

Standard Terms and Conditions for the sale of Marine Fuels, Lubricants and Other Products

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Island Energies

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Revision Table

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THE BUYER'S ATTENTION IS DRAWN TO CLAUSES IN THESE CONDITIONS WHICH EXCLUDE OR LIMIT THE SELLER'S LIABILITY, REQUIRE THE BUYER TO INDEMNIFY THE SELLER IN CERTAIN CIRCUMSTANCES AND/OR LIMIT TIME, BEING CLAUSES 5,7,8,9,13,15,16,17 and 25.

1. INTRODUCTORY

These are the standard terms and conditions which shall apply to all contracts under which the Seller agrees to sell and deliver or procure the sale and delivery of Products.

2. DEFINITIONS

In these conditions the following words shall have the following meaning:

'Agreement'	The agreement between the Seller and the Buyer consisting of the Standard Terms and the Confirmation. If there is any conflict between the Standard Terms and the Confirmation, the terms of the Confirmation shall prevail.
'Abatement Technology'	Any fitting, material appliance or other procedures undertaken, or compliance methods used by the Vessel as an alternative to comply with its obligations under Regulation 4 of MARPOL Annex VI.
'Basic Cost'	Unit Price multiplied by the number of units delivered.
'Bunker Delivery Note or 'BDN'	A document issued by the Seller or the Physical Supplier, describing the quantities and specification of the Product delivered to a Vessel, whether or not signed on behalf of the Vessel.
'Buyer'	Collectively, the person(s) or entity(ies) so identified in the Confirmation and shall include, on a joint and several basis, any agent, principal, associate, manager, partner, servant, parent, subsidiary, owner or shareholder thereof and always any Vessel (as defined hereinbelow) to which it has been agreed for Product to be delivered and her registered owner.
'Seller'	means the company stated in the Confirmation as that contracting to sell and arrange the delivery of Product(s), or any other party that appears as "Seller" in the Confirmation, unless the context otherwise permits.
'Confirmation'	The written confirmation issued by the Seller to the Buyer setting out the specific (i.e. those in addition to these Standard Terms) terms of the Agreement, which shall include, among others, the details of the supply of Products including i.e. Place of Supply, supply date, volume and grade of the Products and the agreed Price.
'Data Protection Laws'	means (i) Regulation (EU) 2016/679 on the protection of natural persons with regard to the Processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC; and (ii) any other Applicable Regulations relating to, or impacting on, the Processing of Personal Data. The terms data controller, personal data, processing (and process, processes and processed shall be construed accordingly) and sensitive personal data shall each have the meaning given to them in the Data Protection Laws.
'Delivery and delivery'	As set out in Clause 8 hereof.
'Due Date'	The date specified in the Confirmation for payment of the Price or, in the absence of such date, the date of Delivery; in the latter case and in respect of Further Costs only, the Due Date shall be seven (7) calendar days from notification to the Buyer of such costs.
'Further Costs'	As set out in Clause 11.2 hereof.

'MARPOL Annex VI'	Resolution MEPC. 176 (58) Amendments to the Annex of the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships 1973, as modified by Protocol of 1978 relating thereto, as in force from time to time.
'Notice of Claim'	Written notice of any claim or potential claim by the Buyer to the Seller.
'Physical Supplier'	The person or entity that physically supplies the Product to the Vessel and shall include the Physical Supplier's servants, agents, successors, sub-contractors and assigns. The Physical Supplier may be the Seller.
'Place of Supply'	The port or other clearly identifiable geographical location specified in the Confirmation wherein or adjacent to which is the Point of Delivery.
'Point of Delivery'	The precise place at which delivery is to be effected as provided in the Confirmation or as thereafter confirmed, advised or revised by the Seller or the Physical Supplier and which may be a berth, mooring, anchorage or other point within, adjacent to or associated with the Place of Supply.
'Price'	The aggregate of the Basic Cost and the Further Costs.
'Price Validity Window'	The period commencing one (1) day prior to the earliest date of the Vessel's ETA and ending one (1) day after the latest date of Vessel's ETA
'Product'	Any kind or grade of fuel, diesel, gasoil or other marine bunkers, oils, lubricants, goods, items, equipment and materials of whatever type and description, as specified in the Confirmation.
'Standard Terms'	These standard terms and conditions of the Seller.
'Sanctions List'	The lists of Specially Designated Nationals and Blocked Persons maintained published and amended from time to time by the United States of America (inclusive also of the OFAC and/or any other agency) and any other equivalent lists published by the United Nations, G7, the European Union (or any member state), the UK, Singapore, Switzerland, the authorities of the country of the Buyer's incorporation or operation and those of the country of the Vessel's flag(s).
'Sanctions'	Any sanctions, trade controls, export controls, non-proliferation, anti-terrorism and similar laws, regulations, decrees, ordinances, orders, demands, requests, rules or requirements issued or enacted by the United States of America, the United Nations, G7, the European Union (or any member state), the UK, Singapore, Switzerland the authorities of the country of the Buyer's incorporation or operation and those of the country of the Vessel's flag(s).
'Unit'	One metric tone, one liter, or such other unit of measurement as the Confirmation may specify.
'Unit Price'	The rate of cost in United States Dollars (or such other currency as specified in the Confirmation) per metric ton (or such other Unit specified in the Confirmation) of Product specified in the Confirmation.
'Vessel'	The vessel, ship, facility, tank, container, or craft nominated in the Confirmation to receive Product.
'Working days'	Monday to Friday inclusive but excluding all public and bank holidays in Cyprus and any other day designated as non-working from time to time as notified in writing by the Seller to the Buyer.

3. HEADINGS

The use of headings and sub-headings herein is for convenience and elucidation only.

4. ENTIRETY AND VALIDITY

The Standard Terms together with the Confirmation constitute the entire Agreement and supersede all prior oral or written agreements, representations and/or warranties, including but not limited to any purchase order, nomination or confirmation. No derogation, addition or amendment to the Agreement shall be of any effect unless and until expressly confirmed in writing by the Seller. If any provision of the Agreement shall to any extent be invalid or unenforceable, the remainder of the Agreement shall not be affected thereby.

5. FORCE MAJEURE

5.1 The Seller shall not be liable for any loss, damage, costs or expenses arising from the Seller's failure to fulfil or comply with any term or condition of the Agreement if fulfilment or compliance has been delayed, hindered or prevented by any circumstance whatsoever which is not within the immediate and reasonable control of the Seller, including, but without limiting the generality of the foregoing, any acts of God, fires, floods, perils of sea, war (declared or undeclared), hostilities, embargoes, accidents, strikes, lockouts or labour disputes or reasonable apprehension thereof, any government or authority order, request or restriction, or acts in compliance with requests of persons purporting to act on behalf of a government authority, or any other similar causes, any limitation, restriction or interruption to existing or contemplated sources of supply of Product and/or the means of supply and/or the means of delivery. Any such event being hereinafter referred to as a "Force Majeure Event".

5.2 If any Force Majeure Event occurs then the Seller shall be at liberty to withhold, reduce, suspend or cancel delivery of Product(s) under the Agreement to such extent as the Seller may in its absolute discretion determine and the Seller shall not be bound to acquire any additional or alternative Product(s).

5.3 Where the Force Majeure Event continues for a period of five (5) consecutive days following the written notice of the Force Majeure Event, either party may terminate the delivery of the Product(s) by further written notice to the other party. Such termination shall not give rise to any liability, compensation or indemnity of any kind, other than any liabilities arising prior to the Force Majeure Event.

6. ASSIGNMENT

The Buyer may not and shall not assign its interest in the Agreement without the prior express written approval of the Seller, in the absolute discretion of the latter. The Seller may assign the Agreement or any part of its performance thereof to any third party, whether associated with it or not.

7. CONFIRMATION-LIABLE PARTY(IES)

7.1 The Agreement shall only be concluded and binding on the Seller when the Seller sends the Confirmation to the Buyer. Each Confirmation shall incorporate the Standard Terms. If the Buyer has objections to the Confirmation or any term thereof, it must give notice to the Seller at the earliest of (a) within 24 hours of receipt of the Confirmation, or (b) before the commencement of the delivery. Failure to provide timely notice to this effect shall result in any such objections being deemed waived.

7.2 Should the Agreement be entered into by any party acting as an agent for the Buyer and/or acting for or on behalf of the Buyer, whether such is disclosed or undisclosed, then such agent, in addition to the Buyer and/or holder of any interest in the Vessel receiving the Product, shall be jointly and severally liable for and undertakes and guarantees the proper performance of all the obligations of the Buyer under the Agreement, and shall be deemed as a principal and not only acting as an agent. For the avoidance of any doubt where the Buyer has contacted the Seller through a broker, any correspondence from the Seller to the broker shall be deemed received by the Buyer upon it being received by such broker and any correspondence received by the Seller from such broker shall be deemed as correspondence sent to the Seller by the Buyer.

7.3 It is agreed that all orders of all Product are considered to be emanating from the Master and the registered owner of the Vessel, irrespective of the party which has relayed same to the Seller and even if no written request from the Master of the Vessel exists, the dues and cost of such supplies and/or deliveries as set out in the Seller's invoice shall be treated as a maritime lien on the Vessel.

8. DELIVERY

8.1 Nomination:

(i) The Seller shall not issue a Confirmation unless: (I) it first receives an email from the Buyer containing the following information relating to a proposed delivery (a “**Nomination**”):

- a. the name and IMO number of the Vessel;
- b. the name and contact details of the operator of the Vessel;
- c. the proposed delivery location and delivery mode;
- d. any specific delivery conditions required by the Buyer or the Vessel;
- e. the grades and quantities of the Product to be delivered;
- f. the time when the Vessel is expected to be ready for delivery;
- g. the name and contact details of the Vessel's agent at the Place of Supply;
- h. the entity details (full style) and address to which the Seller shall send its invoice;
- i. any factor which could prejudice the Seller's rights under [Clauses 8.10](#) and [8.11](#);
- j. any specific or unusual characteristics of the Vessel which may prejudice the Physical Supplier's ability to deliver Product(s) to it; and
- k. such other information as the Buyer may believe to be important for Seller's consideration and/or the Seller may reasonably request;

and (II) all the specific terms of the Agreement, which shall be set out in the Confirmation and shall also include the Standard Terms have been agreed. However, the Seller reserves the right to issue a Confirmation even if all the above have not been advised by the Buyers.

(ii) In providing a Nomination, the Buyer represents and warrants that it is familiar with and understands all limitations and conditions affecting the Place of Supply (including those related to the delivery mode) and shall inform the Seller of such limitations and conditions, bearing all the risks of such location. The Buyer shall only nominate a Vessel that is compatible with such limitations and conditions. The Buyer further represents and warrants that any nominated Vessel operates in compliance with all applicable laws, regulations and other requirements of: (aa) the country(ies) of the Vessel's flag(s) and registry(ies); (bb) international bodies and organisations; and (cc) the relevant authorities (including port authorities or terminal operators) at the delivery location.

(iii) The Buyer shall indemnify and keep the Seller fully indemnified against all actions, claims, proceedings, liabilities, damages and all legal costs and other expenses arising out of or in connection with any inaccuracy of the confirmations, representations and/or breach of the warranties in this [Clause 8.1](#), or related to any claim by a third party based on any facts which, if substantiated, would constitute such a breach.

8.2 Allocation: If the Seller at any time and for any reason believes that there may be a shortage of Product at the Place of Supply, it may allocate its available and anticipated supply of Product among its buyers in such a manner as it may in its absolute discretion determine. Any such allocation shall constitute full and proper performance of the Seller's respective obligations.

8.3 Restrictions: The Seller shall not be required to deliver Product to any Vessel in tanks or spaces which are not designated for storage of the Product and shall not be required to deliver any Product for export for which a government permit is required and has not been obtained by the Buyer.

8.4 Means of Delivery: Delivery shall be effected in one or more consignments at the Point of Delivery by such means as the Seller or the Physical Supplier shall deem appropriate in the circumstances or as may be available at the time of Delivery.

8.5 Commencement of Delivery: Notwithstanding any other provisions of the Agreement, the Seller's obligation is to use reasonable endeavors to commence delivery promptly, but the Seller does not guarantee the time of delivery or the pumping rate at which the Product is to be delivered to the Vessel. In any event, the Seller shall not be liable for any consequences, losses or damages (including also demurrage) howsoever caused suffered by the Buyer arising from the time of delivery or the rate at which Product is pumped into the Vessel.

8.6 Barging: In the event of delivery by barge the Buyer shall, as its own expense, make all connections and disconnections of the delivery hose and will render all other necessary assistance and provide sufficient tannage and equipment to receive safe delivery of the Product. The Buyer shall ensure that the Vessel provides a free, safe and always accessible side for the delivery of the Product and that all necessary assistance as required by the Seller or the Seller's representative is rendered in connection with the delivery of Product. For safety reasons it is solely the master of the supply barge that determines whether mooring alongside the Vessel is safe, taking weather, swell and forecasts

into decision. If clear and safe berth is unavailable, delivery may be delayed or cancelled by the Seller and all costs incurred will be for the Buyer's account. The Buyer shall pay and indemnify the Seller against all claims, costs, losses and expenses in respect of any loss, damage or delay caused by the Vessel and/or the Vessel's personnel to any barge and/or its equipment and any injury and/or death caused by the Vessel and/or the Vessel's personnel to any of the personnel effecting delivery in the course of or in connection with delivery of the Product(s).

8.7 Connection/Disconnection: The Buyer shall be responsible for making all connections and disconnections between the pipelines or delivery hoses and the Vessel's intake line and shall render all other necessary assistance and provide sufficient tankage and equipment to receive promptly each and every consignment of Product. The Buyer shall be responsible for ensuring that Product is delivered at a safe rate and pressure and that all equipment utilised is in a safe and satisfactory condition.

8.8 Delivery: Delivery of the Product shall be deemed complete when the Product has passed the flange connecting the Physical Supplier's delivery facilities with the Vessel provided by the Buyer and/or, where appropriate, has passed the Vessel's rail.

8.9 Non Delivery: If the Buyer fails to take delivery, in whole or in part, of the quantity(ies) specified in the Confirmation, the Buyer shall be responsible for any costs resulting from Buyer's failure to take full delivery, as well as for any losses incurred by the Seller, including but not limited to any loss of profit and any loss on the resale of the Product(s). The Buyer shall bear the risk of the return transport, demurrage on the barge or trucks, storage and/or any selling of the Product(s).

8.10 Risk: The Seller's responsibility for the Product shall cease and the Buyer shall assume all risks and liabilities relating thereto, including loss, damage, deterioration, depreciation, contamination, evaporation or shrinkage of Product and responsibility for loss, damage and harm caused by pollution or in any other manner to third parties, at the time Product leaves the Physical Supplier's fixed depot or wharf facilities, irrespective of whether the Product is delivered by ship, barge or truck. The Buyer agrees to fully indemnify without limit the Seller in respect of any liability, loss, damages, costs, expenses, claim or demand arising in connection with the Product after risk has passed to the Buyer.

8.11 Title: Ownership of the Product shall remain with the Seller and shall pass to the Buyer only after the Price and all other amounts due in relation to the particular delivery have been received by the Seller as provided in [Clause 12.1](#). Until such time as the full Price and all other monies due are received by the Seller, the Buyer and any person or entity in possession of the Product delivered shall hold the Product as a mere bailee, without any charge to the Seller, on behalf of the Seller and to the Seller's order, at Buyer's sole risk and expense, storing it in a way so that it can be identified as the Seller's property and **not being entitled nor permitted to use or in any way consume the Product or any part of it**. In case of non or short payment for the Product by the Buyer, the Seller is entitled (but not obliged) to repossess the Product without prior juridical intervention, always without prejudice to all other rights or remedies available to the Seller. In the event that the Product has been mixed with other products on board the Vessel, the Seller shall have the right to trace its proprietary interest in the Product into the mixed product and/or to exercise a lien on such part of the mixed product as corresponds to the quantity or the Price of the Product delivered. The provisions of this Clause do not prejudice or in any way limit the Seller's right to arrest/attach the Vessel and/or any other assets, wherever situated in the world, without prior notice and/or to exercise any other right under the Agreement or the Law, including but without limitation, a maritime lien. Repossession of the Product shall take place at a port and place where the removal of the Product can safely take place, at Buyer's time, expense and risk. The Buyer shall (acting reasonably and in good faith) agree such place with the Seller and shall make the Vessel available there for such repossession at Buyer's time, cost and risk. If following repossession and on-sale of the respective Product to a third party there is a shortfall to the Price, the Buyer shall forthwith pay such shortfall to the Seller. The Buyer acknowledges that the repossessed Product will most likely be on-sold to third parties at a considerably reduced price.

8.12 Measurement: The quantity of Product delivered under the Agreement shall be measured by and at the Physical Supplier's option by one of such generally recognised methods of measurement as is appropriate in the circumstances and the Physical Supplier's measurements shall be final and binding and, absent manifest error, conclusive. The Buyer or its properly accredited representative may be present at all measurements; non-presence does not give any right or implication to the Buyer to challenge the respective measurement(s).

8.13 Specification: The Product to be delivered shall be as specified in the Confirmation and in respect of marine bunkers and lubrication products, save where more precisely specified in the Confirmation, these shall be of the Seller's commercial grades of product as currently offered generally to its buyers at the time and Point of Delivery for Product. There is no guarantee, warranty or undertaking of any kind or form from the Seller that the Product will remain of the



same quality and/or condition as delivered with the passage of time after delivery. No other warranties, express or implied as to quality, merchantability or fitness for a particular purpose, are given or form part of the Agreement.

8.14 Compatibility and Segregation: Responsibility for establishing compatibility of Product delivered with any other product or products and for segregating or co-mingling the same rests solely with the Buyer.

8.15 Substitution: The Seller may discharge its obligation to deliver Product as specified in the Confirmation by supplying in substitution product of a different grade and/or brand name, provided always that such substitute product is of an equivalent or superior specification to that specified in the Confirmation.

8.16 Availability: Subject to the availability of Product, the availability of facilities at the Place of Supply and Point of Delivery, the customary priority of any specific other vessel(s) and to the Buyer giving notice in accordance with [Clause 8.20](#), the Seller will use its best endeavors to ensure that the Product is delivered promptly upon or as close as possible to the Vessel's arrival at the Point of Delivery, but the Seller shall not be responsible for any loss, expense, damage or increased costs incurred in consequence of the Vessel not being supplied promptly or otherwise being delayed or restrained for any reason whatsoever. Particular note must be taken of [Clauses 5](#), [8.2](#) and [8.5](#), which apply also in this respect and are relevant.

8.17 Time: The Buyer is responsible for ensuring that the Vessel is ready to receive Product at the Point of Delivery on the expiry of the time of the notice given in accordance with [Clause 8.20](#).

8.18 Delayed Arrival: In the event that the Vessel's arrival at the Point of Delivery is delayed or likely to be delayed, the Buyer must promptly notify the Seller and the Vessel's agent at the Place of Supply and must ensure that the Vessel's agent notifies the Physical Supplier and the Seller (if different) accordingly. At the Buyer's request the Seller will use its best endeavors to supply a delayed Vessel on the terms originally agreed but reserves the right to pass on to the Buyer all additional costs, incurred as a result of the Vessel's delayed arrival including increased Basic Cost.

8.19 Early Arrival: In the event that the Vessel arrives at the Point of Delivery prior to the agreed, delivery of the Product(s) may take place solely at the Seller's discretion, but the Seller shall be under no obligation to supply (or procure the supply of) the Product(s) prior to the agreed ETA and the Seller accepts no liability for failure or refusal to do so.

8.20 Notices and Other Delivery Requirements: The Buyer must give in writing to the Physical Supplier and the Seller (if different) seventy-two (72) and forty-eight (48) hours advance notice of the Vessel's forthcoming readiness to receive Product. Thereafter, further (i) twenty-four (24) hours' definite prior notice of the time of the Vessel's readiness to receive the Product(s) and (ii) notice of arrival at the Place of Supply, upon the Vessel's arrival there. Notices must be given during the Physical Supplier's normal business hours. Notice given outside these hours will be deemed to have been given at 08:00 a.m. on the first local working day thereafter. Furthermore it is in all circumstances and on all occasions the responsibility and duty of the Buyer to ascertain and where appropriate to comply with:

8.20.1 the precise requirements of the Physical Supplier and any other person, body or authority in respect of the giving of notice of the Vessel's time of arrival at the Point of Delivery, and

8.20.2 the exact location of the Point of Delivery, and

8.20.3 any particular requirements to enable delivery to be effected as efficaciously as possible.

8.21 It is the responsibility and duty of the Buyer to instruct its agent at the Place of Supply to liaise with the Physical Supplier so as to ensure compliance with the provisions of [Clause 8.20](#).

8.22 Information: In response to a specific request for information from the Buyer in respect of the Point of Delivery the Seller will use its best endeavors to obtain or provide the information requested. Whilst every care will be taken to ensure that such information, as and if obtained, is accurate and up-to-date, it shall be furnished on the strict understanding that it is not a contractual representation and that no responsibility whatsoever will attach to the Seller for its non-accuracy and/or non-veracity.

8.23 Environmental Protection: Without prejudice to [Clauses 8.10](#) and [8.11](#), the Seller may at any time without notice take any steps which it considers necessary to protect the environment from damage arising from spillage or transport of Product. Any action so taken shall be on behalf of and at the expense of the Buyer and the Buyer shall fully indemnify

the Seller for any loss, costs, damages or expense incurred by the Seller for any such steps taken by the Seller or on its behalf.

8.24 Sulphur contents: Where the Buyer nominates a Product that is above the sulphur limits set out in MARPOL Annex VI, the Buyer shall be deemed to warrant and represent that the Vessel has installed working Abatement Technology or has a valid Fuel Oil Non-Availability Report (FONAR). Where the Buyer nominates fuel oil with a maximum sulphur content of 0.5% the Buyer shall be deemed to warrant and represent that the Vessel's receiving tanks: i) have been sufficiently cleaned and prepared to receive the Product and ii) that following such cleaning and preparation of the Vessel's receiving tanks, no other Product above the limits set out in MARPOL Annex VI has been stored, or will be stored, in the Vessel's receiving tanks.

9. CANCELLATION AND BREACH

9.1 In the event that the Vessel arrives, or the Buyer requests that delivery commence, outside the Price Validity Window, the Seller shall not be obliged to perform the delivery and shall be entitled at its sole discretion to:

9.1.1 amend the price set out in the applicable Confirmation to reflect increased or additional costs, including but not limited to increased delivery costs and/or prevailing market prices; or

9.1.2 terminate the Agreement with immediate effect by notice to the Buyer, in which case the Buyer shall indemnify the Seller in accordance to [Clause 9.2](#).

9.2 In the event that:

(i) the Seller terminates the Agreement pursuant to [Clause 9.1](#), or;

(ii) the Buyer at any time terminates the Agreement, an order for Product, or a Nomination, or;

(iii) the Buyer or the Vessel fails to take delivery of part or all of the agreed quantity and/or kind of Product for any reason, regardless of fault or causation,

the Seller, without prejudice to any other rights or remedies, which the Seller has under the Agreement and the Law, shall have the right to pursue a claim against both the Buyer and the Vessel and the Buyer and the Vessel shall be jointly and severally liable for all loss and/or damage and/or expense thereby suffered, including but without limitation loss of profit and (where the Seller has engaged in derivative hedging instruments to offer a fixed price to the Buyer for the Product) loss and damage incurred arising from the Seller's purchase of derivative instruments, to include, but not limited to, the premium cost of such instruments, net payments made by the Seller to instrument writer(s) and administrative fees.

9.3 The Seller may treat any other breach by the Buyer of any express term of the Agreement as a breach of a condition and it may at its discretion accept the breach, treat the Agreement repudiated and seek such remedies as it considers appropriate. However the provisions of [Clauses 15](#) and [17](#) shall survive the termination of the Agreement in any event.

10. LIENS-MARITIME LIEN

10.1 Where Product is supplied to a Vessel, in addition to any other security and right, the Agreement is entered into and the Product is supplied upon the faith and credit of the Vessel. It is agreed and acknowledged that a maritime lien over the Vessel is thereby created for the Price of the Product supplied and all other monies payable under the Agreement and that the Seller, in agreeing to deliver Product to the Vessel, does so relying upon the faith and credit of the Vessel and such maritime lien. The Buyer, if not the owner of the Vessel, hereby expressly warrants that it has the authority of the owner to pledge the Vessel's credit as aforesaid and that it has given clear notice of the provisions of this Clause to the owner. 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, either by clausuring the delivery receipt, or otherwise.

10.2 Such maritime lien, attachment and/or claim referred to in [Clause 10.1](#) above shall be without prejudice and in addition to any other remedy available to the Seller. The Buyer shall not do anything nor enter into any agreement that will in any way prejudice the Seller's right or ability to assert or enforce any such maritime lien, attachment and/or claim. If the Products have been commingled on board the Vessel, the Seller retains its right of maritime lien, attachment and/or claim against the Vessel and/or against such part of the commingled Products as corresponds to the quantity it delivered to the Vessel.

10.3 Any addition to or deletion from the BDN (including any no lien clauses or stamps) by either the Buyer or the Vessel (or any of their representatives) is invalid, of no effect in any jurisdiction and may not be asserted contrary to the Agreement by any person.

11. THE PRICE

11.1 Unit Price: The Buyer shall pay the Unit Price at the rate agreed in the Confirmation. In case of any unexpected general increase of the market price of the Product between the Confirmation and the Delivery, the Buyer shall bear the corresponding increase to the Unit Price, by paying same to the Seller. The Price is exclusive of any new or existing environmental levies, carbon taxes, or statutory charges introduced by national or international authorities, unless otherwise stated in the Confirmation.

11.2 Further Costs: In addition to the Basic Cost of the Product the Buyer shall pay for any charges raised in respect of taxes (inclusive also of VAT, as/if applicable), freight, barge, vehicle, wagon, clean up costs, overtime, or other like payments, insurance, pilotage, port dues and any and all other like costs and expenses incurred by or charged to the Seller. Such charges, costs and expenses will be passed on to the Buyer at the rates charged to the Seller as and when they are advised to the Seller and together with the Basic Cost shall for all purposes constitute the Price due from the Buyer to the Seller for the Product supplied.

11.3 Notice of the Price: The Seller will give notice of the Price to the Buyer as soon as reasonably practicable after Delivery. In certain circumstances the Seller will give notice of the Price in parts. Where notification of the Price is given in parts each element of the Price so notified shall, when due, constitute an enforceable debt due from the Buyer to the Seller. Notice of the Price may at the Seller's option be provided by invoice sent by post, courier, email or as otherwise provided herein or as may be agreed.

11.4 Proof of Delivery: The Buyer or its representative should attend Delivery and obtain at that time all information relating to Delivery including the exact quantities and precise specification of the Product delivered. Unless otherwise requested by the Buyer prior to dispatch by the Seller of the Confirmation, the Seller shall be under no obligation any time to produce to the Buyer any evidence of Delivery to the Vessel. It is expressly agreed that the furnishing by the Seller of proof of delivery is not a pre-requisite to payment of the Price. However, the Buyer shall instruct its representative(s) on the Vessel to sign and seal (i) prior to delivery, any relevant pre-delivery note and (ii) after delivery, the respective delivery receipt (Bunker Delivery Note or other, as the case may be). Any delay to the Vessel or any loss or additional cost incurred by reason of the Master or Chief Engineer not signing the respective delivery receipt, shall be solely and wholly for Buyer's account.

12. PAYMENT

In most cases special payment terms will have been agreed and will be set out in the Confirmation.

12.1 Each of the following terms apply unless the Confirmation otherwise provides:

12.1.1 Payment of the Price will be made in United States Dollars, or such other currency as specified in the Confirmation, in full without set off and/or deduction for any reason whatsoever (including but without limitation for any counter claim concerning the Product supplied or any other reason or cause whatsoever) so as to ensure that the Seller receives value for the payment in cleared funds on or before the Due Date. For the avoidance of doubt and without prejudice to the foregoing, counter-claims for quantity or quality do not give any right to the Buyer to set-off or delay all or part of the Price.

12.1.2 Timely payment is of the essence of the Agreement. If Buyer's or Seller's bank is closed for business either on the due date, the Buyer shall make its payment before the closing of the banks.

12.1.3 In respect of all sums which are overdue, the Buyer shall be liable to pay to the Seller late payment financial charges, calculated at 2% per month, pro-rated and compounded on a daily basis, from the Due Date until receipt by the Seller of full payment. Accrued late payment financial charges and/or costs and/or expenses incurred by the Seller in requesting payment of outstanding amounts will be added at monthly intervals to and become part of the outstanding sum. The Buyer hereby agrees and accepts that the rate of the late payment financial charges as agreed hereinabove in this Clause is not a penalty, but constitutes the agreed damages suffered by the Seller as a result of the latter being deprived of the timely payment of the principal amount (inclusive of, but not limited to, the element of interest), without prejudice to all other rights and entitlements of the Seller under the Agreement or under the applicable Law or otherwise. In the event that the aforesaid contractually agreed rate of late payment financial charges is in excess of that permitted by the applicable Law, it shall be substituted by the maximum rate so permitted.

12.1.4 Payment will be made by way of telegraphic, telex, swift or rapid electronic transfer to the bank and the account specified in the Seller's invoice. All bank and other charges if any incurred in effecting remittance will be for the account

of the Buyer. Advice of remittance including identifying references should always be given to the Seller. If payment is not received as a result of the Buyer not complying with the payment instructions, then the Buyer will pay immediately, upon written request, all sums due including late payment financial charges and all other charges.

12.1.5 Payments received by the Seller from or on behalf of the Buyer, notwithstanding any specific request, note or reference to the contrary, will be applied in the following order in diminution or extinction of:

12.1.5.1 accrued late payment financial charges and other charges (including costs and attorneys' fees) arising from all agreements or transactions between the Buyer and the Seller, commencing with the oldest and proceeding chronologically thereafter to the most recent.

12.1.5.2 any principal sum due and outstanding, arising from all agreements or transactions between the Buyer and the Seller, commencing with the oldest and proceeding chronologically thereafter to the most recent.

12.2 The Seller may in good faith vary, amend, withdraw, substitute or add to the terms relating to payment at any time in the course of a transaction in such manner as it shall in its absolute discretion consider necessary to protect its interests.

12.3 If at any time the conduct, reputation, standing, creditworthiness, liquidity or solvency of the Buyer or any subsidiary, parent, associate or affiliate thereof should give the Seller reasonable cause for concern, and/or if any amount due remains outstanding for a period of three (3) Working days after its Due Date, the Seller may (without prejudice to all other rights and remedies which it may have) give notice to the Buyer that credit facilities from the Seller to the Buyer and its group/associates are withdrawn or suspended, as the case may be, and all sums outstanding and/or due for payment at a future date shall thereupon fall due for immediate payment.

12.4 If the Buyer fails to comply with this [Clause 12](#) in respect of the Agreement, the Seller shall have no obligation to make any delivery of Product(s) to the Buyer under any Agreement, and:

12.4.1 may terminate all other Agreements between the Seller and the Buyer immediately on giving notice to that effect to the Buyer; or

12.4.2 may cancel any credit period under any other Agreement between the Seller and the Buyer and require that the Buyer make immediate payment of any amounts due under any other Agreement.

12.5 In the event that the Buyer or any affiliate, subsidiary or parent thereof ("group") shall commit an act of bankruptcy or shall be the subject of proceedings judicial or otherwise commenced for protection from creditors, bankruptcy, insolvency, liquidation or winding up, the Seller may forthwith terminate the Agreement with any liability on its part.

12.6 The full legal and other costs and expenses incurred by the Seller, including those of the Seller's own legal and credit departments and of the attorneys it will appoint/engage in connection with any breach by the Buyer of any term of the Agreement including but not limited to actions for collection of the debt, shall be for the Buyer's account and shall for all purposes form part of the Price due from the Buyer to the Seller for the Product(s) supplied.

13. CLAIMS, DISPUTES AND PRECAUTIONS

13.1 Notification: Written "Notice of Claim" must be given to the Seller strictly within the time limit specified in [Clauses 13.4](#) (quantity claims and disputes), [13.5](#) (quality claims and disputes) and [13.6](#) (all other claims and disputes) below or as specified in the Confirmation and any claim not notified within the specified time limit shall be deemed waived and in any event absolutely time barred and the Seller shall be discharged of any and all liability, whatsoever and howsoever arising. It is the Buyer's responsibility to ensure that Notice of Claim is received by the Seller, whose express written confirmation of receipt should always be sought.

13.2 Sufficiency of Information: A Notice of Claim must contain sufficient information to enable the Seller to identify the relevant transaction and/or delivery, the nature of the complaint and the loss or damage alleged. Any Notice of Claim which does not give such sufficient information will not be valid for the purpose of compliance with the relevant time limit. In addition the Buyer must provide a full and complete response to any and all questions, enquiries and requests made by the Seller concerning the claim and matters relating thereto.

13.3 Categories Claims fall into 3 categories:

13.3.1 Quantity claims and disputes

13.3.2 Quality claims and disputes

13.3.3 Other claims and disputes

13.4 Quantity Claims and Disputes For bulk deliveries the Physical Supplier shall measure the contents of the delivery barges and/or wagons and/or vehicles and/or storage tanks by tank-dipping to ensure full out-turn and shall check flow meters for seals, correct settings, calibration and general condition. All of these checks shall be carried out before and after delivery of each consignment on each barge and/or wagon and/or vehicle and/or storage tank load. The delivery shall be supervised by the Physical Supplier at all times and all documentation shall be complete and accurate before signing and stamping. The Buyer's or Vessel's representative may attend throughout the delivery; non-presence does not give any right to the Buyer to challenge the respective measurement.

13.4.1 Any discrepancies concerning quantity including but not limited to claims for short delivery shall be waived and absolutely barred unless:

- (i) the Buyer has informed the Seller in writing as soon as the quantity discrepancy arises upon or immediately after completion of the delivery and before the signing of the BDN;
- (ii) the Buyer or the Vessel or the Buyer's representative have witnessed the measurements and issued a letter of protest and;
- (iii) the Buyer subsequently presents such claim to the Seller in writing, along with full supporting documentation.

13.4.2 The Seller shall not be liable for claims for short delivery based upon figures obtained by measuring the Product in the Vessel's tanks. Such measurements shall have no proof value and shall be inadmissible. Where the delivery takes place in a jurisdiction where the use of a Mass Flow Meter (MFM) is mandated by local port authorities (including but not limited to Singapore, Rotterdam, and Antwerp), the local port rules and regulations governing MFM measurement and the resulting BDN figures shall prevail over any other measurement method. The figures generated by the certified MFM shall be deemed final and binding.

13.4.3 The time limit for receipt by the Seller of a Notice of Claim in a quantity dispute is 7 (seven) days from the date of Delivery or such shorter period as may be specified in the Confirmation. The Buyer acknowledges that this deadline is reasonable, necessary and important, given that in case of a quantity claim the Seller may have a claim against the Physical Supplier and/or the interests of the delivery barge or other means of delivery, which must be in turn protected.

13.4.4 Any quantity of each grade of Product set out in a Confirmation shall be subject to an operational tolerance of +/- 5% in the Seller's option (the "**Tolerance**"). If the quantity of Product(s) delivered by the Physical Supplier is greater or less than the quantity set out in the Confirmation (but only within the amount of Tolerance) the Buyer is bound to accept and pay for the actual delivered quantity at the price set out in the Confirmation.

13.5 Quality Claims and Disputes: It is the Buyer's sole responsibility to ensure that Product tendered for delivery is fit for use by the Vessel and is delivered into the correct tanks.

13.5.1 The Physical Supplier or its agent shall take four (4) representative samples of every consignment and load of the Product on commencement of delivery with continuous drip sampling at barge manifold, road vehicle or other delivery facility manifold unless the Physical Supplier elects otherwise. Buyer's representative shall have the right to attend the taking of these samples. These four (4) representative samples must be sealed and labelled with the Vessel's name, product type, delivery date, point of delivery and seal number and the label must be signed by a representative of the Physical Supplier and by an officer of the Vessel and/or other senior representative of the Buyer. These samples shall also be identified within the BDR, (the "**Sampling Procedure**"). Two (2) of these samples shall be retained as commercial samples to be used in case of any quality claim(s), pursuant to the terms of the Agreement (the "Commercial Samples" and each a "Commercial Sample") and the other two (2) shall be retained in accordance with the provisions of MARPOL 73/78, Annex VI and may only be used for the purposes of confirming the Sulphur content of the marine fuel and such other matters as are specifically set out in Marpol Annex VI, Regulation 18 (the "Marpol Samples" and each a "Marpol Sample"). The Buyer shall retain one of each of the Commercial Samples and the Marpol Samples, the other to be retained by the Physical Supplier. The Commercial Samples to be retained for a period of at least sixty (60) days after the day of delivery of the respective Product to the Vessel.



13.5.2 The Buyer, the Vessel or their representatives shall have the right to witness the Sampling Procedure. Their failure to do so, for any reason, shall not prejudice the validity of the Sampling Procedure. In the event of such failure to witness the Sampling Procedure, the Buyer shall be deemed to have waived any claim as to the validity of the Sampling Procedure or that the Supplier Retained Sample(s) are not representative of the Product(s) supplied.

13.5.3 All documentation must be checked by the Buyer or the Buyer's representative and if there are any discrepancies concerning quality this must be recorded by the Buyer or the Buyer's representative by a letter of protest issued by the Buyer and counter-signed by the Physical Supplier or its agent.

13.5.4 In the event of the Buyer having grounds to believe that the Product supplied does not accord with the description in the Confirmation or is defective, the Buyer must immediately:

13.5.4.1 Take all reasonable steps to mitigate the consequences of having been supplied with possibly defective or incorrect Product. When there is reasonable suspicion of having been supplied with defective Product the Buyer must abstain from consuming same and maintain same in a segregated tank.

13.5.4.2 Give immediate notice ("Notice of Claim") with full details of the possibly defective or incorrect Product to the Seller together with the Vessel's position, destination and ETA, the quantities and locations of all Products (supplied by the Seller or pre-existing on board or supplied after Delivery) on board the Vessel/stored in the Vessel, the rate and quantity of consumption since Delivery, and for each of the three preceding deliveries to the Vessel, the quantity, quality and specification of the products supplied, the place and date of supply and the name of the respective physical supplier.

13.5.4.3 Inform the Seller of the whereabouts of the Buyer's retained Commercial Sample.

13.5.5 It is a condition precedent to any liability of the Seller for any quality claim that:

- i. the Notice of Claim includes a copy of the analysis report by a first class inspection Seller in accordance with the method(s) provided in ISO 8217 showing that the results of testing of a sample of the specific Product are outside the tolerances set out in ISO 4259 (or any amendment(s) thereto from time to time); for the avoidance of any doubt, substances which are not part of the quality specifications set out in Table 1 or Table 2 of ISO 8217, shall not be deemed to affect the compliance of the Product with the agreed specifications; and
- ii. upon the giving of a valid Notice of Claim, the Commercial Sample retained by the Physical Supplier is submitted for analysis in accordance with the established practice and procedures by a reputable independent testing laboratory to be mutually agreed and, if not so agreed, within five (5) Working days, shall be appointed by the Seller. The Buyer hereby acknowledges and accepts that the sealed Commercial Sample retained by the Physical Supplier is representative of the Product delivered and that the Seller has no duty or obligation to consider any other independently produced samples. The results of the analysis of such Commercial Sample shall be final, binding and conclusive on all parties. In the event that the Physical Supplier is unable or unwilling to make available for analysis its retained Commercial Sample within seven (7) Working days from the giving of a Notice of Claim or such other period as may be specified in the Confirmation or mutually agreed, the Seller will accept the Buyer's retained (with unbroken seal) Commercial Sample as representative of the Product, delivered for analysis in accordance with the provisions of this Clause, provided that the Buyer's request in writing to the Physical Supplier for its sealed Commercial Sample is copied to the Seller at the same time the request is sent to the Physical Supplier. The costs associated with the analysis and/or testing of the Product shall be borne by the losing party, unless otherwise agreed between the Parties.

For the avoidance of any doubt, the analysis report under (i) above which must accompany a valid Notice of Claim, is only for the purpose of the valid submission of a claim and does not constitute in any way an acceptable and/or valid proof of the quality of the Product, which is to be determined exclusively as is expressly set out hereinabove in this Clause.

13.5.6 If it is alleged that any equipment or machinery has been damaged by incorrect or defective Product, full details must be given to the Seller at the earliest opportunity and the item allegedly damaged must be preserved and made available for inspection on demand at any reasonable time or times by the Seller and/or its representative(s).

13.5.7 The time limit for receipt by the Seller of a Notice of Claim in respect of quality and/or claims arising out of quality is fifteen (15) days from the date of Delivery or such other period as may be specified in the Confirmation. The Buyer acknowledges that this deadline is reasonable, necessary and important, given that in case



of a quality claim the Seller may have a claim against the Physical Suppliers and/or the interests of the delivery barge or other means of delivery and/or the refinery, as the case may be, which must be in turn protected.

13.5.8 The non-participation by the Buyer or its representative(s) at the sample taking and/or sealing procedure or at the sample testing and relevant seal opening, per the foregoing, does not affect the effect, validity and consequences of the foregoing terms and conditions.

13.5.9 The Buyer's remedies shall be limited to the following as may be applicable in each specific case:

13.5.9.1 the de-bunkering of the Product to be arranged by the Seller at a mutually agreed location

13.5.9.2 reimbursement for or replacement of such Product by the Seller, at its sole option;

13.5.9.3 the reasonable and proven direct repair or replacement costs of any components of the Vessel which were physically damaged as a direct result of using such Product.

13.5.10 In no circumstances shall the Seller:

13.5.10.1 be liable for any claim in connection with a supply of Product which has been comingled with any other substance, even if the latter is a product similar or identical to the Product.

13.5.10.2 have any liability, whether as a result of a breach of contract, negligence or otherwise, and whether as a result of the acts or omissions of the Seller, its servants, agents, subcontractors or any fraudulent acts or omissions of the Physical Supplier, its servants and agents, for any loss of actual, projected, prospective or anticipated profit, loss of time or hire, demurrage, detention or loss of schedule, cost of substitute vessel(s), loss related to the loss of operational use of the Vessel, physical loss, damage to cargo, loss of contract(s) or any other kind of economic loss, in each instance irrespective of whether such losses are direct, consequential or otherwise.

13.6 Other Claims and Disputes: In all other cases Notice of Claim must be given to the Seller as soon as reasonably possible and in any event no later than twenty eight (28) days after Delivery. If the Confirmation provides for a shorter period such shorter period shall apply.

13.7 Proceedings: Without prejudice to the provisions of [Clauses 13.1](#), [13.4.3](#), [13.5.7](#) and [13.6](#) above, the Seller shall in any event be discharged of all liability whatsoever, howsoever arising in respect of any Product and/or supplies and/or services provided to the Buyer or which the Seller has undertaken to supply and/or provide, becoming waived and time barred, unless suit be brought against it by the Buyer pursuant to [Clause 25](#) hereof and written notice of such suit is given to the Seller, within 6(six) months from the date of Delivery, or, in case Delivery has not taken place, from the latest date for the respective Delivery to have been made.

13.8 It is a condition precedent to Buyer's right to pursue any claim against the Seller under or in connection with the Agreement (including but not limited to any claim relating to the quality or quantity of the Product supplied by the Seller) that all sums due from the Buyer in connection with such Agreement have first been paid in full and by the applicable payment due date. Any deduction made from or late payment of all or any part of the amount due under Seller's invoice in relation to the Agreement for any reason whatsoever shall be considered a breach of the Agreement and in such event the Buyer shall be deemed to have automatically waived and lost its right to pursue against the Seller any claim of whatsoever nature, whether notified or not, and shall be bound to pay forthwith, in full, all sums deducted or withheld.

14. WAIVER

The failure by any party to the Agreement to enforce any right against any other party shall not be construed as a waiver of that right or shall in any way affect the validity of the Agreement. In particular, the granting by the Seller of any additional time to make payment or the waiving or reducing of any interest or other charge shall not prevent the Seller at any time thereafter from relying upon its strict contractual rights.

15. INDEMNITY

Notwithstanding anything else contained in this Agreement, the Seller shall not be responsible for and the Buyer hereby fully indemnifies the Seller against, any claim for injury and/or death occurring to any person and/or any damage to any property and/or any actions, suits, claims, demands, costs, charges or expenses arising in connection therewith in the

course of performance of or arising out of or in connection with the Agreement, including but not limited to, collision, swell and/or other weather or sea-related condition or incident.

16. TERMINATION

Without prejudice to accrued rights hereunder as well as other termination events provided herein, the Seller shall be entitled to terminate the Agreement if any application is made, any proceedings are commenced or any order or judgment are given by any court for the liquidation, winding up, bankruptcy, insolvency, dissolution, administration, re-organisation or similar of the Buyer. Similarly, the Seller shall be entitled to terminate the Agreement if the Buyer or any of its affiliates fails to pay their debts as they become due, suspend payment of their financial obligations, cease to carry on business, make any special arrangement with their creditors or if any act is done or event occur which, under the applicable law, has a substantially similar effect to any of these acts or events.

17. LIMITATION OF THE SELLER'S LIABILITY

17.1 Without prejudice to [Clause 13](#), the Seller shall not be liable to the Buyer for any loss or damage, including loss of profit or any other consequential loss whatsoever, arising from any cause whatsoever, whether in contract, tort or otherwise, including for the negligence of the Seller, its servants, agents and/or sub-contractors.

17.2 Without prejudice to the provisions of [Clause 17.1](#), **the Seller's liability for any damage whatsoever arising under the Agreement howsoever caused (including the negligence of the Seller, its servants, sub-contractors or agents) and whether based in tort or contract and including claims for product liability and pollution, shall be limited to the lesser of (i) USD 300,000 or (ii) the Price of the Product(s) giving rise to the claim on which the Seller's liability is based.** For example, where the Agreement provided for the supply of two grades of Product and liability arises from one grade being off-specification, then only the Price for the off-specification Product shall be taken into account in calculating the limit of the Seller's liability. It is a pre-condition to the payment of any compensation by the Seller that all sums due to the Seller from the Buyer are first paid and settled.

18. INSURANCE

The Buyer is responsible for effecting and maintaining in force adequate insurance which will fully protect the Buyer, the Seller and all third parties from all risks, hazards and perils associated with or arising out of or in connection with the Agreement and delivery.

19. LICENSES PERMITS AND APPROVALS

The Buyer is responsible for obtaining all necessary permits, licenses and approvals required to enable both parties to execute all of their obligations under the Agreement.

20. ENVIRONMENTAL PROTECTION

The Buyer shall be responsible for ensuring that it complies with all national and international pollution, environmental, health and safety regulations with regard to the receipt and use of Products and shall fully indemnify the Seller for all financial consequences, including clean-up costs and fines which the Seller may incur by reason of a breach of this Clause by the Buyer.

If an escape, spillage or discharge of Products ("**Spill**") occurs while a delivery of Product(s) is being made to the Vessel, the Buyer and the Vessel shall promptly take all such action as is reasonably necessary to mitigate the effects of such Spill. However, notwithstanding the cause of such Spill, the Seller is entitled at its sole option to take such measures and incur such expenses (whether by employing Seller's own resources or by contracting with others) as are reasonable in the sole judgment of the Seller to remove the oil and mitigate the effect of such Spill. If the Seller has exercised its option to itself take measures in response to a Spill the Buyer agrees to cooperate and render such assistance as is required by the Seller in the course of such action. The Buyer shall fully indemnify and hold the Seller and its representatives harmless against any damages, expenses, claims and liabilities of whatever nature, unless such Spill or discharge is proven to be caused solely by the Seller's gross negligence. The Buyer agrees to give or cause to be given to the Seller upon demand or as required by applicable laws or regulations, all documents and information concerning any Spill.

21. WRITTEN, IN WRITING AND NOTICE

Any requirement for written communication including the giving of any notice may be fulfilled by the use of recorded post or courier and/or email or any other medium which produces a tangible result for the intended recipient. The communication shall be deemed to have been given and received upon completion of transmission of any electrical or electronic medium, within two (2) Working days of dispatch for first class inland letter-post, within five (5) Working days of dispatch for second class inland letter post and air mail and on the expiry of the declared or guaranteed time for delivery of any courier or monitored service.

22. SANCTIONS COMPLIANCE

22.1 The Buyer warrants and represents that the Vessel is employed at all times in full compliance with all Sanctions. In particular, the Buyer also warrants and represents that:

22.1.1 neither the Buyer nor the Vessel are included in a Sanctions List;

22.1.2 neither the Buyer nor the Vessel is owned, controlled or acting on behalf of any individual or entity which is included in a Sanctions List;

22.1.3 no individual or entity with any interest in any cargo on board the Vessel is included in a Sanctions List;

22.1.4 every cargo carried on board the Vessel can be loaded, carried and discharged without infringing any Sanctions; and

22.1.5 the Product(s) shall not be used or transferred in breach of any Sanctions.

22.2 If in the reasonable opinion of the Seller, the Buyer's warranties under [Clause 22.1](#) above are inaccurate, or there is a risk that payment by the Buyer for any invoiced amount under the Agreement may be delayed and/or confiscated by any bank, financial institution, regulator or governmental entity, the Seller shall be entitled to:

22.2.1 terminate the Agreement without liability on its part;

22.2.2 change the currency of the Agreement to a currency other than United States Dollars, with the applicable currency conversion rate to be set by the Seller, in its sole discretion

22.3 The Seller shall not be obliged to perform any obligation otherwise required by the Agreement, including any obligation to perform, deliver, accept, sell, purchase, pay or receive monies to, from, or through a person or entity, or engage in any other acts if this would be in violation of, inconsistent with, or expose the Seller to punitive measures under any Sanctions.

22.4 From time to time, the Seller may reasonably request Buyer to provide documentation to evidence Buyer's compliance with Sanctions, such as, indicatively, bills of lading and certificates of origin. Any such documentation shall be used by the Seller for the purposes of compliance checks only and otherwise kept under strict confidentiality by the Seller; notwithstanding, the Buyer acknowledges that the Seller may be required to disclose such information to third parties for the sole purpose of demonstrating compliance with Sanctions.

22.5 The Buyer acknowledges that anticorruption laws and regulations, including but not limited to the U.S. Foreign Corrupt Practices Act ("FCPA") and the UK Bribery Act ("UKBA") apply. The Buyer shall comply with all applicable anticorruption laws and regulations and will not, offer, promise, pay, or authorize the payment of any money or anything of value, or take any action in furtherance of such a payment, whether by direct or indirect means, to any public official or private individual to influence the decision of such person in the performance of its duties to a government or to its Seller.

22.6 The Buyer shall indemnify and hold the Seller harmless for non-strict compliance by the Buyer or the Vessel of any of the provisions of this [Clause 22](#).

23. NON-PHYSICAL SUPPLY

23.1 In circumstances where the Seller is not the Physical Supplier, and where the Seller (or any affiliate of the Seller) is purchasing the Product from a third party (the "Third Party"), the terms and conditions of the sale and purchase

contract between the Seller (or the affiliate of the Seller) and the Third Party (the “**Third Party Terms**”) shall be deemed to be incorporated into the Agreement only to the extent expressly set out in this [Clause 23](#) and the Buyer shall be deemed to have read, accepted and be bound by the applicable provisions within the Third Party Terms as if it were the buyer thereunder, and the Seller was the seller, under such Third Party Terms, whether or not the Third Party is the Physical Supplier.

23.2 Subject to [Clause 23.3](#), if the Third Party Terms contain:

- (a) a shorter time limit for the doing of any act (other than termination of the Agreement), or the notification of any claim, then such shorter time limit shall be deemed incorporated mutatis mutandis into the Standard Terms;
- (b) different measurement, sampling, sample retention or testing procedures in relation to the Product being delivered pursuant to the Agreement, then such measurement, sampling or testing procedures shall be incorporated into the Standard Terms;
- (c) any additional limitation or exclusion or cap on liability provisions, shall be deemed incorporated mutatis mutandis into the Standard Terms, provided always that such provisions operate solely to further limit or exclude the liability of the Seller;
- (d) any additional event or circumstance that constitutes a Force Majeure event, any wider definition of what constitutes a Force Majeure event, or any more restrictive Force Majeure period (or analogous definition), then such event, circumstance or definition shall be incorporated mutatis mutandis into the Standard Terms;
- (e) any greater tolerance relating to the quantity of the Product to be delivered, then such tolerance shall be incorporated mutatis mutandis into the Standard Terms; and
- (f) any additional or broader termination, non-performance or suspension rights which would apply to the Seller, then such rights shall be incorporated mutatis mutandis into the Standard Terms.

23.3 Notwithstanding the above, any express or implied right, condition or obligation in the Third Party Terms that would afford the Buyer any additional rights against the Seller than those set out in the Standard Terms shall not be deemed incorporated herein under any circumstances.

23.4 A copy of the Third Party Terms shall be made available to the Buyer by the Seller upon request.

24. PERSONAL DATA

24.1 The Buyer acknowledges that, in connection with the negotiation, performance and enforcement of these Standard Terms and the sale of Products hereunder, the Seller may process information relating to the Buyer’s representatives, including **personal data** (and, where applicable, special categories of personal data), inter alia, of the Buyer’s directors, officers, employees, agents or other representatives.

24.2 The Buyer represents and warrants that it has provided all necessary information and notices to, and obtained all necessary consents from, any individual whose personal data is processed by the Seller in connection with any transactions, credit clearances and the performance of the Seller’s obligations under these Standard Terms, to enable such processing in accordance with applicable Data Protection Laws. The Buyer shall indemnify and hold the Seller harmless against any losses, costs, claims, damages or expenses arising out of or in connection with any breach of this representation or any failure by the Buyer to comply with applicable Data Protection Laws.

25. GOVERNING LAW AND JURISDICTION

25.1 The Standard Terms and each Agreement to which they apply shall be governed by the General Maritime Law of the United States of America, the applicable federal laws of the United States of America, and, in the event that such laws are silent on the disputed issue, the laws of the State of New York, without reference to any conflict of laws rules which may result in the application of the laws of another jurisdiction. The General Maritime Law and the applicable federal laws of the United States of America shall apply with respect to the existence of a maritime lien, regardless of the country in which the Seller takes legal action.

25.2 Any dispute and/or claim arising out of or in connection with the Agreement shall be determined by Arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof. In the event of any legal proceedings between the Parties, the prevailing Party shall be entitled to recover all reasonable costs and expenses (including attorneys’ fees) incurred in connection with such dispute, including but not limited to legal fees incurred prior to the commencement of proceedings as well as in addressing the entitlement to and amount of the at-issue costs and expenses.

25.3 The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceedings are commenced. In cases where the claim or any counterclaim does not exceed the sum of USD 2,000,000 (or such other sum as the Parties may agree) the arbitration shall be referred to a sole arbitrator and the arbitrator's appointment shall be subject to the LMAA Terms.

25.4 In all other cases the reference shall be to three arbitrators and the provisions of this Clause 25 shall apply. A Party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other Party requiring the other Party to appoint its own arbitrator within fourteen (14) calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other Party appoints its own arbitrator and gives notice that it has done so within the fourteen (14) days specified. If the other Party does not appoint its own arbitrator and give notice that it has done so within the fourteen (14) days specified, the Party referring a dispute to arbitration may, without the requirement of any further prior notice to the other Party, appoint its arbitrator as sole arbitrator and shall advise the other Party accordingly. The award of the sole arbitrator shall be binding on both Parties as if the sole arbitrator had been appointed by agreement.

25.5 The parties to the Agreement, which include the Buyer's Agent and all other entities included under the definition of "Buyer", are bound by this arbitration agreement, each to each other, and consent to the joinder or consolidation in arbitration of any party or arbitration necessary for the complete resolution of all disputes arising out of the performance of the Agreement. Where disputes arise between the Parties in relation to more than one contract, the Buyer and the Seller hereby consent to the consolidation of any dispute arising under the Agreement with any other dispute arising under any other contract made between the Buyer and the Seller, such that both/all the arbitration proceedings can be initiated by a single notice of arbitration and settled by a single arbitration award. A joined party shall be bound by any award rendered by the arbitral tribunal even if such party chooses not to participate in the arbitral proceedings.

25.6 Notwithstanding the provisions of [Clauses 25.1 to 25.5](#), the Seller, without prejudice to any of its rights, has the right to commence court proceedings in any jurisdiction worldwide, either to substantively determine any dispute between the Parties or to obtain security or other ancillary relief for its claim(s) against the Buyer. The Buyer agrees and acknowledges that the nature of the transaction and of the respective business concerned is such, to the effect that the foregoing which are set for the benefit of the Seller, are absolutely reasonable and fully acceptable by the Buyer, which hereby confirms that it will also be liable for all costs of the Seller on a full indemnity basis, including but without limitation attorneys' fees.

25.7 Without limitation to the foregoing, where a court has ordered the arrest of a ship or other property the Seller shall be at liberty to elect whether that court (or another court in that jurisdiction) shall have substantive jurisdiction or not. Where arbitration proceedings are commenced but a court assumes substantive jurisdiction in accordance with this Clause, the arbitration proceedings shall be stayed pending the final resolution of the substantive dispute in the chosen court.

25.8 The 1980 United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

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