



## 1. General Terms And Conditions

This is a statement of the general terms and conditions (General Terms And Conditions) pursuant to which the Seller agrees to sell and procure delivery of Marine Fuels and the Buyer agrees to accept and pay for these Marine Fuels.

These General Terms And Conditions shall apply to all offers, quotations, orders, agreements, services and all subsequent agreements of whatever nature made by or entered into by the Seller.

## 2. Definitions

In these General Terms and Conditions

- 2.1. **"Seller"** means OILCHART INTERNATIONAL NV, with registered number 0422.481.520 and registered office at Plantinkaai 13, 2000 Antwerp, Belgium.
- 2.2. **"Buyer"** means the buyer under each Bunker Contract, including the entity or entities named in the Confirmation Note, together with the Vessel, her Master, Owners, charterers, Operators, any party benefitting from consuming the Marine Fuels, and any other party ordering the Marine Fuels, all of whom shall be jointly and severally liable as Buyer under each Bunker Contract.
- 2.3. **"Confirmation Note"** means the written confirmation issued by the Seller, containing and confirming the specific details and additional terms of each contract for the sale and/or delivery of Marine Fuels.
- 2.4. **"Bunker Contract"** means the Confirmation Note and these General Terms And Conditions
- 2.5. **"Marine Fuels"** means marine bunker oil and related products, more particularly described in the applicable Confirmation Note.
- 2.6. **"Vessel"** means the vessel nominated by the Buyer to receive the Marine Fuels, as confirmed in the Confirmation Note.
- 2.7. **"Physical Supplier"** means the person or entity which physically supplies the Marine Fuels to the Vessel together with its servants, agents, successors, sub-contractors and assignees.

## 3. Bunker Contract

- 3.1. Each contract for the sale and/or delivery of Marine Fuels shall be confirmed by a Confirmation Note. The Confirmation Note shall incorporate these General Terms And Conditions, and the Confirmation Note and these General Terms And Conditions together shall constitute the complete Bunker Contract.

- 3.2. In the event of any conflict between these General Terms and Conditions and the provisions of the Confirmation Note, the provisions of the Confirmation Note shall prevail.
- 3.3. The Bunker Contract shall constitute the entire contract pursuant to which the Seller agrees to sell and procure delivery of Marine Fuels and the Buyer agrees to accept and pay for these Marine Fuels. The Bunker Contract shall supersede all prior agreements, arrangements, understandings and/or stipulations in respect of the same subject as well as any other/conflicting terms and conditions which the Buyer may seek to enforce against the Seller. The application of the Buyer's terms and conditions is excluded.
- 3.4. If a delivery and/or a Bunker Contract is contracted for by an agent, a broker, an intermediary, a representative or a manager for or on behalf of a disclosed or undisclosed principal, each such agent, broker, intermediary, representative or manager shall be bound by and, jointly and severally with the Buyer, fully liable for all obligations of the Buyer under the Bunker Contract and for the due and proper performance of the Bunker Contract.
- 3.5. Each delivery under a Bunker Contract shall always take place for the account of the Owners (including the registered owners of the Vessel) and for the account of the Charterers, all of whom shall be jointly and severally liable towards the Seller for the payment of the Marine Fuels as Buyers. If the Marine Fuels are not ordered directly by the Owners of the Vessel, the party/person placing the order of the Marine Fuels, warrants that he is authorized as agent to order the Marine Fuels for the account of the Vessel, the Owners of the Vessel and the Charterers, and that the Seller has a lien on the Vessel for its claim.
- 3.6. No disclaimer stamp or notice of any type or form on the Bunker Delivery Note shall be accepted. Nor shall any stamp or notice waive, alter or waive the Seller's lien on the Vessel or waive the Vessel's and its Owners' and Charterers' ultimate responsibility or liability under a Bunker Contract.
- 3.7. The Buyer irrevocably assigns to the Seller all rights, liens and claims whatsoever the Buyer has against the Vessel and/or against anyone in respect of the Marine Fuels, until the Seller is fully paid and satisfied for all amounts which are indebted to the Seller under the Bunker Contract.

#### **4. Specifications**

- 4.1. The Buyer shall be solely responsible for and bear the risk of the grade of the Marine Fuels ordered from the Seller and shall have the sole responsibility for the nomination of the quality and the quantity of the bunkers. The Buyer shall also have the sole responsibility for the selection of the Marine Fuels to comply with any and all government (including customs) regulations.
- 4.2. The Buyer shall provide the Seller with all information regarding the delivery of the Marine Fuels (including, but not limited to, the Vessel's name, the Vessel's agents, the estimated time of arrival of the Vessel, the port of delivery, the grade(s) of the Marine Fuels and quantities required).

#### **5. Offers and information provided**

- 5.1. All offers, quotations or other information provided by the Seller only remain valid for maximum half an hour from the moment the offer/quotation was forwarded or the information provided. All

quotations are exclusive of VAT and any applicable sales taxes, unless expressly stated otherwise.

- 5.2. All offers and quotations are for delivery performed to the Vessel on the agreed and confirmed date(s) of delivery at the agreed place of delivery. Alteration of the Vessel automatically terminates/cancels the Bunker Contract without any liability on the part of the Seller and without prejudice to any of the Seller's rights (including, but not limited to, the right of the Seller to claim damages).

## **6. Delivery**

- 6.1. Unless stated otherwise in the Confirmation Note, the Buyer and/or its representative(s) shall give the Seller at least 48 (forty-eight) hours advance written notice (weekends and holidays excluded) of the exact location and time at which delivery is required.
- 6.2. The Buyer shall immediately notify the Seller in the event of the Vessel's delay and the Buyer shall be responsible for any reasonably incurred losses suffered by the Seller as a result thereof. The Seller shall not be liable for any demurrage or other claims incurred by the Buyer arising from any delays in delivery.
- 6.3. Delivery of the Marine Fuels shall be effected in one or more consignments at the place of delivery by such means as the Seller shall deem appropriate in the circumstances. Deliveries at all ports are subject to stocks being available.
- 6.4. Delivery shall be made during normal working hours unless required at other times and permitted by port regulations, in which event the Buyer shall reimburse the Seller for all (additional) costs and expenses arising therefrom.
- 6.5. The Buyer shall ensure that the Vessel complies with all relevant regulations and is safely afloat and easily accessible at the time of delivery in order to allow safe and efficient delivery of the Marine Fuels. The Buyer shall provide all necessary assistance and equipment to the Seller in order to allow delivery. The Buyer shall also be responsible to make all connections and disconnections between the Seller's delivery hoses and the Vessel, and to provide sufficient tankage and equipment to receive promptly all deliveries under the Bunker Contract. Should the Seller's servants or agents assist in making connections, they shall be deemed to have done so at the Buyer's request and at his risk.
- 6.6. The Marine Fuels shall be delivered at the Vessel's permanent flange connection. All valve manipulations and lining-up operations on board of the Vessel shall be the Buyer's sole responsibility.
- 6.7. All deliveries shall be deemed to be completed and fulfilled when the Marine Fuels pass the flange connecting the delivery facilities of the Seller with the receiving facilities of the Buyer and/or the Vessel. Upon completion of delivery, the Vessel's Master or its representative shall sign the Bunker Delivery Note.
- 6.8. The Buyer shall be responsible for any and all demurrage, detention or additional expenses incurred by the Seller if the Buyer or the Vessel fails to receive the Marine Fuels at the time for delivery. In addition, if the Vessel fails to take delivery of the full amount of the Marine Fuels set out in the Confirmation Note or any part thereof, the Buyer shall compensate the Seller for any loss or damage which the Seller may suffer as a result of such failure, including but not limited to

any loss of profit on any resale of the Marine Fuels, and the Buyer shall bear the risk of the return transport, storage or selling of the Marine Fuels.

- 6.9. The Seller shall not be liable to the Buyer for any loss or demurrage due to congestion of the terminal, or prior commitments of the available barges or due to any other reason whatsoever (including misconduct, negligence and gross negligence), unless arising from willful neglect or willful misconduct of the Seller.
- 6.10. Unless expressly agreed otherwise, the delivery of Marine Fuels under any Bunker Contract relating to a vessel which only calls at the agreed port/place of delivery is done "first come – first served" basis and is subject to suitable weather conditions for safe ship to ship bunker transfer.
- 6.11. Unless expressly agreed otherwise, any Bunker Contract in which the Seller agrees to procure delivery of Marine Fuels offshore in international waters, involves only a commitment on behalf of the Seller to make its best efforts without guaranteeing a particular result. The final decision on the supply and/or suitability of sea and weather conditions rests solely with the Seller and no claims for delay/aborted bunkering will be accepted.

## **7. Quantity Determination**

- 7.1. The Seller shall endeavor to deliver the quantity of the Marine Fuels ordered, but a difference of up to 10% in more or in less shall not be considered a breach of the Bunker Contract.
- 7.2. The quantity of the Marine Fuels shall be determined from the official gauge or meter of the bunkering barge, tank truck or of the shore tank in case of delivery ex-wharf.
- 7.3. An Officer of the Vessel's crew or other senior representative of the Buyer is requested to witness the soundings or meter readings both before and after the completion of the bunkering operations. The sounding or meter figures before and after completion will be noted in a Sounding Report, which is signed by the Vessel. Parties explicitly agree that this Sounding Report shall be conclusive and irrefutable evidence of the quantity of the Marine Fuels delivered. Figures obtained by measuring Marine Fuels in the receiving Vessel's tanks will not be accepted as counterproof against the Sounding Report.
- 7.4. If delivery is made by barge, the gauging of the barge shall be applicable. Only the Seller's tank or barge measurements are binding for quantity. The ship engineer should attend this measurements/soundings.
- 7.5. Any dispute as to the quantity delivered must be noted at the time of delivery in a letter of protest and be supported by the figures noted in the Sounding Report. Any claim as to short delivery shall be presented by the Buyer immediately upon completion of delivery, failing which any such claim shall be deemed to be waived and absolutely barred.

## **8. Quality Determination**

- 8.1. The Marine Fuels shall be of the same quality generally offered for sale at the time and place of delivery, for the grade of Marine Fuels ordered by the Buyer. The Buyer shall be solely responsible for the selection and acceptance of Marine Fuels tendered for delivery to the Vessel.
- 8.2. The seller or its representative shall arrange for four (4) representative samples of each grade to be drawn at the time of delivery of the Marine Fuels.

- 8.3. The sampling shall be performed in the presence of the Seller or its representative(s) and the Buyer or its representative(s). The absence of the Buyer or its representative(s) during all or any part of the sampling process shall not prejudice the validity of the samples.
- 8.4. In case drip sampling throughout the entire bunker delivery period is not available on board of the barge, tank truck or shore tank, samples shall be taken as a composite of each tank from which supplies are made, on board of the barge, tank truck or shore tank, divided with 1/3 from each top, mid and bottom of the tanks.
- 8.5. On completion of sampling, the samples shall be securely sealed and labelled indicating the Vessel's name, identity of delivery facility, product name, date and place of sampling and seal number, authenticated with the Vessel's stamp and signed by the Seller's representative and the Master of the Vessel or his representative. The seal numbers shall be inserted into the Bunker Delivery Note and by signing this Bunker Delivery Note both parties agree the fact that the samples referred to therein are deemed valid and taken in accordance with the requirements as specified in this clause. No samples subsequently taken shall be allowed as (additional) evidence.
- 8.6. One sample is taken according to the provisions of MARPOL. One sample of each grade will be handed over to the Vessel's crew, which shall accept and keep them on behalf of the Buyer. The remaining samples shall be retained by the Seller or its representatives. One sample shall be retained by the Seller in a safe place for verification of the quality thereof for 90 days at the expense of the Buyer. Only the samples taken, sealed and distributed as per Bunker Delivery Note are valid in respect of product's quality determination. No other samples/analysis are allowed in such respect.
- 8.7. In the event of a dispute concerning the quality of the Marine Fuels delivered, 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 Seller shall be conclusive to determine the quality of the Marine Fuels delivered. In this respect one, and only one, of the samples retained by Sellers shall be forwarded to an independent laboratory to perform the necessary tests. The results shall be final and binding upon both Buyer and Seller as to the parameters tested. The parties are to use best endeavors to agree the independent laboratory to perform the tests. If, however, the Seller and the Buyer cannot agree on an independent laboratory to perform mutual analysis or if the Buyer fails to reply to the Seller's notice hereof within 3 (three) days from receipt of such notice, the Seller can at its sole discretion decide which laboratory to perform the analysis, which shall be final and binding for all parties involved.
- 8.8. The analysis results shall be interpreted in accordance with the applicable ISO Standards.
- 8.9. The seal must be breached only in presence of both parties unless one/both have declared in writing that they will not be present; and both parties shall have the right to appoint independent person(s) or institute(s) to witness seal breaking. No samples subsequently taken shall be allowed as (additional) evidence. If any of the seals have been removed or tampered with by an unauthorized person, such sample(s) shall be deemed to have no value as evidence.
- 8.10. Any claim regarding the quality of the Marine Fuels delivered shall be presented in writing to the Seller as soon as an alleged problem has occurred or the Buyer is notified of any alleged problem and in any event no later than within 15 (fifteen) days from the date of delivery to the Vessel. Should the Buyer fail to make timely notification of any claim regarding the quality of the Bunker Oil the claim and rights to claim compensation of whatever nature shall be deemed waived and barred. If it is alleged that any equipment or machinery has been damaged by defective Marine Fuels, full details must be given to the Seller at the earliest opportunity and the item must be

preserved and made available for inspection on demand at any reasonable time or times to the Seller or its representative, otherwise no such claim shall be accepted by the Seller.

## **9. Price**

- 9.1. The price of the Marine Fuels shall be stated in the Confirmation Note.
- 9.2. The Seller's prices are based on taxes, duties, costs and charges and on the price level of crude oil and/or components for Marine Fuels existing at the time the agreement is made. Any later or extra tax, duty or other charge of whatever nature and however named, or any increase thereof, or any price increase of crude oil or components for bunkers and any increase in additional costs borne by the Seller caused by any change in the Seller's contemplated source of supply, coming into existence after the agreement has been made, shall be added to the agreed purchase price, provided that the Seller gives the Buyer prior notice to this effect.
- 9.3. Without prejudice to any of the Seller's rights (including the right to claim damages) and without any liability on the part of the Seller, the Seller has the right to adjust the price, to negotiate a new price or to revoke/cancel/terminate the Bunker Contract, if the Buyer alters or wishes to alter the place/port of delivery, the quantity, grade or quality of the Marine Fuels or if the Vessel's agreed date of arrival is advanced or delayed. Should the Seller intend to adjust the price stated in the Confirmation Note then he shall notify the Buyer by e-mail. Unless the Buyer rejects the adjusted price within 2 hours of receipt then the adjusted price shall be deemed accepted and all other terms of the Bunker Contract shall remain unaffected.

## **10. Further Costs**

- 10.1. In addition to the Price of the Marine Fuels the Buyer agrees to pay for any charges raised in respect of taxes, freight, barge, vehicle, wagon or clean-up costs including overtime, mooring/unmooring charges or port dues. Also, any expenses created for the calling-in of an independent surveyor in order to settle any quantity dispute, as well as laboratory analyses for any quality dispute raised by the Buyer but eventually not verified.
- 10.2. In the event that the Vessel for any reason whatsoever is unable to receive the nominated Marine Fuels and no sufficient notice has been given to the Seller for such inability, the Buyer shall pay liquidated damages based upon the current market value of the nominated Marine Fuels quantity that is not received by the Vessel.
- 10.3. The Buyer agrees to pay any expenses incurred as a result of the master of the Vessel rejecting the whole or any part of the nominated Marine Fuels.

## **11. Payment and financial responsibility**

- 11.1. Payment of any amount due under the Bunker Contract shall be made by bank transfer within the payment period stated in the Confirmation Note and/or relevant invoice and always according to Seller's payment instructions and in the currency shown in relevant invoice. Should the due date for payment fall on a Saturday, Sunday or Public Holiday then payment should be received by the previous working day.
- 11.2. Payment shall be made in full, free of bank charges, without discount or deduction, and without set-off for any claim or counterclaim of any nature whatsoever. If the Buyer alleges to have counter

claims or other claims, he cannot deduct them from amounts due to Seller but must submit such claims separately after being lodged officially.

- 11.3. Unless expressly agreed otherwise, the invoice(s) is/are sent by e-mail only. Delivery documents shall be provided to the Buyer wherever possible, however payment shall not be conditional upon receipt of such documents.
- 11.4. If the Buyer fails to pay any invoice the latest on the due date, the Buyer shall, automatically and without any notice on behalf of the Seller being required :
- pay interests on the outstanding amount(s) at an interest rate of 2% per calendar month, calculated on a daily basis from the due date until the full payment is received by the Seller's bank; and
  - owe liquidated damages equal to 10% of the overdue amount(s).
- 11.5. If the Buyer fails to pay any invoice to the Seller on the due date set forth in such invoice, any agreed payment period is cancelled automatically and with immediate effect, and any invoice/payment will be due immediately.
- 11.6. All costs borne by the Seller in connection to the collection of overdue payments, whether made in or out of Court and in general all costs in connection to any breach of the Bunker Contract by the Buyer, shall be for the Buyer's account.
- 11.7. If the Buyer's financial position and/or credit is deemed by the Seller to be impaired or unsatisfactory, the Seller may, without prejudice to its other rights, require the Buyer to :
- pay cash before delivery; and/or
  - provide security satisfactory to the Seller which can cover both future deliveries and deliveries made but not yet paid for; and/or
  - effect immediate payment of any outstanding amounts due from the Buyer to the Seller in respect of the Bunker Contract or any other Bunker Contract between the Seller and the Buyer (notwithstanding any credit period set out in such Bunker Contract).
- If the Buyer fails to comply with his payment obligations and/or with the Seller's requirement(s), the Seller shall have no obligation to make delivery and may terminate the Bunker Contract by giving notice to this effect to the Buyer.
- 11.8. In addition to the promise to pay and any other security, the Marine Fuels delivered to the Vessel are expressly sold and delivered upon the faith and (financial) credit of the Vessel. It is agreed and acknowledged that a lien over the Vessel is thereby created for the value of the Marine Fuels supplied and that the Seller in agreeing to deliver the Marine Fuels to the Vessel does so relying upon the faith and (financial) credit of the Vessel.
- 11.9. No disclaimer notice or stamp of any type or form will be accepted on any bunker certificate/document (including the Bunker Delivery Note), nor will such notice or stamp change or waive the Sellers' rights and/or liens against the Vessel, or waive the Vessel's ultimate responsibility for the debt incurred under the Bunker Contract.

## **12. Risk And Title**

- 12.1. Risk in the Marine Fuels, including loss, damage, deterioration, evaporation, or any other condition or incident related thereto, shall pass to the Buyers at the time the Marine Fuels pass the Sellers' flange connected to the Vessel's bunker manifold. The Buyer warrants that representatives from the Vessel shall be responsible for ensuring that Marine Fuels are received in a safe way.

- 12.2. The Seller retains title to the Marine Fuels delivered to the Vessel until the Invoice and/or any amount due pursuant to the sale and/or delivery of the Marine Fuels concerned, have been paid in full. Until such time as payment is made, the Buyer agrees that it is in possession of the Marine Fuels solely as bailee for the Seller.
- 12.3. In case of breach of the Agreement by the Buyer, the Seller is entitled to take back the Marine Fuels without prior judicial intervention and without prejudice to all other rights or remedies available to the Seller.
- 12.4. In the event that the Marine Fuels have been commingled with other products on board of the Vessel, the Seller shall have the same rights as above to such part of the commingled product as corresponds to the quantity of the Marine Fuels delivered.

### **13. Liability of the Buyer**

- 13.1. The Buyer shall be liable towards the Seller and shall indemnify the Seller for any and all damages and/or loss and/or costs (to be) suffered and/or (to be) made by the Seller due to a breach of contract and/or fault or neglect of the Buyer, its agents, servants, employees and the officers, crews and/or other people whether or not on board of the Vessel.
- 13.2. Should the Seller be held liable to a third party for an event for which the Seller would not be liable vis-à-vis the Buyer under these General Terms And Conditions and/or the Bunker Contract, the Buyer will warrant and hold the Seller harmless for all damage/amounts whatsoever the Sellers will have to pay to the third party.

### **14. Liability of the Seller**

- 14.1. If a justified claim as to the quality or quantity is notified in accordance with 7.5 or 8.10, the Seller shall only be liable to make a substitute delivery or supplement delivery or to grant a reasonable price discount. Should such a substitute or supplement delivery be impossible, or should the Seller be in default to perform them, the Buyer may cancel the Bunker Contract.
- 14.2. The Seller shall not be liable for any delay, loss or damages of whatever nature, including physical injury, arising from any cause whatsoever (and including e.g. misconduct, negligence and gross negligence), whether in contract, tort or otherwise, unless caused by the intent or willful misconduct of the Seller, its personnel, its servants or its agents.
- 14.3. In particular, the Seller shall not be liable for :
  - any damage caused to the Vessel during the bunkering operation;
  - any consequential loss or damage whatsoever, including, without limitation, delay, detention, demurrage, charter hire, crew wages, pilotage, towage, port charges, lost profits or increased cost or expenses for obtaining replacement fuel;
  - any loss or damage whatsoever caused by a delay in the delivery of the Marine Fuels;
  - any loss or damage whatsoever caused by a criminal offense committed by an agent, servant or subcontractor of the Seller.
- 14.4. Notwithstanding the foregoing, in the event that the Seller is found to be liable to the Buyer, the total amount payable by way of compensation/damages shall not exceed the invoiced value of the Marine Fuels concerned. It is a precondition to the payment of any compensation/damages by the Seller that all sums standing due to the Seller from the Buyer are first paid and settled.



- 14.5. The Buyer shall be obliged to make payment in full and fulfil all other obligations in accordance with the terms of the Bunker Contract, whether or not he has any claims or complaints.
- 14.6. Unless when stipulated otherwise, all claims against the Seller will be time-barred unless legal proceedings have been instituted, before the competent Court as set forth in 20.2, within 12 months after the date of delivery or the date delivery should have been made.

## **15. Force Majeure**

- 15.1. The Seller shall not be liable for any loss or damage resulting from any delay or failure in performance under the Bunker Contract by compliance with any regulation or other government restriction, or by compliance with any order or request of any government authority or person purporting to act therefore, or by force majeure, including but not limited to disorders, wars, acts of enemies, strikes, lockouts, fires, floods, acts of God, arrest or restraint of princes, perils of the sea, accidents of navigation, breakdowns or injury to ships, riots, strikes, congestion, failure, disruption, unavailability, inadequacy of or interference with supply from Sellers' sources of supply, breakdown or injury to, or expropriation or confiscation or unavailability of the facilities used for the production, transportation, receiving, manufacturing, handling or delivery of the Marine Fuels.
- 15.2. If the Seller shall suffer any loss of tanker or barge tonnage, or if compliance with an order or request of any Governmental authority shall reduce the tanker or barge tonnage available for the normal movement of the Marine Fuels the obligation to make deliveries hereunder may be reduced at Seller's option approximately in proportion to such loss or reduction. Seller shall not be required to make good upon any deliveries omitted in accordance with this provision.

## **16. Drugs and alcohol policy**

- 16.1. All parties to a Bunker Contract shall enforce a company drug and alcohol policy on board of the Vessel and the Bunker Tanker, in case of the Seller, also in their facilities.
- 16.2. The Buyer's personnel shall comply with the Seller's policy in the Seller's facilities or on board of the Bunker Tanker, and the Seller's personnel shall comply with the Buyer's policy when on board of the Vessel.
- 16.3. All parties acknowledge and agree that the selling, possession, distribution, use or being under the influence of alcohol or any controlled substance or dangerous drugs other than those medically prescribed is prohibited.

## **17. Safety and environmental protection**

- 17.1. 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 environmental laws and regulations with regard to the receipt, handling and use of the Marine Fuels. The Buyer warrants that the Vessel is in compliance with all national and international trading and pollution regulations.
- 17.2. If a spill occurs before, during or after the delivery of the Marine Fuels, the Buyer shall, in addition to any other obligations imposed by law, immediately notify the appropriate governmental

authorities, and immediately take all action reasonably necessary to remove the spillage and mitigate its effects or as required by any governmental authority. The Buyers shall pay for all costs and expenses in connection therewith. Should the Buyer fail to take such immediate action, the Seller, the Physical Supplier and others appointed by the Seller, are hereby authorized to take such action or any action it considers to be required in connection with the removal of the spillage and the mitigation of its effects on behalf of the Buyer, at the Buyer's risk and expense, and the Buyer shall indemnify and hold the Seller, the Physical Supplier, and others harmless against any damages, expenses, claims or liabilities, of whatever nature, unless such spill is proven to be solely caused by the Seller's negligence. The burden of proof to show Seller's negligence shall be on the Buyer.

## **18. Termination**

- 18.1. The Seller may terminate the Bunker Contract in whole or in part and without prejudice to its rights of indemnification at its absolute discretion upon the breach of any provision of the Bunker Contract by the Buyer.
- 18.2. Notwithstanding anything to the contrary express or implied, any invoice/payment will be due immediately and the Seller, without prejudice to its other rights, will, at its sole discretion, be entitled to immediately suspend delivery under and/or terminate the Bunker Contract and any and all other contracts between the Seller and the Buyer by notice to the Buyer :
- if the financial situation of the Buyer is presumed to be instable; and/or
  - in case of bankruptcy, liquidation or suspension of payment or comparable situation of the Buyer; and/or
  - in case of arrest of the assets of the Buyer; and/or
  - if the Buyer enters into an arrangement with its creditors under any applicable law; and/or
  - if the Buyer fails to pay any invoice to the Seller on the due date set forth in such invoice; and/or
  - if the Buyer fails to comply with any other obligation pursuant to the Bunker Contract, including, but not limited to, the Buyer's failure to take delivery of Bunker Oil in full or in part; and/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; and/or
  - the Seller has reasonable grounds to believe that the Vessel, or the Owners, or the Charterers, or the Managers or the Operators of the Vessel, or any other person or entity related to the Bunker Contract or the delivery of the Marine Fuels, is or are related or covered by any UN or EU sanctions.

## **19. Restrictions To Use**

- 19.1. Unless otherwise agreed in writing, the Marine Fuels delivered to the Vessel shall be used solely for the operation of the Vessel. The Buyer shall not be entitled to use the Marine Fuels other than for propulsion of the Vessel, nor mix, blend, sell, encumber, pledge, alienate or surrender the Marine Fuels to any third party.

## **20. Law and Jurisdiction**

- 20.1. Except as otherwise expressly agreed to in writing, a Bunker Contract and its performance and enforcement is governed by Belgian Law. However, for maritime liens only, the federal laws of the United States of America shall apply with respect to the existence of maritime liens,

regardless of the country in which the Seller takes legal action. The applicability of the Vienna Convention on the International Sale of Goods (CISG) is excluded.

- 20.2. All disputes whatsoever between the Seller and the Buyer and/or arising out of or in connection with a Bunker Contract or the delivery of the Marine Fuels to the Vessel, shall be referred to the Courts of Antwerp, which shall have exclusive jurisdiction.
- 20.3. It is further agreed that the Seller may proceed against the Buyer, any other third party or the Vessel in such jurisdiction as the Seller in its sole discretion sees fit for the purpose of securing payment of any amount due to the Seller from the Buyer.

## **21. Miscellaneous**

- 21.1. No modifications of the Bunker Contract shall be binding unless expressly agreed by the Seller in writing and signed. The right of either party to require strict performance shall not be affected by any prior waiver or course of dealing. Any termination shall be without prejudice to accrued rights. All rights and remedies are cumulative, and election of one remedy shall not exclude the other.
- 21.2. In these General Terms And Conditions, titles and/or headings are descriptive and for reference only.
- 21.3. If any provision of these General Terms and Conditions and/or of the Bunker Contract is declared invalid or unenforceable by a competent court, it shall not affect the validity of the remainder of the Bunker Contract or any part thereof, and these General Terms and Conditions and/or the Bunker Contract shall remain in effect to the fullest extent permitted at law.

## **22. Entry Into Force**

- 22.1. The present General Terms and Conditions shall be effective as of 31/01/2018 and shall be part of and apply to any Bunker Contract concluded from this date onwards.