

This contract amends and restates in its entirety that certain contracts dated June 4, 2019 and November 30, 2018 by and between Global Montello Group Corp and the City of Manchester

Global Montello Group Corp.

August 29, 2019

Confirming agreement between City of Manchester and Global Montello Group Corp. on August 29, 2019

Subject to the Terms and Conditions of this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to purchase and receive from Seller, the following quantities of the Product(s), under the Payment Terms, during the Delivery Period(s), and at the Price specified below:

Seller: Global Montello Group Corp.
800 South Street. Waltham, MA 02454
Buyer: City of Manchester
475 Valley St
Manchester, NH 03101
Contract Period: July 2019-December 2020
Product: Ultra Low Sulfur Diesel and 87Octane
Delivery Point: To buyer's storage located in Manchester, NH
Price: \$1.9172 for 87 Octane
\$2.1496 for ULSD
Global Accounts: Various
Contract Quantity: 309,996 gallons of 87 Oct and 421,420 gallons of ULSD*
Delivery Periods: August 2019 – December 2020
Measurement: Based on certified tank truck seals or certified loading rack meters at loading point corrected to 60 Deg. F.
Taxes: Price includes taxes
Payment Terms: Net 30. Payment instructions will accompany invoice.
Credit: In accordance with and within current terms.
General: Global Companies, LLC GENERAL TERMS AND CONDITIONS will apply unless otherwise provided herein.

*18,004 gallons of 87OCT and 34,080 gallons of ULSD have been delivered under the old agreements

If this meets with your understanding of our agreement, please sign and return one copy for our files.

Seller:

Mark Romaine
Global Montello Group Corp.

Buyer:

Accepted this 29 day of August, 2018

By: [Signature]

Title: Deputy Director

Name:

Terms and Conditions

PRICE. Buyer agrees to pay Seller the price established herein for all product(s) up to the contract amount and during the designated month(s). All prices are exclusive of taxes unless otherwise noted. Any existing or hereinafter imposed governmental tax, duty or charge on or measured by the products sold hereunder, or on the storage, production, sale, transportation, delivery or use thereof which is required to be paid or collected by Seller shall be added to the price and shall be paid by Buyer to Seller. Prices at the time of this agreement reflect federal and state product quality specifications currently in effect. Changes in such specifications during the lifting periods may result in price adjustments. Said adjustments shall be at the sole discretion of seller after reasonable notice to Buyer.

1. **TAXES.** Any tax, duty, tariff or other governmental charge or increase thereof now due or hereafter imposed and assessed which increases the cost to Seller or producing, selling, importing or exporting, or delivering the product or of procuring any material used therein, and any tax now in effect or increased thereof due to the production, sale, purchase, importation or exportation, use, ownership or delivery of the product such as, but not limited to Sales Tax, Use Tax, Excise Tax, Retailer's Occupational tax, Gross Receipts Tax, Value Added Tax, Superfund Tax and Transportation Tax, may at Seller's option, be added to the purchase price. Buyer represents that it is requested to engage in tax free transactions under applicable federal and state laws and shall provide Seller upon request with proper exemption certificates.
2. **PAYMENT.** In the event Payment is not received from Buyer in accordance with the terms provided for herein, or the financial condition of Buyer, or the manner of Buyer's payment becomes unsatisfactory to Seller, payment in full of any indebtedness of Buyer to Seller and advance payment or security satisfactory to Seller for further deliveries hereunder shall be given by Buyer upon demand by Seller and Seller may withhold deliveries until such payment or security is received.
3. **LIQUIDATED DAMAGES/CANCELLATION OF CONTRACT**
 - A. In the event Buyer fails to lift the contracted quantities within the Contract Period, Buyer shall pay Seller for each gallon of product which Buyer failed to lift the amount, if any, by which the contract price per gallon (less truck freight on delivered accounts) exceeds the applicable Platts NY Harbor Index in effect on the last day of the delivery period. Buyer hereto agrees that the amounts recoverable pursuant to Section A. are a reasonable pre-estimate of a Seller's loss and are not a penalty; such amounts are payable as liquidated damages for the loss of margin; a party receiving such payments shall not be entitled to recover any additional damages hereunder as a consequence of such loss.
 - B. Payments by either Seller or Buyer pursuant to this Section shall be made within 30 days of the last day of the delivery month in which deliveries were not accepted or made.
 - C. In addition to any other rights and remedies available to Seller, including the liquidated damages set forth in Section 3(A) above, in the event Buyer fails to lift the contracted quantities within the contract period, Seller shall have a right to terminate the agreement upon thirty (30) days' notice to Buyer.
5. **LIFTING TERMS.** All product quantities to be lifted within each delivery period of the contract unless otherwise provided herein. In the event Buyer fails to lift all or any part of a designated monthly quantity of product, Buyer shall owe Seller for each gallon not lifted and paid for in any given month, an amount equal to the quantity not so lifted multiplied by five cents (\$0.05). In no event shall the payment of any costs associated with underlifting excuse Buyer's obligation to lift and purchase the contracted quantities within the contract period.
6. **DESCRIPTION.** Seller warrants only that the product conforms to Seller's description set forth in the face hereof EXCEPT FOR TITLE SELLER MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY OF ANY KIND. Any claims that the product delivered hereunder does not conform to the description set forth herein are waived unless presented in writing by Buyer or Seller within 30 days after delivery thereof.
7. **FORCE MAJEURE.** Any delay in or failure of performance by either Party, except in respect to the obligation to make payments when due under this Contract, shall not constitute default hereunder if and to the extent such delay or failure is occasioned by any cause reasonably beyond the control of the Party affected ("Force Majeure"). Force Majeure occurrences include but are not limited to: acts of God or the public enemy, sabotage, war fires, revolution, civil commotion, riots, strikes, lockouts, accidents, floods, or other actions of governmental authorities. The Party declaring Force Majeure shall promptly notify the other Party in writing and shall exercise due diligence to prevent, eliminate or overcome such cause where it is possible to do so and shall resume performance at the earliest possible date as mutually agreed between the Parties.
8. **RISK OF LOSS AND TITLE.** Seller hereby warrants good title to oil sold and delivered to the Delivery Point as between the Parties. Seller shall be deemed to be in exclusive possession and control (and be responsible for any damages or injury caused thereby) of the product prior to the Delivery Point and the Buyer shall be deemed to be in exclusive possession and control (and be responsible for any damages caused thereby) of the oil at and from the Delivery Point. Title to the oil and all risk associated therewith shall pass to Buyer at the Delivery Point.
9. **INDEMNITY.** Buyer and Seller covenant and agree to fully agree to fully defend, protect, indemnify and hold harmless each other, their employees and agents, from and against each and every claim, demand or cause of action and any and all loss in connection therewith which may be made or asserted by Buyer or Seller on account of any personal injury or death or property damage caused by, arising out of, or in any way incidental to or in connection with their performance or non-performance of any of the terms and provisions of this Agreement.
10. **ASSIGNMENT.** Neither party shall assign the Agreement except upon written consent of the other, which consent shall not unreasonably be withheld. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties.
11. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. If any provision in this Agreement is held invalid or unenforceable, such provision shall be deemed severable and shall not affect the validity or enforceability of the balance of this Agreement. Each Party irrevocably waives any objection it might otherwise have to such venue, any right to remove or transfer jurisdiction to any other forum, and right of sovereign immunity.
12. **ENTIRE AGREEMENT.** This written Agreement constitutes the entire agreement between the parties. In case of a conflict between the terms and conditions of this Agreement and any terms or conditions on or in any confirmation, acknowledgment, purchase order or other document from Buyer, or any correspondence pertaining to any of these or the product sold hereunder, the terms and conditions of this Agreement shall control. No promises, agreements or other warranties additional to this written Agreement shall be deemed a part thereof, nor shall alteration or amendment of this written Agreement be effective without the express written agreement of the parties. Waiver by either party or default by the other or any previous course of dealings shall not operate as a waiver of any future default whether of a like or different character.