

MUTUAL RELEASE AND SETTLEMENT AGREEMENT

Between International Oil Trading Company and Defense Logistics Agency Energy

This Mutual Release and Settlement Agreement (the "Agreement") is entered into between INTERNATIONAL OIL TRADING COMPANY ("IOTC"), also known as International Oil Trading Company, LLC, represented by Harry Sargeant III, President, and the DEFENSE LOGISTICS AGENCY ENERGY ("DLA Energy"), represented by Jamaal R. Rose, Division Chief and Contracting Officer, Ground Fuels Division IV, Direct Delivery Fuels, collectively the "Parties."

WHEREAS:

1. On May 3, 2007, the Defense Energy Support Center ("DESC") (now DLA Energy) awarded Contract No. SP0600-07-D-0483 to IOTC, Commercial and Government Entity ("CAGE") Code 38HX3, for the procurement of petroleum fuel products to locations in western Iraq, to be delivered through the Jordan-Iraq border. Contract No. SP0600-07-D-0483 was awarded with a term from July 1, 2007, through April 30, 2008, with an option to extend the term of the contract through April 30, 2009.
2. On July 10, 2009, DESC awarded Contract No. SP0600-09-D-0515 to IOTC, CAGE Code 38HX3, for the procurement of petroleum fuel products to locations in western Iraq, to be delivered through the Jordan-Iraq border. Contract No. SP0600-09-D-0515 was awarded with a term from September 1, 2009, through December 31, 2011.
3. During performance of Contract No. SP0600-07-D-0483, a dispute arose between the Parties regarding how to measure the amount of fuel delivered. This dispute continued into the performance of Contract No. SP0600-09-D-0515.
4. IOTC submitted to the Contracting Officer a certified claim, dated March 5, 2010, seeking \$20,032,140.72 under Contract No. SP0600-07-D-0483 for alleged underpayments arising from the dispute over the quantity of fuel delivered between July 1, 2007, and February 29, 2008.
5. IOTC submitted to the Contracting Officer certified claims, dated August 20, 2010, seeking \$48,783,478.00 under Contract No. SP0600-07-D-0483 for alleged underpayments arising from the dispute over the quantity of fuel delivered between March 1, 2008, and August 31, 2009, and seeking \$5,917,482.00 under Contract No. SP0600-09-D-0515 for alleged underpayments arising from the dispute over the quantity of fuel delivered between September 1, 2009, and February 28, 2010.
6. This Agreement refers to the above-identified certified claims as the "Quantity Claims."
7. The Contracting Officer denied the Quantity Claims in a final decision dated November 17, 2010.

8. IOTC appealed the denial of the Quantity Claims to the Armed Services Board of Contract Appeals (“ASBCA”) on January 20, 2011. The ASBCA docketed the appeals as ASBCA Nos. 57491, 57492, and 57493.

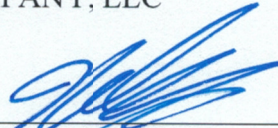
NOW THEREFORE, in consideration of the mutual promises contained herein and for good and valuable consideration, the Parties hereby mutually agree as follows:

1. SETTLEMENT PAYMENT. Within 60 days of the effective date of this Agreement, DLA Energy will pay to IOTC the amount of Thirty Nine Million Nine Hundred Seventy-Five Thousand Dollars (\$39,975,000.00) in full satisfaction of the Quantity Claims. Neither Prompt Payment Act nor Contract Disputes Act interest is payable as part of this settlement. The Parties shall bear their own costs and attorneys’ fees. If payment is not made within 60 days, Contract Disputes Act interest is payable on the settlement amount, and shall run beginning on the 61st day.
2. DISMISSAL OF PENDING LITIGATION. IOTC consents to dismissal, with prejudice, of ASBCA Nos. 57491, 57492, and 57493. IOTC shall request, in writing, dismissal of ASBCA Nos. 57491, 57492, and 57493 with prejudice within 15 days of receipt of payment.
3. AUTHORITY TO SIGN AND ASSIGNMENT. Each person who signs this Agreement warrants that he or she is duly authorized to sign on behalf of the party the signer purports to represent. IOTC has assigned its right to payments under Contract No. SP0600-07-D-0483 to ABN AMRO Bank N.V. in accordance with the Assignment of Claims Act. Payment to the assignee shall be considered payment to IOTC. Similarly, to the extent any payment is offset to pay any debt to the United States government, any such offset shall be considered payment to IOTC.
4. MUTUAL RELEASE OF CLAIMS. This Agreement constitutes a full release and accord and satisfaction by IOTC of and from any and all claims, demands, disputes, or causes of action, known or unknown, based on, related to, or arising under the Quantity Claims, Contract No. SP0600-07-D-0483, or Contract No. SP0600-09-D-0515. Effective upon the execution of this Agreement, to the extent permitted by law, DLA Energy releases and discharges IOTC and its officers of and from any and all claims, demands, disputes, or causes of action, known or unknown, related to, or arising under Contract No. SP0600-07-D-0483, or Contract No. SP0600-09-D-0515.
5. ADDITIONAL DOCUMENTS. The Parties agree to execute whatever modification(s) or other additional documents as may be reasonably necessary to carry out the terms, conditions, and obligations of this Agreement.
6. INTEGRATION. This Agreement is entered into by each of the Parties without reliance upon any statement, representation, promise, inducement, or agreement not expressly contained herein. This Agreement constitutes the entire agreement between the Parties concerning the aforesaid settlement and release of claims.

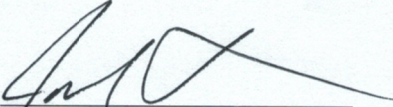
7. NEGOTIATED TRANSACTION. Each of the Parties has participated in the drafting and negotiation of this Agreement. Accordingly, for all purposes, this Agreement shall be deemed to have been drafted jointly by the Parties.
8. MODIFICATIONS. This Agreement shall not be amended, modified, supplemented, or changed except by an agreement in writing, signed by the Parties hereto. The terms of the Agreement are contractual and not mere recital.
9. NON-ADMISSION OF LIABILITY. As among the Parties to this Agreement, and as among any Party and any other person, firm, corporation, or other entity, nothing contained in this Agreement shall be construed as an admission of liability or as an admission against interest by any Party. This Agreement will also not establish any precedent. DLA Energy acknowledges IOTC satisfactorily performed Contract No. SP0600-07-D-0483 and Contract No. SP0600-09-D-0515. DLA Energy will not consider the fraud allegations raised in these appeals associated with IOTC's past performance under Contract No. SP0600-07-D-0483 or Contract No. SP0600-09-D-0515 in making future contract award decisions.
10. AUTHORITY. The Parties expressly represent and warrant that they have entered into this Agreement voluntarily, with proper authority, and without any reservation.
11. GOVERNING LAW. This Agreement is to be interpreted in accordance with and governed by the laws of the United States, including the Contract Disputes Act of 1978.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective for all purposes as of the 13th day of February 2018.

FOR INTERNATIONAL OIL TRADING
COMPANY, LLC

By: 
Name: Harry Sargeant III
Title: President
Date: February 13, 2018

FOR DEFENSE LOGISTICS AGENCY
ENERGY

By: 
Name: Jamaal R. Rose
Title: Division Chief & Contracting Officer
Date: February 13, 2018