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3 Ang Mo Kio Street 62 #07-03 LINK @ AMK Singapore 569139 Tel : (65) 6222-0337 Fax : (65) 6222-5721
Email : sales@bunkerhse.com.sg Co. Reg. No. 199606769Z GST Reg. No. 199606769Z

GENERAL TERMS AND CONDITIONS OF SALE **(VERSION 2023)**

(1) DEFINITIONS

“Bunker Confirmation” means a confirmation in writing from the Seller to the Buyer setting forth the particular terms of each sale of Marine Fuel.

“Buyer” means the party who accepts a quotation for the sale or whose order for Marine Fuel is accepted by the Seller.

“Contract” means the contract for the sale and purchase of Marine Fuel between the Buyer and the Seller comprising of the quotation by the Seller, the acceptance by the Buyer, the Terms and Conditions and the Bunker Confirmation, if any.

“Invoice” means any tax invoices issued by the Seller to the Buyer in respect of the Marine Fuel delivered.

“Owner” means the registered owner or bareboat charterer of the Vessel.

“Marine Fuel” means products, derived from crude oil, delivered or to be delivered to the vessel.

“Seller” means Bunker House Petroleum Pte Ltd.

“Supplying Company” means the person or company supplying the Marine Fuel for and on behalf of the Seller.

“Terms and Conditions” means the standard terms and conditions set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller.

“Vessel” means the Vessel nominated by the Buyer to receive Marine Fuel and/or the vessel that receives the Marine Fuel delivered under the Contract.

(2) GENERAL TERMS AND CONDITIONS

(a) These Terms and Conditions shall apply to and form an integral part of each and every Contract for the sale of Marine Fuel entered into by or on behalf of the Seller and the Buyer.

(b) Unless the Seller has expressly agreed in writing to, vary, alter, add to, modify or waive the same, these Terms and Conditions shall bind the Buyer.



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(3) **OFFERS, QUOTATIONS AND PRICES**

- (a) Each sale of Marine Fuel shall be confirmed by a Bunker Confirmation. The Bunker Confirmation shall incorporate these Terms and Conditions so that the Terms and Conditions are considered a part of the Bunker Confirmation, which together comprise the Contract.
- (b) The Contract shall be considered firm and binding upon Buyer's acceptance of the price quoted by Seller by way of fax, telex, electronic communication including but not limited to electronic mail, chat, information, submission or instant messenger communication, telephone, registered and reply-paid letter in writing or verbally. Confirmation in writing by the Seller of the price may be provided to Buyer, but the absence of such confirmation shall not void the agreement of sale.
- (c) Contracts negotiated via brokers, or any other authorized representative on behalf of the Seller, shall only bind the Seller upon the Sellers' broker or other authorized representative sending the Bunker Confirmation to the Buyer or the Buyer's broker as the case may be.
- (d) The Seller's offer is based on the applicable taxes, duties, costs, charges and price level of components for Marine Fuel existing at the time of the conclusion of the Contract. Any additional tax, assessment, duty or other charge of whatever nature and however named, or any additional costs or expenses imposed on or incurred by the Seller whatsoever caused by any change in the Seller's contemplated source of supply or otherwise, after the Contract has been concluded, shall be added to the agreed purchase price and the Buyer shall be obliged to pay the Seller for the same provided that the Seller gives the Buyer prior notice of the same within a reasonable time after the Seller becoming aware of the relevant circumstances.
- (e) Should the Marine Fuel be purchased for or on behalf of the Buyer by an intermediary such as a manager, broker, trader or agent then such manager, broker, trader or agent shall (in addition to the Buyer) be bound by and liable for all obligations as fully and completely as if they were themselves the Buyer whether such principal be disclosed or undisclosed and whether or not such manager, broker, trader or agent purports to contract as manager, broker, trader or agent only. If the Buyer is not the Owner of the Vessel, the Buyer shall be deemed to be purchasing the Marine Fuel in its own capacity as well as jointly in the capacity of agents for and on behalf of the Owners of the Vessel. The intermediary manager, broker, trader or agent and/or the Buyer (as the case may be) warrants that it is authorized as an agent of the Owner to purchase Marine Fuel for the



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Vessel and that the Seller shall have a lien on the Vessel for any Marine Fuel supplied under the Contract to the Vessel but unpaid. In such event, the manager, broker, trader or agent and/or the Buyer (as the case may be) shall be solely responsible for communicating the terms of the Terms and Conditions to the Buyer and the Owner of the Vessel prior to the date of delivery of the Marine Fuel and the Seller shall have the right to insist as a precondition of sale that a payment guarantee is provided by the Owner. The Seller shall have the right to cancel any Contract with the manager, broker, trader or agent and/or the Buyer at any time without any liability, if such payment guarantee is not received upon request thereof from the Seller to the Owner. The Seller's decision to forego obtaining a payment guarantee hereunder shall not have any effect on the Seller's right to a lien on the Vessel for any Marine Fuel supplied under the Contract. Furthermore, delivery shall always take place for the account of the Owners and for the account of the current charterers of the Vessel all of whom shall, together with any intermediary and the Buyer, remain jointly and severally liable for the payment of the Marine Fuel delivered until payment has been received by the Seller in full.

- (f) The Seller reserves the right by giving notice to the Buyer in writing at any time before delivery and on or after sending a Bunker Confirmation, to increase the price of the Marine Fuel to reflect any increase in the cost to the Seller which is due to any factor unforeseen during initial negotiations beyond the control of the Seller or the Supplying Company (such as, terminal congestion or inability to supply the Marine Fuel due to loading, any change in delivery dates, quantities or specifications for the Marine Fuel which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions) and the Buyer shall be bound by and pay such increased price.

(4) GRADES / QUALITY

- (a) The Buyer shall have the sole responsibility for the selection and acceptance of Marine Fuel for use in the Vessel including determination of compatibility with fuel already on board the vessel.
- (b) The Seller gives no warranty as to quality or fitness or suitability of Marine Fuel for any particular purpose and all warranties and conditions whether written or implied whether by statute, common law or otherwise as to quality, merchantability, or fitness or suitability for any particular purpose, are expressly excluded to such extent permitted by law.
- (c) The Seller's employees, servants or agents are not authorized to make any representations concerning the Marine Fuel and its characteristics,



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description or specification unless confirmed by the Seller's designated representative in writing. All specifications will be as set out in the Bunker Confirmation. In entering into this contract, the Buyer acknowledges that it does not rely on and waives any claim for breach of any such representations which are not so confirmed.

- (d) Any and all warranties regarding the satisfactory quality, merchantability, fitness for purpose, description or otherwise, are hereby excluded and disclaimed.

(5) QUANTITY

- (a) The Seller shall supply the Marine Fuel ordered under this Contract subject to the availability and confirmation of the supplies of the particular Marine Fuel ordered.
- (b) The sale of Marine Fuel shall be on the basis of the quantity delivered by the Seller to the Vessel as hereinafter determined.
- (c) The quantity of Marine Fuel delivered shall be determined from the official mass flow meter in accordance with SS 648 - 2019 of the barge effecting delivery or the tank gauge or meter of the shore loading terminal in the case of ex-wharf deliveries, or in either case, by such other method the Seller deems fit.
- (d) The Buyer may be present when such measurement is taken, but if the Buyer is not represented, the Seller's determination of quantity delivered shall be deemed correct, conclusive and binding on the Buyer.
- (e) In respect of the quantity agreed upon, the Seller shall be at liberty to provide, and the Buyer shall accept a variation of 5% from the agreed quantity, with no other consequence than a similar variation to the corresponding Invoice from the Seller.
- (f) Any claim by the Buyer as to shortage in quantity of Marine Fuel supplied (other than as per Clause 5(e) above), must be noted on the receipt signed on board at the time of delivery and prior to the departure of the Vessel, failing which the Seller's determination of the quantity of the Marine Fuel supplied shall be final, conclusive and binding on the Buyer.
- (g) Upon the aforesaid notification of shortage in quantity of Marine Fuel supplied, and if the Buyer and Seller cannot resolve differences between ship and barge or shore figures, the Buyer must immediately and before the Vessel sails, appoint at its cost and expense an independent surveyor approved by the Seller to determine the quantity of Marine Fuel delivered



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from the barge or the shore to the Vessel. A Certificate of Quantity issued by such independent surveyor as to the quantity of Marine Fuel delivered shall be conclusive and binding on both the Buyer and Seller.

- (h) If the quantity of Marine Fuel delivered to the Vessel as ascertained by the independent surveyor or otherwise accepted by the Seller is less than the amount of Marine Fuel ordered by the Buyer, and the Buyer fails or refuses to permit the Seller to supply the shortfall in the amount of Marine Fuel, or the quantity supplied is accepted by the Buyer or the Vessel without protest, the quantity so delivered shall be deemed to be full and complete delivery of the quantity ordered under the Contract and the Buyer shall have no claim whatsoever against the Seller for the quantity delivered or for any other claims whatsoever in relation to the supply of the Marine Fuel including but not limited to any claims for delays.
- (i) The quantity of Marine Fuel to be delivered shall be determined solely on the bunker tanker's mass flow meter (with accordance to SS648-2019) system and calculations as per the bunker metering ticket.

(6) SAMPLING

- (a) The Seller or its representatives shall arrange for representative samples of Marine Fuel to be drawn at the time of delivery of the Marine Fuel. Unless otherwise agreed between the Seller and Buyer in writing, samples of Marine Fuel, for testing, shall be taken from the shore tank or the barge tank or tanks from which the Marine Fuel is delivered to the Vessel by means of the Tank Composite Method or alternatively, by means of the Drip Method at the Vessel's bunkering manifold. The Buyer is entitled to be present at the sampling but the absence of the Buyer or its representatives during all or any part of the sampling process shall not prejudice the validity of the samples. For supply of Marine Fuel in Singapore, the standard of sampling to be adopted shall be in compliance with the Singapore Standard SS 600 (2022) Code of Practice for Bunkering or as subsequently amended, revised, updated and / or superseded from time to time.
- (b) The representative samples taken in accordance with Clause 6(a) above shall be divided and stored in five one litre containers, which containers shall be sealed in the presence of the Buyer's representative and signed by both the Seller's and Buyer's representatives, if present.
- (c) The samples shall be distributed as follows:-
 - (i) Two samples to receiving vessel (one of which is the Marpol sample);
 - (ii) one sample retained by bunker tanker;



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- (iii) one sample for bunker surveyor (if engaged);
- (iv) one sample for lab testing (if engaged).

The samples shall be retained by the Seller for thirty (30) days after delivery of the Marine Fuel, or if requested by the Buyer in writing, for as long as the Buyer reasonably requires provided that the Buyer shall pay the reasonable storage charges of the Seller in respect of such a request.

- (d) In the event of any claims of defect in quality of the Marine Fuel, the official sample retained by the seller shall be tested by an independent laboratory mutually appointed by the Buyer and the Seller whose results shall be conclusive to determine the quality of the Marine Fuel supplied. Analysis results of the Seller's samples will be the sole binding evidence for the quality of the Marine Fuel supplied to the Vessel. The parties are to use best endeavours to agree on the independent laboratory to perform the tests. If, however, no agreement can be reached on the choice of laboratory within three (3) days of the Buyer being advised of the Seller opting to have the sample tested, the Seller is at liberty to send the sample to a reputable and independent laboratory of its choice for the tests to be conducted and those test results will be the sole binding evidence of the quality of the Marine Fuel supplied to the Vessel.
- (e) The seal must be breached only in presence of the Seller's and Buyer's representatives unless one/both in writing have declared that they will not be present; and both parties shall have the right to appoint independent person(s) or institute(s) to witness seal breaking. No samples subsequently taken shall be allowed as evidence. If any of the seals have been removed or tampered with by an unauthorized person, such sample(s) shall not be used as a sample for testing.
- (f) Any additional samples drawn by the Buyer's personnel either during bunkering or at any later date after bunkering shall not be valid evidence of the quality of Marine Fuel supplied. The fact that such samples may eventually bear the signature of the personnel on board the barge or tank truck or other delivery conveyance shall have no legal significance as such local personnel have no authority to bind the Seller to different contractual terms. The Seller shall have no liability for claims arising in circumstances where the Buyer may have commingled the Marine Fuel supplied to the Vessel with other fuel.

(7) NOMINATION



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- (a) The Buyer shall give the Seller, in writing, at least three (3) working days prior notice of the delivery desired or such lesser period of time as the Seller shall accept, specifying:-
- (i) the name of the Vessel;
 - (ii) the Vessel's local agent(s);
 - (iii) the estimated time of arrival;
 - (iv) the approximate date of delivery;
 - (v) location of the Vessel;
 - (vi) method of delivery;
 - (vii) the grade and quantity of Marine Fuel required;
 - (viii) any other details as shall be necessary or desirable or required by the Seller;
 - (ix) the exact quantity of marine fuel required; and
 - (x) the exact location and time at which delivery is required.
- (b) Notice given under this Clause 7(a) above shall be given during normal working hours of the Seller, as determined by the Seller from time to time.

(8) DELIVERY

- (a) The Seller's obligation to make delivery hereunder is subject to the availability to the Seller and the Supplying Company at the port of delivery of the particular Marine Fuel requested by the Buyer.
- (b) Delivery of Marine Fuel shall be made by barge provided or caused to be provided by the Seller during normal working hours and within the harbour limits, unless otherwise specifically required by the Buyer, agreed to by the Seller and permitted by port regulations or authorities or if in the opinion of the Seller, such delivery is likely to cause a labour dispute with its employees in which event the Buyer shall be required to provide its own barge. If delivery is required outside normal business hours or normal working days and is permitted by local port regulations to be so delivered, the Buyer shall pay all overtime and additional expenses incurred in connection therewith.



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- (c) If a government or port of other permit is required for deliveries hereunder, no delivery shall be made until the permit has been issued to the Buyer, Seller or Supplying Company, as may be appropriate and the Seller shall not be liable for any losses whatsoever sustained as a result of any delay in obtaining such permit.
- (d) The Buyer shall pay the applicable barging charges plus any other charges applicable to the delivery of Marine Fuel plus transportation taxes, if any, at the port of delivery.
- (e) All deliveries of Marine Fuel shall be deemed complete once the Marine Fuel passes the flange connection between the delivery hose and the Vessel's intake manifold.
- (f) The Buyer shall make all connections and disconnections between the delivery hose and the intake pipe of the Vessel and shall render all other necessary assistance and provide sufficient equipment to receive promptly all deliveries of Marine Fuel hereunder.
- (g) The Buyer shall ensure that the Vessel provides a free, safe and always afloat and accessible side for the delivery of bunkers and that all necessary assistance as required by the Seller or its representatives is rendered in connection with the delivery.
- (h) In case of delay or failure to deliver the Marine Fuel the Seller shall not be liable to the Buyer or any other entity for any claim, loss or damage unless such delay or failure to deliver is caused by the Seller's negligence.
- (i) Regardless of any ETA advice, vessels arriving outside of the agreed supply/delivery/ stemmed dates will be supplied on a when available basis (commercial best endeavour). Even if vessel arrives within the stemmed dates, any changes to the arrival ETA provided by vessel's owners/charterers/agents/contractors/representatives within 48 hours of vessel's expected arrival may not be acceded to and may be supplied on a when available basis (commercial best endeavour) without liability or penalty against Seller.
- (j) If any delay is caused by the Buyer, the Vessel in her arrival, her condition, breakdown, inability to receive and / or its agents, to the delivery of the Vessel, the Buyer shall be responsible and pay to the Seller and the Supplying company for all losses, expenses, charges arising therefrom or in connection therewith including without limitation demurrage at the Seller's or Supplying Company's established rates.



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- (k) In the event the Vessel arrives earlier or later than the indicated expected date or arrival, the Seller and Supplying Company are under no obligation whatsoever to effect prompt delivery and any guaranty or warranty given expressly or impliedly as to prompt delivery is hereby expressly excluded.
- (l) The Seller may elect to discontinue operations at any delivery or loading location for any reason without obligation to the Buyer.
- (m) The Buyer shall be responsible for keeping the delivered Marine Fuel segregated from any other marine fuel onboard the Vessel or from a different delivery to the Vessel. In no event shall the Seller be responsible for the quality and compatibility of the Marine Fuel delivered if the Seller's product is mixed or comingled with any other product(s) onboard the receiving Vessel. The Buyer shall be solely responsible for any losses caused by mixing or comingling the Marine Fuel with any other oil, including any damage the Bunker Fuel may cause on other products on board the receiving Vessel.

(9) PRICE

- (a) Subject to the provisions in Clause 11 or elsewhere in these Terms and Conditions hereinafter, the price of the Marine Fuel supplied shall be as set out in the Bunker Confirmation.
- (b) The prices quoted are in United States Dollars (unless otherwise expressly stated) and are exclusive of taxes, duties, fees, wharfage dues and other costs or charges, including without limitation to pipeline charges, and those imposed by government and authorities, barging and delivery charge, all of which shall be included in the Invoice issued to the Buyer and solely borne by the Buyer.
- (c) The Seller reserves the right by giving notice to the Buyer in writing at any time before delivery and on or after acceptance of any quotation, to increase the price of the Marine Fuel to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in costs of materials), any change in delivery dates, quantities or specifications for the Marine Fuel which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions, and the Buyer shall be bound by and pay such increased price.

(10) CHARGES

In addition to the prices payable for Marine Fuel, the Buyer shall pay all:-



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- (a) Lighterage charges, as provided by the marine bunkering service then current, for any delivery ex lighter including any lighterage charges or other expenses incurred as a result of the Master of Vessel rejecting the whole or any part of a delivery duly nominated under Clause 5 hereof. Waiver of this provision in a particular case shall not prejudice its application to subsequent deliveries.
- (b) Wharfage, mooring and unmooring charges and port dues which may be incurred by the Seller in connection with any Vessel to which Marine Fuel are delivered under the Contract.
- (c) Duties and taxes incurred by the Seller or for which Seller is accountable in respect of deliveries of Marine Fuel under the contract.
- (d) Additional costs incurred by the Seller in respect of payment for overtime if the Seller is required to deliver the Marine Fuel outside its normal working hours.

(11) **PAYMENT**

- (a) The Seller shall be entitled to invoice the Buyer for the price of Marine Fuel delivered by the Seller to the Vessel and for any other additional charges referred to in Clauses 9 and 10 above on or at any time after delivery of the Marine Fuel or in the event the Buyer wrongfully fails to take delivery or accept the Marine Fuel, at any time after the Seller has notified the Buyer that the Marine Fuel are ready for delivery.
- (b) The Buyer shall within the time stipulated by the Seller in the Invoice or in the absence of such provision, within 30 days from the date of the delivery, or in the event the Buyer wrongfully refuses to take delivery, within 30 days from the date of the Invoice make full payment in United States Dollars without any discount or deduction whatsoever for or on account of any taxes, levies, duties, charges, fees, withholdings, discounts, set offs, counterclaims, restrictions or conditions of any nature and notwithstanding any claims of whatsoever nature and howsoever arising, by telegraphic transfer in immediately available funds to the nominated Bank account of the Seller.



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- (c) Payment shall only be deemed to be made when the said transfer is unconditionally cleared and confirmed by the Seller's bank within the period stated herein and in Clause 11(b).
- (d) In the event payment falls due on a non-business day, that is a weekend or other day on which the Seller's bank is closed, payment shall be made on or before the business day immediately preceding the day on which payment would apart from this Clause have fallen due.
- (e) Partial payments shall be applied in order of priority (i) firstly towards payment of any costs and expenses incurred in respect of the Contract due from the Buyer to the Seller including but not limited to that set out in Clause 16(e) below, (ii) secondly towards interest incurred in respect of the Contract due from the Buyer to the Seller under Clause 12(b)(iii) below, and (iii) lastly towards the purchase price of Marine Fuel delivered under the Contract and/or any other charges and expenses under Clauses 9 and 10 above and/or any other balance monies due and unpaid from and by the Buyer to the Seller under the Contract. Notwithstanding the foregoing, the Seller is free at any time to depart from the application of partial payments as aforesaid and apply any partial payments made by the Buyer to offset amounts which are owing to the Seller in any manner as the Seller deems fit.

(12) EVENTS OF DEFAULT

- (a) There shall be an Event of Default if any of the following events occur:
 - (i) when the Buyer, for whatever reason, fails to accept the Marine Fuel in part or in full at the place and time designated for delivery.
 - (ii) when the Buyer fails in part or in full to comply with its obligations to pay any amount due to the Seller.
 - (iii) when the Buyer fails to comply with any of its obligations under the Contract; and
 - (iv) when, before the date of delivery, it is apparent in the opinion of the Seller that the financial position of the Buyer entails a risk to the Seller.



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- (b) In the event of failure by the Buyer to make payment on the due date of any sums due under the contract, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:-
- (i) Cancel the Contract or suspend any further deliveries to the Buyer; and
 - (ii) Appropriate any payment by the Buyer to such of the Marine Fuel (or Marine Fuel supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
 - (iii) Charge interest at the rate of 2% per month on any amount unpaid from the due date until payment in full is received and confirmed by the Seller's bank.
 - (iv) Enter onto the Vessel, take possession of and remove in such manner and for such use as the Seller sees fit, or for sale to any party as the Seller may in its sole discretion decide, the fuel described in Clause 12 (b) hereof. The Buyer shall render full assistance to the Seller to facilitate the said entry and the removal of the said fuel. The Seller shall not be responsible for any loss or damages, including any losses arising from the aforesaid entry or removal of the fuel.
- (e) Notwithstanding any of the provisions contained herein and where:-
- (i) Event of Default takes place.
 - (ii) The Buyer makes any voluntarily arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or being a company goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
 - (iii) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or
 - (iv) the Buyer ceases, or threatens to cease, to carry on business.



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- (v) liquidation, bankruptcy or any other changed financial or legal position of the parent company, sister companies or affiliated companies to the Buyer which in the sole discretion of the Seller is deemed to adversely affect the financial position of the Buyer.
- (vi) the Seller reasonably apprehends that any of the events mentioned above is about to occur or that the Buyer is unlikely to perform its obligations under the contract; or
- (vii) in case of any other situation, which in the sole discretion of the Seller is deemed to adversely affect the financial position of the Buyer.

the Seller may in its absolute discretion and without prejudice to any other available right or remedy, cancel the contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Marine Fuel has been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary, or may alter any of the Terms and Conditions relating to the Buyer's obligation to pay or may demand payment in cash in advance of delivery or provide security satisfactory to the Seller.

- (f) In the event of default as aforesaid the Seller may without prejudice to the Seller's other available rights and remedies sell the Marine Fuel contracted for at the prevailing market price and the Buyer shall be liable for any loss suffered by the Seller resulting from a difference between the price agreed by the parties and the market price.

(13) CLAIMS

- (a) Without prejudice to any of the provisions herein and save as otherwise provided in Clause 4, unless any claim as to the specification, description, quality, quantity or delay of the Marine Fuel delivered to the Buyer under any Contract is notified to the Seller within fourteen (14) days from the date of delivery, in writing, together with all supporting documents and all necessary details required by the Seller to satisfactorily evaluate the claim, delivery by the Seller of the Marine Fuel in this Contract shall be deemed to be fulfilled and the Seller shall be discharged from all liability whatsoever in respect of the Marine Fuel, notwithstanding any remarks or clauses noted on the Receipt signed on board pursuant to Clause 3 (f) or otherwise. If the Buyer fails to notify any claim within fourteen (14) days of the date of



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delivery, such claim shall be deemed to be waived and absolutely time barred.

- (b) In the event of any claim presented in accordance with this Clause 13(a), the Buyer shall:
- (i) cooperate with the Seller and make all necessary arrangements for the Seller or its representatives to investigate such claim, including but not limited to the boarding and inspection of the Vessel, the interviewing of crew and the review and copying of Vessel's records, logbooks, engine logs, etc.;
 - (ii) take all reasonable steps and actions to mitigate any damages, losses, costs, and expenses related to any claim of alleged off-specification or defective Marine Fuel. If the Marine Fuel deviates from specifications, the Buyer shall use all reasonable endeavours to mitigate the consequences hereof and shall burn the Marine Fuel if possible, even if this requires employment of purification tools or other similar measures; and
 - (iii) take all reasonable steps to preserve the Seller's recourse against the Supplying Company of the Marine Fuel or any culpable third party.
- (c) A breach by the Buyer of any part of this Clause 13(b) above will entitle the Seller to set off losses caused by the breach against any liability to the Buyer.
- (d) Provided that (where applicable) such claims have been duly notified to the Seller by the Buyer in accordance with Clause 13(a) above, any claims against the Seller in respect of the Contract or these Terms and Conditions shall be submitted to arbitration in accordance with Clause 21 within sixty (60) days of the date of delivery of the Marine Fuel, failing which such claims shall be deemed to be waived and absolutely time-barred.
- (e) The Buyer's submission of any claim does not relieve it of responsibility to make full payments as required under Clause 11 above and the Buyer shall not be entitled to set off any claim from payment.

(14) LIEN

- (a) Deliveries and loading of Marine Fuel hereunder are made not only on the credit of the Buyer but also on the faith and credit of the Vessel and the Buyer agrees and warrants that the Seller will have and may assert a claim and/or maritime lien against such Vessel or its Owners for the price and



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amount of Marine Fuel delivered and may take such other action or procedure against the Vessel or its Owners and any other vessel or asset beneficially owned or controlled by the Buyer or the Owners for any amounts due under the Contract. No acceptance of any other or additional security measures by the Seller shall operate as a waiver of this provision.

- (b) Additionally, the Seller will have and may assert a claim and/or lien over the Marine Fuel delivered but not paid for against such Vessel, should the laws applicable at the place of Seller's address, at the flag state of the Vessel, at the place of delivery of the Marine Fuel and/or at the place of seizure of such Vessel, grant or recognize a claim and/or lien for Marine Fuel delivered to a vessel. In the event that the Marine Fuel have been mixed with other marine fuels onboard the Vessel, the Seller shall have a lien on such part of the mixed Marine Fuel as corresponds to the quantity or net value of the Marine Fuel for which payment has not been made.
- (c) The Seller is entitled to rely on any provisions of law of the flag state of the Vessel, the place of delivery or where the Vessel is found and shall, among other things, enjoy the full benefit of local legislation granting the Seller a maritime lien on the Vessel and/or providing for the right to arrest the Vessel. Nothing in the Terms and Conditions shall be construed to limit the rights and/or legal remedies that the Seller may enjoy against the Vessel or the Buyer in any jurisdiction.
- (d) Taking of any additional security measures by Seller shall not operate as a waiver of this Clause 14.

(15) RISK AND FLOATING CHARGE

- (a) The Marine Fuel shall be pumped at the risk and peril of the Seller or Supplying Company up to flange and vessel only and thereafter the Seller or Supplying Company, shall not be responsible for any loss or damage.
- (b) The Buyer shall upon the commencement of the first delivery of any Marine Fuel as defined in Clause 8 (e) hereof, create and be deemed have created a first floating charge over all the then present and future Marine Fuel delivered or any comingled admixture thereof on the Vessel to secure all amount outstanding from the Buyer to the Seller pursuant or in relation to the Contract. The said floating charge shall crystallise upon the Seller's



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entry onto the vessel as stated in Clause 11 (d)(iv) hereof. The Buyer undertakes not to and shall not have power to create any fixed charge or other charge or encumbrance ranking in priority to or equally with the floating charge.

(16) INDEMNITY AND LIMITATION OF LIABILITY

- (a) The Buyer shall indemnify the Seller against and hold the Seller harmless from all and any losses, liabilities, claims, damages, costs and expenses whatsoever and howsoever incurred directly or indirectly caused by or in connection with or arising out of the loading, delivery operations, delay, any breach of the Contract by the Buyer or any act or omission negligence or misconduct or default of the Buyer, its agents, employees, contractors or persons acting under its authority and / or the officers and crew of the Vessel and any failure of the Buyer or the Vessel's local agent to provide the Seller with prior sufficient notice as stated in Clause 7 or of any changes in the information therein or any cancellation and / or variations to the nominations referred to in Clause 7 and / or the failure of the Vessel to present itself for delivery.
- (b) Notwithstanding anything contained herein, the Seller shall not be liable to the Buyer for any consequential or special losses or damages of whatsoever kind in connection with the performance or failure to perform the Contract, including without limitation, loss of profits or business, loss by reason of shutdown, non-operation or the like.
- (c) Any loss of or damage to the Marine Fuel, or to any property of the Seller or the Supplying Company or to any other person, during, before or after loading caused by the Buyer and / or its agents, employees, contractors, persons acting under its authority and / or the Vessels and / or her officers or crew shall be borne by the Buyer and the Buyer shall to such extent indemnify or reimburse the Seller for the same.
- (d) In the event that Marine Fuel delivery is made by vessel or barge as a ship-to-ship transfer, any damage caused by contact and/or collision and/or swell and/or other weather or sea related condition or incident, such damage is to be dealt with by the Owner directly of the involved units, and the Seller cannot be held responsible for such damage. If, however, any of the involved units choose to pursue the Seller, the Buyer will fully indemnify and hold the Seller harmless in relation thereto.
- (e) All costs borne by the Seller in connection with the collection of overdue payments, whether made in or out of court and in general all costs in



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connection with breach of this agreement by the Buyer, shall be for the sole account of the Buyer.

- (f) The Vessel(s) shall be covered under an appropriately worded TOVALOP clause and have protection and indemnity insurance and shall have on board the Certificate of Insurance in respect of liability for oil pollution.
- (g) Without prejudice to anything contained herein, neither the Seller nor the Supplying Company shall be responsible or liable for any damages for delay or detention or demurrage or any loss whatsoever arising from :
 - (i) any disputes as to the quantity or quality of the Marine Fuel;
 - (ii) any surveys conducted by or on behalf of or at the request of the Buyer, independently or pursuant to the Terms and Conditions herein; or

late or non-delivery of the Marine Fuel due to congestion at the terminal or to prior commitment of barges including without limitation to any causes whatsoever or however arising beyond the Seller's control or avoidable by due care of the Buyer and / or the Vessel.

(17) CANCELLATION

- (a) No order which has been accepted by the Seller may be cancelled by the Buyer except with the express agreement in writing of the Seller. In any event of any cancellation, the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the costs of all services rendered and labour and materials used) damages, charges and expenses incurred by the Seller as a result of cancellation provided that when delivery of the marine fuel was to be delivered by barge, the Seller shall be entitled at its option, to be paid damages at the rate of minimum US Seven Dollars (USD7.00) per metric ton for the barge which would have affected delivery but for such cancellation without any formal proof of such loss.
- (b) The Seller reserves the right to cancel the supply agreement if the Vessel fails to present itself for supply for more than 72 hours from the nominated supply date and time.

(18) FORCE MAJEURE

- (a) Without prejudice to any other exclusion or limitation provided herein or by law, no failure or omission by the Seller to carry out or observe any of these Terms and Conditions shall give rise to any claims against the Seller of whatsoever nature and howsoever arising or be deemed to be a breach of



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these Terms and Conditions if the same shall rise out of causes not within the control of the Seller, whether foreseen or not, including but not limited to causes such as labour disputes, lock outs, strikes, industrial actions, governmental intervention, Seller's response to the insistence or request of any governmental body or person purporting to act therefor, war, invasion, act of foreign enemy, hostilities, (whether war has been declared or not), civil war, revolution, insurrection, civil commotion, any breakdown in machinery or power failure, breakdown in machinery, fire, flood, accident, storm or any act of God, statutes, rules, acts, restrictions, regulations, bye laws, orders, requisitions, prohibitions or measures of any kind on the part of any governmental or duly constituted authority, import or export regulations, or embargoes and the Seller shall be relieved of all liabilities incurred under this Contract wherever and to the extent to which the fulfillment of such obligation is prevented, frustrated or impeded as a consequence of any such event or events as aforesaid or any other cause (whether or not of like nature) beyond the Seller's control.

- (b) This provision however does not relieve the Buyer from its obligations to make payment of all amounts due to the Seller under the Contract and in accordance with the Terms and Conditions herein set out.
- (c) If, as a result of any of the events, matters or things referred to above or any other events (including without limitation contractual changes relating to the supply of crude oil or petroleum products from which Marine Fuel of the grade to be sold to the Buyer is derived), supplies of Marine Fuel are in the Seller's sole opinion curtailed or available to the Seller only under conditions, the Seller may allocate in its own discretion its available supplies of Marine Fuel to meet its own requirements and those of its related and affiliated companies and other customers including the Buyer. The Seller shall not be required to increase supplies from other sources or to purchase Marine Fuel to replace supplies so curtailed. The Seller shall not be responsible to the Buyer for any loss or liability incurred by the Buyer as a result of such shortage of supply.

(19) ENVIRONMENTAL PROTECTION

- (a) It shall be the sole responsibility of the Buyer to ensure that the Vessel, its crew and those responsible for its operation and management observe and comply with all health, safety and environment laws and regulations with regard to the receipt, handling and use of the Marine Fuel. The Buyer warrants that the Vessel is in compliance with all national and international trading and pollution regulations.



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- (b) If any escape, spillage or discharge of oil occurs while Marine Fuel is being delivered to the Vessel, the Buyer shall promptly take such action as is necessary to remove the oil and mitigate the effects of the escape, spillage or discharge. Notwithstanding the cause of such escape, spillage or discharge, the Seller may, at its option, upon notice to the Buyer or the operator of, or the agent for, the Vessel take such measures, either in cooperation with the Buyer or by itself, and incur such expenses (whether by employing its own resources or by contracting with others) as are reasonably necessary in the judgment of the Seller to remove the oil and mitigate the effects of such escape, spillage or discharge. If the Seller exercises such option, the Buyer shall cooperate and render such assistance as may be required by the Seller. Any expense, damage, cost, fine or penalty arising from escape, spillage, discharge or pollution of oil shall be paid by the party that caused the same by a negligent act or omission. If both parties have acted negligently, any expenses etc. shall be divided between the parties in accordance with the respective degrees of negligence. The Buyer also agrees to give or cause to be given to the Seller all such documents and other information concerning any escape, spillage or discharge or any programme for the prevention thereof, which are requested by the Seller or required by law or regulation applicable at the time and place where the Seller delivers Marine Fuel to the Buyer.

(20) ASSIGNMENT

The Contract shall be binding upon and inure to the benefit of the Buyer and the Seller and their respective successors and assignees. The Buyer shall not without the Seller's prior written consent be entitled to assign, novate or otherwise transfer any benefits or obligations under the Contract. The Seller may assign its duties, obligations, rights, benefits or privileges under the Contract in whole or in part, to any party without giving notice to or requiring consent from the Buyer.

(21) NOTICES



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- (a) Notices hereunder shall be sent by letter, email, telex, cable or facsimile to the Seller at :-

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or such subsequent address, email address, telex number, cable code or facsimile number as may be notified by the Seller to the Buyer, in accordance with the provisions herein.

- (b) Notices to the Buyer may be made by the Seller, or by any person or firm for the time being acting as solicitor for the Seller, by letter, email, telex or facsimile transmission to the Buyer's last business address, email address, telex or facsimile number known to the Seller.
- (c) Every demand or notice so made or given under this Clause 21 shall be deemed to have been made or served :-
- (i) where the demand or notice was sent by telex, email or facsimile transmission, on the day such demand or notice was sent.
 - (ii) where the demand or notice was sent by post, two (2) days after being posted notwithstanding the fact the letter may be returned to the post office undelivered or if delivered by hand, on the date on which it is actually delivered to the address of the intended recipient.

(22) ENTIRE AGREEMENT

- (a) The Contract embodies all the terms and conditions agreed upon between the parties as to the subject matter of the Contract and supersedes and overrides in all respect all previous communications, understanding, representations, warranties, agreements, and undertakings, if any, made between the Parties with respect to the subject matter therein whether such be written or oral.

(23) GOVERNING LAW AND JURISDICTION



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- (a) Save as provided in Clause 23(b) below, the Contract shall be governed by and construed in all respect in accordance with the laws of the Republic of Singapore, except that the General Maritime Law of the United States shall always apply with respect to the existence of a maritime lien.
- (b) For the sole benefit of the Seller it is further agreed that the Seller without prejudice to any rights hereunder of the Seller or any claim raised pursuant to Clause 23(a) above have the right to proceed against the Buyer, any third party or the Vessel in such jurisdiction as the Seller in its sole discretion sees fit *inter alia* for the purpose of securing payment of any amount due to the Seller or for injunctive or preservative relief or security in aid of arbitration. In such circumstances the proceedings shall be governed by the law (substantive and procedural) of such jurisdiction, except that the General Maritime Law of the United States shall always apply with respect to the existence of a maritime lien, regardless of the country in which Seller takes legal action. Seller shall be entitled to assert its rights of lien or attachment or other rights or legal remedies available to the Seller, whether in law, in equity or otherwise, in any jurisdiction where the Vessel or the Buyer may be found.
- (c) If any proceeding of any nature whatsoever is instituted under Clause 23(a) or Clause 23(b) above, in connection with any controversy arising out of the Terms and Conditions or to interpret or enforce any rights under the Contract, the prevailing party shall have the right to recover from the losing party its reasonable costs and attorneys' fees incurred in such proceeding.
- (d) Unless otherwise provided herein, any dispute arising out of or in connection with the Contract shall be referred to arbitration in Singapore in accordance with the arbitration rules for the time being in force at the Singapore Chamber of Maritime Arbitration which shall be incorporated by reference herein. The tribunal shall comprise of 3 arbitrators, one to be appointed by the Seller and one to be appointed by the Buyer. The two appointed arbitrators shall forthwith thereafter mutually appoint a third arbitrator. The language of arbitration shall be English and the award of the arbitration shall be final and binding on the parties.
- (e) Notwithstanding Clause 23(d), the Seller shall be entitled to bring any claim against the Buyer for failure to make any payment due under any Contract together with any interest accrued thereon in respect of a delivery of Marine Fuel in any court of competent jurisdiction as the Seller shall deem fit and the Buyer unconditionally and irrevocably waives any objection it may have



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to the Seller commencing proceedings in such jurisdiction for the recovery of any payment due from the Buyer under any Contract together with any interest accrued thereon. In such event, the Buyer agrees to indemnify and hold harmless the Seller for any cost or expense incurred in the enforcement of its rights under this Clause 23(e).
