

AKRON TRADE AND TRANSPORT

GENERAL TERMS AND CONDITIONS

FOR SALE OF MARINE FUELS

1. DEFINITIONS:

In this Agreement (as hereinafter defined) the following terms shall have the following meanings unless the context otherwise requires:

"The Agreement" or "This Agreement"	Any agreement between Buyer and Seller, whatever its form, and these General Terms and Conditions together with any form of contract into which they are incorporated, form part thereof, and "herein", "hereunder", "hereinafter" and "hereof" refer to this Agreement.
"Buyer"	The party contracting to purchase, take delivery of and pay for the Marine Fuels and where applicable, the agent so contracting on behalf of such party.
"Marine fuels"	The oil products which are the subject of this Agreement, delivered or to be delivered to the Vessel.
"Seller"	Akron Trade and Transport, P.O. Box 1327, Fujairah, U.A.E,
"Supplying Company"	The party with whom the Seller contract to secure the physical delivery of Marine Fuel.
"Vessel"	The Vessel to which the Marine Fuels are delivered or to be delivered.

Unless the Agreement otherwise requires, any words denoting the singular number shall include the plural and vice versa. Marginal headings herein are for identification purposes only and shall not be deemed to be part hereof or to be taken in to consideration in the interpretation or construction of this Agreement.

2. USE OF MARINE FUELS

All Marine Fuels shall be delivered in bulk and are supplied subject to their being used solely for the operation of the Vessel originally receiving them.

3. PAYMENT AND FINANCIAL RESPONSIBILITY

- A. Payment shall be made by Buyer as directed by Seller. Invoices will be based upon telegraphic advice of delivery details in lieu of delivery documents. Delivery documents may be provided to Buyer at his request but payment shall not be conditional upon Buyer's receipt of such documents.

- B. Payment shall be made by Buyer in full, without set-off, counterclaim, deduction and/or discount, free of bank charges in the manner and at the place as directed by Seller. Buyer shall not make any deduction for claims relating to quantity, quality or service and payment in full shall be a pre-requisite for any review/ negotiation / settlement of such claims. Seller may immediately recover any amount withheld from the full payment and Buyer agrees that any claims related to the delivery of Marine Fuels shall not constitute a valid defense against Seller's claim to the withheld amount.
- C. Unless otherwise agreed, prices shall be deemed to be nett in US dollars. All applicable taxes, levies, duties, tolls, fees, import charges and other costs including those imposed by governments and local authorities shall be for Buyer's account and will not ordinarily be included in the price quoted.
- D. Should Marine Fuels be ordered by Agent, then such Agent, as well as the Principal, shall be bound by, and liable for, all obligations as fully and as completely as if the Agent were himself the Principal, whether such Principal be disclosed or undisclosed, and whether or not such Agent purports to contract as Agent only. Both Principal and Agent shall be considered Buyer for the purposes of this Agreement.
- E. Deliveries of Marine Fuels hereunder, if sold on a credit basis, are delivered not only on the credit of the Buyer, but also on the credit of the receiving Vessel and the amount due shall become a maritime lien against the Vessel immediately upon each delivery. Until payment has been received in full, the Seller has a right of lien over the Marine Fuels delivered.
- F. Overdue payments shall bear interest at the rate of 1.5 per cent per month or any part thereof.

4. RISK AND TITLE:

- A. Risk in the Marine Fuels shall pass to Buyer once the Marine Fuels have reached the flange connecting the delivery facilities provided by Seller or Supplying Company with the receiving facilities provided by Buyer. Buyer's risk includes, but is not limited to, loss, damage, deterioration, contamination, evaporation and responsibility for loss, damage and harm caused by pollution or in any other manner to third parties.
- B. Title to the Marine Fuels shall pass to the Buyers upon payment in full for the Marine Fuels delivered, pursuant to the terms of Clause 3 herein. In the event that Buyers fail to pay and the Marine Fuels have been commingled with other bunkers the property of the Buyer on board the Vessel, the product thereof shall become and/or shall be deemed to be the sole and exclusive property of the Seller. If the Marine Fuels are commingled with other bunkers or product the property of any third party, the product thereof shall become and/or shall be deemed to be, owned in common with such third party. Buyer shall indemnify and hold Seller and its supplier harmless from any and all losses, damage, demands, claims, suits or liability for damage to property for injury or death caused to any person arising out or connected with an action or omission on Buyer's part, their officers, crew, servants or third parties acting on their behalf in receiving, using, storing or transporting marine fuels delivered hereunder.

5. QUALITY:

- A. Buyer shall have the sole responsibility for the selection, nomination and acceptance of Marine Fuels for use in the Vessel.
- B. The quality of each grade of Marine Fuel shall be the usual quality of that grade offered for sale or being sold by Seller or Supplying Company at the time and place of delivery but SELLER OTHERWISE MAKES NO GUARANTEES OR WARRANTIES OF QUALITY, MERCHANTABILITY, FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE BEYOND THE DESCRIPTION GIVEN ABOVE AND ANY IMPLIED WARRANTIES OR CONDITIONS WHETHER STATUTORY OR OTHERWISE ARE EXPRESSLY EXCLUDED.
- C. Notwithstanding 5B above it is the duty of Buyer to take all reasonable actions, including retention and burning of fuel, to eliminate or minimize any costs associated with all off- specification or suspected off--specification supply. To this end Buyer shall co-operate with the Seller in achieving the most cost effective solution. In any event

Seller's obligation hereunder shall not exceed direct expenses incurred for removal and replacement of fuel and shall not include any consequential or indirect damages, including without limitation, demurrage claims, loss or contract or loss of profit. If Buyer removes such fuel without the consent of Seller then all such costs shall be for Buyer's account.

6. SAMPLING:

- A. Sampling by Seller or Supplying Company shall be carried out prior to Marine Fuels leaving Seller's or Supplying Company's facilities. Buyer, or his authorized representative, shall have the right to witness the drawing of the sample. In the event that Buyer is not present or represented he shall not make any challenge to the sampling procedure or results on that basis.
- B. Seller or Supplying Company shall take three (3) representative samples for each delivery. The samples shall each be sealed and signed by the Vessel's Master or his authorized representative, and shore or barge representative. One sample shall be given to the Master of the Vessel; the other two samples shall be retained by Seller or Supplying Company for at least 30 days from the date of delivery in a safe place for verification of the quality of the Marine Fuels, if required. In the event of a discrepancy between test results of the Buyer's sample and a corresponding sample submitted for testing by Seller, then the last retained sample will be submitted for analysis to an independent laboratory, the results of which shall be conclusive as to the quality of Marine Fuels delivered. Samples taken anywhere else than Supplying Vessel will not be accepted. In case that Buyer wish to appoint any independent surveyor, samples and readings has to be taken on the Supplying Vessel.

7. QUANTITY DETERMINATION:

The quantity of Marine Fuels delivered shall be determined from the official gauge of the barge effecting delivery or by gauging in Seller's or Supplying Company's shore tank or by Seller's or Supplying Company's oil meter at Seller's or Supplying Company's selection. Except where government regulations determine otherwise, adjustment in volume owing to difference in temperature shall be made in accordance with ASTM Petroleum Measurement Tables. In the measurement of Marine Fuel, Seller or Supplying Company shall make allowance for all water and non-petroleum sediment in excess of one per cent (1%). Buyer may be present or represented by properly accredited agent when such measurements are taken, but if Buyer is not present or represented then Seller's or Supplying Company's determination of quantities shall be deemed to be correct. Buyer may inspect the oil delivered hereunder before it is pumped out of the Seller's or Supplying Company's shore tank or barge. Any claim by Buyer as to shortage in quantity must be noted at time of delivery.

8. DELIVERIES:

- A. Vessels will be bunkered as promptly as circumstances permit but neither Seller nor Supplying Company shall be liable for demurrage or for any loss due to congestion at the terminal or to prior commitments of available barges or delay at loading port to the bunkering barge due to adverse weather or any other reasons beyond Seller's control.
- B. If Buyer causes delays to Seller's or Supplying Company's facilities in effecting deliveries, Buyer shall pay demurrage to the Seller on the basis of actual costs incurred, and reimburse Seller or Supplying Company for all other expenses arising therefrom.
- C. Delivery shall be made during normal working hours unless required at other times and permitted by port regulations, in which event Buyer shall reimburse Seller or Supplying Company for all additional expenses arising therefrom. If government permission is required for deliveries hereunder, no deliveries shall be made until the permission has been obtained.

- D. At all ports barging provided by or caused to be provided by Seller or Supplying Company shall be charged to Buyer at applicable rates for not less than ninety per cent (90%) of the quantity ordered or tendered, whichever is less and Buyer shall also be charged for all additional expenses incurred by Seller or the Supplying Company in connection with Buyer's failure to take delivery of the full quantity ordered by Buyer. In the event Buyer fails to take delivery of the full amount ordered or tendered, whichever is less, of Marine Fuel either ex barge or ex-terminal. Seller will charge Buyer the amount of loss sustained by having to sell the fuel in down-graded form at a lower price than that at which it was ordered.
- E. Buyer shall give Seller at least seven (7) days prior written notice of deliveries required, specifying the name or the vessel, the location or load port, the date of delivery, the grade and approximate quantity of Marine Fuel, and details of Vessel's agent.
Thereafter, Buyer or Vessel's local agent shall give to Seller or Supplying Company (as applicable) at each port where deliveries are required at least forty eight (48) hour advance notice (unless otherwise stated in Seller's Price List), religious and public holidays excluded, of the exact quantity required and exact location and time at which delivery is required. Buyer shall reimburse Seller or Supplying Company for overtime and/or other additional expenses incurred due to the failure of Buyer, its servants or Vessel's local agents to provide Seller or Supplying Company (as applicable) with sufficient prior notice of amendments of delivery time, quantity changes or cancellations.
- F. Buyer shall make all connections and disconnections between the delivery hose and Vessel's intake pipe, and shall render all other necessary assistance and provide sufficient tankage and equipment to receive promptly all deliveries hereunder.
- G. At Buyer's request, deliveries will be made alongside Seller's or Supplying Company's dock if facilities for such deliveries are shown to be available in Seller's Price List. In no case shall Seller or Supplying Company be liable for any damage or delay resulting from causes beyond their control or avoidable by due care on the part of Buyer or its Vessel.
- H. If Vessel has not arrived within 3 days from the estimated time of arrival at Seller's or Supplying Company's facilities, then Seller shall have the right to cancel such nomination without notice.
- I. Where final quantity is agreed by the parties to be notified by the Master of the Vessel on arrival at the delivery point, such final quantity shall not be short of the original nomination by more than ten per cent.

9. CLAIMS:

Any claim by Buyer with respect to quantity must be notified to the Seller in the form of a Letter of Protest signed by the Buyer or his authorized representative at time of delivery. Within fourteen (14) days thereafter the Buyer shall provide full details of the claim in writing to the Seller. Any other claims of complaints by Buyer including price or deficiency in quality of Marine Fuels must be received by Seller in writing as soon as possible, but in no event shall Seller be responsible for such claims notified more than fourteen (14) days from date of delivery in question.

Failure to make any such complaints or claims as to quantity or quality within the time periods and manner specified above shall be deemed to be a waiver of any such complaints or claims.

Buyer shall furnish all necessary details required by Seller to satisfactorily evaluate claim.

Seller shall not be responsible for any claim arising in circumstances where there is or has been commingling of Marine Fuels delivered by Seller with other fuel or product aboard Vessel.

10. INDEMNITY:

Buyer shall indemnify and hold Seller harmless from any and all expense, claims, loss, damage and liability arising out of Buyer's receipt, use, storage and transportation of Marine Fuel, unless the same be due in its entirety to Seller's negligence. Buyer shall indemnify Seller or Supplying Company against all damage and liabilities arising from any acts or omissions of Buyer or its agents, servants, ship's officers or crews in connection with the delivery of Marine Fuel.

11. NOTICES:

Unless otherwise provided, notice hereunder shall be given in writing or by telex, telefax, telegraph, cable or radiogram to the Seller's address in Fujairah or such other addresses as the parties may designate. The notice required under Clause 8E above shall be deemed given on the day when, in the ordinary course of events the letter, telex, telegraph, cable or radiogram message would have been received.

12. ASSIGNMENTS:

The Seller may assign all or any of its rights and obligations hereunder. The contract, or any part thereof, shall not be assigned or transferred by Buyer without the prior written consent of the Seller.

13. FORCE MAJEURE:

In addition to any other excuses (arising out of the same or other causes) provided by law, no failure or omission by either party to carry out or observe any of the provisions or conditions hereof shall give rise to any claim against that party, if the same shall arise out of causes not reasonably within the control of that party, including (without limitation) such causes as labor disputes, strikes, governmental intervention, wars, civil commotion, fire, flood, storm, swell conditions in the Arabian Gulf or any act of God and the term "party" shall also include Supplying Company and when used with reference to Seller shall also include Seller's subsidiary and affiliated companies.

In the event that any governmental authority (or authority created by governments) imposes any form of price control, rationing, allocation or other emergency measures on Seller's sales of Marine Fuels at the Port where Buyer desires to purchase or take delivery of Marine Fuels, then Seller has the right to (i) suspend or cancel deliveries of any Marine Fuels contracted for in accordance herewith for such period or periods as Seller may determine are required to resolve uncertainties raised by such governmental actions: or (ii) allocate such quantities of Marine Fuels to the Buyer as Seller may determine to be appropriate: or (iii) cancel any further commitments to make deliveries under this Agreement.

14. SHORTAGE OF SUPPLIES:

If at the port or location where delivery is to be made, supplies of Marine Fuel available to Seller or Supplying Company are curtailed, deliveries of Marine Fuels may at Seller's discretion be allocated among customers in such manner as Seller deems appropriate and Seller shall not be required to increase supplies from some other source or supply or to purchase Marine Fuels to replace the supplies so curtailed.

Anything herein contained to the contrary notwithstanding, deliveries at all ports are subject to stocks being available. If it is necessary to deliver a premium grade of Marine Fuel in lieu of the product ordered, Buyer shall pay the then current price for the grade actually supplied.

15. CANCELLATION RESTRICTIONS:

Cancellation of bunker nomination should be advised to Seller at least three (3) days before the ETA of Vessel. Nevertheless Buyer shall support his cancellation for bunker nomination with reasons that should be considered by Seller as acceptable. If Seller is not satisfied with Buyer's justification for cancellation, the Seller reserves the right to recover from Buyer all damages and costs resulting from the cancellation.

16. ENVIRONMENTAL PROTECTION:

If a discharge, escape or spillage of oil (hereinafter referred to as a "spill") occurs while Marine Fuel is being delivered to the Vessel, 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 or Supplying Company is hereby authorized at its option, upon notice to Buyer, or Buyer's operator of, or agent for, the Vessel, to take such measures, either in cooperation with Buyer, or exclusively as the sole party, and incur such expenses (whether by employing its own resources or by contracting with others) as are reasonable necessary, in the judgment of Seller or Supplying Company, 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 shall render such assistance as is required by Seller in the course of such action. Any costs, damages, expenses, fines, and penalties arising from discharge, escape, spillage or pollution of oil shall be paid by the party that caused such discharge, escape, spillage or pollution by a negligent act or omission. If both parties have acted negligently, any such costs, damages, expenses, fines, and penalties, shall be divided between the parties in accordance with the respective degree of negligence. Buyer shall 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 or Supplying Company delivers Marine Fuels to the Vessel.

17. ARBITRATION AND GOVERNING LAW:

This Agreement is governed by English Law. All disputes arising out of or under this Agreement which cannot be amicably resolved shall be referred to IJMAA arbitration in London.

Unless the parties agree upon a sole arbitrator, one arbitrator shall be appointed by each party. In the case of an arbitration on documents, if the two arbitrators so appointed are in agreement their decision shall be final. In all other cases the arbitrators so appointed shall appoint a third arbitrator and the reference shall be to the three-man tribunal thus constituted.

If either of the appointed arbitrators refuses to act or is incapable of acting, the party who appointed him shall appoint a new arbitrator in his place.

If one party fails to appoint an arbitrator, whether originally or by way of substitution for two weeks after the other party, having appointed his arbitrator, has (by telex, fax or letter) called upon the defaulting party to make the appointment, the president for the time being of the London Maritime Arbitrators' Association shall, upon application of the other party, appoint an arbitrator on behalf of the defaulting party and that arbitrator shall have the like powers to act in the reference and make an award (and, if the case so requires, the like duty in relation to the appointment of a third arbitrator) as if he had been appointed in accordance with the terms of the Agreement.

Provided that the amount in dispute does not exceed the sum or US\$ 50,000 (or such other sum as the parties may agree), any dispute shall be resolved in accordance with the Small Claims Procedure of the London Maritime Arbitrators' Association.

18. OFF-SHORE BUNKERING FACILITIES:

In case delivery is effected by off-shore Bunker Facility the following additional terms and conditions will also be applicable:

- A. The Bunker Facility will normally be on its station and the Vessel shall make arrangements for rendezvous by direct contact with the Bunker Facility in this position. Should the Vessel arrive later than the notified time at the rendezvous point so agreed, then Seller shall in no way be liable for demurrage or costs resulting from loss of priority to other vessels in bunker deliveries, howsoever arising. All bunkering operations shall be under the absolute control of the Master of the Bunker Facility. The Vessel shall submit to the reasonable order and directions of the Master of the Bunker Facility with regard to coming alongside the Bunker Facility, accepting deliveries therefrom and casting off. The Master of the Bunker Facility may, at his discretion, refuse to make deliveries in adverse weather conditions or in any case where the Vessel refuses to comply with his reasonable orders or directions in regard to maneuvering alongside the Bunker Facility. Seller shall not be liable for any loss resulting from the Master of the Bunker Facility refusing to effect deliveries on these grounds or for any loss resulting from break-down of the Bunker Facility.

- B. Buyer or Vessel's local agents shall give to Seller at least 5 days advance notice of nominations of the exact quantity required. The nominated Vessel shall then give notice to the Seller at intervals of 72 hours, 36 hours, and 24 hours prior to arrival alongside the Bunker Facility. Buyer shall reimburse Seller for overtime and/or additional expenses incurred due to the failure of Buyer, its servants or Vessel's local agents to provide sufficient prior notice of amendments to delivery time, quantity changes or cancellation.

- C. Should the Vessel fail to arrive at the agreed rendezvous more than 6 hours after the time declared in the 72 hours notice to the Seller required under section 18B hereof, then Seller shall have the right to cancel the nomination in its entirety but in any case shall bear no liability as to delay and/or loss incurred by Buyer.