

COVER PAGE

This **Fuel Oil Purchase Contract** ("Contract") is made as of the following date: **INSERT DATE** by and between BUYER and SELLER (identified below and hereinafter referred to jointly as the "Parties" or singularly as "Party").

<i>BUYER</i>		<i>SELLER</i>
FLORIDA POWER & LIGHT COMPANY	<i>LEGAL ENTITY NAME</i>	
Energy Marketing & Trading Division EMT/JB --- Room# D-3500 700 Universe Boulevard Juno Beach, FL 33408	<i>ADDRESS</i>	
www.fpl.com/fueloil	<i>BUSINESS WEBSITE</i>	
EMT – WHOLESALE OPERATIONS ATTN: _____ (BUYER's Trader) TEL#: FAX#: EMAIL:	<ul style="list-style-type: none"> ▪ PURCHASES ▪ SALES ▪ STORAGE ▪ DELIVERIES 	_____ ATTN: TEL#: FAX#: EMAIL:
EMT – CONTRACTS ATTN: TEL#: FAX#: EMAIL:	<ul style="list-style-type: none"> ▪ CONTRACTS ▪ LEGAL NOTICES ▪ REGULATORY DOCUMENTS 	_____ ATTN: TEL#: FAX#: EMAIL:
EMT – ACCOUNTING ATTN: TEL#: FAX#: EMAIL:	<ul style="list-style-type: none"> ▪ ACCOUNTING ▪ INVOICES ▪ PAYMENTS ▪ SETTLEMENTS 	_____ ATTN: TEL#: FAX#: EMAIL:
EMT – CREDIT ATTN: TEL#: FAX#: EMAIL:	<ul style="list-style-type: none"> ▪ FINANCIAL EVALUATIONS ▪ CREDIT APPROVALS 	_____ ATTN: TEL#: FAX#: EMAIL:
EMT – CONFIRMATIONS ATTN: TEL#: FAX#: EMAIL:	<ul style="list-style-type: none"> ▪ TRANSACTION CONFIRMATIONS 	_____ ATTN: TEL#: FAX#: EMAIL:

This Contract, whereby SELLER agrees to sell, transport, and deliver Product and BUYER agrees to purchase and receive Product, incorporates by reference, for all purposes, the agreements, representations, and terms and conditions found or provided for on this Cover Page, in the following General Terms and Conditions, in Appendices, Exhibits, and in subsequent Transaction Confirmations prepared and accepted in accordance with the provisions hereunder.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be duly executed as of the date first written above.

[BUYER]	<i>PARTY</i>	[SELLER]
_____	<i>SIGNATURE OF COMPANY OFFICER</i>	_____
	<i>PRINTED NAME</i>	
	<i>TITLE</i>	

GENERAL TERMS AND CONDITIONS

1 DEFINITIONS AND INTERPRETATIONS

When used in the Contract with initial or complete capitalization, the terms defined in Section 16 (GLOSSARY) and that appear elsewhere in this document shall have the definitions provided. Words referring to persons include corporations and words in the singular include the plural and vice versa where the context requires. When phrases such as or similar to “as required” or “as directed” or “as approved” are used, the requirements or direction or approval of BUYER is intended, unless specified otherwise in writing.

2 PURPOSE, PROCESS, AND PROCEDURES

These GENERAL TERMS AND CONDITIONS, which are part of the Contract between the Parties, establish certain contractual provisions used in common by FPL Entities for defining BUYER's obligations to purchase and receive Product from SELLER and SELLER's obligations to sell, transport, and deliver Product to BUYER. For convenience and flexibility, certain terms and conditions of this Contract are contained in appendices which may follow these GENERAL TERMS AND CONDITIONS including, but not limited to, corporate policies to insure a safe and secure workplace as contained in APPENDIX A (POLICY STATEMENTS), and other terms and conditions, procedures, information, or obligations of the Parties as may be referenced in other sections herein. Finally, the specific Commercial Terms and Conditions negotiated from time-to-time between the Parties and applicable to a specific Transaction (regardless of the length of the Transaction Period) shall be documented pursuant to Section 2.1.

2.1 Establishing Commercial Terms and Conditions of Transactions

During the term of this Contract, the Parties may from time to time negotiate the Commercial Terms and Conditions of a Transaction to meet BUYER's requirements for Product during a proposed Transaction Period. The Transaction may be applicable to (i) a single delivery of Product, or (ii) a series of deliveries of Product, either of which may require delivery to one or more Delivery Points and in one or more Delivery Months or Delivery Windows. Where applicable to the Transaction being established, the negotiations between the Parties will be recorded in accordance with the understanding of Section 2.2 (Recordings). The BUYER's Trader must also provide or approve any Commercial Terms and Conditions in advance of SELLER initiating or proceeding with SELLER's obligations under this Contract. Finally, certain specific Commercial Terms and Conditions of the negotiated Transaction(s) impacting delivery obligations and subsequent payment by BUYER shall be thereafter confirmed and documented in one or more Transaction Confirmations prepared and issued as described below in Section 2.3 (Transaction Confirmations).

2.2 Recordings

The Parties consent to the electronic recording of phone conversations between their respective trading personnel made in connection with this Contract. BUYER shall subsequently document Transactions initiated by phone conversations that are recorded in writing in the form of a Transaction Confirmation. The Parties agree that in the event of a dispute as to the Transaction terms and conditions, any available recordings shall be reviewed and, if intelligible, shall serve as evidence in any suit, action, or other proceeding as to the intent of the Parties; otherwise, the Transaction Confirmation as prepared by BUYER and accepted or deemed accepted pursuant to Section 2.3 (Transaction Confirmations), shall control.

2.3 Transaction Confirmations

A specific set of Commercial Terms and Conditions applicable to one or more Transactions for purchase and delivery of Product shall be established by the Parties prior to or at the time the ordering takes place and shall be documented in a Transaction Confirmation generated and issued by BUYER and thereafter confirmed by SELLER. The Transaction Confirmation may be amended or replaced from time-to-time with the agreement of both Parties, in writing. In the event SELLER fails to respond to the Transaction Confirmation within two (2) Business Days by (i) executing and returning the Transaction Confirmation, or, (ii) providing BUYER with written corrections, modifications, or objections to the Transaction Confirmation, then SELLER shall be deemed to have accepted the terms and conditions documented in the Transaction Confirmation. If BUYER fails to issue a Transaction Confirmation within three (3) Business Days after a Transaction is entered into by the Parties, SELLER may do so subject to this Contract and the foregoing procedures shall then apply to any Transaction Confirmation issued by SELLER. Commercial Terms and Conditions determined during negotiations between the Parties and thereafter defined in the Transaction Confirmation include, but are not limited to:

- a. Transaction Price;
- b. Transaction Period (by specifying start and end dates);
- c. Delivery Window(s) (by specifying start and end dates of each Delivery Window).
- d. Delivery Point;
- e. Order Quantity (total and by Delivery Point, Delivery Month, and/or Delivery Window).

3 TERM AND TERMINATION

The term of the Contract shall begin on the date of the Contract (as recorded on the Cover Page) and thereafter be in effect continuously from month to month unless terminated upon written Notice to be provided (i) by SELLER at any time after completion of performance obligations by both Parties under any open or incomplete Transactions and at least sixty (60) calendar days prior to the first Business Day of the proposed termination month, or (ii) by BUYER at any time after completion of performance obligations by both Parties under any open or incomplete Transactions.

4 QUALITY

4.1 Criteria for Acceptability

SELLER shall sell and deliver Product to BUYER that fully conforms to BUYER's Quality Specifications as provided in APPENDIX C (NO. 2 FUEL OIL QUALITY SPECIFICATIONS) or APPENDIX D (NO. 6 FUEL OIL QUALITY SPECIFICATIONS), as applicable.

The quality measurement procedures to be followed by the Parties for determining the quality of the delivered Product are summarized in Section 4.2 for Vessel deliveries and Section 4.3 for Tank Truck and Oil Pipeline deliveries.

4.2 Quality Measurement Procedures for Vessel Deliveries of Product

4.2.1 Loading Facility Sampling and Analysis

SELLER shall require the Loading Inspector to: (i) obtain a volumetrically weighted composite sample of Product in all Vessel tank compartments, upon completion of loading the Vessel at the Loading Facility, in accordance with prevailing industry standards; (ii) promptly perform an analysis of such samples to determine the quality characteristics of the Product to be delivered to BUYER; and, (iii) prepare a written report of the results. SELLER shall promptly provide BUYER with a copy of the Loading Inspector's quality analysis report but in no event later than twenty-four (24) hours prior to the Vessel's arrival at the designated Delivery Point. The Vessel will not be allowed to discharge Product at the Delivery Point until such quality characteristics have been communicated to and approved by BUYER.

4.2.2 Delivery Point Sampling

For each cargo and separate grade of Product delivered at the Delivery Point(s), BUYER shall require the Delivery Inspector to obtain samples of Product for quality analysis purposes, in accordance with prevailing industry standards. SELLER or SELLER's representative may be present for and witness the sampling.

4.2.3 Quality Analysis of Delivered Product

FPL will analyze the sample of the Product delivered using the test methods identified in APPENDIX C (NO. 2 FUEL OIL QUALITY SPECIFICATIONS), or APPENDIX D (NO. 6 FUEL OIL QUALITY SPECIFICATIONS). The SELLER will be notified of any test results, which indicate the Product does not comply with these Quality Specifications. Unless otherwise mutually agreed, FPL will request the Delivery Inspector run the appropriate test(s) for only the nonconforming characteristic(s) using the sealed sample corresponding to the delivery in question as collected and retained by the Delivery Inspector. The results of the tests conducted by the Delivery Inspector as determined using the appropriate test methods identified in either APPENDIX C or APPENDIX D shall be final and binding on both Parties, except in the case of fraud or manifest error. Disposition of the nonconforming cargo will be determined as specified in Section 4.4 (Nonconforming Product).

4.3 Quality Measurement Procedures for Tank Truck or Oil Pipeline Deliveries of Product

SELLER shall require the Loading Inspector to determine and report Product quality based on sampling of the supplying tanks at the Loading Facility, in accordance with ASTM procedures, prevailing industry standards, and any applicable Laws and Regulations.

4.4 Nonconforming Product

BUYER may, at its sole discretion and by giving SELLER written Notice thereof, refuse to accept any Product which is not in conformance with the Quality Specifications, including the presence of extraneous materials, whether the nonconformance is found (i) during or after loading by SELLER at the Loading Facility, or (ii) prior to commencement of, during, or after completion of discharge by SELLER at the Delivery Point. BUYER shall incur no cost, penalty, or Liability as a result of such refusal to accept the nonconforming Product.

4.4.1 BUYER Accepts Product

In the event that the Product is determined not to meet BUYER's Quality Specifications and is therefore not acceptable, BUYER may, at its sole discretion, agree to accept the delivery of such nonconforming Product subject to: (i) previously agreed upon Quality Adjustments, if any, specified in the notes OF APPENDIX C (NO. 2 FUEL OIL QUALITY SPECIFICATIONS) or APPENDIX D (NO. 6 FUEL OIL QUALITY SPECIFICATIONS), as appropriate, or (ii) a negotiated acceptable Quality Adjustment which reduction shall be negotiated in good faith by the Parties and documented via email or fax communications exchanged by the Parties. Such Quality Adjustments shall be included as separate line items on invoices pursuant to Section 7.5 (Quality and Quantity Adjustments).

4.4.2 BUYER Refuses Product

In the event a cargo of Product is determined not to meet BUYER's Quality Specifications and BUYER refuses to accept the Product after delivery; unless the Parties agree otherwise, SELLER shall remove and properly dispose of the nonconforming Product from BUYER's facilities at the Delivery Point, at SELLER's sole expense, within seven (7) calendar days from the date on which SELLER receives or is deemed to have received BUYER's written Notice of refusal to accept the Product. In the event SELLER does not remove the Product from BUYER's facilities within the required seven (7) calendar day period, BUYER may have the Product removed, stored, or otherwise disposed of at SELLER's expense. Title to and risk of loss for the nonconforming Product shall pass from BUYER to SELLER at the end of seven (7) calendar days from the date on which BUYER's written Notice is received by SELLER, or when the Product is removed by SELLER, whichever is earlier. SELLER agrees to indemnify and hold BUYER harmless from and against any Liabilities that arise with respect to the Product during the period between SELLER's receipt of written Notice of BUYER's refusal to accept the non-conforming Product and return of title to SELLER.

4.5 Modifications to Quality Specifications

BUYER may from time to time amend its Quality Specifications to meet changes in BUYER's operational requirements or industry standards or procedures. Absent Laws and Regulations to the contrary, BUYER's amendment of Quality Specifications shall be effective no earlier than thirty (30) calendar days from the date of notice to SELLER of such change(s). If, however, due to changes or additions to Laws and Regulations, BUYER's Quality Specifications must be altered or BUYER's use of Product as fuel for its electric generating facilities is restricted or prohibited, BUYER shall have the right to terminate this Contract or to reduce the quantity of Product delivered under this Contract to a lesser amount, upon Notice to SELLER. In the event BUYER amends the Quality Specifications in accordance with this paragraph which must be implemented during a Transaction Period in which the SELLER is obligated to sell and deliver Product to BUYER, and the SELLER can reasonably demonstrate an increase in cost to meet such amended Quality Specifications, then the Parties shall negotiate an adjustment to the Transaction Price to cover the SELLER's additional cost to meet the amended Quality Specifications.

5 QUANTITY

5.1 Order Quantity

BUYER shall specify the Order Quantity to be delivered at the time the specific Commercial Terms and Conditions applicable to the Transaction are established by the Parties. SELLER shall have the obligation to transport and deliver to BUYER the Order Quantity specified by BUYER. The Delivery Quantity actually delivered hereunder shall equal an amount no less than ninety percent (90%) and no greater than one hundred and ten percent (110%) of the Order Quantity, unless otherwise specified in the Commercial Terms and Conditions. The allowed tolerance of plus or minus ten percent ($\pm 10\%$) is intended solely for minimizing dead freight. The quantity measurement procedures to be followed by the Parties for determining the Delivery Quantity are summarized in Section 5.2 for Vessel deliveries, in Section 5.3 for Tank Truck deliveries, and in Section 5.4 for Oil Pipeline deliveries.

5.2 Quantity Measurement Procedures for Vessel Deliveries of Product

The Delivery Inspector shall determine the Delivery Quantity at the time of delivery. To do so, the Delivery Inspector shall, in accordance with prevailing industry standards: (i) measure the receipt temperature, API gravity, and the quantity received, in gross BBLs, of Product discharged from the Vessel into the tank(s) at the Delivery Point designated by BUYER, (ii) calculate the Delivery Quantity, in net BBLs, corrected to a temperature of sixty degrees Fahrenheit (60°F), in accordance with ASTM D-1250, Table 6B in its latest revision, and (iii) provide copies of the Delivery Inspector's volume report to BUYER and SELLER. The net BBLs on the Delivery Inspector's report shall be final and binding upon the Parties, except in case of fraud or manifest error, and shall be used for purposes of invoice preparation and payment.

5.3 Quantity Measurement Procedures for Tank Truck Deliveries of Product

SELLER shall determine the quantity of Product loaded into the Tank Truck through metering at the Loading Facility. SELLER shall provide meter tickets reporting the quantity loaded into the Tank Truck. Upon request by BUYER, SELLER shall provide proof of proper maintenance and calibration of meters at the Loading Facility, in accordance with applicable Laws and Regulations and prevailing industry standards.

5.4 Quantity Measurement Procedures for Oil Pipeline Deliveries of Product

The Delivery Quantity shall be determined from the receiving tank upguage reading as reported by the Delivery Inspector.

5.5 Delivery Failure

In the event SELLER delivers less than ninety percent (90%) of the Order Quantity, BUYER shall have the right, but not the obligation, to purchase replacement Product to acquire an aggregate of ninety percent (90%) of the Order Quantity, and SELLER shall compensate BUYER for the difference between the Replacement Price and the Transaction Price of such quantity. In the event SELLER attempts to deliver greater than one hundred ten percent (110%) of the Order Quantity, BUYER shall have the right, but not the obligation, to accept the quantity in excess of one hundred ten percent (110%) of the Order Quantity subject to additional negotiations between the Parties. If BUYER does not accept the excess quantity, SELLER shall, without cost or obligation to BUYER, remove the excess quantity from BUYER's storage tanks or retain the excess quantity on the Conveyance, as applicable.

6 DELIVERY

6.1 Initial Delivery Planning

At the time when Commercial Terms and Conditions for a Transaction are established or at some time thereafter elected by BUYER, the Parties shall consult and establish a Delivery Schedule of mutually agreeable Delivery Windows, within the Delivery Month(s), for delivery of Product to one or more Delivery Points to be specified in a Transaction Confirmation. BUYER shall provide instructions to SELLER as to desired timing and specific Delivery Quantity for each such delivery or deliveries of Product to the Delivery Point(s). The Delivery Window and Delivery Point for each cargo or shipment shall be documented in a Transaction Confirmation.

6.2 SELLER's Obligations

SELLER shall have the obligation to transport and deliver the Order Quantity of Product to the Delivery Point(s) as agreed at the time Commercial Terms and Conditions are established or in subsequent communications between the Parties thereafter. In performing SELLER's obligations to transport, deliver, or furnish Product to BUYER, including, but not limited to, in the operation of Conveyances, SELLER shall comply and require its agents, employees, and Subcontractors to: (i) comply with BUYER's corporate safety and security policies pursuant to APPENDIX A (POLICY STATEMENTS), (ii) comply with all Laws and Regulations, and (iii) utilize prevailing industry standards.

6.2.1 Policy Compliance Audit Rights

Upon Notice, BUYER shall have the right to audit SELLER's compliance with the safety and security policies of APPENDIX A (POLICY STATEMENTS).

6.3 Delivery Procedures for Vessel Deliveries

The Parties shall follow the following procedures in conducting the delivery of Product by a Vessel.

6.3.1 Arranging for Berth

BUYER shall provide a discharging berth for SELLER's Vessel free of dockage and wharfage charges except as noted below in Section 6.3.9 (Departure from Delivery Point). The SELLER shall require the owner or the Master of the Vessel to determine the maximum drafts and minimum water depths for safe berthing at and departure from the Delivery Point. BUYER shall not be deemed to warrant the safety of any channel, fairway, anchorage or other waterway used in approaching the designated berth. BUYER shall not be liable for any loss, damage, injury, or delay to Vessel resulting from the use of such waterways not caused by BUYER's fault or negligence.

6.3.2 Adjustment to Delivery Point or Delivery Window

BUYER may, with SELLER's consent (not to be unreasonably withheld), designate an alternate Delivery Point upon Notice to SELLER prior to the first calendar day of the agreed upon Delivery Window. The Parties shall consult and, if needed, shall alter or shift the established Delivery Window to accommodate BUYER's requested change in Delivery Point and adjust the Transaction Price for any reasonable additional costs incurred by SELLER as a result of such alternate Delivery Point.

6.3.3 Nomination of Vessel

SELLER shall transport the Product in a Vessel capable of discharging the entire cargo within the allowed laytime allocated for the size Vessel used and as specified in Section 6.4.1 (Allowed Laytime). SELLER shall give Notice to BUYER of the Vessel SELLER nominates for delivery of Product no later than ten (10) calendar days prior to the first day calendar day of the mutually agreed upon Delivery Window. BUYER shall have the right to refuse acceptance of that Vessel if in BUYER's reasonable opinion such Vessel is unacceptable. No Vessel shall be used to transport Product if said Vessel is greater than fifteen (15) years of age at the time of the expected start date of the Delivery Window. BUYER shall communicate acceptance or rejection of the nominated Vessel to the SELLER within one Business Day after BUYER's receipt of the nomination from SELLER. Acceptance of a Vessel shall not constitute a continuing acceptance of the Vessel for any subsequent deliveries.

6.3.4 Right to Witness

Each Party shall be entitled to have its employee(s), agent(s), or representative(s) present during all loadings, discharges, tests, and measurements of Product delivered hereunder. SELLER shall notify BUYER at least twenty-four (24) hours in advance of SELLER's anticipated witnessing of a Product discharge at any BUYER terminal facility. If such notification is not provided, access to the terminal may be denied. Both Parties agree that their agents and employees shall comply with all the safety and security policies, practices, procedures, and rules of the other Party when such agents or employees are on the premises of the other Party.

6.3.5 Departure from Loading Facility

SELLER shall give Notice to BUYER not more than twenty-four (24) hours after Vessel departs from the Loading Facility specifying: (i) the Vessel name, (ii) the quantity and quality of the Product as determined by the Loading Inspector, and (iii) the expected date and time of arrival at the designated Delivery Point.

6.3.6 In-Transit Communications

SELLER shall require the Master of the Vessel to give Notice to BUYER during the voyage as to the expected date and time of arrival, specifically at seventy-two (72), forty-eight (48), and twenty-four (24) hours prior to the expected arrival. For Transactions requiring deliveries to multiple Delivery Points, upon arrival at each Delivery Point, SELLER shall give Notice to BUYER and the Terminal Operator at the next Delivery Point of the estimated date and time of arrival.

6.3.7 Arrival

Upon arrival of the Vessel at the Delivery Point, SELLER shall (i) obtain any and all governmental or port authority approval(s) required prior to discharge, and (ii) shall thereafter give a written Notice of Readiness to BUYER and the Terminal Operator at the Delivery Point that the Vessel is ready to discharge the Product, regardless of whether a berth is available for the Vessel at the Delivery Point.

6.3.8 Discharge

Upon arrival at the Delivery Point and after obtaining any and all governmental and/or port authority approval(s) required prior to discharge, the Master of the Vessel or his agent shall provide written Notice of Readiness to BUYER that the Vessel is ready to discharge the Product. SELLER shall provide a new flange gasket to be installed by the Vessel operator between the permanent flange connecting the SELLER's Vessel and BUYER's receiving terminal's mechanical arms or hose facility at the Delivery Point before authorization for commencement of discharge will be given. On completion of discharge when the hoses are disconnected, SELLER shall insure proper disposal of the flange gasket used for each discharge of Product. Should more than one hose connection be required for any one delivery, a new gasket shall be used as described above for each connection. SELLER's Vessel shall be allowed a maximum of thirty-six hours from Vessel all fast until the cargo hoses are disconnected to discharge the entire cargo (a maximum of twenty-four (24) hours for Vessels discharging less than 150,000 Barrels).

6.3.9 Departure from Delivery Point

If SELLER's Vessel fails to depart from the Delivery Point berth within the allotted time after discharging the cargo and disconnecting the hoses, and BUYER as a result incurs additional dockage and wharfage, SELLER shall be responsible for all charges incurred due to the delay. SELLER shall reimburse BUYER for any such charges assessed against or paid by BUYER in accordance with Section 7.1.7 (Credits to BUYER).

6.4 Vessel Laytime and Demurrage**6.4.1 Allowed Laytime**

BUYER shall be allowed a total laytime per delivery by Vessel of (i) thirty-six (36) hours for Vessels discharging 150,000 or more Barrels of Product or (ii) twenty-four (24) hours for Vessels discharging less than 150,000 Barrels for deliveries regardless of the number of Delivery Points.

6.4.2 Used Laytime

Laytime shall commence (or recommence in the case of deliveries to multiple Delivery Points) upon the expiration of (i) six (6) hours for Vessels discharging 150,000 or more Barrels of Product or four (4) hours for Vessels discharging less than 150,000 Barrels of Product, after tender of the Notice of Readiness provided for in Section 6.3.7 (Arrival), or (ii) upon the Vessel having arrived at berth and having been made fast (finished mooring) and ready for discharge, whichever occurs first. If the Vessel arrives before the first day of the Delivery Window, Notice of Readiness shall not be effective until 00:01 hours local time of the first day of the Delivery Window, unless BUYER and the port authority elect to accept the Vessel earlier, in which case used laytime shall begin when the Vessel is all-fast. If the Vessel arrives after the last day of the Delivery Window, used laytime shall not begin until the Vessel is all-fast. Used laytime shall cease immediately upon disconnection of hoses or cargo arms after

Product has been discharged. The Vessel shall vacate the berth expeditiously; consistent with safe operating practices (unless permission to remain is given in writing).

6.4.3 Used Laytime Exclusions

Time consumed due to any of the following shall not count as used laytime:

- a. Delays of Vessel after giving Notice of Readiness due to nonconformity, blending, or heating of the Product;
- b. Transit time between Delivery Points for multiple port deliveries;
- c. Time spent in shifting between berths unless the request to shift is made solely by BUYER;
- d. Delays due to local restrictions as specified by local port authorities and/or pilots including but not limited to tide or lighting conditions;
- e. Any delay to the Vessel in departing the berth (including weather delays) caused by any reason or condition not reasonably within BUYER's control;
- f. Any delay due to the Vessel's condition, or breakdown, or failure to maintain agreed pumping rates, or inability of the Vessel's facilities to discharge cargo;
- g. Any delay due to prohibition of discharging at any time by the owner or operator of the Vessel or by the port authorities unless such prohibition is caused by BUYER terminal facility's failure to comply with applicable Laws and Regulations;
- h. Any delay due to Vessel bunkering (i.e., loading fuel) or provisioning (i.e., loading food and supplies);
- i. Any delay due to Vessel discharging or shifting of ballast, slops, or contaminated cargo;
- j. Any delay due to Product spill or threat thereof caused by any defect in the Vessel or any act or omission to act of the master or crew of the Vessel;
- k. Any delay due to the Vessel's violation of the operating and/or safety regulations of BUYER's terminal, noncompliance with Federal or state laws or Coast Guard or other applicable regulations, or failure to obtain or maintain an oil pollution responsibility certificate;
- l. Any delay caused by strike, lockout, stoppage, or restraint of labor of master, officers or crew of the Vessel or of tugboats or pilots;
- m. Any time spent awaiting customs or immigration clearance.

6.4.4 Shifting Berths

All Vessels shall be furnished a berth at the Delivery Point in the order of their arrival, as determined by receipt of Notice of Readiness. However, BUYER shall have the right to have the Vessel shifted from one berth to another at the Delivery Point. When such shifting is done for the convenience of BUYER, BUYER shall pay all pilot, tug, and port expenses incurred in shifting the Vessel, and time consumed on account of such shifting shall count as used laytime. When such shifting is required due to the condition of the Vessel or its equipment, SELLER shall pay all expenses incurred in shifting the Vessel, and time consumed on account of such shifting shall not count as used laytime.

6.5 Delivery Procedures for Tank Truck or Oil Pipeline Deliveries

The Parties shall communicate with each other to coordinate the schedule of deliveries of Product by Tank Truck or by Oil Pipeline to the Delivery Point during the hours of access specified for such Delivery Point.

6.6 Tank Truck Laytime and Demurrage

6.6.1 Allowed Laytime

BUYER shall be allowed a total laytime per delivery by Tank Truck of one (1) hour.

6.6.2 Used Laytime

Laytime shall commence when the Tank Truck has arrived at the Delivery Point and given notice that it is ready to discharge. Laytime shall cease when the Tank Truck has disconnected from the Delivery Point pipes or discharge equipment.

6.6.3 Used Laytime Exclusions

Time consumed due to any of the following shall not count as used laytime:

- a. Delays due to local restrictions as specified by local authorities.
- b. Delays due to the truck's condition, or breakdown, or inability of the truck's facilities to discharge the cargo.
- c. Delays due to prohibition of discharging at any time by the owner or operator of the truck or by local authorities.
- d. Delays due to Product spill or threat thereof caused by any defect in the truck or equipment or act or failure to act by the operator of the truck.
- e. Delays due to the Tank Truck's violation of operating or safety regulations in place at the Delivery Point.
- f. Delays due to noncompliance with Laws and Regulations.

7 PRICE AND PAYMENT

7.1 General Considerations

7.1.1 Procedures

Unless specific invoicing instructions are provided elsewhere in this Contract or defined in the applicable Transaction Confirmation(s), the Parties shall use the following instructions for billing and payment purposes.

7.1.2 Invoice Form

All invoices delivered hereunder by the billing Party shall: **(i)** be properly prepared and presented, mathematically correct, and with the payment amount accurately calculated in conformance with price terms documented in the applicable Transaction Confirmation(s), the settlement or claims documentation, or in other appropriate documents or statements, and **(ii)** include the billing Party's complete, current, and correct legal entity name, address (if payment is to be made by check) or bank account information (if payment is to be made by electronic transfer).

7.1.3 Monetary Units

All prices and payments for deliveries of Product purchased hereunder will be in United States Dollars (\$) and unit prices for Product shall be expressed in terms of United States Dollars per Barrel (\$/BBL) or United States Dollars per gallon (\$/gal), as the case may be.

7.1.4 Computational Accuracy

All prices, price adjustments, and computations made with respect to payments shall be to the nearest tenth of a cent (\$0.001), with the payment amount being rounded to the nearest cent (\$0.01) higher, if the third digit after the decimal is five (5) or greater, or lower, if the third digit after the decimal is less than five (5). Any intermediate calculations will be made to no more than four (4) decimal places of accuracy unless specifically defined elsewhere in this Contract or in an applicable Transaction Confirmation.

7.1.5 All-Inclusive Price

The price payable by BUYER under this Contract and as specified in the applicable Transaction Confirmation(s) shall be inclusive of all fees, charges, costs, taxes, tariffs, and duties of any nature whatsoever, except for those specifically charged to BUYER as may be provided for herein or as specifically designated in the applicable Transaction Confirmation(s). All tariffs, duties or any other charges on the Conveyance or related to transport or delivery of Product shall be borne by SELLER, including, but not limited to, for Vessel deliveries, those charges incurred for tugs and pilots, mooring masters, booming, other port costs, and tax on services for cargo transfer.

7.1.6 Product Unit Prices

The Transaction Price whether expressed as a single value, a table of values, or a pricing formula shall be determined at the time the specific set of Commercial Terms and Conditions of the Transaction are agreed upon by the Parties and shall be clearly and completely documented on the applicable Transaction Confirmation(s).

7.1.7 Credits to BUYER

All price adjustments, credits, or cost reimbursements which are due to BUYER under this Contract and not otherwise appearing as a line item deduction on an applicable Product invoice shall be paid by SELLER by wire transfer to BUYER's designated account, as shall appear on BUYER's invoice, within fifteen (15) calendar days of receipt by SELLER of BUYER's invoice and supporting documents.

7.1.8 Late Payments

The Parties shall each make payment to the other when due. If either Party fails to tender payment to the other in accordance with the terms of this Contract when such payment is due, unless otherwise agreed by the Parties, interest on the unpaid portion shall accrue from the date due until the date payment is received. The applicable interest rate shall be the lesser of **(i)** the then-effective prime rate of interest published under "Money Rates" by the Wall Street Journal plus one and one-half percent (1½%), or, **(ii)** the maximum applicable lawful interest rate. In the event The Wall Street Journal is no longer being published, such other source as the Parties shall mutually agree upon shall be used.

7.1.9 Accounting Audit Rights

The Parties shall comply with Laws and Regulations and prevailing industry standards relating to accounting for payments and taxes including maintaining suitable forms, books and records. If necessitated by Laws and Regulations, such forms, books and records relating to performance under this Contract shall be open for inspection by a Party or a third party accounting firm agreeable to both Parties, upon the requesting Party giving the other Party reasonable Notice.

7.2 Establishing SELLER's Payment Account

Immediately upon execution of this Contract or upon material change of SELLER's legal entity name, status, or payment account information, SELLER shall provide BUYER with **(i)** a properly completed and executed IRS W9 Form for purposes of establishing a new payment account, and **(ii)** a properly completed and executed FEDI Agreement if electronic payment is desired. These forms may be found and accessed on BUYER's business website specified on the Cover Page.

7.3 Payment Obligations of the Parties**7.3.1 SELLER's Invoice Obligations**

Upon delivery in accordance with this Contract, SELLER shall prepare and deliver an invoice to BUYER for the Delivery Quantity of Product and all charges or adjustments applicable to each cargo or shipment for which the BUYER is responsible under this Contract. SELLER shall likewise provide documentation needed by BUYER to support verification of the invoice, including but not limited to a copy of the Delivery Inspector's report certifying the volume and quality of the Delivery Quantity. SELLER shall deliver the invoice and supporting documentation in accordance with the provisions outlined in Section 8 (Notices and Correspondence) to BUYER at the address specified on the Cover Page of this Contract, as amended from time to time. If BUYER receives the invoice and supporting documents after 4:30 P.M. Eastern Clock Time, then the immediately following Business Day shall be deemed to be the date of receipt for purposes of determining payment due date. If an invoice is received by BUYER prior to full completion of delivery of Product by SELLER, the invoice will be deemed to have been received only upon full completion of delivery of Product by SELLER. In the event the pricing data needed for calculation of the Transaction Price is not published or otherwise available within a reasonable time following BUYER's acceptance of a cargo or shipment of Product, SELLER may prepare and deliver a provisional invoice calculated to be no more than ninety-five percent (95%) of the estimated amount of the final invoice where the Transaction Price shall be calculated from currently available published pricing

data (as approved by the BUYER, in advance). A final "true-up" invoice shall be prepared and delivered when final pricing data required for calculation of the Transaction Price is published and available.

7.3.2 BUYER's Payment Obligations

BUYER shall pay SELLER **(i)** by check (if SELLER has not provided the FEDI Agreement pursuant to Section 7.2), or **(ii)** by electronic transfer of funds to SELLER's account (as specified on each and every invoice), within fifteen (15) calendar days after the date of receipt (counting to begin on the day following the date of receipt) of a properly prepared and mathematically correct invoice and any necessary supporting documentation. If the payment due date falls on other than a Business Day, payment shall be due on the next subsequent Business Day.

7.3.3 Invoice Dispute

BUYER shall promptly give Notice to SELLER of any contested invoice, identifying the basis for dispute or rejection, so that an attempt may be made to resolve the difference before the date payment is due. If BUYER and SELLER do not resolve such dispute before the payment due date, BUYER shall pay the undisputed amount to SELLER, but shall identify the amount of the invoice which is in dispute. Such payment shall be subject to adjustment upon final resolution of the disputed amount through negotiation between BUYER and SELLER. Except as specifically limited herein, SELLER retains all rights and remedies hereunder with respect to amounts due but unpaid.

7.4 Taxes

Unless otherwise specifically provided under this Contract, SELLER shall be solely responsible as to any Transaction for all Taxes relating to the sale and delivery of Product to BUYER or in any way accrued or levied at or prior to the transfer of title to Product to BUYER. BUYER shall be solely responsible as to any Transaction for all Taxes relating to Product accrued or levied after the transfer of title to Product to BUYER. If either Party is exempt from Taxes, it shall provide to the other Party a certificate of exemption or other reasonably satisfactory evidence of such exemption. Each Party agrees to indemnify, release, defend and hold harmless the other PARTY from and against any and all TAXES with respect to the Product that are the responsibility of such first Party pursuant to this Section.

7.4.1 Florida Pollution Control Taxes

For deliveries of Product by a Vessel to Delivery Points in Florida, BUYER shall be responsible for State of Florida Pollution Control Taxes, if applicable, and will reimburse SELLER for such assessment. SELLER shall collect and pay such taxes directly to the Florida Department of Revenue on BUYER's behalf and shall list such charges as separate line items on the SELLER's invoice for purposes of reimbursement.

7.5 Quality and Quantity Adjustments

The price of the Product or payment amount shall be subject to Quality Adjustments for variations in or deviations from BUYER's Quality Specifications. BUYER retains the right to offset any invoiced amount for claims resulting from, but not limited to, quality or quantity disputes. BUYER will require a Quality Adjustment to the invoiced quantity or payment amount when sample test results as reported by the Delivery Inspector indicate **(i)** water and sediment in excess of the allowable amount set forth in APPENDIX C (NO. 2 FUEL OIL QUALITY SPECIFICATIONS) or APPENDIX D (NO. 6 FUEL OIL QUALITY SPECIFICATIONS), as applicable, or **(ii)** Heating Value of the Product below the minimum specified in the Quality Specifications. Notwithstanding the foregoing and except as specifically limited herein, SELLER shall retain all rights and remedies hereunder with respect to amounts due but unpaid.

7.6 Demurrage Claims for Vessel Deliveries

Charges for demurrage shall accumulate for the detention of a Vessel beyond the allowed laytime. The following applies to any demurrage claims being passed through to BUYER.

7.6.1 Rates

BUYER shall pay demurrage charges for all time that used laytime exceeds allowed laytime (as determined pursuant to Section 6.4 (Vessel Laytime and Demurrage) and for which BUYER is responsible pursuant to this Contract, if any, at the rate specified in the charter party agreement for the Vessel. BUYER shall pay demurrage resulting from or under the following conditions at one-half the charter party rate specified herein:

- a. Weather-related delays in proceeding into the berth,
- b. Delays in port due to fire, explosion, storm, strike, lockout, stoppage, restraint of labor, or by breakdown of machinery or equipment in or about BUYER's or the Terminal Operator's terminal facilities, or
- c. Delays due to the designated berth being occupied by a Vessel not related to commercial business with BUYER.

7.6.2 Invoices

SELLER shall submit demurrage claims to BUYER within ninety (90) calendar days from the date of completion of the delivery in a separate, properly prepared, and mathematically correct invoice in which all charges are itemized and documented and accompanied by sufficient supporting documentation to support verification of the charges. If the demurrage invoice and all required supporting documentation are not received within the above-specified period of time, SELLER's right to claim such demurrage charges will be waived. Demurrage invoices shall be paid as soon as verified but in no event later than ninety (90) calendar days after receipt of the invoice and the required supporting documentation. SELLER shall, as a minimum, provide the following supporting documentation to BUYER for verification of the demurrage claim:

- a. A copy of the transporting Vessel's charter party agreement in which the demurrage rate is specified,
- b. A copy of the Master of the Vessel's log,
- c. The discharge manifold pressure log, and
- d. Such additional statements or documents as may be reasonably requested in a timely manner by BUYER to support the demurrage claim.

7.7 Demurrage Claims for Tank Truck Deliveries

Charges for demurrage may accumulate for the detention of a Tank Truck beyond the allowed laytime as specified in Section 6.6.1 (Allowed Laytime). The following applies to any demurrage claims being passed through to BUYER.

7.7.1 Rates

BUYER shall pay demurrage charges for all time that used laytime exceeds allowed laytime (as determined pursuant to Section 6.6 Tank Truck Laytime and Demurrage) and for which BUYER is responsible pursuant to this Contract, if any, at rates to be agreed upon at the time the Commercial Terms and Conditions are established. The BUYER shall be responsible for demurrage charges resulting from the following conditions at the Delivery Point:

- a. Weather-related delays preventing entry into or unloading at the Delivery Point,
- b. Delays by BUYER in permitting entry to the Delivery Point upon arrival at the scheduled time, or
- c. Delays at the Delivery Point due to fire, explosion, storm, strike, lockout, stoppage, restraint of labor, or by breakdown of machinery or equipment in or about BUYER's facilities.

7.7.2 Invoices

SELLER shall submit demurrage claims to BUYER at the time invoicing for Product occurs and such charges will appear as a separate line item on such invoices. SELLER shall provide supporting documentation for verification of the demurrage claim, including any additional statements or documents as may be reasonably requested in a timely manner by BUYER to support the demurrage claim.

8 NOTICES AND CORRESPONDENCE

8.1 Form and Transmittal of Notices

8.1.1 Form

Unless expressly stated otherwise, all Notices, including Transaction Confirmations, reports of Product quality and quantity, invoices, demands, consents, or any other communications required or permitted herein, shall be made in written form to the appropriate individual at the physical or electronic addresses specified on the Cover Page of this Contract and via the transmittal means or modes identified as acceptable in Section 8.1.2 below.

8.1.2 Transmittal of Notices

Notices to be given pursuant to this Contract shall be deemed to have been properly given for all purposes **(i)** as of the date delivered to the receiving party, if delivered personally or by first-class registered or certified mail (with return receipt), courier, package delivery service, or other delivery means requiring signature upon receipt; or **(ii)** as of the date received, if transmitted by a mutually agreeable electronic means (with receipt response documentation) including, but not limited to, fax; Internet email, or business web-site posting provided such posting is also accompanied by documented fax or Internet email notification, advising of such posting on the Party's business web-site).

8.1.3 Timing of Notices

Regardless of the means or mode of transmittal of the Notice, in the event a Notice is received after 4:30 p.m. Eastern Clock Time or on a day other than the Business Day, then the next Business Day shall be considered the date of receipt of such Notice. It is the responsibility of the sending Party, if it so chooses, to verify receipt of all Notices sent to the other Party, verbally, by electronic return receipt messages, exchange of Internet email with the receiving Party, or by duplicate transmittal of Notices by an acceptable alternate means.

8.2 Notification and Contact List

Notices shall be addressed to the attention of the appropriate individual at the address specified on the Cover Page of this Contract, as may be amended or updated from time to time. The Parties shall be entitled to formally amend the contact information on the Cover Page or to simply exchange updates when changes occur or to specify partial changes to selected items of contact information by giving written Notice to the other Party of such changes.

9 FORCE MAJEURE

9.1 Force Majeure Event

A "Force Majeure Event" is an occurrence or outcome resulting from causes not reasonably within a Party's control and not caused by such Party's negligence (or that of its agent, supplier, contractor or subcontractor) or lack of due diligence. Force Majeure Events shall include, but not be limited to, any of the following: **(i)** physical events such as acts of God, epidemics, landslides, earthquakes, volcanic activity or eruptions, fires, explosions, breakdown, damage, or necessity of emergency repairs related to plants, equipment, or facilities such as fuel storage terminals or pipelines; **(ii)** weather related events such as lightning, storms or storm warnings, such as hurricanes, which result in evacuation of the affected area, tornadoes, floods, washouts; **(iii)** acts of others such as strikes, lockouts or other labor disputes or industrial disturbances, blockades, riots, sabotage, insurrections, invasions, usurped power, or wars; and **(iv)** acts of governmental authority such as closing of critical ports or highways by authorities, restrictive actions taken by civil or military authority (including, but not limited to, courts or administrative agencies), governmental actions such as necessity for compliance with any court order, law, statute, ordinance, or regulation promulgated by a governmental authority having jurisdiction, or inability to obtain required permits, licenses, or authorizations.

9.2 Performance

Performance of this Contract by each Party shall be pursued with due diligence. However, except as otherwise provided herein, neither Party shall be liable to the other for any loss or damage for delay or for nonperformance due to a Force Majeure Event as defined in Section 9.1 (Force Majeure Event). A lack of funds shall not constitute a Force Majeure Event. In the event of any delay or nonperformance caused by a Force Majeure Event, the affected Party shall provide verbal Notice of the Force Majeure Event to the other Party as soon as possible, but no later than twenty-four (24) hours following the event or occurrence and shall, within forty-

eight (48) hours, provide the other Party with Notice of the nature, cause, location, date and time of commencement and the anticipated extent of such delay or nonperformance. The affected Party shall exercise due diligence to resume performance under this Contract and shall keep the other Party periodically informed of its efforts and progress to restore performance. Notwithstanding anything to the contrary herein, the Parties agree that the settlement of strikes, lockouts, or other labor disputes or industrial disturbances shall be entirely within the discretion of the Party experiencing such disputes or disturbances.

9.3 Impairment

9.3.1 BUYER's Impairment

If changes occur in Federal, State or local regulations restrict or prohibit BUYER's use of the Product as fuel for its electric generating facilities, BUYER shall have the right to terminate this Contract or reduce the quantity of Product taken under this Contract upon Notice. The amount of such quantity reduction, which BUYER may elect, shall be up to the amount of Product to which any such restriction, prohibition, or reduction in use applies.

9.3.2 SELLER's Impairment

If SELLER's performance is not resumed within ten (10) calendar days following the Force Majeure Event and BUYER believes its Product requirements are not going to be met on a timely basis, BUYER may take such steps as it deems necessary to obtain its requirement of Product, including contracting with other suppliers of Product during the period of SELLER's nonperformance and BUYER shall have no obligation to make up such deficiencies from SELLER at a later time.

9.4 Termination

If a Party's delay or nonperformance continues for more than thirty (30) calendar days following the Force Majeure Event, the other Party may terminate that portion of the Product delivery obligation under this Contract affected by such Force Majeure Event upon ten (10) calendar days' written Notice without any penalty or Liability because of such termination. Except with respect to the delivery obligation so terminated, this Contract shall remain in full force and effect.

10 WARRANTIES, TITLE, RISK OF LOSS, AND LIABILITIES

10.1 Warranties

SELLER represents, warrants and guarantees that it will sell, transport, and deliver Product that meets the applicable Quality Specifications in place at the time of delivery and in accordance with this Contract, Laws and Regulations, and prevailing industry standards. **EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS SECTION 10.1, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCT DELIVERED UNDER A TRANSACTION INCLUDING, WITHOUT LIMITATION, ANY WARRANTY AS TO FITNESS FOR A PARTICULAR PURPOSE.**

10.2 Title and Risk of Loss

SELLER represents, warrants and guarantees that it will convey good and merchantable title to the Product supplied to BUYER hereunder, free of all liens, taxes, claims, security interests, encumbrances or any other interests of third parties whatsoever. SELLER shall deliver Product at the Delivery Point where title and risk of loss for the Product shall pass from SELLER to BUYER as the Product passes from SELLER's Conveyance to BUYER's Product storage facilities. For Vessel deliveries, title passes as the Product passes the Vessel's unloading manifold flange connection to the permanent unloading hose(s) or mechanical arm(s), as the case may be, at the Delivery Point. For Tank Truck deliveries, title passes as the Product passes the flange connecting SELLER's Tank Truck and BUYER's permanent unloading facility or equipment.

10.3 Liabilities

10.3.1 Responsibilities

Unless specifically agreed to otherwise, as between the Parties, **(i)** SELLER shall have responsibility for any and all Liabilities with respect to the Product prior to transfer of title to BUYER at the specified Delivery Point(s) and **(ii)** BUYER shall have responsibility for any and all Liabilities with respect to the Product after transfer of title at the time of delivery to BUYER at the Delivery Point(s).

10.3.2 Limitation of Liability

In no event shall either Party be liable to the other, its employees or subcontractors, for any indirect, consequential, punitive or incidental damages arising under this Contract or from termination (with or without cause) of this Contract.

11 COMPLIANCE WITH LAWS AND REGULATIONS

11.1 Governing Law and Venue

This Contract shall be interpreted and governed in all respects by the laws of the State of Florida without regard to conflict of law principles thereunder. With respect to any suit, action or proceedings relating to the foregoing ("Proceedings") each party irrevocably submits to the non-exclusive jurisdiction of the federal and state courts located in Dade County, State of Florida, waives any objection which it may have to the laying of venue of any Proceedings brought in any such court, and waives any claim that any such Proceedings have been brought in an inconvenient forum. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS CONTRACT OR ANY TRANSACTION AND ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO THE OTHER PARTY'S ENTERING INTO THIS CONTRACT.**

11.2 Compliance by the Parties

In carrying out their respective obligations under this Contract, the Parties shall comply in all material aspects with all Laws and Regulations applicable to the production, sale, purchase, transportation, delivery, receipt, storage, or use of Product.

11.3 Importation/Import Licenses

SELLER shall obtain the necessary import license(s) for the importation of Product into the United States if applicable to any specific sale or delivery of Product to BUYER. In the event of importation of Product, SELLER shall be designated as the importer of record. SELLER represents and warrants, that the Products delivered to BUYER shall not, directly or indirectly, be supplied by, produced by, originate or be shipped from any country which at the time of delivery is subject to trade sanctions or restrictions under Laws and Regulations. SELLER shall, if requested by BUYER provide BUYER with a certificate of origin for the Products, attested by an official seal and signature of the customs authorities or the chamber of commerce at the Loading Facility within a reasonable time subsequent to the bill of lading date. It is a condition of this Contract that the SELLER complies with its obligations under this clause. SELLER's breach of this provision shall entitle BUYER to reject the Products and SELLER shall compensate BUYER for all resulting damages.

11.4 Product Transport and Conveyances

SELLER shall comply or require its Subcontractors, including owners and operators of any Conveyances used to transport or deliver Product, to comply with the requirements of this Contract and all applicable Laws and Regulations, including for Vessels, the requirement to secure and carry aboard a current U.S. Coast Guard Certificate of Financial Responsibility.

11.5 Spill Mitigation by SELLER

11.5.1 Spill Planning and Prevention

SELLER shall institute or cause the Conveyance owners or operators to institute a precautionary spill management plan conforming to applicable Laws and Regulations and prevailing industry standards in order to prevent any spill or mitigate the consequences and damages should such spill occur. SELLER shall provide BUYER with a copy of such plan for review promptly upon request. These provisions shall not affect any Liability of SELLER to BUYER or third parties, including but not limited to, governmental authorities.

11.5.2 Conveyance Spill Response

In the event Product escapes, is discharged or otherwise spilled during transport or unloading of a Conveyance delivering Product to BUYER under this Contract, regardless of who is at fault for such spill or how it occurs, the responsible party shall promptly take whatever measures are necessary to prevent or mitigate any environmental pollution or physical damage resulting from the spill. The responsible party shall immediately report any such spillage to the other party(ies) and all required agencies including, but not limited to, the U.S. Coast Guard when transport is by a Vessel. If the responsible party does not promptly undertake proper measures to prevent or mitigate environmental pollution or physical damage, then BUYER may elect, at its sole option and upon written Notice to the responsible party, to undertake such measures as are reasonably necessary under the circumstances to prevent or mitigate the environmental pollution or physical damage. In such case, BUYER shall keep the responsible party advised of the nature and results of any such measures taken and, if time permits, the nature of the measures intended to be taken. Any such measures actually taken shall be at the sole expense of the party or parties responsible for such spill or discharge. BUYER shall have the right to deduct any such costs incurred to prevent or mitigate environmental pollution or physical damage for which SELLER is the responsible party from monies due to SELLER under this Contract. The responsible party at any time may have the right to resume such measures at its own expense upon notification to BUYER.

12 INDEMNIFICATION

12.1 SELLER's Indemnification

SELLER agrees to protect, defend, indemnify, and hold FPL Entities harmless from and against any Liabilities whatsoever, resulting from or in connection with the sale, transport, or delivery of Product by SELLER, its employees or subcontractors, occasioned wholly or in part by the negligence of the SELLER or its noncompliance with the terms and conditions of this Contract and any applicable Laws and Regulations, before title and risk of loss have passed from SELLER to BUYER.

12.1.1 Hazardous Product

SELLER represents and warrants that the Product or Product components have been or will be inspected by SELLER to determine the existence of any substance of a hazardous nature contained therein.

12.2 BUYER's Indemnification

BUYER agrees to protect, defend, indemnify, and hold SELLER harmless from and against any Liabilities whatsoever, resulting from or in connection with the purchase or use of Product by BUYER, its employees or subcontractors, occasioned wholly or in part by the negligence of BUYER or its noncompliance with the terms and conditions of this Contract and any applicable Laws and Regulations, after title and risk of loss have passed from SELLER to BUYER.

12.3 Indemnity Limits

The limits of the above indemnity obligations shall not apply to or limit either Party's responsibility for attorneys' fees and costs under this Contract, as allowed by law.

13 INSURANCE

13.1 SELLER's Obligations

Prior to commencing performance of work or any Product sale, transport, or delivery obligations under this Contract and continuing throughout the term of any and all Transactions between the Parties under this Contract, SELLER shall procure and maintain, at its own expense (for any owned Conveyances), or shall require all Conveyance owners (for non-owned Conveyances) to carry the minimum insurance coverage specified as follows, or such higher amounts as may be required by Laws and Regulations to meet all statutory pollution Liability requirements, including the carrying of a Certificate of Financial Responsibility. Such insurance shall be

placed with insurance companies deemed acceptable for coverage of Conveyance owners and operators engaged in the transport of Product in those Conveyances applicable to Transaction(s) contemplated by the Parties hereunder, including (as appropriate): (i) the waterborne hydrocarbon products transportation industry, (ii) the vehicular hydrocarbon products transportation industry, (iii) the hydrocarbon products pipeline industry, or (iv) the railroad hydrocarbon products transportation industry.

13.1.1 For Vessel Deliveries

Pollution and Protection and Indemnity Insurance: Protection and Indemnity Insurance subject to not less than the terms and conditions of the Standard Policy Form, SP-23 (REVISED 1/56) or, alternatively, full entry with a Protection & Indemnity Club that is a member of the International Group of P&I Clubs and Pollution Insurance subject to not less than the full terms and conditions of the Water Quality Insurance Syndicate policy form for OPA and CERCLA coverage. The Protection and Indemnity insurance and Pollution Insurance coverage's shall be subject to a limit of liability of not less than Fifty Million Dollars (\$50,000,000) per occurrence. Owners of Vessels shall be members of the International Tanker Owners Pollution Federation (ITOPF).

13.1.2 For Tank Truck Deliveries

Business Automobile Liability Insurance endorsed to contain Form MCS-90 with covered automobiles designated as Symbol 1, Any Automobile, with one of the following minimum limits of liability:

- a. Any quantity of Class A or B explosives; or Any quantity of poison gas; or Highway route controlled quantity of radioactive material (as defined in 49 CFR 173.403): Bodily Injury and Property Damage Liability of Five Million Dollars (\$5,000,000) combined single limit per occurrence.
- b. Oil and all other hazardous waste, materials or substances not covered above as defined in 49 CFR 171.8 & 172.101: Bodily Injury and Property Damage Liability of Five Million Dollars (\$5,000,000) combined single limit per occurrence.

13.2 Additional Insured

SELLER shall designate FPL Entities as an Additional Insured on all liability policies for any Conveyances owned by SELLER and said policies shall be endorsed to be primary to any insurance that may be maintained by or on behalf of the FPL Entities.

13.3 Basis for Claims

In the event that any policy furnished by SELLER provides for coverage on a "claims made" basis, the retroactive date of the policy shall be the same as the effective date of the contract, or such other date, as to protect the interest of FPL Entities. Furthermore, for all policies furnished on a "claims made" basis, such coverage shall survive the termination of the contract and the expiration of any applicable warranty period, until the expiration of the maximum statutory period of limitations for actions based in contract or in tort. If coverage is on "occurrence" basis, SELLER shall maintain such insurance during the entire term of the contract.

13.4 Insurance Documentation

SELLER shall provide BUYER's Risk Management Department with evidence, by providing the completed certificate(s) of insurance, that the minimum insurance coverage specified herein is in force. In the event SELLER does not provide the required insurance or evidence of such insurance, BUYER may immediately terminate this Contract. Any inspection of such evidence shall not obligate BUYER to advise SELLER of any deficiencies in such coverage, and such inspection shall not relieve SELLER from, or be deemed a waiver of BUYER's right to insist on strict fulfillment of SELLER's obligations herein.

13.5 Insurance Notifications

Any required certificates, Notices, or questions related to Insurance shall be directed to the attention of BUYER's Risk Management Department according to the directions given in the following table. A copy of any Notices shall also be sent to BUYER's Contracts Department at the address identified on the Cover Page of this Contract.

INSURANCE --- ACORD, Certificates of Insurance, Notice of Cancellation or Change, & Questions		
Attn: FPL RISK MANAGEMENT DEPARTMENT [RM/JB – Room# B-2604]		
By Phone or Fax: TEL: 561-691-3034 FAX: 561-691-3042	By U.S. Mail: P.O. Box 14000 North Palm Beach, FL 33408	By Delivery Service: 700 Universe Boulevard Juno Beach, FL 33408

13.6 Cancellation or Changes

SELLER shall provide to BUYER's Risk Management Department, a Notice of insurance policy cancellation or material change affecting BUYER's interest at least thirty (30) calendar days prior to the effective date of such cancellation or change.

14 FINANCIAL RESPONSIBILITY

14.1 Forward Contracts

The Parties acknowledge and agree that all Transactions constitute "forward contracts" within the meaning of the United States Bankruptcy Code and the Parties further acknowledge and agree that BUYER and SELLER are each "forward contract merchants" within the meaning of the United States Bankruptcy Code.

14.2 Adequate Assurances

If at any time during the term of this Contract, either Party has a commercially reasonable good faith belief that the ability of the other Party to perform its obligations under this Contract has been materially impaired, then the dissatisfied Party (the "Insecure Party") may require the other Party to provide financial or other information reasonably needed to ascertain the other Party's ability to perform ("Adequate Assurance"). The Insecure Party may suspend deliveries or receipts hereunder or terminate this Contract and all Transactions hereunder without penalty if Adequate Assurance has not been received within two (2) business days of such

request or until the requested Adequate Assurance has been posted. The Insecure Party may hold such Adequate Assurance for so long as it has a commercially reasonable good faith belief that the ability of the other Party to perform its obligations is materially impaired. Adequate Assurance may, at the option and sole discretion of the Insecure Party, include (i) the posting of a letter of credit; (ii) cash prepayments; (iii) corporate guarantees or (iv) other collateral security acceptable to the Insecure Party. Each Party agrees that the provisions of this Section are in addition to any rights and requirements of law relating to adequate assurance of future performance, including without limitation, Article 2 of the Uniform Commercial Code, as enacted in the State of Florida.

14.3 Events of Default

An "Event of Default" shall mean, with respect to a Party (a "Defaulting Party"), a failure to perform under this Contract or a failure to maintain creditworthiness or adequate financial viability and shall include (but not be limited to) any of the following occurrences: (i) the failure of the Defaulting Party to pay any amount due hereunder or to comply with its respective obligations under any Transaction and such failure continues uncured for three (3) Business Days after written Notice thereof; (ii) the Defaulting Party files a petition or otherwise commences or authorizes the commencement of a proceeding under any bankruptcy, insolvency, reorganization or similar law or has any such petition filed or proceeding commenced against it; (iii) the Defaulting Party becomes insolvent (however evidenced) or is unable to pay its debts as they become due; or (iv) the Defaulting Party has a liquidator, administrator, receiver, trustee or officer with similar powers appointed with respect to it or any substantial portion of its property or assets; or (v) any representation or warranty made by the Defaulting Party under any Transaction or this Contract shall prove to be untrue in any material respect.

14.4 Termination Upon Default

Upon the occurrence and during the continuation of an Event of Default, the other Party (the "Non-Defaulting Party") may, in its sole discretion, (i) notify the Defaulting Party of a future date (which shall be no earlier than the date such Notice is delivered) upon which this Contract and all Transactions shall terminate ("Early Termination Date"), and/or (ii) withhold any payments due to the Defaulting Party until such Event of Default is cured.

14.5 Early Termination Amount

If an Early Termination Date is established, the Non-Defaulting Party shall in good faith calculate its Gains, or Losses and Costs, resulting from the termination of the terminated Transaction(s), aggregate such Gains, Losses and Costs with respect to all terminated Transactions into a single net amount ("Early Termination Amount"). The Non-Defaulting Party may (but need not) determine its Gains or Losses by reference to information either available to it internally or supplied by one or more third parties including, without limitation, quotations (either firm or indicative) of relevant prices or other market data in the relevant markets. Third parties supplying such information may include, without limitation, dealers in the relevant markets, end users of the relevant Products, information vendors, and other sources of market information. The Non-Defaulting Party shall notify the Defaulting Party of the Early Termination Amount. The Party owing the Early Termination Amount shall, within three (3) Business Days after such Notice, pay the Early Termination Amount to the Party owed such amount, together with interest at the interest rate specified in Section 7.1.8 (Late Payments) from the Early Termination Date until the date of payment. The Non-Defaulting Party shall determine, in a commercially reasonable manner, its Gains, Losses and Costs as of the Early Termination Date, or, if that is not possible, at the earliest date thereafter that is reasonably possible.

14.6 Setoff

14.6.1 Amounts Owed

If an Event of Default occurs and/or an Early Termination Date is designated and occurs, the Non-Defaulting Party may (at its election) set off any or all amounts which the Defaulting Party owed as of the Early Termination Date to the Non-Defaulting Party or its affiliates against any or all amounts which the Non-Defaulting Party or any of its Affiliates owed as of the Early Termination Date to the Defaulting Party (whether under this Contract or other agreement, instrument or undertaking).

14.6.2 Closeout

The obligations of the Defaulting Party and the Non-Defaulting Party under this Contract in respect of such amounts shall be deemed satisfied and discharged to the extent of any such setoff exercised by the Non-Defaulting Party and/or its Affiliates. The Non-Defaulting Party will endeavor to give the Defaulting Party a Notice of any setoff effected under this Section as soon as practicable after the setoff is effected provided that failure to give such Notice shall not affect the validity of the setoff.

14.6.3 Unascertained Obligations

If an obligation is unascertained, the Non-Defaulting Party may in good faith estimate that obligation and setoff in respect of the estimate, subject to the relevant party accounting to the other when the obligation is ascertained. Nothing in this Section shall be effective to create a charge or other security interest except as may be provided under applicable law. This setoff provision shall be without prejudice and in addition to any right of setoff, netting, off-set, recoupment, combination of accounts, counterclaim, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise). Each of the Parties represent and acknowledge that the rights set forth in this Section are an integral part of the agreement between the Parties and that without such rights the parties would not be willing to enter into Transactions. The Parties further acknowledge that each is executing this Contract on behalf of itself as principal. With respect to this Section, BUYER is acting as agent on behalf of its Affiliates, which Affiliates shall receive the benefits of this Section and otherwise be bound as if such Affiliates had directly signed this Contract as it relates to this Section.

14.6.4 Residual Obligations

Notwithstanding any provision to the contrary contained in this Contract, the Non-Defaulting Party shall not be required to pay to the Defaulting Party any amount hereunder until the Non-Defaulting Party receives confirmation satisfactory to it in its reasonable discretion (which may include an opinion of its counsel) that all other obligations of any kind whatsoever of the Defaulting Party to make any payments to the Non-Defaulting Party or any of its Affiliates under this Contract or under any other agreement(s), instrument(s) or undertaking(s), which are owed as of the Early Termination Date have been fully and finally satisfied.

15 MISCELLANEOUS

15.1 Construction

Appendix and Section headings appearing in this Contract are inserted for purposes of convenience and reference only and shall in no way be construed to be interpretations of the text.

15.2 Complete Agreement

This Contract constitutes the entire final, complete and exclusive statement of the terms of agreement between the Parties. The Parties agree that parol or extrinsic evidence may not be used to alter or contradict the express terms of this Contract and that recourse may not be had to alleged prior dealings, usage of trade, course of dealing, or course of performance to explain or supplement the express terms of this Contract. This Contract shall not be amended or modified, and no waiver of any provision hereof shall be effective, unless set forth in writing and executed by the Parties.

15.3 Assignment

Neither Party shall assign this Contract or the duties to be performed hereunder without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed. Notwithstanding such agreement by of the consenting Party, no assignment of this Contract shall release the assigning Party from any obligations hereunder until such obligations have been fully assumed by the assignee and the consenting Party has released the assigning Party from its obligations under this Contract in writing. Such release shall not be unreasonably withheld or delayed by the consenting Party.

15.4 Confidentiality

The Parties agree to hold this Contract, including any Transaction Confirmations or any related confidential material, in trust and confidence and shall not disclose the same to others except contractors, agents, representatives, consultants, employees and affiliated companies of the disclosing Party, except as otherwise provided in this Contract. Notwithstanding the above, the Parties may disclose this Contract and any Transaction Confirmations or any related confidential material to governmental authorities having appropriate jurisdiction when required to do so.

15.5 Contractor Status

SELLER agrees to furnish Product under this Contract as an independent contractor and not a subcontractor, agent or employee of FPL Entities. FPL Entities will not retain any control or direction over SELLER, its employees, or Subcontractors, or over the means, manner, or methods of performance of SELLER's obligations under this Contract.

15.6 Nonwaiver

Except as may be specifically provided for in this Contract, failure of either Party to insist upon strict performance of any provisions hereof, or failure or delay in exercising any rights or remedies provided herein or by law, or the acceptance of or payment for the Product or any combination thereof, shall not release the other Party from any obligations under this Contract and shall not be deemed a waiver of the right to insist upon strict enforcement hereof, or of any rights or remedies made available under this Contract or by law, nor shall any purported oral modification or rescission of this Contract by an employee or agent of the Parties operate as a waiver of any of the provisions hereof.

15.7 Severability of Provisions

If any provision of this Contract is determined by a court having jurisdiction to be illegal, unenforceable or in conflict with any applicable law, such determination shall have no effect on the validity and enforceability of the remaining provisions of the Contract. The Parties expressly agree that no provision of this Contract should be construed against or interpreted to the disadvantage of any Party by any governmental authority due to such Party having structured or dictated such provision.

15.8 Survival

The obligations, warranties, and agreements of the Parties under this Contract shall inure to the benefit of the Parties and their successors and permitted assigns and shall exist for the full term of the Contract. The provisions of this Contract that provide for indemnification and limitation of or protection against Liabilities shall apply to the fullest extent of the law and shall survive the termination of this Contract.

15.9 Waiver of Claims

All invoices, billings, and the payments made or due hereunder shall be conclusively presumed final and accurate and all associated claims for under- or overpayments shall be deemed waived unless such invoices, billings, and payments are objected to in writing, with adequate explanation and/or documentation, within two years after the Delivery Month.

16 GLOSSARY

- 16.1 Affiliate:** With respect to either Party to this Contract, any other entity that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, such Party. For this purpose, "control" means the direct or indirect ownership of 50% or more of the outstanding capital stock or other equity interests having ordinary voting power.
- 16.2 API:** American Petroleum Institute
- 16.3 ASTM:** American Society for Testing and Materials
- 16.4 Barrel -or- BBL:** A volume equal to forty-two (42) U.S. gallons. For purposes of this Contract, when measured at the delivery temperature, the volume may be referred to as gross Barrels, whereas, upon correction for temperature variations to sixty degrees Fahrenheit (60°F) according to ASTM D-1250, Table 6B, the volume may be referred to as net Barrels.

- 16.5 British Thermal Unit -or- Btu:** The quantity of heat required to raise the temperature of one (1) pound (avoirdupois) of water from fifty-eight and one-half (58.5) degrees Fahrenheit to fifty-nine and one-half (59.5) degrees Fahrenheit at a constant pressure of 14.73 pounds per square inch absolute.
- 16.6 Business Day:** Any day of the week between the hours of 8:00 a.m. and 4:30 p.m., Eastern Clock Time, except Saturday, Sunday, or any Federal Reserve Bank holiday.
- 16.7 BUYER:** The FPL Entity named on the Contract Cover Page that has entered into this Contract to purchase and receive Product from SELLER.
- 16.8 BUYER's Trader:** The individual, and his or her designated alternate(s), identified on the Cover Page of this Contract or pursuant to Section 8.2 (Notification and Contact List) and having responsibility and full authority for administration of this Contract on behalf of BUYER.
- 16.9 Commercial Terms and Conditions:** Additional terms and conditions that further define the economic and operational details of a specific Transaction that the Parties agree to and document in written Notices or other communications exchanged prior to or during the Transaction Period (including, but not limited to, the Transaction Price). Commercial Terms and Conditions apply only to a specific Transaction and are not intended as an amendment to the Contract.
- 16.10 Contract:** The Fuel Oil Purchase Contract between the Parties for the purchase, sale, transport, delivery, and receipt of Product comprised of **(i)** the Cover Page, **(ii)** all appendices specifically identified on the Cover Page, **(iii)** any Commercial Terms and Conditions exchanged in writing between the Parties, **(iv)** the Transaction Confirmations in effect from time to time, and **(v)** the Parties' recorded telephone conversations all of which are incorporated into the Contract by reference. In the event of a conflict between the GENERAL TERMS AND CONDITIONS and appendices, the provisions in the GENERAL TERMS AND CONDITIONS shall control. In the event of conflict between this Contract (inclusive of the appendices), and the Transaction Confirmation(s), the applicable Transaction Confirmation shall control.
- 16.11 Conveyance:** Any agreed upon transportation mode or method used by SELLER or SELLER's Subcontractors (whether owned by SELLER or others) to transport and deliver Product to BUYER including, but not limited to, a Vessel (such as a ship or barge), Tank Truck, Oil Pipeline, or Train.
- 16.12 Costs:** Any brokerage fees, commissions and other similar third-party transactional costs and expenses reasonably incurred by the Non-Defaulting Party either as a result of terminating any hedges or other risk management contracts and/or entering into new arrangements to replace the early-terminated Transaction(s), and Legal Costs incurred by such Party.
- 16.13 Delivery Inspector:** An independent, licensed person or certified entity, designated by BUYER and acceptable to SELLER, who will perform sampling, quality analysis, and quantity measurement of Product at the Delivery Point as further described in this Contract.
- 16.14 Delivery Point(s):** The ports, terminal facilities, or power plants which are **(i)** leased by BUYER (whether publicly owned or privately owned), or **(ii)** owned by BUYER, Terminal Operator, or any third party designated by BUYER, to which SELLER shall make deliveries of Product in accordance with this Contract and which are further described in APPENDIX B (DELIVERY POINTS), as may be amended from time to time.
- 16.15 Delivery Month:** Each calendar month during the term of this Contract, in which Product is to be delivered to BUYER by SELLER, beginning with the first month in which delivery of Product is scheduled.
- 16.16 Delivery Window:** A period of time, mutually agreed upon by the Parties, during which SELLER shall deliver Product to BUYER pursuant to Section 6 (Delivery). The Delivery Window may be expressed as specific start and end dates in the Transaction Confirmation and, typically, extend five (5) calendar days (for Vessel deliveries) or such other period as the Parties agree (for Tank Truck or Oil Pipeline deliveries).
- 16.17 Delivery Quantity:** The quantity of Product (expressed in net Barrels or net gallons, as appropriate) delivered to BUYER at a Delivery Point during a Delivery Window, as measured and certified in a report issued by the Delivery Inspector and which may be more or less than the Order Quantity.
- 16.18 Delivery Schedule:** Communications between the Parties requesting or confirming that a requested Order Quantity of Product is to be delivered to specified Delivery Point(s) and providing all information necessary to recognize and confirm the receipt and delivery of Product on any given day during the Delivery Window.
- 16.19 FEDI Agreement:** BUYER's Financial Electronic Data Interchange agreement form that must be submitted by a company in order to establish an electronic payment account with BUYER. BUYER's default payment method is by check mailed to the company address.
- 16.20 FPL Entities:** FPL Group, Inc., Florida Power & Light Company ("FPL"), FPL Energy LLC ("FPLE"), any of their subsidiaries, including FPL Energy Power Marketing Inc. ("PMI"), and/or any affiliated company of FPL Group, Inc. or its subsidiaries and their respective officers, directors, agents and employees.
- 16.21 Gains:** With respect to a Party and a Transaction, an aggregate amount equal to the present value of the positive difference, if any, calculated by subtracting the Replacement Price(s) from the Transaction Price(s), in the case of BUYER, and the Transaction Price from the Sales Price, in the case of the SELLER, and multiplying such difference by the Order Quantity which would have been delivered for the balance of the term(s) of the terminated Transaction(s) if there had not been an early termination.

- 16.22 Heating Value:** The quality characteristic or property of the Product measured in Btu per Barrel (Btu/BBL) in accordance with the applicable ASTM Standard and which is the quantity of heat liberated when a unit mass of the fuel is burned in oxygen in an enclosure of constant volume.
- 16.23 IRS W9 Form:** The "Request for Taxpayer Identification Number and Certification" form published by the U.S. Internal Revenue Service which companies must provide upon request and BUYER must retain in its accounting records.
- 16.24 Laws and Regulations:** All applicable laws, orders, statutes, regulations, codes, ordinances, licenses, treaties, decisions, directives, interpretations, or license requirements enforced or issued by any foreign or domestic federal, state, or local governmental authority having jurisdiction or control over SELLER or BUYER, the Contract, or the Transactions hereunder including, but not limited to, applicable environmental regulations governing the maximum sulfur content of the Product, applicable insurance and financial security requirements of owners or operators of Vessels transporting Product, the Federal Water Pollution Control Act Amendments of 1972, and all applicable rules and regulations issued by the U.S. Coast Guard.
- 16.25 Legal Costs:** The reasonable out-of-pocket expenses incurred by a Party, including legal fees, by reason of the enforcement and protection of its rights under this Contract or any Transaction.
- 16.26 Liabilities:** Losses, claims, charges, damages, deficiencies, assessments, interest, or penalties, costs and expenses (including, without limitation, attorneys' fees, court costs and other disbursements), incurred in connection with any suit, proceeding, judgment, settlement or judicial or administrative order.
- 16.27 Loading Inspector:** An independent, licensed person or certified entity, designated by SELLER and acceptable to BUYER, who will perform sampling, quality analysis, and quantity measurement of Product at the Loading Facility, in accordance with Laws and Regulations, prevailing industry standards, and as further described in this Contract.
- 16.28 Loading Facility:** The port, terminal, or fuel storage facility, whether foreign or domestic, from which SELLER's Conveyance may be loaded with Product for delivery in accordance with this Contract.
- 16.29 Losses:** An aggregate amount (excluding Costs) equal to the present value of the negative difference, if any, calculated by subtracting the Replacement Price(s) from the Transaction Price(s), in the case of the BUYER, and the Transaction Price from the Sales Price, in the case of the SELLER, and multiplying such difference by the Order Quantity(ies) that would have been delivered for the balance of the term(s) of the terminated Transaction(s) if there had not been an early termination.
- 16.30 Master:** The captain or officer, or that person's duly authorized representative or agent, who is in command of, or is responsible for, the operation of the Vessel.
- 16.31 MMBtu:** One million (1,000,000) British Thermal Units, as defined herein.
- 16.32 Notice:** Any formal written correspondence, including a Transaction Confirmation, providing notification of agreement, action, purpose, intent, or providing other critical information pursuant to this Contract. General correspondence between the Parties is not categorized as a Notice.
- 16.33 Notice of Readiness or NOR:** The Notice that a Vessel has arrived at the Delivery Point and is ready to discharge its cargo given in accordance with the provisions of this Contract.
- 16.34 Oil Pipeline:** Any pipeline certified for transport of liquid fuel oil and used by SELLER or SELLER's Subcontractors (whether owned by SELLER or third parties) to transport and deliver Product to BUYER.
- 16.35 Order Quantity:** The quantity of Product(s) for delivery by SELLER to a Delivery Point during a Delivery Window, as recorded in the Transaction Confirmation.
- 16.36 Product:** No. 2 or No. 6 residual fuel oil (as the case may be), regardless of origin, meeting BUYER's Quality Specifications, as set forth in APPENDIX C (NO. 2 FUEL OIL QUALITY SPECIFICATIONS) or in APPENDIX D (NO. 6 FUEL OIL QUALITY SPECIFICATIONS), respectively.
- 16.37 Quality Adjustments:** Payments, reductions in Transaction Price or Delivery Quantity, or other credits provided to BUYER by SELLER as compensation for variations in or deviations from the Quality Specifications for the Product.
- 16.38 Quality Specifications:** Specifications for purity, homogeneity, and other physical or chemical properties set forth in APPENDIX C (NO. 2 FUEL OIL QUALITY SPECIFICATIONS) or in APPENDIX D (NO. 6 FUEL OIL QUALITY SPECIFICATIONS), as may be amended from time to time, and including restrictions on extraneous materials which, in BUYER's sole judgment, may be harmful to BUYER's equipment, or which may jeopardize operation of BUYER's generating facilities (as the case may be).
- 16.39 Replacement Price:** The price, determined by BUYER in a commercially reasonable manner, at which BUYER purchases (if at all) substitute Products or, absent such a purchase, the market price for such quantity of Product(s) delivered at the Delivery Point, as the case may be. All such determinations shall be made in a commercially reasonable manner, and the BUYER shall not be required to enter into any actual replacement Transaction in order to determine the Replacement Price or liquidated damages as appropriate.
- 16.40 Sales Price:** The price, determined by SELLER in a commercially reasonable manner, at which SELLER resells (if at all) substitute Product(s) or, absent such a sale, the market price for such quantity of Product(s) delivered at the Delivery Location, as the case may be. All such determinations shall be made in a commercially reasonable manner, and SELLER shall not be required to enter into any actual replacement transaction(s) to determine the Sales Price or liquidated damages as appropriate.

- 16.41 SELLER:** The legal entity identified on the Contract Cover Page that has entered into this Contract to sell, transport, and deliver Product to BUYER.
- 16.42 Subcontractor:** A person or entity contracting directly with SELLER or another Subcontractor to perform any part of the obligations of SELLER to transport, deliver, or furnish Product in accordance with this Contract.
- 16.43 Taxes:** Any and all taxes, fees, assessments, excises, charges, levies, import duties, tariffs, and licenses (including penalties and interest) whether now in existence under Laws and Regulations or imposed in the future by any international, federal, state, or local governmental authority on the production, sale, purchase, importation, transportation, delivery, receipt, storage, or use of Product.
- 16.44 Tank Truck:** Any vehicle used by SELLER or SELLER's Subcontractors (whether owned by SELLER or third parties) to transport over land and deliver Product to BUYER in full compliance with Laws and Regulations.
- 16.45 Terminal Operator:** The person(s) having responsibility for overseeing and coordinating the delivery and measurement of Product at a Delivery Point on BUYER's behalf. This person may be **(i)** an employee of BUYER or an FPL Entity, or **(ii)** a third party business entity contracting directly with BUYER, or with a contractor of BUYER (other than SELLER), to provide terminaling or other operational services related to receipt or transfer of Product.
- 16.46 Train:** Any rail tank car used by SELLER or SELLER's Subcontractors (whether owned by SELLER or third parties) to transport via a railroad system and deliver Product to BUYER.
- 16.47 Transaction:** An agreement permitted under this Contract and established by the Parties prior to or at the time ordering of Product takes place for delivery of Product in one or more cargoes or shipments. The Commercial Terms and Conditions of the Transaction must be approved by the BUYER's Trader and documented in a Transaction Confirmation.
- 16.48 Transaction Confirmation:** A written document, issued by BUYER and thereafter confirmed by the SELLER in accordance with Section 2.3 (Transaction Confirmations) that sets forth a specific set of Commercial Terms and Conditions of a Transaction agreed to by the Parties for purchase and delivery of Product, including, but not limited to a description of the Product, Transaction Price, Transaction Period, Order Quantity, Delivery Point(s), and Delivery Window.
- 16.49 Transaction Period:** The span of time (which may encompass one or more Delivery Windows) during which the specific set of Commercial Terms and Conditions for the Transaction apply, as documented in one or more Transaction Confirmations.
- 16.50 Transaction Price:** The unit price (in \$/BBL or \$/gallon, as appropriate) for each Barrel or gallon of Product purchased and delivered hereunder, determined by the Parties during negotiation of the Commercial Terms and Conditions and documented in the applicable Transaction Confirmation.
- 16.51 Vessel:** Any watercraft such as a tanker or barge used by SELLER or SELLER's Subcontractors (whether owned by SELLER or third parties) to transport and deliver Product to BUYER in full compliance with Laws and Regulations.

APPENDIX A: POLICIES

SAFE AND SECURE WORKPLACE POLICY FOR FUEL OIL SUPPLIERS AND SERVICE PROVIDERS

Objective: To provide a safe and secure workplace for Florida Power & Light Company employees, supplier and service provider employees, customers, and the public.

Scope: This Policy applies to any individual or organization, its employees and its sub-contractors, (hereinafter collectively referred to as "Supplier"), responsible for performing work identified by the purchase contract (**including, but not limited to, those contracts for purchase or sale, transport, delivery, sampling, measurement, or testing of fuel oil**), for or on behalf of Florida Power & Light Company (hereinafter referred to as "FPL") and its subsidiaries on FPL premises, FPL customers' premises, FPL rights-of-way or FPL facilities, including facilities under construction and excluding only nuclear power stations, (hereinafter collectively referred to as "FPL Premises").

The policy covers three specific areas:

- ◆ Pre-assigned Screening
- ◆ Controlled Substance and Alcohol Abuse
- ◆ Workplace Violence Policies

Violation: If Suppliers' employees are found to be in pre-access violation of this Policy, Supplier's employees shall be denied access to FPL Premises. Supplier employees found to be in post-access violation of any part of this Policy shall be removed immediately by the Supplier from FPL's Premises.

Compliance: If Supplier fails to comply with this Policy, Supplier may be considered in breach of contract. FPL or its designee shall have upon request immediate access to Suppliers' records to assure compliance with the requirements of this Policy.

Policy Details: The Supplier must address three specific issues regarding Safe and Secure Workplace.

I. Pre-assignment Screening:

Suppliers to whom this Policy applies must demonstrate that they are providing employees who are non-violent, drug-free and who do not have a propensity for illegal and/or violent behavior.

This Policy does not necessarily preclude anyone from working on FPL premises based on criminal record. It is the intent of this Policy to ensure FPL has the ability to maintain a safe and secure workplace for its employees, supplier employees, customers and the public.

Suppliers shall conduct, prior to assignment of any employee to FPL Premises, a detailed background investigation to include as a minimum the following:

- A. Criminal records checks for criminal activity within:
 - a) The State of Florida (Florida Department of Law Enforcement); and
 - b) Other states in which the Supplier employee resided or was employed within the preceding 7 years.

The results should demonstrate the following:

- a) No felony convictions within the last 7 years (to include pre-trial intervention, pleas of guilty, and nolo contendere), regardless of whether adjudication has been withheld; and
 - b) Not more than two misdemeanor convictions within the last 5 years, which display a propensity for violent, immoral or drug-related activity.
- B. Driving record checks for those jobs that require driving as part of the job duties/work. A Supplier employee must have a valid unrestricted driver's license appropriate for any position requiring a drivers license (restrictions do not include physical limitations). The results should demonstrate the following:
 - a) No alcohol/drug related driving offenses in the last 5 years.
 - C. Drug screening- Suppliers assigned to FPL must perform pre-assignment drug testing. Any drug test required under this Policy will test for the presence of the following substances:
 - 1. Marijuana
 - 2. Cocaine
 - 3. Opiates
 - 4. Amphetamines
 - 5. Phencyclidine

A positive test result for controlled substances not lawfully prescribed or for misuse of a lawfully prescribed controlled substance shall result in the denial of access of Supplier employee to FPL Premises.

Supplier shall ensure that Supplier employees assigned to perform work on FPL Premises do not constitute a threat of violence or criminal activity toward FPL employees, property, customers, other Supplier employees or the general public.

Supplier employees not meeting the required results set forth in A through C above may not be assigned to perform work on FPL Premises.

II. Controlled Substances and Alcohol Abuse:

All Supplier employees should be fit-for-duty and report to work able to perform their duties safely. Use or possession of controlled substances and/or alcoholic beverages, as defined in Chapter 561 of the Florida Statutes, by Supplier employees is an unsafe work practice that creates an increased risk to Supplier employee safety and the safety of others. The use or possession of any illegal drug or controlled substance without a valid prescription and/or the misuse of any prescription or over-the-counter medication by any Supplier employee shall constitute a violation of this Policy.

Any Supplier employee who is consuming or is under the influence of any alcoholic beverage while on FPL Premises shall be in violation of this Policy.

All Suppliers must have in place a controlled substance and alcohol Policy and the Policy must include a provision to test their employees, on a random basis, at a rate of not less than 25% per year of employees engaged in work on FPL Premises. All employees who are subject to the requirements of the Omnibus Transportation Employee Testing Act of 1991, including Supplier employees required to hold a Commercial Driver's License, will be subject to random testing for controlled substances and alcohol according to the federally mandated random testing rate.

Supplier employees will be denied access to or immediately removed from FPL Premises for: (1) Possession or use of a controlled substance without a valid prescription; (2) distribution or sale of controlled substances at any time on or off the job; (3) positive test result for controlled substances without a valid prescription or alcohol; (4) being under the influence of a controlled substance or alcohol; or (5) refusal to test for controlled substances or alcohol.

Supplier employees taking prescription medication are required to consult with their physicians to determine whether the medication may have an adverse effect on performance. Supplier employees taking over-the-counter medication are responsible for being aware of any adverse effects it may have on their performance as defined on the manufacturer's label. If prescribed or over-the-counter medication may have an adverse effect on performance, the Supplier employee is required to notify the Supplier prior to reporting to FPL's Premises. Failure to inform the Supplier's representative of taking prescription or over-the-counter medication that may have an adverse effect on performance may result in that employee's denial of access to FPL Premises. In all events the Supplier is responsible for determining the employee's fitness for duty.

Supplier employees taking prescription medications must be prepared to provide satisfactory, verifiable proof that the medication has been prescribed to the Supplier employee, and that it is necessary for the individual's current medical condition. Possession of the prescription bottle will provide the required proof.

Any Supplier employee called to perform unscheduled work at FPL Premises must state whether he/she has consumed alcohol within five (5) hours of the time he/she reports to work or is otherwise "unfit" for duty. Supplier employees that have consumed alcohol within the five (5) hour abstinence period shall not be permitted to work on FPL Premises except under conditions when:

1. The Supplier employee being called believes that he/she is fit for duty; and, based on information provided by the individual, the Supplier also believes he/she is fit for duty; or
2. The Supplier employee's fitness for duty is verified by a breath analysis for alcohol prior to entering the FPL worksite and the individual believes he/she is fit for duty.

In addition to the requirements set forth herein, all Suppliers shall comply with all applicable state and/or federal laws regarding drug and alcohol testing of their employees that are assigned to FPL Premises. All testing performed pursuant to this policy shall be at the blood alcohol rates specified in the Omnibus Transportation Employee Testing Act of 1991. **All Supplier employees will be subject to "post accident" and/or "reasonable suspicion" controlled substances and alcohol testing while on FPL Premises. "Reasonable suspicion" shall be determined in the sole discretion of FPL. No Supplier employee required to take a post-accident alcohol test under the Policy shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first. This testing will be required when there is reasonable suspicion that an individual is in violation of the substance abuse and alcohol Policy. Supplier shall immediately notify FPL of any accidents involving or caused by its employees or subcontractors on FPL Premises.**

III. Workplace Violence:

FPL is committed to providing a safe and secure workplace. Supplier employees are expected to work in concert with FPL employees to ensure that the workplace remains safe and secure for all.

Behavior that could be perceived by a reasonable person as threatening or indicating the possibility of violence is prohibited. This may include, but is not limited to verbal threats, gestures, abusive language or physical altercation (fighting, shoving, etc.).

Displaying or carrying in any manner a weapon, firearm or destructive device (as those terms are defined in Chapter 790 of the Florida Statutes) on the Supplier employee's person or in his/her belongings, on any FPL Premises, in his/her personal vehicle while engaged in FPL work or activities, or in an FPL vehicle at any time is prohibited.

Supplier employees that violate these policies will be removed immediately by the Supplier from FPL Premises, and denied access to any FPL Premises. Supplier shall immediately notify FPL Corporate Security of violations of this Section III.

Reporting Illegal Conduct or Workplace Violence:

FPL employees and Supplier employees benefit from an atmosphere of good ethical and legal conduct. Suppliers and their employees with information concerning abuse of company assets, fraud, theft, possession or use of illegal drugs, threats of violence or any other behavior at FPL that might be considered illegal, shall report that information immediately. Such information can be reported to the FPL Corporate Security hotline anytime day or night at 888-694-6444.

Acknowledgment:

Suppliers must make their employees aware of this Policy and have Supplier employees acknowledge so in writing prior to beginning work at FPL Premises.

ONSITE PERSONAL PROTECTION POLICIES

PROTECTIVE FOOTWEAR POLICY

The following is the footwear protection policy in effect for all FPL Entity owned or operated power plant sites for employees, contractors, and visitors to the sites.

Approved work boots or shoes shall be worn in all work areas with the exception of the following locations:

- (i) Office environments and the control room.
- (ii) While entering and leaving the plant for work shifts or work assignments.
- (iii) While traveling in pre-established and identified walkways, which are designated free of hazards that may cause, foot injury.

Approved work boots or shoes are those with leather uppers and heavy soles which meet the requirements of the ANSI Z41-1991, American National Standard for Personal Protection - Protective Footwear. All personnel shall assure that their work boots or shoes provide adequate protection from foot injuries due to falling or rolling objects as identified in the hazard assessment. Deck and athletic style shoes, which meet the ANSI Z41 standard, are not considered an approved work shoe and therefore are not to be worn in work areas. Persons handling hot compounds, hot solder, or other hot materials, including welding or torch cutting operations shall wear approved all leather high top boots. The upper portion of high top shoes/boots shall extend far enough above the ankle to provide protection from hot metal particles accidentally entering the area between the leg and cuff of the footwear.

Electrical bench soldering does not require high top shoes. Shoes shall be maintained in good repair.

Chemical resistant protective footwear shall be worn when there is a possibility of hazardous chemicals coming in contact with the foot, and shall also meet the requirements of ANSI Z41- 1991. Chemical protective footwear shall be resistant to the type of chemical to which it is exposed.

EYE AND FACE PROTECTION POLICY

The following is the eye and face protection policy in effect for all FPL Entity owned or operated power plant locations for employees, contractors, and visitors to the sites.

Approved eye and face protective equipment shall be constructed in accordance with ANSI Z87.1-1989.

Approved eye protection with acceptable side shields shall be worn by all personnel at FPL Entity owned or operated work locations except for personnel in offices, control centers, vehicles, locker rooms, lunchrooms, meeting rooms and similarly protected areas, as determined by the Local Joint Advisory Safety Committee and as explained in the Local Safety Plan. Personnel must always wear approved eye and/or face protection when machines or operations present a potential of eye or face injury from physical, chemical or radiation agents.

Personnel whose vision requires the use of corrective lenses shall use one of the following methods to achieve the appropriate level of eye protection.

- (i) By use of approved prescription safety glasses. Only prescription glasses with full sideshields and "Z87" engraved in the temple are acceptable. "Z87" indicates the glasses were manufactured in accordance with ANSI Z87.1-1989.
- (ii) By use of non-approved prescription glasses covered with approved goggles.
- (iii) By use of contact lenses covered with either approved safety glasses or goggles. **Note: Contact lenses and non-approved prescription glasses by themselves do not constitute approved eye protection.**

ACCEPTABLE / NON ACCEPTABLE SIDE SHIELD

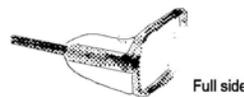


CS72: Bottom/side protection

Not Acceptable



Not Acceptable



Acceptable



Acceptable

APPENDIX B: DELIVERY POINTS

B.1 BY VESSEL

DELIVERY PORT TERMINAL NAME	DOCK STRENGTH [MDWT]	NOMINAL DRAFT ⁽¹⁾ [MHW-SALT]	ON RISING TIDE ⁽³⁾	MAX NOMINAL LENGTH ⁽¹⁾ [FT]	NOMINAL BEAM ⁽¹⁾ [FT]	NOMINAL ORDER VOLUME ⁽²⁾ [000's BBLs]	TERMINAL OPERATOR (TEL #)
<p>INFORMATION TO BE PROVIDED TO APPROVED SUPPLIERS AS NEEDED</p>							

B.2 BY TANK TRUCK

FACILITY NAME	PLANT LOCATION & CONTACT INFORMATION	TERMINAL LOCATION & CONTACT INFORMATION
<p>INFORMATION TO BE PROVIDED TO APPROVED SUPPLIERS AS NEEDED</p>		

B.3 BY PIPELINE

POWER PLANT NAME	NAME OF PIPELINE	NOMINAL ORDER VOLUME [000's BBLs]	PLANT CONTACT (TEL #)
<p>INFORMATION TO BE PROVIDED TO APPROVED SUPPLIERS AS NEEDED</p>			

APPENDIX C: NO. 2 FUEL OIL QUALITY SPECIFICATIONS

PLEASE REFER TO SEPARATELY POSTED APPENDIX C FOLLOWING THIS CONTRACT FOR THE CURRENT NO. 2 FUEL OIL QUALITY SPECIFICATIONS.

APPENDIX D: NO. 6 FUEL OIL QUALITY SPECIFICATIONS

PLEASE REFER TO SEPARATELY POSTED APPENDIX D FOLLOWING THIS CONTRACT FOR THE CURRENT NO. 6 FUEL OIL QUALITY SPECIFICATIONS.