss or bodily injury or loss of life. Such insurance shall state that it is primary insurance and that any other insurance carried by the Buyer shall be excess and not contributing therewith.

.2 Liability - Marine

Seller shall provide or cause to have provided protection and indemnity insurance including oil pollution coverage for each vessel with a minimum limit of One Billion U.S. Dollars (\$US 1,000,000,000) or equivalent currency. Seller shall declare the name of the protection and indemnity club.

.3 Insurance Conditions

- (a) Certificate of Insurance coverage shall be provided to the Buyer prior to any unloading for review and confirmation of coverage.

- (b) Premiums for all necessary insurance policies shall be included in the Selling Price. No special payments shall be made to Seller in respect of such premiums.
- (c) Buyer shall be shown on all insurance policies as a Co-Assured with a cross-liability clause. This requirement shall not apply to the pollution coverage insurance required in Clause IT 21.2.
- (d) Seller shall provide Buyer with evidence of insurance by notifying Buyer of name of marine vessel, name of protection and indemnity club of which the marine vessel is a member and confirming to Buyer that vessel has a minimum limit of One Billion US Dollars (\$US 1,000,000,000.) oil pollution coverage prior to delivery of the Product to Site and the issuance of the Notice of Readiness.
- (e) All insurance obtained by Seller shall include the following clause:

Seller will provide 30 days advance notice in writing to Newfoundland and Labrador Hydro, P.O. Box 12400, St. John's, Newfoundland and Labrador, A1B 4K7, Canada, Attention: Manager, Risk and Insurance, of any cancellation, termination, or reduction in the scope of coverage provided as evidenced herein.
- (f) Seller shall defend, indemnify and hold harmless Buyer against any liability for damages, cost, legal fees and expenses on account of:
 - (i) Injury to, or death of, any person, or damage or loss to any property, including Buyer's employees and property, occurring as a result of fault or negligence or from other causes of the Seller, the Seller's subcontractors, agents, servants or employees.
 - (ii) Injury to any employee of Seller, its subcontractor or agent during the performance of such Work and any death resulting therefrom, except to the extent occurring as a result of fault or negligence or from other causes of Buyer or its agents, servants, employees or independent contractors.
 - (iii) Any claim made against Buyer for contribution in general average with respect to any Product to be delivered hereunder.

.4 General Average Waiver Clause

Notwithstanding anything to the contrary contained herein and in addition to other collectible claims for which underwriters would be held liable hereunder, this policy shall also pay in full for hull and machinery, etc., and cargoes' proportion of general average even though the sum hereunder insured may be less than the contributing value or actual value of hull and machinery, etc., and cargo without right of subrogation against cargo interest.

.5 All insurance shall be maintained in full force during the performance of Work.

IT 22 Environmental Responsibility During Deliveries

- .1 The transfer of Product from Seller's marine tanker to Buyer's facilities at Site shall be done in accordance with the laws of the Province of Newfoundland and Labrador and the laws of Canada, including, but not limited to, the Environmental Protection Act, SNL 2002, the Canadian Environmental Protection Act, 1999 and the Fisheries Act, as amended. Seller shall ensure any ship related transfers of product are supervised and that such supervisor shall be in a position to immediately shut off the flow of Product in order to prevent any overflows, ruptures, or leaks which might occur in the Buyer's storage facility. Buyer's personnel will supervise any and all such transfers of Product in Buyer's storage facilities.
- .2 Seller shall ensure that marine tankers used in the delivery of Product comply with the Canada Shipping Act 2001, as amended. In the event of a spill of Product from a ship prior to the transfer of Product to Buyer's storage facility, Seller shall ensure such ship complies with all laws applicable to such ship pursuant to the Canadian Shipping Act 2001 and shall ensure all reporting and cleanup requirements associated with such a spill are performed.

IT 23 Health, Safety and Environment – Not Applicable to 2015-63274-JW**IT 24 Training - Not Applicable to 2015-63274-JW****IT 25 Public Disclosure of Proprietary Tender Information**

Reasonable precautions shall be taken to safeguard against disclosure of proprietary Tender information to unauthorized persons. Except to the extent required by law, Buyer shall not disclose proprietary Tender information to third parties. Buyer shall give Tenderer notice of any request or suit to obtain such information and permit Tenderer to resist or defend against any such disclosure.

IT 26 Access to Information

- .1 Buyer and its Affiliates are subject to provisions of Newfoundland and Labrador legislation, including, but not limited to, the Access to Information and Protection of Privacy Act, 2015, SNL 2012 c.A-1.2 ("ATIPP Act"), or any amendments or replacements thereto, and consequently the public may have a right of access to records of the Buyer and its Affiliates, including tender submissions.
- .2 The ATIPP Act provides an exception which may sometimes be enforceable when access to information relating to a third party is requested however there may be instances when Buyer is required to provide a member of the public with access to such information.
- .3 Buyer shall not be liable for any claims, costs, losses or damages experienced by a Tenderer or its subcontractor(s) as a result of Buyer's release of information to another party pursuant to the provisions of the ATIPP Act. Tenderer should familiarize itself with the provisions of the ATIPP Act.

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SCHEDULE A - TENDER SUBMISSION
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TENDER SUBMISSION

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SCHEDULE A - TENDER SUBMISSION
CONTRACT: 2015-63274-JW

Notice to Tenderers:

In accordance with IT 4.4, for a tender submission to be valid, tenderer must complete and submit this document. Where tender is submitted on-line, tenderer must upload this complete document.

Schedule 1, Redacted
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SCHEDULE A - TENDER SUBMISSION
CONTRACT: 2015-63274-JW

CONTRACT TITLE: Supply & Delivery of No. 6 Fuel Oil to the Holyrood Thermal Generating Station

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Appendix 3: Form of Performance Bond No.....	7
Appendix 6: Tender Information.....	9
Appendix 9: Permission Letter – Safety Record	11
Appendix 10: Schedule of Prices	12
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- a. Tenderer has carefully examined the Contract Documents, including the following addenda:

Addenda Numbers: _____ # dated _____
_____ # dated _____
_____ # dated _____

relating to a Contract for supply and delivery of an estimated 10,200,000 Barrels of No. 6 fuel oil for Buyer's Thermal Generating Station at Holyrood, Newfoundland and Labrador and Tenderer hereby accepts and agrees that all Addenda form part and parcel of the said Contract and agrees that Buyer shall not be responsible for any errors or omissions in this Tender.

- b. Tenderer hereby tenders and offers to enter into a Contract, being the Contract hereinbefore referred to, to do all of that which is set out or called for in the Contract Documents, on the terms and conditions and under the provisions set out or called for in the Contract Documents, at the price hereunder and entered in the Schedule of Prices.
- c. Tenderer agrees that this Tender is open to acceptance and irrevocable for sixty (60) days and that Buyer may, at any time within sixty (60) days from the date and time specified in the Contract Documents for the receipt of Tenders, accept this Tender whether any other Tender has been previously accepted or not.
- d. Tenderer agrees that upon receipt of notification of acceptance of this Tender, it shall within fourteen (14) days execute an Agreement substantially in the form of the draft Agreement and, subject to the requirements of SCHEDULE A - INSTRUCTIONS AND INFORMATION TO TENDERERS, provide a Performance Bond in accordance with the requirements of the Contract Documents.

Tenderer hereby proposes:

(Name of Bonding Company)

which is willing to become bound with Tenderer in the amount designated in the said Contract Documents for the due performance and fulfillment of the said Contract, and all matters or things required by the Contract Documents.

- (e) Tenderer agrees that the Guaranteed Higher Heating Value is:- 6,400,000 _____ BTU / Barrel,
- (f) Tenderer agrees that the Tendered Selling Price per Barrel, for the supply of the specified Product, in effect on 7/31/2015, is:-

\$ US _____ / Barrel,

and the stated price excludes all "Taxes" and all "Taxes" shall be paid in accordance with IT 4.

Schedule 1, Redacted
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SCHEDULE A - TENDER SUBMISSION Page 11
CONTRACT: 2015-03274-JM

TENDER

Tender by Freepoint Commodities LLC - a Company duly incorporated under the laws of Delaware,
LLC, or:

a partnership, joint venture or consortium carrying on business under the firm name and style above stated,
the names, addresses and places of incorporation, if any, of all the partners or members of the firm being the
following:

and having its head office at _____

to: NEWFOUNDLAND AND LABRADOR HYDRO
P.O. Box 12400
Supply Chain Management
4th Level, Hydro Place
St John's, Newfoundland and Labrador
A1B 4K7

Attention: Joe Watson, Buyer
Supply Chain

CONTRACT 2015-03274-J

NAME AND ADDRESS OF TENDERER

Freepoint Commodities LLC

(Name of TENDERER)

58 Commerce Road
Stamford, CT 06902

(Address of TENDERER)

TELEPHONE: 203-542-6000

FAX: 203-724-8886

GST/HST REGISTRATION NO. 826645119 RT0001

a. Tenderer has carefully examined the Contract Documents, including the following addenda:

Addenda Number:	No. 1	dated	8/3/15
	No. 2	dated	8/4/15

Jan 2015.

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SCHEDULE A-TENDER SUBMISSION Page 2
CONTRACT: 12018-03274-JW

relating to a Contract for supply and delivery of approximately 8,000,000 Barrels of No. 6 Fuel oil for Buyer's Thermal Generating Station at Holyrood, Newfoundland and Labrador and Tenderer hereby accepts and agrees that all Addenda form part and parcel of the said Contract and agrees that Buyer shall not be responsible for any errors or omissions in this Tender.

- b. Tenderer hereby tenders and offers to enter into a Contract being the Contract hereinbefore referred to, to do all of that which is set out or called for in the Contract Documents, on the terms and conditions and under the provisions set out or called for in the Contract Documents, at the price hereunder and entered in the Schedule of Prices.
- c. Tenderer agrees that this Tender is open to acceptance and irrevocable for sixty (60) days and that Buyer may, at anytime within sixty (60) days from the date and time specified in the Contract Documents for the receipt of Tenders, accept this Tender whether any other Tender has been previously accepted or not.
- d. Tenderer agrees that upon receipt of notification of acceptance of this Tender, it shall within fourteen (14) days execute an Agreement substantially in the form of the draft Agreement and, subject to the requirements of SCHEDULE A- INSTRUCTIONS AND INFORMATION TO TENDERERS, provide a Performance Bond in accordance with the requirements of the Contract Documents.

Tenderer hereby proposes: Aspen Insurance UK Limited (Name of Bonding Company)

which is willing to become bound with Tenderer in the amount designated in the said Contract Documents for the due performance and fulfillment of the said Contract, and all matters or things required by the Contract Documents.

- (e) Tenderer agrees that the Guaranteed Higher Heating Value is: 6,400,000 _____ BTU / Barrel,
- (f) Tenderer agrees that the Tendered Selling Price per Barrel, for the supply of the specified Product, in effect on 7/31/2015, is as set forth below in each option. Buyer shall be entitled to select one of the following--
 - 1) Conforming Option 1*: 45.159 + 4.31 = 49.469 (Platts U.S. mean cargo posting for .70 sulfur U.S. Atlantic Coast product assessment for No 6. Fuel oil + USD 4.31/barrel) (for a term of two (2) years from the date of the first delivery in this contract, with Buyer's option of a three (3) single year extensions)

\$ US _____ / Barrel, and the stated price excludes all "Taxes" and all "Taxes" shall be paid in accordance with IT 4.
 - 2) Non-Conforming Option 2*: For a term of two (2) years from the date of the first delivery in this contract, with Buyer's option of a three (3) single year extensions--
Years 1 and 2 : 45.159 + 3.23 = 48.389 (Platts U.S. mean cargo posting for .70 sulfur U.S. Atlantic Coast product assessment for No 6. Fuel oil + USD 3.23/barrel)
Years 3, 4, & 5: 45.159 + 5.03 = 50.189 (Platts U.S. mean cargo posting for .70 sulfur U.S. Atlantic Coast product assessment for No 6. Fuel oil + USD 5.03/barrel)
 - 3) Non-Conforming Option 3*: For a term of two (2) years from the date of the first delivery in this contract --
2 year contract: 45.159 + 3.23 = 48.389 (Platts U.S. mean cargo posting for .70 sulfur U.S. Atlantic Coast product assessment for no 6. Fuel oil + USD 3.23/barrel)

Jan 2015

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JAM

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SCHEDULE A-TENDER SUBMISSION Page 13
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(g) In the event the Buyer is required or decides during any year to use a fuel meeting the Specifications for Product in all respects except for having a maximum sulphur content between 0.3% and 0.7% Tenderer agrees, upon Buyer's request to exercise an option in Buyer's sole discretion, and with Buyer providing at least twenty-eight (28) days written notice in advance to substitute such fuel for the Product.

(h) When Platt's US Marketcan Price Report provides a cargo posting for New York for No.6 Fuel Oil for the specified maximum sulphur content, the average mean posted price for the month of the delivery date requested in a Firm Order, rounded to three decimals, shall be used as the Selling Price of Product.

For a maximum sulphur content for which there is no such posting, the straight line interpolated price, obtained from the posted prices for the nearest sulphur content greater than that specified and the nearest sulphur content less than that specified, shall be used as the Selling Price of Product, it being agreed that 0.341P is the applicable 0.2 posting. (For example, the interpolated price for 0.3% product shall be calculated as $((0.334 \times 0.7\% \text{ Platts}) + (0.007 \times 1.0\% \text{ Platts}))$).

(i) The Selling Price of Product shall be adjusted by the Price Variance and each such stated price:

shall exclude all "Taxes"; and

shall be subject to price adjustments computed as provided for in Article SC 18-Substitution of Lower Sulphur Fuel

shall be subject to price adjustments computed as provided for in Article IT7-Selling Price and Adjustments

Tenderer also confirms and agrees that the Guaranteed Higher Heating Value stated above shall remain in effect in the event of usage of lower sulphur content fuel.

(j) The Tender deposit, the forms of Performance Security and all Appendices accompanying this Tender form part and parcel thereof

Jan 2016

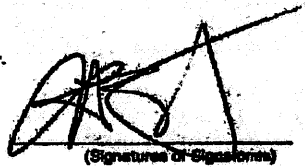
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SCHEDULE A-TENDER SUBMISSION Page 14
CONTRACT: 2015-63274-Jw

FOR EXECUTION BY A CORPORATION

Signed and delivered on behalf of
Freepoint Commodities LLC, Tenderer.


(Signature of Witness)


(Signature of Signatory)

Managing Director
(Office of Signatory)

(Corporate Seal to be affixed)

Dated at Stamford, CT this 7th day of
August, 2015

FOR EXECUTION OTHER THAN BY A CORPORATION

Signed and delivered on behalf of

Tenderer

(Signature of Witness)

(Signature of Signatory)

(Office of Signatory)

Dated at

Jan 2015

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SCHEDULE A-TENDER SUBMISSION Page 8
CONTRACT: 2015-53274-J

Appendix 1- Letter of Credit

Irrevocable Standby Documentary Credit
Ref. No.

(Bank)

(Date)

Not Applicable

To: Choose LOB
P.O. Box 12400
Hydro Place
St John's, Newfoundland and Labrador
Canada A1B 4K7

Pursuant to the request of our customer (hereinafter called Contractor),
we hereby establish an Irrevocable Standby Documentary Credit in your favour, in connection with
performance of requirements stipulated in Contract 2015-53274-JW, Supply & Delivery of No. 6 Fuel Oil to
the Holyrood Thermal Generating Station, issued by you, for a sum not exceeding a total of
----- Dollars (\$),

All or part of the amount available under this Credit is payable to you on demand upon presentation of your
drafts at sight drawn on the Bank of Nova Scotia, Water Street Branch, St John's, Newfoundland and
Labrador, Canada.

The effective date of this Credit is -----, This Credit will expire at our office at
-----.

All of your drafts drawn under and in compliance with the terms of this Credit will be honoured if duly
presented at before-said branch office of the Bank of Nova Scotia on or before the expiration date
notwithstanding any notice that may be given by the Contractor or any other party or person to us not to pay
the same.

After the expiration date, we shall not have any further liability to NEWFOUNDLAND AND LABRADOR HYDRO.

This Credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision),
International Chamber of Commerce, Paris, France, Publication No. 500), as amended.

Yours very truly,
for _____

(Bank)

BANK's Address _____

Jan 2015

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SCHEDULE A - TENDER SUBMISSION 6
CONTRACT: 2015-63274-JW

Bond No: 4882522-15-01
Appendix 2: Surety's Consent

We, ASPEN INSURANCE UK LIMITED

hereinafter called "SURETY", hereby undertake on behalf of Tenderer,
FREEPOINT COMMODITIES, LLC
(Name of Tenderer)

hereinafter called "PRINCIPAL", of STAMFORD, CONNECTICUT, USA to become bound to
(Place)

NEWFOUNDLAND AND LABRADOR HYDRO as OBLIGEE for PRINCIPAL in a Performance as quoted on below
should the Tender of PRINCIPAL be accepted for Contract 2015-63274-JW, Supply & Delivery of No. 6 Fuel Oil
to the Holyrood Thermal Generating Station and the execution of other Work relating to such Contract and
we understand that the said Performance Bond shall be given in the form included in the Form of Tender and
shall remain in effect until the expiration of ninety days (90) days from the date on which final payment under
the Contract falls due.

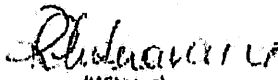
The rates per thousand dollars (\$1,000.00) to be charged by us for the said Bonds are:-

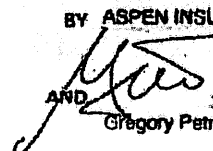
50% Performance Bond \$

If the aforesaid Tender is accepted, application for the said Performance Bond must be made to SURETY
within fourteen (14) days of the execution of the Contract awarded to PRINCIPAL.

For the purpose of this undertaking the terms "Contract" and "Contract Price" shall have the meanings
assigned to those terms in the AGREEMENT.

IN WITNESS WHEREOF SURETY has hereunto its hand and Seal subscribed and set this 6TH day
of AUGUST, 20 15


(Witness)
Rohini Chitnaraine

BY ASPEN INSURANCE UK LIMITED

AND
Gregory Petrele, Attorney-in-Fact

SURETY's Address 175 Capital Boulevard, Suite 103
Rocky Hill, CT 06067

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CONTRACT: 2015 6374 J

Appendix 3: Form of Performance Bond No.

\$ 10,000,000.
No.

KNOW ALL MEN BY THESE PRESENTS THAT _____ hereinafter called "PRINCIPAL", and _____ a corporation created and existing under the laws of _____ and duly authorized to transact the business of Suretyship in _____ hereinafter called "SURETY", are held and firmly bound unto Chosee LOB, hereinafter called "OBLIGEE", in the amount of Ten Million Dollars (\$10,000,000) lawful money of Canada, for the payment of which sum, well and truly to be made, PRINCIPAL and SURETY, jointly and severally, bind themselves and each of them and their and each of their heirs, executors, administrators, successors and assigns firmly by these presents.

WHEREAS, PRINCIPAL has submitted a written Contract to OBLIGEE, dated the ____ day of _____, 20____, for Contract in accordance with the Specifications and Drawings submitted therefor which Contract, Specifications and Drawings, are by reference made part hereof and hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if PRINCIPAL shall promptly and faithfully perform the Contract then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Whenever PRINCIPAL shall be, and declared by OBLIGEE to be, in default under the Contract, OBLIGEE having performed OBLIGEE's obligations up to the time of default thereunder, SURETY may promptly remedy the default, or shall promptly:

- (1) complete the Contract in accordance with its terms and conditions; or
- (2) obtain a bid or bids for submission to OBLIGEE for completing the Contract in accordance with its terms and conditions, and upon determination by OBLIGEE and SURETY of the lowest responsible bidder, arrange for a contract between such bidder and OBLIGEE and make available as work progresses (even though there should be a default or a succession of defaults, under the contract or contracts of completion, arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract price; but not exceeding, including other costs and damages for which SURETY may be liable hereunder, the amount hereinbefore set forth. The term "balance of the Contract Price", as used in this paragraph, shall mean the total amount payable by OBLIGEE to PRINCIPAL under the Contract, less the amount properly paid by OBLIGEE to PRINCIPAL.

Any suit under this Bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract is due.

SURETY shall not be liable for a greater sum than the specified amount of this Bond.

No right of action shall accrue on this Bond to, or for the use of, any person or corporation other than OBLIGEE named herein, or the heirs, executors, administrators or successors of OBLIGEE.

PROVIDED, HOWEVER, that no variation or alteration which may be made in the said Contract, or in the extent, nature, or method of performance of the Work to be performed thereunder, and no extension of time given by OBLIGEE for the performance of the said Contract, nor any waiver, forbearance or forgiveness on the part of either PRINCIPAL or OBLIGEE to the other shall in any way release PRINCIPAL and SURETY, or either of them, their heirs, executors, administrators, successors and assigns from their liability hereunder;

Jan 2, 2015

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SCHEDULE A-TENDERSUBMISSION Page 18
CONTRACT: 2015-03274-JW

notice to SURETY of such variation, alteration, extension, waiver, forbearance or forgiveness being hereby expressly waived.

AND IT IS HEREBY DECLARED AND AGREED that SURETY shall be liable under this obligation as fully as if it were PRINCIPAL and that nothing of any kind or nature whatsoever that will not discharge PRINCIPAL shall operate as a discharge or a release of liability to SURETY, any law, rule or equity or usage relating to the liability of sureties to the contrary notwithstanding.

IN TESTIMONY, WHEREOF, PRINCIPAL, has hereto set its hand and affixed its seal, and SURETY has caused its corporate seal to be affixed hereto, in accordance with its regulations and in the presence of its duly authorized

officers this day of 20

THE COMMON SEAL OF PRINCIPAL
was hereon affixed in the presence of:

By

And (Seal)
(PRINCIPAL)

(Witness)

THE COMMON SEAL OF SURETY
was hereon affixed in the presence of:

By

And (Seal)
(SURETY)

(Witness)

SURETY's Address

Jun 2015

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SCHEDULE A - TENDER SUBMISSION Page 18
CONTRACT : 2018-83274-JW

Appendix 8: Tender Information

(A) Statement of Financial Standing

Tenderer shall provide copy of its financial statements if requested by Buyer.

Include name(s) and address(es) of Chartered Bank(s) or Financial Firm(s), or both, for reference(s).



(B) Insurance Summary

Pursuant to SCHEDULE A- INSTRUCTIONS TO TENDERERS and SCHEDULE B GENERAL CONDITIONS, and SCHEDULE C SPECIAL CONDITIONS the following is a list of insurance coverage Tenderer proposes to maintain over the life of the Contract:

Tenderer to complete insurance summary Freightpoint Commodities LLC will carry General Liability Insurance with a \$3 million limit and an Excess Liability policy with a \$10 million limit.

(C) Previous Experience

Complete the following statement of work Tenderer has undertaken during the past five (5) years or is presently engaged in completing similar to that on which it is tendering. (Attach company brochures and other relevant material to fully illustrate the experience, ability, plant and resources to be made available for the Work):

Supply Newfoundland & Labrador Hydro fuel oil for utility burn: David Loane has been involved in supplying fuel oil to Newfoundland & Labrador Hydro either directly or indirectly for over 10 years during the last 18 year period. David Loane supplied 2.2% during his tenor at Westport Petroleum and then he supplied Newfoundland & Labrador Hydro indirectly through P&G during his tenor at Trafigura. Prior to his departure from Trafigura he was successful in obtaining the latest supply contract for Newfoundland & Labrador Hydro.

The Freightpoint Commodities LLC fuel oil team has over 80 years of experience combined between Robert Peck, David Loane, Hugh Murtha and Glean Oztemel. Much of this team worked for Sempna Energy and they were instrumental in developing the utility business on behalf of the fuel oil team.

Jan 2019

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SCHEDULE A-TENDER SUBMISSION Page 110
CONTRACT: 2015-63274-Jwj

(D) Work in Progress

Complete the following statement of work which Tenderer is presently engaged in completing and which is similar in character to that described in this Contract.

Description of the Work	Client	Period of Contract	Tendered Value
a. Freepoint Commodities LLC currently supplies Florida Power & Light fuel oil for their utility generation in Maine and Florida. Robert Peck, who previously was the buyer for Mirant Energy and Southern Company, currently leads the fuel oil team at Freepoint Commodities LLC. Rob understands the dynamics of the utility business and gives Freepoint Commodities LLC an added advantage in understanding the needs of our customers.			
b. Freepoint Commodities LLC currently is supplying fuel oil to Lebanon and Egypt for utility burn. Since January of 2015 we have supplied over 2 million barrels to these locations and we continue to provide fuel oil for their power generation.			

Jan 2015

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SCHEDULE A- TENDER SUBMISSION Page 111
CONTRACT: 2016-63274-JW

Appendix B: Permission letter-Safety Record

To:
Workplace Health, Safety and Compensation Commission
and to:
Occupational Health & Safety Branch of Service Newfoundland and Labrador

Fax: (709) 778-1110
Fax: (709) 729-3445

Please PROVIDE to

Newfoundland and Labrador Hydro
Fax: (709) 737-1788
Attention: Joe Wilson, Buyer,
Supply Chain

Reference CONTRACT: 2016-63274-JW

Information concerning our injury statistics and safety record, solely for their use in relation to the above-referenced tender.

Signed by


(Tenderer)

Freepoint Commodities LLC

(Name of TENDERER)

58 Commerce Road, Stamford, CT

(Address of TENDERER)

06902

POSTAL CODE:

TELEPHONE: 203-548-8000

FAX: 203-724-0808

Permission letter for use of

Newfoundland and Labrador Hydro,
P.O. Box 12400
Supply Chain Department
4th Level, Hydro Place
St. John's, Newfoundland and Labrador
A1B 4K7

Jan 26/16

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SCHEDULE A-TENDER SUBMISSION Page | 12
CONTRACT: 2015-03274-RWJ

Appendix 18: Schedule of Prices

PREAMBLE

The unit and lump sum prices in the Schedule of Prices shall be the full inclusive value of the Work described, including all costs and expenses which may be required in and for the construction of the Work, together with all general risks, liabilities and obligations set forth or implied in the Contract Documents on which the Tender is based.

A unit price or lump sum price shall be entered against each item in the Schedule of Prices. If no unit price is entered, then the Tender may be considered as incomplete by Buyer.

The quantities stated are only estimates and the unit prices entered in this Schedule of Prices shall apply to the actual quantities required for and measured in the completed Work in accordance with the Specifications.

Prices shall exclude the Harmonized Sales Tax (HST), and the applicable HST will be paid as provided for in the Contract Documents.

Tenderer shall price every item provided in the Schedule of Prices, including those listed as optional items. Buyer will evaluate all Tenders subject to the criteria specified in Clause IT 15-Evaluation of Tender.

Tenderers are required to price optional items. Buyer may decide not to proceed with any optional item, in which case those optional items will not be considered in the Tender evaluation.

Dependent upon internal budget restraints, after acceptance of a Tender, Buyer, in its sole discretion, may elect to delete any optional item in the Schedule of Prices and the Contract Price shall be reduced by the amount of the price tendered for such deleted item. Schedule of Prices is posted in electronic format on our website. Contractors are required to submit their offer online and upload this completed Schedule A Tender Submission.

The electronic Schedule of Prices will form part of the contract.

Freepoint Commodities LLC

Tenderer's Name (please print)

Signature of Authorized Representative

826946119 RT0001

(GST/HST Registration Number)

Signature Name (please print)

Anthony A. Sautore
Managing Director

Dated at Stamford, CT

this 7th day of August, 2015.

Witness

Jan 2015

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SCHEDULE A - TENDER SUBMISSION Page | 14
CONTRACT: 2015-63274-JW

Appendix 11: Certificate of Insurance

DELIVER TO: NEWFOUNDLAND AND LABRADOR HYDRO
SUPPLY CHAIN, 500 COLUMBUS DRIVE, OR MAIL TO:
PO Box 12400, St. John's, NL Canada A1B 4K7, t.709.737.1400 f 709.737.1795 www.nlh.nl.ca

DESCRIPTION & LOCATION OF WORK:

Supply & Delivery of No. 6 Fuel Oil to the Holyrood Thermal Generating Station

CONTRACT NO. 2015-63274-JW

AWARD DATE:

VALUE (incl. BUYER-FURNISHED MATERIALS) \$

INSURER

NAME:

ADDRESS:

BROKER

NAME:

ADDRESS:

INSURED

CONTRACTOR'S NAME:

ADDRESS:

ADDITIONAL INSURED (Excluding Automobile Liability Policy)

NEWFOUNDLAND AND LABRADOR HYDRO

THIS DOCUMENT CERTIFIES THAT THE FOLLOWING POLICIES OF INSURANCE AND INDICATED COVERAGES ARE AT PRESENT IN FORCE SUBJECT TO THE TERMS, CONDITIONS AND EXCLUSIONS AS CONTAINED THEREIN COVERING THE OPERATIONS OF THE INSURED IN CONNECTION WITH THE ABOVE NOTED CONTRACT MADE BETWEEN THE NAMED INSURED AND Choose LOB.

POLICY TYPE	NUMBER	INCEPTION DATE	EXPIRY DATE (Y/M/D)	LIMITS OF LIABILITY
1. <input checked="" type="checkbox"/> Commercial General Liability OR <input type="checkbox"/> Wrap-up Liability Including where indicated: <input type="checkbox"/> Blasting <input type="checkbox"/> Pile Driving or Caisson Work <input type="checkbox"/> Removal or Weakening of Support <input type="checkbox"/> Environmental Impairment <input type="checkbox"/> Forest Fire Fighting Expense (min. \$250,000) <input type="checkbox"/> Hook/Hoist/Rigging (min. \$)				MINIMUM \$1,000,000.00
2. <input type="checkbox"/> Builders' Risk "Broad Form" OR <input type="checkbox"/> Installation Floater "Broad Form" OR <input type="checkbox"/> Piers, Wharves & Docks Rider				\$100% OF VALUE
3. <input checked="" type="checkbox"/> Automobile Liability Insurance				MINIMUM \$1,000,000.00
4. <input type="checkbox"/> Aircraft and/or Watercraft Liability Insurance (If Applicable)				MINIMUM \$1,000,000.00

THE INSURER AGREES TO NOTIFY Choose LOB., IN WRITING, THIRTY (30) DAYS PRIOR TO CANCELLATION OR MATERIAL CHANGE OF ANY POLICY, EXCEPT IN THE EVENT OF NON-PAYMENT WHERE POLICY CONDITIONS DEALING WITH TERMINATION WILL APPLY.

NAME (print):	SIGNATURE:	DATE
INSURER'S OFFICER OR AUTHORIZED REPRESENTATIVE		TEL. NO.

ISSUANCE OF THIS CERTIFICATE SHALL NOT LIMIT OR RESTRICT THE RIGHT OF NEWFOUNDLAND AND LABRADOR HYDRO TO REQUEST AT ANY TIME DUPLICATE CERTIFIED COPIES OF SAID INSURANCE POLICIES UPON REQUEST.

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SCHEDULE A-TENDER SUBMISSION Page 114
CONTRACT: 018-03274-J

Appendix 11: Certificate of Insurance

DELIVER TO: NEWFOUNDLAND AND LABRADOR HYDRO
SUPPLY CHAIN, 500 COLUMBIA DRIVE, ST. JOHN'S
PO Box 12400, St. John's NL Canada A1B 4K7 709 737 1400 / 709 737 1795 www.nh.nl.ca

DESCRIPTION & LOCATION OF WORK: Supply & Delivery of No. 5 Fuel Oil to the various Thermal Generating Station	
CONTRACT NO: 018-03274-J	AWARD DATE: 1 (VALUE) AND 2 (VALUE) - 2015-2016
INSURER:	

INSURER:
BROKER:
INSURED:
CONTRACTOR'S NAME:
ADDRESS:
ADDITIONAL INSURED (Excluding Automobile Liability Policy):
NEWFOUNDLAND AND LABRADOR HYDRO

THIS DOCUMENT CERTIFIES THAT THE FOLLOWING POLICIES OF INSURANCE AND ENDORSEMENTS ARE IN EFFECT FOR THE PERIOD SHOWN IN THE TABLE, CONDITIONS AND EXCLUSIONS AS CONTAINED THEREIN COVERING THE OPERATIONS OF THE INSURED IN CONNECTION WITH THE ABOVE NOTED CONTRACT. VALUE OF WORK: \$1,000,000.00 AND \$1,000,000.00

POLICY TYPE	NUMBER	START DATE	EXPIRATION DATE	LIMITS OF LIABILITY
1 X Commercial General Liability OR - Wrap-up Liability Including where no-claims. - Siting - Removal or Weakening of Support - Forest Fire Fighting Expense (min \$250,000) - Hook/Hole/Rigging (min \$)				MINIMUM \$1,000,000
2 - Builders' Risk "Broad Form" OR - Installation Floater "Broad Form" OR - Piers, Wharves & Docks Rider				\$100% OF VALUE
3 X Automobile Liability Insurance				MINIMUM \$500,000.00
4 - Air, Refrigerant, Watercraft Liability Insurance (if applicable)				MINIMUM \$1,000,000.00

THE INSURER AGREES TO NOTIFY CROWN LOSS INSURANCE, THIRTY (30) DAYS PRIOR TO CANCELLATION OR MATERIAL CHANGE OF ANY POLICY EXCEPT IN THE EVENT OF NON-PAYMENT WHERE POLICY CONDITIONS DEALING WITH TERMINATION WILL APPLY

NAME	SIGNATURE	DATE
PRINTED:	INSURER'S OFFICIAL AUTHORIZED REPRESENTATIVE	TITLE

ISSUANCE OF THIS CERTIFICATE SHALL NOT IMPLY ASSUMPTION OF RESPONSIBILITY AND LABRADOR HYDRO TO REQUEST AT ANY TIME DUPLICATE CERTIFIED COPIES OF SAID INSURANCE POLICIES UPON REQUEST

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Appendix 11 - Page 2

AGENCY CUSTOMER ID: 278264

LOC #: Portland



ADDITIONAL REMARKS SCHEDULE

Page 2 of 2

AGENCY MARSH USA INC.		NAMED INSURED Fresco Commodities Holdings, LLC (See Page 2) Attn: Neil Swan 88 Commerce Road Stamford, CT 06902	
POLICY NUMBER		EFFECTIVE DATE	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

Ultimate Excess Liability participants:
ACE Property & Casualty Ins Company, X0037783135
State Surplus Lines Insurance Company, Policy #00030333181
Rhino Union Insurance Company, 02428874004
Endurance Reinsurance Corp of America, X0010007324700
American Guarantee & Liability Ins Co, AEC047778203
Indian Harbor Insurance Co, US00067955115A
Great American Ins Co of New York, EXCS105794
Tennessee Property Casualty Company of America, ZUP-21N4897A-15-NP
Lloyd's Syndicate 9148 (NY), PG1900979
Axis Surplus Line Insurance Co, ENU782053/072018
Ohio Casualty Insurance Company, ECO (10) 66151235
Navigation Specialty Insurance Company, NY15EXC748510V

Named insured includes:
Fresco Commodities LLC
Fresco Commodities Enterprises Ltd.
Fresco Commodities Trading and Marketing LLC
Fresco Commodities Oil Trading GmbH
Fresco Metals & Commodities LLC
Fresco Singapore PTE Ltd.

ACORD

DATE (MMDDYY)
0804/2015

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MARSH USA INC. 111 S.W. COLUMBIA FIFTH FLOOR PORTLAND, OR 97201 Alt: Portland.ore@marsh.com; Fax:212.946.0507 278284-SPEC-GAWUP-15-18	INSURANCE MARSH 111 S.W. COLUMBIA FIFTH FLOOR PORTLAND, OR 97201 Alt: Portland.ore@marsh.com; Fax:212.946.0507
INSURED Freepoint Commodities Holdings, LLC (See Page 2) Alt: New York 58 Commerce Road Stamford, CT 06902	INSURANCE AFFORDING COVERAGE INSURANCE A: ACE American Insurance Company INSURANCE B: Various - See Attached INSURANCE C: N/A INSURANCE D: N/A INSURANCE E: INSURANCE F:

COVERAGES	CERTIFICATE NUMBER:	SEA-00001190-01	REVISION NUMBER:0
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.			

TYPE OF INSURANCE		ACCOUNT NUMBER	POLICY NUMBER	POLICY EFF. DATE	POLICY EXP. DATE	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		G24821581003	07/01/2015	07/01/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PROPERTY (Per occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 1,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					\$ \$ \$ \$ \$ \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB. <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB. <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> CND <input type="checkbox"/> RETENTION		Various - see page 2	07/01/2015	07/01/2016	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
	WORKING COMPENSATION AND EMPLOYERS' LIABILITY ANY PERSONS OR PARTIES OR EXECUTIVES OFFICERS OR INSURANCE EXCLUDED (Exempted in 10) If yes, describe under OPERATIONS below					PER-EMPLOYEE <input type="checkbox"/> OTHER <input type="checkbox"/> E.I. EACH ACCIDENT \$ E.I. DISEASE - SA EMPLOYEES \$ E.I. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Evidence of Insurance

CANCELLATION

Newfoundland and Labrador Hydro PO Box 12400 St John's, NF A1B 4K7 CANADA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE of Marsh USA Inc. Debra L. Schlosser <i>Debra L. Schlosser</i>

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SCHEDULE C – SPECIAL CONDITIONS Page | 16
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**SCHEDULE C –
SPECIAL CONDITIONS**

Jan 2015

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SCHEDULE C – SPECIAL CONDITIONS Page | 17
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SC 1 Product Quality

- .1 The Product to be supplied shall be No. 6 fuel oil. It shall be delivered as a blended parcel, containing no pitch as a blend component, and having no offensive odour with properties as determined by the most current edition of the stated ASTM test methods, conforming to the specification limits as follows:

Property	Minimum	Maximum	Test Methods
API at 15°C	10.0		ASTM D1298 or ASTM D4052
Higher heating value ¹	6,400,000 Btu/US barrel		ASTM D240
Flash Point	66 °C		ASTM D93
Pour Point (Lower Pour Point)		15 °C	ASTM D97
Kinematic Viscosity @ 50°C	100 mm ² /s (cSt)	700 mm ² /s (cSt)	ASTM D445
Sulphur , mass %		0.70%	ASTM D4294
Ash, mass %		0.1%	ASTM D482
Sediment, mass %		0.2%	ASTM D473
Water (Max acceptable = 1.0% by volume) ²		0.50%	ASTM D95
Cleanliness		1	ASTM D4740
Asphaltenes, mass %		8	ASTM D6560
H ₂ S		2.00 mg/kg	IP 570
Aluminium		50 mg/kg	ASTM D5184 (Method A will be referee)
Silicon		75 mg/kg	ASTM D5184 (Method A will be referee)
Vanadium		200 mg/kg	ASTM D5708 (Method B) or ASTM D5863(Method A)
Sodium ³		50 mg/kg	ASTM D5708 (Method B) or ASTM D5863(Method A) ⁴
Nickel		Report	ASTM D5708 (Method B) or ASTM D5863(Method A)

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SCHEDULE C – SPECIAL CONDITIONS Page | 18
CONTRACT: 2015-63274-JW

Total sediment (%mass/mass)		0.20	D 4780 Procedure A (thermal aging)
--------------------------------	--	------	---------------------------------------

- 1 For price adjustment purposes as outlined in Clause IT 11.4, Seller must specify a Guaranteed Higher Heating Value in Form of Tender Item (e). Sulphur content maximum value is subject to change as per Article SC 15.
- 2 If the average of the results of Water testing by the First Analyst and Second Analyst, each described in Clause SC 3 – Quantity Measurement and Quality Testing exceeds 0.50% water by volume, for purposes of calculating payment, the quantity of Product received will be reduced by the percentage calculated by subtracting 0.50% from the average of the results of Water testing by the First Analyst and Second Analyst.
- 3 Sodium should be reported using D5708 or D5863A, even though D5863B lists sodium as a reportable parameter.
- .2 Vessels discharging at Holyrood at the Generating Station shall be capable of maintaining a minimum discharge temperature of 38° C while ensuring the cargo is discharged within the specified laytime in section SC 5.1. while never exceeding 860 kPa discharge pressure at the loading arm as measured at the Jetty Control Room.
- .3 In the event that Product delivered hereunder does not meet specifications as set forth in this Contract:
 - (a) Buyer shall give Seller an opportunity to bring such Product into compliance with the Contract within a reasonable period of time; or
 - (b) Seller shall pay to Buyer a mutually agreed upon sum as compensation for the non-compliance of the Product; or
 - (c) Seller shall, within a reasonable period of time, remove the Product not in compliance with the specifications in this Contract at Seller's expense.
- .4 Seller shall provide Buyer with an Analysis of Product Quality from an independent inspection service, mutually agreed upon by Buyer and Seller, prior to delivery of Product to Site and the issuance of the Notice of Readiness. The analysis shall contain the results of the independent inspector's analysis of the Product loaded aboard the marine vessel, shall identify the inspector and shall contain Inspector's certification that such Product meets the contractual specifications.

SC 2 Delivery and Schedules

- .1 Seller shall deliver Product to the Site in marine vessels in quantities as previously approved by Buyer. Seller shall deliver Product at not less than 38° C discharge temperature.
- .2 Buyer will provide a safe berth where a marine vessel with a maximum dead weight tonnage of 55,000 metric tonnes and a maximum draft of 35 feet at mean low water can proceed to, lie at and depart from Buyer's berth always safely afloat.
- .3 Buyer warrants and guarantees to Seller that its oil handling facilities at the Thermal Generating Station are, under normal operating conditions, capable of accepting the discharge of Product from Seller's marine vessel at pressures of up to 860 kPa through two (2) Class 125 nominal twelve inch diameter (2 @ 12" dia.) flanges.

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- .4 Buyer shall furnish a Firm Order to Seller at least twenty-five (25) days in advance of the requested delivery timeframe of seven (7) days, plus or minus three (3) days of the requested desired delivery date. In addition, by the fifth working day of each month, Buyer shall furnish Seller an estimate, subject to change, for quantity and delivery of Product for the following three (3) months. Seller shall promptly acknowledge receipt of each such notice.
- .5 Seller shall, within five (5) working days of receipt of a Firm Order, confirm or deny in writing the desired delivery date and quantity. If denied, the parties will negotiate in good faith to establish a mutually satisfactory delivery date and quantity. Buyer will not unreasonably reject Seller's suggested alternate delivery date or quantity, however, Seller agrees that its suggested alternative date and quantity shall not be more than five (5) days later than the date denied nor so far in advance of Buyer's desired arrival date or quantity such that the delivery cannot be handled in Buyer's 840,000 Barrels Holyrood storage facility.
- .6 Once Seller has confirmed in writing the desired delivery date and quantity, if delivery is more than three (3) days after the Accepted Delivery Date, Seller shall compensate Buyer for such delay by paying to the Buyer an amount equal to fifty thousand dollars (\$50,000) for each day or part of a day beyond the desired delivery date that the delivery is late. Buyer will not unreasonably reject an alternative quantity or advance delivery date suggested by Seller, so long as the quantity and date can be accommodated in Buyer's 840,000 Barrels Holyrood storage facility and will not affect or interfere with the production, operation, safety or environment at the Holyrood Thermal Generating Station and/or the Site.

SC 3 Quantity Measurement and Quality Testing

.1 Inspection Services

The services of independent testing companies shall be used to:

- (a) measure the quantity of Product delivered and received in each cargo; and
- (b) perform tests and analyses on Product quality; and

to provide any other quality and quantity testing services as provided for within this Article.

The selection of independent testing companies shall be jointly agreed to in writing by Buyer and Seller, and at any one time there shall be a minimum of three (3) such companies approved.

For each cargo received, three (3) independent testing companies, from a jointly approved list of independent testing companies, shall be used. Buyer and Seller shall jointly agree in writing to the designation of which of such independent testing companies shall function in the capacities as provided for later in this Article. The designations shall be made prior to delivery of the Product and prior to the issuance of the Notice of Readiness and in sufficient time to enable the independent testing companies to perform their duties.

For purposes of this Article references to any one of the selected independent testing companies shall use the applicable reference as defined in following paragraphs.

One of the independent testing companies shall be nominated as the "Inspector", to perform the functions provided for in Clauses SC 3.3 and SC 3.4.

The independent testing company nominated as the Inspector shall also serve as the "First Analyst" to perform the functions provided for in Clause SC 3.4.

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Another independent testing company shall be nominated as the "Second Analyst", to perform the functions provided for in Clause SC 3.4.

One of the independent testing companies shall be nominated as the "Referee", to perform the functions provided for in Clause SC 3.5, if required. Such company shall not be one of the companies nominated as First Analyst or Second Analyst.

Seller shall notify each of the selected companies of their nomination for their respective assignments, and shall advise the Inspector which independent testing companies are the First Analyst and the Second Analyst.

Services performed by inspection companies shall follow the procedure outlined herein.

.2 Inspection Services If Disagreement Between Parties

If the Buyer and Seller are unable to agree on the selection of independent testing companies as provided for in Clause SC 3.1, the selection of independent testing companies that will provide the quality and quantity testing services as provided for within this Article shall be as follows:

The Buyer shall designate an independent testing company to serve as the First Analyst and Inspector to perform the functions provided for in Clauses SC 3.3 and SC 3.4.

The Seller shall designate an independent testing company to serve as the Second Analyst to perform the functions provided for in Clause SC 3.4

If required, a third independent testing company shall be nominated as the Referee to perform the functions provided for in Clause SC 3.5. Such company shall not be one of the companies nominated as First Analyst or Second Analyst. The Buyer and Seller shall alternate the nomination of the Referee, with the Buyer nominating the Referee in the first instance that this Clause SC 3.2 is relied upon by the parties.

.3 Inspector

The Inspector shall measure the quantity of Product delivered and received into Buyer's shore tanks, within three hours of Discharge based on Buyer's shore tank gauges and corrected to that quantity at 15°C in accordance with ASTM D-1250 Table 6B.

The Inspector shall make a volumetric composite sample of the Product in accordance with ASTM D-4057 standards. The Inspector shall divide the sample into three lots and place each lot into a sealed container.

The Inspector shall send one lot, for analysis, to each of the First Analyst and the Second Analyst, as instructed by Seller. The other lot shall be retained by Inspector for a minimum period of ninety (90) days as a referee sample.

.4 Analysis

The First Analyst and Second Analyst shall each analyse their respective samples for the properties of the Product stated in Article SC 1 - Product Quality, in accordance with the most current edition of the stated ASTM test methods.

In addition, each sample shall be analyzed by the First Analyst (unless prior approval of Buyer and Seller is obtained to have the tests performed by another laboratory) as follows:

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- an Ultimate Analysis test (carbon, hydrogen, nitrogen and oxygen) of the storage tanks into which the Product was discharged,
- A test for sulphur (ASTM D-4294) and a test for ash content (ASTM D-482) of the storage tanks into which the Product was discharged.

The ultimate analysis and tests for sulphur and ash content results may be forwarded under separate cover.

First Analyst and Second Analyst shall each provide to Buyer and to Seller written notification of the results of their respective analyses.

.5 Reproducibility

If, vanadium, aluminium, silicon or water values as determined by First Analyst and Second Analyst do not demonstrate reproducibility within ASTM standard limits, the Inspector, upon written notice from either Buyer or Seller, shall send the referee sample to the Referee.

The Referee shall perform analysis upon the referee sample to determine the Vanadium, Aluminium, Silicon or Water Values using the test methods stated in Clause SC 3.4.-

Referee shall provide to Buyer and to Seller written notification of the results of its analysis.

.6 Sampling and Analysis Costs

Sampling and Analysis Costs shall be borne equally by Buyer and Seller.

.7 Determination of Values of Analysed Properties

For purposes of the Contract, for each cargo delivered, the value assigned to each of the properties analysed shall be deemed to be the average of the values determined by the First Analyst and the Second Analyst except as provided for in the following paragraph.

Where the Referee has performed an analysis in accordance with the requirements of Clause SC 4.4, the Vanadium, Aluminium, Silicon or Water value resulting from the Referee's analysis shall be averaged with whichever value, as determined by the First Analyst or the Second Analyst, is closer to the value determined by the Referee, and the resultant average shall be deemed the Vanadium, Aluminium, Silicon or Water value of the specific cargo of the Product.

SC 4 Ownership

Ownership of the Product sold and delivered hereunder and all risks of loss and damage caused by or resulting from such Product or the sale or delivery thereof shall pass from Seller to Buyer upon passage through the Delivery Point at Site.

SC 5 Demurrage

- .1 Laytime of thirty-six (36) hours shall be permitted Buyer for receiving discharge of cargo. Such laytime shall commence the earlier of:**
- six (6) hours after acceptance of Notice of Readiness given by the marine vessel; or
 - when the marine vessel is all fast in berth;
- whichever first occurs, and shall end when discharge hoses are disconnected.

However, the Buyer shall have the right to refuse the Notice of Readiness given by the marine vessel if it would unreasonably interfere with the production, operation, safety or environment

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of the Holyrood Thermal Generating Station or the Site.

Delays caused to the vessel getting into berth after giving Notice of Readiness for any reason over which Buyer has no control, or before or after berthing, due to:

- the marine vessel's condition; or
- marine vessel breakdown; or
- inability of the marine vessel's facilities to discharge within the time allowed; or
- a stoppage in discharge resulting from a spill of Product before passage through the last permanent flange of Seller's marine vessel; or
- strike, lockout, stoppage or restraint of labour of the master, officers or crew of the marine vessel or any tugboats;

shall not count as used laytime for the calculation of demurrage. For each hour or portion thereof that the vessel exceeds the allowed laytime for discharge Buyer shall pay Seller demurrage calculated as follows:

- (a) for vessels chartered by Seller on a single voyage charter party, at the actual rate applicable to that voyage, or
- (b) for vessels owned by Seller or term chartered by Seller, at the prevailing single voyage market rate current on the date of commencement of loading of the voyage concerned for a vessel of similar type and size. Such market rate shall be expressed in points of the Worldscale tanker nominal freight rate scale as amended from time to time or such other freight scale as may be issued in replacement thereof and applied to the demurrage rate quoted in U.S. dollars appropriate to the size of the vessel provided for in the aforementioned freight scale. In default of agreement between Buyer and Seller, the market rate shall be determined by shipping brokers nominated by agreement between Buyer and Seller, or, in default of such agreement, by the Chairperson of the London Tanker Broker's Panel.

Delays which occur after the marine vessel has given a Notice of Readiness for any reason over which Buyer has no control due to:

- the marine vessel's condition; or
- marine vessel breakdown; or
- inability of the marine vessel's facilities to discharge within the time allowed; or
- a stoppage in discharge resulting from a spill of Product before passage through the last permanent flange of Seller's marine vessel; or
- strike, lockout, stoppage or restraint of labour of the master, officers or crew of the marine vessel or any tugboats;

shall not count as used laytime for the calculation of demurrage.

.2 If, however, demurrage shall be incurred by reason of:-

- fire; or
- explosion, or
- a stoppage in discharge resulting from a spill of Product after passage through the last permanent flange of Seller's marine vessel; or
- a strike, lockout, stoppage or restraint of labour; or
- breakdown of machinery or equipment;

in Buyer's receiving facility, the rate of demurrage shall be one-half of that stated above.

Except as otherwise provided in Clause SC 5.3, if demurrage shall be incurred by reason of storm or other adverse weather condition, Buyer shall pay to Seller one-half of the amount paid by Seller as demurrage as a result of such storm or condition.

.3 Notwithstanding anything otherwise contained in this Contract, where demurrage is incurred by Seller by reason of Buyer's dock at Thermal Generating Station being inaccessible owing to ice conditions, then:

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- (a) demurrage time shall not begin for Buyer's account until notification by Seller to Buyer of such inaccessibility;
- (b) when Seller has given notice to Buyer under item (a) of this Clause, Buyer shall exercise one of the following options:
 - (i) direct that the vessel proceed to another port or point of discharge free from ice and containing facilities for the reception of the cargo in bulk, or
 - (ii) direct that the vessel remain in the vicinity of the vessel's position when it was determined that Buyer's dock was inaccessible, or
 - (iii) direct that Seller attempt to identify a third party purchaser for the cargo, on the most favourable available terms, and if Seller proposes a third party purchaser that is accepted by Buyer, Buyer shall reimburse Seller to the degree that Seller fails to realize the equivalent to the then effective Selling Price to Buyer subject to adjustment to cover any change in cost incurred by Seller in making such delivery and Seller shall promptly comply with such direction;
- (c) On the vessel reaching the point of discharge, the provisions of Clauses SC 5.1 and SC 5.2 hereof, including the allowance of six (6) hours before commencement of laytime, shall apply;
- (d) the rate for demurrage to be paid by Buyer to Seller for demurrage payable under this Clause SC 5.3 shall be computed at fifty percent (50%) of the demurrage rate provided for in Clause SC 5.1 hereof, any payment at such rate computed against the time provided for in this Clause shall be the only charge by Seller to Buyer for demurrage with respect to the period prior to commencement of laytime pursuant to Clause SC 5.1 hereof;
- (e) Subsequent to discharge and where, owing to adverse ice conditions at the Thermal Generating Station, the vessel is unable to leave Buyer's dock or after leaving Buyer's dock the vessel's progress is restricted by the said adverse ice conditions, Buyer agrees to reimburse Seller for 50% of demurrage occasioned by the adverse ice conditions payable under this Article .
- (f) Buyer agrees to reimburse Seller for fifty percent (50%) of charges paid by Seller with respect to extra fuel consumed by the vessel as a consequence of complying with Buyer's election under paragraph (b) of Clause SC 5.3.

SC 6 Importation License

- .1 Buyer's obligation to purchase and receive the Product, or any delivery thereof, is subject to its holding the requisite licenses to import heavy fuel oil under the National Energy Board Act, Revised Statutes of Canada, 1985, Chapter N-7, as amended, or any Act passed in substitution thereof.
- .2 Buyer shall diligently take all reasonable steps to obtain and hold in place the licenses referred to in this Contract.

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SC 7 Successors and Assigns

This Contract shall be binding upon and shall enure to the benefit of successors of the parties hereto. Neither party may assign this except for an assignment for purposes of security and except that Seller may assign this Contract to its affiliates, provided that upon any such assignment Seller shall guarantee, and shall be deemed to have guaranteed, the performance of the obligations hereunder by the affiliate to which this Contract is assigned. For purposes of this Article, Seller's affiliates include companies controlled by, in control of, or under common control with Seller. In the event of assignment to such an affiliate;

- (a) such affiliate shall be relieved of an obligation pursuant to Article SC 9 - Force Majeure only if, and only to the extent that, the act, omission or circumstance affecting the affiliate would have affected Seller in the same manner, and relieved Seller of such obligation, if such assignment had not taken place; and
- (b) such affiliate shall be at liberty to reduce deliveries pursuant to Article SC 2 - Delivery and Schedules only when, and to the extent that, such reduction would have occurred from Seller if no such assignment had taken place; and
- (c) Seller, without restricting its obligations to Buyer, set out above or otherwise, guarantees that the availability of Product to Buyer, or the price of Product to Buyer, shall not be adversely affected by reason of any assignment made pursuant to this Article.

SC 8 Governing Law and Forum

This Contract shall be governed by and construed in accordance with the laws of the Province of Newfoundland and Labrador, and every action or other proceeding arising hereunder shall be determined exclusively by a court of competent jurisdiction in the Province of Newfoundland and Labrador, subject to the right of appeal up to the Supreme Court of Canada where such appeal lies.

SC 9 Force Majeure

- .1 Neither party shall be considered to have breached its obligations (except as to Buyer's obligation to pay for residual fuel oil delivered by Seller and Buyer's obligation, if any, to pay demurrage as provided in Article SC 5 - Demurrage) by reason of any act, omission or circumstances occasioned by or in consequence of any acts of God, strikes, lockouts, acts of public enemy, wars, fire, epidemic, earthquakes, floods, explosions, orders of governmental authority or any other cause, whether of the kind enumerated or otherwise not within the control of such party nor any act, omissions or circumstances which such party is unable to prevent or overcome by the exercise of due diligence, including as to Seller, its suppliers of residual fuel oil or crude oil.
- .2 If, by reason of any of the causes described in Clause SC 9.1, there is a shortage of residual fuel oil resulting in a decrease in the quantity or quantities of residual fuel oil available to Seller from its affiliates and under its contracts for the purchase or other acquisition of such residual fuel oil (such decrease not being wilfully caused by Seller or its affiliates) other than by expiration of the term of existing contracts, or failure to renew or replace contracts as they expire, so that Seller is unable to fully comply with all of its obligations to Buyer and others to whom it is bound under then existing contracts, Seller shall be at liberty to reduce deliveries under this Contract to such extent as it in its judgment may see fit, as part of its prorating of

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available supplies and shall not be required to purchase supplies to make good any shortages resulting therefrom. Buyer shall be free to purchase from other suppliers any deficiencies hereunder caused by the operation of this Article. However, Seller agrees to assist Buyer, if so requested, in purchasing efforts to fulfill any such deficiencies.

Furthermore, should prorating of available supplies be necessary, Seller undertakes not to reduce deliveries to Buyer to a greater proportionate extent than the reduction applied to public utilities supplied by Seller with Product of similar grade and quality in Canada or elsewhere.

SC 10 Modification

This Contract sets forth the entire understanding of the parties and supersedes all prior understandings and agreements between the parties with respect to the purchase and sale of the Product to be sold hereunder, and may not be modified or terminated orally. No claimed modification or waiver of any of its provisions shall be valid unless in writing and signed by both parties.

SC 11 Laws and Regulations

- .1 Seller shall observe and keep itself fully informed of, and shall comply with, all laws and regulations in effect or which may become effective in any manner affecting those engaged or employed in the Work, or in any way affecting the conduct of the Work, and of all orders and decrees of bodies or tribunals having jurisdiction or authority over the same. If any discrepancy or inconsistency should be discovered in the Contract in relation to any such law, Seller shall forthwith report the same in writing to Buyer.
- .2 Seller shall protect and indemnify Buyer from and against any and all liability from or based on the violation by Seller, Seller's subcontractors, agents, servants or employees of any such law or regulation.

SC 12 Performance of Work

Seller has entered into the Contract and shall perform the Work as an independent seller and not as an employee or agent of Buyer. Seller shall have exclusive and complete control over its employees or agents, and shall be solely responsible for their acts and omissions.

SC 13 Hazardous or Controlled Products

- .1 Seller shall not use or deliver a hazardous or controlled product, as defined by the Hazardous Products Act, Revised Statutes of Canada, 1985, Chapter H-3 as amended, for the purposes of this Contract without the prior approval of Buyer. If such products are approved by Buyer, Seller shall be familiar with and fully comply with the Hazardous Products Act, and the Workplace Hazardous Materials Information System (WHMIS) Regulations, CNLR 1149/96 under the Occupational Health and Safety Act, Revised Statutes of Newfoundland and Labrador, 1990, Chapter O-3, all as amended.

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- .2 Seller shall ensure that a hazardous or controlled product is not used, stored or handled for the purposes of the Contract unless all of the requirements of the aforesaid Act and regulations in respect of labels, identifiers, material safety data sheets (MSDS) and worker education are complied with.
- .3 Seller shall ensure that all persons who work with a hazardous or controlled product or work in proximity to a hazardous or controlled product are informed about all hazard information received from the supplier of the said product as well as any other hazard information of which Seller is aware of, or ought to be aware of, concerning the use, storage and handling of the hazardous or controlled product.
- .4 Seller shall ensure that, prior to delivery of the hazardous or controlled product to the Jobsite, it is labelled with the supplier's label or with a label in accordance with requirements of the aforesaid Act and regulations. Seller shall provide Buyer with all such information including MSDS prior to delivery of the hazardous or controlled product to the Jobsite.

SC 14 Environmental Protection

- .1 Buyer uses an Environmental Management System (EMS) registered to the ISO 14001 Standard. Buyer has an environmental policy that commits to compliance with legal and other requirements, prevention of pollution and continual improvement. Seller shall be aware of potential environmental impacts of the Work.
- .2 Seller shall protect the environment of the areas where the Work is located and the Work at all times shall be subject to inspection by Buyer and relevant provincial and federal governments. Any specific matters relating to environmental protection shall be dealt with between Seller and Buyer.
- .3 Seller shall supply Buyer with a copy of a declaration conforming to the requirements of section 660.2(2) of the Canada Shipping Act, Revised Statutes of Canada, 1985, Chapter S-9, as amended.

SC 15 Substitution of Lower-Sulphur Fuel

If, during the term of the Contract, a requirement is imposed upon Buyer to use a fuel with a lower sulphur content, the specification for such fuel shall meet all requirements of Article SC 1 - Product Quality except that the sulphur content shall be specified by the Buyer at the time of giving a Firm Order and will be in the range of 0.3% to 0.7% sulphur by weight. The price paid for such substitute fuel will be as computed in Form of Tender items (h) and (i). All other provisions of the Contract will apply.

SC 16 Termination

Buyer may terminate the Contract upon giving Seller at least sixty (60) calendar days written notice. During the notice period, the terms and conditions of the Contract shall remain in full force and effect and Seller shall meet the identified delivery requirements of the Buyer.

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SC 17 Commencement of Contract Deliveries

Seller will be advised in accordance with the provisions of Clause SC 2.4 of Article SC 2 - Delivery and Schedules for the first delivery within five (5) working days of award of Contract.

SC 18 Claims

All claims for any cause whatsoever, whether based in contract, negligence or tort, strict liability or otherwise, shall be deemed waived unconditionally and absolutely unless Seller receives from Buyer, or Buyer receives from Seller, written notice of such claim not later than one hundred and eighty (180) days after Buyer's receipt of Product as to which such claim is made or not later than one hundred and eighty (180) days from the date fixed for delivery of Product in the case of non-delivery of Product.

