

General Terms and Conditions for Sale of Bunker

Except as may otherwise be negotiated by the parties and agreed to in writing the following terms and conditions shall apply to all sales of Bunker by **Omega Petroenergy Private Limited**. In the event of any conflict between the provisions hereof and of the Contract, the provisions of the Contract shall prevail. Unless a challenge to the Sales Agreement is made by the Buyer to the Seller within 1 Working Day of the Sales Confirmation being sent to the Buyer, then it shall be deemed that the Buyer has accepted the Sales Agreement in its entirety.

1. Definitions

- 1.1. **“Bare Boat Charter”** means a charter in which the charterer is given control and possession with legal, technical and financial responsibility during the agreement period and incurs cost in relation to crew, operating expenses, insurance, port expenses and/or other expenses, on its own account, required for plying the vessel during the relevant period.
- 1.2. **“Bunker”** or **“Marine Fuels”** means any petroleum based product currently offered by the Seller for similar use at the time and place of delivery and includes “Marine Fuel”.
- 1.3. **“Buyer”** means the jointly and severally, the master, chief engineer (s), registered owner, managers, charterers, operator, disponent owners and time charterers of the Vessel supplied and shall include but not limited to any party requesting the supply of Bunkers or ordering the supply of Bunkers and any party on whose behalf the said offer or order to supply Bunkers and agreements or contracts or other arrangements have been made pursuant to the Contract.
- 1.4. **“Contract”** means an agreement between Seller and Buyer for the sale of Bunker subject to these conditions.
- 1.5. **“Prohibition of Lien Clause”** means the protection given by the charterers to the owner of the vessel wherein the charterers have provided indemnity (under charter party) to the owners that they will not suffer nor permit continuance of any lien or encumbrance incurred by them or their agents in relation to the vessel, which might have priority over the title and interest of the owners in the vessel.
- 1.6. **“Seller”** means **Omega Petroenergy Private Limited** including its agents and suppliers wherever applicable.
- 1.7. **“Supplier”** means the party supplying the Bunkers for and on behalf of the Seller, which Seller shall not be responsible for.
- 1.8. **“Vessel”** means the vessel to which the Bunkers are delivered by Seller to Buyer.

2. Price



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2.1 The price to be paid for Bunker shall be as quoted and intimated by the Seller in reference to each transaction (the "Purchase Price"), at the time thereof, and shall represent only the purchase price thereof. Prices shall be designated in the currency as may be mutually agreed between the Seller and the Buyer, exclusive of taxes and duties ex-wharf in metric tons. All charges additional to purchase price, such as, without limitation thereto, demurrage, wharfage, dues, taxes, levies, duties, port charges and delivery charges, and all other costs imposed by government and local authorities are to the account of Buyer.

2.2 Payment shall be made by Buyer in full as directed by the Seller, within the time specified in the Contract. Seller shall be entitled absolutely to the full payment without discount, reduction or set off which shall be made to the Seller's bank account.

3. Credit to the Vessel.

3.1. Bunker delivered hereunder is sold and delivered on the financial credit of the Vessel, as well as on the promise of the Buyer to pay. Buyer agrees and warrants that Seller shall have the right to assert a maritime lien, attachment or claim against the Vessel to which Bunker is delivered for the purchase price, any extra charges incurred in accordance herewith, any taxes billed on the delivery of Bunker or otherwise, any interest due thereon including on overdue payments and all associated recovery costs should Buyer fail to pay for Bunker on time.

3.2. Any notice by Buyer that a maritime lien on the Vessel may not be created because of the existence in Buyer's charter party of a Prohibition Of Lien clause or similar clause, or for any other reason, must be given to Seller in the initial order for Bunkers (hereinafter defined as the Nomination). In the event Buyer provides notice of such restriction, no credit can be granted to Buyer and the Bunkers shall be paid for in cash or equivalent prior to delivery. Any notice of such restriction given by Buyer, its agents, Vessel Interest, the Vessel's personnel or other person later than in the Confirmation Agreement and/or Nomination shall not modify the terms of sale except that any granting of credit by Seller is rescinded on receipt of the notice, with full payment due forthwith from Buyer.

4. Quality

4.1. Bunker to be supplied shall be the quality offered generally by Seller at the time and place of delivery for the particular grade or grades ordered by Buyer. Buyer shall have the sole responsibility for the selection of the proper grade or grades of Bunker for use in the Vessel nominated. Any information provided to Buyer regarding the characteristics of Bunker at any delivery location shall not be construed as specifications of the Bunker to be delivered hereunder, but only as indications of the general characteristics of the Bunker available at that location from time to time. Except for this clause, bunker is sold "as is", and seller otherwise makes no representations, guarantee, conditions or warranties of quality, merchantability or fitness for any particular purpose and any implied warranties or conditions as to quality, merchantability or fitness whatsoever, whether statutory or the absence of bio-components in the marine fuels are expressly excluded.

4.2. Buyer shall have the sole responsibility for the selection of suitable Bunker for use in the Vessel.

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Buyer warrants that it has not relied upon any representations made by or on behalf of the Seller but has relied exclusively on its own knowledge and judgment in determining whether the Bunker selected by Buyer for the Vessel are suitable for the Vessel. Buyer warrants that the Vessel nominated by Buyer to receive Bunker is in compliance with all applicable local, national and international regulations and requirements and is free of all conditions, difficulties, peculiarities, deficiencies or defects that might impose hazards in connection with its mooring, unmooring or bunkering.

4.3. With respect to the quality of the Product supplied, sampling shall be accomplished throughout the Marine Fuel delivery process, as per guidelines of MARPOL. The seller shall take minimum four (4) samples of each grade of Marine Fuels delivered. It is the Buyer's responsibility to ensure that the marine fuel is properly sampled, sealed and signed by the ship's master. The aforementioned samples shall be securely sealed and labelled by the seller (and witnessed by the vessel) and at least two (2) of these samples shall be retained by the seller for at least 15 days following the date of delivery in a safe place for subsequent verification of the quality thereof, if required.

5. **Title**

5.1 The Buyer shall become liable for the Marine Fuel immediately upon the Marine Fuel passing the Seller's Supply equipment manifold, and risk of the Marine Fuel shall pass to the Buyer at that time. Title to the Products shall pass only when the Products have been fully paid for by the Buyer and until such time the Seller shall retain title to the Products.

6. **Nomination and Deliveries**

6.1. Buyer shall nominate a Vessel in writing at least two working days in advance of the Vessel's Estimated Time of Arrival (the "ETA"). Buyer shall specify the delivery port, ETA and grades, specifications and quantities of Bunker required (the "Nomination"). If such Nomination is accepted and confirmed in writing by Seller through the issuance of a Confirmation, the ETA proposed by Buyer shall become the "Accepted Delivery Date" unless otherwise agreed in writing by Seller.

6.2. In addition to the Nomination, Buyer shall give Seller at least forty-eight (48) hours advance written notice before arrival of vessel at the supply place. Should the buyer give an incomplete and late and /or not give an arrival Notice as stipulated herein for any reason, the seller shall be entitled to cancel the contract and shall not be liable to buyer for any consequences, losses or damages arising from such cancellation.

6.3. The buyer shall not amend arrival time and date as stipulated in the contract beyond 12 hours. If the Buyer does not amend such beyond 12 hours or if the vessel fails to arrive within 12 hours from the arrival date and time at the supply place as stipulated in the contract, the seller shall have right to revise the price and the date of supply and other terms and alternatively shall have the right to cancel the contract and claim damages.



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- 6.4. The Buyer and Vessel and all of their personnel and Agents shall comply with all the relevant regulations applied at the Supply Place. If the Buyer or the Vessel or crew fail to abide by such regulations, the Seller shall be entitled to cancel the Contract, in which case the Seller shall be under no liability to the Buyer for any consequences, losses or damages whatsoever arising from such cancellation. Furthermore, the Buyer shall be liable for all consequences, losses and or damages (including fine and penalties) suffered by the Seller as a result of the Buyers or the Vessel or its crew failing to observe any of such regulations.
- 6.5. The Buyer shall indemnify the Seller in respect of any damage or loss which may be suffered by the Seller or their servants, agents or crew caused by the Buyer or receiving vessel's crew during bunkering operations.
- 6.6. Notwithstanding any other provisions elsewhere in the Contract, the Seller does not guarantee the pumping rate at which the Fuel is to be delivered to the Vessel. The Seller shall not be liable for any consequences, losses or damages howsoever caused arising from the rate at which the Fuel is pumped into the Vessel.
- 6.7. The Seller shall not be in breach of their obligations hereunder to the extent that performance is prevented, delayed due to any reason, including but not limited to: 1) shortage of Fuel, 2) breakdown or under performance of the supplier's Equipment, 3) any conditions outside the control of the Seller.
- 6.8. The Buyer undertakes to take delivery and leave the Supply Place with all due dispatch. In the event that the supply is delayed by the Buyer for whatever reason, or if after the supply, the Vessel fails to leave the Supply Place immediately, any loss or damage suffered by the Seller resulting from such delay, including any claims incurred or arising due to the delay in the supply of other vessels shall be borne and paid for by the Buyer to the Seller.
- 6.9. Notwithstanding anything contained elsewhere herein, the Seller will affect the supply on a best endeavour basis as promptly as possible and shall not be liable for any demurrage under any circumstances or for any delay in supply caused due to whatsoever reason, or for any consequential losses and or damages that may be suffered by the Buyer or the Vessel.

7. Inspection and Measurements

- 7.1. Buyer, at his own expense, shall have the right to appoint an approved petroleum inspector to inspect the Bunker before delivery, but sampling shall be done prior to product leaving Seller's shore tanks.
- 7.2. The quantity of Bunker delivered shall be determined by measurements of shore tanks for deliveries through pipe line and/or gauges of the delivery vehicle / barge (as the case may be), at Seller's sole option, and Buyer will be charged on the basis of these measurements, regardless of amounts delivered by barge to Buyer's vessel. Buyer has a right to have its representative present during measurement to verify same, but in the event no such representative attends,

determination of quantity shall be made solely by Seller, and such determination shall be conclusive.

8. Claims

- 8.1. Notice of any claim made by the Buyer shall be given in writing, fully documented with all supportive documents, to the Seller at their address and be received by them within 15 days from date of delivery (or if no delivery took place, within 15 days from the intended time of delivery stated in the last complete Arrival Notice tendered by the Buyer). Unless the Buyer gives notice of any claim pursuant to this clause within the time limit, all claims by the Buyer of whatsoever nature shall be automatically extinguished and completely time barred and waived against the Seller. Notwithstanding the above, any claim in respect of differences in quantity by the Buyer shall be made to the Seller at the supplying facility at the time of delivery and shall be confirmed in writing within seven days thereof; if such claim in respect of quantity is not made at the time of supply, then such claim shall be considered as invalid, null and void.
- 8.2. The Seller's liability for any damage whatsoever arising under this Contract whether caused by negligence or not, whether based in tort or contract and whether falling on the Buyer or third party shall be limited to the invoice value of the supply for which liability has arisen. For the avoidance of doubt the foregoing shall include product liability claims. The Seller shall under no circumstances be held liable for any consequential losses 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 liability for damages to the Vessel shall in any event be reduced by 20 (twenty) percent of the invoice value of spare parts for each year or fraction thereof in which the replaced part has been in use. The Buyer undertakes to indemnify the Seller against any claims, losses or costs of whatever kind related to the Bunker Contract instituted by third parties against the Seller to the extent that such claims exceeds the Seller's liability towards the Buyer according to this clause.
- 8.3. If the Buyer gives notice of any claim within the time limit concerning the properties or specification of the Fuel (a "quality claim"), the Buyer must within seven days of giving notice of the Quality Claim notify the Seller in writing that they wish one or more of the properties or the specifications to be tested. In such event, the Buyer may only ask for the specification(s) that is (are) disputed to be tested and the said specification(s) must be amongst the specifications stipulated in the quality agreed in the Contract for the Grade of Fuel to be supplied. The disputed specification shall be tested by an analysis of the controlling Sample.
- 8.4. The choice of the Independent Surveyor and laboratory where the tests are to be conducted are at the sole discretion of the Seller. The Buyer or his representative shall be entitled to attend the testing of the Controlling Sample and the Buyer may give authority for the Independent Surveyor to conduct the test in his absence. If the Buyer neither appoints a representative nor authorizes tests to proceed in his absence, the Buyer shall be deemed to have accepted and be bound by the results of the test. If the Buyer fails to notify the Seller that it requires the Controlling Sample to be tested within the above mentioned days of the notice of claim pursuant to this Clause, the Quality Claim will be extinguished and absolutely barred and waived as against the Seller. Any



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claim of whatsoever nature made by the Buyer and based on any sample obtained or analysed contrary to the stipulations of this Clause shall be invalid, void, barred and not have any evidential value and not be binding on the Seller. The Buyer shall pay the amount invoiced on its due date, promptly, in accordance with the set payments and credit terms without the right of set-off or deduction from the invoice amount.

9. Payment

Upon the transfer of title to the Bunker from Seller to Buyer, the Seller shall have a right to payment of the price by the Buyer for the Bunker sold. Payment of the price for the Bunker and all charges (including delivery charges) shall be made in full (without any abatement, deduction, set-off or counter claim whatsoever) in cleared funds in US dollars (or such other currency as may be stated in the Fuels Agreement). Unless otherwise established in the Fuels Agreement, payment shall be due with effect from the date of delivery and shall be made by means of telegraphic transfer, automated credit transfer or electronic transfer of same day funds quoting the Seller's invoice number and the Buyer's name to the account specified by the Seller in its invoice to the Buyer, value dated no later than thirty (30) calendar days (or such other period as is agreed by the Buyer and Seller) from completion of delivery of the Marine Fuels in question. If, however, the Seller's bank is closed for business on the last day of the applicable credit period, the Buyer shall make its payment by the last day within such credit period when the Seller's bank is open for business. All bank charges in respect of such payments shall be for the remitter's account. Should any claim or dispute arise between the Buyer and Seller in relation to any item on an invoice under this Contract, the Buyer shall make payment in full as set out above. The claim or dispute will be resolved separately and if appropriate, the Seller will issue a debit or credit note to the Buyer when the dispute is resolved.

Buyer shall make full payment within 30 days (or such other period as is agreed by the Buyer and Seller) of date of transfer of title from the Seller to the Buyer, in accordance with this agreement. If full payment is not received within 30 days (or such other period as is agreed by the Buyer and Seller), the amount overdue shall be subject to interest charged at the rate of 2% per month, or the maximum rate permitted under law, whichever is less.

10. Environmental Protection

In the event of a spill during fuelling, Buyer and the vessel shall, at their own expense, immediately take what action is necessary to give prompt notice to the official bodies and to effect clean-up. Failing prompt action, Buyer and the vessel authorize Seller and/or the fuel barge contractor to conduct and/or contract for such clean-up at Buyer's and vessel's expense.

Buyer warrants that the Bunker purchased hereunder is for the operation of the receiving vessel and that vessel only. Buyer shall hold Seller harmless as to any claims, expenses, losses, taxes or penalties arising from Buyer's breach of this warranty, including attorney fees.

Buyer warrants that the vessel fuelled is in compliance with all national, state and local statutes, regulations and ordinances, including those requiring proof of financial ability in regard spills of

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oil and hazardous materials. Buyer shall hold Seller harmless as to any delays, claims, losses, expenses or penalties arising from breach by Buyer of this warranty, including attorney fees.

11. Disclaimer Warranties

Any implied warranties whatsoever, whether statutory or otherwise, including the warranties of merchantability and fitness for a particular purpose or of condition and any oral or implied agreements inconsistent with this Agreement are expressly excluded and disclaimed.

12. Jurisdiction

Any controversy or claim between Buyer and Seller, or between Buyer and the fuel barge contractor, relating solely to the quality or quantity of Bunker delivered or to be delivered hereunder or to the sum payable for such fuel shall be submitted to the jurisdiction of the Courts at Mumbai, India.

The above shall not prevent the Sellers recourse to file an in rem suit in a jurisdiction of their choice to recover the unpaid bunker price along with the accrued interest.

13. Governing Law and Dispute Resolution

This Agreement shall be governed and construed in all particulars by the principles of the Law of England and Wales. The maritime laws of the United States shall apply to any determination of the existence of a maritime lien, regardless of the country in which Seller takes legal action.

In the event of the potential application of both, or a conflict between, admiralty and bankruptcy jurisdiction, the Parties expressly agree that admiralty jurisdiction pre-empts bankruptcy jurisdiction with respect to the rights and obligations of the Parties under this Contract, and with respect to enforcing maritime lien or attachment rights.

Except as otherwise provided herein, each of the Parties hereby irrevocably submits to the exclusive jurisdiction of the United States District Court for the Southern District of New York or, if such court does not have jurisdiction or shall not accept jurisdiction, to any court of general jurisdiction in and for the County of New York in the State of New York for the resolution and determination of any dispute between the Parties relating to the construction, meaning or effect of this Contract, or the rights and liabilities of the Parties hereunder, or any matter arising therefrom or connected therewith. Each of the Parties hereby irrevocably waives objection to such suit based upon forum non conveniens and venue. Each of the Parties hereby irrevocably waives actual personal service of process in connection with any action initiated in any court to whose jurisdiction the Parties have by contract submitted, and agrees to accept, in lieu of such personal service, written notice of such action given by hand delivery or by certified or registered pre-paid mail (provided that notice shall also be given by telex, facsimile, or other written communication that such mailed notice has been sent, no later than the second day following the date of mailing) to its address as set out in the Special Terms or otherwise notified pursuant to this Contract, or to its principal place of business, and addressed to the Party in question, provided that either Party may cause service of process to be effected in any other lawful manner rather than by use of the aforesaid procedure. The United Nations Convention on Contracts for the

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International Sale of Goods 1980 shall not apply to this Contract. Notwithstanding the foregoing, Seller is free to bring suit in any jurisdiction and shall be entitled to avail itself of all remedies under maritime or other law to obtain jurisdiction and/or security for its claims against Buyer, its agents or Affiliates, the Vessel, her owners and charterers and any of their respective agents, servants or assigns, including but not limited to vessel arrest and attachment procedures under the Supplemental Rules of Civil Procedure for Certain Admiralty and Maritime Claims or any similar laws, rules or statutes in any jurisdiction.

14. Force Majeure

Neither Buyers nor Sellers shall be responsible for any loss or damage resulting from any delay or failure in delivery or receipt in Marine Fuels hereunder due to fire, explosion or mechanical breakdown, flood, storms, earthquakes, tidal waves, war, military operations, national emergency, civil commotion, strikes or other differences with workmen unions, or from any delay or failure in delivery or receipt of Marine Fuels hereunder when the supplies of Buyers or Sellers or the facilities of production manufacture, consumption, transportation, distribution of Buyers and Sellers are impaired by causes beyond Buyer's or Seller's control, or by the order, requisition, request or recommendation of any governmental agency or acting governmental authority, or Buyer's or Seller's compliance therewith, or by governmental proration, regulation or priority, or from any delay or failure due to any causes beyond Buyer's or Seller's control similar or dissimilar to any such cases. When such cause or causes exist, the party affected shall have the right, upon notice without delay as soon as practicable to the other of the nature and probable duration of such cause or causes, to restrict or cease deliveries or acceptance hereunder in a fair and equitable manner for the duration of such cause.

15. Assignability

This Agreement is not assignable by Buyer except with the written consent of Seller. Seller may cause deliveries under this Agreement to be made to Buyer by others and may assign the duties, obligations, rights, benefits, and privileges of this Agreement in whole or in part, to others without notice to or consent from Buyer.

16. General Savings Clause

Notwithstanding anything to the contrary herein, nothing in this Contract is intended, and nothing herein should be interpreted or construed, to induce or require either Party hereto to act in any manner (including failing to take any actions in connection with a transaction) which is inconsistent with, penalized or prohibited under any laws of the United Kingdom which relate to foreign trade controls, export controls, embargoes or international boycotts of any type.

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