

NOTICE OF PUBLIC AUCTION

The Vessel "YOSEMITE" (the Vessel) is under arrest at Ladysmith, British Columbia, Canada, and shall be sold by judicial sale in its present state and location, after the removal of any cargo on board, on an "as-is, where-is" basis with all existing faults, without any allowance for deficiencies or errors of description whatsoever and without any legal or contractual representations or warranties whatsoever but free and clear of all liens and encumbrances under Canadian law.

Prospective purchasers shall satisfy themselves as to the condition of the Vessel, the quantity of bunkers on board and the currency of her certificates. The bunker fuel and diesel oil on board the Vessel shall be taken and paid for by the purchaser of the Vessel as a separate item together with the Vessel. The quantities of bunker fuel and diesel oil shall be determined and valued by the Sheriff on the basis of market prices in effect at the Port of Vancouver, British Columbia on the day before the sale.

The Vessel shall be sold by public auction to be held in the Vancouver Registry Office of the Federal Court, 701 West Georgia Street, PO Box 10065, Vancouver, British Columbia, V7Y 1B6 on October 30, 2009, commencing at 2:00 p.m. (Pacific Standard Time). The sale of the Vessel shall be subject to the approval of the Court, which approval may be granted forthwith following the sale, before a Judge or Prothonotary of the Court present in person or by telephone conference call.

Mr. Bill O'Dell of National Maritime Services Inc. has been appointed as acting Sheriff of the Federal Court to administer the sale of the Vessel. In order to bid, a potential bidder must register with the Sheriff by telephone or fax, no later than 2:00 p.m. (Pacific Standard Time) on October 30, 2009, and shall provide to the Sheriff the following information:

- a. the full name (including contact person), address, telephone and facsimile numbers, and email address of the bidder;
- b. the full name and address, telephone and facsimile numbers, and email address of the company that the bidder is representing, if any;
- c. the full name and address, telephone and facsimile numbers, and email address of an agent resident in Canada, appointed by the bidder, to whom the Sheriff may deliver the bill of sale in due course, if the bid is accepted; and
- d. a deposit of \$300,000 in United States dollars by irrevocable certified cheque or bank draft drawn on or issued by a Canadian chartered bank and made payable to "Borden Ladner Gervais LLP, Barristers and Solicitors, in Trust", or in addition, payment by wire transfer to Borden Ladner Gervais LLP's U.S.dollar trust account or payment into National Maritime Service Inc, U.S. dollar escrow account.

The Sheriff shall be at liberty to sell the Vessel to the bidder present in person, or with an agent present in person, with the highest bid at or in excess of the appraised value. Should the highest bid be less than the appraised value, the Sheriff shall adopt a procedure calling for further bids, by sealed bid, from among those bidders present in person, or by agent present in person, to be held immediately.

In the event that no bid equal to or higher than the appraised value of the Vessel is received after the process referred to in the preceding paragraph, the solicitors for the Plaintiff may verbally apply immediately to the Court for an order that the Vessel be sold to the highest bidder or for an order that the Vessel be sold by a further auction, or by such other alternative method of sale and upon such other terms or conditions as the Court may deem fit to impose.

The Sheriff shall have the right to adjourn or postpone the auction for a period of up to 24 hours, in his sole discretion.

Once the sale of the Vessel and its bunkers and diesel oil is approved by the Court, the purchaser shall remit and pay the balance of the purchase price of the Vessel and payment for the bunkers and other fuel aboard, as established by the Sheriff; within seven (7) days of the date of the Court's approval, of the purchaser's bid, failing which the purchaser's deposit shall be forfeited. Payment of the balance of the purchase price and for the bunkers shall be made in United States dollars, by way of irrevocable certified cheque or bank draft drawn on or issued by a Canadian chartered bank and made payable to "Borden Ladner Gervais LLP, Barristers and Solicitors, in Trust."

If the purchaser's deposit is forfeited by reason of failure to pay the balance of the purchase

price when due, then the Sheriff may communicate the amount of the highest offer to other bidders with the view of obtaining a higher offer, or, alternatively, the solicitors for the Plaintiff or any interested party may request that the Court approve the sale of the Vessel to the second highest bidder should he or she still be willing, and failing same, then the Court may order another alternative method of sale upon such other terms and conditions as the Court may deem fit to impose.

In the event that the sale of the Vessel is approved by the Court, the Sheriff shall be vested and is hereby vested with the right to sign, a bill of sale or bills of sale transferring to the purchaser the ownership of the Vessel in the same manner and to the same extent as though he were the registered owner thereof but free and clear of any liens or encumbrances. Similarly, the Sheriff shall have the right to transfer title to bunkers and fuel on board the Vessel by a bill of sale. The Sheriff shall be entitled to deliver such bill or bills of sale to the purchaser by delivery thereof to the purchaser's nominated agent at Vancouver, British Columbia.

Possession, risk and title to the Vessel, including its bunkers and fuel, shall pass to the purchaser on delivery by or on behalf of the Sheriff of an executed bill of sale to the purchaser or the purchaser's nominated agent in Canada.

Any deposits made by bidders whose bids are not accepted shall be promptly returned to such bidders at the address provided in their bid.

Any claim against the Vessel or the proceeds of its sale by *in rem* creditors and mortgagees must be filed by Affidavit in any Registry Office of the Federal Court on or before November 20, 2009, failing which the claim shall be barred. Such Affidavit shall provide full particulars of the claim, its basis and alleged status. The time for filing any additional Affidavit evidence such as that required for the proof of foreign law shall be reserved for the further direction of the Court.

Interested Parties are directed to address all enquiries to:

National Maritime Services Inc.
Attention: Mr. Bill O'Dell
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Fort Lauderdale, Florida 33312
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