

PT INDOFUELS LIMITED
GENERAL TERMS AND CONDITIONS FOR PETROLEUM PRODUCTS SALES AGREEMENT (“GENERAL TERMS AND CONDITIONS”)
Edition of April 2020

1. DEFINITIONS

In these General Terms and Conditions, unless the context otherwise requires, the following definitions apply:

“**Bunker Delivery Note**” means the document signed by the authorised personnel of the Vessel after completion of the delivery of Marine Fuel;

“**Bunker Requisition Form**” means the form requesting delivery of the Marine Fuel, which shall contain the quantities and grades of Marine Fuel requested and any other information as the Seller may deem necessary;

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

“**Confirmation Note**” means the confirmation in writing from the Seller to the Buyer setting forth the particular terms of each sale of Marine Fuel;

“**Contract**” means the Confirmation Note, Invoice, Bunker Delivery Note, Tank Measurement Form and the Bunker Requisition Form, and incorporating these General Terms and Conditions;

“**Delivery Location**” shall have the meaning ascribed to it in Clause 5.3(a);

“**Instalment**” shall have the meaning ascribed to it in Clause 21;

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

“**Marine Fuel**” means products, derived from crude oil, delivered or to be delivered to the Vessel, as specified in the Confirmation Note;

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

“**Samples**” shall have the meaning ascribed to it in Clause 7.1;

“**Seller**” means PT Indofuels Limited (Company Incorporation No. 1721442) a company incorporated in Hong Kong, having its registered address at 18 Shell Street, Kingsfield Centre, 18 Floor Unit 03, North Point, Hong Kong.

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

“Tank Measurement Form” means the form used to record all reference heights, gauging, trim and list of bunker, tanker and cargo temperatures;

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

2. APPLICATION OF TERMS AND CONDITIONS FOR SALE OF MARINE FUEL

- 2.1 These General Terms and Conditions are deemed incorporated in each Contract entered into between the Seller and the Buyer.
- 2.2 Unless the Seller has expressly agreed in writing, the Seller shall not be bound by any terms and conditions of the Buyer and/or any other parties.
- 2.3 These General Terms and Conditions (as may be amended or supplemented from time to time), shall be binding on the Buyer.
- 2.4 In the event of any discrepancy between these General Terms and Conditions and the terms of the Confirmation Note, the terms of the Confirmation Note shall prevail.
- 2.5 Wherever applicable, references to the Vessel in the Contract shall also refer to the Vessel's owner(s), operator(s), captain or master, pilot(s), tankermen, other officers, and crew, line handlers and agents. If an agent purchases the Marine Fuel on behalf of an undisclosed principal, both parties shall be jointly and severally responsible for all obligations under the Agreement, including, without limitation, payment for the Marine Fuel delivered.

3. OFFERS AND QUOTATIONS

- 3.1 The Contract shall only be binding on the Seller upon the issuance of the Confirmation Note. The Confirmation Note shall incorporate these General Terms and Conditions so that these General Terms and Conditions are considered a part of the Confirmation Note.
- 3.2 Contracts negotiated via brokers, or any other authorised representatives on behalf of the Seller, shall only bind the Seller upon the Seller's broker or other authorised representative sending the Confirmation Note to the Buyer or the Buyer's broker as the case may be.
- 3.3 If the Buyer is not the Owner of the Vessel:
 - (a) 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 authorised as an agent of the Owners of the Vessel to purchase Marine Fuel for the Vessel; and
 - (b) the intermediary manager, broker, trader or agent and / or the Buyer (as the case may be) shall be solely responsible for communicating the terms of these General Terms and Conditions to 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 of the Vessel. The Seller shall have the right to cancel any Contract

with the intermediary manager, broker, trader or agent and / or the Buyer (as the case may be) 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 of the Vessel 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.

4. PRICE AND CHARGES

- 4.1 Unless otherwise stated in the Confirmation Note, the price for the Marine Fuel set forth in the Confirmation Note shall be:
- (a) payable in United States Dollars;
 - (b) the price per metric ton for each grade of Marine Fuel specified in the Confirmation Note (in the event the price in the Confirmation Note is expressed in volume units, the price shall be converted to price per metric ton at sixty (60) degrees Fahrenheit or fifteen (15) degrees Celsius) multiplied by the applicable quantities of such grade of Marine Fuel, provided that any price specified in the Confirmation Note shall only be valid 7 Calendar Days (3 days before and 3 days after the vessel's ETA specified in the nomination) in which the Confirmation Note is issued and beyond such validity period, the Seller shall have the option to adjust the price upward to reflect the change in market price of the quantity of Marine Fuel to be delivered; and
 - (c) ex-wharf and excludes any charges for wharfage, barging, mooring or other similar charges.
- 4.2 The Buyer shall pay any and all applicable duties and charges, whether or not specified in the Seller's quotation or the Confirmation Note, including but not be limited to:
- (a) pipeline charges, wharfage charges, barging charges or other similar charges; and
 - (b) port duties, taxes, charges or other such costs levied by authorities in the place of delivery, incurred by the Seller for the Buyer's account.
- 4.3 The price and charges referred to in the Confirmation Note do not include any insurance against the risk of loss or damage to the Marine Fuel or property. It is expressly understood and agreed that the Buyer will maintain its own insurance at its own expense for the protection of the Marine Fuel and the Seller's property. All vessels, barges, trucks, or other modes of transportation selected by the Buyer shall maintain proper insurance coverage with reputable insurance companies licensed to do business in the countries where the Seller's supply port is located at no cost to the Seller, and a certificate of insurance shall be provided by the Buyer to this effect.
- 4.4 The Seller reserves the right by giving notice to the Buyer in writing at any time before delivery and on or after sending the Confirmation Note to adjust the price or to revoke the Contract if:

- (a) it is reasonably necessary for the Seller 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);
- (b) the quantity required changes;
- (c) there is a change to the quality or specification of the Marine Fuel; or
- (d) the Vessel's anticipated arrival date is after the laydays cancelling period.

5. DELIVERY

- 5.1 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.
- 5.2 Unless otherwise agreed by the Seller, the Buyer shall give the Seller at least seventy-two (72) hours' notice of the delivery required.
- 5.3 At least forty-eight (48) hours (Sundays and holidays excepted) before the Buyer requires delivery of the Product as defined in the Confirmation Note, the Buyer shall provide and offer to the Seller:
 - (a) the exact location of the Vessel ("**Delivery Location**");
 - (b) the approximate time of tendering; and
 - (c) any other necessary information as the Seller may request.
- 5.4 The obligation to deliver the Marine Fuel shall only be binding on the Seller when the Buyer has complied with its obligation in Clauses 5.2 and 5.3 above.
- 5.5 All deliveries of Marine Fuel at:
 - (a) the Singapore ports shall be made in accordance with the Singapore Standard 648:2019 Code of Practice for Bunker Mass Flow Metering or such standards as may be prescribed by the Maritime and Port Authority of Singapore from time to time; and
 - (b) all other ports shall be made in accordance with the relevant standards as may be prescribed by the relevant authorities from time to time.

It shall be the responsibility of the Buyer to ensure that the Vessel's crew or the Buyer's representatives are thoroughly conversant with the aforesaid and the procedures as set out therein are strictly and fully complied with.

- 5.6 Delivery of Marine Fuel shall be made by a mode to be provided or caused to be provided by the Seller at its sole discretion during normal working hours and within the harbor 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.

- 5.7 The Buyer shall also 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.
- 5.8 The Buyer shall ensure that the Vessel is in possession of valid licenses, permits and certificates required by relevant regulations pertaining to delivery to, storage and use of the Marine Fuel. 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, the 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.
- 5.9 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.
- 5.10 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.
- 5.11 If 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.
- 5.12 If any delay is caused by the Buyer to the Vessel in her arrival, her condition, breakdown or inability to receive the Marine Fuel, the Buyer shall be responsible and pay to the Seller and the Supplying Company all losses, expenses, charges arising therefrom or in connection therewith including without limitation demurrage at the Seller's or Supplying Company's established rates.
- 5.13 If the Buyer for whatever reason is unable to receive the full quantity of Marine Fuel ordered and rendered, the Seller shall have the right to invoice the Buyer for the loss incurred by having to transport the Marine Fuel back to the storage or by having to sell the Marine Fuel in a degraded form at a lower price than that applicable to the grade originally nominated by the Buyer.
- 5.14 Once the order for the Marine Fuels has been confirmed, any alteration or cancellation to delivery by the Buyer would entitle the Seller to charge, including but not limited to a cancellation fee equivalent to the cancellation fee charged by the Supplying Company, barging and storage costs, and the difference in market price of the quantity of Marine Fuel to be delivered between the date of confirmation and cancellation, at the sole discretion of the Seller without prejudice to any other rights that the Seller may have against the Buyer. The Buyer shall indemnify the Seller for any loss or damage suffered as a result of the alteration or cancellation.
- 5.15 In the event the Vessel arrives earlier or later than the indicated expected date or arrival, the Seller and the 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.

- 5.16 The Seller may elect to discontinue operations at any delivery or loading location for any reason without obligation to the Buyer.
- 5.17 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 onboard the receiving Vessel.

6. QUANTITIES AND MEASUREMENTS

- 6.1 The quantity of Marine Fuel shall be those quantities specified in the Confirmation Note, subject to the availability of quantities and grades of such Marine Fuel on the date of delivery at the Delivery Location.
- 6.2 Subject to the provisions of Clause 11 hereunder, the quantities of Marine Fuels delivered shall be determined from the official gauge or meter of the delivery Bunker Tanker at the Seller's election or the shore-meter in the case of ex-wharf delivery, measured and calculated according to the ISO-ASTM-API-IP Petroleum Measurement Tables. The quantity measured on the Bunker Tanker is therefore considered as conclusive and binding to both the Buyer and the Seller.
- 6.3 The Buyer and the Seller shall both have the right to be present or represented at such measurements of Marine Fuel, and shall be given sufficient information and access to the relevant gauge or meter and relevant documentation to verify the quantities delivered. If the Buyer is not present or represented at such measurements, then the Seller's determination of quantities shall be conclusive and binding on the Buyer.
- 6.4 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.
- 6.5 The Buyer shall be responsible to ensure that the bunker manifold of the Vessel into which the Marine Fuel is to be deposited is suitable in all respects and complies with all relevant regulations and is capable of accommodating the full quantity of Marine Fuel ordered by the Buyer.
- 6.6 The Buyer shall notify the Seller of any dispute in relation to the quantity of Marine Fuel (other than as provided in Clause 6.4 above) delivered at the time of delivery and prior to the departure of the Vessel in an appropriate Note of Protest to be provided by the Seller or the Supplying Company (as the case may be). If the Buyer fails to present the Note of Protest any such claim shall be deemed to be waived and barred.
- 6.7 Any dispute over the quantity of Marine Fuel delivered shall be presented by the Buyer in writing within (15) days from the date of delivery and in any case prior to the departure of the Vessel, failing which any such claim shall be deemed to be waived and barred, and the Seller's determination of the quantity of the Marine Fuel supplied shall be final, conclusive and binding on the Buyer.
- 6.8 If the Buyer and Seller cannot resolve the differences between the ship and barge or shore figures upon the Note of Protest being presented, the Buyer shall immediately and prior to the departure

of the Vessel, appoint at its cost and expense an independent surveyor approved by the Seller to determine the quantity of Marine Fuel delivered from the barge or the shore to the Vessel. The 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.

- 6.9 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.

7. 6. SAMPLING

- 7.1 The Seller shall arrange for four (4) representative samples of each grade of Marine Fuel, to be drawn throughout the transfer of such grade of Marine Fuel (“**Samples**”). The sampling shall, where possible be performed in the presence of both the Seller and the Buyer or their respective representatives, provided that the absence of the Buyer or its representatives shall not prejudice the validity of the Samples taken.

- 7.2 The Samples shall be drawn at a point at the Seller’s election.

- 7.3 The Samples shall be drawn using a sampling device to be provided by the Supplying Company. If the Buyer does not express any preference on the sampling device prior to entering into the Contract, then the Seller’s determination shall be conclusive and binding on the Buyer.

- 7.4 The Samples shall be sealed and labeled indicating the Vessel's name, delivery facility, product name and date of sampling and signed by both the Seller’s and Buyer’s representatives, if present. The samples with seal number marked on the Bunker Delivery Note are considered as the only valid trading samples. The seals shall only be breached in the 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) to witness the breaching of the seal. If any of the seals have been removed or tampered with by an unauthorized person, such Sample shall not be used as a sample for testing.

- 7.5 The samples shall be distributed as follows:

- (a) one (1) Sample shall be retained by the Seller after delivery of the Marine Fuel for sixty (60) days, or upon request in writing by the Buyer for as long as the Buyer may reasonably require, provided that the Buyer shall pay the reasonable storage charges of the Seller in respect of such a request;
- (b) one (1) Sample shall be retained by the Supplying Company; and
- (c) two (2) Samples shall be retained by the Buyer or its representatives.

- 7.6 If the Marine Fuel is delivered by more than one barge, the sampling procedure shall be repeated as outlined in this Clause 7.
- 7.7 In the event of any claims of defect in quality of the Marine Fuel, the results of analysis of the Seller's or its representative's drawn Samples performed by an independent laboratory mutually appointed by the Buyer and the Seller shall be conclusive to determine the quality of the Marine Fuel supplied. The Buyer and Seller shall use their 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 Samples tested, the Seller is at liberty to send the Samples to a reputable and independent laboratory of its choice for the tests to be conducted and those test results shall be the sole binding evidence of the quality of the Marine Fuel supplied to the Vessel. For the avoidance of doubt, the Samples retained by the Buyer or its representatives shall not be used for the purpose of determining the quality of the Marine Fuel.
- 7.8 Any subsequent samples drawn from the Vessel's tanks shall not be valid as an indicator of the quality of the Marine Fuel supplied. The fact that such subsequent samples may eventually bear the signature of the personnel onboard the barge 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 marine fuel.

8. TITLE – RISK OF LOSS

- 8.1 Risk in the Marine Fuel shall pass to the Buyer once the Marine Fuel passes the Seller's flange connecting the Vessel's bunker manifold with the delivery facilities provided by the Seller. The Buyer shall assume all risk of loss, damage, deterioration or evaporation as to the Marine Fuel delivered.
- 8.2 Title in and to the Marine Fuel delivered and/or property rights in and to such Marine Fuel shall remain vested in the Seller until full payment has been received by the Seller of the agreed price together with all interest, cost and expenses due. Until full payment is made, the Buyer and/or the Receiving Vessel are in possession of the Marine Fuel solely as bailee for the Seller.
- 8.3 If, prior to full payment, the Marine Fuel delivered by the Seller to the Vessel is commingled with other marine fuel, the Seller shall have a maritime lien over such quantities of such commingled marine fuel which correspond to the quantities of Marine Fuel delivered to the Vessel. The above is without prejudice to such other rights the Seller may have against the Buyer and/or the Vessel in the event of non-payment, including the right to attach the Vessel and/or its sister vessel and/or any other assets of the Buyer (or the Owner, including the disponent Owner) wherever situated in the world without prior notice.
- 8.4 The sale of Marine Fuel shall be made on the credit of the Vessel as well as on the credit of the buyer, and the Seller shall have and may assert a lien against such Vessel for the invoiced amount resulting from delivery of the Marine Fuel. Further, the Seller shall have and may assert a lien for the invoice amount of the Marine Fuel against such Vessel if the laws applicable at the place of delivery of Marine Fuel or at the place of arrest of the Vessel grant or recognize a lien for Marine Fuel delivered to the Vessel.
- 8.5 All costs and expenses (including legal costs on a full indemnity basis) in connection with the enforcement of the Seller's title or lien to the Marine Fuel shall be for the account of the Buyer. The

taking of any advance payment or security by the Seller does not, in any event, operate as a waiver of any of the Seller's rights under the Contract.

9. PAYMENT

- 9.1 Unless otherwise stated in the Confirmation Note, the Buyer shall pay the Seller for the Marine Fuel delivered at the price and in accordance with the instructions set forth in the Confirmation Note within thirty (30) days after completion of delivery of the Marine Fuel to the Vessel, notwithstanding any disputes or claims.
- 9.2 Subject to Clause 26 of these General Terms and Conditions, payment shall be made in full, without any set-off, counterclaim, deduction, withholding or discount and free of bank charges.
- 9.3 The Buyer shall pay interest on any overdue payment at the rate of 3% per month, from the date that the payment is due to the actual payment date.
- 9.4 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 in Clause 9.1.
- 9.5 Without prejudice to any other rights of the Seller, the Seller shall be entitled to modify or terminate any credit arrangements extended to the Buyer, to withhold any deliveries confirmed by the Confirmation Note if, upon demand by the Seller, the Buyer fails to pay any overdue payment or if the Buyer exceeded the credit limit granted by the Seller.
- 9.6 The Seller shall be entitled to require the Buyer to provide proper and adequate security for the performance of its obligations to deliver the Marine Fuel at any time.
- 9.7 Notwithstanding any agreement to the contrary, payment will be due immediately in case of bankruptcy, liquidation or suspension of payment or comparable situation of the Buyer, or arrest on assets and/or claims of the Buyer, or 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.
- 9.8 If payment falls 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 prior to the day on which payment would, apart from this Clause, have fallen date.
- 9.9 The liquidated damages would be enforceable against the Buyer as a debt and that the Buyer would also be liable to the legal costs and expenses incurred by the Seller in the enforcement.
- 9.10 Partial payment shall be applied in order of priority:
 - (a) firstly towards payment of any costs and expenses incurred in respect of the Contract due from the Buyer to the Seller;
 - (b) secondly towards interest incurred in respect of the Contract due from the Buyer to the Seller; and

- (c) lastly towards the price of Marine Fuel specified in the Confirmation Note and/or any other charges and expenses 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.

10. DELIVERY DOCUMENTATION

- 10.1 Upon the Seller's tender of the Marine Fuel and before commencement of the delivery, the authorized personnel of the Vessel shall sign on the Bunker Requisition Form, Tank Measurement Form, and any other related document upon gauging before pumping.
- 10.2 Upon completion of the delivery and prior to disconnecting the transfer hose, the authorized personnel of the Vessel shall sign on the Tank Measurement Form and the Bunker Delivery Note.

11. PRODUCT QUALITY AND CLAIMS

- 11.1 The Buyer shall have the sole responsibility for the selection and acceptance of the grade of Marine Fuel for use in the Vessel, including determination of compatibility with fuel already on board the Vessel, in accordance with the relevant International Maritime Organisation regulations that may be in force from time to time.
- 11.2 The Seller warrants that the Marine Fuel delivered under the Agreement of Sale of Marine Fuel meets the specifications for the Product as set forth in the Confirmation Note, subject to variance.
- 11.3 The Buyer shall notify the Seller of any dispute in relation to the quality of the Marine Fuel delivered by the Seller in an appropriate Note of Protest. For the avoidance of doubt, any remarks made on the Bunker Delivery Note and Tank Measurement Form shall be deemed to be invalid and shall not be construed as a form of protest. If the Buyer fails to present the Note of Protest to the Seller within fourteen (14) days from the date of delivery of the Marine Fuel, any such claim shall be deemed to be waived and barred.

12. LIEN

- 12.1 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 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.
- 12.2 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.

- 12.3 The affixation or annotation of any “no lien” stamp or any similar notification of wording on the Bunker Delivery Note or any document, whether used by the Buyer, the Vessel (or its representatives) or any third party, shall not vary or invalidate the Contract and shall not in any way prejudice any rights (including but not limited to rights of lien, attachment and/or claim) that the Seller may have against the Buyer, Vessel, the Owners or the Marine Fuel.
- 12.4 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.
- 12.5 Taking of any additional security measures by Seller shall not operate as a waiver of this Clause 12.

13. BROKERS AND AGENTS

- 13.1 Unless the party with whom the Seller is corresponding specifically declares to the Seller prior to dispatch by the Seller of the Confirmation Note that the party with whom the Seller is corresponding is not the Buyer, and provides to the Seller the full name and address of the Buyer, then the party with whom the Seller is corresponding shall be deemed to be the Buyer.
- 13.2 In the event that the party with whom the Seller is corresponding with is a / an broker / agent / ship-owner of the Buyer, then the party with whom the Seller is corresponding shall be jointly and severally liable with the Buyer to perform the Buyer's obligations under the Agreement notwithstanding that the party with whom the Seller is corresponding purports to contract as a mere broker / agent / ship-owner.

14. WARRANTIES AND DISCLAIMER

- 14.1 Notwithstanding anything in these General Terms and Conditions to the contrary, the Seller makes no representations or guarantees pertaining to environmental or human safety, health hazards or effects, or other like matters.
- 14.2 Whilst the Seller warrants that each grade of Marine Fuel supplied hereunder shall be of merchantable quality, there is no implied condition or warranty that the Marine Fuel supplied hereunder shall be reasonably fit or suitable for the purpose of use intended by the Buyer.
- 14.3 The Seller makes no other warranties, express or implied including without limitation, any warranty or merchantability, or that the Marine Fuel delivered under the Agreement of Sale of Marine Fuel is fit for a particular purpose, even if the Seller has prior knowledge.

15. POLLUTION PREVENTION, SAFETY AND RESPONSIBILITY

- 15.1 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.

- 15.2 In the event that any leakage, spillage, discharge or overflow occurs while the Marine Fuel is being delivered, the Buyer shall promptly take such measures as are necessary to protect against or mitigate any resulting pollution damage or as required by any governmental authorities.
- 15.3 In the event such incident is the result of any defect in the Vessel or its equipment or any fault or act of neglect of the master, crew, agent or representative of the Vessel, the Buyer shall agree to assume any and all responsibility for penalties, cleanup expenses, and cost that may be incurred as a result of such incident.
- 15.4 Notwithstanding the cause of such escape, spillage or discharge, the Seller may, at its own 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. 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.
- 15.5 The Buyer agrees to indemnify and hold harmless the Seller from any claims resulting from petroleum spills, environmental damage, accidents or any other tortuous behavior resulting from the actions or failure to act of the Buyer or any of the Buyer's employees, agent, brokers or authorized representative.

16. VESSEL SEAWORTHINESS

The Buyer represents that the Receiving Vessel is seaworthy, safe and in good condition and is capable of receiving the Marine Fuel without leakage or spillage. Should the Receiving Vessel fail to comply with the foregoing representation, the Seller may suspend the delivery of the Marine Fuel until such time as the Seller has received satisfactory evidence, in its sole discretion, that the Vessel has adequately complied with these representations. If the Vessel is unable to comply with such requirements, the Buyer shall be deemed in breach of the Contract and the Seller may declare a default thereunder and terminate the Agreement.

17. SANCTIONS COMPLIANCE

Without prejudice to any other remedies and rights, the Seller shall have the option to terminate the Contract with immediate effect, for the account and risk of the Buyer and the Buyer shall indemnify the Seller any loss, damages and expenses thereby incurred. The Seller may also take any other measures which the Seller deems appropriate, without any liability to itself, if at any time during the performance of the Contract the Seller has reasonable grounds to believe that the Buyer, the Vessel, the Owner or any of their agents and representatives are subject to any sanction, prohibition, restriction or designation under any economic sanctions, laws or regulations of the United Nations, the European Union, the United States of America or otherwise.

18. LIQUIDATED DAMAGES – BUYER’S DEFAULT

In the event the Buyer defaults on its obligation to take delivery of the Marine Fuel under the Contract, in whole or in part, the Seller, in lieu of seeking other damages or remedies under the Contract or at law or equity, may require Buyer to pay liquidated damages in full and final settlement of all the Seller's claims against Buyer arising from Buyer's breach of the Contract, including but not limited to barging and storage costs, and the and the difference in market price of the quantity of Marine Fuel to be delivered between the date of confirmation and cancellation, at the sole discretion of the Seller without prejudice to any other rights the Seller may have against the Buyer.

19. FORCE MAJEURE

19.1 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 General 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 these General 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 the 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.

19.2 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 these General Terms and Conditions as set out herein.

19.3 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.

20. INSURANCE

The Buyer is responsible for effecting and maintaining in force adequate insurance which will fully protect the Buyer, the Seller, their agents, brokers and authorized personnel and all third parties

from all risks, hazards and perils associated with or arising from the performance of the Contract and the actual delivery of the Marine Fuel.

21. DELIVERY BY INSTALMENTS

Unless provided otherwise in the Confirmation Note, each delivery of the Marine Fuel is deemed to constitute a single contract. Time is of the essence under the Contract and if the Seller is authorized in the Confirmation Note to deliver the total quantity of the Marine Fuel in separate lots, amounts or installments (each an "**Instalment**") at different times and the Buyer fails to take delivery of any such Installment, in whole or in part, at the time it is to be delivered, and such default in taking delivery with respect to such Installment is deemed to impair the value of the Contract, the Seller shall be entitled to treat such default as a breach of the Contract and provide the Buyer with written notice to terminate the Contract with immediate effect.

22. LIMITATION OF LIABILITY

- 22.1 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.
- 22.2 The Buyer's exclusive remedy for any losses or damages resulting from the sale of the Marine Fuel delivered under the Agreement of Sale of Marine Fuel, including but not limited to any allegation of breach of warranty or breach of contract or negligence or strict liability, shall be limited to the price of the Marine Fuel, for which a claim is submitted.
- 22.3 The Seller shall not be liable for any demurrage or loss incurred by the Buyer due to congestion affecting the Seller's prior commitment of bunkering barge, or for any other reasons.

23. NOTICES

All notices and communications under these Terms and Conditions and/or the document under the Agreement of Sale of Marine Fuel must be in writing, be made to the addresses, whether physical or electronic, as specified in writing by each Party to the other from time to time, and will be deemed given to a party:

- (a) where the demand or notice was delivered by telex, email or facsimile transmission, on the day such demand or notice was sent;
- (b) where the demand or notice was sent by post, two (2) days after being posted notwithstanding the fact that 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.

24. ASSIGNMENT AND NO WAIVER

- 24.1 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 the prior consent of the Buyer.

- 24.2 No failure on the part of the Seller to exercise and no delay on the part of the Seller in exercising any right hereunder will operate as a release or waiver thereof, nor will any single or partial exercise of any right under the Contract or preclude any other or further exercise of it.

25. INDEMNIFICATION

The Buyer agrees to indemnify, defend and hold harmless the Seller from and against any penalties, fines, liabilities, claims, expenses (including attorney's fees and costs of defense), losses and damages caused by:

- (a) the negligence or willful misconduct of the Buyer, its employees, agents, brokers, authorized representatives or subcontractors, including without limitation, those of the Vessel, in the course of its performance of the Contract; and
 - (b) the failure of the Buyer, its employees, agents, brokers, authorized representatives or subcontractors to comply with all applicable laws, ordinances, rules and regulations of any government or agency having jurisdiction. In addition to the other obligations that a Party may assume under the terms of the Agreement, the Buyer shall maintain sufficient insurance covering its indemnity hereunder to the extent permitted by law.
- 25.2 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 the Seller for the same.
- 25.3 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.
- 25.4 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 connection with breach of this agreement by the Buyer, shall be for the sole account of the Buyer.

26. SET-OFF

- 26.1 The Seller may at any time set off any liability of the Buyer to the Seller against any liability of the Seller to the Buyer, whether either liability is present or future, liquidated or unliquidated, consists of principal sum and/or interest, and whether the liabilities arise under the same or different agreements between the Seller and the Buyer, whether with a third party or otherwise. If the liabilities to be set off are expressed in different currencies, the Seller may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Seller of its rights under

this Clause shall not limit or affect any other rights or remedies available to the Seller under these General Terms and Conditions or otherwise.

- 26.2 The Seller is not obliged to exercise its rights under this Clause, but if the rights are exercised, the Seller shall promptly notify the Buyer of the set-off that has been made.
- 26.3 Any deduction or set-off made in accordance with this Clause shall constitute full and final discharge of the Seller's obligations to the Buyer and of the Buyer's obligations to the Seller, in respect of the amount so deducted or set-off. Save for the amount so deducted or set off, all other obligations between the Seller and the Buyer shall remain in full force and effect.

27. GOVERNING LAW

- 27.1 The Contract shall be governed by and construed in accordance with the laws of Hong Kong Special Administrative Region (Hong Kong)
- 27.2 Notwithstanding the above, 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 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 27.2.
- 27.3 All claims of the Buyer shall be time barred unless legal proceedings have been commenced within 12 (twelve) months after the date of delivery or the date that delivery should have been made.

28. MISCELLANEOUS

- 28.1 **Severability** - If any provision of the Contract is determined to be invalid, void or unenforceable by any court having valid jurisdiction, such determination shall not render invalid, void, or render unenforceable any other provision, agreement or covenant of the Contract.
- 28.2 **Waiver** - No waiver of or failure to enforce any breach of or performance required by the Contract shall be deemed to constitute a waiver of any other or subsequent breach or required performance under the Contract.
- 28.3 **Amendment** – No amendment or modification of any of these General Terms and Conditions and the terms of the Contract shall be enforceable unless reduced to writing and executed by both the Seller and the Buyer.
- 28.4 **Compliance with Law** – Both the Seller and the Buyer shall undertake such action as may be necessary to assure that it and all its employees, agents and independent contractors comply with all applicable laws, ordinances, rules and regulations and by any government entity or agency having jurisdiction with regard to such Party's performance under the Contract.

28.5 **Entire Agreement** – The Contract constitutes the entire agreement between the Buyer and the Seller regarding the sale and purchase of Marine Fuel and supersedes and renders void any and all prior representations, statements, and proposals by or discussions, negotiations and agreements whether written or oral, between the Parties with respect to the sale and purchase of Marine Fuel.