

## 1. GENERAL

- 1.1 This is a statement of terms and conditions on which Stena Oil AB of Gothenburg, Sweden ("Seller") will sell Marine Fuels (as defined below). No variation of these Terms of Sale shall be valid unless expressly agreed in writing by Seller. "Buyer" when used herein means the person or company placing the order with Seller as well as the owner (the "Owner") of the vessel bunkered or to be bunkered (the "Vessel"), bareboat charterer or manager of such Vessel or anybody else for the account of whom the Vessel is bunkered.
- 1.2 These conditions apply to all offers, quotations, orders, agreements, services and all subsequent contracts of whatever nature, except where otherwise is expressly agreed in writing by the Seller.

## 2. QUALITY

- 2.1 The marine fuels to be delivered hereunder shall be Seller's or Seller's supplier's commercial grades of marine fuels as currently offered generally to its customers for similar use at the time and place of delivery ("Marine Fuels").
- 2.2 Information regarding the typical characteristics of the Marine Fuels at any delivery location shall only be indicative of the Marine Fuels that have been made available at that location and shall not form part of the specification of Marine Fuels to be delivered.
- 2.3 Buyer shall have the sole responsibility for selection and fitness for any particular purpose of the Marine Fuels. The Seller shall assume no responsibility whatsoever for the compliance by Buyer of any requirement regarding the quality, sulphur content or other characteristics of the Marine Fuels. All warranties regarding the satisfactory quality, merchantability, fitness for purpose, description or otherwise, are hereby excluded.
- 2.4 Where standard specifications are being given or referred to, tolerances in accordance with ISO Standard 4259 in respect of Reproducibility/Repeatability in quality are to be accepted without compensation or other consequences whatsoever.
- 2.5 In no event shall the Seller be responsible for the quality and compatibility of the Marine Fuel delivered if the Seller's product or comingled with any other product(s) on board the Vessel. The Buyer shall be solely responsible for any losses caused by mixing or comingling the Marine Fuels with any other

product, including any damage the Marine Fuels may cause on other products on board the Vessel.

## 3. PRICE

- 3.1 Any offer or price quotation in respect of Marine Fuels shall, unless otherwise agreed by Seller, be valid until 17.00 hours CET of the day the offer or price quotation was given.

## 4. DELIVERY AND TRANSFER OF TITLE

- 4.1 Seller shall not be required to deliver Marine Fuels into any of the Vessel's tanks which are not regularly used for bunkers, and shall not be required to deliver any fuel for the export of which a Government permit is required and has not been obtained. The Seller shall not be required to deliver any Bunkers if any customs and/or other government permit required for such purpose has not been obtained in due time before the delivery.
- 4.2 Vessel shall be bunkered as promptly as prevailing circumstances permit having regard to congestion affecting the delivery facilities of Seller, its suppliers or agents and to prior commitments of barges. Seller shall not be liable for any consequences or any time lost due to Buyer's Vessel having to wait for berth for bunkering or for completion of bunkering. Seller shall not be obligated to deliver Marine Fuels prior to the nominated delivery time. Delivery shall be made in bunker lots at wharf or at store terminals of Seller or Seller's supplier or by barge where barging facilities are available.
- 4.3 In the event of delivery by barge, the Buyer shall ensure that the Vessel provides a free, safe and always afloat and accessible side for the delivery of bunkers and that all necessary assistance as required by the Seller or the Seller's representative is rendered in connection with the delivery. Buyer shall make connection between the pipelines or delivery hoses and Vessel's intake lines.
- 4.4 For safety reasons it is agreed that it is solely the Master of the bunkering barge that determines whether mooring alongside is safe, taking weather, swells and forecasts into consideration. The Seller not to be held responsible for any delays, demurrages, liquidating damages or similar whatsoever as a result of any eventual delays caused by any decision by the Master of the barge in this connection.
- 4.5 Delivery shall be deemed to take place when the Marine Fuels reach the flange connecting the pipelines or delivery hoses with the intake lined of the Vessel, at which point Seller's responsibility shall cease and Buyer shall

- assume all risks, including loss damage, deterioration, depreciation, evaporation or shrinkage as to the Marine Fuels so delivered.
- 4.6 Title to the Marine Fuels shall pass to Buyer only upon payment for the full value of the Marine Fuels, pursuant to the terms of Clause 7 hereof. Until full payment of the full amount due to the Seller has been made, the Buyer shall not be entitled to transfer the Marine Fuels to tanks used for the propulsion of the Vessel, nor mix, use, sell or encumber the Marine Fuels without Seller's express consent. Should the Marine Fuels be sold to a third party in violation of this clause, or after Seller's consent but before full payment to the Seller has been made, the Buyer's claim for payment for the Marine Fuels by the third party may not be pledged, sold, transferred or encumbered in any way and the Seller shall have the right to trace its proprietary interest in the Marine Fuels into the mixed bunkers and/or a right of lien to such part of the mixed bunkers as corresponds to the quantity or net value of the Marine Fuels delivered. Where, notwithstanding these terms of sale, title in and to the Marine Fuels delivered has passed to the Buyer and/or any third party before full payment has been made to the Seller, the Buyer shall grant a pledge over such Marine Fuels to the Seller. The Buyer shall furthermore grant a pledge over any other Marine Fuels present in the respective Vessel, including any mixtures of the delivered Marine Fuels and other bunkers. Such pledge will be deemed to have been given for any and all claims, of whatever origin and of whatever nature that the Seller may have against the Buyer.
- 4.7 If Buyer fails to receive or rejects any part of the full quantity ordered and tendered, Buyer shall be liable for all expenses and loss incurred by Seller and arising out of such failure or rejection by Buyer including any loss incurred by having to transport the fuel back to the storage or by having to sell the fuel in a degraded form at a price lower than that applicable to the grade originally nominated by Buyer without prejudice to Seller's other remedies.
- 4.8 Work in connection with delivery outside normal working hours or on public holidays or Saturdays, or Sundays or outside normal harbour limits shall be paid for by Buyer at the rates then applicable for such work in addition to the price.
- 4.9 Buyer shall pay Seller for delivery services at the rates applicable on the date of delivery and for all additional charges incurred in connection with the delivery, including but not limited to, port dues, wharfage, mooring and unmooring, barge hire, demurrage, provision of additional hose in excess of that normally available and the use of all oil pollution control equipment required to effect delivery. The Buyer further agrees to pay and indemnify against all claims and expenses for any loss, damage or delay caused by the Vessel to the barge.
- 4.10 In respect of the quantity agreed upon, the Seller shall be at liberty to provide, and the Buyer shall accept, a variation of 5 % from the agreed quantity, with no other consequence than an equivalent adjustment to the corresponding invoice from the Seller.
- 5. MEASURE AND SAMPLING**
- 5.1 The quantity of the Marine Fuels delivered hereunder shall be determined from gauge of Seller's or Seller's supplier's shore tanks or barge effecting delivery or Seller's or Seller's supplier's flow meter, at Seller's or Seller's supplier's option. Unless otherwise agreed in writing the Marine Fuels are delivered and sold based on metric tons in vacuum.
- 5.2 The Buyer's representative shall together with the Seller's representative measure and verify the quantities of Marine Fuels delivered from the tank(s) from which the delivery is made. Quantities calculated from the Vessel's soundings shall not be considered.
- 5.3 Should the Buyer's representative fail or decline to verify the quantities, the measurements of quantities made by the Seller or Supplier shall be final, conclusive and binding and the Buyer shall be deemed to have waived any and all claims in regard to any variance.
- 5.4 Seller shall take samples of the Marine Fuels delivered. Seller shall take a minimum of two (2) samples of each grade delivered in accordance with its normal sampling procedures at the port or place of delivery in question. One sample shall be retained by Seller and one sample shall be passed to Buyer or its representative for its retention.
- 5.5 The Marpol Annex VI retained sample will be provided by Seller and will be taken at the receiving ship's inlet bunker manifold wherever it is safe and feasible to do so. Where this is not possible the location will be at the bunker barge manifold, to ensure that a representative fuel sample is obtained for each and every delivery.
- 6. CLAIMS**
- 6.1 Any dispute as to shortage in quantity must be noted at the time of delivery in a letter of protest. Any claims as to short delivery shall be presented by Buyers in writing within seven (7) days from the date of delivery, failing which any such claim shall be deemed to be waived and barred. Any changes by Buyer or its representative of the quantity stated by

- Seller or its representative in the bunker delivery receipt shall have no effect.
- 6.2 Any claim by Buyer of any nature arising under these terms shall be notified to Seller in writing promptly after the circumstances giving rise to such claim have been discovered. If Buyer does not notify Seller of any such claim within twenty (20) days of delivery such claim shall be deemed to be waived and time-barred.
- 6.3 In the event a claim is raised pursuant to sub-clause 6.2, Seller and Buyer shall have the quality of the Marine Fuels tested by a mutually agreed, qualified and independent test laboratory. Seller shall provide the laboratory with its sample for analysis, the result of which shall be conclusive of the quality of the Marine Fuels delivered. Unless otherwise agreed the analysis shall be established by tests in accordance with ISO Standard 8217:2010 or as otherwise agreed at the time of nomination or, if tests in accordance with ISO Standard are not available, any equivalent or prevailing local standard. In the absence of an agreement to the contrary the expense of the analysis shall be for the account of the party whose claim is found wrong by the analysis.
- 6.4 Should any timely claim submitted by Buyer not be settled to Buyer's satisfaction, such claim shall be time-barred unless arbitration is commenced by the Buyer within six (6) months of delivery unless it is mutually agreed between the parties that such arbitration may be postponed.
- 6.5 Nothing in this clause 6 shall relieve Buyer of its obligation to make payments in full when due as provided herein.

## **7. PAYMENT**

- 7.1 Unless otherwise agreed in writing payment shall be made in cash on delivery.
- 7.2 Failing payment on the due date, Buyer shall be charged penalty interest at two (2) per cent per month on the invoice amount from the date of maturity to the date of full payment. All amounts more than 15 days past due shall incur an additional 5 % administrative fee.
- 7.3 Buyer shall not be entitled, without Seller's consent in writing, to off-set or deduct any amounts for claims against Seller.

## **8. LIEN AND FINANCIAL RESPONSIBILITY**

- 8.1 If bankruptcy, liquidation, composition or other similar proceedings are instigated regarding Buyer, in court or out of court, or if there is any reason to believe that Buyer will not be able to effect payment when due, Seller has the right to receive immediate cash payment or immediate satisfactory security regarding any sale to Buyer, whether

contracted or not and whether the Marine Fuels has been delivered or not. If Seller does not receive such immediate cash payment or security, Seller has the right to suspend deliveries regarding any sale contracted, which shall not relieve Buyer of any of Buyer's obligations, or, at Seller's option, to cancel any sale contracted, without any liability, irrespective of whether delivery has been completed or not. The same shall apply if there in Seller's opinion is uncertainty as to who is responsible as Buyer.

- 8.2 If Buyer shall default in making any payment when due, Seller has the right to suspend deliveries regarding any sale contracted, which shall not relieve Buyer of any Buyer's obligations, and to receive immediate cash payment regarding any sale contracted or, at Seller's option, to cancel any sale contracted, irrespective of whether delivery has been completed or not.
- 8.3 If the delivery is contracted for by an agent of Buyer on behalf of a principal, disclosed or undisclosed, or Buyer on behalf of itself and as agent on behalf of another principal or principals, disclosed or undisclosed, such agent or Buyer, as the case may be, shall be jointly and severally liable with such principal or principals, or other principal, or principals, as the case may be, for the due and proper performance of the contract.
- 8.4 Deliveries of Marine Fuels hereunder are made not only on the credit of Buyer but also on the faith and credit of the Vessel which uses the Marine Fuel. It is agreed and acknowledged that the sale of Bunkers to the Buyer and/or their acceptance on the Vessel create a maritime lien over the Vessel for the price of the Bunkers (and all interest and costs payable in respect thereof; including but not limited to the reasonable attorney's fees), such maritime lien afforded to the Seller over the Vessel. In any event any applicable Law shall not prejudice the right of the maritime lien of the Seller afforded hereunder or by any other applicable Law, be it of the place of delivery, or the flag of the Vessel, or the place of jurisdiction and/or an arrest of the Vessel, or otherwise howsoever. All judicial and extrajudicial costs and expenses, including pre-action costs, fees, expenses and disbursements of the Seller's lawyers/attorneys-at-law, incurred in connection with the collection of overdue payments, arrest of vessels or attachment of the Marine Fuels shall be for the sole account of the Buyer. In case of litigation or arbitration, the Buyers shall also pay all the relevant expenses to the Seller, including but without limitation all his reasonable attorneys/lawyers' fees, costs and disbursements. Taking of any

additional security measures by Seller shall not operate as a waiver of this provision.

8.5 The Buyer expressly undertakes not to make any endorsement, disclaimer, complaint, or comment (including but without limitation to any no-lien clausings) on the bunker delivery receipt when presented for signature by the Buyer's representative(s). Any such insertion shall be invalid and with no effect whatsoever.

## 9. TAXES OR OTHER CHARGES

9.1 Should any tax, freight, insurance premium, pilotage, port dues or other extra expenses at the time of loading be raised or charged such additional expenses shall be borne by Buyer, provided that such expenses are attributable to the fuel delivered.

9.2 The Seller's offer is based on the applicable taxes, duties, costs, charges and price level of components for Bunkers existing at the time of the conclusion of these terms of sale. Any later or additional tax, assessment, duty or other charge of whatever nature and however named, or any increase of components for Bunkers or any additional costs borne by the Seller whatsoever caused by any change in the Seller's contemplated source of supply or otherwise, coming into existence after the terms of sale have been concluded, shall be added to the agreed purchase price, provided that the Seller shall give the Buyer prior notice of this effect within a reasonable (under the prevailing circumstances) time after the Seller becoming aware of the relevant circumstances.

## 10. NOMINATION AND FINAL NOTICE OF REQUIREMENT; TERMINATION

10.1 Buyer shall give Seller final notice directly or through Buyer's Agent at least 48 hours (Saturdays, Sundays and holidays included) of the exact time at which delivery is required. Failing such 48 hours' notice Seller shall use reasonable efforts to deliver on the nominated delivery time.

10.2 Buyer shall reimburse Seller for overtime and any other additional expenses incurred due to the failure of Buyer, its servants or vessel's local agents to provide Seller or Supplier with sufficient prior notice of amendments of delivery time.

10.3 Seller reserves the right to cancel any contract for the sale of Marine Fuels without liability on the part of Seller in any one of the following cases:

a) if the Vessel fails to take delivery of the Marine Fuels at the latest by 23.59 hours on the day occurring two days after the nominated delivery date. Upon such termination the Buyer shall compensate

Seller for all costs, additional expenses and losses, including loss of profit, resulting from the Buyer's failure to take delivery.

b) if, before the date of delivery, it is apparent in the opinion of the Seller that the financial position of the Buyer entails a risk to the Seller;

c) if the Buyer fails in part or in full to comply with its obligations to pay any amount due to the Seller and/or provide security as set out in these terms of sale;

d) if war or hostilities break out between any two or more of the following countries: U.S.A., the countries or republics having been part of the former U.S.S.R (except that declaration of war or hostilities solely between any two or more of the countries or republics having been part of the former USSR and which are not EU-states shall be exempted), P.R.C. and any of the EU-states;

e) if the Seller due to any force majeure, or force majeure equivalent, event is contractually obligated to place its Marine Fuels, vessels, bunker barges or equipment at the disposal of an authority or other third party;

f) if at any time the Seller, in its sole discretion, has reasonable grounds to believe that: (i) the Vessel; or (ii) the Charterer of the Vessel; or (iii) the owner of the Vessel; or (iv) any officers of the Vessel; or (v) the operator and/or manager of the Vessel; or (vi) any other person or entity in any way related to these terms of sale or this delivery is/are

1) Listed on the US OFAC Specially Designated Nationals List; or

2) Covered by any US, UN- and/or EU sanctions; or

3) Covered by any sanctions of any other jurisdiction and/or administration.

10.4 Under no circumstances can the Seller be held liable for any loss, delays, claims or damages of whatever kind suffered by the Buyer due to a cancellation under this section 10.

10.5 The Buyer must inform the Seller immediately the Buyer becomes aware of or has reasons to believe that any of the above items d) (i) to (vi) in combination with any of the above items 1) to 3) are fulfilled/apply. Should the Buyer breach such obligation to inform the Seller, the Buyer shall fully indemnify and keep the Seller harmless for any damage or loss caused by such breach, including consequential or liquidated damages.

10.6 The Buyer acknowledges that any agreements with the Seller and any actions related to such agreements as well as any interaction with third parties related to such agreements are covered by certain

anticorruption laws and regulations which can include any anticorruption law, including but not limited to the U.S. Foreign Corrupt Practices Act ("FCPA"), and the UK Bribery Act. Therefore, the Buyer declare to comply with all applicable anticorruption laws and regulations and agrees that the Buyer has not, and will not, offer, promise, pay, or authorize the payment of any money or anything of value, or take any action in furtherance of such a payment, whether by direct or indirect means, to any public official or private individual to influence the decision of such person in the performance of his duties to a government or to his company. Any breach of this clause will void the related delivery and in the sole discretion of the Buyer any other agreement between the parties, making any claims for payment, delivery or any other obligation of the Seller under these terms of sale void. The Buyer is liable for all and any costs or losses incurred by the Seller due to such breach and/or an agreement becoming void as a consequence.

## **11 FORCE MAJEURE**

- 11.1 Failure by Seller to perform or observe any of its obligations hereunder shall be deemed not to be a breach of this contract if the failure was caused by circumstances beyond Seller's control, including but not limited to governmental restrictions, orders or requests of any other authority, labour disputes, strikes, wars, fire, flood, weather conditions, accidents involving barges, tanks or other equipment, failure by suppliers to deliver as per orders as well as any other cause reasonably to be considered beyond the control of Seller and Seller shall in such event in his option be entitled to cancel the delivery or to postpone it correspondingly.
- 11.2 If Buyer exercises reasonable diligence, Buyer shall not be liable for failure to receive any particular delivery if prevented therefrom by force majeure, provided however that Buyer shall indemnify seller for any direct costs or expenses incurred by Seller for the delivery.

## **12 SAFETY AND ENVIRONMENTAL PROTECTION**

- 12.1 Buyer shall be responsible for providing safe reception of the Marine Fuels to be delivered. If an escape, spillage or discharge of oil (hereinafter referred to as a "spill") occurs while Marine Fuel is being delivered to Buyer hereunder, Buyer will 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 is hereby authorised, at its option, upon notice to Buyer, or Buyer's operator of, or agent for, the Vessel, to take such measures, either in co-operation with Buyer,

or exclusively as the sole party, and incur such expenses (whether by employing its own resources or by contraction with others) as are reasonably necessary, in the judgement 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 effect of such spill, Buyer agrees to co-operate and render such assistance as is required by Seller in the course of such action. Buyer shall pay and indemnify Seller for any expenses, damages, costs, fines, and penalties arising from escape, spillage, discharge or pollution of oil, unless the escape, spillage etc. was due to Seller's gross negligence. Buyer also agrees to give, or cause to be given, to Seller, all such documents, and other information concerning any spill or any program for the prevention thereof, which are requested by Seller, or required by law or regulation applicable at the time and place where Seller delivers Marine Fuel to Buyer.

- 12.2 Buyer shall be responsible for users compliance with all health and safety requirements related to Marine Fuel supplied and shall assure that any user avoids frequent or prolonged contact with or exposure to the Marine Fuel both during and subsequent to delivery. Seller or Seller's supplier accepts no responsibility for any consequence arising from failure to comply with such health and safety requirements or arising from such contact or exposure.

## **13 LIABILITY AND INDEMNITY**

- 13.1 Seller shall have no liability, however arising and whether as a result of a breach of the terms of sale, negligence or otherwise, for any loss of profit loss of time or hire, demurrage or loss of schedule, physical loss or damage to cargo nor, without prejudice to the foregoing, shall Seller be liable for any consequential or indirect damages suffered by Buyer. In the event that Seller or any other person who may benefit from Seller's stipulations would be held liable, the total liability shall be limited to an amount equalling the price of the delivery involved.
- 13.2 The actual suppliers of Marine Fuels under these terms of sale and all employees, representatives or agents of Seller and of such actual suppliers shall have the benefit of any and all rights stipulated for Seller under these terms of sale with respect to exclusion of liability and indemnification by Buyer.
- 13.3 In all cases where, pursuant to these terms of sale or otherwise, Seller is not responsible, Buyer shall indemnify Seller against all claims and actions of any third party.

#### **14 ARBITRATION AND GOVERNING LAW**

- 14.1 Any agreement between the parties shall be governed by the laws of Sweden.
- 14.2 The 1980 United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply to any transaction.
- 14.3 The General Maritime Law of the United States shall always apply with respect to the existence of a maritime lien, regardless of the country in which Seller takes legal action. Seller shall be entitled to assert its rights of lien or attachment or other rights, whether in law, in equity or otherwise, in any jurisdiction where the Vessel may be found.
- 14.4 If any procedure of any nature whatsoever is instituted under clause 14.3 above, in connection with any controversy arising out of these terms of sale or to interpret or enforce any rights under these terms of sale, the prevailing party shall have the right to recover from the losing party its reasonable costs and attorneys' fees incurred in such proceeding.
- 14.5 Any dispute, controversy or claim arising out of or in connection with this contract, or the breach, termination or invalidity thereof, shall be finally settled by arbitration administered by the Arbitration Institute of the Stockholm Chamber of Commerce (the SCC Institute). The Rules for Expedited Arbitrations of the Arbitration Institute of the Stockholm Chamber of Commerce shall apply, unless the SCC Institute, taking into account the complexity of the case, the amount in dispute and other circumstances, determines, in its discretion, that the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce shall apply. In the latter case, the SCC Institute shall also decide whether the arbitral tribunal shall be composed of one or three arbitrators. The place of the arbitration shall be Gothenburg, Sweden.
- 14.6 Notwithstanding sub-clause 14.5, with respect to payment hereunder, Seller is, in his option, entitled to institute proceedings or take action in any competent court or similar authority. The City court of Gothenburg shall be deemed to be such competent court.
- 14.7 Without prejudice to any other clause herein, any dispute and/or claim arisen in connection with a vessel detained by Seller at any port, place or anchorage within the United States shall be submitted to the United States District Court for the Southern District of New York.

#### **15. VALIDITY**

- 15.1 These terms and conditions shall be valid and binding for all offers, quotations, prices and deliveries made by Stena Oil AB, any associated company, representative or

agent as of **June 23, 2015**, or at any later date.

- 15.2 These terms and conditions are available at the website [www.stenaoil.com](http://www.stenaoil.com), on which site as well the Sellers may notify amendments, alterations, changes or verifications to same. Such amendments, alterations, changes or verifications are deemed to be a part of the entire terms once same have been advised on the website.

**Gothenburg, Sweden, 23 June 2015.**