

**MIDDLE EAST TANKERS & FREIGHTERS BUNKER SERVICES SAL (OFFSHORE)**  
**GENERAL TERMS AND CONDITIONS OF SALE FOR MARINE FUEL**

**(1) Definitions**

In the Agreement (hereinafter defined) the following terms shall have the following meanings;

- (a) "the Agreement" means the Special Terms and General Terms;
- (b) "barrel" or "bbl" means 42 US standard gallons at 60 degrees Fahrenheit;
- (c) "Buyer" means a party obligated to buy Marine Fuels under this Agreement;
- (d) "delivery date" means the date on which the Marine Fuel is to be delivered to the Vessel by the Seller.
- (e) "gallon" means a US standard gallon of 231 cubic inches at 60 degrees Fahrenheit;
- (f) "General Terms" means these General Terms and Conditions of the sale of Marine Fuel;
- (g) "Marine Fuel" means the type(s), quantity(ies) and commercial grades(s) of bunker fuel oil, intermediate fuel oil("IFO"), marine diesel oil ("MDO"), marine gas oil ("MGO") and/or other materials or petroleum products specified in the Special Terms which Seller has agreed to sell to buyer;
- (h) "Metric ton" or " MT" means a total of 2204.6234 pounds avoirdupois;
- (i) "Seller" means Middle East Tankers and Freighters Bunker Services SAL (Offshore).
- (j) "Special Terms" means any form of agreement including without limitation, a letter, fax, electronic message or telex which to any extent incorporates by reference or is subject to the General Terms;
- (k) "Supplier" means the person or entity from whom the Seller procures Marine Fuel for resale to the buyer;
- (l) "Supply Port" means the port at which the Marine Fuel purchased by the buyer is delivered to the vessel; and
- (m) "Vessel" means the marine vessel or vessels to which the Marine Fuel purchased by the Buyer is to be delivered.

## **(2) Measurements and Tests**

The quantity of Marine Fuel delivered shall be measured by the Seller or its Supplier. Such quantity shall be determined by shore tank terminal gauges or, if such is not available, by barge calibrated meter, or if such is not available, by barge volume measurement figures.

The Buyer may be present or represented by a properly accredited agent at all measurements. Absent manifest error the Seller's determination of quantity shall be conclusive unless the Buyer (i) is present or represented at the measurement and (ii) notes at the time of delivery any alleged short delivery on the delivery receipt retained by the Seller or its Supplier.

Three samples of the Marine Fuel shall be taken at the time of delivery from the terminal shore tank, load pipeline or delivery barge as appropriate, and immediately sealed. The samples shall be taken by line sampling devices, where available. One sealed sample shall be handed to the Vessel's Master, Chief Engineer or other officer, the second retained by the supplying barge, and the third retained by the Seller or its Supplier. Tests to determine quality shall be made only from such samples and shall be made in accordance with standard test methods specified in the official publications of either the API, ASTM or IP, whichever is in use at the Supply Port. Other appropriate test methods may be used where no methods are prescribed in API, ASTM or IP publications on the date of the agreement.

## **(3) Price**

The price of Marine Fuel sold and delivered hereunder shall be the price set forth in the special terms. Unless otherwise agreed, all prices are for delivery ex-tank at the Supply Port and are exclusive of all delivery costs and all taxes, duties, fees or other assessments imposed or levied by any government authority (whether at the supply port or otherwise) or instrumentality thereof.

## **(4) Barging**

If the vessel requires delivery by barge, the Seller shall furnish this service within normal harbour limits at the Supply Port when and where Seller or its Supplier has the necessary barging facilities available to effect delivery. Buyer shall pay all barging charges at the rate at the rates established by the Seller from time to time plus transportation taxes, if any. If steam is required to effect delivery, the Vessel shall provide such steam free of charge. If tug pumping is required, then the Buyer shall pay all tug pumping charges.

## (5) Payment terms

Unless otherwise provided in the Special terms, all sales shall be on a cash in advance or irrevocable letter of credit basis. All letters of credit procured by the Buyer in favour of Seller shall be in form and substance acceptable to the Seller and issued only by a bank acceptable to the Seller.

Payment to the Seller for all sales of Marine Fuels and for all charges related thereto (including, without limitation, delivery and any additional charges), if any, shall be made in full, without any right of set off, discount or deduction. Payment shall be made in US dollars by means of telegraphic transfer to the bank identified in the Special Terms or in the Seller's invoice, as the case may be, for deposit to the Seller's account as specified therein. Such transfer shall quote Seller's invoice or order number, Buyer's name, the vessel supplied and Seller's account number to which funds shall be deposited.

If the Seller has extended credit to the Buyer, and if the applicable credit period expires on a Saturday, Sunday or any other day when the Seller's bank is closed for business, then the Buyer shall arrange for the payment to have been made by the last day within the applicable credit period when the Seller's bank was open for business.

## (6) Deliveries

Deliveries of Marine Fuel shall be made during normal working hours on normal working days at the Supply Port. If the Buyer requires delivery or causes delivery to be made at any time other than during such periods, then the Buyer shall pay to the Seller any additional expenses or costs incurred by the Seller or its Supplier as a result of such delay.

If a delivery permit is required from any government authority or any instrumentality thereof, or from any public or private port authority, for any delivery of Marine Fuel hereunder, then the Buyer shall be responsible for obtaining same. No deliveries shall be made until such time as the Buyer has obtained all required delivery permits.

The Buyer shall give the Seller written notice at least forty eight (48) hours prior to the delivery date of the estimated time(s) on such date when the Vessel will be ready to receive the Marine Fuel purchased by the Buyer. In such notice the Buyer shall, if necessary, advise the Seller of any special condition, peculiarity, deficiency or defect of or with respect to the Vessel or its equipment which might delay, hinder or otherwise affect the mooring, unmooring or bunkering of the Vessel. If the Buyer fails to provide this notice and the vessel for whatever reason is unable or refuses to accept delivery on the delivery date, or if the Buyer provides such notice but requests an extension to the delivery date of more than twenty-four (24) hours after twelve (12) noon on such date, then the Seller may, at its option, deliver the Marine Fuels to the Vessel at the requested new delivery time on a best endeavour basis, suspend delivery subject to the Buyer's agreement to a new price for the Marine Fuel, or

cancel the delivery altogether, with or without prejudice to Seller's rights under this agreement.

The Buyer shall make all connections and disconnections between the delivery hose and the Vessel's intake pipe, and shall render all necessary and reasonable assistance and provide sufficient tankage and equipment to receive all deliveries of Marine Fuel supplied under the agreement. All mooring and unmooring charges and port dues, if any, shall be paid by the Buyer.

Should the Buyer cancel the order, the Seller reserves the right to claim for compensation for the cancellation.

In the event the Buyer fails to take delivery, in whole or in part, of the quantities nominated, Buyers shall be responsible for any costs resulting from their failure to take delivery, as well as for any losses incurred by the Seller or its Supplier to downgrade the Marine Fuel.

#### **(7) Risk**

Delivery shall be complete and risk of loss and liability of all Marine Fuel supplied hereunder shall pass from the Seller to the Buyer as the Marine Fuel passes the permanent hose connection on the Vessel or, in the case of delivery by drum, as the Marine Fuel passes the Vessel's rail.

#### **(8) Retention of Title**

Notwithstanding that delivery has taken place, the Marine Fuels shall remain the sole and absolute property of the Seller as legal and equitable Owner until such time as the Buyer shall have paid to the Seller the agreed price together with all interest, costs and expenses, which may have accrued and is due, together with the full price of any other fuel the subject of any other contract with the Seller. Both the Owner of the Vessel and the Buyer acknowledge that they are in possession of the Marine Fuels solely as bailee for the Seller until such time as all foregoing sums have been paid to the Seller. The Buyer's right to possession of the Marine Fuels ceases if he does anything or fails to do anything, which would entitle a Receiver to take possession of any assets or which would entitle any person to present a Petition for winding up. The Seller, may for the purpose of recovery of its Marine Fuels, enter upon any premises or the vessel where they are stored and may repossess the same. If Marine Fuels, the property of the Seller, are admixed or co-mingled with Marine Fuels, the property of the Buyer the product thereof shall become or shall be deemed to be the sole and exclusive property of the Seller. If Marine Fuels, the property of the Seller are admixed or co-mingled with Marine Fuels, the property of any person other than the Buyer the product thereof shall be deemed to be owned in common with such other person(s).

### **(9) Demurrage and Delays**

Neither the Seller nor its Supplier shall be liable for any demurrage or loss incurred by the Buyer or the Vessel caused directly or indirectly by delays due to or resulting from weather (whether unusual or not), local congestion at the Supply Port affecting the Seller's delivery facilities (or those of its Supplier), the prior commitment, non-availability and/or malfunction of delivery barges, or any event of Force Majeure. The Buyer shall be liable for demurrage at rates established by the Seller and for losses incurred by the Seller as a result of any delay caused directly or indirectly by the Buyer or the Vessel in the use of delivery or barging facilities or in vacating a berth.

### **(10) Warranties**

Buyer is solely responsible for specifying to the Seller the type, grade and quantity of Marine Fuel to be supplied under the agreement. Seller warrants only the Marine Fuel supplied shall conform to the specifications stated in the Special Terms and further that the Seller will convey to the Buyer title thereto free and clear of all taxes, liens and encumbrances existing or in favour of any third parties. OTHER THAN THOSE EXPRESSLY STATED HEREIN, THERE ARE NO GUARANTEES OR WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS OR SUITABILITY OF THE MARINE FUEL FOR ANY PARTICULAR PURPOSE OR OTHERWISE.

### **(11) Claims**

All claims as to shortage in quantity, defects in quality or otherwise shall be made in writing by the Buyer to the Seller within fourteen (14) days after the delivery in question, otherwise all such claims shall be deemed to have been waived in their entirety. All claims by the Buyer are subject to the limitations set out in Articles 2 and 15.

### **(12) Financial Responsibility**

All sales of Marine Fuel hereunder are made on the credit of the Vessel as well as on the credit of the Buyer. The Seller will have and may assert any and all maritime liens available to it against the Vessel, wherever found, for the full amount of the delivered price of the Marine Fuel supplied to such Vessel by the Seller, plus accrued interest and collection costs.

If the Buyer in any way breaches the agreement, defaults in the payment of any indebtedness to the Seller (whether arising out of the Agreement or otherwise) or becomes bankrupt or insolvent, or if the Seller at any time considers the financial condition of the Buyer to be unsatisfactory, then the Seller may, in addition to any

other rights and remedies it may have, cancel or suspend deliveries hereunder until such time as the Buyer remedies such breach or default and/or provides suitable additional security and/or guarantees acceptable to the Seller.

### **(13) Agents**

If the Agreement is concluded between the Seller and an agent acting for or on behalf of a principal or principals (whether disclosed or undisclosed), as Buyer(s), then such agent shall be jointly and severally liable with the Buyer(s), as a principal and not as an agent, for the due and proper performance of the Agreement and the prompt and punctual payments of all amounts due hereunder.

### **(14) Interests and Collections**

Without limitation to Seller's rights hereunder or otherwise, any payment not made when due shall bear interest at the rate of (i) one and a half percent (1.5%) per month, or (ii) the maximum rate allowed by law, running from the due date until the date the payment is received by Seller's bank.

In the event Seller institutes legal proceedings for collection of payment not made by Buyer when due, all expenses incurred by Seller in connection with such proceedings (including without limitation, attorney's fees and court costs) shall be for Buyer's account.

### **(15) Limitation of Liability**

Seller and its Supplier shall not be liable for special, indirect, punitive or exemplary damages of any kind arising out of or in connection with the performance or non-performance of the Agreement.

### **(16) Environmental Protection**

Buyer represents and warrants that the Vessel is properly equipped, maintained and operated so as to avoid the escape, spillage or discharge of oil (a "spill") at the time of all deliveries of Marine Fuel hereunder. If a spill does occur while Marine Fuel is being delivered by the Seller or its Supplier to the Buyer and the Vessel, then the Buyer shall promptly take such action as is reasonably necessary to remove the oil and mitigate the effects of such spill. However, notwithstanding the cause of such spill, Seller and/or its Supplier is hereby authorised at its/their option, to take such measures and incur such expenses (whether by employing its own resources or by contracting with others) as are reasonably necessary to remove the oil and mitigate the effects of such spill. In the event Seller and/or its Supplier has exercised its/their

option to remove the oil and mitigate the effect of such spill, Buyer agrees to cooperate and render such assistance as is reasonably required by Seller and/or its Supplier. All expenses, damages, costs, fines and penalties arising from a spill or any pollution caused thereby shall be paid by the party that caused such spill by a negligent act or omission. If both parties have acted negligently, all such expenses, damages, costs, fines and penalties shall be divided between the parties in accordance with their respective degree of negligence. Buyer shall furnish to the Seller and/or its Supplier photocopies of all documents and any other information concerning any spill, or any program for the prevention thereof, that is reasonably required by the Seller and/or its Supplier, or required by any law or regulation applicable at the Supply Port on the Delivery Date.

#### **(17) Force Majeure**

Neither the Buyer nor the Seller nor its Supplier shall be responsible for damages caused by delays, failure to perform in whole or in part any obligation hereunder (other than the payment of money), or noncompliance with any of the terms hereof when such delay, failure or noncompliance is due to or results from causes beyond the reasonable control of the affected party, including, without limitation, acts of God, fires, floods, perils at sea, war (declared or undeclared), embargoes, accidents, strikes, labour disputes, failure or shortage of vessel or barge service normally available to the Seller or its Supplier to, breakdown of or damage to, or shortage in facilities used for productions, refining or transportation of Marine Fuels, acts in compliance with requests of any governmental authority or person purporting to act therefor, or any similar causes. Notwithstanding the provisions of the Article, the Buyer shall not be relieved of any obligation to make payments for all sums due hereunder.

#### **(18) Notices**

All notices, statements or other communications to be given by the Buyer to the Seller or vice versa shall be sufficient if given in writing by registered airmail, telex or fax as follows;

To the Buyer: at the address stated in the Special Terms or, if the Agreement is concluded by or through an agent of the Buyer, to the Agent.

To the Seller:

Middle East Tankers and Freighters Bunker Services SAL (Offshore)  
Kanafani Building  
Al Arz Street  
Beirut, Lebanon

#### (19) Assignment

The Buyer may not assign any of its rights or obligations under the Agreement without the Seller's prior written consent. The Seller may, however, assign any of its rights and obligations hereunder without the Buyer's prior written consent.

#### (20) Governing Law

This Agreement shall be governed by and construed in accordance with the Laws of England. The Buyer submits to the non-exclusive jurisdiction of English Courts.

#### (21) Miscellaneous

To the extent that the General Terms are at variance with the Special Terms, the latter shall govern.

The Agreement may not be modified, discharged or terminated except by an instrument in writing signed by each of the parties hereto.

Waivers of performance by one party of any of the obligations of the other party under the Agreement, or of default by such party of any of its obligations hereunder, shall not operate as a waiver of performance of any other obligations of such party or a future waiver of the same obligation, or a waiver of any future default.

The terms and conditions of the Agreement shall extend to, be binding upon, and inure to the benefit of the heirs, successors, administrators, legal representatives, and permitted assigns of the respective parties hereto.

The descriptive headings contained herein are for convenience only and shall not control or affect the meaning or construction of any provision of the Agreement.

The Agreement constitutes the entire understanding and agreement between the parties hereto and supersedes all prior oral or written agreements, representations and/or warranties.