



INTERNATIONAL MARINE BUNKER SUPPLY GENERAL TERMS AND CONDITIONS OF CUROIL

These general terms and conditions govern all Marine Sale Contracts that are concluded between the Contracting Company and the Buyer with regard to everything related to the sale and delivery of the Marine Fuels, unless the Contracting Company agrees otherwise in writing.

In the event of discrepancy between the General Terms and the Marine Sale Contract concluded between parties the latter shall prevail. Unless otherwise agreed in writing between the Contracting Company and the Buyer these terms and conditions as amended from time to time which supersede any earlier terms and conditions issued by the Contracting Company, shall override any terms and conditions stipulated, incorporated or referred to by the Buyer. Each delivery shall be a separate contract. All possible general terms and conditions of the Buyer are hereby explicitly rejected.

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1 General

1.1 Definitions

Unless the context otherwise demands:

'*Buyer*' means the party, its subsidiaries and affiliates, servants, agents, assigns, subcontractors and other persons instructed by it requesting the Contracting Company either to sell and to deliver to it or to arrange for the sale and the delivery to it of Marine Fuels

'*Clear Working Days*' means days from Monday to Friday, except for official holidays in the Dutch Caribbean.

'*Commitment*' means the contract of sale for bunkering or cargo on the terms hereof concluded between the Contracting Company and the Buyer in accordance with article 2 hereof.

'Contracting Company' means Curoil and/or its chartered vessel (party), subsidiaries and affiliates, servants, agents, assigns, subcontractors and other persons duly authorized by Curoil to fulfill its obligations under the agreement with the Buyer.

'Curoil' means Curaçao Oil (Curoil) N.V., Curoil (Aruba) Freezone N.V. and/or their subsidiaries, affiliates, sister- and group companies (as the case may be).

'Delivery Port' means the port at which the Contracting Company must deliver the Marine Fuels under a Commitment

'Marine Fuels' means marine Fuel oil, intermediate Fuel oil, marine diesel Fuel and gas oil

'Price lists' means the price list reflecting the prices effective on the date of delivery.

'Spot Sale' means a one-off transaction for a defined volume of Marine Fuels to be delivered at an agreed location on an agreed date for an agreed price.

'Supply' means delivery and/or retrieval of bunkers & slops.

1.2 References

All references to time periods shall be in accordance with the Gregorian Calendar.

All references to time shall be as per local Willemstad time (GMT- 4 hours).

2. Nomination Procedure

- 2.1 The Buyer shall give not less than four (4) working days written notice to the Contracting Party of the Request for Supply which shall contain at least a specification of the grades and quantities of the Marine Fuels and the desired date of arrival of the chartered vessel at the Delivery Port. All Nominations are deemed to incorporate all the terms and conditions contained herein.
- 2.2 Upon acceptance of the nomination the Contracting Company shall provide a Commitment to the Buyer for the requested supply, which contains a confirmation of the Buyer's willingness to acquire the Requested Supply under the Contracting Company's terms and conditions.
- 2.3 In addition, the Buyer shall provide the Contracting Company with the following information in the Commitment:
 - The complete name, address and place of registry inscription and tax identification number of the Buyer;
 - The name, address and tax identification number of the Buyer's accredited agent and the name of the Master of the vessel;
 - The specification and quantity of the Marine Fuels to be supplied;
 - The name and flag and the IMO number of the vessel(s);
 - The name, address and place of registry inscription and tax identification number place of registry of the Vessel Owner;
 - The date and estimated time of arrival (ETA) of the vessel at the port;
 - The earliest estimated date of supply of the Marine Fuels;
 - All other information that may be necessary or of use for adequate performance of the supply operation.
- 2.4 The Buyer's confirmation of the Supply and the Contracting Company's acceptance in writing thereof and, if applicable, the Buyer's proposed changes thereto, shall constitute the purchase contract between parties, while the Buyer therewith unconditionally accepts and acknowledges that these General Terms shall be applicable on the legal relation with the Contracting Company.
- 2.5 Modifications to the Commitment by the Buyer are only valid upon acceptance in writing by the Contracting Company.
- 2.6 The Commitment to supply the Marine Fuels requested shall uphold for four (4) days.

The Buyer shall begin to take delivery within the 4-day period commencing one day before the agreed earliest estimated lifting date and ending on the day two days after the agreed earliest estimated lifting date.

Failure by the Buyer to withdraw the Marine Fuels within this term shall automatically cancel the Contracting Company's obligation to supply under the Commitment without the Contracting Company being liable for any damages of whatsoever nature. In that case, the Contracting Company may adjust its quoted price in accordance with prevailing market prices, such without prejudice to any claim the Contracting Party may have against the Buyer for damages for not taking the delivery within the 4-day period.
- 2.7 Cancellation of the supply by the Buyer must be requested at least 48 working hours prior to the ETA of the vessel. Failure to do so or rejection of the Marine Fuels by the Buyer entitles the Contracting Company to claim the relevant compensations, which shall consist of, but shall not be limited to, a penalty fee per Metric Ton of the quantity of Marine Fuels as laid down in the Commitment and the barging fee per Metric Ton as laid down in the Commitment.
- 2.8 The Buyer shall ensure that either the Master of a vessel which requires delivery of Marine Fuels or its accredited representative at the Delivery Port gives not less than two (2) clear working days' written notice to the Contracting Company of the estimated times of the vessel's arrival and availability to receive the requested Marine Fuels. Such notification shall also include confirmation of the quantities of each grade of Marine Fuels contracted for, the estimated place of mooring of the vessel, all special conditions, difficulties, peculiarities, deficiencies or defects concerning the

vessel or that are specific to the vessel and might adversely affect the supply of the Marine Fuels and all other necessary or useful information.

Any changes in the abovementioned shall equally be communicated in writing to the Contracting Company and shall become effective upon written confirmation of the Contracting Company.

All additional costs and expenses arising from such changes shall be for the Buyer's account.

- 2.9 If the vessel has not arrived at the Delivery Port within two (2) days after the desired date of arrival as referred to in Clause 2.1 the nomination shall be deemed to have been canceled by the Buyer. If the Buyer has already given the Contracting Company notice under Clause 2.8 above, then the Buyer shall be liable to the Contracting Company for any and all expenses that the Contracting Company has incurred as a result of receiving the notice.

- 2.10 Buyer undertakes to make himself familiar with the tanker vessel size limitations and restrictions at the Point of Delivery and its approaches, such as restriction in deadweight and displacement tonnage, length overall, loaded draught, tides, keel clearance and other limitations currently in effect. Buyer shall keep himself informed of any changes in said restrictions which may occur from time to time, and shall not nominate vessels with specifications exceeding such limitations. Buyer shall adhere to Contracting Company's terminal procedures at the Point of Delivery, as in force from time to time.

- 2.11 If Buyer does not comply with nominations procedures specified above, he shall not be entitled to any demurrages.

- 2.12 Should Buyer or Buyer's vessel not conform or comply with the provisions of this Clause 2, Contracting Company may refuse to berth or load the tanker vessel and shall be under no obligation to supply the Marine Fuels which would otherwise have been deliverable to Buyer on such vessel and Contracting Company may sell or otherwise dispose of any such Marine Fuels as Contracting Company may in its absolute discretion determine. Any resulting delay or expenses shall be for Buyer's account and Buyer shall indemnify Contracting Company for all direct costs, losses or damages incurred by Contracting Company as a result thereof.

3. Quantity and quality

- 3.1 The Buyer shall state the quantity of Marine Fuels to be supplied in metric tons (Tm), or in cubic meters.

- 3.2 The Marine Fuels to be supplied hereunder shall be the Contracting Company's commercial grades of Marine Fuels offered generally to its customers for similar use at the time and place of delivery. Save to the extent that exclusion thereof is not permitted or is ineffective by operation of law, all statutory or other conditions and/or warranties, express or implied, with respect to the description or quality of the Marine Fuels or its fitness, merchantability or suitability for any purpose or otherwise are hereby excluded.

- 3.3 The amount of Marine Fuels to be supplied will be measured, determined and calculated by the Contracting Company with the aid of its supply equipment and measurement appliances according to the generally accepted methods.

- 3.4 The Buyer is absolutely and exclusively responsible for the choice and description of the grade of Marine Fuels for each delivery from the range of fuels supplied by the Contracting Company at the location in question, while the Marine Fuels to be supplied must be suitable for the vessel concerned. He shall also be solely, absolutely and exclusively liable as to the compatibility between the Marine Fuels stated and the Fuels that are on board the vessel prior to the supply. In connection therewith the Buyer hereby warrants that he has not relied upon any representations made by or on behalf of the Contracting Company but has relied exclusively on its own knowledge and judgment.

The measurements taken on board the vessel supplied shall not be binding on the Contracting Company.

- 3.5 Absent manifest error the Contracting Company's weights and measurements shall be presumed to correctly reflect the quantities delivered. However, without prejudice to such presumption, the Buyer or his accredited representative may witness and check such weights and measurements or may designate a duly certified independent expert, specialized in matters of control and supervision, to carry out the supervision at the Buyer's expense provided that the Contracting Company shall have agreed therewith in advance in writing.

The Contracting Company shall only observe the findings of the independent expert if the inspection was carried out in the presence of a duly authorized person of the Contracting Company.

- 3.6 Information regarding the typical characteristics of the Marine Fuels at any delivery location shall only be indicative of the Marine Fuels that have been available at that location from time to time and shall not form part of the specification of Marine Fuels to be delivered.

4. Measurements and samples

- 4.1 The quantities of Marine Fuels delivered shall be measured and calculated in accordance with the ASTM-IP Petroleum Measurement Tables or the methods of any other recognized standards authority at the discretion of the Contracting Company.

The Quantities will be based on shore tank figures to be determined by **Automatic Tank Gauging** measurement before and after discharging of the shore tank. The calculations therefore shall be in accordance with the latest editions of the

concerning API (American Petroleum Institute) Standards. In case of any dispute the Shore tank figures are final and binding.

- 4.2 The Contracting Company's weights and measurements shall be conclusive evidence of the quantities delivered. However, without prejudice to the conclusiveness of the Contracting Company's weights and measurements the Buyer or Buyer's accredited representative shall be at liberty to witness and check such weights and measurements. More in particular the Buyer or the Buyer's accredited representative is to witness the supply gauges of Contracting Company before and after the discharge. Furthermore, the Buyer or the Buyer's accredited representative is obliged to witness the initial and final tank measurement of the supplying barge and sign off on same. In case the Buyer or the Buyer's accredited representative fails to witness the supply gauges and/or the tank measurements as referred to in the foregoing, the Buyer foregoes its right to submit a claim with the Contracting Party for delivery shortage. No complaint or claim on the part of the Buyer with regard to the quantity of the Marine Fuels delivered shall be admissible unless made to the Contracting Company or its representative and not on the delivery receipt at the time of the delivery and confirmed in writing received by the Contracting Company within 14 days after completion of delivery. Any dispute as to the quantity of Marine Fuels delivered under a Commitment that cannot be resolved amicably between the Parties, shall, save for in instances of manifest error or fraud, be determined finally and conclusively by an expert (independent bunker surveyor) appointed jointly by the Buyer and the Contracting Company or, if they cannot agree to such an appointment, then an expert appointed by the Court in First Instance of Curaçao.
- 4.3 The Contracting Company shall take three representative samples of each grade of Marine Fuels delivered. The Buyer or Buyer's accredited representative shall be at liberty to witness the sampling. One sealed sample shall be handed to the Master of the vessel receiving the Marine Fuels such that in the event of a dispute relating to fuel quality the Buyer can send this sample to an independent fuel analysis company and the other one retained by the Contracting Company for 14 days from the date of delivery in a safe place where it will not deteriorate. At the end of the said 14 day period the remaining sample may be discarded unless the Buyer has made a complaint or claim under Clause 4.5 within the said 14 days, in which case this sample will be retained by the Contracting Company for analysis by the expert referred to in Clause 4.6.
- 4.4 Unless expressly stated to the contrary in the Commitment, the Contracting Company may blend the Marine Fuels, and/or add or inject due, and/or add additives to the Marine Fuels on board the vessel during and/or after loading. In that case, the risk and title shall remain with the Contracting Company and shall pass to Buyer upon its certification. Such blending, dying or addition or injection of additives shall not constitute a breach of the purchase agreement by the Contracting Company.
- 4.5 Any complaint or claim on the part of the Buyer with regard to the quality of the Marine Fuels delivered under a Commitment can only be made if the Buyer or his representative has witnessed the measurement and must be made in writing to the Contracting Company as soon as possible under description of full details of the claim with supporting evidence and in any event within 14 days after the date of the delivery in default of which the Buyer shall be deemed to have waived all complaints or claims in relation to the quality of the Marine Fuels so delivered.
- 4.6 Any dispute as to the quality of Marine Fuels delivered under a Commitment shall, save for in instances of manifest error or fraud, be determined finally and conclusively by analysis of a representative sample of the Marine Fuels referred to in Clause 4.3 by an expert appointed jointly by the Buyer and the Contracting Company or, if they cannot agree to such an appointment, then an expert appointed by of the Court in First Instance in Curaçao. In the case of quality disputes, the expert shall be requested to analyze one or more of the quality samples taken in accordance with clause 4.3 above and where possible, base his or her decision upon the results thereof.

5. Price

- 5.1 Except as otherwise agreed between the Contracting Company and the Buyer the price to be paid for Marine Fuels delivered hereunder are for delivery ex-wharf and shall be the net price charged by the Contracting Company as this in effect on the date of delivery as agreed on a spot sale basis.
- 5.2 The prices applicable to the commencement of delivery under a Commitment shall remain effective until the completion of delivery under that Commitment.

6. Charges

In addition to the prices payable for Marine Fuels, the Buyer shall pay the following charges at the rate applicable for the actual date of delivery:

- All charges indicated in the Price List for delivery ex-lighter including but not limited to lightering charges, overtime charges, charges for Drum deliveries and provision of additional hose in excess of that normally available and the use of all oil pollution.
- Control equipment required to effect delivery. Any expenses incurred as a result of the Master of the vessel rejecting the whole or any part of the delivery under a Commitment.

- Any mooring or unmooring charges or port dues which may be incurred by the Contracting Company in connection with any vessel to which Marine Fuels are delivered hereunder.
- Any applicable taxes (other than taxes on profits), duties, impositions, charges, freights, premiums or other costs levied upon the Contracting Company by competent authorities or for which the Contracting Company is accountable in respect of deliveries of Marine Fuels under a Commitment shall be borne by the Buyer.
- Any other applicable charges provided for in the Price List.

In the event that the Buyer is exempted from any of such charges he shall provide the relevant documentation forthcoming from the competent authorities to the Contracting Company.

7. Invoices and payment

- 7.1 The Contracting Company shall invoice the Buyer in US Dollars, while the Buyer shall pay the invoice in US Dollars. Payments shall be made to the Contracting Company's bank account at the Bank of Nova Scotia, New York, on account 582-11 (or to such other Bank or payee as the Contracting Company may from time to time specify in writing), quoting Curoil N.V.'s name and the Buyer's name and the Contracting Company's customer and invoice number.
- 7.2 Unless otherwise agreed upon the Buyer shall pay the total of the invoice at date of invoice, though in any case within fifteen (15) days thereof, and in full without any deduction, withholding, discount or set off whatsoever at the date of the invoice. All bank charges in respect of such payments shall be for the remitter's account. The sale price is immediately payable notwithstanding possible claims of the Buyer against the Contracting Company.
- 7.3 Should any dispute arise between the parties in relation to any item on an invoice under this agreement, the Buyer will make payment in full as set out above. The dispute will be resolved separately and the Contracting Company will issue a debit or credit note as appropriate to the Buyer when the dispute is resolved.
- 7.4 At the option of the Contracting Company the invoice may be submitted to the Buyer by registered or regular post, facsimile, e-mail, or telegram.
- 7.5 Any delay or failure to pay the invoice in full shall accrue a delay interest equal to the annual statutory interest rate. Non-payment, partial or late payment after thirty (30) days of the date of the invoice shall accrue a penalty interest of 1.5 % per month until the date that payment is received.
- 7.6 In the event of any invoice being partially or fully unpaid fifteen (15) days after its due date, the Contracting Company may:
- Refrain from providing new supplies pending delivery, annual accounts new sales to the Buyer as well as to third parties on its behalf.
 - Demand immediate payment and recover from the Buyer all the expenses of recovery (including judicial expenses and lawyer's fees) of any of the sums aforementioned that will be borne by the Buyer.
- 7.7 In the event of partial payment of an invoice the Contracting Company shall effectively be entitled to full collection of the sums it is owed and the debit balance shall attract interest at the rates mentioned in section 7.5 above. Acceptance of late or partial payment shall not constitute a waiver of rights to interest and shall not be considered as an agreement to provide extended credit.
- 7.8 The Buyer and the Vessel Owner Company shall be jointly and severally liable for payment of the invoice. In case the Buyer fails to pay the invoice within the timeframe as laid down in article 7.2 hereof, regardless of the reason therefore, the Contracting Company has the right to demand payment from the Vessel Owner. In case the Vessel Owner fails to pay the invoice, the Contracting Company may enforce its claim on assets of the Vessel Owner, wherever such assets may be located, including, but not limited to, the vessel bunkered and on the chartered goods accrued thereon, without prejudice to any rights the Contracting Company may exercise against the Buyer.
- 7.9 The sum owed by the Buyer for payment of the price of the Marine Fuels supplied, plus the interest and expenses accrued, may be compensated with other debts that the Contracting Company has to the Buyer, arising from other commercial transactions with the Buyer, with the exception of debts that do not allow such compensation by mandatory legal provision.
- 7.10 Delivery documents may be provided to the Buyer if requested, but payment shall not be conditional upon the Buyer's receipt of such documents.
- 7.11 The Buyer will execute any documentation required by the Contracting Company in order to allow for an electronic wire payment to be made to the bank account specified on the Contracting Company's invoice and will submit a copy of the payment instructions to the Contracting Company.

8. Security

- 8.1 If Marine Fuels are supplied or to be supplied under a Commitment on credit and if the financial condition of the Buyer becomes in the opinion of the Contracting Company impaired or unsatisfactory, the Contracting Company may demand that payment be made in cash at any time before the date due for payment whether before or after delivery of the Marine Fuels or may demand the giving of such security as it may specify.

- 8.2 Marine Fuels are supplied under a Commitment on the faith and credit of the vessel to which they are supplied as well as on the faith and credit of the Buyer.
The Contracting Company shall not be bound by any attempt by any person to restrict, limit or prohibit its lien or liens attaching to a vessel.
- 8.3 If at any time the Buyer has exceeded any credit limit as set by the Contracting Company, has failed to make any payment either in full or installment or give any security required (whether in terms of this Clause or not), the Contracting Company shall, in addition to any other remedy, be entitled to suspend or terminate deliveries under the Commitment concerned (insofar as they have not already taken place) and to assert all their rights against the vessel and Buyer. The Contracting Company may also procure that any other Commitment between the Buyer and the Contracting Company be suspended or terminated. In the event of such suspension or termination the Contracting Company shall not be liable for any damages caused by such suspension or termination.

9. Delivery

- 9.1 The Buyer shall be responsible for providing safe reception of the full quantity of Marine Fuels contracted for without risk to the Buyer, the Contracting Company, any agent, employee or supplier of the Buyer or Contracting Company or to the property of any such parties.
- 9.2 The Buyer shall ensure that the vessel to be supplied with Marine Fuels shall be free from all conditions or defects which might give rise to any hazard in connection with the delivery of Marine Fuels to such vessel. The Contracting Company reserves the right not to supply without thereby incurring any liability where it reasonably believes that the Buyer has failed to ensure the safe reception of Marine Fuels.
- 9.3 Where such option is available at the Delivery Port, deliveries thereunder shall be made ex-wharf, ex-lighter or offshore in accordance with instructions given by the Buyer or its accredited representative or the Master of the vessel if agreed before commencement of delivery by the delivering Company.
- 9.4 The Contracting Company shall not be liable for inability to deliver on public or dock holidays or on customary non-business days of the week.
- 9.5 The vessel will be bunkered as promptly as circumstances permit, but the Contracting Company shall not be liable for any loss, damage, delay or demurrage whatsoever which may be suffered by the Buyer as a result of any delay arising from congestion affecting the Contracting Company's facilities, however caused.
The Buyer shall not be entitled to demurrage or other compensation for such delay.
- 9.6 In any case where delivery is ex-lighter, the Buyer shall provide free of cost to the Contracting Company a clear and safe berth for the lighter(s) alongside the vessel's receiving lines.
- 9.7 The Contracting Company shall not be required to deliver into any of the vessel's tanks, Marine Fuels for the export of which a Government permit is required and has not been obtained by the Buyer or the Buyer's accredited representative.
- 9.8 Unless otherwise agreed the Buyer shall not be entitled to receive Marine Fuels other than into tanks usually used as the Fuel bunkers of the vessel to which the delivery is to be made.
- 9.9 The quantity of any grade of Marine Fuels to be delivered shall not exceed the quantity of that grade nominated pursuant to Clause 2.1 above by more than 10% unless prior written consent of the Contracting Company has been obtained by the Buyer or its accredited representative.
- 9.10 If delivery is by barge or road vehicle the Buyer shall notify the Contracting Company upon making the nomination. The Contracting Company undertakes to provide such delivery only within normal harbor limits. If the Buyer or its representative requests delivery by barge or road vehicle after lapse of the term of the contract such delivery shall be subject to the reasonable availability of the necessary facilities and payment by the Buyer of any additional costs.
- 9.11 When the supply is by barge, the Buyer and/or the Master of the vessel to be supplied shall previously check and ensure that the barge has free access to the side of the vessel and that the vessel has all the necessary means available to secure the barge alongside.
- 9.12 With supplies by barge, the Buyer is obliged to perform all the connections and disconnections of the supply hoses to the intake points on the vessel, and to ensure and guarantee that the hose is duly connected/fastened to the manifold on the vessel before the bunkering operation commences.
The Buyer shall also provide all the necessary services for adequate performance of the supply operation and guarantees that the vessel to be supplied has sufficient tank capacity and bears equipment allowing the supply to be carried out with the required speed. Barge supplies will not be carried out at a speed under 200 m³/h, except if previously accepted by the Contracting Company.
- 9.13 The Buyer also guarantees that the vessel holds all the necessary certificates to comply with the regulations applicable to supplies of marine Fuels at the moment, location or port of supply and shall instruct the Vessel's Master so that:
- a. He fulfils the applicable legislation, that is, most especially, the regulations of the port or place of supply.
 - b. He reports to the Contracting Company in writing and prior to the supply on the maximum pumping capacity and pressure admitted by the vessel.

He must also report on the communication procedures and emergency measures to be followed in the event of a situation of risk or hazard arising during the bunker operation.

10. Safety and environmental requirements

- 10.1 If in the course of any delivery under a Commitment there is any escape or spillage of Marine Fuels:
- a. The Buyer shall promptly take, assist and cooperate with the Contracting Company in any necessary action to remedy or mitigate the consequences of such an escape or spillage. If the Buyer fails to promptly take such action, the Contracting Company may, at its option, take such measures it considers to be necessary or desirable in connection with the removal of the spillage and the mitigation of its effects by employing its own resources or contracting with others and shall be entitled to recover the costs incurred therewith from the Buyer.
 - b. The Buyer shall supply the Contracting Company with all such documents and information concerning the same or any program for the prevention thereof as are requested by the Contracting Company or its representative deems appropriate in order to detect the cause of the escape or spillage of Marine Fuels.
 - c. The Buyer shall permit the Contracting Company or its representative to hear all persons, the Contracting Company or its representative deems appropriate in order to detect the cause of the escape or spillage of Marine Fuels.
 - d. All the expenses, damages, losses and penalties arising from the leakage/spillage/escape/overflow caused by the vessel supplied shall immediately be paid by the Buyer and/or the Vessel Owner Company according to the terms provided in the applicable legislation on the matter. The Buyer and the Vessel Owner Company (if different companies) shall be joint and severally liable in such a case.
 - e. The Buyer shall indemnify the Contracting Company against all liability, costs and expenses (including but not limited to those incurred by the Contracting Company in accordance with this clause) arising from any escape or spillage of Marine Fuels.
- 10.2 The Buyer shall ensure that its employees comply fully with all health, safety and environmental requirements, obligations and recommendations relating to the handling and use of the Marine Fuels delivered hereunder and shall impose upon all of its customers to whom the Marine Fuels are to be supplied the same obligation to comply fully with the requirements, obligations.
- 10.3 The Contracting Company shall not be responsible in any respect whatsoever for any loss, damage or injury resulting from any hazards inherent in the nature of any Marine Fuels.
- 10.4 The Buyer shall at all times comply with any obligations, requirements or recommendations contained in any law, statute, directive or regulation of any territory, state or jurisdiction in or through which the Marine Fuels may be delivered, sold, transported or used and all Government, state or local regulations at the port such as, but not limited to, those related to fire, or spillage or loss of Marine Fuels. Compliance by the Buyer with the recommendations in HSE Data shall not excuse the Buyer from its obligations under this sub-section (c).
- 10.5 The Buyer shall indemnify and keep indemnified the Contracting Company against any liability, claim or proceedings whatsoever arising out of or in connection with any failure by the Buyer to comply with its obligations under this Section 9.

11. Documents

Upon completion of the delivery of Marine Fuels to a vessel under a Commitment, the Master of the vessel or the Buyer's accredited representative shall give the Contracting Company a signed receipt therefore in a form required by the Contracting Company of which two copies shall be retained by the Master or an accredited representative of the Buyer.

12. Risk and title of owner vessel

- 12.1 The title of ownership of the Marine Fuels is transferred to the Buyer upon full payment of the purchase price to the Contracting Company.
- Except as may be otherwise agreed as regards deliveries at any particular Delivery Port, delivery of Marine Fuels shall be deemed to be complete and the risk shall pass from the Contracting Company to the Buyer as the Marine Fuels pass the flange connecting the delivery facilities provided by the Contracting Company with the receiving facilities provided by the Buyer, and in the event of delivery to the Buyer's nominated barge or coastal lighter, when the Marine Fuels pass the final permanent hose connection of the Contracting Company's delivery facility.
- 12.2 In the event of the Marine Fuels having been mixed with other Fuels aboard the vessel bunkered, the Contracting Company will be entitled to the part of the mixed Fuels that is equivalent to the quantity and quality of the Marine Fuels supplied. The Contracting Company will be entitled to request the return of the Fuels remaining on board, as foreseen in the laws in force.
- 12.3 The responsibility for connecting the delivery facilities provided by the Contracting Company to the receiving facilities provided by the Buyer shall be in accordance with the custom of the Delivery Port.

13. Termination

- 13.1 Without prejudice to any other rights and remedies, the Contracting Company may by notice to the Buyer terminate any Commitment with immediate effect if:
- a. the Buyer is in breach of any of its obligations under any Commitment and fails to remedy such breach within 30 days after written notice of the existence of such breach;
 - b. there is a Change of Control of the Buyer;
 - c. the Buyer should go into liquidation, bankruptcy or suspension of payment or should do or suffer any similar act or thing under any applicable law, such as (i) the making of a general assignment for the benefit of creditors by the Buyer; or (ii) the entering into of any arrangement or composition with creditors (other than for the purposes of a solvent reconstruction or amalgamation); or (iii) the institution by the Buyer of proceedings seeking to adjudicate the Buyer as bankrupt or insolvent, or seeking protection or relief from creditors, or seeking liquidation, winding up, or rearrangement, reorganization or adjustment of the Buyer or its debts (other than for purposes of a solvent reconstruction or amalgamation), or seeking the entry of an order for the appointment of an administrator, a receiver, trustee or other similar official for the Buyer or for all or a substantial part of the Buyer's assets; or (iv) the institution of any proceeding of the type described in (c) above against the Buyer; or
 - d. anything analogous to any of the events described in paragraph (c) happens to or in relation to the Buyer in any jurisdiction.
- 13.2 Subject to section 13.3, a Change of Control shall occur for the purposes of these terms and conditions where:
- a. a person acquires Control of the Buyer where no person previously had Control of the Buyer; or
 - b. the ultimate parent company of the Buyer ceases to have Control of the Buyer; or
 - c. a person acquires Control of the ultimate parent company of the Buyer; or
 - d. a person who is not under the Control of the ultimate parent company of the Buyer acquires Control of the Buyer.
- 13.3 For the purposes of these terms and conditions, Control means, in relation to any company, having legal and beneficial owner of at least 50 per cent of the voting rights attached to the issued share capital of that company.
- 13.4 Upon termination of any Commitment all sums owed to the Contracting Company shall become immediately due and payable increased with 15% collection charges with a minimum of USD. 1.000,00 and the actual amounts incurred with an extra-judicial settlement or legal proceedings, including the actual amounts incurred with attorneys fees.
- 13.5 Without prejudice to any other rights or remedies, the Contracting Company may suspend deliveries or vary the stipulated method of payment with immediate effect if the Buyer is in breach of any of its obligations under any Commitment.

14. Restriction on Use

- 14.1 Unless otherwise agreed upon the Buyer undertakes that the Marine Fuels supplied under a Commitment will be used solely for the bunkering requirements of the vessel to which they are delivered.
- 14.2 The Buyer warrants that it may lawfully receive, sell, use and transport the Marine Fuels and agrees to furnish the Contracting Company any evidence required to prove compliance with such laws and regulations and to file with the competent authorities documentation evidencing such compliance if required by such laws and regulations. The Contracting Company's liability in the event of breach of the foregoing warranty shall be limited to replacement of the Marine Fuels delivered by it and any costs directly associated with the removal thereof.
- 14.3 The Buyer shall indemnify the Contracting Company against any and all claims, losses, costs (including the actual costs as between Attorney or Solicitor and Client), damages, liabilities, fines, penalties and expenses attributable to actions, omissions or faults of the Buyer pertaining to usage of the Marine Fuels contrary to the applicable laws, norms and regulations.

15. Force Majeure

- 15.1 Under Force Majeure is understood among other things causes of such as:
- a. War, hostilities, terrorism, blockades, insurrections, riots, civil uprising, strike, lockout, labour or employment litigation, epidemics, release of hazardous vapors so far as such release could not have been prevented through reasonable due diligence of the affected party, fire, flooding, ice, extreme heat or cold, hazards of the sea, other eventualities caused by nature;
 - b. compliance, either voluntary or otherwise, with any request, order, directive requisition, or a necessity of the government, including prohibition to import, export or on transit, or other executive or legislative action by any government in the country of origin, or within the territory to which it or its raw materials are to be supplied;
 - c. total or partial failure of the means of supply, problems in transport that affect the Fuels that is to be supplied, or its raw materials, accident or breakage to machinery or equipment, failure in obtaining, or inability to obtain on reasonable terms, transportation, storage or manufacturing facilities, outage in the supply of energy, failure of performance by any other party with whom either party hereto is contracted for the purchase of the Marine Fuels to be supplied or other causes or circumstances that aggravate any existing difficulty at the time of the Commitment

- and that affect the possibility of supplying the Marine Fuels requested.
- 15.2. Neither party shall be liable in damages or otherwise for any failure to fulfill its respective obligations under the Commitment, other than the payment of money, if fulfillment has been delayed, hindered, interfered with, curtailed or prevented by Force Majeure as described above:
- a. any circumstance whatsoever which is not within the control of the Contracting Company or its suppliers;
 - b. any curtailment, failure or cessation of supplies of Marine Fuels or the petroleum from which such Marine Fuels are derived or of any of the Contracting Company or its Suppliers' sources of supply, (whether in fact sources of supply for the Marine Fuels to be delivered under the Commitment or not);
 - c. compliance with any order, demand or request of any international, national, port, transportation, local, or other authority or agency or of any body or person purporting to be or to act for such authority or agency;
 - d. any strike, lock-out or labor dispute (whether or not the Contracting Company or its suppliers is a party thereto or would be able to influence or procure the settlement thereof).
- 15.3. If an event of Force Majeure causes a shortage of the Contracting Company's supply of the quality and grade of Marine Fuels sold hereunder at the designated loading port the Contracting Company is unable to meet its requirements for its own use and for sales to other buyers, the Contracting Company may allocate in good faith according to its discretion, but may not give preference to its own requirements and those of its affiliates.
- 15.4. Under no circumstances shall the Contracting Company be obligated to acquire the requested Marine Fuels to replace supplies lost as a result of Force Majeure. Should the Contracting Company acquire additional Marine Fuels of the same grade and quality afterward it shall not be required to allocate these to the Buyer.
- 15.5. The Contracting Company, shall inform the Buyer without delay and will take all measures reasonably available to it to eliminate the cause of hindrance, or to palliate its effects on the Commitment, it being duly understood that it will fulfill its obligations under the Commitment as soon as possible after elimination of that cause. If the situation persists for more than thirty (30) days, the party not affected by the Force Majeure may terminate the Commitment. No curtailment, suspension or acceptance of deliveries pursuant hereto shall operate to extend the term of any Commitment or to terminate any Commitment, unless such curtailment or suspension lasts for a continuous period of thirty (30) days.
- 15.6. The Contracting Company reserves the right to increase the price charged for any Marine Fuels (whether the price was originally determined by reference to the Contracting Company's prices or separately agreed in writing) if there is any increase in the costs incurred or to be incurred by the Contracting Company in making the relevant supply due to factors which are beyond the control of the Contracting Company. These factors include without limitation any increased taxes, duties, the making of any law, order, bye-law or other regulation, the occurrence of any currency fluctuation affecting the cost of any imported items.

16. Indemnity

The Buyer will indemnify the Contracting Company against any claims, losses, costs (including costs as between Attorney or Solicitor and Client), damages, liabilities, fines, penalties and expenses incurred or sustained arising out of or in connection with the delivery of Marine Fuels under a Commitment except to the extent that such claims, losses, costs, damages, liabilities and expenses arise through the gross negligent act or gross omission of the Contracting Company.

17. Liability

- 17.1. To the extent permitted by Law, the Contracting Company shall not be liable to the Buyer for any loss or damage, including loss of profit or any other consequential loss whatsoever arising from any cause whatsoever whether in contract, tort or otherwise including the negligence of the Company, its servants, agents or sub-contractors.
- 17.2. The Contracting Company shall not have any liability to the Buyer under or in connection with any Commitment for:
- a. loss of actual or anticipated profit;
 - b. losses caused by business interruption;
 - c. loss of goodwill or reputation; or
 - d. any indirect, special or consequential cost, expense, loss or damage, even if such cost, expense, loss or damage was reasonably foreseeable or might reasonably have been contemplated by the Contracting Company or the Delivering Company and whether arising from breach of contract, tort, negligence, breach of statutory duty or otherwise.
- 17.3. The liability of the Contracting Company for any loss, damage, claim or other expenditure arising out of or in connection with the failure by the Contracting Company to perform its obligations under this Agreement shall not be greater than and shall be limited to:
- a. the removal at a reasonable location to be agreed between the Contracting Company and Buyer of, and the replacement by the Contracting Company at a reasonable location to be agreed between the Contracting Company and Buyer of, any Marine Fuel supplied which is not in accordance with this agreement or, with the Contracting

Company's agreement, the removal at a reasonable location to be agreed between the Contracting Company and Buyer of, and reimbursement for the cost of, any Marine Fuel supplied which is not in accordance with this agreement or; and

b. the reasonable repair costs of any components that are physically damaged as a direct result of using any fuel that is supplied by the Contracting Company and is not in accordance with this Agreement; and

c. those losses, damages, claims or expenses arising from the death or personal injuries to any person caused by Contracting Company's negligence. Nothing in this Agreement shall in any way limit the Buyer's obligation to mitigate any of its losses.

18. Compensation

Notwithstanding the foregoing, in the event that the Contracting Company is found to be liable to the Buyer, the total amount payable by way of compensation other than in respect of personal injury or death shall not exceed the price charged to the Buyer for Product supplied under this Agreement. It is a pre-condition to the payment of any compensation by the Contracting Company that all sums standing due to the Contracting Company from the Buyer are first paid and settled.

19. New and Revised Regulations

In the event that at any time and from time to time during the term of a Commitment any Regulations are revised or new Regulations become effective whether by law, decree or regulation or by response to the insistence or request of any governmental or public authority or any person purporting to act therefore, and the effect of such changed or new Regulations

a. is not covered by any other provision of these terms and conditions; and

b. has a material adverse economic effect upon either the Contracting Company or the Buyer, then the Contracting Company or the Buyer (as the case may be), shall have the option to request renegotiations of the prices or other pertinent terms provided for in these terms and conditions. Said option may be exercised by the relevant party at any time after such changed or new Regulation is promulgated, by written notice of desire to renegotiate, such notice to contain the new prices or terms desired by that party. If the parties do not agree upon new prices or terms within thirty (30) days after the relevant party has given such notice, the relevant party shall have the right to terminate any Commitment at the end of the said thirty (30) day period without liability. Any Marine Fuels lifted during such thirty (30) day period shall be sold and purchased at the price and on the terms applying hereunder without any adjustment in respect of the new or changed Regulations concerned.

20. Agents

If the Commitment is made by an agent acting for or on behalf of the Buyer, whether such agency is disclosed or undisclosed then such agent shall be liable (as well as the Buyer) not only as agent but also as principal for the performance of all the obligations of the Buyer.

21. Waiver

The failure of either of the parties to enforce any of the provisions of any Commitment at any time shall not be construed as a waiver of that provision unless specifically so notified by that party in writing which expressly states it is a waiver. No waiver of any breach of a Commitment shall be held to be a waiver of any other breach or a continuing waiver of any further breach of a Commitment.

22. Notices

22.1 Notices to be given under the Commitment or hereunder shall be addressed to the addresses specified from time to time by the party to whom the notice is addressed.

22.2 Where a Commitment is made by an agent acting for the Buyer then notice may be given either to the agent or to the Buyer at the option of the party giving the notice.

22.3 Notices shall be given by actual or by registered or ordinary post, telex, fax or telegram and are deemed to have been given on the day on which such communications ought to have been delivered in due course of postal, fax, telegram or email communication. If sent by post they shall be deemed to have been received in due course of post.

23. Severability

The validity of the provisions of a Commitment shall not be affected if any particular provision or provisions of a Commitment is or are declared illegal, unenforceable, or contrary to law or public policy. If as a result of a specified declaration any of the rights or obligations of a party are materially affected, then the parties shall meet and negotiate

in good faith in order to arrive at an amendment of the provision(s) of a Commitment so affected, in such manner as will most closely and accurately reflect the intents and purposes of a Commitment.

24. Succession

24.1 Any Commitment shall inure to the benefit of and be binding upon the parties and their respective successors and assigns. The Buyer shall not assign all or any part of the benefit of, or any rights or benefits under, any Commitment without the prior written consent of the Contracting Company, which consent shall not be unnecessarily or unreasonably withheld or denied.

24.2 The Contracting Company may at any time assign all or any part of the benefit of, or its rights or benefits under, any Commitment. The Contracting Company may at any time sub-contract or enter into any arrangement whereby another person is to perform any or all of its obligations under any Commitment.

25. Good Faith and Good Practice

The Customer shall, in addition to observing and complying with the terms of the Agreement, abide by generally accepted good operating practices.

26. Amendments and Variations

These terms and conditions may not be amended or modified orally and no amendment or modification shall be effective unless it is in writing.

27. Governing law and Jurisdiction

The provisions hereof shall be governed by the law of Curaçao and the parties shall submit exclusively to the Court of First Instance of Curaçao. The foregoing is notwithstanding the right of the Contracting Party to take legal action against the Buyer and/or the Vessel Owner before any other court of competent jurisdiction.

These General Conditions have been filed with the Registry of the Court of First Instance of the Netherlands Antilles in Curaçao on February 25, 2016.