



KLASA: 406-09/20-01/09

URBROJ: 405-07/01-20-2

BIDDING DOSSIER

**For Procurement of Ultra Low Sulphur Diesel (ULSD) 10
ppm**

No. SZ-03/20

Zagreb, March 2020

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PART I

INVITATION FOR BIDS

CROATIAN HYDROCARBONAGENCY (hereinafter “CHA“)

**Announces Invitation for Submission of Bids in the Procedure for
PROCUREMENT OF ULTRA LOW SULPHUR DIESEL**

(10 PPM ULSD) No. SZ-03/20

(Hereinafter “The Invitation”)

- 1) **CHA** is carrying out a Procurement of Ultra Low Sulphur Diesel No. SZ-03/20 (hereinafter “the Procurement”) and invites all potential Bidders to submit their Bids under the terms provided in the Bidding Dossier. The Bidding Dossier is published on the internet site: <http://www.azu.hr> (Contest) on **31 March 2020**.
- 2) The subject of the Procurement is Ultra Low Sulphur Diesel (ULSD) 10 ppm in the quantity of max. 16.500 MT (+/-2% at CHA’S option), HRN EN 590 (latest edition) winter quality, on the parity basis DAT Adriatic Tank Terminals, Lučka cesta bb, 20340 Ploče, CROATIA. The ULSD must be delivered by vessel in one lot. The lot has to be delivered within the period of 1 May 2020 to 15 May 2020 (both dates included).
- 3) The Bids shall be submitted by the registered mail or handed personally in a sealed envelope stating on the front of the envelope: “**Invitation for Bids No. SZ-03/20 – Do not open**” to the following address:

CROATIAN HYDROCARBONAGENCY (CHA)

Miramarska 24

10000 ZAGREB, Republic of Croatia

- 4) All Bids shall be submitted in one original and one additional copy.
- 5) The deadline for submission of Bids shall be 10 April 2020, by 12.00 hours (local time). Bids shall be considered as timely if submitted to the address stated under item 3) above and within the deadline provided hereto. The Bids shall be valid until 01 May 2020 at 16.00 hours (local time).
- 6) Opening of all submitted Bids shall be performed on 10 April 2020, at 12.00 hours (local time) at the address provided under item 3) above. The Bid opening procedure shall be open for attendance of Bidder’s authorized representatives which have to be empowered by a special written authorization (either a power-of-attorney or a verified excerpt from the relevant (court) registry, whereas such excerpt may not be older than 3 months). Such power of attorney/verified excerpt must be presented to the members of the Procurement Committee (hereinafter “the Committee”) before the commencement of the Bid opening procedure.

- 7) The selection criterion for the most favorable Bid shall be the fulfillment of conditions described under the terms of this Bidding Dossier and the lowest price for 16.500 MT of ULSD.
- 8) The decision on awarding or the decision on cancellation will be made by the CHA Management Board based on the proposal of the Committee. The decision on awarding shall be subject to the subsequent approval of the CHA Governing Council for concluding a contract with the selected Bidder. Until the approval of the CHA Governing Council for awarding the contract to the selected bidder, no monetary or non-monetary obligations of the CHA may arise towards the selected bidder or any other bidder. Regardless of the decision on awarding and the approval of the CHA Governing Council for awarding the contract, all bidders shall be bound by their bids until the expiration of the tender validity period as specified in this tender documentation. CHA will deliver the decision on awarding or cancellation to each bidder.
- 9) Any additional information regarding the Bidding Dossier can be obtained any working day from 09.00 to 14.00 hours (local time), by 7 April 2020 at the contact details provided under item 12) below.
- 10) All Bids that are not supplemented by all documents requested by the Bidding Dossier and/or all Bids that do not comply with all conditions of the Bidding Dossier shall not be considered as valid and shall be disqualified as such.
- 11) The decision on the selected bid shall be announced latest by 27 April 2020 at 16.00 hours (local time).
- 12) CHA retains the right to accept or reject any Bid according to the terms and conditions provided in this Procurement process. Respectively, CHA withholds the right to consider this Invitation and all terms and conditions stated in the Bidding Dossier invalid and to reject all bids at any time prior to the contract awarding, without incurring any liability or costs towards the rejected Bidders. In addition to this, CHA withholds the right to withdraw this Procurement and to inform all the Bidders by 7 April 2020 at 16.00 hours (local time) regarding such withdrawal. CHA's failure to announce the decision on the selected bid by 27 April 2020 at 16.00 hours (local time) for any reason shall be treated as CHA's withdrawal of this Procurement.

In case of any issues or questions, please contact:

Mr. Ninoslav Mandić (ninoslav.mandic@azu.hr) or

Mr. Marijo Galić (marijo.galic@azu.hr)

Phone: +385 (0)1 22 25 615

PART II

INSTRUCTIONS TO BIDDERS

All potential Bidders are kindly requested to strictly comply with the bidding procedure conditions or their offers will not be taken for further consideration.

All Bidders are requested to send their offers either in Croatian or English language in accordance with the conditions set hereto.

The contract will be concluded with a single bidder or a joint group of bidders. The CHA must have the approval of the Governing Council as another competent authority. For this reason, regardless of the day of formal conclusion of the contract, for the CHA no obligations may arise towards the selected bidder or the joint group of bidders until the Governing Council, as another competent authority, has given its approval to such a contract.

(1) Procurement

The “Procurement” shall have the meaning of this procedure No. SZ-03/20 including all actions taken related hereto and for the purpose of inviting and collecting the unlimited number of Bidders to submit their Bids under the terms and conditions stated in this Bidding Dossier and final selection of contractor for purchase and delivery of the Ultra Low Sulphur Diesel (ULSD) 10 ppm in the quantity of max. 16.500 MT (+/-2% at CHA’s option).

(2) Bidding Dossier

This “Bidding Dossier” represents complete documentation published in the process of the Procurement that includes the Invitation, Instruction to the Bidders and samples of the documents (Bid form, Statement of acceptance of invitation conditions and Bidding Dossier, minimal provisions of the Contract, Form of commercial bank's letter of intent, Form of a performance bond, Form of a letter of indemnity (LOI), and where specifically stated, such as contract, form of commercial bank's letter of intent, form of performance bond, form of LOI identical to the form of document enclosed to this Bidding Dossier).

(3) Product

ULSD – Ultra Low Sulphur Diesel fuel 10 ppm on the parity DAT Adriatic Tank Terminals, Lučka cesta bb, 20340 PLOČE, CROATIA.

Product which is to be delivered shall contain no bio fuel components, FAME or vegetable oils.

For customs storage and taxation reasons, ULSD 10 ppm has to be originating from the EU, it has to be accompanied by the INF3 form and Supplier’s Declaration provided by the Producer (i.e. the performing Refinery).

REACH & MSDS

- The Seller is obliged to confirm that the product is FULLY REACH REGISTERED (Please support your offer with documentary evidence that the product to be supplied conforms fully to the REACH Regulation i.e. please provide us with all the needed elements as requested within

here enclosed Declaration of Conformity to the REACH Regulation and also with Material Safety Data Sheet of the product to be delivered).

- The Seller shall provide the Buyer with Material Safety Data Sheet (MSDS) including CAS number and REACH registration number, issued strictly in accordance with the provisions deriving from REACH/CLP regulation and issued strictly in Croatian language.

- Seller to provide a valid Declaration and a valid MSDS to Buyer prior to Vessels' arrival at the disport. Any demurrage incurred due to failure to provide such invoice will be for Seller's account.

(4) Quality

In accordance with the HRN EN 590 (latest edition) winter quality.

(5) Quantity

Max. 16.500 MT (+/-2% at CHA's option). To be delivered by vessel in one lot

(6) Pricing

Price of the ULSD shall be based on the average of all consecutive mean (high/low) quotations for the period starting from the 1 May 2020 and up to 15 May 2020 (both dates included), as published by Platts European Marketscan – European products under the headings “Mediterranean cargoes CIF MED (Genova/Lavera)” for ULSD 10 ppm, minus/plus a fixed differential in USD per metric ton (to be quoted by Bidder).

The price quotes to be both in figures as well as in words. In the case of discrepancy between these two, the price quotes in words shall prevail.

(7) Delivery time

One lot: between 1 May 2020 – 15 May 2020

(8) Delivery parity

DAT Adriatic Tank Terminals, Lučka cesta bb, 20340 PLOČE, CROATIA, (INCOTERMS 2010).

(9) Terminals operator

PRVO PLINARSKO DRUŠTVO d.o.o., Vukovar, Gospodarska zona 13, OIB: 58292277611

Contact: oil.operations@ppd.hr

(10) Form of payment

Open account.

The payment shall be made for the delivered lot. The value of the delivered lot shall be calculated based on the quantity of the delivered lot as stated in the Outturn Certificate issued by an independent inspector and the quotation valid on the date when the Outturn Certificate of the related lot has been issued. The Seller's original commercial provisional invoice shall amount 90% value of the delivered lot.

The Seller's original commercial final invoice shall be issued within the period of 5 (five) banking working days starting from the date when the price fixing period is closed (15 May 2020).

(11) Time of payment

The payment for the delivered lot shall be effected within 10 (ten) calendar days against the receipt of the Seller's original commercial invoice and usual documents as stated in the Contract.

(12) Performance bond

The awarded Bidder shall issue a Performance bond in the form provided in Part VII, equal to USD 1,000,000 and valid until 15 June 2020 through a first rate bank. The Bidders shall enclose to the Bid a Letter of intent in the form provided in Part VI of this Bidding Dossier, issued by a commercial bank, whereby such bank has to make an irrevocable commitment to issue a Performance bond if the Bidder is selected as the most favorable one.

For companies registered in the Republic of Croatia, CHA will also accept the issuance of a debenture note (Croatian: "bjanko-zadužnice" and "zadužnice") as a guarantee, given the Bidder's fulfillment of the following points:

1. No outstanding liabilities or other duties towards CHA
2. No outstanding tax liabilities and mature tax debts towards the tax authority in the Republic of Croatia
3. Positive and good financial standings for the last 12 months of commercial activity which is proven through documents BON-1 and BON-2/SOL-2 not older than one month and certified by the relevant financial institutions.

The Bidders who fulfill above criteria shall enclose to the Bid a Letter of intent in the form of Statement

(13) Validity of offer

The Bids must be valid starting 10 April 2020 at 12.00 hours (local time) and should remain valid until 01 May 2020 at 16.00 hours (local time).

(14) Bid form

All potential Bidders are requested to submit fully completed Bid form identical to the Bid form as provided under Part III of this Bidding Dossier, as well as to accept terms and conditions in form and substance as determined in a draft Contract provided under Part V of this Bidding Dossier.

(15) Documentation to be submitted together with the Bid form

- 1) Commercial companies register certificate or any other register certificate evidencing that the Bidder is entitled to perform particular activities by the authorized body and to prove its authorized representatives (not older than 3 months);
- 2) Tax authority certificate not older than 90 days or Bidder's statement under penalty of perjury, to prove that the Bidder has no outstanding tax liabilities and mature tax debts or other public duties in the Republic of Croatia

3) Authorizations for the Bidders representatives and their capacities to sign the Bid and the Contract.

4) Statement of acceptance of conditions provided in the Bidding Dossier, as defined in Part IV of this Bidding Dossier.

5) Commercial bank's Letter of intent, as defined in Part VI of this Bidding Dossier.

(16) Submission of Bids

Each Bid has to be submitted by the registered mail or handed personally in a sealed envelope stating on the front of the envelope: “**Invitation for Bids No. SZ-03/20 – Do not open**” to the following address:

**CROATIAN HYDROCARBON AGENCY (CHA)
Miramarska 24
10000 ZAGREB, Republic of Croatia**

All bids must be submitted in one original and one additional copy.

(17) Selection criterion

The selection criterion for the most favorable bid (if qualified as valid under the terms set by this Procurement) shall be the lowest price calculated on the parity DAT Terminal Adriatic Tank Terminals, Lučka cesta bb, 20340 PLOČE, CROATIA, based on the average of all consecutive mean (high/low) quotations for the period starting from the 1 May 2020 and up to 15 May 2020 (both dates included), as published by Platts European Marketscan – European products under the headings “Mediterranean cargoes CIF MED (Genova/Lavera)” for ULSD 10 ppm, minus/plus a fixed differential in USD per metric ton (to be quoted by Bidder). In case, that the same differential is being offered by 2 or more Bidders, CHA shall select the winning Bidder out of them on the basis of first come first served, according to earliest submission date and time of the Bidding Dossier as evidenced by CHA.

(18) Awarding

Decision on awarding will be made by the President of the Management Board of CHA latest by 25 April 2020 at 16.00 hours (local time). Afterwards the Committee shall inform all Bidders on its decision.

(19) Contract

The selected Bidder and CHA shall sign the Contract for delivery of Ultra Low Sulphur Diesel (ULSD) No. SZ-03/20, determine all terms and conditions of purchase and delivery of ULSD, subject to this Procurement procedure. The Contract shall be signed within 7 (seven) working days from the day the approval of the CHA Governing Council for awarding the contract to the selected bidder has been passed. In its substance, the Contract shall contain the provisions given in the sample Contract attached to this Bidding Dossier provided in Part V of this Bidding Dossier.

(20) Buyer

The contractual buyer shall be the CROATIAN HYDROCARBON AGENCY (CHA).

PART III

BID FORM

TO BE FILLED BY THE BIDDING PARTY*

REGISTERED NAME AND HEAD OFFICE OF ORDERING PARTY
CROATIAN HYDROCARBON AGENCY (CHA)
Miramarska 24
10000 Zagreb, Republic of Croatia

BIDDING PROCEDURE (PROCUREMENT)
No. SZ-03/20

REGISTERED NAME AND HEAD OFFICE OF BIDDER
To be filled by the Bidding party

FIRST AND FAMILY NAMES OF THE PERSON IN CHARGE (SIGNER OF THE CONTRACT)
To be filled by the Bidding party

OFFER NO.
To be filled by the Bidding party

OFFER DATE
To be filled by the Bidding party

PRODUCT AND QUALITY
To be filled by the Bidding party

QUANTITY (MT)
To be filled by the Bidding party

PRICE (in US Dollars) DAT Terminal Adriatic Tank Terminals, Lučka cesta bb, 20340 PLOČE, CROATIA, based on the average of all consecutive mean (high/low) quotations for the period starting from the 1 May 2020 and up to 15 May 2020 (both dates included), as published by Platts European Marketscan – European products under the headings “Mediterranean cargoes CIF MED (Genova/Lavera)” for ULSD 10 ppm, minus/plus a fixed differential in USD per metric (INCOTERMS 2010)

Differential = _____ in USD per net MT

IN LETTERS

To be filled by the Bidding party

FORM OF PAYMENT
Open account

VALIDITY OF BID
01 May 2020 at 16.00 hours (local time)

BANK'S LETTER OF INTENT

To be filled by the Bidding party

CONTACT PERSON - FIRST AND FAMILY NAME

To be filled by the Bidding party

TELEPHONE NUMBER

To be filled by the Bidding party

TELEFAX NUMBER

To be filled by the Bidding party

E-MAIL ADDRESS

To be filled by the Bidding party

THE BIDDER ACCEPTS THE OBLIGATION TO PERFORM THE DELIVERY OF ULSD TO ADRIATIC TANK TERMINALS, LUČKA CESTA BB,20340 PLOČE IN ONE LOT 16.500 MT (+/-2% AT CHA'S OPTION) BETWEEN 1 May – 15 May 2020.

ALONG WITH THE BID, THE BIDDER SUBMITS THE FOLOWING DOCUMENTATION:

- 1) Commercial companies register certificate or any other register certificate evidencing that the Bidder is entitled to perform particular activities by the authorized body and to prove its authorized representatives (not older than 3 months);
- 2) Tax authority certificate not older than 90 days or Bidder's statement under penalty of perjury, to prove that the Bidder has no outstanding tax liabilities and mature tax debts or other public duties in the Republic of Croatia
- 3) Authorizations for the Bidders representatives and their capacities to sign the Bid and the Contract.
- 4) Statement of acceptance of conditions provided in the Bidding Dossier, as defined in Part IV of this Bidding Dossier.
- 5) Commercial bank's Letter of intent, as defined in Part VI of this Bidding Dossier.

DATE:

SIGNATURE:

BIDDER'S SEAL:

* REMARK:

THE BUYER EXPRESSLY WARNS THE BIDDER THAT ANY OTHER BID FORM WILL NOT BE TAKEN INTO CONSIDERATION AND THE BIDDER UNDERTAKES THE OBLIGATION TO FULFIL ONLY THE PARTS WHERE STATED "TO BE FILLED BY THE BIDDING PARTY"

PART IV

BIDDER'S STATEMENT OF ACCEPTANCE OF THE CONDITIONS PROVIDED IN THE INVITATION AND BIDDING DOSSIER

STATEMENT

We _____, hereby state to the Buyer, the CROATIAN HYDROCARBON AGENCY (CHA), that our Bid is made in accordance with the terms and conditions set forth in the Bidding Dossier for the Procurement of Ultra Low Sulphur Diesel 10 PPM No. SZ-03/20 and that we fully accept and recognize all the liabilities arising from the Bidding Dossier in their form and substance.

In addition to this, we represent and warrant that our original Bid is identical to its copy. In case of discrepancy between these two, the original documents shall prevail.

Date:

Signature:

Duly authorized to sign for and on behalf of:

Seal (if applicable):

Unquote

PART V

MINIMAL PROVISIONS OF THE CONTRACT

This Contract is signed between

_____, hereinafter referred to as the “Seller”,

And

CROATIAN HYDROCARBON AGENCY (CHA), Miramarska 24, 10000 Zagreb, Republic of Croatia, PERSONAL IDENTIFICATION NUMBER (OIB) 72156517632 hereinafter referred to as the “Buyer”,

And where addressed together referred to as “Parties”,

NOW IT IS AGREED as follows by each of the Parties in consideration of the mutual agreements and undertakings set out in this Contract:

1. SUBJECT OF THE CONTRACT

- 1.1 The Seller sells and the Buyer purchases max. 16.500 MT (+/-2% at Buyer’s option) of Ultra Low Sulphur Diesel (ULSD) 10 ppm, hereinafter referred to as the “Goods”, to be delivered in one lot on the parity DAT Adriatic Tank Terminals, Lučka cesta bb, 20340, Ploče (Republic of Croatia) as nominated by the Buyer, under the terms and conditions of the Procurement No. SZ-03/20 tendered by the Buyer.
- 1.2 The Goods shall be delivered in one lot: between 1 May - 15 May 2020, latest and the delivery of the whole quantity of Goods subject to this Contract shall be completed by the 15 May 2020.
- 1.3 If the Seller shall deliver the Goods by vessel they have to be in compliance with the rules and regulation applicable to the ports of Ploče (“Ploče Port Authority”). Along with the Goods, the proper standard documentation has to be submitted as well.
- 1.4 The Contractor acknowledges that the Contractors ULSD has to be of EU origin, the Contractors ULSD has to be accompanied with the appropriate INF3 form and Supplier’s Declaration provided by the Producer (i.e. the performing Refinery). If the Contractors ULSD does not comply with this requirement’s, CHA has the right to charge the Contractor for any custom and taxes, in particular but not exclusively, the VAT, or terminate this Contract at Contractors expense.

2. PRICE AND PAYMENT TERMS

- 2.1 The price of Goods shall be determined based on quotations published in “Platts European Marketscan” in USD per metric ton.
- 2.2 Pricing:
The Price payable by the Buyer per net metric ton (MT) DAT Terminal Adriatic Tank Terminals, Lučka cesta bb, 20340 PLOČE, CROATIA, shall be based on the average of all consecutive mean (high/low) quotations for the period starting from the 1 May 2020 and up to 15 May 2020 (both dates included), as published by Platts European Marketscan – European products under the headings “Mediterranean cargoes CIF MED (Genova/Lavera)” for ULSD 10 ppm minus/plus a fixed differential in USD per metric ton (to be quoted by Bidder).

The above price shall be based on a reference density of 845,0 at 15°C and shall be adjusted on a volumetric basis according to actual density at 15°C consistent with outturn report issued by the inspectors at disport, both i.a., per following formula:

Invoice price = Base price x (Reference density / Density stated in the outturn report)

The price quotes to be both in figures as well as in words. In the case of discrepancy between these two, the price quotes in words shall prevail.

The finally calculated unit price shall be rounded to two decimal places, with the two decimals at the level of the first succeeding digit if the third decimal is equal to or more than 5 (five).

- 2.3 The payment shall be made for the delivered lot. The value of lot shall be calculated based on the quantity of the delivered Goods as stated in the Outturn Certificate/Report issued by an independent inspector and the quotation valid on the date when the Outturn Certificate/Report of the related lot has been issued. The Seller's original commercial provisional invoice shall amount to 90% of the value of the delivered Goods under the condition that all shipping documents (fax or email copy acceptable) are presented to the Buyer, including:

- original Certificate of quantity,
- original Certificate of quality and
- original Supplier's Declaration.

The Seller shall furnish the Buyer with a copy of the Bill(s) of Lading in respect of the Product but such copy Bill of Lading shall not be required to be presented as a condition of payment

In case some or all documents to be presented to the Buyer on the payment due date are temporarily missing, the Buyer agrees to pay the Seller the purchase price for the delivered Goods of the ULSD upon presentation of one original commercial provisional invoice and Seller's original Letter of indemnity. The provisional payment of the purchase price shall be effected within 10 (ten) bank working days by a wire transfer upon presentation of the provisional invoice.

The final invoice specifying each criterion of the price calculation as determined in point 2.2 of this Contract for each partial delivery shall be issued within 5 (five) bank working days from the last day of the pricing period as determined in 2.2 (15 May 2020).

The final payment of the purchase price shall be effected within 10 (ten) bank working days by a wire transfer upon presentation of the final invoice. If the payment due date falls on a Sunday or a Monday bank holiday in New York, U.S.A., the payment shall be made on the first following banking day. If the payment due date falls on a Saturday or other bank holiday in New York, U.S.A., payment shall be made on the last preceding banking day.

If the Seller fails to settle the difference between the provisional invoice and the final invoice within 10 (ten) bank working days, the Buyer is entitled to enforce the payment through the Performance Bond issued by the Bank acceptable by the Buyer.

- 2.4 The Seller shall provide the Buyer with USD 1,000,000 Performance Bond in the form provided under Part VII of the Bidding Dossier, issued by a first rate bank. The Performance Bond shall be used if the Seller fails to deliver the Goods.

The Performance Bond shall be submitted to the Buyer within 5 (five) working days after this Contract is signed.

Or

The Seller shall provide the Buyer a collateral valid until 15 June 2020, issued on the amount equal to 1,000,000 (one million) USD in the form of Debenture note (in Croatian: “zadužnica”). The Debenture note shall be used if the Seller fails to deliver the Goods.

The Debenture note shall be submitted to the Buyer within 5 (five) working days after this Contract is signed.

- 2.5 The Seller shall provide the Buyer with Material Safety Data Sheet (MSDS) including CAS number and REACH registration number, issued strictly in accordance with the provisions deriving from REACH/CLP regulation.

3. QUANTITY AND QUALITY DETERMINATION OF PRODUCTS

- 3.1 The Product shall be of the quantity, quality, description and specification expressly set out in the Contract. There are no representations, guarantees or warranties, express or implied of merchantability, fitness or suitability of the Product which extend beyond the description of the Product appearing in this Contract.
- 3.2 The quantity delivered shall be the quantity of the Goods in accordance with the Outturn Certificate/ Report issued by an independent inspector appointed by the Buyer. The quantity delivered shall be determined by the shore tanks measurements and witnessed and/or certified by a independent inspector. Such determination shall be set out in certificate(s) of quantity/outturn report. The outturn quantity (MT in air) will be the invoiced quantity.
- 3.3 Seller has the right to entrust another independent inspector with the control of the quantity and quality at the discharge at his own account.
- 3.4 Quantity units to be used are:
- Total calculated volume – Total calculated cubic meters measured at fifteen degrees Centigrade (15 Deg C.) as otherwise defined in API's Manual of Petroleum Measurement Standards (MPMS) Chapter 3,7,11,12.1 with all corrections for temperature
 - and
 - Weight – Metric tones, with all weights expressed “in air” in accordance API's Manual of Petroleum Measurement Standards (MPMS) Chapter 12.1.
- 3.5 Quality of delivered Goods shall be in accordance with the HRN EN 590 latest edition, winter quality.
- 3.6 Quality determination shall be carried out by the laboratory meeting the requirements/standards in accordance to ISO 17025 and witnessed and/or certified by a independent inspector(s) mutually agreed between the Seller and Buyer and appointed by the Seller. Such determination shall be set out in certificate(s). Such determination shall be based on a representative running composite sample of all ship tanks to be discharged at the port of discharge.
- 3.7 The certificate(s) of quality and quantity/outturn report(s) shall, save in cases of fraud or manifest error, be final, conclusive and binding upon both Parties as to quality and quantity.
- 3.8 Unless the Buyer has notified the Seller of any claim relating to the quality or quantity of the Oil in writing, together with supporting documentation and reasonable details of the facts on which the claim is based, within fifteen (15) days from the date upon which discharge of the Oil is completed, the Buyer's claim shall be deemed and treated as waived and absolutely barred.

Any claim for quantity and/or quality discrepancies will be passed on, and will be settled only to the extent that claim is recovered from Seller's Supplier. Seller shall however, use all reasonable efforts to recover from its Supplier any such costs, losses or damages for which the Buyer has submitted a claim.

4. NOMINATION

- 4.1 Minimum 4 (four) calendar days prior to the estimated delivery of Goods the Seller shall notify the Buyer in writing on the vessel nominated to carry out such delivery and the proposed time of the delivery. Within 24 (twenty-four) hours after the receipt of such notification the latest, the Buyer shall either:
- a) confirm by a written notice the time of delivery proposed by the Seller and provide the Seller with written documentary and discharging instructions regarding the delivery terminal the Goods have to be delivered to,
 - b) Reject by a written notice the time of delivery as proposed by the Seller and propose delivery times, including the instructions regarding the delivery terminals the Goods are to be delivered to, for delivery times as proposed by the Buyer. In such case the Seller shall confirm to the Buyer in writing the new time of delivery (as proposed by the Buyer) as soon as possible, latest within 24 hours starting from the receipt of the Buyer's notice.
- 4.2 All chartered vessels nominated for transport of Goods must be double hulled
- 4.3 All vessels must be acquainted with Ploče port regulations and Adriatic tank terminal technical requirements.
- 4.3 Laytime is 42 hours SHINC plus 6 hours from Notice of Readiness (NOR) is tendered or vessel all fast at the berth, whichever occurs first. The vessel is to be discharged at a regular rate of 500 m³/hour. The period of time for discharging the Product shall cease upon disconnection of the discharging hoses immediately after discharging of the Product is completed. If, however, the delivery of cargo related documents required for vessel's clearance/departure is delayed in excess of 3 hours from hose disconnection, time shall recommence upon the expiration of such allowance and continue to run until such documentation is delivered on board the vessel. Any time lost at discharge ports, whenever/howsoever lost, which is directly/indirectly attributed to weather conditions and/or "sea state" shall count as laytime or as demurrage if on demurrage.
- 4.4 At discharge, any port dues shall be paid by Seller.

5. TITLE AND RISK

Transfer of Title and Risk for the Goods delivered is in accordance with DAT INCOTERMS 2010. Without prejudice to and notwithstanding any right of the Seller to retain documents until payment or other statutory or legal rights in respect of documents or goods, delivery of the Product shall be deemed completed and title and risk of loss or damage to the Product shall pass or be deemed to pass to the Buyer as the Product passes the manifold flange connection of the Vessel's delivery hose at the Discharge port.

6. INSPECTION

The Buyer shall appoint an Adriainspect d.o.o. as independent inspector and bear the inspection cost at discharging terminal. The Seller is authorized to appoint another independent inspector and bear inspection cost of the another nominated inspector.

7. FORCE MAJEURE

- 7.1 Neither Seller, nor Buyer shall be liable for damages or otherwise for any failure or delay in performance of any obligation hereunder other than obligation to make payment of the price, whereas such failure or delay is caused by force major, being an event, occurrence or circumstances reasonably beyond the control of that party, including without prejudice to the generality of the foregoing, failure or delay caused by or resulting from acts of God, strikes, fires, floods, wars, (whether declared or undeclared), riots, destruction of the goods, delays of carriers due to breakdowns or adverse weather, perils of the sea, embargoes, accidents, restrictions imposed by any government authorities (including allocations, priorities, requisitions, quotas, and price control).

7.2 The time needed for the Seller to make or the Buyer to receive any delivery of Goods described hereunder shall be extended for the period in which such delivery shall be so delayed by reason of any of the foregoing causes. If any delivery described hereunder shall be delayed or prevented for more than thirty (30) days, either Party may terminate this Contract with respect to such delivery upon written notice to the other party.

7.3 The Performance Bond shall not be payable if the Seller's failure to perform the delivery of Products is a result of Force Majeure.

8. ANTI-CORRUPTION

8.1 The Buyer and Seller each agree and undertake to the other that in connection with this Contract, they will each respectively comply with all applicable laws, rules, regulations, decrees and/or official government orders of the Republic of Croatia relating to anti-bribery and anti-money laundering.

8.2 The Buyer and Seller each represent, warrant and undertake to the other that they shall not, directly or indirectly, pay, offer, give or promise to pay or authorize the payment of, any monies or other things of value to:

(a) a government official or an officer or employee of a government or any department, agency or instrumentality of any government;

(b) an officer or employee of a public international organization;

(c) any person acting in an official capacity for or on behalf of any government or department, agency, or instrumentality of such government or of any public international organization;

(d) any political party or official thereof, or any candidate for political office;

(e) or any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities.

8.3 In particular, the Buyer represents and warrants to the Seller that it has not made any payments or given anything of value to officials, officers or employees of the government of the country in which the Goods originated or any agency, department or instrumentality of such government in connection with the Goods which is the subject of this Contract which would be inconsistent with or contravene any of the above referenced legislation.

9. GOVERNING LAW AND JURISDICTION

9.1 Parties agree to resolve all conflicts in opinions, misunderstandings or disputes arising in the course of performance of the contractual provisions, in amicable way or with mutual consent.

9.2 This Contract shall be governed by, and construed in all respects in accordance with, the laws of England.

9.3 Should the parties fail to do so, each Party hereby irrevocably agrees that the courts of England shall have jurisdiction to hear and determine any suit, action or proceedings, and to settle any dispute, question or difference which may arise between the parties out of or in connection with this Contract and, for those purposes, irrevocably submits to the jurisdiction of the High Court of Justice of England.

10. OTHER TERMS

10.1 The Contract shall come into force immediately upon receipt of the Performance Bond in favour of Buyer from the Seller.

10.2 The Parties are not entitled to assign their rights and liabilities under the Contract to any third party, without prior consent of the other party.

- 10.3 All amendments and additions to this Contract are valid only if made in writing and signed by both Parties.
- 10.4 In case of liquidation of any legal entity of the contracting parties, all rights and liabilities shall be assigned to its appropriate successor.
- 10.5 After signing this Contract all previous negotiations and correspondence between the Parties relating to the present Contract will become null and void.
- 10.6 The INCOTERMS 2010 with the latest amendments shall apply to this Contract to the extent they are not contrary to the provisions of this Contract.
- 10.7 This Contract shall be made in English language. All literature, correspondence and other documents pertaining to the Contract, which are exchanged by the Parties, shall be written in English.
- 10.8 The contracting parties mutually agree that they are aware that the CHA is obliged to obtain the approval of the CHA Governing Council for commitment arising from this Contract. For this reason, the contracting parties mutually agree that, regardless of the date of conclusion of the Contract, legal obligations for the CHA under this Contract may only arise from the date of approval of the CHA Governing Council for the conclusion of the Contract.

BUYER

SELLER

PART VI

FORM OF COMMERCIAL BANK'S LETTER OF INTENT

(Bank's memorandum)

Quote

According to the conditions set out in the Bidding Dossier for the procurement of max. 16.500 MT (+/- 2% at CHA's option) of Ultra Low Sulphur Diesel (ULSD) 10 ppm for Croatian Hydrocarbon Agency (CHA), _____ [Bank's name] issues the following

LETTER OF INTENT

We, _____ [Bank's name], hereby confirm our readiness to issue, on behalf of our client _____ [Bidder's name], if selected as the most favorable Bidder in the Procurement of ULSD 10 ppm No. SZ-03/20 of Croatian Hydrocarbon Agency, the Performance Bond for the amount equal to USD 1,000,000 valid till 15 June 2020 and in wording provided in the Bidding Dossier, Part VII.

Date and Place of issuance

By: _____

Bank Authorized Signatory

Seal (if applicable)

Unquote

PART VII

PERFORMANCE BOND FORM

Quote

Beneficiary: CHA

We have been informed that you concluded on _____ a Contract with _____ (Principal) for purchase and delivery of 16.500 MT (+/-2%) of Ultra Low Sulphur Diesel (ULSD) 10 ppm. According to this Contract, Principal is required to provide you with a Performance Bond in the amount of USD 1,000,000.

This being stated, we _____ [Name and address of the Issuing Bank] irrespective of the validity and the legal effects of the above mentioned Contract and waiving all rights of objection and defense arising from the principal debt, hereby irrevocably undertake to pay within 5 (five) banking days to you upon your first demand, any amount up to:

(In full letters: one million US dollars)

upon receipt of your written request for payment and your written confirmation stating that Principal has not fulfilled his obligations in accordance with the terms of the above mentioned Contract.

For the purpose of identification, your request for payment has to be presented through the intermediary first-rate bank confirming that the signatures are legally binding by your company. If such bank will use a tested telex, SWIFT or tested cable, it has to transmit in any case the full wording of your request for payment and your above mentioned written confirmation confirming at the same time that the originals of these documents are legally binding by your company, have been forwarded to us.

Our Guarantee is valid until 15 June 2020 and expires in full and automatically, irrespective of whether the present document is returned to us or not, should your written request for payment and your above tested telex, SWIFT or tested cable sent by the bank not be in our possession by that date at our counters in _____.

This Guarantee cannot be assigned or alienated without our prior written consent. In case of assignment of guarantee without prior approval we shall effect payment on basis of our guarantee to the originally entitled beneficiary.

This Guarantee is subject to the ICC URDG 758.

Date and Place of issuance

By: _____

Bank Authorized Signatory

Seal (if applicable)

Unquote

PART VIII

LETTER OF INDEMNITY FORM

Quote

WE REFER TO OUR CONTRACT DATED THE DAY OF (MONTH), (YEAR) IN RESPECT OF YOUR PURCHASE FROM US OF MAX. 16.500 MT (+/-2% AT CHA'S OPTION) OF ULTRA LOW SULPHUR DIESEL (ULSD), DAT ADRIATIC TANK TERMINALS, PLOČE, CROATIA (REPUBLIC OF CROATIA) ('THE CONTRACT') DELIVERED BY ONE VESSEL '.....', BILL OF LADING DATE

IN CONSIDERATION OF YOUR PAYMENT OF US DOLLARS FOR TONS OF THE STATED ULSD DELIVERED BY THE ABOVE MENTIONED VESSEL AND IN ACCORDANCE WITH THE CONTRACT AND HAVING AGREED TO ACCEPT DELIVERY OF THE ULSD WITHOUT HAVING BEEN PROVIDED WITH [HERE INSERT THE RELEVANT DOCUMENTS AS SET OUT IN CONTRACT] („THE DOCUMENTS“), WE HERBY REPRESENT AND WARRANT ALL OF THE FOLLOWING:

- (I) THE EXISTENCE AND VALIDITY OF THE DOCUMENTS;
- (II) THAT WE ARE ENTITLED TO POSSESSION OF THE DOCUMENTS;
- (III) THAT WE WERE ENTITLED TO POSSESSION OF THE ULSD;
- (IV) THAT WE HAD LEGALLY VALID TITLE TO SUCH ULSD;
- (V) THAT THE TITLE OF THE PURCHASED ULSD HAS BEEN PASSED AS PROVIDED IN THE CONTRACT TO YOU FREE OF ALL LIENS, CHARGES OR ENCUMBRANCES OF WHATEVER KIND;
- (VI) THAT YOU WILL HAVE THE BENEFIT OF THE WARRANTY AS TO ENJOYMENT OF QUIET POSSESSION IMPLIED BY LAW IN THE CONTRACT BUT WITHOUT PREJUDICE TO ANY OTHER WARRANTY SO IMPLIED.

WITHOUT PREJUDICE TO YOUR RIGHTS UNDER THE CONTRACT WE HEREBY AGREE TO PROTECT, INDEMNIFY AND HOLD YOU HARMLESS FROM AND AGAINST ANY AND ALL DAMAGES, LOSSES, LIABILITIES, COSTS, CLAIMS AND REASONABLE EXPENSES WHICH YOU MAY SUFFER BY REASON OF:

- (A) OUR FAILURE TO PRESENT THE DOCUMENTS TO YOU IN ACCORDANCE WITH THE CONTRACT AND/OR INCLUDING BUT NOT LIMITED TO
- (B) ANY ACTION OR PROCEEDING BROUGHT OR THREATENED AGAINST YOU BY REASON OF OUR SAID FAILURE AND ANY BREACH OF OUR ABOVE EXPRESS REPRESENTATIONS AND WARRANTIES IN CONNECTION WITH QUESTIONS OF TITLE TO OR THE RIGHT TO POSSESSION OF THE DOCUMENTS OR THE ULSD OR THE PROCEEDS OF EITHER; OR ANY LIENS, CHARGES OR ENCUMBRANCES ASSERTED ON THE DOCUMENTS OR THE CARGO OR ANY OTHER CLAIMS ARISING OUT OF OR IN CONNECTION WITH THE DOCUMENTS.

OUR LIABILITY HEREUNDER SHALL REMAIN IN FULL FORCE AND EFFECT UNLESS AND UNTIL WE PROVIDE YOU WITH THE DOCUMENTS, WHICH WE IRREVOCABLY AGREE TO PROVIDE TO YOU AS SOON AS THE SAME HAVE COME INTO OUR POSSESSION.

NO TERM OF THIS INDEMNITY IS INTENDED TO, OR DOES, CONFER A BENEFIT OR REMEDY ON ANY PARTY OTHER THAN THE NAMED BUYER UNDER THE CONTRACT WHETHER BY VIRTUE OF THE CONTRACTS (RIGHTS OF THIRD PARTIES ACT 1999) OF HOWSOEVER.

THIS INDEMNITY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH ENGLISH LAW, SHALL BE SUBJECT TO THE EXCLUSIVE JURISDICTION OF THE ENGLISH COURTS AND SHALL CEASE TO HAVE EFFECT UPON THE FULL SET OF ORIGINAL DOCUMENTS BEING PRESENTED TO THE BUYER.

SIGNED BY.....TITLE.....
OF..... (COMPANY NAME).....

Unquote