

STENA OIL SUPPLEMENTARY TERMS OF SALE TO BIMCO BUNKER TERMS 2018

1 GENERAL

- 1.1 Stena Oil AB (the "**Seller**") sell and deliver Marine Fuel to the Buyer on the terms and conditions set out in the BIMCO BUNKER TERMS 2018 – Standard Bunker Terms and Conditions ("**BBT**") subject to the variations and amendments set out below in these supplementary terms which are accepted by the Buyer unless otherwise it is expressly agreed in writing by the Seller. BBT amended by these supplementary terms are hereinafter referred to as the "**Terms of Sale**".
- 1.2 All capitalized terms in these supplementary terms shall have the same meaning as in the Contract to which this statement is attached and the terms of these Terms of Sale shall be an integral part of the Contract.
- 1.3 No variation of the Terms of Sale shall be valid unless expressly agreed in writing by the Seller. In addition to the definition of (i) the "Buyer" in the Contract the term "Buyer", when used in the Terms of Sale, also means a person or company placing the order with Seller as well as the owner of the vessel bunkered or to be bunkered, bareboat charterer or manager of such Vessel or anybody else for the account of whom the Vessel is bunkered and (ii) "Confirmation Note" shall include Seller's order confirmation.
- 1.4 The Terms of Sale apply to all offers, quotations, orders, agreements, services and all subsequent contracts of whatever nature, except where otherwise expressly agreed in writing by Seller.
- 1.5 In the event any of the statues herein come into conflict with the statues of the BBT, the wording and intentions of these supplementary terms shall prevail.

2 SPECIFICATION OF CHANGES

- 2.1 Clause **2. Specifications/Grades/Quality (b)**, is to be replaced in its entirety with the following wording:
- (b) The Sellers warrant that the Marine Fuels, when the risk for the Marine Fuel pass to the Buyer, shall be of a homogenous and stable nature and shall comply with the specifications and grades agreed between the parties and stated in the Confirmation Note. Unless otherwise agreed in the Confirmation

Note, the Marine Fuels shall in all respect comply with ISO Standard 8217:2010. 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.

The Buyer shall be solely responsible for any loss caused by mixing or comingling the Marine Fuel with any other product including, but not limited to, any damage to the Marine Fuel may cause on other products on board the Vessel.

For the sake of clarity, 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 or other undertakings regarding the satisfactory quality, merchantability, fitness for the purpose, description or otherwise are hereby explicitly excluded.

2.2 Clause **4. Sampling**, (a) is to be replaced in its entirety with the following wording:

- (a) Seller shall take samples of the Marine Fuels delivered. Seller shall invite the Buyers or their representatives to witness the sampling of Marine Fuels. Seller shall take a minimum of (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. No other samples of the Marine Fuel than those taken by Seller in accordance with above shall be valid.

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 in accordance with the procedures set out in IMO Resolution MEPC.182(59) Guidelines for sampling of Fuel Oil for Determination of Compliance with MARPOL 73/78 Annex VI or any subsequent amendments thereto.

2.3 Clause **4. Sampling**, (c) is to be deleted in its entirety

2.4 Clause **5. Delivery**, (c), (d) and (e) is to be supplemented with the following wording. Seller will always deliver Marine Fuel on a first to come first to be served-basis.

2.5 Clause **5 Delivery (h) (iii)**, is to be supplemented with the following wording:

However, for safety reasons, it is agreed that it is solely the Master of the Bunker Tanker that determine whether mooring alongside is safe, taking weather, swells and forecasts etc. into consideration. The Seller shall not be held responsible for any damages, liquidated damages or similar whatsoever as a result of any potential delays caused by any decision by the Master of the Bunker Tanker in this respect.

2.6 Clause **7. Price (b)(iii)**, is to be supplemented with the following wording:

The Seller's offer is based on the applicable taxes, duties, costs, charges and price levels of components for Bunkers existing at the time of the conclusion of the Contract. 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 Contract 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.

2.7 A new **Clause 7. Price (c)** is added as follows:

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

2.8 Clause **8. Payment (a)**, is to be replaced with the following wording:

(a) Payment for the Marine Fuels shall, unless otherwise agreed in writing, be made in cash upon delivery.

2.9 Clause **9. Claims (a) (i)** fourteen (14) days shall be replaced with seven (7) days. Thus shall any claims for quantity disputes be presented to Seller by Buyer within seven (7) days from the date of delivery.

2.10 Clause **9. Claims (b) (ii)**, is to be clarified with the following wording:

Reference to tests retained by Sellers as per subclause 4 (c) (Sampling) shall mean the sample taken retained by the Seller in accordance with subclause 2.2 (a) above in these supplementary terms. Thus, in the event a claim is raised pursuant to Clause 9 (b) in the BBT, Seller and Buyer shall have the quality of

the Marine Fuel tested by a mutually agreed, qualified independent test laboratory. The sample to be tested by such laboratory is the sample retained by Seller in accordance with subclause 2.2 (a) above in these supplementary terms. The result of the analysis shall be conclusive of the quality of the Marine Fuel 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.

2.11 Clause **10. Risk/Title (c)**, is to be replaced supplemented with the following wording:

Until full payment of the full amount due to the Seller has been made, the Seller shall have the right to, at any time and upon written notice, to request that the Buyer shall not be entitled to transfer the Marine Fuel to tanks used for the propulsion of the Vessel, nor mix, use, sell or encumber the marine Fuel without Seller's express written consent. If such request is made, the wording of the paragraph shall prevail over subclause 10 (c). For the sake of clarity, the forgoing request shall only be used by the Seller if Seller, on reasonable grounds, suspect that Buyer will not make payment of the full amount. If a request is made, such request is applicable to all unpaid (in full) deliveries of Marine Fuel as well as any future delivery unless otherwise agreed or notified to the Buyer.

Should Marine Fuel 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 a right to trace its proprietary interest in the Marine Fuel 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 title in and to the Marine Fuel, notwithstanding this Clause 10, 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 Fuel 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 Fuel 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.

If delivery is contracted for by an agent of the Buyer on behalf of a principal, disclosed or undisclosed, such agent or Buyer, as the case may be, shall be

jointly and severally liable with such principal, or principals, as the case may be, for the due and proper performance of the Contract.

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 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.

The Buyer expressly undertakes not to make any endorsement, disclaimer complaint, or comment (including but without limitation to any no-lien clausung) 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.

2.12 Clause **24. Dispute Resolution Clause** shall be replaced in its entirety with the following writing:

- (a) Any agreement (including the Contract) between the parties shall be governed by the laws of Sweden.
- (b) The 1980 United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply to any transaction.
- (c) If any procedure of any nature whatsoever is instituted under clause (c) 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.

- (d) 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 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.
- (e) Notwithstanding sub-clause (e), 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.
- (f) 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.

2.13 **Annex A (Election Sheet)**

The Election Sheet shall not be signed by the Parties. However, unless otherwise expressly agreed in writing, the following options in the Election Sheet shall apply:

Clause 5 – Default provisions of BBT to apply.

Clause 9 - Default provisions of BBT as amended above to apply.

Clause 10 – Subclause b) to apply

Clause 12 – Clause 12 to apply

Clause 15 – Default provisions of BBT to apply.

Clause 22 – Default provisions of BBT to apply.

Clause 24 – Section 2.6 above shall apply.

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