

## Midstream Fuel Service Terms and Conditions of Sale (Effective Dec. 1, 2005)

1. Quantity. Quantity shall be measured by seller. For IFO grades and MDO, quantity shall be determined by shore tank terminal gauges or, if not available, by barge volume measurement figures. For gasoil, quantity shall be determined by calibrated meter on barge. For truck deliveries, quantity shall be determined at truck loading rack. The buyer may be present or represented by a properly accredited agent or independent inspector at all measurements. Absent manifest error, the seller's determination of quantity shall be binding and conclusive. In no event shall measurements taken on board the vessel be permitted to contradict measurement taken by seller. All measurements shall be adjusted to metric tons, barrels, or gallons at 60 degrees Fahrenheit temperature.
2. Quality. Quality shall meet Midstream Fuel Service Product Specifications published effective December 1, 2005. No other specifications will be considered unless agreed to in writing by seller.
3. Taxes and Fees. Buyer shall, in addition to the other amounts payable hereunder, pay all local, state and federal taxes including specifically, all sales, use taxes, and gross receipt license taxes.
4. Credit. Credit is subject to Midstream credit department approval. At seller's sole discretion, seller may, at any time, alter or suspend credit granted to buyer, and require buyer to prepay two banking days prior to product movement or post an irrevocable stand-by letter of credit in form and substance acceptable to Midstream two banking days prior to product movement and to be issued by an A-rated bank satisfactory to Midstream. If proper credit has not been established prior to the specified time limits, Midstream shall have the option of canceling the sale and/or proceeding against the buyer for damages.
5. Payment terms. Payment shall be made by wire transfer in full invoice amount, without offset, counter claim, discount or deduction, in U.S. Dollars at Midstream's designated bank within the terms of Midstream's sales confirmation and invoice pertaining to this sale.
6. Finance and Collection Charges. All past due accounts shall be charged a finance charge computed as a periodic rate of 1.5% per month, which is an annual rate of 18%. The customer shall be liable for all costs and expenses incurred in connection with the collection of customer's account(s), including court costs, collection agency fees, and reasonable attorney's fees. Buyer agrees to be responsible for payment of such finance and collection charges.
7. Warranties and Remedies. Midstream makes no warranties, either expressed or implied, whether in tort, contract, by statute or otherwise, and particularly makes no warranty of merchantability or fitness for any particular purpose whatsoever in regard to any products sold by Midstream, except however, if within 15 days from the date of delivery, any product is determined by Midstream to be defective, Midstream may, at Midstream's option, replace the defective product. The buyer's sole and exclusive remedy hereunder is expressly limited to the replacement of defective products. Any claims for other loss or damage of any type, including without limitation, loss of profits or revenues, down time, demurrage, detention, labor costs, repair costs, installation of replacement material, inconvenience, cost of rental or replacement equipment, failure of marine or other equipment to operate for any period of time, other economic or commercial loss, or direct, immediate, special, incidental, indirect or consequential damages are expressly excluded.
8. Indemnity. Buyer shall indemnify, defend, and hold Midstream harmless from and against any claim, suit, proceeding, fine, or penalty asserted against Midstream that arises from a breach of this warranty by buyer, including reasonable attorney's fees incurred by Midstream in defense of any of the foregoing.

9. Conditions of Loading. Buyer shall make all connections and disconnections of delivery hoses to buyer's vessel. As a further condition of loading, buyer warrants that buyer's vessel is properly equipped, properly maintained and operated by competent, trained personnel so as to avoid leakage, spillage, or overflow of any product supplied to said vessel by Midstream.
10. Environmental Protection. In the event of a spill during the delivery of marine fuel to buyer, buyer shall immediately take such action as is reasonably necessary to remove the oil and mitigate the effects of such spill. Seller is hereby authorized, at its option, upon notice to buyer or buyer's operator of, or agent for the receiving vessel, to take such measures, either in cooperation with the buyer or exclusively as the sole party, 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 oil and mitigate the effects of such spill. If seller has exercised its option to remove the oil and mitigate the effects of such spill, buyer agrees to cooperate and render such assistance as is required by seller in the course of such option. Any expenses, damages, costs, fines, and penalties arising from escape, spillage, discharge, or pollution of oil shall be paid by the party that causes such escape, spillage, etc. by as negligent act or omission.
11. Title and Risk of Loss. Where Midstream provides the flexible temporary hose, title and risk of loss shall pass to buyer at the discharge point where the petroleum product passes the first flange connection on buyer's equipment or property. Where buyer provides the flexible temporary hose, title and risk of loss shall pass to buyer at the discharge point where the petroleum product passes the final flange connection on Midstream's equipment or property.
12. Product Quality Samples and Testing. For IFO grades and MDO, seller will provide the buyer with a drip sample taken from the delivery pipeline next to the flange connection on the barge. This sample will contain a seal number that must be referenced on any testing performed and reported by buyer's designated testing service. Seller will not recognize or consider any analysis performed on samples other than the seller's sealed sample as noted on the bunker delivery receipt. Seller will retain sealed samples as well. For marine gasoil, seller will retain a sample of the product delivered to the buyer.
13. Claims. Any claim by buyer with respect to incorrect quantity must be noted on receipt signed at time of delivery. Any claim regarding deficiency in quality shall be waived unless seller receives from buyer a written notice of such claim within 30 days of date of delivery furnishing all details necessary for seller to evaluate such claim.
14. Maritime lien. No disclaimer stamp of any type or form will be accepted on the bunker certificate, nor, should any stamp be applied, nor will it alter, change, or waive seller's maritime lien against the vessel or waive the vessel's ultimate responsibility for the debt incurred through this transaction.
15. Cancellation. Any cancellation must be mutually agreeable.
16. Force Majeure. Neither party hereto will be liable to the other for any failure of performance of this agreement (other than to make payments due hereunder) for the time and to the extent such failure is occasioned by acts of god, wars, floods, fires, explosion, or storms, strikes, lockouts, or other industrial disturbances. Acts of orders of government authorities, disruption or breakdown of production or transportation facilities, or any other cause or causes beyond its control whether similar or dissimilar to those stated above; provided, however, that performance shall be resumed within a reasonable time after such cause has been removed.
17. Choice of law. This contract shall be construed and governed in accordance with the laws of the state of Texas.
18. Entire agreement. The above terms and conditions together with those set forth on the seller's written sales confirmation and set forth on the face of the invoice and such others as may be agreed to by Midstream in writing, constitute the entire agreement for the sale of any products hereunder, irrespective of any language or different terms contained on any purchase order or order form sent to Midstream.

## Midstream Fuel Service Product Specifications

| Effective Dec.1, 2005     | ASTM Test Method | Limit | MGO DMA | MDO DMB | RME 180 | RMG 380 |
|---------------------------|------------------|-------|---------|---------|---------|---------|
| API Gravity               | D-287            | min   | 27.4    | 25.6    | 11.2    | 11.2    |
| Density                   | D-287            | max   | .890    | .900    | .991    | .991    |
| Viscosity @50C            | D-445            | max   | 5       | 8       | 180     | 380     |
| Viscosity @40C            | D-445            | min   | 1.5     |         |         |         |
| Viscosity @40C            | D-445            | max   | 6       | 11      |         |         |
| Flash, degrees F          | D-93 B           | min   | 140     | 140     | 140     | 140     |
| Flash, degrees C          | D-93 B           | min   | 60      | 60      | 60      | 60      |
| Pour, degrees F           | D-97             | max   | 32      | 43      | 86      | 86      |
| Pour, degrees C           | D-97             | max   | 0       | 6       | 30      | 30      |
| MCR on 10% Dist. Btms     | D-4530           | max   | 0.3     |         |         |         |
| Micro Carbon Residue      | D-4530           | max   |         | 0.3     | 15      | 18      |
| Ash                       | D-482            | max   | 0.01    | 0.01    | 0.10    | 0.15    |
| Sediment By Extraction    | D-473            | max   |         | 0.07    |         |         |
| Water                     | D-95             | max   |         | 0.3     | 0.5     | 0.5     |
| Sulfur                    | D-4294           | max   | 1.5     | 2.0     | 4.5     | 4.5     |
| Cetane Index              | D-976            | min   | 40      | 35      |         |         |
| Vanadium                  | D-5708           | max   |         |         | 200     | 300     |
| Aluminum + Silicon        | D-5184           | max   |         |         | 80      | 80      |
| Total Sediment, Potential | IP-390           | max   |         | 0.1     | 0.1     | 0.1     |

No used lubes contained in any grade