

RECORDATION NO. W-10-B Filed & Recorded

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INTERSTATE COMMERCE COMMISSION

TIME CHARTER PARTY

dated as of

November 30, 1971

between

PYRAMID SUGAR TRANSPORT, INC.,

OPERATOR

and

CALIFORNIA AND HAWAIIAN SUGAR COMPANY,

as CHARTERER

This **TIME CHARTER PARTY** dated as of November 30, 1971, between PYRAMID SUGAR TRANSPORT, INC., a Louisiana corporation, as Operator under the Bareboat Charter referred to in Article 1 hereof (herein in such capacity called "Operator"), and CALIFORNIA AND HAWAIIAN SUGAR COMPANY, a California corporation (herein called "Charterer").

WITNESSETH:

WHEREAS, the capitalized terms in the following recital clauses are defined in Article 1 hereof;

WHEREAS, the Vessel is being constructed by the Builder in accordance with the specifications provided for in the Purchase Agreement;

WHEREAS, upon completion of the construction of the Vessel, Owner will purchase the Vessel from the Builder and desires simultaneously to charter the Vessel to Operator under the Bareboat Charter for Time Charter of the Vessel to Charterer hereunder, and for this purpose Owner and Charterer have entered into the Participation Agreement, pursuant to which, among other things and subject to the terms and conditions of the Participation Agreement, (i) the Loan Participants have agreed to make a loan to Owner to finance up to 80% of Owner's Cost of the Vessel but not more than \$13,000,000, which loans are to be evidenced by the Equipment Trust Certificates, and (ii) the Owner Participant has agreed to provide Owner with an investment equal to the remaining balance of Owner's Cost of the Vessel;

NOW, THEREFORE, in reliance on the foregoing recitals and in consideration of the mutual covenants hereinafter set forth and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1

Defined Terms

The following terms shall have the following meanings for all purposes of this Charter:

"*Bareboat Charter*" shall mean that certain Bareboat Charter Party to be dated as of the date hereof and to be entered into by the Owner and the Operator in substantially the form of Exhibit B to the Supplement to the Participation Agreement, as said Bareboat Charter Party may from time to time be supplemented or amended, or the terms thereof waived or modified, to the extent permitted by, and in accordance with, the terms of the Trust Agreement.

The term "*Cargo Brokerage Commission*" shall have the meaning assigned thereto in Article 7 hereof.

"*Management Expenses*" shall mean and include the wages and other payroll expenses in respect of the Operator's executive personnel and regularly employed staff engaged in the performance of any Management Service or Management Services in respect of the Vessel, together with any related overhead expenses, the cost of related clerical help, local transportation or local communication attributable to any such Management Service or Management Services performed by such executive personnel and regularly employed staff, but shall not include (i) long distance communication expense and travel expense of any such executive personnel or regularly employed staff in connection with the performance of any Managerial Service or Managerial Services or (ii) wages and other payroll expenses for persons other than regularly employed staff or executive personnel of the Operator employed by the Operator to perform any Managerial Service or Managerial Services at locations other than New Orleans or Morgan City, Louisiana, or on account of any unusual occurrences, all of which expenses referred to in (i) and (ii) above shall be included and paid as Operating Expenses hereunder.

"Management Fee" in respect of the Vessel shall mean an amount payable, as reimbursement for the Management Expenses and as compensation for the Management Services, by Charterer to Operator on each Charge Payment Date at the rate of One Hundred Thousand Dollars (\$100,000) per year during the Operating Period; *provided, however*, that if the Vessel shall be out-of-service (other than by reason of being in dry dock) for any period exceeding two weeks, and if Charterer shall so elect, no Management Fee shall be payable with respect to any such period; *provided, further, however*, that in the event of such election by Charterer, Charterer shall compensate Operator for any Managerial Services which it may call upon Operator to perform during such out-of-service period on the basis provided in paragraph (d) of Article 6 hereof. The Management Fee is intended and shall be deemed to provide Operator its margin of profit hereunder.

"Management Services" shall include all services of a managerial nature performed by the Operator in respect of the Vessel hereunder and under the Bareboat Charter, including, but not limited to, the services of Operator's executive personnel and its regularly employed staff in its performance of such functions as Port Captain, Port Engineer, Port Steward, preparation of records and reports required by law or by the terms hereof or of the Bareboat Charter, accounting services, and negotiation and administration of contracts for labor, supplies, maintenance and repair with respect to the Vessel.

"Operator's Charges" shall mean in respect of the Vessel the Operating Element and the Management Fee.

"Operating Element" in respect of the Vessel shall mean an amount determined and payable as follows: on the first and fifteenth day of each month, commencing with the first such day following the commencement of the Operating Period (each such day, together with the date on which the Term shall expire for any reason [hereinafter called the Expiration Date] being hereinafter called a Charge Payment Day), Operator shall furnish in writing to Charterer an estimate of the Operating Expenses to be incurred by Operator in respect of the Vessel during the Period from such Charge Payment Day to the next succeeding Charge Payment Day (each such period being hereinafter called an Estimate Period and each such estimate being hereinafter called an Operating Expense Estimate), and Charterer shall promptly deposit with Operator the amount of such Operating Expense Estimate (as the same may be increased or reduced as hereinafter provided) in accordance with the provisions of paragraphs (c) and (d) of Article 6 hereof; *provided, however*, that Charterer may elect to make direct payment of any substantial item or items included in such Operating Expense Estimate; and, *provided, further*, that: (i) if the amount of such Operating Expense Estimate paid as aforesaid for any Estimate Period shall prove to be less than the actual Operating Expenses during such Estimate Period, an amount equal to the amount by which such actual Operating Expenses exceed such Operating Expense Estimate shall be added to the Operating Expense Estimate for the next succeeding Estimate Period, (or, if there shall be no succeeding Estimate Period, shall be forthwith paid by Charterer to Operator in accordance with the provisions of paragraphs (c) and (d) of Article 6 hereof); and (ii) if the amount of such Operating Expense Estimate paid as aforesaid for any Estimate Period shall be greater than the actual Operating Expenses during such Estimate Period, an amount equal to the difference between Operating Expense Estimate and such actual Operating Expenses shall be subtracted from the Operating Expense Estimate for the next succeeding Operating Period (or, if there shall be no succeeding Estimate Period, shall be forthwith reimbursed to Charterer by Operator).

"Operating Expenses" in respect of the Vessel shall mean all expenses and liabilities reasonably incurred by Operator in the operation of the Vessel hereunder and under the Bareboat Charter, including, but not limited to, wages and other payroll expenses, subsistence, supplies, insurance, taxes, maintenance and repair costs and other operating costs or other expenses of

Operator hereunder or under the Bareboat Charter but excluding (i) any costs or expenses for which provision has been made under Hire or the Management Fee or (ii) any expense or liability incurred by reason of Operator's violation hereof or of the Bareboat Charter or the negligence or misconduct of Operator.

"*Operating Period*" in respect of the Vessel shall mean the period of time starting with a date which shall be subsequent to the execution hereof and at least one month prior to the Delivery Date, which starting date is to be designated by Charterer upon two weeks' prior written notice to Operator, and continuing until the expiration of the Term or any extension thereof pursuant to the provisions of paragraph (b) of Article 2 hereof. It is contemplated that said starting date will be one to three months before the Delivery Date, depending upon the level of activity and expense required of Operator in preparing for delivery.

"*Owner*" shall mean Bankers Trust Company, Trustee under the Trust Agreement in its capacity as documented Owner of the Vessel.

The terms "*Pre-Operation Services*" and "*Pre-Operation Charges*" shall have the respective meanings assigned thereto in paragraph (d) of Article 6 hereof.

The terms "Basic Hire", "Basic Hire Payment Date", "Builder", "Business Day", "Deposit Date", "Delivery Date", "Equipment Trust Certificates", "Hire", "Loan Participants", "Owner's Cost", "Owner Participant", "Participant", "Participation Agreement", "Purchase Agreement", "Stipulated Loss Value", "Supplemental Hire", "Term", "Termination Value", "Time Charter Assignment", "Total Loss", "Trust Agreement", "Trustee" and "Vessel" shall have the meanings, respectively, defined in the Bareboat Charter.

ARTICLE 2

Term; Redelivery

(a) Operator hereby lets, and Charterer hires, the Vessel, with a full and efficient but not excessive complement of officers and crew for a bulk carrier Vessel of that size and type, for a period beginning at 1200 hours on the Delivery Date and at the place of the Vessel's delivery to Operator under the Bareboat Charter, or such later date as may be required in order to permit Operator to make the Vessel initially ready for service hereunder, all to and including twenty years after the later of the Delivery Date and the Deposit Date, upon the terms and conditions hereinafter set forth in this Charter.

(b) Charterer shall redeliver the Vessel at the time of the expiration of the Term, except that the Term shall be extended for the duration of any voyage of the Vessel in progress at such time of expiration and for such additional time as shall be required to effect redelivery; and Charterer will pay Hire and Operator's Charges for the period of such extension at a rate to be mutually agreed upon at such time. Charterer shall make such redelivery of the Vessel to Operator at any port on the United States Pacific or Gulf Coast, at Operator's option, and Charterer shall notify Operator at least 60 days in advance of such approximate time and place of redelivery.

ARTICLE 3

Delivery

Notwithstanding any other provision of this Charter, simultaneously with the delivery of the Vessel by the Owner to Operator, Operator shall tender, and Charterer shall unconditionally accept delivery of, the Vessel under this Charter for all purposes hereof. As between Operator and Charterer, acceptance of the Vessel by Operator from the Owner shall be conclusive proof of the Vessel's compliance with all requirements of this Charter, and Operator makes no representation or warranty,

express or implied, as to the title, seaworthiness, condition, design, operation or fitness for use of such Vessel or as to the eligibility of such Vessel for any particular trade or any other representation or warranty whatsoever, express or implied, with respect to such Vessel. In addition, such acceptance by Charterer of the Vessel under this Charter shall be conclusive proof, as between Operator and Charterer, that the Vessel is seaworthy, in accordance with specifications, in good working order and repair and without defect or inherent vice in title, condition, design, operation or fitness for use, whether or not discoverable by Charterer as of the date of such tender, and free and clear of all liens, charges and encumbrances.

ARTICLE 4

Use and Operation of the Vessel

(a) Charterer shall have the full use of the Vessel and in that connection, the whole reach, burthen and decks of the Vessel, and its passenger accommodation (which shall be deemed to include Operator's suite), if any, shall be at Charterer's disposal, reserving only proper and sufficient space for the Vessel's Master, officers, crew, tackle, apparel, furniture, provisions, spares, stores and lubricating oil. The Vessel shall not be operated except in the United States coastwise trade between United States ports; *provided, however*, that, with the consent of Charterer, the Vessel may be operated in service other than in the United States coastwise trade between United States ports; *provided, further, however*, that no use of the Vessel shall be permitted hereunder which would cause the Vessel to lose its privilege of operating in the United States coastwise trade between United States ports. Charterer also agrees that the Vessel shall not be used contrary to applicable laws or in any area in which any insurance required by the terms of Article 10 of the Bareboat Charter shall not be in effect.

(b) Except as otherwise stated in this Charter or as may be agreed from time to time, Operator shall provide and/or pay for all requirements, costs or expenses of whatsoever nature relating to the Vessel, her Master, officers or crew which, without prejudice to the generality of the foregoing, shall include (i) drydocking, repairs, docking for Operator's purposes and all expenses associated therewith, (ii) provisions, wages, shipping and discharging fees and all other expenses of the Master, officers and crew, (iii) deck, cabin and engine room stores, (iv) galley fuel and fuel used for supplying facilities for the crew, for heating the accommodation and for the operation of air conditioning plant, (v) domestic water, (vi) fumigation and deratization exemption certificates, (vii) tonnage certificates as required for worldwide trading, (viii) all customs or import duties or other expenses arising in connection with any of the foregoing and (ix) all costs and expenses of compliance with the terms of the Bareboat Charter including but not limited to insurance under Article 10, taxes under Article 14 and indemnification under Article 15. Any amounts allowable in General Average for wages, provisions and stores shall be credited to Charterer to the extent that the amount thereof was included in Operator's Charges. In addition to its obligation to pay Operator's Charges, Pre-Operation Charges and Cargo Brokerage Commissions hereunder, Charterer shall provide and/or pay for (i) fuel oil for Vessel's bunkers, provided that if at Operator's request the Vessel is supplied with higher than a normal commercial grade of fuel oil the difference in price shall be borne by Operator, and further provided that fuel oil used for Operator's account in connection with a General Average sacrifice or expenditure or in preparation for and the drydocking, repair or docking of the Vessel for Operator's purposes shall be supplied by Operator, (ii) water for the boilers, (iii) port charges, agency fees, commissions, canal dues, and expenses of loading and discharging cargoes, and (iv) towage, pilotage and stevedoring, provided that Operator shall be responsible for proper stowage and the Master shall keep strict account of all cargoes loaded and discharged, and further provided that Operator will indemnify Charterer against all claims which arise out of improper towage, pilotage and stevedoring except that such liability of Operator shall not exceed the amount by which Operator would have been entitled to limit its liability if the arrangements therefor had been made by Operator.

(c) Operator agrees to maintain a regularly employed staff capable of performing the Managerial Services in respect of the Vessel in accordance with the customs and usage of the trade at its

principal places of business in New Orleans, Louisiana, and Morgan City, Louisiana; *provided, however*, that such agreement shall not be deemed to have been breached in the event that it shall become necessary for Operator to employ persons other than regularly employed staff to perform any Managerial Service at locations other than New Orleans or Morgan City, Louisiana, or on account of any unusual occurrence.

(d) Charterer shall have the right to ship all lawful cargoes, including raw sugar and molasses, but no acids, explosives or other cargoes injurious to the Vessel shall be shipped by Charterer, nor shall any voyage be undertaken or cargoes loaded that would involve risk of seizure, capture or penalty imposed by any ruler or government. Without prejudice to the foregoing, any damage to the Vessel caused by the shipment of any such cargo shall be at Charterer's risk and expense, and the time required to repair said damage shall be for Charterer's account. The Vessel shall be loaded and/or discharged at any port, berth, dock, anchorage, submarine line, alongside vessels or lighters or at any other place whatsoever as ordered by Charterer. Charterer shall not be deemed to warrant the safety of any of said places and shall be under no liability in respect thereof except for loss or damage to the Vessel caused by Charterer's failure to exercise due diligence before directing the Vessel to any of such places to ascertain that the Vessel can always lie safely afloat thereat.

(e) Charterer may send passengers in the Vessel's available accommodation upon any voyage made under this Charter, Operator providing provisions and all requisites, as supplied to officers, except liquors, and Charterer paying such reasonable rate per day for each passenger while on board the Vessel as shall be agreed to between Operator and Charterer.

(f) All salvage moneys earned and received by the Vessel shall belong to Charterer and Charterer shall assume and shall satisfy all costs and liabilities incurred in connection with all salvage services rendered by the Vessel.

(g) In connection with any major purchases or contracts, including arrangements for manning the Vessel, Operator will consult with Charterer prior to making any commitment. If Charterer so requests, Operator similarly will consult with Charterer upon any proposed expenditure which will be reflected in the Operating Expenses.

(h) In connection with the purchase of insurance pursuant to Article 10 of the Bareboat Charter, Operator will consult with Charterer and will obtain such additional amounts and coverages of insurance as Charterer may request in addition to such insurance required to be maintained under the provisions of said Article 10 and under the provisions of Article 7 hereof.

(i) In connection with maintenance and repair of the Vessel, Operator agrees that, unless necessary for the safety of the Vessel, it will not place the Vessel in dry dock or make major repairs, as distinguished from preventive maintenance, without prior consultation with and the consent of Charterer.

(j) Operator agrees that it will not exercise its rights under Article 7(a) and (b) of the Bareboat Charter to make any change in the Vessel without the prior consent of the Charterer, unless such change shall be necessary to maintain the Vessel in ABS classification or otherwise to comply with applicable law or regulations.

(k) Operator agrees to exercise its rights under Article 7 of the Bareboat Charter with respect to naming the Vessel and changing its name in such manner as Charterer from time to time may direct.

(l) Operator agrees to use its best efforts to cause the Vessel to be documented under the laws of the United States with New Orleans as its home port, and to use its best efforts to cause the home port of the Vessel to be changed as Charterer may request from time to time.

ARTICLE 5

Liens

(a) Neither Charterer nor any other person shall have any right, power or authority to create, incur or permit to exist upon the Vessel any lien whatsoever. Operator agrees to carry a true copy of this Charter and the Trust Agreement with the ship's papers on board the Vessel, and to exhibit the same to any person having business with such Vessel which may give rise to any lien upon such Vessel (other than for crew's wages or salvage) or to the sale, conveyance or mortgage thereof, and on demand, to any person having business with such Vessel or to any representative of Owner. Operator shall also place and keep prominently displayed in the master's cabin or office and the chart room of such Vessel a notice, framed under glass, printed in plain type of such size that the paragraph of reading matter shall cover a space not less than six inches wide by nine inches high, reading as follows:

"NOTICE OF OWNERSHIP AND CHARTER

"This Vessel is owned by Bankers Trust Company as trustee under a Trust Agreement, and is under demise charter to Pyramid Sugar Transport, Inc. and time charter to California and Hawaiian Sugar Company. Under the terms of said Trust Agreement and of said charters, neither the charterers, the master of this Vessel nor any other person has the right, power or authority to create, incur or permit to exist upon this Vessel any lien whatsoever other than for crew's wages and salvage."

(b) Operator warrants that it has not created and covenants that it will not create or permit to exist, and shall indemnify, hold harmless and defend Charterer against any loss which Charterer may sustain by reason of, any liens, charges or encumbrances of whatsoever nature upon the Vessel in violation of the terms of this Charter, at the time of its delivery under this Charter or arising after delivery, as a result of claims against Operator or against Owner not related to its ownership of the Vessel. However, no such loss by Charterer shall release or otherwise affect Charterer's obligations to pay Hire as provided in this Charter.

ARTICLE 6

Charter Hire and Other Payments

(a) Charterer hereby agrees to pay to the Operator, Basic Hire for the Vessel throughout the Term, payable on each Basic Hire Payment Date.

(b) In addition to its obligation to pay Basic Hire hereunder, Charterer also hereby agrees to pay to the Operator, or to whomsoever shall be entitled thereto, any and all Supplemental Hire promptly as the same shall become due and owing, but in any event within ten days after demand therefor shall have been made by Operator, and in the event of any failure on the part of Charterer to pay any Supplemental Hire, Operator shall have all rights, powers and remedies provided for herein or at law or in equity or admiralty or otherwise as in the case of nonpayment of Basic Hire. Charterer also agrees to pay to Operator, on demand, as Supplemental Hire, to the extent permitted by applicable law, interest at the rate of 8¾% per annum (computed on the basis of a 360-day year) on any part of any instalment of Basic Hire not paid when due for any period for which the same shall be overdue and on any payment of Supplemental Hire not paid when demanded by Operator for the period until the same shall be paid. If Charterer fails to make any payment of Supplemental Hire required to be made by it hereunder or fails to perform or comply with any of its agreements contained herein, Operator may itself, but shall be under no obligation to, make such payment or perform or comply with such agreement, and the amount of such payment and the amount of the reasonable expenses of Charterer incurred in connection with such payment or the performance of or compliance with such agreement, as the case may be, together with interest thereon at the rate of 8¾% per annum, shall be deemed Supplemental Hire, payable by Charterer upon demand.

(c) In addition to its obligation to pay Basic Hire and Supplemental Hire hereunder, Charterer also hereby agrees to pay Operator's Charges to the Operator on each Charge Payment Day and to pay Pre-Operation Charges to Operator as required pursuant to the provisions of paragraph (d) of this Article 6. Any such cost or expense reimbursed to Operator by insurance or otherwise and which has been included in any of the aforesaid amounts will be deducted from the next payment of Operator's Charges required hereunder.

(d) Prior to the commencement of the Operating Period, it is contemplated that Operator, at the request of Charterer, will perform certain services (hereinafter called Pre-Operation Services) in preparation for the delivery of the Vessel and its operation. Charterer agrees to reimburse Operator for all necessary out-of-pocket expenses incurred in performing the Pre-Operation Services together with a per diem charge of One Hundred Twenty-Five Dollars (\$125) per day for the services of each of Operator's executive personnel engaged in Pre-Operation Services. Such reimbursement of out-of-pocket expenses and payment of per diem charges (such expenses and charges being hereinafter called the Pre-Operation Charges) shall be made after the services have been performed or the expense incurred, as the case may be, upon presentation of invoices to Charterer at semi-monthly intervals.

(e) All Hire shall be paid in New York Clearing House funds. Charterer's obligation to pay all Hire payable hereunder shall be absolute and unconditional under any and all circumstances and shall not be affected by any circumstance of any character, including, without limitation (i) any setoff, counterclaim, recoupment, defense and other rights which Charterer may have against Operator, Owner, any Participant, the Builder or anyone else for any reason whatsoever, (ii) any defect in the title, seaworthiness, condition, design, operation or fitness for use of the Vessel or the ineligibility of the Vessel for any particular trade, (iii) any loss or destruction of, or damage to, the Vessel or interruption or cessation in the use or possession thereof by Charterer for any reason whatsoever and of whatever duration, (iv) any ineligibility of the Vessel, or the denial of the Vessel's right, to engage in the coastwise trade or the ineligibility of the Vessel for documentation under the United States flag by reason of any law or regulation of the United States or otherwise, (v) any insolvency, bankruptcy, reorganization or similar proceeding by or against Charterer, (vi) any failure to obtain any required governmental consent for a transfer of rights or title to Charterer pursuant to Article 8(b) hereof or (vii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing. Charterer hereby waives, to the extent permitted by applicable law, any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Charter except in accordance with the express terms hereof. If for any reason whatsoever this Charter shall be terminated in whole or in part by operation of law or otherwise except as specifically provided herein, Charterer nonetheless agrees to pay to the Operator an amount equal to each Basic Hire payment at the time such payment would have become due and payable in accordance with the terms hereof had this Charter not been terminated in whole or in part. Each Hire payment made by the Charterer shall be final. Charterer will not seek to recover all or any part of such payment from the Operator for any reason whatsoever.

(f) *Cargo Brokerage Commission.* Charterer agrees to pay Operator, in the event that Operator shall procure cargo from third parties of a type and for a voyage acceptable to Charterer and in accordance with the provisions of paragraph (d) of Article 4 hereof and paragraph (c) of this Article 6, a cargo brokerage commission (herein called the Cargo Brokerage Commission) determined as follows:

(i) For single voyage contracts, Charterer shall pay to Operator a Cargo Brokerage Commission not to exceed 3¾% of the freight; *provided, however*, that if a broker other than Operator is involved in any such transaction representing the cargo, Charterer shall pay to such other broker the standard brokerage commission, but not to exceed 2½% of the freight, and will pay to Operator a Cargo Brokerage Commission not to exceed 1¼% of the freight.

(ii) If Operator shall be instrumental in the arrangement of a freight contract involving more than a single voyage, Charterer shall pay to Operator a Cargo Brokerage Commission to be negotiated between Charterer and Operator at the time Operator informs Charterer of the identity of the prospective shipper and nature of the cargo and voyage.

(iii) It is expressly understood that Charterer shall have no obligation to accept any cargo for any voyage and may reject any cargo proposed by Operator for any reason whatsoever.

ARTICLE 7

Insurance

(a) All insurance maintained by the Operator shall name Charterer as an additional named insured and loss payee. All policies required hereby covering loss or damage to the Vessel shall provide that payment thereunder as the result of the Total Loss or the constructive Total Loss of the Vessel will be made to Owner and that all other amounts payable thereunder will be applied in payment of the cost of repairs or for replacement of property in accordance with the provisions of Article 5 of the Bareboat Charter and any balance remaining after compliance with said Article 5 will be made to Charterer. As between Operator and Charterer it is agreed that in the case of all insurance payments received as the result of the occurrence of a Total Loss, so much of such payments as shall not exceed the sum of the Stipulated Loss Value required to be paid by Charterer pursuant to Article 8(b) hereof and any other Hire then due and owing by Charterer hereunder shall be applied, *first*, in reduction of Charterer's obligation to pay such other Hire, if any, then due and owing and, *second*, in reduction of Charterer's obligation to pay such Stipulated Loss Value if not already paid by Charterer or, if already paid by Charterer provided no Event of Default shall have occurred and be continuing, to reimburse Charterer for its payment of such Stipulated Loss Value; and the balance, if any, of such payments remaining thereafter will be paid over to, or retained by, Charterer provided no Event of Default shall have occurred and be continuing. As between Operator and Charterer it is also agreed that the proceeds of any insurance for damage to the Vessel not constituting a Total Loss, after compliance with said Article 5, shall be paid to the order of Charterer provided no Event of Default shall have occurred and be continuing.

(b) For the purpose of insurance against Total Loss, the Vessel shall at all times be insured for no less than the Stipulated Loss Value computed as of the immediately preceding Basic Hire Payment Date. Protection and indemnity insurance shall be not less than the higher of the full commercial value of the Vessel or \$207 per gross registered ton.

(c) The Vessel shall not engage in any voyage or transport any cargo which may not be permitted by the insurance then in effect.

(d) Operator will deliver to Charterer copies of all certificates and, if requested by Charterer, all binders and policies with respect to insurance from time to time carried on the Vessel. In addition, on or before the Delivery Date and thereafter at intervals of not more than 12 months Operator will furnish to Charterer an insurance certificate with respect to each insurance policy on or with respect to such Vessel, issued by the insurer under such policy (or, in case any insurer does not issue such a certificate, issued by a broker who customarily issues such certificates on behalf of such insurer), showing the types of risk covered by such policy, the amount insured thereunder and the expiration date thereof. Operator will cause each broker for each such policy to agree to advise Charterer promptly of any default in the payment of any premium and of any other act or omission on the part of Operator of which such broker has knowledge and which might invalidate or render unenforceable, in whole or in part, such policy. Operator will also cause each such broker to agree to advise Charterer, by telegram or cable, at least 5 full business days prior to the expiration date of each such policy placed with such broker, if the insurance thereunder has not been renewed or replaced with new insurance which complies with the provisions of this Article.

ARTICLE 8

Loss, Requisition or Seizure

(a) Requisition of the Vessel by the United States Government for use on a bareboat or on a time charter basis or otherwise shall not terminate this Charter but Charterer shall remain liable for all its obligations hereunder in respect thereof other than Operator's Charges, including its liability for payment of Hire, until the expiration of the Term. If, at the expiration of the Term, such Vessel shall be under requisition for use, Charterer shall not be obligated to (i) redeliver such Vessel pursuant to Article 2(b) hereof or (ii) make any payment under paragraph (b) of this Article 8 with respect to a Total Loss occurring after such expiration or (iii) except for any liabilities or obligations arising, or resulting from events occurring, prior to the expiration of the Term, have any further liability or obligation hereunder, including liability for payment of Hire, and (except as aforesaid) this Charter shall terminate as of such expiration. All payments received by Operator or Charterer from the Government for the use of such Vessel during the Term shall be paid over to or retained by Charterer except if an Event of Default shall have occurred and be continuing, in which event such payments shall be payable to Operator subject to an accounting between Operator and Charterer at the termination of the Charter. All payments received by Operator or Charterer from the Government for the use of such Vessel after the expiration of the Term shall be paid over to, or retained by, Operator for the account of Owner.

(b) Upon the occurrence of a Total Loss, Operator shall forthwith give Charterer written notice of such Total Loss and, within 180 days after the date of the occurrence of such Total Loss, Charterer shall pay to Operator (i) the Stipulated Loss Value, computed as of the Basic Hire Payment Date next occurring after the date of the occurrence of such Total Loss (or if such Total Loss occurs on or after the last Basic Hire Payment Date, computed as of the last day of the Term), subject to audit for the amount of any insurance received by Operator as a result of such loss, and (ii) if the date such Stipulated Loss Value is paid is later than the Basic Hire Payment Date next occurring after the date of the occurrence of such Total Loss, an additional amount equal to interest at the rate of 8¼% per annum computed on the amount of such Stipulated Loss Value for the period from such Basic Hire Payment Date to the date such Stipulated Loss Value is paid. In the event of payment in full of such Stipulated Loss Value, the obligation of Charterer to pay Basic Hire in respect of the Vessel on each Basic Hire Payment Date shall continue to and including the Basic Hire Payment Date occurring on, or immediately before, the date of the occurrence of such Total Loss, but shall then terminate. In the case of all payments (other than insurance proceeds) received by Operator or Charterer from any governmental authority or otherwise as compensation for a Total Loss, so much of such payments as shall not exceed the sum of the Stipulated Loss Value required to be paid by Charterer as above provided and any other Hire then due and owing by Charterer hereunder shall be applied, *first*, in reduction of Charterer's obligation to pay such other Hire, if any, then due and owing and, *second*, in reduction of Charterer's obligation to pay such Stipulated Loss Value if not already paid by Charterer or, if already paid by Charterer and provided no Event of Default shall have occurred and be continuing, to reimburse Charterer for its payment of such Stipulated Loss Value; and the balance, if any, of such payments remaining thereafter will be paid over to, or retained by, Operator to be held for the account of Owner. For the purpose of this Charter, the date of the occurrence of a Total Loss shall be the date of the casualty or other occurrence giving rise to such Total Loss, and if the date of such casualty or other occurrence shall be uncertain, such date shall be deemed the date the Vessel was last heard from. In the event that Charterer shall make payment as provided above, Charterer, subject to Charterer's obtaining any governmental consent required by reason of its citizenship, (i) shall be subrogated to all rights which Operator shall have with respect to the Vessel, (ii) shall receive assignments and bills of sale from Operator (in such form as Charterer shall require, but without any representation or warranty of any character on the part of Operator) of any or all such rights, together with all of Operator's right, title and interest in and to the Vessel and all machinery and equipment pertaining thereto, and (iii) shall have the right to abandon the Vessel

to underwriters on behalf of Operator as well as itself. In such case, Operator shall execute such documents and take such other action as Charterer shall require to effect the surrender to the insurance underwriters of the Vessel as a constructive Total Loss.

ARTICLE 9

Charterer's Option to Terminate Upon Vessel Becoming Obsolete or Surplus

Notwithstanding any provision herein contained to the contrary, in the event that Charterer shall in its discretion determine that the Vessel has become obsolete or surplus to Charterer's requirements, Charterer shall have the right at its option, on at least 60 days' prior written notice to Operator, to terminate this Charter in respect of such Vessel on the date (for the purpose of this Article 9 called the "termination date") specified in such notice provided that (i) the termination date is not earlier than ten years after the Delivery Date and (ii) on the termination date no Event of Default shall have occurred and be continuing. During the period from the giving of such notice until the termination date, Charterer, as agent for Operator, shall use its best efforts to obtain bids for the purchase of the Vessel, and Charterer shall certify to Operator the amount of each such bid and the name and address of the party (which shall not be a corporation or individual affiliated with Charterer) submitting such bid. On the termination date (or such later date as Operator and Charterer may mutually agree) the Vessel shall be sold for cash to the bidder who shall have submitted the highest bid prior to the termination date, unless Charterer considers the highest bid to be below fair market value. The total sales price realized at such sale shall be paid to, and retained by, Operator, and, in addition, on the date of such sale, Charterer shall pay to Operator the excess, if any, of the Termination Value in respect of such Vessel, computed as of the Basic Hire Payment Date occurring on or next following the date of sale, over the net sales price of the Vessel after deducting from such sales price any and all costs and expenses whatsoever incurred by Operator in connection with such sale. If no sale shall occur on the date scheduled therefor as above provided or if no bids shall have been received, this Charter shall continue in full force and effect. In the event of such sale, the obligation of Charterer to pay Basic Hire in respect of such Vessel on each Basic Hire Payment Date shall continue to and include the Basic Hire Payment Date occurring immediately prior to the date of sale, but shall then terminate, and the obligation to pay Operator's Charges shall terminate as to any such charges incurred after the date of such sale. Operator shall be under no duty to solicit bids, to inquire into the efforts of Charterer to obtain bids or otherwise to take any action or incur any cost or expense in connection with any sale pursuant to this Article 9 other than to enable the transfer to the purchaser named in the highest bid certified by Charterer to Operator as above provided all the right, title and interest in and to the Vessel. Any sale pursuant to this Article 9 shall be free and clear of all of Charterer's rights to the Vessel, but shall be made without any representation, recourse or warranty whatsoever on the part of Operator except that Operator shall warrant to the purchaser that the Vessel is free and clear of all liens, charges and encumbrances arising as the result of claims against Operator not related to its operation of the Vessel.

ARTICLE 10

Charterer's Purchase Option and Right of First Refusal

(a) Upon not less than 180 days' prior written notice from Charterer to Operator, Charterer may, on the last Business Day of the Term, provided no Event of Default hereunder shall have occurred and then be continuing and provided Charterer shall have obtained any governmental consent required by reason of its citizenship, purchase the Vessel by paying to Operator in cash on such day an amount equal to the then fair market value of the Vessel. For the purpose of this paragraph (a), the "fair market value" of the Vessel shall be determined on the basis of an appraisal mutually agreed to by two independent marine appraisers, one chosen by Operator and one chosen by Charterer,

or, if such appraisers cannot agree on the amount of such appraisal, determined on the basis of an appraisal made by a third independent marine appraiser chosen by the mutual consent of such first two appraisers.

(b) In the event Charterer shall not have exercised its option to purchase the Vessel pursuant to paragraph (a) above Operator agrees that, provided no Event of Default shall have occurred and be continuing, the Vessel shall not be sold for a period of one month following the expiration of the Term unless Operator shall have given Charterer at least five Business Days' prior written notice of such sale, specifying the sales price and terms of such sale, and Charterer shall have had the opportunity to purchase the Vessel at the same price and on the same terms as specified in such notice, subject to Charterer obtaining any governmental consent required by reason of its citizenship.

ARTICLE 11

Indemnification and Expenses

Charterer does hereby assume liability for, and does hereby agree (whether or not any of the transactions contemplated hereby are consummated) to indemnify, protect, save and keep harmless Operator from all liabilities of Operator for indemnification and expenses under Article 15 of the Bareboat Charter.

ARTICLE 12

Duties of Master; Conduct of Crew

(a) The Master of the Vessel shall prosecute voyages with the utmost dispatch and shall render all reasonable assistance with the Vessel's officers and crew and equipment, overtime pay of the Master, officers and crew being at Charterer's expense when incurred as a result of complying with the orders of Charterer and shall be in accordance with the minimum official hours and rates of overtime applicable to the Vessel's Articles. The Master shall ensure that the Vessel shall load and discharge cargo as rapidly as possible by night as well as by day when required by Charterer to do so.

(b) The Master shall keep a full and correct log of each voyage which shall be open to inspection by Charterer and shall furnish Charterer when requested to do so with a true copy of the Vessel's log books and with properly completed loading and discharging port sheets and voyage reports for each voyage and other returns as Charterer may require. Charterer shall be entitled to take copies at Operator's expense of any such documents as are not provided by the Master.

(c) If Charterer shall complain of the conduct of the Master of the Vessel or any of the officers or crew, Operator shall immediately investigate the complaint jointly with Charterer and if the complaint proves to be well founded, Operator shall, without delay, make a change in the appointments.

(d) The Master although appointed by Operator shall be under the orders and directions of Charterer as regards employment of the Vessel, agency or other arrangements. Bills of Lading are to be signed as Charterer may direct, without prejudice to this Charter, the Master attending as necessary at the offices of Charterer. Charterer hereby indemnifies Operator against all liabilities that may arise from any irregularities in papers supplied by Charterer and from the signing of Bills of Lading in accordance with the directions of Charterer to the extent that the terms of such Bills of Lading impose more onerous liabilities than those assumed by Operator under the terms of this Charter.

ARTICLE 13

Assignments

(a) Operator hereby assigns to Charterer, for so long as this Time Charter shall be in effect and no Event of Default shall have occurred and be continuing, all rights assigned to Operator under Article 3 of the Bareboat Charter with respect to the Vessel under any warranty or indemnity made by the Builder.

(b) Subject to the terms of applicable law, Charterer shall have the right, so long as no Event of Default shall have occurred and be continuing, to subcharter the Vessel to others on a time or voyage basis provided that (i) each such subcharter shall be consistent with the terms of this Charter and, by the express terms of any such subcharter, the rights of the subcharterer thereunder shall be subject and subordinate to all of the terms of this Charter, including, without limitation, Charterer's covenants contained in Article 4(a) hereof, and to Operator's right to withdraw the Vessel from the Charter pursuant to Article 19(a) hereof, (ii) in the case of each such subcharter, the subcharter period thereof (including any option by the subcharterer to extend such subcharter) shall not be for a longer period than the Term hereof, (iii) irrespective of any such subcharter, the Charterer shall remain liable for all of its obligations under this Charter to the same extent as if such subcharter were not in effect and (iv) the subcharterer under each such subcharter shall comply with all applicable laws and regulations.

ARTICLE 14

War Risks Clause

(a) The Master of the Vessel shall not be required to sign Bills of Lading for any blockaded port or for any port which the Master or Operator considers dangerous or impossible to enter or reach.

(b) If any port to which the Vessel is ordered hereunder be blockaded, or if owing to any war, hostilities, warlike operations, civil war, civil commotions, revolutions, or the operation of international law (i) entry to any such port or the loading or discharge of cargo at any such port be considered by the Master or Operator dangerous or prohibited or (ii) it be considered by the Master or Operator dangerous or impossible for the Vessel to reach any such port, the Vessel need not so proceed and the Charterer shall designate another safe trading port or order the cargo or such part of it as may be affected to be discharged at any other safe port within the range of ports established under the provisions of this Charter.

ARTICLE 15

Both-To-Blame Collision Clause

If the liability for any collision in which the Vessel is involved while performing under this Charter fails to be determined in accordance with the laws of the United States of America, the following clause shall apply:

If the ship comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the Master, mariner, pilot or the servants of the carrier in the navigation or in the management of the ship, the owners of the goods carried hereunder will indemnify the carrier against all loss or liability to the other or non-carrying ship or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said goods, paid or payable by the other or non-carrying ship or her owners to the owners of said goods and set off, recouped or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying ship or carrier.

The foregoing provisions shall also apply where the owners, operators, or those in charge of any ship or ships or objects other than, or in addition to, the colliding ship or objects are at fault in respect to a collision or contact.

ARTICLE 16**General Average; New Jason Clause**

It is agreed that General Average adjustment shall be made in accordance with the law and practice of the United States of America and the following clause shall apply:

In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the carrier is not responsible, by statute, contract or otherwise, the goods, shippers, consignees or owners of the goods shall contribute with the carrier in general average to the payment of any sacrifice, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods. If a salving ship is owned or operated by the carrier, salvage shall be paid for as fully as if the said salving ship or ships belonged to strangers. Such deposit as the carrier or his agents may deem sufficient to cover the estimated contribution of the cargo and any salvage and special charges thereon shall, if required, be made by the goods, shippers, consignees or owners of the goods to the carrier before delivery.

ARTICLE 17**Bills of Lading Clauses**

All Bills of Lading issued under this Charter shall contain War Risks, Both-to-Blame Collision and New Jason Clauses, and the following U.S.A. Clause Paramount:

This Bill of Lading shall have effect subject to the provisions of the Carriage of Goods by Sea Act of the United States, approved April 16, 1936, which shall be deemed to be incorporated herein, and nothing herein contained shall be deemed a surrender by the carrier of any of its rights or immunities or an increase of any of its responsibilities or liabilities under said Act. If any term of this Bill of Lading be repugnant to said Act to any extent, such term shall be void to that extent, but no further.

ARTICLE 18**Events of Default**

The following events shall constitute Events of Default (whether any such event shall be voluntary or involuntary or come about or be affected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) Charterer shall fail to make any payment of Hire or Operator's Charges within 15 days after the same shall become due; or

(b) If Charterer shall default (as principal or guarantor or other surety) either in the payment of the principal of or premium, if any, or interest on any indebtedness for borrowed money, and any such default shall continue for more than a period of grace specified in respect thereof and for five days after written notice thereof hereunder; or

(c) Charterer shall fail to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure shall continue unremedied for a period of 60 days after written notice thereof; or

(d) Any representation or warranty made by Charterer in the Participation Agreement or in any document or certificate furnished in connection herewith or pursuant hereto shall prove at any time to be incorrect as of the date made in any material respect; or

(e) An Event of Default under the Bareboat Charter shall have occurred and be continuing; or

(f) Charterer shall become insolvent or bankrupt or make an assignment for the benefit of creditors or consent to the appointment of a trustee or receiver; or a trustee or a receiver shall be appointed for Charterer or for a substantial part of its property without its consent and shall not be dismissed for a period of 60 days; or bankruptcy, reorganization or insolvency proceedings shall be instituted by or against Charterer and, if instituted against Charterer, shall not be dismissed for a period of 60 days; or

(g) If standard sugar marketing contracts in substantially the form in effect on the date hereof between Charterer and its members or other patrons controlling not less than two-thirds of the sugar production of Hawaii shall cease to be in effect.

ARTICLE 19

Action Following an Event of Default

Upon the occurrence of any Event of Default and at any time thereafter so long as the same shall be continuing, Operator may, at its option, declare this Charter to be in default; and at any time thereafter, so long as Charterer shall not have remedied all outstanding Events of Default, Operator may do, and Charterer shall comply with, one or more of the following, as Operator in its sole discretion shall so elect, to the extent permitted by, and subject to compliance with, any mandatory requirements of applicable law then in effect:

(a) Upon written notice, Operator may withdraw the Vessel from under the Time Charter, and Charterer hereby agrees thereto and may exclude Charterer or any subcharterer from any dock, pier or other premises where the Vessel may be, without Operator or its agent incurring any liability by reason thereof, whether for the restoration or damage to property caused thereby or otherwise. The exercise by Operator of its remedies under this paragraph (a) shall be without prejudice, and in addition, to any of Operator's other remedies referred to below in this Article 19.

(b) Operator, by written notice to Charterer specifying a payment date not earlier than 10 days, or more than 30 days, from the date of such notice, may require Charterer to pay to Operator, and Charterer hereby agrees that it will pay to Operator, on the payment date specified in such notice, as liquidated damages for loss of a bargain and not as a penalty, all unpaid Basic Hire payable on each Basic Hire Payment Date occurring prior to the payment date specified in such notice, plus an amount (together with interest on such amount at the rate of 8 $\frac{3}{4}$ % per annum for the period, if any, from the payment date specified in such notice to the date of actual payment) equal to the *excess* of:

(i) the Termination Value of the Vessel computed as of the Basic Hire Payment Date occurring on or next following the payment date specified in such notice, *over*

(ii) whichever of the following amounts Operator, in its sole discretion, shall specify in such notice: (A) the fair market sales value (determined as hereinafter in this paragraph (b) provided) of the Vessel as of the Basic Hire Payment Date occurring on or next following the payment date specified in such notice or (B) the fair market bareboat charter value (determined as hereinafter in this paragraph (b) provided) of the Vessel for the period from such Basic Hire Payment Date to what would have been the end of the Term in the absence of the termination of Charterer's rights to the Vessel, after discounting such fair market charter value quarter annually (effective on each Basic Hire Payment Date which would have been payable under the Charter) to present worth as of the Basic Hire Payment Date occurring on or next following the payment date specified in such notice at the rate of 4% per annum.

For the purpose of this paragraph (b), the "fair market sales value" or "fair market bareboat charter value" shall be determined by appraisals conducted at Charterer's expense in accordance with the terms of Article 10(a) hereof, except that such determination shall be made by the

appraiser chosen by Operator if Charterer fails to furnish the appraisal of the appraiser selected by it within 10 days after the giving of the notice referred to above in this paragraph (b) or if a third appraiser is required and the first two appraisers can not agree on the selection of a third appraiser; *provided, however*, that (x) the "fair market sales value" or the "fair market bareboat charter value", as the case may be, shall be zero if Operator is unable to exclude Charterer or any subcharterer from the Vessel in accordance with the terms of paragraph (a) above, (y) if the Vessel shall have been sold prior to the giving of the notice referred to above in this paragraph (b), the "fair market sales value" shall be the net proceeds of such sale after deducting all costs and expenses whatsoever incurred by Operator in connection therewith and (z) there shall be added to "fair market sales value" and to "fair market bareboat charter value", as the case may be, the net proceeds received (after deducting all costs and expenses whatsoever of Operator with respect thereto) from any charter of the Vessel to others pursuant to paragraph (c) below to the extent such proceeds are received prior to the giving of the notice referred to above in this paragraph (b). Nothing contained in the preceding sentence shall require the Vessel to be sold or chartered at any time.

(c) The Vessel may be sold at public or private sale, with or without notice to Charterer, advertisement or publication, as Operator may determine, or otherwise may be disposed of, held, used, operated, chartered (whether for a period greater or less than the balance of what would have been the Term in the absence of the termination of Charterer's rights to the Vessel) to others or kept idle, all on such terms and conditions and at such place or places as Operator may determine and all free and clear of any rights of Charterer and of any claim of Charterer in admiralty, in equity, at law or by statute, whether for loss or damage or otherwise, and without any duty to account to Charterer except to the extent specifically provided in paragraph (b) above.

In addition, Charterer shall be liable for any and all Supplemental Hire and Operator's Charges payable hereunder before, during or after the exercise of any of the foregoing remedies and for all legal fees and any other costs and expenses whatsoever incurred by Operator by reason of the occurrence of any Event of Default or by reason of the exercise by Operator of any remedy hereunder, including, without limitation, any costs and expenses incurred by Operator in connection herewith. No remedy referred to in this Article 19 is intended to be exclusive, but each shall be cumulative and is in addition to, and may be exercised concurrently with, any other remedy which is referred to in this Article 19 or which may otherwise be available to Operator at law, in equity or in admiralty; *provided, however*, that liquidated damages having been agreed to by the parties hereto pursuant to paragraph (b) above, Operator shall not be entitled to recover from Charterer as damages upon the occurrence of one or more Events of Default an amount in excess of such liquidated damages plus any Supplemental Hire, Operator's Charges, costs, expenses and other amounts referred to in the immediately preceding sentence hereof. There shall be deducted from the aggregate amount so recoverable by Operator the net balance, if any remaining of any monies held by Operator which would have been required by the terms hereof to have been paid to Charterer but for the occurrence of an Event of Default. The rights of Operator and the obligations of Charterer under this Article 19 shall be effective and enforceable regardless of the pendency of any proceeding which has or might have the effect of preventing Operator or Charterer from complying with the terms of this Charter. No express or implied waiver by Operator of any Event of Default shall in any way be, or be construed to be, a waiver of any further or subsequent Event of Default. To the extent permitted by applicable law, Charterer hereby waives any rights now or hereafter conferred by statute or otherwise which may require the sale or charter of the Vessel in mitigation of Operator's damages except to the extent expressly set forth in this Article 19.

ARTICLE 20

Governing Laws

The interpretation of this Charter shall be governed by the maritime law of the United States of America when applicable, and otherwise by the law in effect in the State of New York, the place of the making of this Charter.

ARTICLE 21**Notices**

All notices required under the terms and provisions hereof shall be in writing, and any such notice shall become effective when deposited in the United States mail, with proper postage for ordinary mail prepaid (or, if by telegram, when dispatched), addressed (i) if to Operator, at its address at 1815 International Trade Mart Building, New Orleans, Louisiana 70130, Attention: Donald C. Scafidi, President, (ii) if to Charterer, at its office at One California Street, San Francisco, California 94106, Attention: Vice President—Finance, Corporate Development, or (iii) to either party hereto at such other address as such party may from time to time designate in writing to the other party.

ARTICLE 22**Further Assurances and Financial Information**

(a) Charterer hereby agrees promptly and duly to execute and deliver to owner such further documents and assurances and take such further action as Operator may from time to time reasonably request in order to more effectively carry out the intent and purpose of this Charter and to establish and protect the rights and remedies created or intended to be created in favor of Operator hereunder.

(b) Charterer agrees to furnish Owner and each Participant (i) within 60 days after the end of each quarterannual period during each fiscal year of Charterer after the date hereof, a balance sheet of Charterer as of the end of such period, together with a statement of operations of the Charterer for such period, certified by a senior financial officer or Charterer, (ii) within 120 days after the close of each fiscal year of Charterer after the date hereof, a balance sheet of Charterer as of the close of such fiscal year, together with a statement of operations of Charterer for such fiscal year, certified by Messrs. Haskins & Sells or other independent public accountants satisfactory to Owner, and (iii) such other information relating to the affairs of Charterer as Owner or a Participant may from time to time reasonably request.

(c) Operator shall at all times maintain and keep true and correct records in accordance with good accounting practice consistently applied of all Operator's Charges, Pre-Operation Charges, Cargo Brokerage Commissions and all other charges hereunder in connection with the operation of the Vessel, as well as all data necessary or proper for the settlement of accounts between Operator and Charterer.

(d) Operator shall furnish Charterer such standard or special reports relating to the operation of the Vessel and all charges of any nature whatsoever hereunder or under the Bareboat Charter as Charterer reasonably may require and at such intervals as Charterer may reasonably require.

(e) Operator's books and records pertaining to the operation of the Vessel and all charges of any nature whatsoever hereunder and under the Bareboat Charter shall be kept separate and apart from the books and records relating to other business of Operator.

(f) Operator shall substantiate by all supporting documentation reasonably requested by Charterer any cost to or expense incurred by Operator which is relevant to the determination of Operating Charges, Pre-Operating Expenses, Cargo Brokerage Commissions or any other charges payable by the Charterer hereunder or under the Bareboat Charter. Charterer shall have the right at any and all reasonable time to inspect Operator's books and records relating thereto and said books and records shall be subject to audit at least once each year by auditors selected by Charterer.

ARTICLE 23**Successor Operators and Rights of Successor Operators Hereunder**

Charterer agrees that in the case of the appointment of any successor Operator pursuant to the terms of the Bareboat Charter (including the obtaining of the consent of Charterer thereto), such successor Operator shall, upon written notice by such successor Operator to Charterer, succeed to all the

rights, powers and title of Operator hereunder and under the Bareboat Charter and shall be deemed to be Operator of the Vessel for all purposes, without the necessity of any further consent or approval by Charterer and without in any way altering the terms of this Charter or Charterer's obligations hereunder. One such appointment and designation of a successor Operator shall not exhaust the right to appoint and designate further successor Operators pursuant to the Bareboat Charter, but such right may be exercised repeatedly as long as this Charter shall be in effect. The Operator or any successor Operator from time to time serving as Operator may, but shall not be obligated to, appoint one or more attorneys-in-fact for such Operator or successor Operator, as the case may be, to execute any and all notices, consents and approvals or other documents necessary or desirable to be executed in connection with this Charter or with the Vessel.

ARTICLE 24

Amendments and Miscellaneous

(a) Any of the provisions hereof relating to the time, manner of payment and amount of Operator's Charges, Pre-Operation Charges, Cargo Brokerage Charges, and any other charges to be paid by Charterer to Operator may from time to time be amended by written agreement executed between the Operator and Charterer. Except as provided in the preceding sentence, none of the provisions of this Charter shall be waived, altered, modified, supplemented or terminated in any manner whatsoever except in accordance with the provisions of the Trust Agreement and Bareboat Charter.

(b) This Charter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(c) All amounts and moneys referred to in this Charter shall be construed to mean money which at the time is lawful money of the United States of America.

(d) Article headings are for convenience only and shall not be construed as a part of this Charter.

(e) Each of the executed counterparts hereof shall be deemed to be an original hereof.

(f) Any provision of this Charter which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, Charterer hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

(g) No Term of this Charter shall be construed to be a demise of the Vessel.

IN WITNESS WHEREOF, Operator and Charterer have executed this Charter in several counterparts as of this 30th day of November, 1971.

Attest:

James S. Burgo.....

Attest:

Aledina R. Pavia.....
Secretary

ASSISTANT SECRETARY

PYRAMID SUGAR TRANSPORT, INC.,

by

Donald W. Hare
Authorized Officer

CALIFORNIA AND HAWAIIAN SUGAR
COMPANY,

by

Donald W. Hare.....
Vice President

STATE OF LOUISIANA }
PARISH OF ST. MARY } ss.:

On this 27th day of April, 1973, before me personally appeared Donald C. Seffelt to me personally known, who, being by me duly sworn, says that he resides at New Orleans, La., that he is President of PYRAMID SUGAR TRANSPORT, INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Beatrice M. Coleman
Notary Public

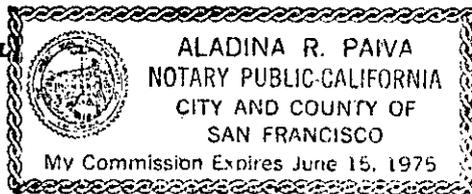
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STATE OF CALIFORNIA }
CITY & COUNTY OF SAN FRANCISCO } ss.:

On this 30th day of April, 1973, before me personally appeared Donald W. Hare, to me personally known, who, being by me duly sworn, says that he is a Vice President of CALIFORNIA AND HAWAIIAN SUGAR COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Aladina R. Paiva
Notary Public

[NOTARIAL SEAL]



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