

General Terms and Conditions – Sale of Fuels

Part 2

Chevron Marine Products LLC / Chevron Singapore Pte. Ltd.

General Terms and Conditions – Sale of Marine Fuels – April 1, 2017

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Except as otherwise provided in Part 1 (as defined below in Section 1 of this Part 2) of this Contract, this Part 2 - "Terms of Sale for Marine Fuels" ("**Part 2**" or "**Terms of Sale**") shall apply to all sales by Chevron Marine Products LLC, Chevron Singapore Pte. Ltd., or any of their Affiliates (such selling entity or entities identified in Part 1 being the "**Seller**") of bunker fuel oil, intermediate bunker fuels, marine diesel oil, and marine gas oil (collectively, "**Marine Fuels**") to any Buyer (as defined below in Section 1 of this Part 2). Part 1 and this Part 2 (collectively, the "**Contract**") contain all agreements, arrangements and stipulations between Seller and Buyer (each a "**Party**" and collectively, the "**Parties**") in respect of the supply of Marine Fuels provided for herein and supersede any conflicting provision in each and every offer, quotation, order, nomination, confirmation, invoice, delivery note, tank measurement form, fuel requisition form, inspection form, survey form, and/or any similar document, contract, or agreement relating to the sale of Marine Fuels by Seller to Buyer, whether such transaction is made by Buyer acting in its own name, or by an Agent (as defined below) of Buyer. In the event of any conflict between any provision in this Part 2 and Part 1, Part 1 shall take precedence other than as expressly set forth in Section 3(d) of this Part 2, but only to the extent of any such conflict.

1. Definitions and Interpretation

Within this Contract, the following terms shall have the following meanings unless the context requires otherwise:

"**Accepted Delivery Date**" shall be as defined in Section 5(a) of these Terms of Sale.

"**Affiliate**" or "**Affiliates**" means any legal entity which controls, is controlled by, or is under common control with, one of the Parties to this Contract, and "**control**" means legal or beneficial ownership of fifty percent (50%) or more of the shares in a legal entity entitled to appoint directors, or the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity.

“Agent” shall be as defined in Section 3(a) of this Part 2.

“Business Day” means the days on which banks are normally open for business at the Delivery Port or other location where sales are made unless otherwise expressly stated to the contrary in this Contract.

“Buyer” means the entity or entities contracting to buy the Marine Fuels as set out in Seller’s Confirmation of Nomination for Marine Fuels or otherwise in Part 1, including the servants, agents, brokers, designated representatives, subsidiaries or Affiliates of such entity or entities, wherever applicable.

“Buyer’s Delivery Vessel” shall be as defined in Section 7(b) of this Part 2.

“Confidential Information” means this Contract and all information that is not known to the public respecting the business of Seller or any Seller’s Affiliate relating to research and development, processes, trade secrets, customers, suppliers, finances and business plans and strategies, or that otherwise should reasonably be construed as competitively sensitive information.

“Confirmation of Nomination” means a written acceptance by Seller of the Nomination received from or on behalf of Buyer containing the terms of sale as set forth therein, and the relevant Spot Price applicable to the sale or the price contained in any relevant Term Fuels Contract between the Parties applicable to such transaction.

“Contract” shall be as defined in the opening paragraph of this Part 2.

“Delivery Port” means the Vessel’s loading or discharge port related to its cargo and/or such other harbor, port, terminal, anchorage or other designated location afloat where the Vessel is to receive delivery of Marine Fuels pursuant to this Contract.

“Estimated Delivery Date” means the earliest estimated date of a Vessel’s arrival proposed by Buyer in the Nomination, on which the Vessel will commence receiving Marine Fuels.

“ETA” means the Estimated Time of Arrival of the Vessel at the Delivery Port.

“Force Majeure” shall be as defined in Section 13 of this Part 2.

“Letter of Credit Default” shall be as defined in Section 10(d) of this Part 2.

“Marine Fuels” shall be as defined in the opening paragraph of this Part 2.

“New York Banking Day” means the days on which banks are normally open for business in New York City, New York.

“Nomination” means a written offer to purchase Marine Fuels by Buyer or its duly authorized Agent and setting forth certain terms thereof, and including all items specified in Section 5(a) of this Part 2.

“Part 1” means, with respect to each sale of Marine Fuels, (i) the relevant Confirmation of Nomination for such sale, and (ii) if applicable, any Term Fuels Contract or other written agreement between the Parties regarding the terms and conditions of such sale.

“Party” and **“Parties”** shall be as defined in the opening paragraph of this Part 2.

“Performance Assurance” shall be as defined in Section 10(c) of this Part 2.

“Qualified Institution” shall be as defined in Section 10(c) of this Part 2.

“Seller” shall be as defined in the opening paragraph of this Part 2.

“**Seller’s Delivery Vessel**” shall be as defined in Section 5(c) of this Part 2 and, for the avoidance of doubt, shall include any delivery vessel provided by Seller’s Supplier pursuant to the subcontract between Seller and Supplier to supply Marine Fuels to Buyers’ Vessels.

“**Spill**” means any unplanned, accidental, or unintended release of Marine Fuels or any other petroleum-based substance from its intended container into the surrounding terrestrial and/or marine environment. Examples of this include, but are not limited to, leaking flanges, disconnecting hoses without properly draining, transfer hose leakage, breach of tanks and overboard discharge from a marine vessel.

“**Spot Price(s)**” means Seller’s spot sales price for Marine Fuels in effect on the Accepted Delivery Date specified in Part 1.

“**Supplier**” or “**Seller’s Supplier**” means the entity or entities sub-contracted by Seller to supply and/or deliver the Marine Fuels to Buyer under the terms of this Contract, including the servants, agents, brokers, designated representatives, subsidiaries or Affiliates of such entity or entities, wherever applicable.

“**Term Fuels Contract**” means a written agreement between the Parties for multiple sales and deliveries of Marine Fuels by Seller to Buyer over a specified period of time at an agreed Term Price. If there is any conflict between such Term Fuels Contract and this Part 2, the Term Fuels Contract shall prevail but only to the extent of any such conflict.

“**Term Price(s)**” means the sales price under a Term Fuels Contract.

“**Vessel(s)**” means the marine vessel(s) being supplied or intended to be supplied with Marine Fuels.

In this Contract, unless the context otherwise requires:

- (a) references to **persons** include individuals, bodies corporate (wherever incorporated), unincorporated associations and partnerships;
- (b) headings are inserted for convenience only and do not affect the construction of this Contract;
- (c) references to one gender include all genders;
- (d) any reference to an enactment or statutory provision is a reference to it as it may have been, or may from time to time be amended, modified, consolidated or re-enacted;
- (e) reference to **include** or **including** means by way of example and not a limitation;
- (f) performance by either Principal or its Agent shall be deemed full performance under this Agreement.

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2. Prices and Taxes

(a) The price for the Marine Fuels shall be Spot Price or Term Price stated in Part 1 for a specific delivery or series of deliveries. Spot Prices stated in a Confirmation of Nomination shall be valid for deliveries made on the Accepted Delivery Date specified in Part 1. Spot Prices stated in a Confirmation of Nomination for delivery before or after the Accepted Delivery Date are subject to change at Seller’s sole discretion.

(b) If Buyer fails to begin to take delivery of the contractually-agreed quantity of Marine Fuels at the Spot Price on the Accepted Delivery Date, or if the Vessel does not arrive at Delivery Port and present itself in all respects suitable and ready for delivery of the Marine Fuels on the Accepted Delivery Date, Seller can choose to: (1) deliver to Buyer on a date of Seller’s choice at the Spot Price stated in Part 1 on a reasonable endeavors basis, plus recover any additional costs incurred by Seller in delivering on a date other than

the Accepted Delivery Date; or (2) agree to a new Accepted Delivery Date as the basis of a new Contract for which a new Spot Price can be agreed upon with Buyer; or (3) terminate this Contract and, in such latter event, Section 6 of these Terms of Sale shall apply.

(c) For deliveries on a date other than the Accepted Delivery Date under a Term Fuels Contract, the agreed Term Price shall apply if the Term has not expired at the time of delivery; provided that Seller shall be entitled to recover any additional costs incurred by Seller in delivering on a date other than the Accepted Delivery Date. If an Accepted Delivery Date is after expiration of the relevant Term, Seller can choose to (1) deliver to Buyer on a date of Seller's choice at the higher of the Term Price or the Spot Price then in effect; or (2) agree on a new Accepted Delivery Date as the basis for a new spot sale contract or new Term Fuels Contract; or (3) terminate this Contract and, in such latter event, Section 6 of these Terms of Sale shall apply.

(d) Buyer shall pay any foreign or domestic tax, duty, toll, fee, license, impost, charge or other exaction of any description whatsoever, including VAT, excise taxes, environmental taxes or fees and any similar taxes, or the amount equivalent thereto and any increase thereof, now or hereafter imposed, levied or assessed (but exclusive of taxes based on Seller's net income) by any national, state, provincial or local taxing authority (or political subdivision thereof, including, but not limited to, any port authority) directly or indirectly upon, (1) the Marine Fuels; (2) the production, manufacture, transportation, possession, storage, sale, use, transfer, delivery or other handling of the Marine Fuels; or, (3) the production, manufacture, transportation, storage, purchase, sale, use, transfer, exportation, importation and/or other handling of any material contained in the Marine Fuels, or any wholly or partly refined or manufactured part thereof, or incident to or as a result of the transaction. If Seller is required by law to pay or collect any such taxes, fees, or other charges Buyer shall promptly reimburse Seller for such items. Any such payment not included in the Marine Fuels prices otherwise herein provided for shall be in addition thereto and shall be separately stated on invoices. If Buyer is entitled to purchase any Marine Fuels free of, or at a reduced rate of any taxes, duties or charges pursuant to any applicable law, Buyer shall promptly, but in any event not later than required under applicable law but no later than three (3) Business Days prior to the payment due date pursuant to Seller's invoice, provide to Seller a valid exemption certificate or other required evidentiary documentation for such purchase. In the event Buyer prepays for the purchase of Marine Fuels, then the estimated amount due to Seller shall include applicable taxes and fees, and at or after delivery Buyer shall provide Seller valid exemption certificates for which Seller shall provide a subsequent credit to Buyer in settlement within thirty (30) calendar days after purchase. Notwithstanding the foregoing, if such completed and valid certificate has not been provided by Buyer to Seller within the legally prescribed time limits, then Buyer shall be deemed to have waived the option of providing a certificate for tax free or tax reduced purchases of Marine Fuels.

(e) In addition to any taxes which are invoiced and collected in conjunction with the sale of Marine Fuels, Buyer agrees to reimburse Seller for any tax assessment, including interest and penalties, which would be reimbursable by Buyer under the preceding paragraph, which is made as a result of a determination that Buyer's certificates were issued in error, or are otherwise determined by a tax authority to be invalid or inapplicable. Further, Buyer shall cooperate with Seller on any audit by any tax authority involving untaxed or tax-reduced sales of Marine Fuels by timely providing additional or replacement certificates or other information and documentation in order to support such untaxed or tax-reduced purchases. Seller shall also assist Buyer to obtain any refunds of taxes paid by Buyer to Seller by providing documentation of such tax-paid or tax-reduced sales, as applicable and appropriate within the applicable statute of limitations applicable to such refunds.

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3. Parties' Obligations

(a) Should Marine Fuels be ordered by Buyer's broker, trader, agent or other authorized representative ("**Agent**"), then such Agent, as well as Buyer (being the principal) ("**Principal**"), shall be bound by, and liable for, all obligations hereunder as fully and as completely as if the Agent were itself the Principal, whether such Principal is disclosed or undisclosed, and whether or not such Agent purports to contract as Agent only. Notwithstanding anything to the contrary in this Contract, Principal and Agent shall each be deemed to be the "Buyer" for purposes of this Contract.

(b) Where sales under this Contract are concluded through an Agent, commissions may be paid by Seller to such Agent. Any Agent's commission payable by Seller shall only be paid after Seller has received full and final payment, including any amounts attributable to Sections 2(d) or (e) of this Contract, for the Marine Fuels sold hereunder.

(c) Marine Fuels delivered hereunder are sold and delivered on the financial credit of the Vessel owner as well as on the undertaking of Buyer to pay for such Marine Fuels. Buyer warrants that Seller shall have the right to assert a lien against the Vessel (or Buyer shall procure that the Vessel will permit such lien to be asserted by Seller), covering the value of the delivered Marine Fuels and any additional charges incurred in accordance herewith, including without limitation taxes, legal fees and costs of recovering payment. Such remedy shall be in addition to, and not in limitation of, any other remedies available to Seller at law or herein.

(d) **BUYER AND SELLER AGREE THAT ANY NOTICE, CLAUSE, PROVISION OR STAMP BY BUYER, CONTAINED IN OR ON ANY OFFER, QUOTATION, ORDER, NOMINATION, CONFIRMATION OF NOMINATION, INVOICE, BUNKER DELIVERY NOTE, TANK MEASUREMENT FORM, FUEL REQUISITION FORM, INSPECTION FORM, SURVEY FORM, AND/OR ANY SIMILAR DOCUMENT, CONTRACT, OR AGREEMENT RELATING TO THE SALE OF MARINE FUELS HEREUNDER, WHICH STATES THAT A MARITIME LIEN ON THE VESSEL MAY NOT BE CREATED BECAUSE OF THE EXISTENCE IN BUYER'S CHARTERPARTY, SHIP MORTGAGE OR OTHER INSTRUMENT OF A PROHIBITION-OF-LIEN CLAUSE OR SIMILAR CLAUSE, OR FOR ANY OTHER REASON, WILL BE DEEMED INEFFECTIVE AND VOID REGARDLESS OF THE TIME IT IS GIVEN TO SELLER, WHETHER BEFORE OR AFTER THE INITIAL NOMINATION PROVIDED BY BUYER, OR BEFORE OR AFTER DELIVERY OF MARINE FUELS TO THE VESSEL. IF THERE IS ANY CONFLICT BETWEEN PART 1 OF THIS CONTRACT AND THIS SECTION 3(d), THIS SECTION 3(d) SHALL CONTROL.**

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4. Quality and Disclaimer of Warranties

(a) The Marine Fuels to be sold and delivered hereunder shall be Seller's usual commercial grades of Marine Fuels as determined in accordance with ISO 8217, which are generally offered to Seller's Marine Fuels customers at the time and place of delivery. Unless stated otherwise in writing by Seller, any other information regarding the characteristics of Marine Fuels, including physical, chemical, regulatory compliance and the like, are not intended to be nor shall they be construed as representations or warranties as to the specifications or overall quality of the Marine Fuels to be delivered hereunder, but only as general descriptions of the characteristics of the Marine Fuels available at a particular location from time to time. Except for the description in this Section 4(a), the Marine Fuels are sold "as is", "where is" with any and all faults.

SELLER SPECIFICALLY DISCLAIMS AND BUYER WAIVES ALL OTHER PROMISES, CONDITIONS, REPRESENTATIONS OR WARRANTIES, INCLUDING BUT NOT LIMITED TO REPRESENTATIONS, CONDITIONS OR WARRANTIES OF QUALITY, MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE. ALL STATUTORY OR REGULATORY WARRANTIES ARE EXPRESSLY DISCLAIMED AND EXCLUDED TO THE EXTENT SUCH EXCLUSIONS ARE PERMITTED BY APPLICABLE LAW.

(b) Buyer, or those acting on Buyer's behalf as Agent or otherwise, shall have the sole responsibility for the selection of suitable Marine Fuels for use in the Vessel(s) nominated by Buyer or its Agent to receive such Marine Fuels, and warrants that such Vessel(s) is/are in compliance with all applicable local, national, international, flag state and classification society regulations and requirements, all applicable port and terminal regulations, and is/are otherwise suitable in all respects to safely load the intended Marine Fuels.

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5. Nominations, Confirmations, Modifications and Deliveries

Nomination. Buyer shall issue a Nomination in writing at least eight (8) Business Days in advance of the Vessel's ETA, specifying Delivery Port, ETA, grades, specifications and quantities of Marine Fuels required, and name and IMO Number of Vessel. If such Nomination is accepted and confirmed in writing by Seller by issuance of a Confirmation of Nomination with respect to the stated ETA, the date of delivery as set forth in the Confirmation of Nomination shall become the "**Accepted Delivery Date**". Unless subsequently advised in writing by Buyer and agreed in writing by Seller pursuant to Section 5(b) below, there shall be no amendments to the Accepted Delivery Date. Buyer's Vessel shall begin to take delivery of the Marine Fuels on the Accepted Delivery Date. If the Vessel does not arrive at the Delivery Port and present itself in all respects suitable and ready for delivery of the Marine Fuels on the Accepted Delivery Date, Seller may take any of the actions specified in Sections 2(b) or 2(c) of this Part 2 or elsewhere in this Contract.

(b) Modification of Nomination. Buyer, its Agent or the Vessel's local agents must notify Seller of any desired changes to the Nomination made under Section 5(a) above not less than forty-eight (48) hours prior to: (1) the Accepted Delivery Date; or (2) the proposed changed delivery date (where the change proposed is to the Accepted Delivery Date). Seller agrees to use reasonable endeavors to accept such proposed changes but shall not be held liable if it is unable to do so. If the proposed changes are acceptable to Seller, Seller will confirm the acceptability of the revised Nomination by issuance of a revised Confirmation of Nomination. If forty-eight (48) hours advance notice is not given, or if the proposed new Accepted Delivery Date is not reasonably acceptable to Seller, then Seller may take any of the actions permitted by Sections 2(b) and 2(c) of this Part 2 or elsewhere in this Contract.

(c) Deliveries. When delivery is made by marine barge, truck, coastal tanker or ex-pipe (hereinafter collectively "**Seller's Delivery Vessel**"), all delivery charges, including overtime and associated charges, shall be for the account of Buyer. For delay caused by Buyer in the use of Seller's Delivery Vessel, Buyer shall pay all demurrage and/or detention charges at such rate as may be invoiced by Seller.

(i) During any discussions and/or exchanges prior to delivery, Buyer shall notify Seller, in writing, of the maximum allowable pumping rate and pressure for the Vessel, and Buyer and Seller shall endeavor to agree on communication and emergency shutdown procedures.

(ii) Buyer shall notify Seller, in writing, a minimum of forty-eight (48) hours prior to the Accepted Delivery Date of any special conditions, difficulties, peculiarities, deficiencies or defects in respect of or particular to the Vessel that might render the Vessel unsuitable for safe loading of Marine Fuels or otherwise adversely affect the delivery of Marine Fuels (collectively, "**Defects**"). Buyer shall be responsible for any increased costs incurred by Seller in connection therewith. If, in the sole discretion of Seller, any such Defects call into question Seller's ability to make a safe delivery, or render the Vessel unsuitable for delivery, Seller may exercise any of the options available under Sections 2(b) and 2(c) of this Part 2, including (1) delaying delivery of such Marine Fuels until such time as the Defects have been remedied to Seller's satisfaction, without liability to Buyer or the Vessel for any costs or expenses incurred by Buyer or the Vessel associated with such cancellation or delay, and (2) terminating this Contract and, in such event, Section 6 of these Terms of Sale shall apply.

(iii) When delivery is made by Seller's Delivery Vessel, Buyer warrants that it shall provide a free and safe berth alongside the Vessel to receive the Marine Fuels and that Seller's Delivery Vessel has safe access to proceed to and depart from such safe berth. Buyer and the Vessel shall render all necessary assistance that may reasonably be required to safely moor and unmoor Seller's Delivery Vessel and to connect and disconnect the delivery hose(s).

(d) Vessels, including tankers, will be bunkered in turn as promptly as circumstances permit; but Seller shall not be liable for demurrage or for any loss due to congestion at the Delivery Port when Seller's Delivery Vessel was ready and able to commence delivery at any time on the "Accepted Delivery Date", or when in Seller's sole opinion a free and safe berth for Seller's Delivery Vessel is unavailable. Delivery shall be made during Seller's and Seller's Supplier's normal working hours unless required at other times and permitted by local port or terminal regulations, in which event Buyer shall reimburse Seller for all additional expenses incurred, including, but not limited to any such additional expenses incurred by Seller's Supplier. If a government permit or other similar permit required by any authority is required for deliveries, no deliveries shall be made until the permit has been issued to Buyer or Seller, as applicable. Any time lost or expenses incurred as a consequence of waiting on such permits shall be solely for Buyer's and the Vessel's account.

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6. Cancellation and Failure to Take Delivery

If Buyer cancels, terminates or otherwise fails to take delivery, in whole or in part, of the quantity of Marine Fuels stated in the Confirmation of Nomination, in addition to any and all damages, costs and expenses which are recoverable under law, Buyer shall pay to Seller all costs, damages and losses incurred by Seller resulting from such cancellation, termination or failure, including without limitation, Seller's lost profits, loss of market value of the non-delivered Marine Fuels equal to the difference between the Spot Price or Term Price (as applicable) in effect on the date of partial or non-delivery and the Spot Price or Term Price (as applicable) on the date on which Seller was reasonably able to sell such quantity to a third party or to an Affiliate on a documented arm's length basis,

plus any costs and expenses incurred by Seller to return the Marine Fuels to storage, any costs and expenses incurred by Seller to downgrade Marine Fuels, and any associated demurrage or deadfreight incurred by Seller in connection with Seller's Delivery Vessel. Such costs, damages and losses shall be a debt and become immediately owing and payable by Buyer promptly upon receipt of Seller's invoice for the same.

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7. Title and Risk of Loss

(a) Subject to Section 7(b) below, delivery shall be deemed completed and title to and risk of Marine Fuels shall pass to Buyer as the Marine Fuels pass the flange between Seller's Delivery Vessel's loading hose and the intake manifold of Buyer's Vessel, at which point Seller's responsibility shall cease and Buyer shall assume all risk of loss, damage, deterioration or evaporation to the Marine Fuels so delivered.

(b) If delivery is made to a nominated barge, truck, storage tank or coastal tanker nominated by Buyer (hereinafter "**Buyer's Delivery Vessel**"), delivery shall be deemed completed and title to and risk of loss of the Marine Fuels shall pass to Buyer as the Marine Fuels pass the flange between Seller's Delivery Vessel's loading hose and the intake manifold of Buyer's Delivery Vessel.

(c) Buyer shall be responsible for connection of the loading hose to the intake manifold of the Vessel or Buyer's Delivery Vessel and pumping shall be performed under the direction and responsibility of Buyer's representative and at Buyer's sole risk.

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8. Inspection; Determination of Quantity and Quality

(a) The quantity of Marine Fuels delivered shall be the quantity specified in Part 1, with a tolerance at Seller's option of +/- ten percent (10%), said quantity to be determined, at Seller's option, by measurements in accordance with (i) the ASTM Petroleum Measurement Table for Seller's shore tanks, or (ii) Seller's Delivery Vessel, or (iii) Seller's meters, and Buyer will be invoiced for Marine Fuels on the basis of the selected measurement. Buyer at its own expense has the right (and is encouraged) to have its representative or an independent inspector present during measurement, but determination of quantity shall be made solely by Seller. All such measurements noted above shall be final and binding save for fraud or manifest error, regardless of whether Buyer is present or represented.

(b) Sampling by Seller shall be accomplished by line drip samples if available. If not available, sampling shall be accomplished by manual sampling beginning/middle/end method during the Marine Fuels delivery process. In any event, sampling and documentation of same shall be in accordance with the more strict of: (i) published sampling and documentation policies/requirements of the Delivery Port, and (ii) the following: (1) Seller or its designated representative shall take four representative samples of each grade of Marine Fuels to be delivered; (2) Buyer shall have the right (and is encouraged) to have its representative witness the drawing of the samples; and (3) the aforementioned samples shall be securely sealed and labeled, numbered and identified by name of the Vessel, Marine Fuels type, delivery date and place of delivery. In the case of either (i) or (ii) above, one sample shall be given to Buyer's representative for MARPOL compliance purposes only; a second sample shall be given to Buyer's representative for quality determination purposes; and two samples shall be retained by Seller or Supplier for at least thirty (30) calendar days following the Delivery Date. In the case of either (i) or (ii) above, samples drawn at the Vessel's manifold or from its tank(s) shall not be considered valid for determining quality of Marine Fuels supplied.

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9. Buyer's Claims; Time Limits and Limitations on Recovery

(a) Quantity. Any dispute as to the quantity of the Marine Fuels delivered must be noted by Buyer at the time of delivery on the bunker delivery receipt or in a letter of protest. Any claim by Buyer for short delivery shall be presented by Buyer in writing within fifteen (15) calendar days after the Accepted Delivery Date or the actual date of delivery, whichever is earlier. For ex-wharf deliveries, the claim

must be presented by Buyer before unberthing of the Vessel at the Delivery Port, failing which any such claim shall be deemed to be waived and forever barred. Quantity calculations and quantity claims made on the basis of Buyer's Vessel's or Buyer's Delivery Vessel's measurements shall not be applicable. Quantity claims made on the basis of alleged incorrect density used for Seller's quantity determination shall be addressed by means of analysis of one of Seller's samples as described in Section 8(b) above at a mutually agreed independent laboratory. Should the independent laboratory's determination of density fall within the established test precision range for density, no adjustment to the invoice quantity shall be made and the costs for the analysis of the independent inspector shall be borne by Buyer. Should the independent laboratory's determination of density fall outside the established test precision range for density, the invoiced quantity shall be adjusted, either higher or lower, accordingly and the costs for the analysis of the independent inspector shall be borne by Seller.

(b) Quality. Any claim by Buyer as to the quality of the Marine Fuels delivered must be submitted by Buyer to Seller in writing within thirty (30) calendar days after the Accepted Delivery Date or the actual date of delivery, whichever is earlier, failing which, such claim shall be deemed waived and forever barred. Buyer shall base any quality claim solely on an analysis of the retained sample provided by Seller at the time of the delivery as provided for in Section 8(b) above and ISO 4259 section 9.2 shall be used for the interpretation of Buyer's test results. Buyer shall promptly furnish Seller the results of testing of the retained sample (laboratory fuel analysis report) to enable Seller to properly evaluate the claim. If Buyer makes a timely claim regarding the quality of the Marine Fuels, one (1) of the two (2) remaining samples of Seller, together with any other Seller's and/or Seller's Supplier's representative samples, shall be submitted for analysis to a mutually-agreed independent laboratory. Despite anything to the contrary in Section 4(a), the independent laboratory's analysis shall be final and binding as to the quality of the Marine Fuels delivered except in cases of fraud or manifest error. The analysis shall be established by tests in accordance with ISO 8217 and/or any other specifications agreed to between Buyer and Seller in writing. For interpretation of test results the method as set out in ISO 4259 Sections 9 and 10 in respect of precision and interpretation of test results shall be used. A test result obtained on the Seller's retained sample by the mutually- agreed independent laboratory which is outside of the specified limit shall indicate that the product has not met that specification limit. Unless otherwise agreed, should the independent laboratory's analysis confirm that on-specification Marine Fuels have been delivered by Seller to Buyer, the cost of the analysis by the independent laboratory shall be borne solely by Buyer. Should the independent laboratory's analysis confirm that off-specification Marine Fuels have been delivered, the costs of the analysis by the independent laboratory shall be borne solely by Seller. Any cost, associated with Buyer's appointing a representative to witness the sample seal-breaking and/or analysis at the independent laboratory shall be the sole responsibility of Buyer.

(c) **LIMITATION OF SELLER'S LIABILITY. OTHER THAN AS SET FORTH BELOW AND IN SECTION 4(a) OF THESE TERMS OF SALE, SELLER, SELLER'S AFFILIATES AND SELLER'S SUPPLIERS, AGENTS AND REPRESENTATIVES ("SELLER'S GROUP") SHALL NOT BE LIABLE FOR, AND BUYER WAIVES, ANY LOSS OR DAMAGES OF ANY KIND WHATSOEVER ARISING IN CONNECTION WITH THE MARINE FUELS OR THEIR USE, HOWSOEVER OR WHENSOEVER CAUSED, IN CONTRACT, TORT, OR OTHERWISE, AND REGARDLESS OF WHETHER SUCH LOSS OR DAMAGE IS A RESULT OF ANY NEGLIGENT ACT OR FAULT OF ANY MEMBER OF SELLER'S GROUP, OR RESULTED FROM SOME DEFECT, LATENT OR OTHERWISE, IN THE MARINE FUELS SUPPLIED. SELLER'S TOTAL LIABILITY FOR DEFECTIVE MARINE FUELS SHALL BE LIMITED IN ANY EVENT TO THE DIRECT EXPENSES FOR THE REMOVAL AND REPLACEMENT OF SUCH MARINE FUELS FROM THE VESSEL(S) AND SHALL NOT INCLUDE ANY OTHER DIRECT OR INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGE TO ANY VESSEL, INCLUDING BUT NOT LIMITED TO THIRD PARTY VESSELS OR BUYER'S DELIVERY VESSELS OR TO THEIR ENGINES, EQUIPMENT, MACHINERY OR TANKS, PERSONAL INJURY TO OR DEATH OF ANY PERSON (OTHER THAN EMPLOYEES OF MEMBERS OF SELLER'S GROUP), LOSS OF OR DAMAGE TO PROPERTY (OTHER THAN THE PROPERTY OF MEMBERS OF SELLER'S GROUP), DEVIATION COSTS, DEMURRAGE CLAIMS, PORT FEES, PORT COSTS, FUEL CONSUMPTION, BUSINESS INTERRUPTION, LOSS OF CONTRACT OR ACTUAL OR PROSPECTIVE LOSS OF PROFITS OR ANTICIPATED COST SAVINGS. THE LIABILITY OF SELLER'S GROUP TO BUYER HEREUNDER IN ANY EVENT SHALL NOT EXCEED THE PRICE PAID BY BUYER FOR THE MARINE FUELS SUPPLIED UNDER THIS CONTRACT.**

(d) Notwithstanding the provisions of Section 4(a) of these Terms of Sale, Buyer shall take all reasonable measures, including retention, utilization and consumption of Marine Fuels in accordance with Seller's instructions, to eliminate or minimize any costs associated with an off-specification or suspected off-specification supply. If Buyer removes such Marine Fuels without the prior written consent of Seller (not to be unreasonably withheld), then all such removal and related costs shall be for Buyer's account.

(e) Seller shall not be responsible for any quality claim arising in circumstances where there is or has been commingling of Marine Fuels delivered by Seller with other fuel either previously or subsequently supplied by a third party to the Vessel or to Buyer's Delivery Vessel.

(f) Except where contrary to local governmental or port regulations, all deliveries to Buyer by Seller shall be on a "first-come, first-served" basis, which means if Seller has multiple buyers whose vessels are also scheduled for delivery of Marine Fuels on the Accepted Delivery Date, Seller intends to deliver Marine Fuels to those buyer(s) (including Buyer) whose vessel(s) is/are first ready, willing and able to receive such delivery in accordance with these Terms of Sale and the relevant Part 1. Seller shall not be liable for demurrage incurred by a Vessel or for any loss due to congestion at the Delivery Port if Seller's Delivery Vessel was ready and able to commence delivery on arrival of the Vessel, but was delayed due to performing Marine Fuel deliveries to other buyers' vessels which arrived at the Delivery Port and/or were ready, willing and able to receive delivery(ies) earlier than Buyer's Vessel. Any claim involving demurrage incurred by Buyer's Vessel or Buyer's Delivery Vessel must be submitted by Buyer to Seller in writing within thirty (30) calendar days after the date of delivery of the Marine Fuels. If Buyer fails to submit a demurrage claim within thirty (30) calendar days after the date of delivery, any such claim shall be deemed to be waived and forever barred. Demurrage compensation, where applicable, shall only be made if Buyer provides Seller with supporting documentation deemed reasonably acceptable by Seller. In no event shall Seller be liable for payment of demurrage in excess of the amount that is actually paid to the Vessel or Buyer's Delivery Vessel by Buyer for demurrage related to the Marine Fuels delivered by Seller.

(g) Seller shall respond promptly to any complaint or claim by Buyer, and the Parties shall further endeavor to resolve the matter within forty-five (45) calendar days after receipt of the claim. If Seller responds to Buyer regarding any complaint or claim and Buyer does not acknowledge such response within fifteen (15) calendar days after receipt, then the complaint or claim shall be considered closed unless Seller otherwise agrees in writing. Where Buyer and Seller cannot come to agreement on such claim within ninety (90) calendar days, either Party may invoke the dispute resolution procedures in accordance with the provisions of Section 17 below or as otherwise stated in this Contract. However, nothing in this Section 9 shall relieve Buyer of its obligation to make payments in full when due as provided herein. Should any timely claim submitted by Buyer not be settled to Buyer's satisfaction, any legal action brought by Buyer thereon shall be time-barred unless commenced within six (6) months after (i) the actual delivery of the Marine Fuels if other than the Accepted Delivery Date, or (ii) the other act or omission from which such claim arises. This provision shall survive any termination of this Contract, or termination of the subcontract between Seller and Supplier to supply Marine Fuels to Buyer under this Contract.

(h) Notwithstanding the foregoing, if the Marine Fuels supplied to Buyer from Seller were purchased on a back-to-back basis from a Supplier that is not an Affiliate of Seller, Buyer's recovery from Seller for any claims shall be limited to the actual, net funds received by Seller from such non-Affiliate Supplier.

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10. Payment and Financial Security

(a) Unless government regulations require otherwise, Seller shall have the right to invoice Buyer for deliveries of Marine Fuels based upon facsimile or electronic advice or other tele-typewritten communication of delivery details in lieu of original delivery documents. Original delivery documents may be provided to Buyer if requested, but payment shall not be conditional upon Buyer's receipt of such documents. Payment shall be made by Buyer, in U.S. Dollars, without discount, offset, deduction or counterclaim on or before thirty (30) calendar days from the Accepted Delivery Date or the actual date of delivery, whichever is earlier, and in accordance with Seller's invoice as described above, specifying quantities of Marine Fuels delivered and amounts due. Seller may make subsequent adjustments to invoiced amounts based upon information contained in the relevant bunker delivery receipt. Buyer's failure to make payment in full of the amount noted by Seller shall be a material breach of Buyer's obligations hereunder; moreover, any pending claims related to the delivery of Marine Fuels shall not relieve Buyer from paying Seller in full. Payment made by telegraphic transfer or by bank draft shall be forwarded to the address noted in Part 1.

(b) Payment shall be considered past due if not received by Seller within thirty (30) calendar days from the actual date of delivery if other than the Accepted Delivery Date, of the Marine Fuels. Overdue payments shall be subject, at Seller's sole discretion, and without prejudice to Seller's other rights hereunder or under law, to late payment interest at an annual rate (based upon the actual number of

calendar days in the relevant calendar year) equal to two (2) percentage points above the Prime Rate effective for the payment due date as published in the *Wall Street Journal* under "Money Rates". If there is no published rate on the payment due date, then the most recent preceding calendar day's published rate shall be used.

(c) Buyer shall periodically provide to Seller financial information or security deemed necessary by Seller to support any credit extension. Notwithstanding any other applicable law, including the Uniform Commercial Code, if Seller has commercially reasonable grounds for insecurity with respect to Buyer's creditworthiness or performance under this Contract, Seller shall provide Buyer with written notice requesting an amount of Performance Assurance determined by Seller in a commercially reasonable manner and Buyer shall provide such Performance Assurance in accordance with the terms set forth in Seller's written notice and the terms below. "**Performance Assurance**" means, either: (i) prepayment, received by Seller no later than two (2) New York Banking Days after such notice, and in any event prior to the Accepted Delivery Date; or (ii) establishing, at the Buyer's cost, no later than two (2) New York Banking Days after such notice, an irrevocable standby letter of credit in a form and term acceptable to Seller, issued by a Qualified Institution. "**Qualified Institution**" means either: (A) a commercial bank, unaffiliated with either Party, organized in a jurisdiction reasonably acceptable to Seller that: (1) has at least an A- Long Term Rating Issued by Standard & Poor's Ratings Services or its successor, and at least an A3 Deposit Rating issued by Moody's Investors Services, Inc. or its successor; and (2) has total equity of at least ten billion U.S. dollars (\$10,000,000,000); and (3) has not exceeded any internal credit tolerance limits as established by Seller at the time of the establishment of the letter of credit; or (B) a bank acceptable to Seller in its sole discretion. Until such Performance Assurance is received, Seller may suspend shipments/deliveries under this Contract or any other contract or agreement between the parties, accelerate all amounts owing between the parties under this or any prior Contract to be immediately due and payable, and pursue any additional remedies as may be available at law or under this Contract.

(d) Upon the occurrence of a Letter of Credit Default, Buyer agrees to deliver a substitute letter of credit or other collateral acceptable to Seller, in its sole discretion, not later than two (2) Business Days following the date on which the Letter of Credit Default occurred. The failure to deliver timely a substitute letter of credit or other collateral acceptable as required by Seller shall be an Event of Default. "**Letter of Credit Default**" shall mean with respect to an outstanding letter of credit, the occurrence of any of the following events: (i) the issuer of such letter of credit shall fail to maintain a credit rating of at least A- by Standard & Poor's Ratings Services or its successor, or A3 by Moody's Investors Services, Inc. or its successor (ii) the issuer of the letter of credit shall fail to comply with or perform its obligations under such letter of credit if such failure shall be continuing after the lapse of any applicable grace period; (iii) the issuer of such letter of credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such letter of credit; (iv) such letter of credit shall expire or terminate, or shall fail or cease to be in full force and effect, prior to the stated expiration date on the letter of credit; provided, however, that no Letter of Credit Default shall occur in any event with respect to a letter of credit after the time such letter of credit is required to be canceled or returned to the pledger; or (v) Buyer fails to cause a renewal or replacement standby letter of credit to be delivered to Seller at least twenty (20) Business Days (or by such other date required by Seller) prior to the expiration of such standby letter of credit.

(e) Buyer shall be liable for attorneys' fees and collection expenses (whether or not suit is filed) incurred by Seller in its attempt to collect any late payment or failure to pay by Buyer. If suit is filed, Buyer shall be liable for all court costs in addition to attorneys' fees and expenses. The said fees, expenses and costs, together with interest, shall constitute a part of Seller's maritime lien on the Vessel. Should Buyer be in default on this Contract for failure to pay, Seller, or Seller's Affiliates shall have the right to cancel any other contracts or agreements between Seller and/or Seller's Affiliates and Buyer and/or Buyer's Affiliates.

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11. Safety and Environmental Protection

(a) If, at any time prior to or during delivery, Seller reasonably determines that the environment for delivery is unsafe or could create the potential for a Spill due to conditions such as, but not limited to, (i) unsafe working environment, (ii) unsafe practices/procedures, facilities, or conditions on Vessels, (iii) unsafe use of tools/equipment, (iv) incompatible configuration, or (v) bad weather, Seller reserves the absolute right in its sole discretion to cancel or delay such delivery immediately without any prior notice to Buyer and without liability to Buyer or the Vessel for any costs or expenses, losses or damages incurred by Buyer or the Vessel arising out of or in connection with such cancellation or delay.

(b) Buyer is familiar with the health effects related to the Marine Fuels purchased hereunder and with relevant protective safety and health procedures for the handling and use of such Marine Fuels. Buyer shall adhere to such safety and health procedures while using or handling Marine Fuels. Buyer shall also disseminate necessary health and safety information to all employees, users, and others potentially exposed to such Marine Fuels. Buyer shall be responsible for compliance by its employees, agents, and other users with all health and safety requirements or recommendations related to the Marine Fuels and shall exercise its best efforts to ensure that all of its employees or agents, users, and others avoid frequent or prolonged contact with or exposure to the Marine Fuels both during and subsequent to delivery. Seller and Seller's Supplier accept no responsibility for any consequence arising from failure by Buyer, its employees or agents, any users, or any other party to comply with relevant health and safety requirements or recommendations relating to such contact or exposure, or in any other way in connection with the Marine Fuels.

(c) If a Spill occurs while Marine Fuels are being delivered, Buyer and Seller shall promptly take such action as is reasonably necessary to contain and remove the Spill and mitigate the effects of same. Seller is hereby authorized, at its option and at the expense of Buyer, to take such measures and incur such expenses (whether by employing its own resources or contracting with others) as are reasonably necessary in the judgment of Seller to contain and remove the Spill and mitigate the effects of same. Buyer shall cooperate and render such assistance as is required by Seller in the course of such action. All expenses, claims, losses, damages, liabilities and penalties arising from a Spill shall be borne by the Party that caused the Spill. If both parties are at fault, all expenses, claims, losses, damages, liabilities and penalties shall be divided between the parties in accordance with their respective degrees of fault.

(d) In the event of a Spill during delivery of the Marine Fuels, Buyer shall provide Seller with such documents and information concerning the Spill and any programs for the prevention of spills as may be required by Seller or by law or regulations applicable in the Delivery Port where the Spill occurred.

(e) Buyer warrants that the Vessel is in compliance with all applicable local, national and international laws and regulations. The Vessel is subject to Seller's ongoing acceptance and will not be supplied Marine Fuels unless free of all conditions, difficulties, peculiarities, deficiencies or defects that might impose hazards in connection with its mooring, unmooring or bunkering. Buyer warrants that the Vessel must also supply a safe mooring for the Seller's Delivery Vessel to come alongside for bunkering.

(f) Buyer shall comply with all applicable laws and regulations in carrying out its obligations under this Contract, including the ISPS Code, U.S. MTSA and to the extent applicable, MARPOL 73/78 Annex VI. Material Safety Data Sheets (MSDS) for all Marine Fuels are available for download at <http://www.chevronmarineproducts.com/products/msds.aspx>. Seller and its duly-authorized representatives shall have access to the accounting records and other documents maintained by Buyer which relate to the Marine Fuels being delivered under this Contract, and shall have the right to audit such records at any reasonable time or times within twenty-four (24) months of the rendition of any statement or invoice forming the basis of any claim asserted by Buyer.

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12. Indemnity

(a) **BUYER SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD SELLER'S GROUP (AS DEFINED IN SECTION 9(C) HEREOF HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS OR LIABILITIES FOR INJURY TO OR DEATH OF ANY PERSON, DAMAGE TO OR LOSS OF PROPERTY OF ANY PERSON, OR FOR NON-COMPLIANCE WITH ANY REQUIREMENT OF ANY GOVERNMENTAL ENTITY ARISING OUT OF ANY ACT OR OMISSION OF ANY MEMBER OF SELLER'S GROUP (COLLECTIVELY, "CLAIMS"), INCLUDING BUT NOT LIMITED TO ANY AND ALL DIRECT, INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES FORMING ANY PART OF SUCH CLAIMS, ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, INCIDENT TO OR RESULTING FROM, DIRECTLY OR INDIRECTLY, (1) ANY DEFECT, LATENT OR OTHERWISE, IN THE MARINE FUELS SUPPLIED HEREUNDER AND/OR (2) THE RECEIVING, USING, STORING OR TRANSPORTING OF MARINE FUELS DELIVERED HEREUNDER, INCLUDING EXPOSURE THERETO, WHETHER OR NOT ANY SUCH CLAIMS ARE BROUGHT ABOUT BY THE NEGLIGENCE, BREACH OF CONTRACT, STRICT LIABILITY, OR OTHER LEGAL OR STATUTORY LIABILITY OR OTHER FAULT, IN WHOLE OR IN PART, INCLUDING THE SOLE NEGLIGENCE OR FAULT OF A MEMBER OF SELLER'S GROUP, UNLESS ANY SUCH CLAIM ARISES SOLELY DUE TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF A MEMBER OF SELLER'S GROUP.**

(b) **BUYER'S INDEMNITY OBLIGATIONS IN 12(a) SHALL BE LIMITED TO CLAIMS WHICH ARE IN EXCESS OF THE LIMITATION OF LIABILITY IN FAVOR OF SELLER'S GROUP SET FORTH IN SECTION 9(c) OF THESE TERMS OF SALE.**

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13. Force Majeure

(a) In addition to any other relief provided by law, no failure or omission by either Party to comply with any of its obligations under this Contract (save for any obligation to make payment) shall give rise to any claim against that Party, or be deemed to be a breach of contract, insofar as the failure or omission is caused by "**Force Majeure**", which shall mean any cause not reasonably within the control of that Party, whether or not foreseen, including such causes as governmental intervention, compliance with any law, regulation or ordinance, or with any order, demand or request of an international, national, port, transportation, local or other authority or agency or of any body of person purporting to be or to act for such authority or agency or any other corporation directly or indirectly controlled by any of them, acts of administrative authorities, decisions of the courts, riot, wars, military operations, terrorism actions, civil commotion, hijacking, fire, explosion, flood, storm, quarantine, mechanical breakdown, natural disasters or any act of God. Any curtailment, failure or cessation of supplies of Marine Fuels from any of Seller's sources of supply (whether in fact sources of supply for the purpose of this Contract or not), provided that such curtailment, failure or cessation is related to a circumstance which is outside the control of Seller, shall be considered as an event of Force Majeure for the purpose of this Contract.

(b) If, by reason of any event of Force Majeure, either the availability from any of Seller's sources of supply of Marine Fuels or the normal means of transport and/or delivery of such Marine Fuels is delayed, hindered, interfered with, curtailed or prevented, then Seller shall be at liberty to withhold, reduce or suspend deliveries under any contract to such extent as Seller may in its absolute discretion think fit. Any additional quantities which Seller does acquire from other suppliers or from alternative sources may be used by Seller at its complete discretion and need not to be taken into account by Seller for the purpose of determining the extent to which it is to withhold, reduce or suspend deliveries under this Contract or any other contract. Buyer shall be free to purchase from other suppliers any deficiencies of deliveries of Marine Fuels caused by the operation of this Section 13, but Seller shall not be responsible for any additional cost thereby incurred by Buyer.

(c) Seller reserves the right to increase the price charged for any Marine Fuels if there is any increase in the costs incurred or to be incurred by Seller in making the relevant supply due to factors which constitute a Force Majeure event pursuant to Section 13(a) above.

(d) Where the event of Force Majeure continues for a continuous period of more than thirty (30) calendar days, and unless agreed otherwise between Buyer and Seller, either of them may then terminate this Contract, by written notice to the other. Such termination shall not give rise to any liability, compensation or indemnity of any kind. If Part 1 incorporates a Term Fuels Contract, such termination shall apply only in respect of deliveries at ports affected by the Force Majeure event.

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14. Termination; Events of Default

(a) Without limiting any other rights that may be available to the Non-Defaulting Party at law or under this Contract, and in addition to all such other rights, either Party (for purposes of this Section, the "**Non-Defaulting Party**"), may terminate this Contract for cause (a "**Termination**"), by giving three (3) Business Days' written notice to the other Party (for purposes of this Section, the "Defaulting Party"), if any one or more of the following occurs (each an "**Event of Default**").

Where a Defaulting Party:

- (i) is the subject of a bankruptcy, insolvency, reorganization or other similar proceeding; or
- (ii) fails to pay its debts generally as they become due or otherwise is bankrupt or insolvent; or
- (iii) fails to pay in accordance with the provisions of Section 10; or

- (iv) fails to provide security in accordance with Section 10(c), including but not limited failure of a Party's guarantor or other person providing credit support for such Party (a "**Credit Support Provider**" with respect to the Party) to provide such security.
- (b) In addition to the foregoing, an Event of Default shall include instances where a Defaulting Party or its Credit Support Provider:
- (i) fails to satisfy, perform or comply with any obligation in accordance with the guaranty or credit support document issued in favor of the Non-Defaulting Party and such failure continues after any applicable grace or notice period; or
- (ii) makes any representation or warranty that proves to be incorrect or misleading in any material respect when made in connection with this Contract or any credit support arrangement related hereto; or
- (iii) repudiates, disclaims, disaffirms or rejects, in whole or part, any obligation under its guaranty or challenges the validity of such guaranty.
- (c) After a default under Section 14(a) or Section 14(b) of this Contract, the Non-Defaulting Party (at its election) shall have a general right of setoff with respect to any or all amounts owing between the Parties under this Contract (whether or not then due); provided that any amounts not then due shall be discounted to present value. After a default, the Defaulting Party shall also be responsible for any other costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the Non-Defaulting Party in connection with such default.
- (d) Each Party represents and acknowledges that with respect to this Contract it is a "forward contract merchant" as such term is defined pursuant to the provisions of the United States Bankruptcy Code (the "Code") and that transactions covered hereunder include "forward contracts" as set forth in Section 561 (a) of the Code.

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15. Miscellaneous

- (a) Interruption Events. If performance by Seller is interrupted or becomes impracticable for any reason, including, but not limited to, orders, requests or suggestions by any official body relating to supplies, priorities, rationing or allocations of crude oil from which Marine Fuels are derived or any other petroleum products ("**Interruption Event(s)**"), Seller may reduce or stop deliveries in such a manner as it may in its sole discretion determine and shall be relieved of its obligation to perform hereunder despite that such Interruption Event(s) is/are not attributable to an event of Force Majeure. Where Section 13 or Section 15(a) is being relied on for the suspension or reduction in the delivery of Marine Fuels, Seller shall not be obligated to acquire from any other sources of supply and sell and deliver, and Buyer shall not be obligated to buy any quantity of Marine Fuels in replacement of Marine Fuels contracted to be sold and delivered hereunder.
- (b) Conflict of Interest; Improper Payment; Right to Audit.
- (i) Except as otherwise expressly provided herein, no director, employee or Agent of Buyer, its subcontractors or vendors, shall give or receive from any director, employee or agent of Seller or any Affiliate, any commission, fee, rebate, gift or entertainment of significant cost or value in connection with this Contract. In addition, no director, employee, or agent of Buyer, its subcontractors or vendors, shall enter into any business arrangement with any director, employee, or agent of Seller or any Affiliate who is not acting as a representative of Seller or its Affiliate without prior written notification and prior approval from Seller.
- (ii) In carrying out its responsibilities under this Contract, Buyer shall not offer or make any payment, or offer or give anything of value, to any government official, any immediate family member of a government official, or any political party to influence the government official's or organization's decision, or to gain any other advantage for Seller, arising out of this Contract. In addition, Buyer shall not offer or make payment, or offer or give anything of value, to any person if Buyer knows or has reason to believe that any portion of the payment or gift will be given directly, indirectly or through a third party to any government official, any immediate family

member of any government official or any political party. Any representative(s) authorized by Seller may audit the applicable records of the last three years of Buyer for the sole purpose of determining whether there has been compliance with this Section 15(b).

- (c) Assignment. Neither Party may assign its rights or obligations hereunder without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed. In the event of an assignment in accordance with the terms of this section, the assignor shall nevertheless remain responsible for the proper performance of this Contract. Any assignment not made in accordance with the terms of this section shall be void.
- (d) Invalid Provisions. If any provision or portion of this Contract shall be adjudged invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such provision or portion of this Contract shall be deemed omitted and the remaining provisions and portions shall remain in full force and effect.
- (e) Modifications. Modifications or amendments to this Contract shall be valid only when expressly agreed upon in writing. The waiver or failure to require the performance of any covenant or obligation contained herein shall not be deemed to constitute a waiver of a similar later breach.
- (f) Notice. Any notice to be given by one Party to the other Party under, or in connection with, this Contract shall be in writing and signed by or on behalf of the Party giving it and acknowledged in writing by receiving Party. It shall be served by sending it by email (other than for notices or communications relating to or pursuant to Section 14 which may not be sent by email), prepaid recorded delivery, special delivery, registered post or fax to the relevant contact address set forth in Part 1, and in each case marked for the attention of the relevant Party (or as otherwise notified from time to time in accordance with the provisions of this Section 15 (f)). Any notice served by hand, post or fax shall be deemed to have been duly given:

- (i) in the case of delivery by hand, when delivered;
- (ii) in the case of fax, receiving date of fax;
- (iii) in the case of prepaid recorded delivery, special delivery or registered post, on the third (3rd) Business Day (for local mail) and seventh (7th) Business Day (for overseas mail) following the date of posting.

Contrary to the definition of the term "Business Day" in Section 1 of these Terms of Sale, reference to "Business Day" in this Section 15(f) means the days on which banks are normally open for business in the country of the addressee. All notices under or in connection with this Contract shall be in the English language.

- (g) Confidential Information. Buyer undertakes to treat Seller's Confidential Information as strictly confidential. Buyer undertakes to keep confidential, not communicate, or disclose or otherwise make the Confidential Information available to any third parties including but not limited to brokers, traders and/or reporting indices including to Platts, Petroleum Argus, and Bunkerworld.
- (h) Insolvency. If either Party shall become insolvent or shall make an assignment for the benefit of creditors, or if any of the business or property of either Party shall come into the possession of a receiver or of any other governmental or court agency acting on behalf of creditors, or if any proceedings under any bankruptcy or insolvency act or acts for the relief of debtors shall be commenced against, by or in respect of either Party, or if any execution shall be issued against the property of either Party, or if any judgment against either Party, not fully bonded, shall remain unpaid in whole or in part at least ten (10) calendar days after the entry thereof (collectively, "**Act of Insolvency**"), the following shall apply:
- (i) The other Party may forthwith terminate this Contract by written notice given at any time while such status continues; and
- (ii) If any such Act of Insolvency occurs after a Vessel or Buyer's Delivery Vessel has loaded Marine Fuels under this Contract but before Buyer has paid for such Marine Fuels, or in the event of the arrest, seizure or other legal action against the Vessel or its owners after loading of Marine Fuels but before payment therefor, Sellers shall be entitled to recover possession of the Marine Fuels belonging to Seller, as evidenced by the presentation of at least one original Bill of Lading, if original Bill(s) is/are issued, or, if Bill(s) have not been issued, at least one original of all relevant Bunker Delivery Receipts, or otherwise pursuant to this Section, and/or Admiralty

Supplemental Rule D. The Vessel and Buyers or Buyer's Delivery Vessel remain a bailee of the Marine Fuels, and as such are obligated to safely discharge same into Seller's or its Agent's custody, subject to the evidence of rightful ownership. Buyer and Vessel shall fully cooperate with instructions and requests by Seller, so as to aid Seller in promptly and efficiently recovering possession of its Marine Fuels. Buyer shall procure that this Section 15(h) or its equivalent shall be included in any charterparty for any Vessel or Buyer's Delivery Vessel nominated by Buyers to load Marine Fuels under this Contract.

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16. Governing Law

Unless otherwise specified in Part 1, this Contract shall be governed and construed in all particulars in accordance with the substantive laws of the General Maritime Law of the United States, excluding any conflicts of law principles that would direct the substantive law of another jurisdiction to apply, and, to the extent necessary and not in conflict with such General Maritime Law, the laws of the State of New York, United States of America, without regard to those laws that would reference the laws of another jurisdiction.

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17. Dispute Resolution

Unless otherwise specified in Part 1, all unresolved disputes, controversies or claims (collectively, "**Disputes**") arising out of or in relation to or in connection with this Contract, including, without limitation, any Disputes as to the construction, validity, interpretation, enforceability or breach of a Contract, shall be exclusively resolved by arbitration conducted in the City of New York in accordance with the Rules of the Society of Maritime Arbitrators, Inc. ("**SMA**"). The Dispute shall be referred to three persons, one to be appointed by each of the parties hereto, and the third by the two so chosen; their decision or that of any two of them shall be final. Notwithstanding anything contained herein to the contrary, should the sum claimed by each Party not exceed US\$ 100,000.00, the arbitration is to be governed by the "Shortened Arbitration Procedure" of the SMA, as defined in the SMA's then-current Rules for such procedure. The arbitrators need not be members of the SMA. The proceedings and decision of the arbitrators shall be in English, and a decision shall be delivered no later than one-hundred-twenty (120) calendar days after referral to arbitration or as soon thereafter as possible. For the purpose of enforcing any arbitration award, this Contract may be made a rule of the Court.

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18. Compliance with Laws

(a) Buyer shall comply with all laws, rules and regulations of every governmental authority affecting or having jurisdiction over the possession, handling, transportation, storage, use or distribution of any of the Marine Fuels. Buyer is securing the Marine Fuels for consumption by Vessels in-transit. However, if following delivery, Buyer elects to use the Marine Fuels for another use, sale, transfer, re-export or import, any such activity must be in accordance with Trade Restrictions. Buyer shall familiarize itself with and comply with the Trade Restrictions as they may be modified from time to time.

(b) Neither Party shall be obliged to perform any obligation otherwise required by this Contract (including without limitation an obligation to (i) perform, deliver, accept, sell, purchase, pay or receive monies to, from, or through a person or entity, or (ii) engage in any other acts) if this would be in violation of, inconsistent with, or expose such Party to punitive measures under any laws, regulations, decrees, ordinances, orders, demands, requests, rules or requirements of the EU, any EU member state, the United Nations or the United States applicable to the Parties relating to trade sanctions, foreign trade controls, export controls, non-proliferation, anti-terrorism and similar laws (the "**Trade Restrictions**").

(c) Where any performance by a Party would be in violation of, inconsistent with, or expose such Party to punitive measures under the Trade Restrictions, such Party (the "**Affected Party**") shall, as soon as reasonably practicable, give written notice to the other Party

of its inability to perform and the nature of the possible or actual violation. Once such notice has been given, the Affected Party shall be entitled, in each case without any liability for damages for breach of contract, penalties, costs, fees and expenses:

- (i) to immediately suspend the affected obligation (whether payment or performance) until such time as the Affected Party may lawfully discharge such obligation; and/or
 - (ii) where the inability to discharge the obligation continues (or is reasonably expected to continue) until the end of the contractual time for discharge thereof, to a full release from the affected obligation; provided that where the relevant obligation relates to payment for Marine Fuels which have already been delivered, the affected payment obligation shall remain suspended (without prejudice to the accrual of any interest on an outstanding payment amount) until such time as the Affected Party may lawfully resume payment; and/or
 - (iii) where the obligation affected is acceptance of a nominated Vessel pursuant to Section 5 of these Terms of Sale, to require the other Party to nominate an alternative Vessel.
- (d) Nothing in this Contract is intended, and nothing herein should be interpreted or construed, to induce or require either Party hereto to act in any manner (including failing to take any actions in connection with this Contract) which is inconsistent with, penalized, or prohibited under any laws, regulations, decrees, ordinances, orders, demands, requests, rules or requirements of the United States applicable to such Party which relate to international boycotts of any type, including but not limited to the Antiboycott laws and regulations of the United States as applicable.

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19. Records

Buyer shall retain all records related to this Contract for twenty-four (24) months from the end of the calendar year in which this Contract is completed or terminated. Seller, or its representative, may inspect such records at all reasonable times to confirm compliance with the terms of this Contract.