



York Bunker B.V.

GENERAL TERMS AND CONDITIONS of Sale

1. Introduction

1.1. Unless the subject or context otherwise requires, the following capitalized terms shall have the meanings ascribed to them in this section 1:

- Agreement: any agreement between Seller and Buyer containing special terms and conditions in addition to or deviating from the GENERAL TERMS AND CONDITIONS;
- Marine Fuels: marine fuel oil, marine diesel oil, marine gas oil and marine lubricants;
- Barge: means of transport used for delivery of Marine Fuels, such as a barge (bunkering vessel), tank truck or otherwise at Seller's option;
- Buyer: the other party to the Agreement;
- Dispute: disputes, controversies, claims (included but not limited to claims for non-payment) and all other issues arising out of the formation, performance, interpretation, nullification, termination, invalidation or modification of the Agreement or in connection with the Agreement, the GENERAL TERMS AND CONDITIONS or further agreements resulting thereof, inclusive but not limited to settlement agreements;
- GTC: the present GENERAL TERMS AND CONDITIONS of Sale of Seller;
- MARPOL: the MARPOL 73/78 Annex VI Regulations for the prevention of Air Pollution from ships entered into force on 19 May 2005, and future amendments thereto, in as far these regulations impose mandatory obligations on Buyer/Vessel owner;
- Incoterms: ICC Incoterms® 2010;
- Seller: York Bunker B.V., a company incorporated under the laws of The Netherlands, having its business premises at the address De Brauwweg 20, 3125 AE Schiedam, Netherlands;
- Vessel: Buyer's Vessel, ship, Barge or off-shore Vessel receiving Marine Fuels either as end-user or as transfer means to a third party.

1.2. Headings of the GTC are for convenience only and do not affect the interpretation of the GTC. Words importing the singular include the plural and vice versa, and the masculine, feminine and neuter genders include all genders.

2. Applicability - GTC

2.1. Unless explicitly agreed to the contrary, any offer or agreement shall be exclusively governed by the GTC. The GTC shall be deemed incorporated into and made part of the Agreement between Seller and Buyer.

2.2. General or special terms and CONDITIONS in use by Buyer shall under no circumstance apply, unless expressly accepted in writing by Seller. Buyer acknowledges that the GTC supersede these GTC, regardless of whether Seller has rejected same upon receipt thereof.

2.3. Additional special terms and CONDITIONS or in case of conflict between special terms and CONDITIONS laid down in the Agreement between the parties, these special terms and CONDITIONS shall supersede the GTC.

3. Offer and formation of Agreement

3.1. Any offer submitted by Seller shall be without engagement and not oblige Seller to accept an order from Buyer, regardless of the form in which they are made, unless stated otherwise in the offer.

3.2. In case an offer is accompanied by documentation or data in whatever form, these shall at all times, including the intellectual property rights it may contain, remain the property of Seller, and must be returned to Seller upon first request and may not be copied, reproduced or shown to third parties.

3.3. Offers made by Seller are based upon the information and/or documentation provided by Buyer and shall be valid only for the day the offer is made, unless stipulated otherwise in the offer. Offers made by Buyer are deemed

to contain a full and correct description of the Marine Fuels to be supplied and/or work or services to be rendered.

- 3.4. The Agreement between Seller and Buyer shall be enacted and irrevocably binding upon each parties' written confirmation or signature in approval of a written Agreement or once an offer made by Buyer has been accepted by Seller in writing, containing all details and required terms and conditions.
- 3.5. Seller reserves the right, prior performance under the Agreement, to demand prepayment or security for payment of the purchase price as per Seller's requirements in order to ensure the proper and timely performance by Buyer, in case of reasonable doubts as to the creditworthiness of Buyer.
- 3.6. The Agreement or performance under the Agreement or consecutive deliveries or services shall not give rise to the formation or obligation to conclude a continuing performance or long-term agreement, nor does it imply an obligation for Seller to enter or continue to enter into any other, new or additional agreements with Buyer, unless agreed otherwise.
- 3.7. The Agreement is made between the parties and does not create any third party rights. Nothing in the Agreement or further agreements resulting thereof is intended to create a legal partnership or joint venture or legal relationship of any kind that would impose liability upon one party for the act or failure to act of the other party between the parties, or to authorize either party to act as agent for the other. Save where expressly stated in the Agreement, neither party shall have authority to make representations, act in the name or on behalf of or otherwise to bind the other.
- 3.8. In the event that the Agreement is reached with an agent of the Buyer on behalf of the principal or principals, disclosed or undisclosed, or by the Buyer on behalf of itself and/or as agent on behalf of another principal or principals, disclosed or undisclosed, such agent and/or the Buyer, as the case may be, shall be jointly and severally liable with such principal or principals, or other principal or principals, as the case may be, for the due and proper performance of the Agreement and any payment due there under.

4. Prices

- 4.1. Seller's prices are exclusive of all applicable duties, taxes, fees and other costs including, without limitation, those imposed by Governments and Authorities as in force at the time of conclusion of the Agreement, costs of transport, such as barging or other delivery charges and the price level of marine fuels/crude oil or components at the time of conclusion of the Agreement, all of which shall be included in the Seller's invoice to Buyer.
- 4.2. In the event of any subsequent increase after the conclusion of the Agreement in such duties, taxes, fees and other costs, or any subsequent further charges, the price of marine fuels/crude oil or components in question shall be added to the agreed price.
- 4.3. Once a price has been quoted, or a nomination accepted, the Seller reserves the right to terminate the Agreement and cancel supply or negotiate a new price if:
 - (a) The quantity required increases or decreases more than 10%,
 - (b) The quality of required specifications changes, or,
 - (c) The Vessel's scheduled arrival date is delayed more than three (3) days.

5. Delivery

- 5.1. Unless otherwise agreed, delivery of the Marine Fuels shall be ex marine loading terminal or, as the case may be, by Barge.
- 5.2. The place of delivery shall be deemed to be that specific place at which the Marine Fuels shall be loaded into any means of conveyance having the said destination agreed between the parties, regardless of whether the Agreement has been effected free domicile, FOB, CFR, CIF or any other similar condition as per Incoterms.
- 5.3. Risk in relation to the Marine Fuels shall pass to Buyer at the time of delivery.
- 5.4. Buyer shall make and be responsible for all connections and disconnections between the delivery hose of Seller and the intake pipe of the Buyer's Vessel, shall render all other necessary assistance and ensure a free, safe and always afloat and accessible side, sufficient tankage and equipment on the Vessel to which delivery is to be made, to receive promptly and efficiently all deliveries of Marine Fuels being supplied to the Vessel.
- 5.5. Buyer is obliged to take receipt and delivery of the Marine Fuels at the time of delivery. Failing doing so Seller is entitled to return and/or store the Marine Fuels at the risk and expense of Buyer and/or to resell the Marine Fuels to a third party, without obligation to deliver later, without prejudice to the operation of any other right or remedy Seller may have in case of refusal/non-receipt of the Marine Fuels.
- 5.6. From time to time, the Seller may issue, either in writing or otherwise, operational instructions to the Buyer, its servants, agents, crew officials or Master and may – when so required – modify, amend or cancel the same. As long as these operational instructions are issued and enforced – whether in an original, amended or modified form – the Buyer, its servants, agents, crew officials or Master shall fully comply with the same.

- 5.7. All bunkering operations shall be under the absolute control of the Master of the Seller's bunkering vessel. The Buyer's Vessel shall submit to and obey all lawful orders, directions, and instructions of the Master of the Seller's bunkering vessel, with regard to coming alongside, mooring, accepting deliveries, casting off and any other matters in connections of such bunkering operation. The Master of Seller's bunkering vessel may request Buyer's Vessel to have sufficient personnel fore and aft to pull in and to secure mooring lines when coming alongside, when moored and casting off. The Master of Seller's bunkering vessel may, in sole discretion, refuse to effect deliveries in adverse weather CONDITIONS or in any case where the Buyer's Vessel fails to comply with his orders, directions or instructions aforesaid.
- 5.8. When the quantity of Marine Fuels sold has only been approximately indicated between the parties, Seller shall, unless otherwise agreed upon, have the right – at Seller's free option – to supply and deliver 10% more or less than the quantity indicated.
- 5.9. Seller may oblige Buyer to accept part deliveries.
- 5.10. During delivery and in compliance with MARPOL two representative samples will be drawn, properly sealed, signed and labeled. One sample will be handed over to the ship's officer responsible for accepting the delivery of bunkers and/or to Buyer's representative. The other sample will be retained by Seller for a period of 3 months after delivery.
- 5.11. On completion of the delivery of Marine Fuels to a Vessel, the Master of the Vessel or the Buyer's accredited representative shall give Seller a signed receipt therefore in a form determined by Seller. Buyer expressly undertakes not to make any endorsement, complaint, comment or any other notification on this receipt when presented for signature. Such notifications will be considered null and void, i.e. without any legal effect.

6. Time and period of delivery

- 6.1. Deliveries shall be made on a "*first come – first served*" basis, subject to priority of tankers working cargo at the port and the usual priority of passengers and postal vessels and during regular business hours, unless otherwise required and permitted by port rules and regulations. All work in connection with the delivery effected outside normal working hours or on public or dock holidays or Sundays or Saturdays, shall be paid for by the Buyer at the rates then applicable for such work in addition to the price. All mooring and unmooring charges and port dues, if any, shall be for the account of Buyer.
- 6.2. The date or period of delivery, if given, shall be deemed to be estimated within which Seller will endeavor to perform delivery, unexpected circumstances excluded. Delay in delivery does not give rise to a right to terminate the Agreement and/or claim damages. Seller reserves the right to deliver the Marine Fuels partially or to postpone delivery until the entire order is ready for delivery.
- 6.3. A period of delivery shall not commence until the Agreement has been concluded and until the Buyer has fulfilled all his obligations towards Seller under the Agreement.
- 6.4. Delivery is conditional upon availability to Seller of the grade of marine fuel required by the Buyer in sufficient quantity to make the full delivery.
- 6.5. Neither Seller nor his suppliers will be liable for any demurrage or loss incurred by Buyer due, directly or indirectly, to, the prior commitment of and/or or any contingency. In the event of any delay by the Buyer in the use of delivery or barging facilities, or in vacating a berth, Buyer shall pay demurrage and detention charges at the rates specified by Seller or his suppliers.

7. Payment

- 7.1. Payment to the Seller for the delivery and of other charges payable shall be made in full in agreed currency. Payment to the Seller shall be due and made by means of telegraphic transfer, quoting the Seller's invoice number and the Buyer's name, to the bank set forth on the Seller's invoice, no later than the due date quoted on the invoice, and in such a way that the Seller receives the net invoice amount, without any deduction for bank charges and/or commissions.
- 7.2. All payments due under the Agreement shall be paid by Buyer in full without any deduction, discount, compensation, withholding, defense, counterclaim, credits or any other form of set off or delay in payment for whatever reason, such as, but not limited to, claims for non-conformity or shortage.
- 7.3. The Buyer shall notify (or instruct its bank to notify) the Seller as soon as payment has been made, quoting the date on which payment was made, the amount, the name of the bank effecting the payment and details of the delivery and invoice(s) to which the payment relates. Such notification shall be made to the Seller at info@yorkbunker.com
- 7.4. Seller's invoice (which may be sent solely by e-mail in pdf form) shall be based on the quantity delivered and of other charges if incurred and payment made pursuant to this section, shall be subject to such subsequent adjustment, as may be necessary, on receipt by the Seller of further details or as may be agreed by the parties to be necessary after detailed checking of the invoice.

- 7.5. If the applicable credit period expired on a day when the Seller's bank is closed for business, the Buyer shall arrange for the payment in question to be made as aforesaid in such shorter period as will enable the payment to have been made by the last day within the applicable credit period when the Seller's bank was open for business.
- 7.6. If payment or security for payment is to be made by L/C, payment shall be secured by irrevocable L/C at sight, opened by a first class bank, acceptable to Seller, fully workable and payable against invoice, the customary shipping and/or forwarding documents and weight note. All costs and expenses incidental of the opening of the L/C shall be borne and paid by Buyer.
- 7.7. Buyer remains liable for payment of the full invoice value in case the L/C required would for whatever reason not lead to payment. In such case payment is to be effected by Buyer on Seller's first demand into a bank account designated by Seller. Payment shall be considered to have been made only when the full amount to be paid under the Agreement has actually been received by Seller.
- 7.8. Refusal or non-timely compliance of Buyer to arrange necessary L/C amendments as requested by Seller to secure the L/C being fully workable will be considered as breach of Agreement. Seller explicitly reserves the right to terminate the Agreement failing full and timely compliance of the payment terms of the Agreement as per the termination clause.
- 7.9. Without limitation to the foregoing or to Seller's other rights under the Agreement or otherwise, any payment not made on the due date shall bear interest at the rate of one and one half per cent (1.5 %) per month (calculated on a 30 days per month basis) such interest to run from the due date until the date payment received by Seller's bank. Buyers shall pay such interest to Seller within five days following receipt of Seller's invoice for such interest. In addition to the foregoing, any payment not made within the due date will attract a late payment fee of US\$ 500,00 (US Dollar Five Hundred).
- 7.10. Any delay in payment shall entitle Seller to declare all other outstanding invoices under the Agreement or other (previous or later) agreements with Buyer due and immediately payable, regardless of whether the due date for payment of these invoices has expired.
- 7.11. Payments made by Buyer shall at all times be credited in the following order: (1) costs, (2) interest, (3) late payment fee, and (4) invoices in their order of age, also if not yet due
- 7.12. In the event Seller institutes legal proceedings for the collection of payments not made on the due date, all expenses incurred by Seller in connection with such proceedings including, without limitation, attorneys' fees and court costs, shall be for the account of Buyer.
- 7.13. In case recovery measurements are taken in the event of late or non-payment or any other event of default under the Agreement, all costs connected therewith, inclusive of but not limited to judicial or extra-judicial/arbitration costs and lawyer fees, shall be for the account of Buyer. Balances remaining unpaid at due date are subject to a interest charge of 1.5% per month or the highest rate permitted by law, whichever is lower, until the date of full payment.
- 7.14. In the event of non payment (in part or whole) or other breach of the Agreement by Buyer Seller is entitled to commence any legal action deemed fit by Seller, inclusive of but not limited to conservatory measures such as arresting or taking redelivery of the Marine Fuels without prior judicial intervention and/or to attach/arrest the Vessel and/or any sister ship and/or any other assets of Buyer wherever situated in the world without prior notice and/or to attach/arrest the vessel delivered with Marine Fuels regardless owned by a third party. All other rights of Seller are hereby expressly reserved. Seller have a right of lien on the Marine Fuels, the Vessel and all (other) assets of Buyer as well as (the highest possible) priority right on the proceeds of such asset(s) in the event of a judicial sale.
- 7.15. Seller explicitly reserves the right to terminate the Agreement failing full and timely compliance of the payment terms of the Agreement as per the termination clause.

8. Title/Ownership/Retention/Pledge

- 8.1. Marine Fuels delivered by Seller remain Seller's property until Seller has received full payment of all monies due under the Agreement and previous and/or other/later agreements with Buyer.
- 8.2. If Marine Fuels delivered by Seller to Buyer are sold by Buyer to third parties and over which a right of ownership on Seller's part still exists, Buyer shall be obliged to preserve, in Seller's name, his personal right of ownership to such Marine Fuels relating to this transactions, and beforehand to transfer to Seller all rights as against those third parties, including the right of payment.
- 8.3. Buyer is not allowed to compensate any claim on third parties arising out of such resale with claims of such third parties on the Buyer. Buyer is obliged to resell only under the condition of noncompensation. Any compensation that has taken place notwithstanding the above CONDITIONS will not be valid towards Seller.
- 8.4. If Marine Fuels are mixed up with or – as the case may be – into other marine fuels, Buyer shall in that event previously transfer to Seller his rights of ownership – as the case may be – his joint rights of ownership to those of the Marine Fuels as security for all debts due from him, respecting the Marine Fuels supplied and delivered by Seller.

- 8.5. Buyer shall not be entitled to offer Marine Fuels – the ownership whereof is still held by Seller – as a pledge or to transfer the same by way of security.
- 8.6. Seller shall be entitled to exercise a right of retention upon monies, items and/or documents that in its possession in connection with the Agreement with Buyer, in so far as Buyer is indebted to Seller, or may so become, by virtue of the agreement(s) previously entered into with Buyer or that may be entered into in the future.
- 8.7. Buyer shall furthermore grant Seller a pledge over the Marine Fuels delivered or any other marine fuels present in the Vessel, including any mixtures of the Marine Fuels delivered and other marine fuels. Such pledge will be deemed to have been given for any and all claims of whatever origin or nature Seller may have against Buyer.

9. Complaints procedure

- 9.1. Buyer shall examine the Marine Fuels immediately, i.e. within 24 hours, upon completion of delivery and shall notify Seller in writing of any lack of conformity of the Marine Fuels within eight (8) days from completion of delivery.
- 9.2. Notifications of lack of conformity must indicate precisely the defect and the Marine Fuels to which it refers and be certified and accompanied by (a) a representative sample of the said Marine Fuels drawn by an independent expert and must weigh at least 5000 grams and (b) a survey report drawn up by same independent expert.
- 9.3. In the event of a Dispute in relation with the quality of the Marine Fuels, the samples taken at the time of delivery will be conclusive and final evidence of the quality of the Marine Fuels as delivered. No samples subsequently taken will be allowed as (additional) evidence.
- 9.4. If information concerning the grade, content and/or quality of the Marine Fuels quoted by Seller in offers, price lists, the Agreement or otherwise, the correctness of that information can only be guaranteed if it has been declared directly between Seller and Buyer in writing. Unless otherwise agreed in writing, samples and/or analysis results supplied by Seller shall merely indicate the nature and quality of the Marine Fuels by rough approximation.
- 9.5. Seller shall carry out measurements and weighings to the best of Seller's knowledge and ability. Buyer shall have the right to attend Seller's measurements and weighings, provided that Buyer always notifies Seller of his wish to that effect in due time. Seller's meter readings or other soundings carried out by Seller's personnel of the Barge as to the quantities of Marine Fuels delivered are conclusive and binding. Buyer has the right to ask the Barge personnel to sound the Barge in his presence before and after discharging. If Buyer has not exercised this right, he shall not be entitled to claim against quantities delivered and has no judicial rights whatsoever in these matters. In the event these soundings lead to a difference between the Barge meter readings and the results of these soundings the parties shall order a mutually agreed independent surveyor to clear the dispute. If the Barge is not equipped with meters, Buyer shall require the personnel to sound the Barge in his presence before and after discharging, failing which the soundings carried out by the Barge personnel without Buyer's presence shall be conclusive and binding. The party found to be in fault will have to pay all costs arising from the survey. Buyer is also allowed, at any time convenient, to order an independent survey of the Marine Fuels, whose findings shall not form conclusive evidence nor shall be binding upon Seller.
- 9.6. Failing compliance with the complaint procedure or if Marine Fuels are resold or used, Buyer's right to claim for lack of conformity shall be forfeited and shall have no remedy for lack of conformity of the Marine Fuels and any and all claims for or in relation to lack of conformity shall be deemed null and void.
- 9.7. Claims for lack of conformity do not entitle Buyer to fully or partially reject the Marine Fuels, terminate the Agreement, delay payment or performance of any other obligation and/or make any deduction or set off. Any complaints shall not release Buyer from any of its payment or other obligations.

10. Independent survey

- 10.1. Seller is entitled to appoint a surveyor for (re) inspection as regards weight determination and nonconformity, if any. Buyer must keep the Marine Fuels available for inspection by a surveyor to be appointed by Seller. Buyer may not dispose or make use of the Marine Fuels until Seller's inspection.
- 10.2. Seller must appoint a surveyor for (re) inspection within one (1) month upon receipt of the notification of non-conformity and sample/survey report as meant in the above clauses. Neither of the survey reports shall form conclusive evidence. In case of conflicting survey reports, the parties shall mutually appoint an independent and internationally recognized surveyor.
- 10.3. If the parties are not able to agree on such mutually appointed independent surveyor, a surveyor shall be appointed under the Rules for Expertise of the ICC, in force as from 1 January 2003.
- 10.4. Buyer shall have no remedy for shortage claims or lack of conformity if he fails to comply with any of the foregoing.

11. Limited warranty

- 11.1. The Seller gives no guarantee or warranty for the merchantability, fitness or suitability of the Marine Fuels delivered for any particular purposes or otherwise which extends beyond the description of Marine Fuels ordered.

- 11.2. If Marine Fuels supplied by Seller do not correspond to the grade, content and/or quality of the Buyer's requirements and are not in accordance with the Agreement and/or sample or analysis supplied by Seller (the correctness of which has been guaranteed directly by Seller to the Buyer in writing) or if supply and delivery do not in any other way conform with what has been agreed upon, and provided Buyer has fully complied with the complaints procedure in the GTC, Seller shall – at Seller's option and sole discretion:
- (a) replace the Marine Fuels with conforming Marine Fuels, without additional expenses for Buyer,
 - (b) reimburse to Buyer the price paid for the non-conforming Marine Fuels and thereby terminate the Agreement as regards those Marine Fuels, or
 - (c) take redelivery of the Marine Fuels and/or reimburse to Buyer the fair depreciation of the nonconforming Marine Fuels determined as per the complaints procedure in the GTC and thereby terminate the Agreement as regards those Marine Fuels.
- 11.3. There are no other warranties or obligations in case of non-conform Marine Fuels. Except for the limited warranty expressly provided herein, Seller makes no representation or warranty of any kind, expressed or implied with respect to Marine Fuels, parts or services provided by Seller including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.
- 11.4. Any other right or claim Buyer may have in relation to non-conforming Marine Fuels is excluded.

12. Time bar

- 12.1. Any claim, included any dispute, controversy, or any other issue, under this Agreement made by Buyer shall be considered time barred, forfeited and expired unless such claim has been filed and arbitration/legal proceedings have been instituted in relation to the issue concerned before arbitral or judicial tribunals not later than three (3) months from the date of completion of delivery of the Marine Fuels or in case of non-delivery for whatever cause from the date (the last day of the agreed period of delivery) when the Products should have been delivered.
- 12.2. After expiry of that term, Buyer's claims are considered time barred, forfeited and expired and no action can be taken by Buyer either before judicial or arbitral tribunals, or in defense to any action taken by Seller against Buyer.

13. Limitation of liability

- 13.1. Without prejudice to the operation of the above warranty clause, Seller's liability for damages as a consequence of late or non-delivery or whatever cause other than non-conformity of Marine Fuels, shall be limited to proven loss, not exceeding the purchase price of the Marine Fuels.
- 13.2. Under no circumstances shall Seller be liable to Buyer for any special, (in)direct, incidental, exemplary or consequential damages of any kind or nature whatsoever, including (but not limited to) reimbursement for or damages on account of (i) loss of present or prospective profits, (ii) cost of substitute Marine Fuels, (iii) cost of capital, or (iv) claims of any third party, regardless of whether Buyer shall have been apprised of the possibility thereof.

14. Indemnity

- 14.1. Buyer shall be liable towards Seller and herewith undertakes to indemnify Seller for any and all damages and/or costs (to be) suffered and/or (to be) made by Seller due to any breach of Buyer under the Agreement including but not limited to storage costs, loss of profit, dead freight, costs of reselling, cancellation/penalty fee to be paid to Seller's supplier, attorney fees and other legal and court expenses and legal interest.
- 14.2. Buyer undertakes to hold Seller harmless in case a third party institutes a claim against Seller resulting from a breach of Agreement committed by Buyer in connection with the Agreement.
- 14.3. Buyer shall indemnify the Seller in respect of any damage or loss which may be suffered by Seller or any servant, agent, crew member or on-shore personnel of the Seller as result of or concerning the connection and disconnection referred to and other matters concerning the delivery and taking on of marine fuel from the beginning of any such operation until the same shall have been separated from Sellers' bunker vessel.
- 14.4. More particularly, Buyer is obliged to pay or indemnify the Seller in respect of or against all claims or expenses incurred or resulting directly or indirectly on:
- (a) Failure by Buyer to take delivery of the full quantity ordered or available, whichever is the lesser, including, but without limit, any loss sustained in selling premium grades of marine fuel in a down graded form, overtime and any additional expenses incurred as a result of failure by Buyer, its servants, crew officers, Master, vessels or local agent to provide Seller with notice (judged by Seller to be sufficient) of amendments of delivery time or quantity (provided always that Seller reserves the right to decline to accept such amendments).

- (b) Any act or admissions, whether negligent or otherwise, whatsoever arising, of the Buyer, it's servants, agents, crew officers or Master in connection with delivery of Marine Fuels, coming alongside, mooring, casting off and otherwise in connection with the bunkering operation.
- (c) Demurrage at the Seller's rates applicable at the time of delivery (or as varied thereafter) together with all other expenses incurred in connection with delays caused by Buyer to Seller or its facilities in effecting deliveries. Copies of Seller's demurrage rates are available on request.

15. Force majeure

- 15.1. Seller shall not be liable to Buyer or any third party or deemed to be in breach of the Agreement by reason of any delay in performing, or any failure to perform, or any circumstance making the performance under the Agreement more onerous for Seller, any of Seller's obligations in relations to the Marine Fuels, if the delay or failure or the circumstance making the performance onerous is due to any cause beyond Seller's reasonable control.
- 15.2. Causes beyond Seller's control shall include, but shall not be limited to restrictions, regulations, prohibitions or measures of any kind by any governmental or local authority, such as but not limited to, war, riots, fire, explosion, perils of navigation, obstruction or delay in the supply of basic and auxiliary materials, or of producing, manufacturing, blending, selling, transportation, or delivery facilities and equipment, or of fuel and electricity, blockades, embargoes, labor conflicts, strike, shortage of labor, fire, flood, storm, snow, frost, and other catastrophes of nature, accidents, weather conditions (whether or not unusual), local congestion affecting Seller's delivery facilities, machine failure and other operational failure, disturbance of road-, inland-waterways and sea traffic, e.g. floating) ice, prohibition of manufacturing and supply, non-observance or obligations and/or a breach of contract by (sub)suppliers, non-availability and/or malfunctioning of bunkering Barges, prohibition of export or import, failure to obtain import or export licenses, unforeseen economic CONDITIONS, market disturbing, quarantine, epidemics, as well as circumstances which aggravated any disturbance, and further all other circumstances considered as force majeure in the trade, or in the event of shortages, delays or interruption of the supply of crude oil and petroleum or work in the establishment of Seller or of any supplier, subcontractor or carrier or, preventing or hindering performance of Seller's obligations under the Agreement; or Buyer's failure to give any delivery instructions within a reasonable time before the Agreement delivery date or Buyer's delay in calling forward or collecting the Marine Fuels or Buyer's failure without valid reason to accept delivery of the Marine Fuels.
- 15.3. In case of force majeure, the execution of the Agreement shall be suspended for the duration of said circumstances, without prejudice to the operation of Seller's right to terminate the Agreement in case of an impediment beyond either Seller's or Buyer's control and to exercise its rights under the termination clause of the Agreement. Immediately after the start of the force majeure event, the affected party shall notify the other party in writing of the force majeure event, the date on which the force majeure event started and the effect of the force majeure event on its ability to perform its obligations under the Agreement.
- 15.4. The affected party shall make all reasonable efforts to mitigate the effects of the force majeure event on the performance of its obligation under the Agreement. As soon as possible after the end of the force majeure event, the affected party shall notify the other party that the force majeure event has ended and resume performance of its obligations under the Agreement.

16. Environmental Protection

- 16.1. If a spill occurs while Marine Fuels are delivered, Buyer shall promptly take such action as is reasonably necessary to remove the spilled bunkers and mitigate the effects of such spill. Seller is hereby authorised at its option on notice to and at the expense of Buyer to take such measures and incur such expenses (whether by employing its own resources or by contracting with others) as are reasonably necessary in the judgment of Seller to remove the spilled bunkers and mitigate the effects of such spill. Buyer shall co-operate and render such assistance as is required by Seller in the course of such action.
- 16.2. All expenses, claims, losses, damages, liability and penalties arising from spills shall be borne by the party that caused the spill by a negligent act or omission. If both parties have acted negligently, all expenses, claims, losses, damages, liability and penalties, shall be divided between the parties in accordance with the respective degree of negligence.
- 16.3. The burden of proof to show Seller's negligence shall be on the Buyer. Buyer shall give Seller all documents and other information concerning any spill or any program for the prevention thereof, that are required by Seller, or are required by law or regulation applicable at the time and place of delivery.

17. Intellectual Property, Industrial Rights and Trademarks

- 17.1. Buyer shall acquire no right, title or interest in any intellectual property right and/or trademark owned by Seller and/or the manufacturer of the Marine Fuels sold or leased to Buyer under the Agreement.

- 17.2. In all cases, all intellectual property rights in and to, and all technology relating to, the Marine Fuels sold, delivered and/or leased to Buyer, their design and all improvements thereto or thereof, whether or not such Marine Fuels, design or improvement is made pursuant to Buyer's specifications or at Buyer's expense, shall be and remain the exclusive property of Seller and/or the manufacturer of the Marine Fuels.
- 17.3. Buyer may not change, adulterate, obscure, remove or deface trademarks, trade names or labels appearing on Marine Fuels without prior approval of Seller.
- 17.4. Buyer is obliged to inform Seller without delay in the event of any infringement of the intellectual and/or industrial property by a third party.

18. Confidentiality

- 18.1. Each party shall keep strictly, private and confidential all information and documentation relating to the Agreement, which knowledge has been acquired from the results of discussions, negotiations and all other communications prior to entering in to, during the duration of the Agreement or afterwards. Under no circumstance shall such information or documentation be made available to any person or persons not a party to the Agreement, without the explicit prior consent of the other party.
- 18.2. The parties will neither disclose, in whole or in part, any information or documentation regarding the Agreement, business affairs and customers of each other, nor shall any party make commercial use of the same or any part thereof without the prior written consent of the disclosing party.
- 18.3. This provision shall survive any termination of the Agreement and continue to apply to Buyer.

19. Termination

Seller shall have the option to terminate the Agreement in full or in part, immediately or at a later stage, at Seller's option and convenience, or to delay/withhold delivery of the Marine Fuels and/or documents required under the Agreement and/or to store or procure the storage of the Marine Fuels in whole or in part for the account and risk of Buyer and to charge Buyer the expenses thereby incurred, and/or to hold Buyer fully to the Agreement, or to resell the Marine Fuels to others or to take any other measures Seller deems appropriate, without prejudice to its rights to indemnification, without liability on Seller's side, and regardless of whether Seller is in breach itself, in any (but not limited to) one of the following cases: when Buyer fails to comply with any of its obligations under the Agreement or when, in case of force majeure, Seller is of the opinion that the nature or the duration of the circumstances is such, that the execution of the Agreement can no longer be demanded.

20. Entire agreement/Amendments

- 20.1. The Agreement embodies the sole and entire agreement and understandings between the parties and supersedes any previous agreement, if any, between the parties. All prior negotiations, agreements, covenants, promises, CONDITIONS and/or understandings, oral or written, except as herein set forth, are of no legal effect.
- 20.2. The GTC may be revised from time to time, in which case the last amended version shall apply. The (latest edition of the) GTC are available at the website www.yorkbunker.com on which site Buyer may notify amendments which shall be deemed to form part of the GTC once same have been published on said website.
- 20.3. Any or subsequent modifications of the Agreement, as mutually to be agreed upon, must be made in writing and signed by authorized signatories of the parties. Oral modifications shall be null and void.

21. No Implied Waivers

Without prejudice to the operation of the time-bar and other provisions in the Agreement containing time limits, the failure of either party to insist upon strict performance of the terms, CONDITIONS and provisions of the Agreement shall not be construed or operate as a waiver of future compliance or a waiver of any of the provisions hereof. Receipt by either party of any payments due under the Agreement with knowledge of breach shall not be a waiver thereof. No waiver by either party of any provision hereof shall be deemed to have been made unless expressed in writing and signed by such party.

22. Severability of provisions

The parties intend that the provisions of this Agreement be enforced to the fullest extent permissible. If any provision in the Agreement shall be held to be void or unenforceable, in whole or part, under any enactment or rule of law, such provision or part thereof shall to that extent be deemed not to form part of the Agreement, but all other provisions shall remain in full force and effect. To that end, an arbitral tribunal or court of competent jurisdiction shall be entitled to reformulate any provision hereof deemed by it to be ineffective or

unenforceable, so as to render the provision hereof enforceable to the fullest extent permitted by applicable law.

23. Assignment

Neither party may assign any rights under the Agreement to others without the prior written consent of the other party. Any such assignment without the prior consent of the other shall be null and void. The Agreement is made between the parties and does not create any third party rights whether arising under rule of law or business practice.

24. Notices

For the purpose of service of notices under the Agreement and service of official/legal documents, parties have expressly and exclusively chosen domicile at the places and addresses as mentioned in the Agreement. Notices and/or service of official documents under the Agreement shall be made in writing, letter with acknowledgement of receipt, or by international courier, only.

25. Representation

- 25.1. Nothing in the Agreement is intended to create a legal partnership or joint venture or legal relationship of any kind that would impose liability upon one party for the act of failure to act of the other party between the parties, or to authorize either party to act as agent for the other. Save where expressly stated in the Agreement, neither party shall have authority to make representations, act in the name or on behalf of or otherwise to bind the other.
- 25.2. Buyer represents and warrants that, it is has all requisite authority (including necessary licenses and permits) to conduct its business as presently conducted or proposed to be conducted under the Agreement, has the power and authority to execute and perform all of its obligations under the Agreement, no governmental approval by or with any governmental entity is required for the valid execution and performance of the Agreement and does not violate any applicable law or governmental approval.

26. Governing law and Jurisdiction

- 26.1. Any legal issue relating to the Agreement and each and every provision incorporated in the Agreement or further agreements resulting of the Agreement shall be governed by Italian law, with the exclusion of any other laws or other sort of regulations, either national or international.
- 26.2. Disputes shall be referred - at Seller's option - to the court of Venice or to the court of Ravenna.
- 26.3. Seller only shall have – at his sole discretion – the option to submit the Dispute to the jurisdiction of the courts in any country either to (a) pursue the merits of a claim against the Buyer or the Owner or any other joint and several debtor before such courts or (b) as an interim measure of protection in order to securing payment of any amount due from the Buyer. In such circumstances, the proceedings shall be governed by the law of such jurisdiction.

27. Authentic text

The English text of the GTC is the only authentic text. In case the text of the GTC is translated in another language for Buyer's convenience, the English version will prevail over the translated version.