



22 E. The Owner, Operator, and the United States, as parties to this Agreement,  
23 desire to arrange for security to be posted to secure the performance of this Agreement  
24 and to permit CBP to issue the Vessel's departure clearance.

25 **AGREEMENT**

26 This Agreement in its entirety constitutes surety satisfactory to the Secretary of  
27 Homeland Security ("Secretary") per 33 U.S.C. § 1908(e). As consideration for surety  
28 satisfactory to the Secretary for the release of the Vessel, the undersigned parties agree as  
29 follows:

30 1. Owner and Operator shall jointly post a Surety Bond in the amount of ONE  
31 MILLION UNITED STATES DOLLARS (USD) (\$1,000,000.00), as security for any  
32 adjudicated potential fines or penalties for the Alleged Violations and to ensure  
33 performance of this Agreement. The Surety Bond shall be posted prior to the Vessel's  
34 departure from Wilmington, DE and delivered to the U. S. Coast Guard, to the attention  
35 of Commander Robert Pirone, Commander (dl), Fifth Coast Guard District, 431  
36 Crawford St, Portsmouth, VA 23704, or to the Eighth Coast Guard District Legal Office,  
37 500 Poydras Street, New Orleans, LA 70130. When the U. S. Coast Guard receives the  
38 Surety Bond, and upon receipt of an executed copy of this document, the U. S. Coast  
39 Guard will promptly notify U. S. Customs that departure clearance of the Vessel may be  
40 granted as it relates to the violations alleged in the U. S. Coast Guard's letter to the  
41 Master of the Vessel dated February 22, 2019. The Surety Bond shall be paid out to the  
42 United States as provided for in the Surety Bond and as follows:

43 (a) Subject to any right of appeal, if a penalty is assessed by a United States court  
44 or authorized administrative body in a civil, criminal, or administrative action

45 against the vessel *in rem* or its Owner or Operator *in personam* for the Alleged  
46 Violations or violations arising from or relating to the facts of the Alleged  
47 Violations, then the net amount of such penalty (or the full amount of the  
48 Surety Bond, excluding any interest on that amount, if the penalty is in excess  
49 of the Surety Bond) shall be paid to the United States. The balance amount of  
50 the Surety Bond and any interest earned thereon remaining in excess of the  
51 amount paid to the United States shall be remitted to Owner and/or Operator.

52 (b) If judgment is entered in favor of Owner and Operator in a criminal action, the  
53 balance of the amount of the Surety Bond and any interest earned thereon  
54 shall be paid to Owner and/or Operator.

55 (c) If either the Owner and/or Operator fail to appear as required by this  
56 Agreement, or fail to waive objections to jurisdiction as required by this  
57 Agreement, then the amount of the Surety Bond, excluding any interest earned  
58 thereon, shall be paid to the United States.

59 (d) If a United States court renders a finding that either the Owner or Operator  
60 failed to provide for lodging or pay the crew as required by paragraph 3 of this  
61 Agreement, then the amount of the Surety Bond and any interest earned  
62 thereon shall be payable to the crew or their agents as directed by the court.

63 (e) If a United States court renders a finding that either the Owner or Operator  
64 materially breached other obligation contained in this Agreement, then the  
65 amount of the Surety Bond and any interest earned thereon shall be payable to  
66 the United States in reimbursement for actual expenses required for

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67 performance of the aforementioned obligations by the United States as  
68 directed by the court..

69 (f) If a full or partial plea agreement or compromise is reached in a civil,  
70 criminal, or administrative action, then payment shall be made in accordance  
71 with joint written instructions from the United States and Owner and  
72 Operator.

73 Any dispute between the United States and Owner or Operator regarding payment under  
74 this paragraph shall be submitted to the United States District Court for the District of  
75 Delaware. In any such dispute wherein one party claims a breach of the terms and  
76 conditions herein, the party asserting that there has been a breach of the Agreement shall  
77 bear the burden of proof.

78 2. Owner and Operator agree to facilitate interviews of any officer or  
79 crewmember employed by Owner or Operator at the time such a request is made by the  
80 United States. Owner and Operator agree to cooperate with the United States to arrange  
81 for testimony of such employed officer or crewmember before a Grand Jury or other  
82 judicial or administrative proceeding arising from the Alleged Violations. Owner and  
83 Operator agree to assist the United States in effecting proper service of process with  
84 respect to any Alleged Violation of the Owner, Operator, Person in Charge, officer or  
85 crewmember, for any employed officer or crewmember who is not in the United States at  
86 the time the subpoena is issued, in a manner consistent with U.S. laws and the laws of the  
87 foreign country where the individuals are located. In addition, the Owner and Operator  
88 will encourage these officers and crewmembers to cooperate with the United States in  
89 carrying out its investigation and in appearing for their scheduled testimony. Owner and

90 Operator will act in good faith in carrying out these obligations. No disciplinary  
91 measures or legal proceedings or any other retaliatory actions will be instituted by the  
92 Owner and/or Operator or any agent of the Owner and/or Operator of the Vessel against  
93 any officer or crewmember or other employee as a result of the officer's or  
94 crewmember's or other employee's cooperation with the United States. No efforts will  
95 be undertaken to retaliate against the officers or crewmembers or other employees for  
96 their cooperation, either now or at any time in the future, and the Owner and Operator  
97 will make reasonable efforts to prevent third parties from the doing the same. The United  
98 States agrees that it will provide reasonable notice of its need for these officers and  
99 crewmembers to be present so that Owner and Operator may arrange for substitute  
100 officers and crewmembers.

101 3. At the request of the U.S. Coast Guard acting on behalf of the United  
102 States, the ships officer and crewmembers listed within subpart (a) of this paragraph  
103 ("Paragraph 3") shall remain within the jurisdiction of the U.S. District Court – District  
104 of Delaware pursuant to the terms set forth within the below subparts.

105 (a) The ship's officers and crewmembers pertaining to this paragraph are:

- 106 1) [REDACTED] - Master;  
107 2) [REDACTED] - Chief Officer;  
108 3) [REDACTED] - Chief Engineer;  
109 4) [REDACTED] - Second Engineer;  
110 5) [REDACTED] - Third Engineer;  
111 6) [REDACTED] - Fourth Engineer;  
112 7) [REDACTED] Able Seaman

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- 113 8) [REDACTED] - Ordinary Seaman  
114 9) [REDACTED] - Oiler  
115 10) [REDACTED] - Oiler  
116 11) [REDACTED] - Oiler  
117 12) [REDACTED] - Fitter  
118 13) [REDACTED] - Electrician

119

120 (b) The Owner and Operator agree to provide reasonable lodging, a meal  
121 allowance of \$50.00 USD per day and health care coverage to the aforementioned  
122 ship's officers and crewmembers of the Vessel while in the United States,  
123 regardless of the current employment status of the aforementioned ship's officers  
124 and crewmembers, until the United States, through its attorney responsible for the  
125 pending criminal investigation, advises that their presence is no longer necessary.  
126 Provided that the lodging secured for the aforementioned ship's officers and  
127 crewmembers includes breakfast and/or functional kitchen facilities, the required  
128 meal allowance will be reduced to \$35.00 USD per day. Owner and Operator  
129 further agree that the lodging provided to the above described Master, [REDACTED]  
130 [REDACTED], Chief Officer, [REDACTED], Chief Engineer, [REDACTED]  
131 [REDACTED], Second Engineer, [REDACTED] and Third Engineer,  
132 [REDACTED], will be in a different lodging facility from the rest of the above  
133 described crewmembers. Owner and Operator agree to immediately notify the  
134 United States, through its attorney responsible for the pending criminal  
135 investigation, as well as Commander Robert Pirone, of the name, address and

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136 telephone number of the lodging facility where each ship's officer and  
137 crewmember resides. Owner and Operator agree to provide notice of this  
138 agreement and its provisions to all affected ship's officers and crewmembers.  
139 (c) Owner and Operator agree that the Vessel shall not depart forthwith for the  
140 remainder of its voyage until the aforementioned ship's officers and  
141 crewmembers of the Vessel have been granted immigration status necessary to  
142 enable them to remain in the United States commensurate with the duration of this  
143 Agreement. Owner and Operator agree that no such ship's officer or  
144 crewmember will be allowed to remain aboard the Vessel when it departs from  
145 the United States unless the United States, through its attorney responsible for the  
146 pending criminal investigation, advises Owner and/or Operator that the ship's  
147 officer or crewmember may leave the United States aboard the Vessel. Owner  
148 and Operator agree to continue to employ and to pay total wages in a timely  
149 manner and in a manner consistent with any applicable collective bargaining  
150 agreements or employee contracts until the United States, through its attorney  
151 responsible for the pending criminal investigation, advises that their presence is  
152 no longer necessary, except that the Owner and Operator will not be required to  
153 employ or pay wages for any ship's officer or crewmember listed in subpart (a)  
154 who is convicted of a crime arising from and related to the facts of the Alleged  
155 Violations. "Total wages" as used in this paragraph includes the total wage the  
156 crewmember contracted for and anticipated, including guaranteed overtime. After  
157 being advised by the United States, through its attorney responsible for the  
158 pending criminal investigation, that the presence of an aforementioned ship's

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159 officer or crewmember is no longer necessary, Owner and Operator will repatriate  
160 the ship's officer or crewmember to his home country, or to another port so that  
161 the ship's officer or crewmember may complete his employment contract, unless  
162 otherwise agreed or ordered by a court of competent jurisdiction.

163 (d) The United States, by and through its attorney, agrees to provide written  
164 notice to counsel for the Owner and Operator when a determination is made that a  
165 particular ship's officer or crewmember is no longer necessary. Upon receipt of  
166 such notice, the Owner and Operator will have 72 hours in which to either lodge  
167 an objection to the release or make travel arrangements. If an objection is lodged,  
168 then the ship's officer or crewmember will continue to remain in the United States  
169 with all the benefits (e.g., wages, lodging, per diem, etc.) as are being provided to  
170 the other remaining officers and crewmembers.

171 (e) The requirements of the Owner and Operator set forth in the entirety of  
172 Paragraph 3 and its subparts shall continue until all related cases are declined,  
173 there is sentencing, judgment, and any resulting repatriations, or depositions are  
174 taken in accordance with Rules of Criminal Procedures, Rule 15, after an  
175 indictments or information have been returned. Owner and Operator will act in  
176 good faith in carrying out these obligations.

177 4. The United States and the Owner and Operator agree to take reasonable  
178 measures to expedite the investigation of the Alleged Violations and any subsequent  
179 proceedings.

180 5. The United States agrees that the Owner and Operator cannot exercise  
181 complete control over the ship's officers and crewmembers of the Vessel and therefore

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182 Owner's and Operator's obligations in respect to ensuring any ship's officer or  
183 crewmember of the Vessel remains within or returns to the jurisdictions of the U. S.  
184 District Court - District of Delaware, shall be limited to:

185 (a) requesting such ship's officers and crewmembers of the Vessel to  
186 surrender their passports to the Owner or Operator for safe keeping;

187 (b) requesting such ship's officers and crewmembers of the Vessel to remain  
188 within the jurisdictions of the U. S. District Court - District of Delaware,

189 (c) providing such ship's officers and crewmembers of the Vessel with  
190 reasonable lodging, a meal allowance and health care coverage as provided in this  
191 Agreement; and

192 (d) providing such ship's officers and crewmembers of the Vessel with  
193 reasonable transportation within the jurisdictions of the U. S. District Court - District of  
194 Delaware, including transportation to all meetings with their attorneys and law  
195 enforcement personnel.

196 If such a ship's officer or crewmember refuses or fails to surrender his passport to Owner  
197 or Operator as required above, then Owner and Operator shall immediately provide actual  
198 notice to the United States, through both its attorney responsible for the pending criminal  
199 investigation as well as Commander Robert Pirone. If at any time any such ship's officer  
200 or crewmember requests the return of his passport by Owner and/or Operator, then  
201 Owner and/or Operator shall provide actual notice to the United States, through both its  
202 attorney responsible for the pending criminal investigation, as well as Commander Robert  
203 Pirone, at least 72 hours before returning the passport to the ship's officer or  
204 crewmember. Regarding such ship's officers and crewmembers of the Vessel, Owner

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205 and Operator shall have no further responsibility or obligations to the U.S. Coast Guard  
206 other than those stated herein, except as otherwise provided by law or regulation.

207 6. The obligations of the Owner and Operator set forth herein with respect to  
208 the specifically aforementioned ship's officers and crewmembers of the Vessel are  
209 subject to all rights of each ship's officer and crewmember as may be asserted by the  
210 ship's officer or crewmember or by any attorney working on his behalf.

211 7. Nothing in this Agreement is to be deemed as binding on non-parties to  
212 this Agreement. In particular, for each ship's officer and crewmember who may be  
213 served with a federal Grand Jury, deposition, or trial subpoena or material witness  
214 warrant and who is required to remain within the jurisdictions of the U. S. District Court -  
215 District of Delaware, their rights pursuant to 18 U.S.C. § 3144, F.R.Crim.P. Rule 15 and  
216 other federal laws are specifically preserved.

217 8. The United States has previously provided an inventory of all documents,  
218 copies of documents, or items seized from the Vessel. Owner and Operator agree to  
219 stipulate to the authenticity of documents and things listed on the inventory provided by  
220 the United States after the Owner and Operator, through counsel, have had a reasonable  
221 opportunity to review the inventory and compare it against actual documents or things  
222 referenced in the inventory. The United States agrees that by so stipulating, Owner and  
223 Operator do not waive any objections they may have to the relevance or admissibility of  
224 the documents into evidence in any proceeding, or to the manner in which they were  
225 seized and removed, or to any other matter concerning the documents or things except  
226 their authenticity at the time of their seizure. Owner and Operator also agree to accept  
227 service of and comply with any and all subpoenas for records issued by the government

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228 and, upon request, provide a competent custodian of records at any court proceeding, to  
229 include grand jury, motions, and trial, to testify as to the authenticity of any records  
230 produced pursuant to the subpoena and steps taken to comply with said subpoena. The  
231 Owner and Operator will pay for the travel to the United States of the relevant records  
232 custodian(s) and instruct those records custodians to cooperate with the United States in  
233 carrying out its investigation and will act in good faith in carrying out this obligation.

234 9. Owner, Operator and the United States agree that the criminal and civil  
235 penalty claims of the United States against the Vessel *in rem* shall attach to the Vessel  
236 release's security as provided pursuant to the Federal Rules of Civil Procedure,  
237 Admiralty, Maritime Claims, Supplemental Rule E(5). In consideration of the Surety  
238 Bond, the United States agrees not to cause the arrest of the Vessel, nor the arrest, seizure  
239 or attachment of any other vessel owned, operated, managed, or chartered by the Owner  
240 or Operator for the Alleged Violations, and not to withhold CBP departure clearance of  
241 the Vessel, or any other vessel under the same management and control of the Owner and  
242 Operator, on account of the Alleged Violations in the U.S. Coast Guard's letter to the  
243 Master of the Vessel dated February 22, 2019.

244 10. This Agreement is to be binding whether the Vessel be in port or not in  
245 port, lost or not lost, and regardless of its condition, and is given without prejudice as to  
246 all rights or defenses which the Vessel, Owner and/or Operator may have, none of which  
247 is to be regarded as waived, except the Owner and Operator agree to waive any  
248 objections to *in personam* jurisdiction over them, and *in rem* jurisdiction over the Vessel,  
249 with respect to the potential claims of the United States described above, in the United  
250 States court which hears the criminal action.

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251 11. Owner and Operator authorize Chalos and Co., P.C., as agent of  
252 Owner/Operator for this Agreement, to accept service of any correspondence or legal  
253 papers relating to the Alleged Violations on behalf of the Vessel, Owner and Operator at  
254 its offices at 55 Hamilton Ave. Oyster Bay, NY 11771. The Owner and Operator agree  
255 to enter an appearance in any criminal action brought against them in a United States  
256 court concerning the Alleged Violations, or in any civil penalty action brought against  
257 them in any other forum, and to defend the Vessel from any *in rem* criminal claim  
258 asserted against it.

259 12. The United States and Owner and Operator enter into this Agreement  
260 without prejudice as to all rights or defenses, none of which is to be regarded as waived  
261 except as expressly set forth above.

262 13. This Agreement may be signed in duplicate originals.

263 14. This Agreement remains in effect until all criminal proceedings arising  
264 from and related to the facts on this case have been completed or the surety bond is  
265 returned by the United States.

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268 Dated: 08 March 2019

Nederland Shipping Corporation  
As Owner, NEDERLAND REEFER

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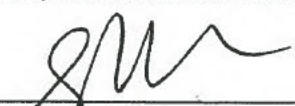
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By: George M. Chalos, Esq.  
Chalos & Co, P.C.


As attorney in fact per authority received 22 Feb 19



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Dated: 08 March 2019

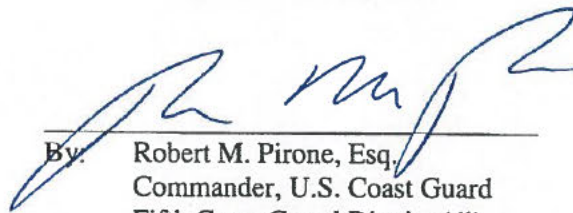
As Operator, NEDERLAND REEFER

  
By: George M. Chalos, Esq.  
Chalos & Co, P.C.

As attorney in fact per authority received 22 Feb 19

Dated: 08 March 2019

United States of America

  
By: Robert M. Pirone, Esq.  
Commander, U.S. Coast Guard  
Fifth Coast Guard District (dl)

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