

**INDOFUELS GROUP**  
**GENERAL TERMS AND CONDITIONS FOR PETROLEUM PRODUCTS SALES**  
**("GENERAL TERMS AND CONDITIONS")**  
**October 2023 Edition**

**1. DEFINITIONS**

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

**"Buyer"** means the Vessel supplied and jointly and severally her master, Owner, managers, operators, disponent owners, charterers, the party identified as "Buyer" in the Sales Confirmation, any party on whose behalf the contract was made and any other party benefiting from the consumption of the Marine Fuel;

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

**"Contract"** means contract for the sale and purchase of the Marine Fuel between the Seller and the Buyer, comprising the Sales Confirmation and these General Terms and Conditions;

**"Delivery Location"** shall have the meaning ascribed to it in Clause 5.2(a);

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

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

**"Owner"** means the registered owner, beneficial owner or bareboat charterer of the Vessel;

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

**"Seller"** means the party identified as "Seller" in the Sales Confirmation, be it Indofuels Pte. Ltd. (Company Registration No. 201929895E) a company incorporated in Singapore, having its registered address at 3 Shenton Way #25-03 Shenton House, Singapore 068805 or 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.

**"Supplier"** means the party instructed by or on behalf of the Seller to supply or deliver the Marine Fuel;

**"Vessel"** means the vessel nominated by the Buyer to receive Marine Fuel and/or the vessel that receives the Marine Fuel delivered under the Sales Confirmation.

**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.

- 2.3 In the event of any discrepancy between these General Terms and Conditions and the terms of the Sales Confirmation, the terms of the Sales Confirmation shall prevail.
- 2.4 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.

### **3. OFFERS AND QUOTATIONS**

- 3.1 The Contract shall only be binding on the Seller upon the issuance of the Sales Confirmation. The Sales Confirmation shall incorporate these General Terms and Conditions so that these General Terms and Conditions are considered a part of the Sales Confirmation.
- 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 Sales Confirmation to the Buyer or the Buyer's broker as the case may be.
- 3.3 Without prejudice to all other terms and conditions herein, any party liaising with the Seller in connection with the issuance of the Sales Confirmation (including but not limited to any charterer, manager, broker, trader or agent (as the case may be)) 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 Owner, and warrants that it is authorised as an agent of the Owner to purchase Marine Fuel for the Vessel; and
- 3.4 The Seller shall have the right to require that the Owner provides a corporate or personal guarantee (in such wording and within such time as the Seller in its sole discretion deems fit) for amounts payable under the Contract. The Seller shall have the right to terminate any Contract at any time, without any liability whatsoever and without prejudice to its right to seek damages, if the guarantee is not furnished as demanded. 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, and without prejudice to all other terms and conditions herein, 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 Sales Confirmation, the price for the Marine Fuel set forth in the Sales Confirmation shall be:
- (a) payable in United States Dollars;
  - (b) the price per metric ton for each grade of Marine Fuel specified in the Sales Confirmation (in the event the price in the Sales Confirmation 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;
  - (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 Sales Confirmation, 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 Sales Confirmation 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 after sending the Sales Confirmation to adjust the price (such adjusted price being binding on the Buyer) or to terminate the Contract, without any liability whatsoever and without prejudice to its right to damages, 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 (including, but not limited to, any foreign exchange fluctuation, currency regulation or increase in market price of Marine Fuel);
  - (b) the Buyer requests for a change in the quantity of Marine Fuel to be delivered; and
  - (c) the Buyer requests for a change in the quality or specification of the Marine Fuel to be delivered.

## 5. DELIVERY

- 5.1 The Seller's obligation to deliver is subject to the availability to the Seller and the Supplier at the port of delivery of the particular Marine Fuel requested by the Buyer.
- 5.2 The Seller shall give notice of the Vessel's readiness to receive the Marine Fuel ("**Notice of Readiness**") not less than 72 hours before the Buyer requires delivery of the Marine Fuel, which is to be followed by 48 hours' and 24 hours' Notices of Readiness. The Notice of Readiness shall state:
- (a) the exact location at which the Marine Fuel is to be delivered (the "**Delivery Location**");
  - (b) the approximate time of delivery; and
  - (c) any other necessary information as the Seller may request.
- 5.3 The Seller shall not be obliged to deliver the Marine Fuel if the Buyer does not comply with any of its obligations herein.
- 5.4 All deliveries of Marine Fuel at:
- (a) the Singapore port 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,

(collectively, the “**Standards**”)

save that these General Terms and Conditions shall prevail where in conflict with the Standards.

- 5.5 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 pay the applicable barging charges and any other charges applicable to the delivery of Marine Fuel, 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 Supplier, 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 be solely responsible for 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 Marine Fuel and that all necessary assistance as required by the Seller or its representatives is rendered in connection with the delivery.
- 5.11 The Seller shall not be liable for any cancellation, losses, damages, costs and expenses, delay or demurrage whatsoever, whether caused by any congestion at the delivery location or at Seller's facilities, prior commitments of available bunker barge or otherwise. The Buyer agrees to pay and fully indemnify the Seller against all claims and expenses in respect of any loss, damage or delay caused by the Vessel to any bunker barge and/or its equipment.
- 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 Supplier all losses, expenses, charges arising therefrom or in connection therewith including without limitation demurrage at the Seller's or Supplier's established rates.
- 5.13 If the Buyer fails to take delivery of the agreed quantity of the Marine Fuel under the Contract at the place and time designated for delivery, either in full or in part and for any reason whatsoever, the Seller shall be entitled to, in its sole discretion, terminate the Contract or revise the price, and the Buyer shall be liable for any losses, costs and expenses incurred arising thereby.

- 5.14 Upon issuance of the Sales Confirmation, any alteration or cancellation to delivery by the Buyer shall entitle the Seller to damages and/or an indemnity for all losses incurred including, but not limited to, any cancellation fee charged by the Supplier, barging and storage costs, and the difference in market price of the quantity of Marine Fuel to be delivered between the date of the Sales Confirmation and alteration or cancellation, without prejudice to any other rights that the Seller may have against the Buyer.
- 5.15 In the event the Vessel arrives earlier or later than the indicated expected date or arrival, the Seller and the Supplier are under no obligation whatsoever to effect prompt delivery and any guarantee 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 liability to the Buyer.
- 5.17 The Buyer shall be solely responsible for storing and segregating the Marine Fuel from other marine fuels and/or products. The Seller shall not be responsible for any losses the Buyer may suffer as a result of commingling of the Marine Fuel with any other marine fuels and/or products.

## **6. QUANTITIES AND MEASUREMENTS**

- 6.1 The quantity of Marine Fuel delivered shall be the quantity nominated in the Sales Confirmation with a tolerance of +/- five percent (5%) in the Seller's option. The Seller's obligation to supply such quantity of Marine Fuel shall be subject to availability thereof from the Seller's source of supply at the time and place of requested delivery.
- 6.2 The quantities of Marine Fuels delivered shall be determined from the official gauge or meter of the bunker barge 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, with such quantity measured being final and binding on both the Buyer and the Seller, save for manifest fraud or error.
- 6.3 The Seller shall measure the quantity of the Marine Fuel delivered and the Buyer (or its representative) may at its own expense witness such measurement. All such measurements made by the Seller shall be final and binding. The Seller shall record the quantity of fuel delivered on the bunker delivery note and the Buyer will be charged for the Marine Fuel on the basis thereof.
- 6.4 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.
- 6.5 Any complaint, dispute and/or claim by the Buyer as to quantity of the Marine Fuel delivered must be notified to the Seller:
- (a) by telephone while the delivery hoses are still connected to the Vessel;
  - (b) by a note of protest writing to be provided by the Seller or the Supplier (as the case may be) upon completion of pumping and prior to the departure of the Vessel; and
  - (c) by provision of all supporting documents including, but not limited to, a report containing the full details and particulars of the complaint, dispute and/or claim (including any damage alleged to have been suffered) within fourteen (14) days from the date of delivery of the Marine Fuel,

failing which any such claim shall be deemed to be irrevocably waived and forever barred.

## 7. QUALITY

- 7.1 The Buyer shall be solely responsible for ensuring, and the Seller does not warrant or represent, the compatibility of the Marine Fuel with the engine, machinery, equipment and fuel used or to be used by the Vessel, notwithstanding any information that may be provided by the Buyer in relation to the characteristics of the engine, machinery, equipment or fuel used or to be used by the Vessel.
- 7.2 Unless expressly provided for in the Contract, there are no guarantees, conditions or warranties, express or implied, as to the satisfactory quality, merchantability, fitness or suitability of the product for any particular purpose or otherwise. Any such warranties implied by the applicable law, common law or statute are expressly excluded to the fullest extent possible.
- 7.3 The Seller shall arrange for a minimum of four (4) representative samples of each grade of Marine Fuel, to be drawn throughout the transfer of such grade of Marine Fuel ("**Samples**"). The Buyer (or its representative) has the right to be present to witness the sampling at its own expense, provided that the absence of the Buyer or its representatives shall not prejudice the validity of the Samples taken.
- 7.4 The Samples shall be drawn at a point at the Seller's sole discretion.
- 7.5 Any claims as to quality of the Marine Fuel delivered must be notified to the Seller within fourteen (14) days from the date of delivery of the Marine Fuel in writing with all supporting documents, including but not limited to a report containing the full details and particulars of the complaint, dispute and/or claim (including any damage alleged to have been suffered). In the event such notice is not given:
- (a) the obligations of the Seller under the Contract shall be deemed to be fulfilled and the Seller shall be discharged from all liability whatsoever in respect of quality of the Marine Fuel; and
  - (b) any claim against the Seller in respect of quality of the Marine Fuel shall be deemed irrevocably waived and forever barred.
- 7.6 Two samples shall be retained by the Seller for a minimum of thirty (30) Days after delivery of the Marine Fuel to the Vessel. The other two samples shall be retained by the Buyer on board the Vessel for an equal number of days.
- 7.7 In the event of a dispute relating to the quality of the Marine Fuel supplied 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, provided that if 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 in which case only those test results shall be admissible in any proceedings, and shall be final and binding. For the avoidance of doubt, the samples retained by the Buyer or its representatives shall not be admissible in any proceedings or used for the purpose of determining the quality of the Marine Fuel delivered. The fact that any sample, other than the two samples retained by the Seller, bears the signature of the Seller or Supplier (or their respective representatives) shall have no legal or factual significance whatsoever and shall not be deemed as constituting any agreement, waiver or admission.

## **8. RISK AND TITLE**

- 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 Full legal and equitable title to and possessory interest (including the right to immediate possession) in any and all the Marine Fuel delivered shall remain with the Seller and shall not pass to the Buyer until such time the Seller has received payment for the Marine Fuel supplied (including any interest accruing and owing). 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.

## **9. PAYMENT**

- 9.1 Unless otherwise stated in the Sales Confirmation, the Buyer shall pay the Seller for the Marine Fuel delivered at the price and in accordance with the instructions set forth in the Invoice 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 21 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 2% per month (or part thereof), from the due date of payment to the date of the Seller's receipt of full payment.
- 9.4 Payment shall only be deemed to be made when the funds are credited to the bank account designated by the Seller in the Invoice. In the event the Buyer receives any request to make payment to a bank account other than the one stated in the Invoice, the Buyer must confirm such change, by calling and speaking to an authorised sales representative of the Seller, before remitting payment. If payment is made to an account other than the one designated in the Invoice or verified in accordance with this sub-clause, and the funds are not received in the Seller's account, the Buyer has not discharged its obligation to pay.
- 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 Sales Confirmation 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, failing which the Seller shall have the right to terminate any Contract without any liability whatsoever and without prejudice to its right to seek damages.

- 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 All payments received from the Buyer after an invoice is overdue shall first be applied in the following order in diminution or extinction of: (a) legal fees, (b) interest, (d) any principal amount (commencing with the oldest and proceeding chronologically thereafter to the most recent). 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. EVENTS OF DEFAULT & TERMINATION

10.1 Each of the following events shall be an **"Event of Default"**:

- (a) If the Buyer fails to pay to the Seller any amount whatsoever due under the Contract;
- (b) If the Buyer fails to give 72, 48 or 24 hours' Notice of Readiness;
- (c) If the Buyer fails to take delivery, wholly or partially, of the Marine Fuel at the place and time designated for delivery;
- (d) If, at any point in time, the Seller is of the view that the Buyer may be unable to perform its obligations under the Contract, due to its financial position or otherwise;
- (e) If any insolvency or bankruptcy related proceedings have been commenced by or against the Buyer, including but not limited to proceedings for the appointment of a judicial management or for the approval of a scheme of arrangement;
- (f) If a third party arrests, purports to exert any possessory rights or enforces any judgment against any property or assets of the Buyer;
- (g) If the Buyer ceases, or threatens to cease, to carry on business; or
- (h) If the Seller is reasonably of the opinion that any of the events mentioned above is about to occur, or if any act is done or event occurs which, under the applicable law thereof, has a substantially similar effect to any of the said acts or events described above.

10.2 Upon the occurrence of an Event of Default, whether or not the Event of Default is continuing:

- (a) The Seller may at its sole discretion, by notice in writing to the Buyer, declare that the Contract is terminated;
- (b) All sums payable under Contract or any other agreement between the Buyer and the Seller shall become immediately due and payable;
- (c) The Buyer shall be liable in damages to the Seller for all losses suffered by the Seller; and



- (d) The Buyer shall indemnify the Seller for all loss and damage thereby suffered, including but not limited to loss of profit as well as costs, charges and expenses incurred by the Seller for the envisaged delivery,

## **11. LIEN**

- 11.1 The Buyer agrees and warrants that the Seller will have and may assert a lien against the Vessel and her bunkers, freight, hire, insurance payments and against all assets, vessels and bunkers in the same ownership, management or control for all sums due including interest and legal cost, expenses in connection with the Contract. No acceptance of any other or additional security measures by the Seller shall operate as a waiver of this clause.
- 11.2 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.
- 11.3 The Seller shall not be bound by any attempt by any person or entity to restrict, limit or prohibit its lien or liens attaching to a Vessel. In particular, 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 Owner or the Marine Fuel.
- 11.4 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 these General 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. POLLUTION PREVENTION, SAFETY AND RESPONSIBILITY**

- 12.1 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.
- 12.2 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.
- 12.3 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.
- 12.4 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 and to indemnify the Seller for all such expenses incurred. 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.

12.5 The Buyer agrees to indemnify and hold harmless the Seller from any claims resulting from petroleum spills, environmental damage, accidents or any other tortious behaviour resulting from the actions or failure to act of the Buyer or any of the Buyer's employees, agent, brokers or representatives.

### **13. VESSEL SEAWORTHINESS**

The Buyer represents that the Vessel is seaworthy, safe and in good condition and is capable of receiving the Marine Fuel without leakage or spillage. Should the 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 Contract.

### **14. SANCTIONS COMPLIANCE**

14.1 The following provisions shall apply where any sanction, prohibition or restriction is imposed on any specified persons, entities or bodies including the designation of any specified vessels or fleets under United Nations resolutions or trade or economic sanctions, laws or regulations of Singapore, the European Union or the United States of America.

14.2 The Buyer warrants that at the date of entering into the Contract and continuing until delivery of the Marine Fuel and payment by the Buyer to the Seller in full:

- (a) The Buyer is not subject to any of the sanctions, prohibitions, restrictions or designation referred to in clause 14.1 which prohibit or render unlawful any performance under the Contract;
- (b) The Buyer is not acting as agent, trustee or nominee of any person with whom transactions are prohibited or restricted under clause 14.1; and
- (c) The Vessel is not a designated Vessel and is not and will not be chartered to any entity or transport any cargo contrary to the restrictions or prohibitions under clause 14.1.

14.3 If at any time during the performance of the Contract, the Seller becomes aware that the Buyer is in breach of warranty as aforesaid, the Seller may terminate the Contract.

14.4 In the event that:

- (a) in the reasonable opinion of the Seller, the Buyer's warranties under clause 14.2 are inaccurate;

- (b) the Buyer fails to provide within 24 hours any document requested for by the Seller, which in the Seller's sole discretion are relevant for determining whether the Buyer's warranties under clause 14.2 are accurate;
- (c) the Buyer fails to provide within 24 hours of the Seller's request any bills of lading, seaway bills or other document evidencing carriage of any cargo on board,
- (d) the Vessel is prohibited (or there is, in the reasonable opinion of the Seller, a risk that the Vessel will be prohibited) from accessing the delivery location due to a breach or suspected breach of any sanction, prohibition or restriction referred to in clause 14.1; or
- (e) in the reasonable opinion of the Seller, there is a risk that payment by the Buyer for any invoiced amount under the Contract may be delayed and/or confiscated by any bank, financial institution, regulator or governmental entity,

the Seller shall be entitled to:

- (i) terminate this Contract without incurring any liability to the Buyer whatsoever; or
- (ii) notwithstanding anything to the contrary herein, change the currency of the price of the Marine Fuel to a currency other than United States Dollars, with the applicable currency conversion rate to be set by the Seller in its sole discretion.

14.5 Notwithstanding anything to the contrary herein, nothing in the Contract shall, or shall be interpreted or construed to, induce or require either party hereto to act in any manner (including taking or failing to take any actions in connection with a transaction) which is inconsistent with, penalised or prohibited under any laws, regulations or other official government rules or requirements of any state to which either of them is subject.

14.6 The Buyer shall indemnify the Seller against any and all claims, including return of any payment, loss, damage, costs, expense and fines whatsoever suffered by the Seller resulting from any breach of warranty as aforesaid.

## **15. FORCE MAJEURE**

15.1 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 fulfilment 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.

15.2 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.

15.3 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.

## **16. 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.

## **17. LIABILITY**

17.1 Without prejudice to any other clause herein, the Seller's total liability to the Buyer for any and all categories of loss and/or damages of whatsoever kind and type shall not exceed the price of the Marine Fuel that is the subject of the claim as stated in the Sales Confirmation or USD 500,000, whichever is lower. This limitation of the Seller's liability to the Buyer shall apply regardless of whether that liability arises in contract, tort or any other way whatsoever and shall be in addition to any other exclusions or limitations available to the Seller under law. In any case, the Seller shall have no liability unless and until the Seller has received full payment from the Buyer of all sums due under the Contract.

17.2 The Seller shall not be liable, whether in contract, tort or any way whatsoever, for any indirect, special, punitive, exemplary, incidental or consequential losses, damages or expenses of any kind. Further the Seller shall not be liable for loss of actual, projected and/or prospective profits, anticipated costs savings, loss of other contracts or financial or economic loss, loss of time, detention, deviation and/or off-hire.

17.3 The Seller and the Buyer recognize the risks inherent in ship-to-ship operations and that the decision to proceed with such operations is in the sound discretion of the masters of the Vessel and the bunker barge involved.

17.4 Without prejudice to any other clause herein, the Buyer shall only be entitled to recover losses with respect to demurrage, quantity, quality and/or delay claims, damage caused by contact, collision, swell and/or any other weather or sea related condition or incident and any other losses or damages from the Seller to the extent that the Seller is able to recover, and does recover, such costs, losses or damages from the Seller's supplier or the loading terminal operator. The Seller shall not be obliged to pay any amount to the Buyer in excess thereof. The Seller shall however use reasonable endeavours to recover such costs, losses or damages for which the Buyer has presented a claim in accordance herewith.

17.5 The Buyer shall indemnify and hold harmless the Seller for all legal fees and disbursements as well as any expenses and costs incurred by the Seller in connection with the Seller's recovery of

damages and losses inflicted on the Seller due to the Buyer's breach of any of its obligations under the Contract.

## **18. NOTICES**

All notices and communications under these General Terms and Conditions and/or the Contract 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 where the demand or notice was delivered by telex, email or facsimile transmission, on the day such demand or notice was sent.

## **19. ASSIGNMENT AND NO WAIVER**

- 19.1 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.
- 19.2 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.
- 19.3 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.

## **20. INDEMNIFICATION**

- 20.1 The Buyer shall indemnify, defend and hold harmless the Seller and its affiliates from liability for any and all demands or claims, losses, costs, damages, liabilities, fines, penalties and expenses (including legal fees) incurred or sustained out of or in connection with the act, omissions, neglect or default of the Buyer, its servants, agents, the Vessel's officers, crew and agents in the purchase, delivery, receipt, use, storage, handling or transportation of the Marine Fuel.
- 20.2 Any loss of or damage to the Marine Fuel, or to any property of the Seller or the Supplier 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.
- 20.3 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 shall not 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.
- 20.4 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.

## **21. SET-OFF**

- 21.1 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.

21.2 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.

## **22. GOVERNING LAW AND DISPUTE RESOLUTION**

22.1 The Agreement and all claims and disputes arising under or in connection with the Agreement will be governed by Singapore Law except that:

- (a) article 46 US Code §31342 of the United States Federal Maritime Lien Act will apply to any determination of the existence of a maritime lien, attachment or any other maritime claim regardless of where the Seller commences any legal action against the Buyer; and
- (b) The Seller and the Buyer hereby exclude the application of the Sale of Goods (United Nations Convention) Act 1995 to this Contract.

22.2 Any dispute arising out of or in connection with the Contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in Singapore in accordance with the rules of the Singapore Chamber of Maritime Arbitration (the "SCMA") for the time being in force at the commencement of the arbitration, which rules are deemed to be incorporated by reference in this clause, save that in cases where the aggregate amount of the claim(s) and any counterclaim(s) do not exceed the sum of USD300,000.00, the arbitration shall be conducted in accordance with the SCMA expedited procedure current at the time when the arbitration proceedings are commenced.

22.3 The tribunal shall consist of a sole arbitrator.

22.4 The language of the arbitration shall be English.

22.5 Notwithstanding any other clause herein, the Seller shall have the right to commence proceedings against the Buyer and/or the Vessel in any jurisdiction for any purpose including, but not limited to, arresting the Vessel in any jurisdiction to obtain security and/or to enforce a maritime lien. For avoidance of doubt, the Seller shall have the right to elect that any dispute arising out of or in connection with the Contract be determined in any jurisdiction of its choosing instead of being determined at arbitration.

22.6 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.

## **23. MISCELLANEOUS**

23.1 Severability - If any one or more of the provisions contained in the Contract is or becomes or is deemed to be void, invalid, illegal or unenforceable in any respect under any applicable law, such provision(s) shall be severed from the Contract, and the validity, legality and enforceability of the

remaining provisions contained in the Contract under the aforesaid applicable law or any other law shall not in any way be affected or impaired.

- 23.2 Waiver - The failure of the party to exercise or enforce any right under the Contract shall not be deemed to be a waiver of that right or operate to bar the exercise or enforcement of it at any time or times thereafter.
- 23.3 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.
- 23.4 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.
- 23.5 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.