

INSPIRED BY THE JOURNEY



NORWEGIAN OIL TRADING

## GENERAL TERMS & CONDITIONS

October 2019

## 1. Quality & Disclaimer

- a. Disclaimer stamps placed by vessel on bunker receipt or any other document related to this delivery will have no effect, and do not waive seller's lien or waive the vessel's ultimate responsibility for seller's invoices related to this delivery.
- b. Where standard specifications are being given or referred to, tolerances according to ISO 4259 in respect of reproducibility and repeatability in quality are to be accepted without compensation or other consequences whatsoever.
- c. If the product deviates from specifications, the buyer shall use reasonable endeavours to consume the product in order to mitigate costs. Seller shall cover reasonable costs related thereto provided that seller is given opportunity to assist and suggest methods of handling of product.

## 2. Measurement and sampling

- a) Quantity of the products delivered shall be conclusively determined from the official gauge or meter of the bunkering barge or tank truck effecting delivery.
- b) Quantities calculated from the receiving vessel's soundings shall not be considered.
- c) The method of sampling will be governed by local regulation if such exists, otherwise as per the method used by the local physical supplier.
- d) In event of a dispute concerning the quality of the product, the barge retained sample shall be used to conduct a re-test. The re-test shall to be performed by an independent laboratory mutually appointed by the buyer and seller. The results shall be conclusive to determine the quality of the product supplied. Should the parties be unable to mutually agree on an independent analysis laboratory or if the buyer fails to reply to the seller's notice hereof within – seven – days from receipt of such notice, the company shall at its sole discretion decide which laboratory to perform the analysis, which analysis shall be final and binding for all parties involved. The costs and fees of the analysis shall be covered by the seller if the product proves to be defective and by the buyer if the product proves not to be defective.

## 3. Title and risk

- a) Title to bunker is retained by seller until full settlement of seller's invoice. Buyer shall not resell, alter or encumber or otherwise dispose of bunker which has not been paid.
- b) Seller shall be entitled to assert its lien or attachment in any jurisdiction where it finds the vessel.

## 4. Price & extra charges

- a) Price payable by the buyer to the seller to be stated in the order confirmation.

- b) If the vessel is unable for any reason to receive the nominated quantity and no sufficient notice has been given to seller for such inability, buyer is liable for cancellation charges.
- c) Any charges for overtime, VAT, taxes, wharfage, demurrage, return of product and/or other local charges, shall be for buyers account.

## 5. Payment

- a) All unpaid invoices from seller to buyer shall immediately be considered overdue, upon the occurrence of any of the following events: (1) Any invoice of seller to buyer is seven (7) days overdue; (2) any vessel owned or operated by buyer is arrested or attached by seller or a third party for unpaid debts; or (3) There is a change in the financial circumstances or structural organization of buyer sufficient to cause seller to reasonably believe that it's likelihood of receiving payment from the buyer is jeopardised or that its security interest in any of buyers owned or operated vessels is jeopardised.
- b) Payment net cash by telegraphic transfer in correct agreed currency without any deductions, setoffs, or counterclaims. Value date within, and not later than, agreed due date. For late payments, interest surcharge of 2% per month pro-rata, will be applicable, effective as from due date, until full and final settlement. All amounts more than 30 days overdue shall incur an additional % administration fee.
- c) Buyer and seller are responsible for each of their respective bank charges.

## 6. Claims and disputes

- a) In the event of a claim from buyer, seller will assign his claim-over against the supplier to the buyer for the excess claim. Any claim against the seller must be presented in writing to the seller as soon as an alleged quality problem has occurred, or the buyer is notified of any alleged problem and in any event no later than 14 days from the date of delivery. If buyer does not notify seller of any claim within 14 days from date of delivery such claim shall be deemed to be waived and time-barred.
- b) Buyer shall not take any action to dispose of alleged off-spec bunker unless approved by seller, otherwise he will forfeit his claim.

## 7. Force Majeure

- a. Either party will be excused from its obligations hereunder the extent that its performance is delayed, hindered or prevented by circumstances beyond it's control, I.E Force Majeure Including, but not limited to: Acts of god, weather, harbor conditions, fire, explosions, mechanical breakdown, strikes, plant shutdowns, civil disturbance and government regulations. Such force majeure shall not excuse buyer's obligation to pay for the marine fuel received.

- b. Seller shall not be liable for any demurrage or other cost resulting from delay or failure to perform for the seller caused by the force majeure. Seller shall not be obligated to make up any deliveries not fulfilled as a result of the force majeure.

## **8. Delivery**

- a) Delivery shall be deemed completed and all risk, including loss or damage, deterioration, evaporation or shrinkage to the products delivered shall pass to the buyer from the time the product reaches the flange/connecting pipe line delivery hoses provided by the seller on the barge/tank truck/shore tank. If the buyer for whatever reason is unable or refuses to receive the full quantity ordered, the seller shall have the right to invoice the buyer for the loss incurred by having to transport the undelivered quantity back to storage or by having to sell the product in a degraded form at a lower price. The seller may use this right without prejudice to the seller other rights for damages or otherwise pursuant to these terms.
- b) In the event the bunker delivery is made by vessel or barge as a ship/ship transfer, any damages caused by contract and/or collision and/or swell and/or weather or sea related condition or incident, such damage is to be dealt with by the owners directly of the involved units, and seller cannot be held responsible for any such damages. If, however, any of the involved units choose to pursue seller and/or supplier, buyer will fully indemnify and hold seller harmless in relation thereto.

## **9. LIABILITY**

- a. The seller/supplier shall not be liable for damages of whatever nature, including physical injury, nor for delay or delivery of product and services, no matter whether such damages has been caused by fault or negligence on the side of the seller.
- b. The seller is not liable for consequential and/or liquidated damages including but not limited to of time, loss of cargo or charter cancelling date, loss of income or profit/earnings.
- c. Neither the seller nor the seller's supplier shall be liable for any loss, claim, damage or demurrage due to any delay or failure in their performance (a) by reason of compliance with any order or request of any government authority or person purporting to act thereof or (b) when supply of the products or any facility of production, manufacture, storage, transportation, distribution or delivery contemplated by the seller/supplier is interrupted/delayed by congestion or other event or unavailability of product and/or barge equipment or inadequate for any cause whatsoever that is not in the immediate control of the seller.

## **10. JURISDICTION**

- a. The contract and these terms and conditions are subject to the laws applicable at the chosen jurisdiction where the respective is decided. The seller may always choose the submission of any legal case hereunder to the non-exclusive jurisdiction of the city court of Tønsberg, Norway.