

# **GENERAL TERMS AND CONDITIONS FOR THE SALE AND DELIVERY OF BUNKER OIL FROM SUPPLEO BUNKERING, S. DE R.L. DE C.V.**

**August 2020**

## 1. General Terms and Conditions

- 1.1 These general terms and conditions shall apply to the sale and purchase of marine bunker oil and related products of whatever type or grade by Suppleo Bunkering, S. DE R.L. DE C.V. to any buyer as defined below.

## 2. Definitions

- 2.1 In this document the following terms shall have the following meanings:

**Affiliate** means a company, partnership, or other legal entity which controls, is controlled by, or is under the indirect ownership of fifty per cent (50%) or more of the issued share capital or any kind of voting rights in a company, partnership, or legal entity, and “controls”, “controlled” and “under common control” shall be construed accordingly.

**Bunker Confirmation** means an order confirmation in writing from the Seller to the Buyer setting forth the particular terms of each sale of Bunker Oil.

**Bunker Contract** means the Bunker Confirmation and the General Terms.

**Bunker Oil** means marine bunker oil and related products of whatever type or grade delivered by the Seller.

**Buyer** means the Buyer under each Bunker Contract, including the entity or entities named in the Bunker Confirmation, together with the Vessel, her master, owners, operators, charterers, any party benefitting from consuming the Bunker Oil, and any other party ordering the Bunker Oil, all of whom shall be jointly and severally liable as Buyer under each Bunker Contract.

**General Terms** means these terms and conditions in force as of August 2020.

**‘Sanctions Laws’** means the various export controls and economic sanctions regulations, including but not limited to, those maintained by various European Governments and the EU, Switzerland, the US Government as enforced by the US Office of Foreign Assets Control, the US Department of State, and the US Department of Commerce, and various UN sanctions as implemented into local laws.

**Seller** means Suppleo Bunkering, S. DE R.L. DE C.V. a Mexican corporation formed under the laws of Mexico, with its registered office address at Bosque de Ciruelos No. 180 PP 101, Bosques de las Lomas, 11700 Deleg. Miguel Hidalgo México D.F., México.

**Vessel** means the Vessel to which a delivery of Bunker Oil is made and/or onboard when it is consumed, which shall include any on-shore tank, train, rig, helicopter, aircraft or other unit or installation supplied by the Seller.

## 3. Bunker Transactions

- 3.1 A binding Bunker Contract for the sale of Bunker Oil shall come into existence when the Seller sends the Bunker Confirmation to the Buyer. If the Seller for whatever reason fails to issue or send an Bunker Confirmation to the Buyer these General Terms shall govern the sale nonetheless and a contract pursuant to these General Terms shall be deemed to have come into existence. The Bunker Confirmation and the General Terms together shall constitute the complete and final Bunker Contract. The Bunker Contract shall supersede any conflicting terms of other contracts which the Buyer may seek

to enforce against the Seller. In particular, any terms not directly aimed at bunker sales transactions may not be enforced against the Seller to the effect they contravene the Bunker Contract.

- 3.2 If a purchase of Bunker Oil is contracted for by a broker, an agent or a manager for a principal, whether disclosed or undisclosed, each such broker, agent or manager shall (1) be bound by and be jointly and severally liable together with the Buyer for the obligations of the Buyer under the Bunker Contract as if the broker, agent or manager was acting as a principal; and/or (2) guarantee the Buyer's performance of the Bunker Contract. Furthermore, delivery shall always take place for the account of the registered owners and for the account of the current charterers all of whom shall be jointly and severally liable for the payment of the delivery as Buyers. The Buyer, if not the owner of the Vessel, warrants that it is authorized as agent to order the Bunker Oil for delivery to the Vessel, and that the Seller has a lien in the Vessel for its claim.
- 3.3 Any notice or any stamp in the Bunker Delivery Receipt or similar cannot waive the Seller's maritime lien on the Vessel.

#### **4. Bunker Oil Grade and Quality**

- 4.1 The Buyer alone shall be responsible for and bear the risk of the grade of Bunker Oil ordered from the Seller, and the Seller shall not be under any obligation to check whether the grade of Bunker Oil is suitable for the Vessel. The Bunker Oil shall be of the same quality generally offered for sale at the time and place of delivery, for the grade of Bunker Oil ordered by the Buyer.
- 4.2 **DISCLAIMER.** Any implied warranties, including the warranties of merchantability and fitness for a particular purpose that the Seller may be deemed to have made, are expressly excluded and disclaimed.
- 4.3 The Buyer shall be responsible to keep the delivered Bunker Oil segregated from any Bunker Oil(s) onboard the Vessel or from a different delivery to the Vessel. In no event shall the Seller be responsible for the quality and compatibility of the Bunker Oil delivered if the Seller's product is mixed or comingled with any other product(s) onboard the receiving Vessel. The Buyer shall be solely responsible for any losses caused by mixing or comingling the Bunker Oil with any other oil, including any damage the Bunker Oil may cause on other products on board the receiving vessel.
- 4.4 If the Bunker Oil deviates from specifications, the Buyer shall use all reasonable endeavours to mitigate the consequences hereof and shall burn the Bunker Oil if possible even if this requires employment of purification tools or other similar measures. The Seller shall cover reasonable costs related hereto provided that the Seller is given opportunity to assist and suggest methods of handling the Bunker Oil.
- 4.5 Where the Buyer nominates Bunker Oil above the sulphur limits set out in MARPOL Annex VI, the Buyer shall be fully responsible for, and on the Buyer's request provide confirmation in writing, that the Vessel has working Abatement Technology (as defined in MARPOL Annex VI) installed in compliance with MARPOL Annex VI or must include a copy of a valid Fuel Oil Non-Availability Report (FONAR) and the relevant authorisation granted to the Vessel for that specific delivery of Bunker Oil. The Buyer shall indemnify the Seller of all cost or losses incurred as a result of Seller's breach of this Clause 4.5.

#### **5. Delivery**

- 5.1 Unless otherwise agreed, the Buyer and/or its representatives shall give the Seller and/or Seller's nominated representatives at the place of delivery a minimum of 72 hours' notice of arrival confirming the Vessel's arrival within the agreed delivery window as set out in the Bunker Confirmation. Further arrival notices shall be sent within 48 (forty-eight) hours and 24 (twenty four) hours of arrival within the agreed delivery window set out in the Bunker Confirmation at the place of delivery.

- 5.2 The Buyer or its appointed agent at the place of supply shall ensure compliance with all requests from the Seller or its sub-contractors concerning the Vessel's arrival.
- 5.3 The Seller shall at any time be entitled to cancel the Bunker Contract for the account and risk of the Buyer if the Buyer fails to provide arrival notices as set out in clause 5.1 above.
- 5.4 The Seller may at its discretion revise the price and date of supply or shall have the right to cancel the Bunker Contract if the Vessel is not available to receive Bunker Oil within the agreed delivery period or within 2 hours of the arrival time as stated in the last arrival notice, and the Buyer shall be liable for any cost and losses incurred by the Seller as a result of the delay or cancellation in accordance with this Clause 5.4, including but not limited to costs or losses arising from demurrage, detention, any loss of profit on any resale of the Bunker Oil and all other additional expenses, and the Buyer shall bear the risk and cost of the return transport, storage or selling of the Bunker Oil.
- 5.5 The Buyer shall be responsible for all connections and disconnections of the delivery hose(s) to the Vessel, and shall ensure that the Bunker Oil is received by the Vessel at the time for delivery. In the event the delivery is requested outside normal working hours or normal working days and is permitted by local port regulations to be so delivered, the Buyer shall pay all overtime and additional expenses incurred in connection therewith.
- 5.6 In case of delay or failure to deliver the Bunker Oil the Seller shall not be liable to the Buyer or any other entity for any claim, loss or damage unless such delay or failure to deliver is caused by the Seller's gross negligence.

## **6. Risk of Loss**

- 6.1 Risk in the Bunker Oil, including loss, damage, deterioration, evaporation, or any other condition or incident related thereto shall pass to the Buyer at the time the Bunker Oil passes the fixed bunker connections of the delivering Vessel. The Buyer warrants that representatives from the Vessel shall be responsible for ensuring that the Bunker Oil is received in a safe way.

## **7. Payment**

- 7.1 The Buyer shall pay for the Bunker Oil at the price agreed in the Bunker Confirmation as set forth in Seller's invoice(s) (hereinafter the "Invoice"). In addition, the Buyer shall pay the costs of the delivery irrespective of whether the delivery takes place from a terminal facility, barge, lorry, or other method of delivery whether or not such costs are included in the Bunker Confirmation. The delivery costs shall be set forth in the invoice. Unless otherwise agreed, the final volume stated in Seller's or its representative's delivery documentation is to be considered final in respect of the quantity to be invoiced. Unless otherwise agreed in the Bunker Confirmation, payment for the Bunker Oil shall be due immediately upon delivery of the Bunker Oil or in all other cases immediately upon an invoice being issued. Payment shall be deemed to have been made on the date the payment is credited to the Seller's Bank Account. All prices are excluding VAT and/or taxes. The Seller is entitled, at any time, to charge additional VAT and/or taxes.
- 7.2 If not otherwise specifically agreed between Buyer and Seller at time of ordering, the confirmed costs including possible additional extra costs are only valid for delivery performed to the Vessel on the agreed and confirmed delivery date(s). Should the date(s) of delivery for any reason change, the Seller is entitled to change the price.
- 7.3 Payment shall be made in full, free of bank charges, without discount or deduction, and without set-off for any claim or counterclaim of any nature whatsoever. Should the Buyer fail to make full and timely payment or set-off any amount; the Seller's claim will be increased by 20 (twenty) percent as a

reasonable pre-estimate of the Seller's loss, considering the additional management time incurred in dealing with late payment, the loss of opportunity to reinvest the missing funds and currency exchange fluctuations. This late payment compensation is payable in addition to the price and accrued interest.

- 7.4 Payment shall be made in United States Dollars (or any equivalent currency as the Seller may require) to the Seller by bank transfer, according to the payment instructions contained in the Seller's Invoice or any copy hereof forwarded by fax, e-mail or by any other means. The Seller shall be under no obligation to provide any accompanying documents with the Invoice such as a bunker delivery receipt or other documents.
- 7.5 If the Buyer fails to pay any Invoice at the time of maturity set forth in the Invoice, the Buyer shall pay interest at the rate stated in the Invoice. In the absence of an indication in the invoice the Seller shall be entitled to 1.5 (one and a half) percent monthly interest or the legal limit if lower. The interest rate will be charged monthly from the date of maturity, without prejudice to any other right or claim of the Seller. Interest will be added to the principal as it falls due.
- 7.6 In the event that any Invoice is not paid in due time, the Seller shall be entitled, at its sole discretion, to specify any particular Invoice or part thereof to which any subsequent payment(s) shall be applied, including, but not limited to, payment covering interest charges, legal fees and other charges.
- Moreover, the Buyer shall indemnify the Seller against any loss which is caused by adverse currency fluctuations between the Invoice currency and the value of the United States Dollar from the latest due date of the Invoice until the date on which payment is made.
- 7.7 Notwithstanding any agreement to the contrary, payment will be due immediately and the Seller shall be entitled to cancel all outstanding stems and/or withhold future deliveries in case of (i) bankruptcy, liquidation or suspension of payment or comparable situation of the Buyer, (ii) arrest of assets of the Buyer, (iii) if the Buyer fails to pay any invoice to the Seller at the time of maturity set forth in such invoice, (iv) if the Buyer fails to comply with any other obligation pursuant to the Bunker Contract, including, but not limited to, the Buyer's failure to take delivery of Bunker Oil in full or in part, or (v) in case of any other situation, which in the sole discretion of the Seller is deemed to adversely affect the Seller's assessment of the financial position of the Buyer. In any of the foregoing situations the Seller shall have the option to either (a) cancel the Bunker Contract, (b) to store the Bunker Oil in full or in part for the Buyer's account and risk, (c) to demand that the Buyer complies with its obligations pursuant to the Bunker Contract or (d) to make use of any other remedy available under the law.
- 7.8 Seller may from time to time without need for prior consent of Buyer, assign any of its rights under the Bunker Contract to any third party and the assignee shall enjoy and be entitled to exercise against Buyer any and all rights herein conferred upon Seller.
- 7.9 If at any time an amount is payable by Buyer to Seller, such amount may at the sole discretion of Seller be fully or partially paid by set-off against any amounts payable to Buyer by Seller and any Affiliate of Seller.

## **8. Title**

- 8.1 The Seller retains title to the Bunker Oil delivered to the Vessel until the Invoice has been paid in full in so far as the Seller has this right according to the law of the place of delivery or according to the law of the Vessel's flag state or according to the law at the location where the Vessel is found.

## **9. Arrest of Vessel**

- 9.1 The Bunker Oil supplied to the Vessel is sold and delivered on the credit of the Vessel, as well as on the promise of the Buyer to pay therefore, and the Buyer agrees and warrants that the Seller shall

have and may assert a maritime lien against the Vessel and may take such other action or procedure against the Vessel and any other vessel or asset beneficially owned or controlled by the Buyer, for the amount due for the Bunker Oil and the delivery thereof together with any interest accrued and other costs owed in accordance with these General terms. The Buyer if not the owner of the Vessel expressly warrants that it has full authority of the agent/traders/owners/managers/operators/charterers to pledge the Vessel in favour of the Seller and that the Buyer has given notice of the provisions of this Bunker Contract to the owners of the Vessel. The Seller shall not be bound by any attempt by any person to restrict, limit or prohibit its lien(s) attaching to a Vessel.

- 9.2 The law of the United States, including but not limited to, the General Maritime Law of the United States, along with 46 USC §31341 and 46 USC §31342 of the United States Code, shall apply with respect to the existence of a maritime lien regardless of the country in which Seller takes legal action. However, the choice of law is for the sole benefit of the Seller and the Seller may apply and benefit from any other law granting a maritime lien and/or right to arrest the Vessel in any country. Nothing in this Bunker Contract shall be construed to limit the rights or legal remedies that the Seller may enjoy against the Vessel or the Buyer in any jurisdiction.

## **10. Sampling**

- 10.1 The Seller or its representatives shall arrange for samples to be drawn at the time of delivery of the Bunker Oil. Unless otherwise agreed between the Seller and Buyer prior to entering into the Bunker Contract, the samples shall be drawn from a point and in a manner chosen by the Seller or its representatives in accordance with the customary sampling procedures at the port or place of delivery of the Bunker Oil.
- 10.2 The sampling mentioned in paragraph 10.1 shall be performed in the presence of the Seller or its representatives and the Buyer or its representatives, but the absence of the Buyer or its representatives during all or any part of the sampling process shall not prejudice the validity of the samples.
- 10.3 On completion of sampling, all samples drawn by the Seller or its representatives are to be sealed, labelled and signed by both Seller or its representatives and Buyer or its representatives and the samples numbers shall be stated on the Bunker Delivery Receipt. One sample shall be retained by the Buyer or its representatives. The remaining samples shall be retained by the Seller or its representatives.
- 10.4 In the event of a dispute concerning the quality of the Bunker Oil, the results of analysis of the Seller's or its representative's drawn samples performed by an independent laboratory mutually appointed by the Buyer and Seller shall be conclusive to determine the quality of the Bunker Oil supplied. Analysis results of the Seller's or its representative's drawn samples will be the sole binding evidence for the quality of the Bunker Oil supplied to the Vessel. The conformity of the Bunker Oil shall be determined in accordance with ISO 4259 and to the extent that the components detected are within the allowed tolerances in respect of reproducibility or repeatability as set out in ISO 4259 the Bunker Oil shall be deemed to be compliant according to ISO 8217.
- 10.5 If the Seller and the Buyer cannot agree on an independent laboratory to perform mutual analysis or if the Buyer fails to reply to the Seller's notice hereof within 7 (seven) days from receipt of such notice, the Seller can at its sole discretion decide which laboratory to perform the analysis, which shall be final and binding for all parties involved.
- 10.6 If the Buyer's complaint concerning the quality of the Bunker Oil is based on the presence of substances which are not part of the quality specifications set out in Table 1 or Table 2 of ISO 8217, the Buyer shall show that the substances in question without a reasonable doubt jeopardize the safety of the Vessel or adversely affect the performance of the machinery.



## 11. Claims

- 11.1 If not otherwise agreed, the final supplied volume is to be determined by the Seller's or its representative's measurements. Any claim regarding the quantity of the Bunker Oil delivered shall be notified verbally as well as in writing by the Buyer or the master of the Vessel to the Seller immediately during delivery of the Bunker Oil. In the event immediate verbal as well as written notice is not made, such claim shall be deemed to be waived and barred. A notification inserted in the Bunker Delivery Receipt or in a separate protest handed to the physical supplier of the Bunker Oil shall not qualify as notice under this section 11.1 and the Seller shall under no circumstances be deemed to have accepted such notice or protest handed to the physical supplier.
- 11.2 Any claim regarding the quality of the Bunker Oil delivered shall be presented in writing to the Seller as soon as an alleged problem has occurred or the Buyer is notified of any alleged problem and in any event no later than within 14 (fourteen) days from the date of delivery to the Vessel. Should the Buyer fail to make timely notification of any claim regarding the quality of the Bunker Oil the claim shall be deemed waived and barred.
- 11.3 A written claim for the purposes of Clauses 11.1 and 11.2 must provide a complete and comprehensive explanation of the circumstances and basis of the claim, including where applicable the quantities short and/or the discrepancies in quality, and include copies of all supporting documents including the vessel's logs evidencing the matters complained of.
- 11.4 To the extent that a test report produced by the Buyer evidence that the components detected are within the allowed tolerances in respect of reproducibility or repeatability as set out in ISO 4259, the Bunker Oil shall be deemed to be compliant and the Buyer cannot require further testing of the Bunker Oil.
- 11.5 In the event of any claim presented in accordance with Section 11.1 and 11.2, the Buyer shall:
- Cooperate with the Seller and make all necessary arrangements for the Seller or its representatives to investigate such claim, including but not limited to the boarding and inspection of the Vessel, the interviewing of crew, and the review and copying of Vessel documents. Failure to provide boarding and inspection and copying shall constitute a waiver and bar of any such claim.
  - Take all reasonable steps and actions to mitigate any damages, losses, costs and expenses related to any claim of alleged off-specification or defective Bunker Oil.
- 11.6 The Seller shall not be liable to pay damages if the Buyer has failed to safeguard the Seller's recourse against the physical supplier of the Bunker Oil or any other wrongdoer, or has failed to ensure the existence of the necessary evidence.
- 11.7 In the event that the Buyer has made a valid claim regarding the quality of the product, which cannot be mitigated in accordance with Clause 11.5, the Seller shall have the option to debunker the Bunker Oil and perform redelivery of on-spec product in accordance with the terms of the Bunker Contract.
- 11.8 Any claims against the Seller in respect of this contract shall be brought before the relevant court or arbitral tribunal in accordance with Section 16 within 1 (one) year of the date of delivery of the Bunker Oil, failing which such claims shall be time barred.

## 12. Liability

- 12.1 The Seller's liability for any damage whatsoever arising under this contract whether caused by negligence or not, whether based in tort or contract including claims for quality and pollution and whether falling on the Buyer or third party shall be limited the lesser of (i) US\$500,000, or (ii) the Price of the Bunker Oil giving rise to the claim on which the Seller's liability is based. For example, where a Bunker Contract provided for the supply of two grades of products and liability arises from one grade being off-specification then only the price for the off-specification products shall be taken into account in calculating the limit of the Seller's liability.

- 12.2 The Seller shall under no circumstances be held liable for any consequential losses whatsoever, whether direct or indirect and whether or not foreseeable at the time of formation, including, without limitation, costs and losses arising from delay, detention, demurrage, charter hire, crew wages, pilotage, towage, port charges, lost profits or increased cost or expenses for obtaining replacement fuel.
- 12.3 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.
- 12.4 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 such claims exceeds the Seller's liability towards the Buyer according to this Clause 12.
- 12.5 Any damage caused by contact or collision shall be dealt with by the Buyer directly with the owners of the supply barge. The Seller shall not be held liable for any such damages and the Buyer shall indemnify the Seller against any claims made against the Seller arising out of such incident.
- 12.6 The Buyer shall hold harmless and indemnify the Seller in respect of any liability, costs, losses, fines, penalties and damage arising from any acts or omissions of the Buyer or its servants in connection with the delivery of Bunker Oil or the bunkering operations, including the failure to obtain necessary permits or comply with applicable law.
- 12.7 In any case where the Contract is terminated by the Seller by reason of the Buyer's breach, the Buyer shall indemnify the Seller on first written demand for all costs, losses and damages incurred by the Seller as a result of the termination and the Buyer shall have no recourse against the Seller.

### **13. Force Majeure**

- 13.1 The Seller shall not be liable for any loss or damage of whatever nature resulting from any delay or failure in performance under the Bunker Contract (i) caused by any circumstance beyond the Seller's direct control, or (ii) if the supply or source of the Bunker Oil from any facility of production, distribution, storage, transportation or delivery contemplated or intended by the Seller's supplier is disrupted, unavailable or inadequate due to war or war-like situations, riots, strikes, congestion, governmental order or intervention, epidemics, unavailability of barges or other means of transport or stem, weather, act of God, changed market conditions, or similar situations.
- 13.2 In the event of a failure of performance as provided in Section 13.1, the Seller may, but is under no obligation, to source, procure or obtain alternative Bunker Oil, and in such case the Seller shall be entitled to receive from the Buyer payment of any additional costs of performance.
- 13.3 The Buyer shall have no right of cancellation of the Bunker Contract.

### **14. Safety and Environmental Protection**

- 14.1 It shall be the sole responsibility of the Buyer to ensure that the Vessel, its crew and those responsible for its operation and management observe and comply with all health, safety and environmental laws and regulations with regard to the receipt, handling and use of the Bunker Oil. The Buyer warrants that the Vessel is in compliance with all national and international trading and pollution regulations.
- 14.2 In the event of a spill or discharge occurring before, during or after the delivery of the Bunker Oil, the Buyer shall, in addition to any other obligations imposed by law, immediately notify the appropriate governmental authorities and take or arrange whatever action is necessary to respond and clean-up such spill or discharge, and shall pay all costs and expenses in connection therewith. If the Buyer fails



to take such prompt action, the Buyer authorizes the Seller, the supplier, and others appointed by the Seller, to take such action on behalf of the Buyer, at the Buyer's risk and expense, and the Buyer shall indemnify and hold the Seller, the supplier, and others harmless against any damages, expenses, claims, or liabilities, of whatever nature, unless such spill or discharge is proven to be solely caused by the Seller's negligence.

## **15. Collection and Indemnity**

- 15.1 The Buyer agrees to pay any and all expenses, legal fees and court costs incurred by the Seller (i) to collect and obtain payment of any amount due to the Seller, including but not limited to legal fees and court costs associated with enforcing a maritime lien, attachment, right of arrest, or other available remedy in law, equity or otherwise; and (ii) to recover any damages or losses suffered by the Seller as a result of any Breach by the Buyer of any provision of the Bunker Contract.

## **16. Compliance and Environmental Protection**

- 16.1 By accepting the Seller's offer and Bunker Confirmation, the Buyer thereby confirms and warrants that the Buyer is in full compliance with the Sanctions Laws; that the Buyer is purchasing the Bunker Oil as principal and not as agent, trustee or nominee of any person or entity with whom transactions are prohibited or restricted under the Sanctions Laws; and the Bunker Oil purchased will not be used in any manner whatsoever directly or indirectly in connection with any entities, persons, projects, contracts, transactions or payments that contravenes any Sanctions Laws. Further in relation to these Sanctions Laws, the Buyer confirms and warrants that the Vessel to be supplied is not and/or will not be:
- a) A designated vessel or flagged by a sanctioned country;
  - b) Owned or chartered by or related to any designated entity or person;
  - c) Coming from or on its way to visit countries or regions designated under the Sanctions Laws;
  - d) Involved in the transfer of goods that may be prohibited under the Sanctions Laws; or
  - e) Engaged in any conduct designed to evade any Sanctions Laws, including but not limited to turning off transponders, reporting false travel plans, deviating from reported travel plans and engaging in ship-to-ship transfers to hide the origin of goods.
- 16.2 If at any time during the performance of the Bunker Contract the Seller becomes aware or have reasonable grounds to believe that the Buyer, the Vessel and/or any related parties are in breach of the warranty as aforesaid, the Seller shall have the option to immediately cancel the Bunker Contract for the Buyer's account and risk. Under such circumstances, the Seller shall not be held liable for any loss, delays, claims or damages incurred by the Buyer, and the Buyer shall be liable to indemnify the Seller against any and all claims, including return of any payment, losses, damages, costs and fines whatsoever suffered by the Seller resulting from any breach of warranty as aforesaid and in accordance with the Bunker Contract.
- 16.3 The Buyer must inform the Seller immediately if the Buyer becomes aware of or has reasons to believe that any of the above items are fulfilled/apply. Should the Buyer breach its obligation to inform the Seller, the Buyer shall fully indemnify and keep the Seller harmless for any damage or loss caused by such breach, including consequential or liquidated damaged.
- 16.4 The Buyer acknowledges that anticorruption laws and regulations, including but not limited to the U.S. Foreign Corrupt Practices Act ("FCPA"), shall apply to the parties. The Buyer and Seller shall comply with all applicable anticorruption laws and regulations and will not, offer, promise, pay, or authorize the payment of any money or anything of value, or take any action in furtherance of such a payment,

whether by direct or indirect means, to any public official or private individual to influence the decision of such person in the performance of his duties to a government or to his company. Any breach of this clause will void the related Bunker Contract and in the sole discretion of the Seller any other contract between the parties, making any claims for payment, delivery or any other obligation of the Seller under this Agreement void. The Buyer is liable for any and all costs or losses incurred by the Seller due to such breach and/or a Bunker Contract becoming void as a consequence.

- 16.5 The Buyer must comply with all national and international trading, pollution, environmental and health and safety regulations concerning the receipt and use of Products and shall indemnify the Seller for all financial consequences, including clean-up costs and fines, of a breach of this provision.

## **17. Law and Jurisdiction**

- 17.1 The Bunker Contract shall be governed by the General maritime law of the United States of America (“United States”) and in the event that the General Maritime law of the United States are silent on a disputed issue, then the laws of the state of New York shall apply without reference to any conflict of law rules. The laws of the United States, including but not limited to, the General Maritime Law of the United States, along with 46 USC §31341 (Persons presumed to have authority to procure necessaries) and 46 USC §31342 (Establishing maritime liens) of the United States Code, shall apply with respect to the existence of a maritime lien regardless of the country in which Seller takes legal action. The choice of law is for the sole benefit of the Seller and the Seller may apply and benefit from any other law granting a maritime lien and/or right to arrest the Vessel in any country as stipulated in Section 9 hereof.
- 17.2 Any dispute arising out of or in connection with the Bunker Contract shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this Clause.
- 17.3 The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceedings are commenced.
- 17.4 In cases where the claim or any counterclaim does not exceed the sum of USD 2,000,000 (or such other sum as the parties may agree) the arbitration shall be referred to a sole arbitrator. In all other cases the reference shall be to three arbitrators. A Party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other Party requiring the other Party to appoint its own arbitrator within fourteen (14) calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other Party appoints its own arbitrator and gives notice that it has done so within the fourteen (14) days specified. If the other Party does not appoint its own arbitrator and give notice that it has done so within the fourteen (14) days specified, the Party referring a dispute to arbitration may, without the requirement of any further prior notice to the other Party, appoint its arbitrator as sole arbitrator and shall advise the other Party accordingly. The award of the sole arbitrator shall be binding on both Parties as if the arbitrator had been appointed by agreement.
- 17.5 Nothing herein shall prevent the Parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.
- 17.6 The 1980 United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- 17.7 In case of breach of contract by the Buyer, the Seller shall be entitled to take such legal action in any court of law in any state or country which the Seller may choose and which the Seller finds relevant in order to safeguard or exercise the Seller’s rights in pursuance of this present Bunker Contract. The Seller shall be entitled to assert its rights of lien or attachment or other rights, whether in law, in equity, or otherwise, in any jurisdiction where the Vessel may be found.

## 18. Section Headings

18.1 The headings of each section herein are descriptive only, and are provided for organisational purposes.

## 19. Entry into Force

19.1 These terms and conditions shall be effective as of August 1st 2020 at 00:01 hours central US time and shall apply to any contracts concluded after this time.

## 20. Signatures

Place: \_\_\_\_\_

Place: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
***For Seller***

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
***For Buyer***

Name: \_\_\_\_\_

Title: \_\_\_\_\_