## 1. Delivery of Excess Quantities

The Contractor is responsible for the delivery of each item quantity within allowable variations, if any. If the Contractor delivers and the Government receives quantities of any item in excess of the quantity called for (after considering any allowable variation in quantity), such excess quantities will be treated as being delivered for the convenience of the Contractor. The Government may retain such excess quantities up to $250 in value without compensating the Contractor therefore, and the Contractor waives all right, title, or interests therein. Quantities in excess of $250 will, at the option of the Government, either be returned at the Contractor's expense or retained and paid for by the Government at the contract unit price.

## 2. Variation in Quantity

(a) A variation in the quantity of any item called for by this contract will not be accepted unless the variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified in paragraph (b).
(b) The permissible variation shall be limited to:
_10__ Percent increase [*Contracting Officer insert percentage*]
_10__ Percent decrease [*Contracting Officer insert percentage*]
This increase or decrease shall apply to _____.*
* Contracting Officer shall insert in the blank the designation(s) to which the percentages apply, such as-
(1) The total contract quantity;
(2) Item1 only;
(3) Each quantity specified in the delivery schedule;
(4) The total item quantity for each destination; or
(5) The total quantity of each item without regard to destination.

## 3. Market Escalator Economic Price Adjustment

(a) **WARRANTIES.** The Contractor warrants that--

(1) The unit prices set forth in the Schedule do not include allowances for any portion of the contingency covered by this contract; and

(2) The prices to be invoiced hereunder shall be computed in accordance with this contract.

(b) **DEFINITIONS.** As used throughout this contract, the term--

(1) **Award price** means the unit price offered by the Contractor and set forth opposite the item in the Schedule.

(2) **Reference price** means the market price, this is either published in an independent publication or supplied by the Contractor, with which the award price is to fluctuate. The reference price should be a market price for the same or similar product(s) as the item being purchased.

(3) **Date of delivery** means--

(i) **FOR TANKER OR BARGE DELIVERIES.**

(A) **F.O.B. ORIGIN.** The date and time vessel commences loading;

(B) **F.O.B. DESTINATION.** The date and time vessel commences discharging;

(ii) **FOR PIPELINE DELIVERIES.** The date and time product commences to move past the specified f.o.b. point; and

(iii) **FOR ALL OTHER TYPES OF DELIVERIES.** The date product is received.

(c) **ADJUSTMENTS.** The prices payable under this contract shall be the award price increased or decreased by the amount, determined according to the following formula, that the reference price shall have increased or decreased, to and including the date of delivery.

(1) The amount of increase or decrease in the award price shall be based on the same number of cents, or fraction thereof, that the reference price increases or decreases per like unit of measure.

(2) The reference price with which the award price for the listed item is to fluctuate (and which is more fully defined in the Table below) is--

[ ] (i) The low price published in _____.
(name of publication)

[ ] (ii) The average of the prices published in **PLATTS**_____.
(name of publication)

[ ] (iii) The established price posted by _____ and
(name of company)

published in _____
(name of publication)

(3) **COMMERCIAL.** For price adjustments utilizing **commercial** publications such as Platts Oilgram, etc., the reference price in effect on the date of delivery shall be that item's reference price that is in effect for the dates in the Table below. If an effective date is not cited in a publication, then the date of publication shall apply. An increase or decrease in any reference price published in a trade price service or in a commercial journal shall apply only to deliveries made on or after the effective date of such trade price service or commercial journal. In the event of a holiday for which an effective date is not used, the latest effective price(s) prior to the effective date shall be used. **NOTE: Platts issues corrections to its published prices on a regular basis. Platts posts corrections to its website (www.platts.com) for its subscribers. If a correction to a reference price is found on the Platts website, all of the items that use that reference price will be corrected. DLA Energy will correct any other reference prices, as notice of the correction is received. DLA Energy will work with the pricing services to determine the appropriate price, whenever an offeror or contractor can show that the price referenced should be reviewed.**

(4) **NONCOMMERCIAL (NOTIFICATION).** For price adjustments utilizing a reference price indicator **other than commercial** publications such as Platts Oilgram, the Contractor shall notify the Contracting Officer of any changes in the reference price in writing within 15 calendar days from the date thereof.

(i) **INCREASES.** Any increase in unit price as a result of an increase in reference price shall apply only to deliveries made on or after the date of receipt by the Contracting Officer of a written notification from the Contractor of such increase. However, the prices payable under this contract shall in no event exceed the Contractor's posted or established selling price in effect on the date of delivery for the product supplied in the form of delivery made at the point of delivery. Also, no notification incorporating an increase in a contract unit price shall be executed pursuant to this contract until the increase has been verified by the Contracting Officer.

(ii) **DECREASES.** If the Contractor fails to notify the Contracting Officer of any decrease in the reference price, within the allotted 15 day period, such decrease shall apply to all deliveries made on or after the effective date of such decrease. However, if any overpayment is made to the Contractor as a result of the Contractor's failure to give timely notice to the Contracting Officer of any decrease in the established price, the Contractor shall be charged interest on such overpayment from the date of the overpayment to the date of reimbursement by the Contractor for the overpayment in accordance with the Disputes paragraph of in accordance with the Solicitation.

(5) Where the reference price is the Contractor's established price (see (c)(2)(iii) above), the Contractor warrants that the product selected is one for which, except for modification required by the

specifications of this contract, the Contractor has an established price. Such price is the net price after applying any applicable standard trade discounts offered by the Contractor for its catalog, list, or schedule price. The Contractor further warrants that, as of the current date, any differences between the unit prices of the line items identified in the Schedule and the Contractor's established price for like quantities of the nearest commercial equivalents of such contract items are due to compliance with contract specifications and to compliance with any requirements that this contract may contain for preservation, packaging, and packing beyond standard commercial practice.

(d) **MODIFICATIONS.** Any resultant price changes shall be provided via notification through contract modifications.

(e) **FAILURE TO DELIVER.** Notwithstanding any other conditions of the contract, no upward adjustment shall apply to product scheduled under the contract to be delivered before the effective date of the adjustment, unless the Contractor's failure to deliver according to the delivery schedule results from causes beyond the Contractor's control and without its fault or negligence, within the meaning of the Excusable Delays and Termination for Cause paragraphs of the Contract Terms & Conditions–Commercial Products and Commercial Services clause of the this contract in which case the contract shall be amended to make an equitable extension of the delivery schedule.

(f) **UPWARD CEILING ON ECONOMIC PRICE ADJUSTMENT.** The Contractor agrees that the total increase in any contract unit price pursuant to Solicitation:

(1) If at any time the Contractor has reason to believe that within the near future a price adjustment under the conditions of this contract will be required that will exceed the current contract ceiling price for any item**,** the Contractor shall promptly notify the Contracting Officer in writing of the expected increase. The notification shall include a revised ceiling the Contractor believes is sufficient to permit completion of remaining contract performance, along with appropriate explanation and documentation as required by the Contracting Officer.

(2) If an actual increase in the reference price would raise a contract unit price for an item above the current ceiling, the Contractor shall have no obligation under this contract to fill pending or future orders for such item, as of the effective date of the increase, unless the Contracting Officer issues a contract modification to raise the ceiling. If the contract ceiling will not be raised, the Contracting Officer shall so promptly notify the Contractor in writing.

(g) **REVISION OF REFERENCE PRICE INDICATOR.** In the event—

(1) Any applicable reference price is discontinued or its method of derivation is altered substantially;

(2) The reference price is an average of published or posted prices, and any one price ceases to be published or posted;

(3) The reference price is published in a trade price service or commercial journal and such publication ceases to publish said reference price or changes its method of quoting prices; or

(4) The Contracting Officer determines that the reference price consistently and substantially failed to reflect market conditions—

the parties shall mutually agree upon an appropriate and comparable substitute for determining the price adjustment described hereunder. The contract shall be modified to reflect such substitute effective on the date the indicator was discontinued, altered, or began to consistently and substantially fail to reflect market conditions. If the parties fail to agree on an appropriate substitute, the matter shall be resolved in accordance with the Disputes paragraph of the Contract Terms & Conditions–Commercial Products and Commercial Services clause of this contract.

(h) **CONVERSION FACTORS.** If this contract requires quantity conversion for economic price adjustment purposes, the conversion factors for applicable products, as specified in the CONVERSION FACTORS contract, apply unless otherwise specified in the Schedule.

(i) **EXAMINATION OF RECORDS.** The Contractor agrees that the Contracting Officer or designated representatives shall have the right to examine the Contractor's books, records, documents, or other data the Contracting Officer deems necessary to verify Contractor adherence to the wording of this contract.

(j) **FINAL INVOICE.** The Contractor shall include a statement on the final invoice that the amounts invoiced hereunder have applied all decreases required by this contract.

(k) **TABLE.**

| I | II | III | IV | V | VI | VII |
|---|---|---|---|---|---|---|
| Item No. (listed items) | Name of company/ publication (identify by number from (c)(2) above) | If company - name of product; If publication - heading under which reference price is published and name of product | Location where reference price is applicable | Method of delivery to the reference price | Reference price as of _____ (date) (exclude all taxes | Maximum price payable under this contract (includes any tax included in the award p rice |

**4. Conversion Factors**

(a) All products except lubricating oils.

(b) The offeror should use conversion factors that reflect its product characteristics and submit prices and transportation rates in the requested units. In the event prices or transportation rates are not submitted in the requested units, the following conversion factors based on an assumed density for the product will be used by DLA Energy in the evaluation of the offer.

(1) TABLE I.

One Imperial Gallon = 1.20095 U.S. Gallons at the same temperature One Liter = 0.264172 U.S. Gallons at the same temperature

One Cubic Meter (1,000 liters) = 6.2898 Barrels at the same temperature One U.S. Barrel = 42 U.S. Gallons at the same temperature

One Kilometer = 0.62137 Miles One Mile = 1.6093 Kilometers

One Nautical Mile = 1.15 Statute Miles

(2) TABLE II.

DENSITY TYPICAL

PRODUCT @15oC @60oF

BARRELS PER GALLONS PER LITERS PER BARRELS PER GALLONS PER

Kg/m3 API METRIC TON METRIC TON METRIC TON LONG TON LONG TON

AUTOMOTIVE

GASOLINE (ALL) 744.9 58.4 8.462 355.42 1342.46 8.598 361.12 AVIATION

GASOLINE (ALL) 716.3 66.0 8.801 369.66 1396.06 8.943 375.59

BURNER FUEL OILS

FUEL OIL NO. 1 812.8 42.5 7.753 325.61 1230.31 7.877 330.83

FUEL OIL NO. 2 846.9 35.5 7.440 312.49 1180.78 7.560 317.51

FUEL OIL NO. 4 914.2 23.2 6.891 289.44 1093.85 7.002 294.09 FUEL OIL NO. 5

LIGHT 954.2 16.7 6.602 277.27 1048.00 6.707 281.71 FUEL OIL NO. 5

HEAVY 960.7 15.7 6.557 275.39 1040.91 6.662 279.81

FUEL OIL NO. 6 976.6 13.3 6.450 270.90 1023.96 6.554 275.25 DIESEL FUELS

NO. 1 DIESEL (ALL) 818.9 41.2 7.695 323.17 1122.15 7.818 328.36

NO. 2 DIESEL (ALL)

& GAS OIL 839.3 37.0 7.507 315.30 1191.47 7.628 320.36 INTERMEDIATE FUEL OILS

IFO 180 965.3 15.0 6.526 274.09 1035.95 6.630 278.48

IFO 380 973.9 13.7 6.468 271.65 1026.68 6.572 276.01 JET FUELS

JP4/JET B 764.6 53.5 8.243 346.22 1307.87 8.376 351.78

JP5 819.9 41.0 7.686 322.80 1219.66 7.809 327.98

JP8/JET A1/F34/TS1 805.9 44.0 7.820 328.42 1240.85 7.945 333.69

JET A 814.2 42.2 7.739 325.04 1228.20 7.863 330.26

KEROSINES (ALL) 815.2 42.0 7.730 324.68 1226.69 7.854 329.88

MARINE GAS OIL 839.3 37.0 7.507 315.30 1191.47 7.628 320.36

NAPHTHA 731.1 62.0 8.623 362.16 1367.80 8.761 367.97 NAVAL DISTILLATE

FUEL (F76) AND

DFW (F75) 844.3 36.0 7.463 313.43 1184.41 7.582 318.46

(3) TABLE III.

ASSUMED DENSITY

PRODUCT 20 deg C/20 deg C

g/mL lb/gal Kg/gal

FSII DIEGME 1.025 8.561 3.884

(a) GENERAL. This contract is for overseas fuel deliveries for posts, camps, and stations. Invoices will be paid on the basis of the Contractor's delivery to the point of first receipt by the Government.

(b) INVOICES WILL REFLECT QUANTITIES IN WHOLE NUMBERS AND SHALL BE ROUNDED AS FOLLOWS. Example: 7,529.4 = 7,529 or 7,529.5 = 7.530.

(c) RESPONSIBILITY FOR SUPPLIES. Title to the supplies shall vest in the Government upon delivery to the point of first receipt by the Government. The Contractor shall assume all responsibility and risk of loss for supplies (1) not received at destination, (2) damaged in transit, or (3) not conforming to purchase requirements. The Contractor shall either replace or correct such supplies promptly at its expense, provided instructions to do so are furnished by the Contracting Officer within 90 days from the date title to the supplies vests in the Government.

## 5. Free Time and Detention Rates

(a) Upon arrival of Contractor's transport truck or truck and trailer, the receiving activity shall promptly designate the tanks into which the load is to be discharged. Free time will commence when the discharge hose is connected to the receiving line at the delivery point and will end when discharge is completed. The Contractor shall be paid for detention beyond free time for delays caused by the Government. A minimum of one-hour free time is required.
plus,
(1) Free time for unloading a transport truck or truck and trailer (including one-hour minimum plus any additional time):_____.
(2) Rate for detention beyond free time:_____ .
The above will not be considered in the evaluation of offers for award except that a free time of less than one hour may render an offer unacceptable. Notwithstanding the above, the Government is entitled to at least as much free time as is allowed by the common carrier or that the Contractor normally allows its regular commercial customers, whichever is greater.
Free time only applies to single-drop deliveries (it is not applicable to multiple-drop tank truck/truck and trailer deliveries or any tank wagon deliveries).
(b) Notwithstanding the above, the Government will not pay more in detention rates than the actual rate charged by the common carrier or the rate the Contractor normally charges its regular commercial customers, whichever is lower. Detention costs will be the sole responsibility of the activity incurring them and are only allowable on single drop deliveries (they are not allowable on multiple drop tank truck/truck and trailer deliveries or any tank wagon deliveries. Invoices for detention costs will be submitted by the Contractor directly to the activity receiving the product. Applicable to DLA owned/capitalized as well as non-DLA-owned/noncapitalized products.
(c) Unless the offeror otherwise indicates in paragraphs (a)(1) and (a)(2) above, free time will be considered unlimited and detention costs will not be chargeable.

## 6. Authorized Negotiators

The offeror or quoter represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations.

| NAME | TITLE | PHONE NUMBER | E-MAIL ADDRESS |
|---|---|---|---|

## 7. Definitions

As used throughout this contract, the following terms shall have the meanings set forth below:
(a) Quality Assurance Representative (QAR) is a Government Representative authorized to represent the Contracting Officer to assure the Contractor complies with the contractual requirements in furnishing petroleum products and services.
(b) Ordering Officer means whichever of the following or their designated representatives is applicable: (1) the Commander, DLA Energy; (2) the Commander, Defense General Supply Center; (3) the Commander, U.S. Army Petroleum Center; (4) the Commanding Officer, U.S. Navy Petroleum Office; (5) the Director of Air Force Aerospace Fuels; (6) the Chief of the Air Force Aerospace Fuels Office; (7) the Officer in charge of the Federal Government activity encompassing any delivery point indicated in the Schedule; (8) the Commanding Officer or the Master of the vessel to be bunkered; (9) any Government Contractor furnishing evidence of authority to order under this contract; (10) the head of any Federal Government agency; (11) the pilot, the flight commander, the aircraft commander or the crew chief of the U.S. designated aircraft authorized to place orders against into-plane contracts; (12) the Contracting Officer;
(13) the individual in charge of ordering coal at the receiving Government activity; (14) the driver of a Federal vehicle or boat, or the pilot of a Federal aircraft authorized to place orders under a service station contract; (15) the Navy Fleet Commanders; (16) the Defense Attaché.
(c) The acronym TK means tanker, B means barge, TC means tank car, T means truck, TT means transport truck, TTR means truck and trailer, TW means tank wagon, P means pipeline, and MSS means Marine Service Station. The acronyms or terms TT or transport truck and TTR or truck and trailer mean tank truck equipment, whereas the acronym or term T or truck means truck equipment for hauling drummed or packaged supplies. The acronym SW means supplier's works, CFD means Contractor furnished drum, and GFD means Government-furnished drum.
(d) Supplies means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea. An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.
(e) Acceptance means the act of an authorized Representative of the Government by which the Government, for itself, or as an agent of another, assumes ownership of existing identified supplies tendered or approves specific services rendered, as partial or complete performance of the contract. For f.o.b. origin delivery acceptance occurs when the Government QAR signs the Material Inspection and Receiving Report (DD Form 250 series document). For f.o.b. destination delivery, acceptance occurs when the authorized Government Representative signs the DD Form 250 series document or the contractor's shipping document.
(f) Calibration means the comparison of a measurement system or device of unverified accuracy to a measurement system or device of known or greater accuracy to detect and correct any deviation from required performance specifications of the unverified measurement system or device.
(g) The terms isolated system and segregated system mean a system that has a positive separation from other systems in a tank farm through the means of blind flanges, locked double-block and bleed type valves, etc.
(h) Dedicated system means a system that is self contained and for the exclusive use of a particular

product.

(i) Common system means a system that usually utilizes a manifold or pipeline that handles more than one product exclusively.