

FEOSO NUMARINE LIMITED

TERMS AND CONDITIONS OF SALE OF MARINE BUNKER FUEL

Dated 1 August 2024

1 DEFINITIONS

1.1 The following definitions shall apply to these Terms and Conditions:

"BDN"	means the bunker delivery note signed by the Buyer's representative at the place of Products are received by the Vessel, evidencing the quality and quantity of the Products received by the Vessel.
"Buyer"	means, jointly and severally: (a) the vessel being supplied; (b) the Owner, master, manager, operator, bareboat charterer and/or charterer of that vessel; (c) any party requesting offers or quotations for the Products and/or Services; (d) any party placing an order for the Products and/or Services; and/or (e) any party on whose behalf an offer, quotation, order or agreement has been made.
"Conditions"	means this General Conditions of Sale and Delivery
"Contract"	means an agreement between Seller and Buyer, subject to these conditions.
"Nomination"	means the written request / requirement by the Buyer to the Seller for the supply of the Products and/or Services.
"Order Confirmation"	means the written confirmation issued by the Seller and sent to the Buyer to conclude the negotiation for the sale and purchase of the Products and/or Services. In the event of conflict between the wording of the Nomination and the Order Confirmation, the wording and content of the Order Confirmation will prevail.
"Owner"	means the registered owner or bareboat charterer of the Vessel.
"Products"	means the fuels, oils, lubricants, goods, items, equipment and materials of whatever type and description as specified in the Seller's Order Confirmation.
"Seller"	means FEOSO Numarine Limited and any office, branch office, affiliate or associate of FEOSO Numarine Limited whose name is included in the Order Confirmation sent to the Buyer.
"Services"	means agency services, or similar attendance to Buyer's needs.

“Supplier” means any third party physically supplying the Products and/or Services to the Vessel, together with its servants, agents, successors, sub-contractors and assigns.

“Vessel” means the vessel, ship, barge, tank, rig or other unit or installation that receives or is intended to receive the Products and/or Services, whether off-shore or on shore, either as an end user or as a transfer unit to a third party. Wherever logical, this shall include the Owner, operator, master, pilot, tankermen, other officers, crew, line handlers and agents.

2 APPLICATION AND INCORPORATION

- 2.1 These Conditions constitute an integral part of any offer and/or Contract made for Products and/ or Services provided by the Seller to the Buyer, and override any terms and conditions incorporated or referred to by the Buyer whether in its order or elsewhere.
- 2.2 These Conditions apply to all quotation, pro-forma invoice, order confirmation, price list or other similar documents made or issued. No representation or warranty, collateral or otherwise shall bind the Seller and no statement made by any representative by or on behalf of the Seller shall vary these Conditions unless such representation, warranty or statement is refer to this Clause 2.2 and is made in writing and signed by an officer of the Seller.
- 2.3 Any variance to these Conditions shall not prejudice or limit in any way the validity of the remaining Conditions of any Contract between the Seller and the Buyer. Failure by either party at any time to enforce any of these Conditions shall not be considered as a waiver by such party of such provisions or in any way affect the validity of these Conditions. If any provision of the Contract is invalid, void, or unenforceable, it will not affect the Validity, legality, or enforceability of any other provision of the Contract.
- 2.4 Without prejudice to Clause 2.2 herein, the Seller reserves the right to amend, at its discretion, these Conditions. The Seller shall inform the Buyers of any amendments to these Conditions prior to the conclusion of the Contract.

3 CONTRACT TERMS

- 3.1 The Seller’s offers and estimates of costs are conditional upon and subject to availability and alteration and shall only include such services as expressly specified.
- 3.2 The Contract shall commence from the time the Seller provides with the Buyer (or its agent, broker or designated representative) an Order Confirmation. Any subsequent amendments to the Contract shall take effect at the time at which the Seller provides with the Buyer (or its agent, broker or designated representative) an Order Confirmation.
- 3.3 Referenced commercial terms shall have the meaning contained in the latest edition of Incoterms.

- 3.4 The Contract shall be subject to the grant of any required export or import licenses to the Seller. The Buyer shall indemnify the Seller against all expenses incurred in connection with or arising out of the grant of the aforementioned licenses.

4 BUYER'S WARRANTIES AND PRECONDITIONS OF SALE

- 4.1 The Buyer warrants that it is authorised by the Owner to order the Products for the Vessel.
- 4.2 If the party requesting or ordering the Products and/or Services is not the Owner of the Vessel, the Buyer assumes the sole responsibility for communicating these Conditions and the provisions of the Contract to the Owner of the Vessel prior to the date of delivery of the Products and/or Services. The Owner of the Vessel shall be deemed to have read and accepted these Conditions.
- 4.3 If at any time before the delivery the financial standing of the Buyer appears to the Seller (in its absolute discretion) to have become impaired or unsatisfactory, the Seller may require cash payment or security to be provided by the Buyer prior to delivery, failing which the Seller may cancel the delivery without any liability on the part of the latter or its subcontractors.
- 4.4 The Buyer warrants that it has the authority of the Vessel's owner to create a charge or charges over the Vessel's credit under Clause 12.1.

5 **PRICING**

- 5.1 Unless otherwise specified, prices shall be payable in US dollars, ex-wharf, and shall represent only the purchase price of the Products. The Buyer shall pay any additional expenses or costs including but not limited to bargaining, surcharges, overtime, demurrage, wharfage, dockage, port/harbor fees, dues, duties, taxes, levies, costs imposed by governments and local authorities, and other costs. If the price is quoted as "Delivered", the price shall include transportation to the Vessel, but does not include demurrage or any other expenses or costs as indicated above.
- 5.2 The Order Confirmation provided by the Seller to the Buyer shall include the earliest estimated time of Vessel's arrival (ETA) as advised by the Buyer at the time of the Nomination. Unless otherwise agreed in the Contract, the Vessel shall take delivery of the Products within four (4) days after the latest ETA. The Contract's price shall be valid only for deliveries within such a period.
- 5.3 In the event that the Buyer takes delivery, or requests to take delivery out of the 4-day range referred to in clause 5.2 above, the Seller is entitled to amend its quoted price under the Contract, without prejudice to any claim Seller may have against Buyer for failing to take delivery within the 4-day range as provided in clause 5.2 above.
- 5.4 Buyer shall be liable for all costs, expenses and/or charges incurred by the Seller on account of the Buyer's failure, breach and/or non-compliance with its obligations under Clause 9.1 and 9.3 herein.
- 5.5 In the event that the Vessel does not arrive within the 4-day range as provided in clause 5.2 above, the Contract shall be terminated. The Seller is entitled to recover costs or expense incurred as a result from the termination, unless Seller elects to enter into a new contract with the Buyer whereby new arrival date of the Vessel and a new price shall be agreed upon between the parties.

6 **QUALITY**

- 6.1 The Buyer assumes sole responsibility for nominating the quantity and quality of the Products, and for determining (if applicable) potential compatibility with any Products already on board the Vessel. The Buyer also assumes sole responsibility for the selection and fitness of its choice of Products for any particular use or purpose, and the Seller shall assume no responsibility whatsoever for the compliance or fitness of the Products for a specific type of engine or equipment which the Buyer may or may not have agreed upon in any charterparty term or otherwise. This includes but is not limited to the quality, sulphur content and any other specific characteristics of the Products whatsoever. Any and all conditions or warranties regarding the satisfactory quality, merchantability, fitness for purpose, description or otherwise, are expressly excluded and disclaimed.
- 6.2 Save where otherwise expressly provided for in the Contract's specifications, all particulars notified to the Buyer (e.g. analytical data) and all documents in respect of the characteristics or quality of the Products at any delivery location shall not constitute the specifications of the Products to be delivered hereunder, but information

of the Products available at the delivery location from time to time. The Seller makes no representation, warranty or undertaking as to the particulars notified to the Buyer. Seller reserves the right to amend the particulars or documents in respect of the characteristics or quality of to the Products.

- 6.3 Products delivered under the Contract shall be segregated from other fuels, oils, or lubricants already onboard the Vessel. Any consequences arising from commingling if the Products aboard the Vessel shall remain the joint and several responsibilities of the Vessel and the Buyer. In any event, the Seller shall not be responsible for any issues as to the safety or storage on-board affecting the delivery and is entitled to recover from Buyer for any loss, damage or expenses incurred as a result of the aforesaid issues.
- 6.4 The Seller shall not be responsible for any consequences of the misuse or misapplication of the Products by the Buyer.
- 6.5 The Buyer shall make any claim as to quality in writing to the Seller immediately upon detection of the alleged defect, and in any event no later than within seven (7) calendar days from receipt of the Product, followed by a formal written notice of claim to Seller containing all necessary details to allow the Seller to evaluate the claim within thirty (30) calendar days from receipt of the product. If the Buyer fails to give a letter of protest and present its detailed claim within the specified times, the claim shall be time barred, and the Buyer shall be deemed to have waived the claim against the Seller or Supplier.

7 **QUANTITY**

- 7.1 In respect of the quantity agreed upon the Seller shall, at its option, provide, and the Buyer shall accept a variation of five per cent (5%) from the agreed quantity, with no other consequence than a similar variation to the corresponding invoice from the Seller.
- 7.2 Except it is regulated by the local Governments or authorities, the quantity of Product shall be measured or calculated from the official gauge/sounding of the delivering barge, or Supplier's flow meter, at Seller's election. The parties agree that the said quantity measurements and calculations shall be conclusive evidence of the quantities of Products supplied. Quantities calculated from the receiving Vessel's soundings shall not be considered. The Buyer and the Seller shall both have the right to be present or represented at such measurements of the Products, and shall be given sufficient information and access to the relevant gauge or meter and relevant documentation to verify the quantities delivered. If the Buyer fails to attend the process of measurement, the Seller's measurement on the delivery barge shall be deemed to be accurate, final, conclusive and binding and the Buyer shall be deemed to have waived any and all claims in respect of any variance.
- 7.3 Where applicable, adjustment in volume due to difference in temperature shall be made in accordance with API/ASTM+IP petroleum measurement standards for generalized Products (table 6B, 24B, or 54B depending on port location). In the event that any water and non petroleum sediment in excess of the amount permissible under ISO8217:2010 is found in the Products, or any other percentage mutually

agreed to between Buyer and Seller, the Seller shall allow correspondence adjustment to the quantity.

- 7.4 In the event that the Buyer has a complaint or comment on the quantity of Products delivered, the Buyer's representative or the Master of the Vessel shall give to the Seller or Supplier a letter of protest immediately after completion of delivery. Seller has the option to leave delivery equipment connected to the Vessel at Buyer's expense until a quantity dispute is resolved to Seller's satisfaction. Within seven (7) calendar days after completion of delivery, the Buyer must present its detailed claim in writing to the Seller or Supplier, setting out the exact quantities in dispute and with full supporting documentation. If the Buyer fails to give a letter of protest and present its detailed claim within the specified times, the claim shall be time barred, and the Buyer shall be deemed to have waived the claim against the Seller or Supplier. In these circumstances, the Seller or Supplier's weight and measurements shall be conclusive evidence of the quantity of Products delivered.

8 **SAMPLING**

- 8.1 In order to determine the quality of the Products delivered, the Supplier shall arrange for representative samples of each grade of Products to be drawn throughout the transfer of such grade of Products. Where reasonably practical, the samples shall be taken in accordance with ISO- 8217 or otherwise shall be taken from a point and in a manner chosen by Seller or its representative. Where MARPOL Annex VI applies to the Products supplied, pursuant to Regulation 18(6) of MARPOL Annex VI, the sample should be drawn (if reasonably practical) in accordance with Resolution MEPC.96 (47). The Buyer's representative is responsible for witnessing that such samples are drawn correctly and shall confirm his witnessing thereof. The Buyer's representative shall also confirm that the sample bottles are properly and correctly sealed by signing the labels of the sample bottles.
- 8.2 The samples shall be securely sealed and labelled with the Vessel's name, delivery facility, product name, location and date of delivery 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 BDNs, and by signing the BDN. The samples referred to therein shall be valid and taken in accordance with the requirements set out in this Clause, unless otherwise agreed in writing.
- 8.3 At least one sample will be handed to the Vessel. Other samples shall be retained by Seller.
- 8.4 In the event of a dispute in regard to the quality of the Products delivered, the samples drawn pursuant to this Clause shall be conclusive and final evidence of the quality of the Products delivered. One, and only one, of the samples retained by the Seller shall be forwarded to an independent laboratory to perform a set of tests, the result of which is to be made available to both parties. Method ISO- 4259 (the use of precision data in the interpretation of test results) shall be used in all cases of dispute. Those test results shall be final and binding upon both Buyer and Seller as to the parameters tested. In the event that an independent laboratory is to be engaged, the

Seller is at liberty to select such independent laboratory from the following list, and the Buyer shall not object to the use of one of these laboratories:

8.4.1 SGS; or

8.4.2 Saybolt.

8.5 The cost of any tests shall be borne by Buyer, unless the Seller is liable for the quality.

8.6 The seal must be breached only in presence of both parties unless one or both have declared in writing that they will not be present, or fail to be present at the appropriate time and place. Both parties shall have the right to appoint representatives or surveyors to witness the seal breaking.

8.7 Only samples taken in accordance with this Clause 8 shall be allowed as evidence of the quality of the Products. For the avoidance of doubt:

8.7.1 Any samples drawn from the Vessel's tanks shall not be allowed as evidence of the quality of the Products.

8.7.2 Any samples drawn by the Buyer or its representatives during bunkering operations or at any later date shall not be allowed as evidence of the quality of Products. The fact that such samples may bear the signature of personnel on board the delivery barge, tank truck or other delivery conveyance shall have no effect whatsoever on the Seller's rights and liabilities under these Conditions.

8.8 If the seal of any sample has been broken, removed or tampered with by an unauthorised person or other than in accordance with Clause 8.6, the said sample shall not be allowed as evidence of the quality of the Products.

9 **DELIVERY**

9.1 Unless otherwise agreed in writing, the Buyer shall give the Seller at least seventy-two (72) hours' notice (Saturday, Sunday and local holidays excluded) of the approximate details of the delivery required. At least twenty-four (24) hours before (Saturday, Sunday and local holidays excluded) the Buyer requires delivery of the Products as specified in the Order Confirmation, the Buyer shall notify the Seller of: (i) the exact place for delivery; (ii) the approximate time of delivery; and (iii) any other information that the Seller may reasonably require. These notices must be given to the Seller and /or the Seller's representatives / agents in writing.

9.2 Unless otherwise agreed in writing between the parties, the time of delivery given by the Seller is approximate only.

9.3 The Seller shall not be obliged to deliver the Products unless the Buyer has complied with Clauses 9.1 and 9.2 above, and all the information necessary for the Seller to comply with its obligations under these Conditions has been properly delivered to the Seller a reasonable period of time before the intended delivery. Unless otherwise agreed in writing, the Seller shall not be obliged to deliver the Products before or after the date as stated in the Nomination.

- 9.4 Delivery shall be made during normal working hours. Unless otherwise agreed, if delivery is required outside normal business hours or on local weekends, Saturday, Sunday, national religious or public holidays, any extra expenses incidental to such delivery shall be reimbursed by the Buyer as additional costs.
- 9.5 The Products shall be delivered in accordance with SBP Code of Practice for Bunker Barges/Tankers Singapore Standard SS600 or its latest edition.
- 9.6 The Seller and Supplier shall make reasonable endeavours to deliver and transfer the Products as promptly as the circumstances permit, having regard to any congestion affecting the berth, terminal and delivery facilities, to prior commitments of delivery barges, tank trucks or other delivery conveyances, weather, and to any other reason. The Seller and/or the Supplier shall not be liable for any direct or consequential loss, damage, delay, demurrage or other consequences whatsoever arising from bad weather (including but not limited to the issuing of Tropical Cyclone Warning Signal No. 3 or higher by Hong Kong authorities), the Vessel having to wait for a berth for bunkering or for the completion of bunkering, delay due to congestion at Supplier's storage or delivery facilities, or any prior commitment of available transportation. Under no circumstances will the Seller be responsible for delays arising in relation to local customs, pilots, port or other authorities.
- 9.7 The Seller's obligation to make any delivery is subject to the availability of the particular grade of Products requested by the Buyer at the port of delivery. If, as a result of any events, matters or things referred to in Clause 18 (force majeure), or any, other foreseeable or unforeseeable event, including but not limited to any issue in respect of the supply of the Products, the supply of crude oil and/or petroleum products from which the Products of the type to be sold hereunder are derived, or any other conditions of supply of the Products which are deemed to be unacceptable at the Sellers' sole judgment, the Seller may allocate, on any fair and reasonable basis at its own discretion, other available Products to the Buyer, its subsidiaries, parents, associated, related or affiliated companies, or other customers. The Seller shall not be required to deliver any unavailable Products.
- 9.8 If Buyer causes delays to the delivery of Products, Buyer shall indemnify the Seller against all costs incurred.
- 9.9 The Seller shall not be required to deliver Products to the Vessel if the Products are not normally used for the Vessel.
- 9.10 The Seller shall not be required to deliver any Products if any customs and/or other government permit required for such purpose has not been obtained in due time before delivery. In case of the Buyer's failure to obtain the required permit, the Seller shall be entitled to recover all costs and consequences related thereto from Buyer.
- 9.11 Delivery shall be made either from a shore terminal, by barge, or by any other accredited methods of delivery, as available from time to time. In the case where more than one method of delivery is available, the Seller may select any method at its sole discretion.
- 9.12 The Buyer shall provide free of cost a clear safe berth, position or anchorage alongside the Vessel receiving lines. The Seller shall be under no obligation to deliver if, in its sole opinion, a clear and safe berth, position or anchorage is not available. Buyer shall

- indemnify Seller against all claims, costs and expenses in connection with the Seller's delivery equipment as a result of any loss, damage, demurrage or delay caused, irrespective of the loss, damage, demurrage or delay is caused by the Buyer or his local representative.
- 9.13 The parties agree that the Master of the bunkering barge has sole discretion to determine whether it is safe to moor alongside the Vessel. The Seller/Supplier shall not be held responsible for any direct or consequential loss, damage, delay, demurrage, or other consequences whatsoever arising as a result of any decision by the Master of the barge.
- 9.14 The Buyer shall be responsible to make all connections and disconnections between pipelines or delivery hoses and Vessel's intake lines, and shall render all other necessary assistance to the Buyer and/or the Supplier and provide sufficient tankage and equipment promptly to receive delivery. The Seller shall not be liable for any damage or delay caused by matters beyond its control.
- 9.15 Upon completion of the delivery to the Vessel, the master, or authorized representative of the Buyer shall confirm the delivery by signing a receipt, provided by the Seller or his contractor at that time. The Seller shall not be deemed to have any constructive knowledge of the authority or lack of authority of any purported local representative of the Buyer and shall be under no duty to verify authority of such purported representative. The acceptance of the aforesaid signed receipt in good faith by the Seller shall bind the Buyer.
- 9.16 If the Buyer fails to take delivery of the product or any part thereof within a reasonable time from the agreed supply time, the Seller shall be entitled at the Buyer's risk and expense, either to transport the product back to storage or to sell in a downgraded form at a market price without prejudice to Seller's other rights to recover for damages or compensation from the Buyer. The Seller shall at its sole discretion determine what constitutes a reasonable time to terminate the delivery. The Buyer shall also indemnify the Seller for all direct and consequential loss or damage arising from the Buyer/the Vessel's default.
- 9.17 Seller may discontinue delivery operations for any reason at its sole discretion.

10 **TITLE AND RISK**

- 10.1 Delivery shall be deemed completed and all risk and liabilities, including loss, damage, deterioration, depreciation, contamination, evaporation or shrinkage to the Products delivered and responsibility for loss, damage and harm caused by pollution or in any other manner to third parties shall pass to the Buyer from the time the Products reach the flange/connecting pipe line(s)/delivery hoses provided by the Seller on the barge/tank truck/shore tank.
- 10.2 Title in and to the Products delivered and/or property rights in and to such Products shall remain vested in the Seller until full payment has been received by the Seller of all amounts due in connection with the respective delivery and / or Products supplied by the Seller to the Buyer under any contract whatsoever. The provisions in this section are without prejudice to such other rights as the Seller may have under the

- laws of the governing jurisdiction against the Buyer or the Vessel in the event of non-payment.
- 10.3 Until full payment of the full amount due to the Seller has been made, the Buyer and the Vessel agree that they are in possession of the Products solely as bailee for the Seller, and shall not be entitled to use or consume the Products, nor mix, blend, sell, encumber, pledge, alienate, or surrender the Products to any third party or other Vessel, nor permit the Vessel or any other party to carry out any of the aforementioned acts.
- 10.4 In the event that the Products have been mixed or commingled with other bunkers on board the Vessel:
- 10.4.1 The Seller shall have the right to trace its proprietary interest in the Products into the mixed bunkers and/or a right of lien to such part of the mixed bunkers as corresponds to the quantity or net value of the Products delivered; and
- 10.4.2 The Seller shall have no liability whatsoever for claims arising in relation to the mixed or commingled Products.
- 10.5 The Buyer's rights to possession of the Products shall cease if:
- 10.5.1 The Buyer has not paid for the Products in full by the expiry of any credit period allowed by the Contract;
- 10.5.2 The Buyer is declared bankrupt or makes any proposal to his creditors for a reorganization or other voluntary arrangement;
- 10.5.3 A receiver, liquidator or administrator is appointed in respect of the Buyer's business.
- 10.6 Upon cessation of the Buyer's right to possession of the Products in accordance with clause 10.5, the Buyer shall at his own expense make the Products available to the Seller and allow Seller to repossess them. The Buyer hereby grants the Seller, his agents and employees an irrevocable license to enter any premises or vessels where the Products are stored in order to repossess them at any time.
- 10.7 Nothing in this Clause shall affect the Seller's right to arrest or attach the Vessel, its sister ships, associated ships and/or any other assets of the Buyer or Owner in any jurisdiction.
- 10.8 Without prejudice to Clauses 10.2 and 10.3 in this Clause, in the event that title in and to the Products has passed to the Buyer and/or any other party before full payment has been made to the Seller, the Buyer shall grant a pledge over such Products to the Seller. Further, the Buyer shall grant a pledge over any other Products on board the Vessel, including any mixture of the delivered Products and other bunkers. Such pledge will be deemed to have been given for any and all claims, of whatever origin and of whatever nature that the Seller may have against the Buyer.
- 10.9 Where a mortgagee bank enforces any rights against the Vessel and becomes a mortgagee in possession of the Products, the mortgagee bank assumes all liabilities t

the Seller of the Buyer, Vessel and/or owners in respect of the Products and the relevant Contract.

11 PAYMENT

- 11.1 Irrevocable payment shall be made by the Buyer in full, as directed by Seller, within the time specified in the Contract. Time of payment is of the essence.
- 11.2 Payment shall be deemed to have been made on the date of which the Seller has received the full payment and such is available to the Seller. If payment falls due on a non-business day, the payment shall be made on or before the business day prior to the due date.
- 11.3 Payment shall be made in full without discount, reduction, withholding, counterclaim or set off (whether legal or equitable) and free of bank charges, to the Seller's bank account. Without Seller's consent in writing, the Buyer shall not be entitled to set off any amounts for claims against the Seller, whether or not these claims are connected, and whether or not they arise out of the contract.
- 11.4 Unless otherwise agreed, payment shall be made by irrevocable telegraphic transfer. Payment shall not be conditional upon provision of the delivery documents to the Buyer, unless otherwise agreed at the time of the Contract.
- 11.5 Overdue payments shall be subject to an interest rate of 2% per thirty (30) calendar day period compounded, or the maximum rate permitted under applicable law, running from the due date of payment to the actual payment date.
- 11.6 All payments received by the Seller from the Buyer, notwithstanding any specific request to the contrary, shall be applied in the following order in diminution or extinction of:
 - 11.6.1 Costs of any kind or nature, including but not limited to legal costs and attorney's fees;
 - 11.6.2 Contractual interest;
 - 11.6.3 Financial charges incurred by Seller as a result of Buyer's late payment (if any);
 - 11.6.4 The principal sum in respect of Products/Services supplied by Seller to the Buyer.
- 11.7 In the event that the Products and/or Services are ordered by a broker or agent, the broker or agent shall be liable for all obligations as a Buyer whether or not the Buyer is a disclosed or undisclosed principal and/or whether or not the broker or agent purports to contract as agent. In any event, the broker or agent shall not have any rights against the Seller.
- 11.8 If the Buyer is in default of the full payment; or its financial condition, or the financial condition of its subsidiaries, parents, associated, related or affiliated companies, in Seller's sole opinion, becomes impaired; or if proceedings in bankruptcy or insolvency

are instituted against the Buyer, its subsidiaries, parents, associated, related or affiliated companies; or the Buyer, or subsidiaries, parents, associated, related or affiliated companies are liquidated/dissolved; or any other reason at the Seller's sole discretion, any and all postponed or deferred payments including interest thereon, shall become immediately due and payable and the Seller reserves the right to set off the payments against any debts due to the Buyer or its subsidiaries, parents, associated, related or affiliated companies. Seller may suspend and/or cancel any delivery or contract with the Buyer. Exercise of any rights herein shall be without prejudice to the Seller's right to recover damages or losses sustained and resulting from any default by the Buyer.

12 MARITIME LIEN

- 12.1 The sale and delivery of Products shall be made on the credit of the Vessel as well as on the credit of the Buyer, and the Seller shall have and may assert a lien against the Vessel for the invoiced amount resulting from delivery of the Products, along with all interest and costs payable, including but not limited to reasonable legal fees. The Vessel shall be responsible for the debt owed to the Seller.
- 12.2 Nothing in this Clause shall affect the Seller's right to make any other claims or pursue any other relief or remedies against the Buyer or the Vessel, including but not limited to arrest and attachment.
- 12.3 Nothing in these Conditions, including any provisions relating to arbitration, jurisdiction or the mode of dispute resolution, shall affect the Seller's right to assert a lien for the invoiced amount of the Products (plus all interest and costs payable, including but not limited to reasonable legal fees) against the Vessel in accordance with any applicable laws, including but not limited to the laws applicable at the place of delivery of the Products, at the place of arrest of the Vessel or in the Vessel's flag state.
- 12.4 All costs and expenses (including legal costs on a full indemnity basis) in connection with the enforcement of the Seller's title or lien to the Products shall be for the account of the Buyer. The taking of any advance payment or security by the Seller, or the application of any disclaimer stamp to the BDN by the Buyer, does not, in any event, operate as a waiver of any of the Seller's rights under these Conditions.

13 TIME BAR

Without prejudice to Clauses 6.5 and 7.4, any and all claims of the Buyer shall be time-barred unless arbitration or legal proceedings have been commenced before a competent tribunal or court within twelve (12) months from the date of delivery of the Products, or the date that delivery should have commenced pursuant to the Order Confirmation from the Seller.

14 LIMITATION OF LIABILITY

- 14.1 In no event shall the Seller be liable to the Buyer for any special, indirect, incidental, consequential or punitive damages or exemplary damage of any kind including but not limited to loss of prospective profits, anticipated cost savings, contracts or financial or economic loss, claims in tort including negligence of the Seller and/or Supplier, its personnel, representatives, agents, servants or sub-contractors, arising out of, or in connection with, the performance or non-performance under the Contract.
- 14.2 The Buyer's exclusive remedy for any losses or damages resulting from the sale of the Products delivered under a Contract, including but not limited to any allegation of breach of warranty or breach of contract or negligence or strict liability, shall be limited to the price of the Products.
- 14.3 The Seller's obligation under Clause 6 shall not exceed the direct expenses incurred for the removal and replacement of the Products, and shall not include any consequential or indirect damages, including, without limitation, demurrage claims, loss of opportunity or loss of profit. Should the Buyer remove the Products without the prior consent of the Seller, all such costs incurred in doing so shall be for Buyer's account.

15 **INDEMNIFICATION**

- 15.1 Without prejudice to any rights of indemnity the Seller may have pursuant to these Terms or any applicable law, the Buyer shall indemnify the Seller for any and all liability, loss, claims, expense, damages and/or costs suffered or otherwise incurred on the Seller due to a breach of contract and/or fault or neglect of the Buyer and the Buyer's agents, servants, contractors, sub-contractors, representatives, employees and the officers, crews and/or other personnel, whether or not on board of the Vessel in respect of the purchase, receipt, use, storage, handling or transportation of the Products. The Buyer furthermore undertakes to hold the Seller harmless in case of any third party institutes a claim of whatever kind against the Seller in relation to an Contract.

16 **INSURANCE**

- 16.1 The Buyer shall be responsible for effecting and maintaining in force adequate insurance which will fully protect the Buyer, the Seller, their agents, brokers and authorized personnel and all third parties from all risks, hazards and perils associated with or arising from an Agreement and the actual delivery of the Products.

17 **ASSIGNMENT**

- 17.1 The Seller may assign or transfer any/all of its right and obligations to any party under the Contract. The Buyer shall not assign or transfer any/all of its right under the Contract without written consent of the Seller.

18 FORCE MAJEURE

- 18.1 Neither the Buyer nor the Seller nor its Supplier shall be responsible for damages caused by delays, failure to perform in whole or in part any obligation hereunder (other than the payment of money), or non-compliance with any of the terms hereof when such delay, failure or non-compliance is due to or results from causes beyond the reasonable control of the affected party, including, without limitation, (a) acts of God, typhoons / tropical cyclones / hurricanes, fires, floods, droughts, earthquakes, perils of the sea, or other natural disasters; (b) epidemic or pandemic; (c) terrorist attack, civil war, civil commotion or riots, war (declared or undeclared), threat of or preparation of war, armed conflict, imposition of sanctions, boycotts, embargoes, or breaking off of diplomatic relations; (d) nuclear, chemical or biological contamination or sonic boom; (e) collapse of buildings, fire, explosion or accident; (f) accidents, strikes, labour or trade disputes, industrial action or lockouts; (g) failure or shortage of vessel or barge service normally available to the Seller or its Supplier, breakdown of or damage to, or shortage in facilities used for production, refining or transportation of Product, non-performance by suppliers or subcontractors; (h) any law or action taken by a government or public authority (including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent), acts in compliance with requests of any governmental authority or person purporting to act therefore; (i) interruption or failure of utility service, or (j) any other similar causes of any of the above. The expression "any other similar causes" is deemed to include, without limitation, the failure, cessation, termination or curtailment of any of the existing or contemplated sources of Products of the Seller. No party shall be required to settle any labour dispute against its will.
- 18.2 The Seller shall not be required to make up any deliveries and the Buyer shall not be liable to accept any deliveries of the Products excused due to occurrence of any event of *force majeure*.

19 ENVIRONMENT AND SAFETY

- 19.1 The Buyer shall be solely responsible to comply, and advise its personnel, agents and/or customers to comply, both before, during and after delivery, with all health and safety requirements, and all national and international environmental regulations and legislation applicable to the Products supplied. The Seller accepts no responsibility for any consequences arising from failure to comply with such health and safety requirements or environmental regulations and legislation. The Buyer acknowledges that it is familiar with the hazards inherent in the nature of any petroleum Products, and shall protect, indemnify and hold the Seller harmless against any claims or liability incurred as a result of the failure of the Buyer, any user of the Products, or its customers, to comply with the relevant health and safety requirements or environmental regulations and legislation.
- 19.2 Without prejudice to Clause 10.1 herein, in the event of any leakage, spillage, overflow of the Products causing or likely to cause pollution occurring at any stage, the Buyer shall, regardless as to whether the Buyer or the Seller is responsible, immediately take all necessary immediate action to carry out any clean-up operation and mitigate the effects of such leakage, spillage or overflow. Without prejudice to the

Buyer's obligation under this clause, the Buyer warrants that they have been authorised by the Vessel's owners to authorise the Seller to take whatever measures the Seller deems fit to carry out any clean up operation at the Buyer's expense and on the Buyer's behalf and the Buyer shall cooperate fully with the Seller and shall provide all assistance required in the clean-up operation. The Buyer shall indemnify and hold the Seller and/or the Supplier harmless against any claims or liability, expenses, damages, costs, fines and penalties arising out of or in connection with any leakage, spillage or overflow unless such leakage, spillage or overflow is proven to be wholly caused by Seller's gross negligence. The Buyer shall also provide, or cause any party concerned to provide, the Seller with all documents and other information in respect of any leakage, spillage or overflow, or any program for the prevention thereof; any documents and/or information as requested by the Seller or as required by law or regulation.

- 19.3 The Buyer warrants that the Vessel at all material times will be in compliance with all national and international regulations. The Buyer also warrants that the Vessel, her main engine, her auxiliary engines and all other parts, equipment, and machinery, are operated in accordance with the manufacturer's specifications, instructions and guidelines. The Buyer further warrants that the Product to be supplied to the Vessel is suitable for the Vessel, her parts, her equipment and machinery as set out in the manufacturer's specifications, instructions and guidelines. The Vessel or the master of the Vessel shall notify the Seller of any special conditions, difficulties, peculiarities, deficiencies or defects with respect to the Vessel or any part thereof, which might adversely affect the delivery of Product. The Seller may refuse delivery to the Vessel if, the Seller or the Supplier, in the Seller's/Supplier's sole discretion, considers that there is a risk that the delivery may result in adverse consequences of any kind whatsoever.

20 **TERMINATION**

- 20.1 The Seller may terminate the Contract in whole or in part, at its own discretion upon the breach of any provision hereof by the Buyer. The Seller reserves the right to recover from the Buyer all damages and costs (including but not limited to loss of profit) resulting from any breach of the Contract.
- 20.2 In the event that the Buyer cancels the Contract and/or delivery for any reason whatsoever, the Buyer shall pay a cancellation fee of USD 6 per metric tonne in addition to any difference in price of the grade (Means of Platts Singapore (MOPS)) between the date of Order Confirmation and the date of cancellation if the price at the date of Order Confirmation is higher than the price at the date of cancellation. The Seller is entitled to recover from the Buyer for all direct and indirect losses, costs and expenses incurred as a consequence of cancellation of the Contract by the Buyer by any reason.
- 20.3 In the event that the Vessel's ETA falls more than four (4) days after the original ETA, the Seller may cancel the Contract and/or delivery and impose a cancellation fee pursuant to Clause 20.2 above.

21 **GOVERNING LAW**

21.1 These Terms and Conditions and any Agreement shall be governed by and construed in accordance with the law of the Hong Kong Special Administrative Region of the People's Republic of China ("**Hong Kong**"). Nothing in this clause shall preclude the Seller, in event of a breach of this Contract by the Buyer, from taking any such action or actions, in its absolute discretion, to enforce, safeguard or secure its rights under this Contract in any court or tribunal of any state or country, including, but not limited to the action to enforce its rights of lien against ships (the existence and procedure of enforcement of such right of lien shall be determined by the local law of the place where enforcement is sought), or to otherwise obtain security by seizure, attachment or arrest of assets for any amount(s) owed to the Seller.

22 **ARBITRATION**

22.1 Any dispute, controversy, difference or claim arising out of or relating to this Agreement, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to it shall be referred to and finally resolved by arbitration in accordance with the Arbitration Ordinance (Cap. 609) (the "**Ordinance**") or any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this Clause. The Parties specifically agree that Sections 3 to 7 of Schedule 2 of the Ordinance shall apply.

22.2 The law of this arbitration clause shall be Hong Kong law. The seat of arbitration shall be Hong Kong. The arbitration proceedings shall be conducted in English.

22.3 The arbitration shall be administered by the Hong Kong Maritime Arbitration Group ("**HKMAG**") and conducted in accordance with the HKMAG Terms current at the time when the arbitration proceedings are commenced, as modified by the HKMAG Procedures for the Administration of Arbitration under the HKMAG Terms.

22.4 The reference shall be to a sole arbitrator.

22.5 If no arbitrator can be agreed within 14 calendar days of the commencement of arbitration either party may apply in writing to the President of the HKMAG to appoint the sole arbitrator if the parties cannot agree on the appointment.

22.6 In cases where neither the claim nor any counterclaim exceeds the sum of USD100,000 (or such sum as the parties may agree), the arbitration shall be conducted in accordance with the HKMAG Small Claims Procedure current at the time when the arbitration proceedings are commenced.

22.7 Nothing in these Terms and Conditions shall prevent the Seller from asserting any rights of lien or attachment in any jurisdiction of its choosing, or to avail itself of all remedies available to obtain jurisdiction and/or security for its claims.

23 **MISCELLANEOUS**

- 23.1 **Severability** - If any provision of these Conditions or a Contract is determined to be invalid, void or unenforceable by any court or tribunal having valid jurisdiction, such determination shall not render invalid, void, or render unenforceable any other provision, agreement or covenant of these Conditions or the Contract.
- 23.2 **Waiver** - No waiver of or failure to enforce any breach of or performance required by an Agreement shall be deemed to constitute a waiver of any other or subsequent breach or required performance under the Contract.
- 23.3 **Amendment** - No amendment or modification of any of these Conditions and the terms of a Contract shall be enforceable unless reduced to writing and executed by both the Seller and the Buyer.
- 23.4 **Compliance with Law** - Both the Seller and the Buyer shall undertake such action as may be necessary to assure that it and all its employees, agents and independent contractors comply with all applicable laws, ordinances, rules and regulations and by any government entity or agency having jurisdiction with regard to such party's performance under a Contract.
- 23.5 **Entire Agreement** - The Contract constitutes the entire agreement between the parties regarding the subject matter thereof and supersedes and renders void any and all prior representations, statements, and proposals by or discussions, negotiations and agreements whether written or oral, between the parties with respect to the subject matter of the Contract.