

General Terms and Conditions of Sale of Marine Grade Fuel

1. Definitions

In the agreement (hereinafter defined) the following terms shall have the following meanings:

- 1.1. "the Agreement" means the General Terms and Conditions of Sale For Marine Grade Fuel,
- 1.2. "liter/litre" means a metric unit of capacity equal to the volume of 1 kilogram of pure water at 4 degrees centigrade and 760 mm of mercury,
- 1.3. "cubic meter/metre" means a metric unit of capacity equal to the volume of 1000 kilogram of pure water at 4 degrees Celcius/39.2 degrees Fahrenheit and 760 mm of mercury,
- 1.4. "metric ton" means a unit of weight equivalent to 1000 kilograms,
- 1.5. "BUYER" means a party obligated to buy Marine Grade Fuel under this Agreement,
- 1.6. "Delivery Date" means the date on which the Marine Grade Fuel is to be delivered to the vessel by SELLER,
- 1.7. "General Terms" means these Bunkers International General Terms and Conditions of the Sale of Marine Grade Fuel,
- 1.8. "Marine Grade Fuel" means the type(s), quantity(ies) and commercial grade(s) of bunker fuel oil, intermediate fuel oil, ("IFO"), marine diesel oil ("MDO"), marine gas oil ("MGO") and/or other materials or petroleum products specified in the Special Terms which SELLER has agreed to sell to BUYER,
- 1.9. "SELLER" means Scandinavian Intermarine HB,
- 1.10. "Special Terms" means any form of agreement including, without limitation, a letter, telefax, e-mail or telex which to any extent incorporates by reference or is subject to the General Terms,
- 1.11. "Supplier" means the person or entity from whom the SELLER procures Marine Grade Fuel for resale to the BUYER,
- 1.12. "Supply Port" means the port at which the Marine Grade Fuel purchased by the BUYER is to be delivered to the Vessel, and
- 1.13. "Vessel" means the marine vessel or vessels to which the Marine grade Fuel purchased by the BUYER is to be delivered.

2. Measurements and Tests

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

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

All measurements shall be adjusted to liters, cubic meters or metric tons at 15.5 degrees Celsius/60 degrees Fahrenheit temperature. All such adjustments shall be made in accordance with the latest joint Petroleum Measurement Tables of the American Petroleum Institute ("API"), the American Society of Testing and Materials ("ASTM") and the Institute of Petroleum ("IP") designated API D-2540, ASTM D-1250 and IP 200/52, respectively, or equivalent, whichever are in use at the Supply Port.

Two samples of the Marine Grade Fuel shall be taken at the time of delivery from the terminal shore tank, load pipeline or delivery barge, as appropriate, and immediately sealed. The samples shall be taken by line-sampling devices, where available. One sealed sample shall be handed to the Vessel's Master, Chief Engineer or other officer, and the other retained by the SELLER or its Supplier. Tests to determine quality shall be made only from such samples and shall be made in accordance with standard test methods specified in the official publications of either of the API, ASTM or PI publications on the date of the Agreement. Notwithstanding any Special Terms or any representations by SELLER regarding the quality, grade, type or other specifications and notwithstanding the fact that SELLER may test the Marine Grade Fuel, it is the sole and ultimate responsibility of the BUYER to test, in accordance with the protocol set forth, supra, and properly ascertain the quality, grade, type and/or other relevant specifications before use of the Marine Grade Fuel in order to:

- 2.1. ensure that the quality, grade, type and/or other relevant specifications are consistent with those contained in the Special Terms and/or the delivery receipt and/or any other document relied upon by the BUYER that is provided by SELLER and/or Supplier and/or their agents, if any, as the case may be, as a representation of the quality, grade, type and/or other specifications, and
- 2.2. to ensure that the Marine Grade Fuel is suitable for the use intended by the BUYER or other end user

in order to prevent damage to the BUYER'S and/or end user's and/or any third party's property, persons, business, profits, and/or reputation and any other damage as the BUYER acknowledges and agrees that the BUYER is in the better position to make such a determination relative to the SELLER and has exposure to damages as a result of the failure to properly and timely make such a determination that may far exceed the cost of the Marine Grade Fuel and is in the better position to prevent such damage from occurring. The responsibilities allocated to the BUYER by this paragraph shall not relieve the SELLER from liability for replacement of the Marine Grade Fuel in the event of a material variance of the quality, grade, type and/or other specifications in the Special Terms agreed upon by the BUYER and the SELLER as set forth in paragraph 14 of this Agreement.

3. Price

The price of Marine Grade Fuel sold and delivered hereunder shall be the price set forth in the Special Terms. Unless otherwise agreed, all prices are for delivery ex tank at the Supply Port and are exclusive of all delivery costs and all taxes, duties, fees or other assessments imposed

or levied by any government authority (whether at the Supply Port or otherwise) or instrumentality thereof.

4. Barging

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

5. Payment Terms

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

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

If the SELLER has extended credit to the BUYER, and if the applicable period expires on a Saturday, Sunday or any other day when the SELLER's bank is closed for business, then the BUYER shall arrange for the payment in question to be made within such shorter period as will enable the payment to have been made by the last day within the applicable credit period when the SELLER's bank was open for business. SELLER has the right to withdraw any credit terms offered, verbally or written, without prejudice at anytime before or after delivery, and demand immediate settlement of any and all invoices outstanding.

6. Deliveries

Deliveries of Marine Grade Fuel shall be made during normal working hours on normal working days at the Supply Port. If the BUYER requires delivery or causes delivery to be made at any time other than during such periods, then the BUYER shall pay to the SELLER any addition expenses or cost incurred by the SELLER or its Supplier as result of such delivery.

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

The BUYER shall give the SELLER written notice at least forty-eight (48) hours prior to the Delivery Date of the estimated time(s) on such date the Vessel will be ready to receive the Marine Grade Fuel purchased by the BUYER. In such notice the BUYER shall, if necessary, advise the SELLER of any special condition, peculiarity, deficiency or defect of or with respect to the Vessel or its equipment which might delay, hinder or otherwise affect the mooring, unmooring or bunkering of the Vessel. If the BUYER fails to provide this notice and the Vessel

for whatever reason is unable or refuses to accept Delivery Date, or if the BUYER provides such notice but request an extension to the Delivery Date of more than twenty-four (24) hours after twelve noon on such date, then the SELLER may, at its option, deliver the Marine Grade Fuel to the Vessel at the requested new delivery time on a best efforts basis, suspend delivery subject to BUYER's agreement to a new price for the Marine Grade Fuel, or cancel the delivery altogether, with or without prejudice to SELLER's rights under this Agreement.

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

7. Title and Risk

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

8. Demurrage and Delays

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

9. Warranties

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

10. Claims

All claims as to shortage in quantity, defects in quantity, or otherwise shall be made in writing by the SELLER within thirty (30) days after the delivery in question, otherwise all such claims shall be deemed to have been waived in their entirety. All claims by the BUYER are subject to the limitations set out in paragraph 14.

11. Financial Responsibility

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

If the BUYER in any way breaches the Agreement, defaults in the payment of any indebtedness to the SELLER (whether arising out of the Agreement or otherwise) or become bankrupt or insolvent, or if the SELLER at any time considers the financial of the BUYER to be unsatisfactory, then the SELLER may, in addition to any other rights and remedies it may have, cancel or suspend deliveries hereunder until such time as the BUYER remedies such breach or default and/or provides suitable additional security and/or guarantees acceptable to the SELLER.

12. Agents

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

13. Interest and Collections

Without limitation to SELLER's right hereunder or otherwise, any payment not made when due shall bear interest at the rate of (i) 10% (ten percent) per month, or (ii) the maximum rate allowed by law, running from the due date until the date payment is received by SELLER's bank.

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

14. Limitation of Liability

Except as specifically otherwise stated in this Agreement and/or the Special Terms and/or by other written subsequent Agreement signed by SELLER, once title and risk pass from the BUYER to the SELLER in accordance with paragraph 7 of this Agreement, SELLER and all other parties having title and/or custody of the Marine Grade Fuel prior to the point in time at which title and risk pass to the BUYER are relieved of all liability for any and all damages due to any breach in performance of this Agreement and/or breach in performance of the Special Terms and are relieved of any and all liability for damages caused by the use of the Marine Grade Fuel by the BUYER. BUYER agrees to defend, indemnify and forever hold harmless SELLER from any and all claims by any third party and/or end user other than buyer resulting from the use of the Marine Grade Fuel.

Notwithstanding the foregoing, in the event of a material variation in the quality, grade, type and/or other specifications of the Marine Grade Fuel from those agreed upon by the BUYER and SELLER in the Special Terms such that the Marine Grade Fuel is unusable by the BUYER without risk of damage to property, person or otherwise, then SELLER shall be liable for replacement of the Marine Grade Fuel, including the disposal, except in the event of a spill or leak, of the offending Marine Grade Fuel and delivery of the replacement Marine Grade Fuel. In such an event, SELLER reserves the right to salvage the offending Marine Grade Fuel. In the event the offending Marine Grade Fuel is salvaged by any party, then SELLER shall be entitled to receive a credit therefore against any claim the BUYER may make. In the event of a variation in the quality, grade, type and/or other specifications of the Marine Grade Fuel from those agreed upon by the BUYER and SELLER in the Special Terms such that the Marine Grade Fuel is usable by the BUYER without risk of damage to property, person or otherwise, then Seller

shall be liable only for the diminution in value commensurate with the variation of the actual Marine Grade Fuel provided to the BUYER from the lowest allowable standard of Marine Grade Fuel as contained in the Special Terms agreed upon by the BUYER and SELLER. Notwithstanding any other provision herein, the liability of SELLER to BUYER shall be limited to the greater of the \$100,000.00 USD or the purchase price of the Marine Grade Fuel delivered on the occasion that gave rise to the claim of BUYER. Except as otherwise specifically stated herein or in the Special Terms, SELLER and all other parties having title and/or custody of the Marine Grade Fuel prior to the point in time at which title and risk pass to the BUYER shall not be liable for any punitive, exemplary, special and/or consequential damages arising out of the sale and delivery of the Marine Grade Fuel to BUYER.

15. Environmental Protection

BUYER represents and warrants that the Vessel is properly equipped, maintained and operated so as to avoid the escape, spillage or discharge of oil (a "spill") at the time of all deliveries of Marine Grade Fuel hereunder. If a spill does occur while Marine Grade Fuel is being delivered by the SELLER or its Supplier to the BUYER and the Vessel, then BUYER shall promptly take such action as is reasonably necessary to remove the oil and mitigate the effects of such spill. However, notwithstanding the cause of such spill, SELLER and/or its Supplier is hereby authorized, at its/their option, to take such measures and incur such expenses (whether by employing its own resources or by contracting with others) as are reasonably necessary to remove the oil and mitigate the effects of such spill. In the event SELLER and/or its Supplier has exercised its/their option to remove the oil and mitigate the effect of such spill, BUYER agrees to cooperate and render such assistance as is reasonably required by SELLER and/or its Supplier. All expenses, damages, costs, fines and penalties arising from a spill or any pollution caused thereby shall be paid by the party that caused such spill by a negligent act or omission. If both parties have acted negligently, all such expenses, damages, costs, fines and penalties shall be divided between the parties in accordance with their respective degree of negligence. BUYER shall furnish to the SELLER and/or Supplier photocopies of all documents and any other information concerning any spill, or any program for the prevention thereof that is reasonably required by the SELLER and/or its Supplier, or required by any regulation application at the Supply Port on the Delivery Date.

16. Force Majeure

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

17. Notices

All notices, statements or other communications to be given by the BUYER to the SELLER or vice-versa shall be sufficient if given in writing by registered airmail, telex, cable or fax as follows:

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

To the SELLER:
Scandinavian Intermarine HB
P.O. Box 24195
SE-104 51 Stockholm, Sweden
Phone: +46-8-545880 90
Fax:+46-8-545880 95

18. Assignment

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

19. Governing Law

This Agreement shall be governed by and construed in accordance with the Laws of Sweden.

20. Miscellaneous

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

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

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

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

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

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