

## PETROLEUM PRODUCTS SUPPLY AGREEMENT

This Petroleum Products Supply Agreement (the "Agreement") is made on this \_\_\_\_\_ day of \_\_\_\_\_, 2010 (the "Effective Date").

### BETWEEN

\_\_\_\_\_, a company incorporated and existing under the laws of \_\_\_\_\_ and having its registered office at \_\_\_\_\_ (hereinafter referred to as the "**Buyer**"), which term shall include its affiliates, successors and assigns.

### AND

**OLIM PERAGRO,LLC**, a company existing under the laws of the State of Texas and having its registered office at 2000 E. Lamar Blvd., Suite 600, Arlington, Texas 76006 U.S.A. (hereinafter collectively referred to as the "**Seller**"), which term shall include their affiliates, successors and assigns.

The **Buyer** and the **Seller** are hereinafter collectively referred to as the "**Parties**" and individually as the "**Party**".

### Whereas:

- (A) The Seller is engaged in the business of marketing and selling petroleum products including lubricants and has offered to sell certain Products (as defined below) to the Buyer during the term of this Agreement;
- (B) The Buyer is engaged in the business of purchasing and trading petroleum products;
- (C) The Buyer is desirous of purchasing the Products from the Seller and the Seller has agreed to supply the Products to the Buyer on the terms and conditions as set out in this Agreement.

### NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

#### 1. DEFINITIONS

In this Agreement, unless the context requires otherwise, the following terms shall have the meanings ascribed against each:

"**Agreement**" means this Petroleum Products Supply Agreement;

"**Bill of Lading**" means the lading record made at the time the product is loaded into originating ships, tanks, rail tanks, or trucks whichever equates to the higher value;

"**Delivery Location**" means \_\_\_\_\_;

**“Consignment”** means each monthly volume of \_\_\_\_\_ metric tons +/- 10% delivered in a single consignment;

**“Effective Date”** means the date on which the Agreement comes into force;

**“HSSE”** means health, safety, security, and environment;

**“Incoterms 2000”** shall mean the **international commercial terms** published by the International Chamber of Commerce (ICC) and titled Incoterms 2000;

**“Off Spec Fuel”** means any fuel supplied or offered to be supplied by the Seller that does not conform to the Specification;

**“Product”** or **“Products”** means \_\_\_\_\_ that conforms to the Specification in Appendix A;

**“Quality Plan”** shall mean instructions set out under the heading “General Quality Plan for Delivery” in Appendix C;

**“Quantity”** means \_\_\_\_\_ metric tons of fuel +/- 10% in total;

**“Specification”** means the technical specification as detailed in Appendix A;

**“Surveyors”** shall mean SGS or other third party surveyor as Seller and Buyer may mutually agree;

**“Working Day”** means any day other than a Saturday, Sunday, or any day on which banking institutions in London, the United Kingdom, are authorized or required by applicable law to close for business.

## **2. INTERPRETATION**

**2.1** In this Agreement where the context admits:

- (a) References to this Agreement include the Appendices hereto;
- (b) References to clauses and Appendices are references to clauses and Appendices of this Agreement;
- (c) References to the singular shall include the plural (and vice versa).

**2.2** The headings and any sub-headings are inserted for convenience only and shall be ignored in construing this Agreement.

## **3. SUPPLY OF PRODUCT**

**3.1** The Seller agrees to supply to the Buyer, and the Buyer agrees to purchase from the Seller, the Product, in the Quantity and in accordance with the schedule set out in clause 3.2 of this Agreement.

**3.2** The Seller shall deliver the first Consignment \_\_\_\_\_ days from the Effective Date and the remaining \_\_\_\_\_ Consignments within a period of \_\_\_\_\_ months (in monthly deliveries of equal amounts unless otherwise instructed by the Buyer) from the delivery of the first Consignment.

3.3 All Consignments shall be delivered by the Seller at the tanks, ship, rail cars, or tanker trucks at the Delivery Location.

3.4 The Parties represent that they shall comply, and shall cause their authorized representatives and personnel to comply, with all safety procedures and the HSSE standards and procedures as observed in the industry.

#### **4. SPECIFICATIONS, RISK & DELIVERY OF PRODUCT**

4.1 The Seller shall deliver each Consignment (which shall, unless otherwise instructed by the Buyer, be of equal proportions of the Quantity) DDU to the Delivery Location.

4.2 The Seller shall obtain at its own risk and expense any export license and other official authorization or other documents and carry out all customs formalities necessary for export of the Product and for its transit through any country en route to the Delivery Location. The term "customs formalities" in the immediately previous sentence shall include payment of duty and other charges and the performance and payment of whatever administrative matters are connected with the passing of the Product through customs and the providing of information to the authorities in this connection.

4.3 The Seller shall, at its own expense, provide the Buyer with the delivery order and the applicable transport documents (e.g. railway consignment note or multimodal transport document) which the Buyer may require in order to take delivery of the Product.

4.4 The Seller shall provide the Buyer with all documentation required to enable the Buyer to avail any tax exemptions. Failure by the Seller to provide such documentation within the time it is required to be submitted by the Buyer shall render the Seller liable for all monetary implications arising therefrom.

Documents required are:

- ❖ Bill of Lading
- ❖ Commercial Invoice
- ❖ Certificate of Quality
- ❖ RTC numbers and volumes
- ❖ Copies of the Refinery consignment note confirming the date and time of loading, the quantity of Fuel loaded, the location where the Fuel was loaded, and the designated delivery location
- ❖ Statement and Composite Quality Certificate (C+ test) and the Composite Quantity Certificate whereby Surveyors confirms that the Fuel has been found to comply with the Specification for the volume and quality shipped from the Supply Point up to the Delivery Location
- ❖ All permits, licenses, approvals and other documentation required for the export and transit of the Consignment from the Refinery to the Delivery Location
- ❖ A duplicate of the insurance policy

4.5 The Seller shall provide all possible assistance to the Buyer in obtaining customs clearance and availing tax exemption.

4.6 The Seller shall bear 50% of the cost of testing of the fuel by the Surveyors in accordance with the procedures set forth under the heading "RTC Testing" and "Storage Tank Testing" in Appendix B.

4.7 The Seller shall at all times adhere to and comply with the Quality Plan.

**4.8** The Seller shall bear all risks of loss of or damage to the Product until such time the Product is loaded into the Buyer's tank, ship, rail cars, or tanker trucks at the Delivery Location.

**4.9** All fuel supplied by the Seller shall conform to the Specification. The Buyer may, at its discretion and sole option, reject any Off Spec Fuel delivered or offered for delivery by the Seller. The Seller shall immediately remove from the Delivery Location, at Seller's sole cost and expense, any Off Spec Fuel rejected by the Buyer and the title risk of loss of such rejected Off Spec Fuel will remain with the Seller at all times. Seller shall be liable for any claim caused by Off Spec Fuel suffered or incurred by Buyer or any third party. Seller shall not invoice Buyer for any Off Spec Fuel. This sub-clause shall operate notwithstanding any provision to the contrary in Incoterms 2000.

**5. NOTIFICATION OF PROPOSED DELIVERY**

Seller shall notify Buyer in writing no later than \_\_\_\_\_ Working Days prior to the first day of the proposed delivery of each Consignment at the Delivery Location, (the "Delivery Date"). Buyer shall, no later than two Working Days after the date of receipt of such delivery notice, confirm in writing its ability to accept the consignment on the Delivery Date and shall ensure availability of a tank, ship, rail cars, or tanker trucks to download the full Consignment in accordance with its obligations in paragraph 6.

**6. BUYER'S OBLIGATIONS ON DELIVERY**

**6.1** The Buyer shall deposit each Consignment into the Buyer's tank, ship, rail cars, or tanker trucks at the Delivery Location.

**6.2** The Buyer shall bear 50% of the cost of testing of the Products by the Surveyors in Accordance with the procedures set forth under the headings "RTC Testing" and "Storage Tank Testing" in Appendix B.

**6.3** The Buyer shall accept the Seller's Notification of Proposed Delivery, as described in Paragraph 5 of this Agreement.

**6.4** The Buyer shall, subject to compliance by the Seller with clauses 4.3 and 4.4 of this Agreement, take all necessary steps to obtain and avail tax exemptions on the transfer of fuel at the Delivery Location.

**7. PRICE**

**7.1** The unit price per metric ton DDU to the Delivery Location shall be calculated as follows and include product, transport to the Delivery Location, and all local and transit taxes plus any other costs or expenses incurred by Seller in connection with such delivery:

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## **8. PAYMENT OF PRICE**

- 8.1** Within ten (10) days after the Effective Date of this Agreement, Buyer shall obtain the issuance of an Irrevocable Negotiable Commercial Letter of Credit (the "LC"), stated in United States Dollars (USD), in the amount of the total Price from an Issuing Bank acceptable and approved by the Seller. Seller shall have the right to require and approve an Advising Bank and Confirming Bank of the LC. Seller shall be the Beneficiary of the LC. The LC shall provide that the Seller shall present a sight draft for payment.
- 8.2** Payment shall be made for each Consignment from the LC by Seller's presentation of a sight draft in the amount of the Unit Price multiplied by the amount of fuel in metric tons certified in the Composite Quantity Certificate. Payment shall be made at sight against presentation of the following documentation in original or by electronically signed email or fax:
- (i) Commercial invoice stamped by Buyer's agent, three originals or copies, signed by the Seller indicating the date, the quantity of the fuel in metric tons, and the Specification of the fuel;
  - (ii) Duplicate of the bills of lading showing quantity of fuel in metric tons dispatched;
  - (iii) Composite of Quantity Certificate (as per Appendix B).
  - (iv) Composite of Quality Certificate (as per Appendix B).
- 8.3** In the event that the Issuing Bank, Advising Bank, or Confirming Bank fails or refuses to pay the sight draft presented by Seller, Seller has full rights to sell the Consignment to any other party at Seller's discretion.
- 8.4** Buyer may only transport a Consignment from the Delivery Location after payment in full of the sight draft is received by Seller.
- 8.5** All amounts payable under this Agreement, or any portion of the Price, shall be payable by the Buyer in United States Dollars (USD) by electronic funds transfer without any offset, deduction or counterclaim.

## **9. TERMINATION**

- 9.1** If the Seller shall commit any breach of this Agreement and does not remedy the breach within 10 days after the notice of default from the Buyer, the Buyer may terminate this Agreement. In the event of such termination by the Buyer, the Buyer shall have no obligation or liability to the Seller other than to pay the Seller for amounts due in respect of Product delivered at the Delivery Location.
- 9.2** The Buyer shall have the right to terminate this Agreement by giving 60 days prior written notice to Seller. Such notice cannot be given within 60 days of the Effective Date. Such notice shall provide the Seller with the option to deliver and receive payment for three further monthly Consignments after the date of such notice.
- 9.3** The Seller may terminate this Agreement with immediate effect and without prior notice if Buyer breaches any of its obligations and/or violates any of the provisions of this Agreement.

**10. NOTICES**

All notices and other communications given under this Agreement must be in writing (electronically signed email and fax acceptable), in the English language, and shall be deemed to have been properly given and delivered to the other party hereto at its address listed below. Any such notice given will be deemed to have been given or received at the time of delivery, or the next Working Day following the date of sending, if sent by facsimile on a day that is not a Working Day.

Seller:

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Buyer:

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**11. INCOTERMS**

Incoterms 2000, including the provisions therein under the heading “DDU”, are hereby expressly incorporated into and form part of this Agreement. In case there is any inconsistency between a term(s) herein and the applicable term in Incoterms 2000, the term(s) of this Agreement shall apply.

**12. FORCE MAJEURE**

If Buyer or Seller is affected by a Force Majeure Event which prevents, hinders or delays it from or in performing any of its obligations under this Agreement then the affected party shall as soon as reasonably practicable after and in any event after the commencement of the prevention, hindering or delay due to the Force Majeure Event, notify the other party in writing giving details of the nature of the Force Majeure Event, the date on which it began to effect the affected party’s obligations and its likely effect on the affected party’s ability to perform its obligations under this Agreement. Provided that the affected party has notified the other party pursuant to this clause, the affected party shall be excused from performance of, and shall not be liable for any delay or failure to perform under, this Agreement to the extent that the performance is prevented, hindered or delayed by the Force Majeure Event.

For the purposes of this Agreement, "Force Majeure Event" means, with respect to any obligation of a party (the "Affected Party") under this Agreement any event or circumstance that:

- (i) is beyond reasonable control of the Affected Party in performing such obligations and is not the result of the fault or negligence of the Affected Party (including the Affected Party's Affiliates and any of its or their employees, directors, officers, agents, or contractors) and which by the exercise of reasonable efforts under the circumstances, the Affected Party could not reasonably be expected to avoid, and which prevents the Affected Party from performing such obligation;
- (ii) is not the direct or indirect result of the failure of the Affected Party to perform any of its obligations under this Agreement;
- (iii) materially or adversely affects the ability of the Affected Party to perform any of its obligations under this Agreement;
- (iv) the occurrence of which the Affected Party has provided notice of to the other party hereto in accordance with this section;
- (v) is not due to the negligent or intentional acts, errors or omissions of, or material or negligent or intentional failure to comply with any requirement of an applicable governmental authority by, the Affected Party or any affiliates, contractors, agents or employees of the Affected Party;
- (vi) which is of an extraordinary nature; or
- (vii) is a direct or indirect result of the action or omission of an applicable governmental authority which materially adversely affects the ability of the Affected Party or any of its affiliates to perform any of its obligations under this Agreement.

### **13. GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of England and Wales without regard to its principles of conflicts of law that would require the application of laws of another jurisdiction.

### **14. DISPUTE RESOLUTION**

- (i) Mutual Discussion. If any dispute, controversy or claim arising out of or relating to this Agreement or breach thereof arises, including any question regarding its existence, validity, or termination (a "Dispute") the parties hereto shall attempt to settle such Dispute, by mutual discussions.
- (ii) Arbitration. In case of any Dispute not resolved by mutual discussion, either party hereto may, by giving the notice to the other party hereto, refer to the Dispute to binding arbitration at the London Court of International Arbitration (the "Court"). The arbitration will be conducted by a sole arbitrator chosen in accordance with the Rules. The arbitration fee shall be borne by the losing party hereto unless otherwise awarded by the Court. The arbitration shall take place in London, United Kingdom. The language to be used in the arbitral proceedings shall be English.
- (iii) Arbitration- Final. An arbitral award shall be final and binding upon both parties hereto and shall be immediately enforceable. Judgment on the award may be entered

and execution had in any court having jurisdiction or application may be made to such court for a judicial acceptance of the award and an order of enforcement and execution, as applicable. Any damages which may be awarded by the arbitrator shall bear interest from the date of any relevant breach or violation to the date of full satisfaction of such award at a rate equal to the lesser of (i) the ten percent (10%) or (ii) the maximum rate permitted by applicable law.

## **15. MUTUAL REPRESENTATION & WARRANTIES**

Each party hereto represents and warrants to the other party hereto as of the Effective Date:

- (i) It is duly formed, validly existing and in good standing under the laws of the state and Country of its organization;
- (ii) It has all requisite power and authority to conduct its business, to own or lease its properties, and to execute, deliver and perform its obligations under the Agreement;
- (iii) The execution, delivery and performance by it of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action on its part, and do not and will not violate any provision of its governing documents, any indenture, contract or agreement to which it is party, or any applicable law; and
- (iv) The Agreement is a legal, valid and binding obligation of such party hereto enforceable against such party hereto in accordance with its terms.

## **16. SELLER'S REPRESENTATIONS & WARRANTIES**

Seller represents and warrants to Buyer, as of the date of delivery of the Product:

- (i) Seller has good title to the Product , and the Product is delivered free and clear of all liens, security interests, adverse claims, privileges or encumbrances;
- (ii) Seller has the right to sell and deliver the Product to Buyer under the terms of this Agreement;
- (iii) The Product conforms to the Specification; and
- (iv) Seller has all necessary licenses and permits to supply the Product pursuant to the terms of this Agreement.

## **17. ENTIRE AGREEMENT**

This Agreement comprises the full and complete agreement of the parties hereto with respect to the subject matter hereof, and replaces and supersedes all prior communications, understandings and agreements between the parties hereto, whether oral or written, expressed or implied, with respect to the matters addressed herein.

## **18. SUCCESSORS & ASSIGNS**

This Agreement is binding and enforceable on the parties hereto, and their affiliates, successors, assigns, and legal representatives.

## **19. SEVERABILITY**

Should any part of this Agreement be held invalid or unenforceable for any reason, such holding will not affect the remaining parts, which will continue in full force and effect.

## **20. COUNTERPARTS**

This Agreement is executed in two (2) originals in the English language, each of which will be deemed an original but all of which will constitute one and the same instrument, one (1) such original for each party hereto. The Parties acknowledge this Agreement may be translated into a language other than English. Should any discrepancy arise between the English language version of this Agreement and any such translation, the English language version of this Agreement shall prevail.

## **21. WAIVER & AMENDMENT**

None of the terms and conditions of this Agreement will be deemed waived or amended by either party hereto unless such waiver or amendment is executed in writing by a duly authorized agent or representative of each of the parties hereto. The failure of either party hereto to exercise any right hereunder will not waive or amend any right of such party hereto under this Agreement or otherwise. The right of either party hereto to require strict performance will not be affected by any previous waiver, action or course of dealing.

## **22. ASSIGNMENT**

Neither party hereto may (i) assign this Agreement or (ii) assign its rights or delegate its obligations under this Agreement in whole or in part, without the prior written consent of the other party hereto, excepting that Seller shall have the right to assign its rights, but not its obligations, without the written consent of the Buyer.

## **23. CONFIDENTIALITY**

**23.1** This Agreement, the information that it contains, and all information exchanged relating to it, including without limitation any pricing information, are confidential between the Buyer and the Seller. Neither the Buyer nor the Seller shall, without the other's written consent, disclose such information on any basis to any person other than its directors, officers, employees, agents or professional advisers who need to know the same for the purposes of this Agreement and who shall be bound by the same obligation of secrecy.

**23.2** Notwithstanding the above, if a Party receiving confidential information is required by law or in the course of any judicial, arbitral or administrative proceedings or in the course of any other compulsory process to disclose any information which it is obliged to keep confidential, the Party concerned may to that extent and for those purposes only disclose such information provided always that such Party shall (if it is lawfully so permitted) first give to the other Party a prompt notice of the requirement to disclose.

## **24. LIABILITY AND INDEMNIFICATION**

**24.1** The Seller shall protect, defend, indemnify and hold harmless the Buyer and its employees, contractors and agents (the "Buyer's Indemnified Parties") from and against any and all claims, demands, losses, damages, costs, actions, suits, liabilities, judgments and expenses (including but not limited to legal fees and court costs), and any

finances, penalties and assessments, that may be asserted against or incurred by the Buyer's Indemnified Parties, arising out of, resulting from, or otherwise connected with the negligence or intentional wrongful performance or non-performance of this Agreement by the Seller.

The Buyer shall protect, defend, indemnify and hold harmless the Seller and its employees, contractors and agents (the "Seller's Indemnified Parties") from and against any and all claims, demands, losses, damages, costs, actions, suits, liabilities, judgments, and expenses (including but not limited to legal fees and court costs), and any fines, penalties, and assessments, that may be asserted against or incurred by the Seller's Indemnified Parties, arising out of, resulting from, or otherwise connected with the negligence or intentional wrongful performance or non-performance of this Agreement by the Buyer.

- 24.2** The Seller and Buyer shall take out with reputable insurance companies such insurance as is reasonably required to satisfy any obligations they may have arising out of this Agreement.
- 24.3** Any cargo insurance obtained by the Seller in respect of this Agreement responsibility shall:
- (a) Contain a waiver of subrogation by its insurers in favor of the Buyer with respect to liabilities arising out of this Agreement.
  - (b) Name the Buyer as co-insured or additional insured with respect to liabilities arising out of this Agreement.
- 24.4** The Seller shall, as and when required by the Buyer, produce to it such evidence as may reasonably be required of cargo insurances it is required to take out under this Agreement.

***[Signature page follows.]***

**IN WITNESS WHEREOF**, the parties have met together in person and caused this Agreement to be executed as of the Effective Date.

**FOR SELLER:**

BY:

NAME:

TITLE:

**FOR BUYER:**

BY:

NAME:

TITLE:

PLACE OF EXECUTION:

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(Dubai, U.A.E; London, U.K.; or Dallas, Texas U.S.A.)

## Appendix A - Product Specifications

## Appendix B - Testing Procedure at Delivery Location

## Appendix C - General Quality Plan for Delivery