

KILDAIR SERVICES ULC
MARINE BUNKER SALES
GENERAL TERMS AND CONDITIONS

The General Terms and Conditions herein apply to the Spot Sales Agreements (Spot Nominations) in the 2022 Marine Season (March 1st, 2022 to February 28st, 2023) between **KILDAIR SERVICE ULC** (hereinafter called "**KILDAIR**") and **HAMPTON BUNKERING LTD.** (hereinafter called the "**CUSTOMER**") and will stay in effect for as long as they are not rescinded or replaced by mutual agreement. This agreement is subject to approval of Kildair credit manager.

DELIVERY

FOB by truck on 24-hour notice. The **CUSTOMER** also agrees to compensate **KILDAIR** for any loss incurred should any means of transportation exceed the normal unloading time of one (1) hour per truck. Such normal unloading time allowed shall be calculated as from the time of arrival at the **CUSTOMER**'s premises up to the time at which the unloading is completed. Unless **KILDAIR** or its agents are responsible for the delay, the **CUSTOMER** agrees to pay **KILDAIR** the amount of CAD eighty-four dollars (84\$) per hour per truck and one hundred twenty-two dollars (122\$) per hour per pump truck or pro rata for any period in excess of the normal unloading time.

PAYMENT TERMS

The **CUSTOMER** agrees to pay **KILDAIR** promptly, without deduction, discount or compensation (offset), in accordance with the terms and conditions of payment set by **KILDAIR**, and the said **CUSTOMER** formally waives the right to any compensation or counterclaim. Subject to the approval of **KILDAIR**'s credit manager, and failing an agreement to the contrary, the terms of payment are net thirty (30) days as from the date of delivery. These terms may be amended by **KILDAIR** at its discretion in the event of consistent late payment by the **CUSTOMER**. The **CUSTOMER** agrees to pay interest on any overdue account at an effective annual rate of 18% compounded monthly (as revised and in effect on the date of delivery). Failure to meet the said payment terms shall entitle **KILDAIR** to suspend any future deliveries until all past deliveries have been paid; furthermore, if, in **KILDAIR**'s sole opinion, the **CUSTOMER**'s financial position is at any time compromised and if written notice by registered mail or fax is given by **KILDAIR** to the **CUSTOMER**, **KILDAIR** may suspend any future deliveries stipulated in this contract until the **CUSTOMER** provides the appropriate payment guarantees. If such guarantees are not provided within thirty (30) days after the aforesaid notice is issued, **KILDAIR** may terminate this contract.

TAXES

Any taxes on the fuel delivered including any applicable sales taxes (Excise Tax, GST, QST, TVA, etc.) shall be charged to the **CUSTOMER**.

PRICE AND ADJUSTMENT

If under a law or by-law ordered by a government or an organization having jurisdiction the sulphur rate indicated in the present contract should be lowered, the agreed price will be adjusted by reference to the price index which has served to establish the Product price.

CLAIM

KILDAIR's responsibility for the Products sold under the terms of this contract shall not exceed the purchase price of the Products with respect to which direct, secondary, or indirect damages are claimed from **KILDAIR**, resulting from failure to meet its obligations under this contract, except for gross negligence on the part of **KILDAIR**.

Any dispute as to the quantity delivered must be noted at the time of delivery on the delivery receipt or in a letter of protest latest 48 hours after delivery. Any claim as to short delivery shall be presented by the **CUSTOMER** in writing within 15 days from the date of delivery, failing which any such claim shall be deemed to be waived and absolutely barred.

CUSTOMER's rights in respect of any other claim, including but not limited to claims relating to quality and price, are conditional on written notice being given to **KILDAIR** promptly after the circumstances giving rise to the claim are discovered, but in no event later than thirty (30) days following the date of delivery. **CUSTOMER**'s submission of any claim does not relieve it of responsibility to make payment in full. Claims as

to quality must be based on tests made as soon as possible by a mutually agreed independent laboratory from official representative retained samples taken at time of delivery. Unless otherwise agreed the cost of the analysis shall be borne equally between **KILDAIR** and the **CUSTOMER**. Should any timely claim submitted by the **CUSTOMER** not be settled to the **CUSTOMER**'s satisfaction, any legal action brought by it thereon shall be time-barred unless commenced within six (6) months after delivery or other event, action, inaction or omission from which claim arises. This provision shall survive any termination of the contract arising between **KILDAIR** and the **CUSTOMER**.

TITLE AND RISK OF LOSS

Unless otherwise agreed between **KILDAIR** and **CUSTOMER**, possession and title of the Product shall pass from **KILDAIR** to **CUSTOMER** as the Product passes the flange connection of the delivery equipment's delivery line to the receiving vessel's Manifold. Responsibility for and risk of loss shall pass from **KILDAIR** to **CUSTOMER** at the time title passes to **CUSTOMER**.

INDEMNIFICATION

CUSTOMER shall hold harmless and indemnify the other against all claim(s), loss(s), damage(s) and liability(s) arising from or in consequence of any negligent, willful, and/or improper acts and/or omissions of such indemnifying party and/or its employee(s), servant(s), ship officer (s), agent(s), representative(s) and/or crew(s) in connection with delivery of marine fuel to which these General terms and Conditions apply.

TERMINATION

KILDAIR may terminate this agreement for breach or in the event that **CUSTOMER**:

- a) makes an assignment or any general arrangement for the benefit of creditors;
- b. files a petition or otherwise commences, authorizes, or acquiesces in the commencement of a proceeding or case under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it;
- c. otherwise becomes bankrupt or insolvent (however evidenced);
- d. is unable to pay its debts as they fall due;
- e. has a receiver, provisional liquidator, conservator, custodian, trustee or other similar official appointed with respect to it or substantially all of its assets;
- f. fails to provide financial information or adequate assurance if requested by **KILDAIR**;
- g. the **CUSTOMER** sells fifty percent (50%) or more of its assets to a third party without ninety days' prior notice to **KILDAIR**;
- h. fails to make payment when due.

NON-ASSIGNABILITY

The **CUSTOMER** may not in any way assign this agreement in whole or in part without the prior written agreement of **KILDAIR**.

FORCE MAJEURE

In the case of war, fire, storm, flood, sabotage, strike, lockout, accident, embargo, lack of delivery facilities, act of state or similar causes beyond the control of either party and preventing or hindering the production, sale, consumption and transportation of the product described herein or the provision of any raw or intermediate materials used to produce the said product, the deliveries stipulated in this contract may be interrupted for the length of time required to eliminate the cause or repair the damage.

SPECIFICATIONS

ISO 8217:2017 for VLSFO 0.5%, HFO HS and MGO DMA

QUALITY

Quality is based on the specifications of the product in the truck before unloading. There are no guarantees, assurance, nor representation whatsoever neither express nor implied, on the convenience, use, or condition of the fuel oil for any particular purpose or use whatsoever, other than those stipulated in the agreement hereto.

PRODUCT AVAILABILITY

In the event product meeting **CUSTOMER** required specifications is no longer available for purchase in the local energy marketplace from customary sources of supply, or if **KILDAIR** is unable to commercially blend to **CUSTOMER** required specifications, as is or becomes a necessary practice, **KILDAIR** and **CUSTOMER** agree to the following:

- a. **KILDAIR** will provide **CUSTOMER** with sixty (60) days written notice of such an occurrence. During the notice, period and working together in good faith **KILDAIR** and **CUSTOMER** will endeavor to find mutually agreeable solutions that may include but are not limited to: revisions to **CUSTOMER** required product specifications; and/or price modifications; and/or modifications to **CUSTOMER** equipment.
- b. In the event that the parties are unable to come to a mutually agreeable solution within sixty (60) days from the date that notice is provided by **KILDAIR** to **CUSTOMER**, **KILDAIR** may terminate this agreement and no further deliveries will be made to **CUSTOMER** pursuant to this agreement.

APPLICABLE LEGISLATION

The parties declare that this agreement shall be interpreted in accordance with the laws of the province of Quebec.

Any dispute concerning the interpretation, coming into force or performance of this contract itself shall be submitted to the competent court of the district of Montreal, Quebec, Canada.

KILDAIR SERVICE ULC