

## General Sales Terms and Conditions

### APPLICATION

- A. These General Sales Terms and Conditions (the "Conditions") shall apply to and govern each and every contract (the "Contract") for the sale of Marine Fuel made or caused to be made by FRATELLI COSULICH BUNKERS (S) PTE LTD, 79 Anson Road, #16-01/02 Singapore 079906 (the "Seller" which term shall include its servants, agents and designated representatives) to any purchaser of Marine Fuel (the "Buyer" which term shall include its servants, agents and designated representatives), unless otherwise agreed in writing between the Seller and the Buyer.
- B. These Conditions shall override and exclude all other terms and conditions including any terms and conditions which any Buyer may introduce or purport to apply under any purchase order, confirmation of order or other pre- or post-contractual document.
- C. Any variation to these Conditions (including the inclusion of special terms) shall not be applicable and will be of no effect unless expressly agreed to in writing between the authorized representatives of the Seller or the Buyer.

### 1. DEFINITIONS

- 1.1 The "Seller" means in this Contract "Fratelli Cosulich Bunkers (S) Pte Ltd".
- 1.2 The "Buyer" means the person, party, entity or corporation or persons, parties, entities or corporations who accept a quotation of the Seller for the sale of Products or whose order for Products is accepted by the Seller and/or who take delivery of the Products and/or who pay for the Products. For the avoidance of doubt, the persons, parties, entities or corporations as above stated include the Vessel and jointly and severally her Master, Owners, Managers/Operators, Disponent Owners, Time Charterers, Bareboat Charterers and Charterers should they be engaged in any of the activities above mentioned.
- 1.3 "Products" means products which the Seller shall supply including but not limited to marine fuel oil, intermediate fuel oil, marine diesel oil, and marine gas oil in accordance with these Terms and Conditions.
- 1.4 The "Contract" means the agreement between Seller and Buyer subject to the Terms and Conditions hereunder.
- 1.5 "Vessel" means the vessel nominated by the Buyer to receive the Products purchased from the Seller under the Contract.

### 2. PRICE

- 2.1 The Price shall be the agreed price in US dollars as set forth in the Contract. Unless otherwise expressly agreed upon in the Contract, the Price is exclusive of applicable taxes (including Goods and Services Tax), levies, duties, wharfage dues, barging/jetty fees, delivery charges, and all other additional costs and expenses arising out of or incurred in connection with the supply and/or delivery of the Products,

whether caused by any change in the Seller's contemplated source of supply or otherwise, all of which shall be borne solely by the Buyer. The Seller may include all these other taxes, levies, duties, dues, fees, charges, costs and expenses in its invoice for the Price.

### 3. NOMINATION

- 3.1 The Buyer shall give the Seller, in writing, at least seventy-two (72) hours (exclusive of Saturdays, Sundays and Public holidays) prior Notice of Delivery to the Buyer's nominated Vessel. The Notice shall include the following information.

- 3.1.1 The name and flag of the Vessel;
- 3.1.2 a confirmation of the mode of delivery, i.e ex-wharf or ex-barge tanker;
- 3.1.3 where delivery is ex-barge tanker, the location of the Vessel for delivery;
- 3.1.4 the name and contact person of the Vessel's local agent;
- 3.1.5 the date and estimated time of arrival of the Vessel;
- 3.1.6 a confirmation of the quantity and grade of the Products ordered;
- 3.1.7 any other information sought by the Seller.

- 3.2 The Notice of Delivery referred to above must be sent during normal working hours (9 a.m. to 5 p.m. local time). Notices sent after working hours shall be deemed to have been received on the next working day.



3.3 Unless the 72 hours Notice of Delivery above is sent to the Seller, under no circumstances shall the Seller be liable for any claims whatsoever arising out of a failure to supply marine fuel Products to the Buyers and/or their nominated Vessel.

#### 4. DELIVERIES

4.1 Delivery shall be made ex-wharf or ex-barge tanker at the option of the Seller who shall bunker the Vessel as promptly as circumstances will permit. The Seller's obligation to make delivery hereunder is subject to the availability to the Seller of the Products at the port of delivery.

4.2 Where delivery of the Products is carried out by barge/tankers to vessels in Singapore, the bunkering operation shall be subject to and shall follow the procedures prescribed by the Code of Practice for Bunkering by bunker barges/tankers ("SS 648: 2019") and Technical Reference Bunker mass flow metering (TR 48: 2015) issued by the Singapore Productivity and Standards Board or its current latest edition.

4.3 For ex-wharf deliveries where SS 648: 2019 and TR 48: 2015 do not apply, the bunkering operation shall follow the Sellers' procedures and directions of its authorized personnel.

4.4 Seller shall not be in breach of their obligations hereunder to the extent the delivery is prevented or delayed due to or which results from bad weather, congestion at delivery location, breakdown of bunker barge/tanker, breakdown or malfunction of delivery equipment, incompatibility of delivery and receiving facilities/equipment or from any other circumstance beyond the Sellers' reasonable control.

4.5 Notwithstanding anything contained elsewhere herein, the Seller shall not be liable for any demurrage under any circumstances or for any delay in supply caused by and/or due to whatsoever reason or for any consequential losses and/or damages that may be suffered by the Buyer or the Vessel.

4.6 Seller may deliver the Products in one consignment or in partial lots, with each lot deemed to form part of the Contract.

4.7 If the Buyer or the Vessel in her arrival, condition, breakdown or inability to receive the Products cause delay to deliveries, the Buyer shall compensate the Seller on the basis of the actual costs incurred including any other damage and expense arising therefrom or connected therewith.

4.8 Delivery shall be made during normal working hours unless otherwise required and permitted by port regulations, in which event Seller shall charge Buyer with all additional expenses arising therefrom. In case government permission is required for delivery, the Buyer shall be responsible for obtaining it. Seller shall make no deliveries until permission is obtained.

4.9 If any relevant authority or governing body forces the Seller to effect delivery out of normal working hours, Buyer shall agree to accept such delivery even if without notice and agrees to pay for the additional costs.

4.10 Delivery shall be made within areas nominated as bunkering areas by the relevant authority or governing bodies. Delivery shall be by barge/tanker or by any other accredited method of delivery. In the case of more than one method of delivery being available, the Seller shall elect one at their sole discretion.

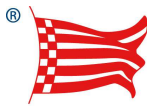
4.11 When deliveries are made by barge/tanker, Buyer shall provide clear and safe berth for the barge/tanker(s) alongside Vessel where receiving lines are located. Buyer shall indemnify Seller against any loss, damage or delay caused by Buyer's Vessel to barge/tanker(s).

4.12 Buyer shall arrange for all connections and disconnection between supplying pipelines or hoses and vessels' intake lines and shall provide all necessary assistance and equipment to receive promptly all deliveries. Vessel shall receive bunker quantities as ordered by Vessel's Master or Buyer's local agent. In case the Vessel cannot receive part of the ordered quantities, Buyer shall be responsible for all costs arising therefrom.

4.13 All deliveries shall be deemed to be completed and fulfilled when the Products has reached the flange connecting the delivery facilities with the receiving facilities provided by Buyer. The risk for the Products shall pass onto the Buyer when the Products delivered has reached the said flange and thereafter Seller shall not be responsible for any loss or damage.

4.14 Buyer shall indemnify Seller and supplier for all damages and liabilities arising from any acts or omission of Buyer or its servants, ship's officers or crew or independent contractors in connection with the delivery of Products.

4.15 In addition to any other security the Seller may have, and as the Contract is entered into and Products are supplied to the faith and credit of the Vessel, it is agreed and acknowledged that a lien over the Vessel is created for the Price of the Products together with any interests and/or additional cost or expense accrued and due by the Buyer under the Contract. The person, party, entity or corporation placing the order and accepting the quotation of Products, if not Owner of the Vessel, hereby expressly warrant that they have the full authority of the Owner, Managers/Operators and Charterers to commit them and to pledge the Vessel and that they have given notice of the provisions of the Contract the Owner, Managers/Operators and Charterers.



The Seller is entitled to rely on any provisions of law of the flag state of the Vessel, the place of delivery or where the Vessel is found and shall, among other things, enjoy the full benefit of local legislation granting the Seller a maritime lien on the Vessel and/or providing for the right to arrest the Vessel. Nothing herein shall be construed to limit the rights and/or the legal remedies that the Seller may enjoy against the Vessel or the Buyer in any jurisdiction.

- 4.16 If the Buyer is acting on behalf of a principal (disclosed or undisclosed), then the Buyer and its principal shall both be jointly and severally liable to the Seller for payments and compliance with the Contract and these Conditions.
- 4.17 In case Vessel arrives outside the mutually agreed arrival date range from the stem confirmation, and/or fails to receive the full quantity of the Products within that date range, irrespective of any reason, Seller reserves the right to consider the nomination as cancelled. Seller shall have the right to cancel the supply without notice and Buyer shall be liable for any damages, costs, expenses and charges arising therefrom.
- In case the nomination of the Vessel still stands, the timing of the delivery shall only be carried out on a best endeavor basis.
- 4.18 V-NET calculations are strictly prohibited and will not be accepted by Seller. Seller shall grant Buyer one (1) hour allowance from the moment Seller representative on the barge is notified by Vessel of the intention to apply V-NET calculation, to contact the Vessel and ensure that no V-Nets calculations are to be used. In case of failure by Buyer to do so within the one (1) hour allowance, Seller shall have the right to cast-off and return at a later time at the Seller's sole discretion without incurring in any breach of its obligations hereunder.

## 5. CANCELLATION

- 5.1 Any order by the Buyer which has been accepted by the Seller may be changed or cancelled only with the express agreement in writing of the Seller. Should the Buyer decide to cancel the bunker supply for any reason whatsoever, the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs, damages, charges and expenses incurred by the Seller as a result of the cancellation, provided that Seller shall in any case be entitled at its option to be paid damages as follows without any formal proof of such loss:
- 5.1.1 a cancellation fee of USD4.50 pmt.
- 5.1.2 in addition, alternatively, (i) a sum equivalent to the difference between the Price and the market price as reported in Platts Far East Bunker Assessment for Singapore Fuel Report before the day the Contract is cancelled, multiplied by the quantity of Products ordered or (ii) a lumpsum of USD 20,000.00, whichever is higher.
- 5.2 Notwithstanding anything contained elsewhere herein, if the Buyer fails to take delivery of the Products on the nominated date, the Seller reserves the right to cancel the Contract. In said case, the Buyer shall indemnify the Seller according to Clause. 5.1., 5.1.1. and 5.1.2. above. This is without prejudice to any remedies of the Seller for breach of Contract.

## 6. QUANTITY

- 6.1 Where delivery of the Products is carried out by barge/tankers to vessels in Singapore, the Quantity of the Products delivered shall be determined according to the procedures prescribed by the Code of Practice for Bunkering by bunker barges/tankers ("SS 648: 2019") and the Technical Reference Bunker mass flow metering (TR 48: 2015) issued by the Singapore Productivity and Standards Board or its current latest edition.
- 6.2 Where delivery of the Products is carried out by barge/tankers to Vessels at ports different from Singapore, the Quantity of the Products delivered shall be determined solely based on the delivery bunker tanker's measurements and calculations taken from tank gauge as per the bunker tanker measurement report.
- 6.3 The Buyer may be present or represented by an accredited agent when the determination of quantity of the Products is performed in accordance with Clause 6.1 or 6.2, but if the Buyer is not present or represented, any complaint of wrong measurement or short delivery shall be deemed to be waived and the Seller's determination be deemed correct, conclusive and binding on the Buyer.
- 6.4 The quantity of the Products delivered, taking into account the necessary adjustments in volume due to temperature differences, shall be determined by using prevailing ASTM-IP Petroleum Measurement Tables or methods of other internationally recognized standards authorities, at the discretion of the Seller.
- 6.5 In the countries where local regulations determine so, quantities measured by the customs authorities will be binding for both Parties.
- 6.6 The Seller shall be at liberty to provide, and the Buyer shall accept, a variation up to 5 % (five per cent) from the agreed quantity of Products with no other consequence than an according variation to the corresponding invoice Price from the Seller. -
- 6.7 Any claim by the Buyer as to the shortage in quantity of Products (other than as per Clause 6.6 above) must be noted on the Barge Delivery Receipt signed at the time of delivery and prior to departure of the Vessel, failing which the Seller's determination of the quantity of the Products supplied shall be deemed correct, conclusive and binding on the Buyer. Upon the aforesaid notification of complaint, a formal Note of Protest should be Issued by the Buyer.

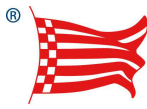


## **7. QUALITY**

- 7.1 All terms, conditions and warranties (whether express or implied) relating to satisfactory quality, merchantability, durability or suitability or fitness for purpose of the Products, which extend beyond the description in clause 7.2., are hereby expressly excluded.
- 7.2 The quality of the Products supplied to the Buyer shall be the Seller's regular commercial grade offered generally to its customers at the time and place of delivery, unless specifications are expressly prescribed by the Buyers in the Contract, in which case such specifications shall represent the only quality specifications which the Products are required to meet.
- 7.3 The Buyer shall be solely responsible for the selection and acceptance of Products for use in the Vessel including making any necessary determinations for compatibility with marine fuels already on board. The Products shall be used solely for the operation of the Vessel's machinery in its normal trade and all Products delivered shall be used solely for the operation of the Vessel originally receiving them.
- 7.4 The Seller shall not be responsible for/and the Buyer assumes all risks and liabilities arising from or in connection with the use of the Products in combination with other substances.
- 7.5 All sampling taken at the time of bunkering shall be done in accordance to the procedures as set in the Code of Practice for bunkering by bunker barges/tankers ("SS 648: 2019") and the Technical Reference Bunker mass flow metering (TR 48: 2015) issued by the Singapore Productivity and Standards Board, current or its latest edition. Any sample taken outside of these procedures shall not be recognized as the legal and binding sample.
- 7.6 For deliveries ex-wharf, the Seller shall take a representative sample of the Products delivered from the shore tank from which delivery is made in accordance with its usual sampling procedures. The sample collected shall be poured out into at least two portions which shall be sealed and signed by the Buyer's representatives. One sealed sample shall be retained by the Seller and one by the Buyer.
- 7.7 Any samples of the Products drawn by the Buyer or their appointed representatives shall not be a representative sample of the Products supplied and shall not be admissible as evidence of quality of the Products supplied to the Vessel under the Contract. The fact that such samples may eventually bear the signature of the personnel on board of the barge or other delivery conveyance shall have no legal significance as such local personnel have no authority to bind the Seller to different contractual terms.
- 7.8 In the event of any quality disputes both Buyer and Seller shall send their retained samples to internationally recognized laboratories for testing. If the two results are not compatible, then the remaining sample in the Sellers' custody shall be tested at another internationally recognized laboratory of Seller's choice. The result of such testing shall be final, conclusive and binding on Seller and Buyer.
- 7.9 If the tests are carried out at Buyer's request, the Buyer shall bear the total costs of such tests. If the tests are carried out as a result of a quality dispute, the Buyer shall bear the costs if the qualities are in conformity with the Contract.
- 7.10 Notwithstanding anything contained elsewhere herein, the Seller shall have no liability for claims arising in circumstances where Buyer may have commingled the products supplied to the Vessel with our fuels.

## **8. CLAIMS**

- 8.1 All claims by the Buyer against the Seller arising from or in connection with short quantity delivery of Products shall be presented by the Buyer to the Seller at the time of delivery, failing which any such claim shall be deemed waived and forever barred. Any dispute as to the quantity of Products delivered shall be recorded at the time of delivery in a Note of Protest.
- 8.2 All claims by the Buyer against the Seller arising from or in connection with the quality of the Products supplied under the Contract shall be deemed waived by the Buyer and completely extinguished unless notice in writing of such claim is delivered to the Seller within fourteen (14) days from the date of delivery, together with all available supporting information and documents, in particular but not limited to (i) information on the circumstances leading to the claim, (ii) the allegations on quality (identifying the characteristic(s) and limit(s) of Table 1 or Table 2 referred to in ISO 8217 alleged to be off specification and, where the allegation is a breach of clause 5 of ISO 8217, identifying the material(s), additive(s), substance(s), chemical waste, the level(s) thereof and the harm that would be caused thereby and specifying the test method and parameters used for such identification and quantification) and (iii) any problems encountered by the Vessel as a result thereof, failing which such claim shall be deemed waived and forever barred. Any written notice which does not contain and provide the aforesaid information is invalid.
- 8.3 If Buyer issues a claim regarding the quality of the Products in accordance with Clause 8.2 above, and provided that claim is in accordance with ISO 8217, both Buyer and Seller shall send their retained samples to internationally recognized laboratories for testing in accordance with Clause 7.8. The analysis shall be established by tests in accordance with ISO 8217 and ISO 4259 or any subsequent amendments thereof.



- 8.4 Despite the provisions of Clause 7, the Buyer shall take all reasonable measures, including retention and/or burning of the Products in accordance with Seller's instructions, even if this requires employment of purification tools or other similar measures, to eliminate or minimize any costs associated with an off-specification/defective or suspected off-specification/defective supply of Products.
- 8.5 The submission of any claim to the Seller for quality and/or quantity disputes shall not suspend or release the Buyer of the obligation and responsibility to make full payment for the invoiced amount within the time due. No legal or equitable set-off or counterclaim may be asserted against the Seller's right to receive payment of its invoices.

## 9. PAYMENTS

- 9.1 Unless specifically agreed upon in writing, payment of the invoice for the Products supplied and all applicable taxes (including Goods and Services Tax) levies, duties, expenses, delivery charges and all other costs arising out of or in connection with the supply and/or delivery of the Products shall be made by Buyer as directed by Seller within 30 days of the date of delivery or, in the event that the Buyer refuses to take delivery, 30 days from the date of invoice. The Seller shall be entitled to immediately invoice the Buyer based upon telegraphic advice of delivery details. Delivery documents may be provided to Buyer at his request but payment shall not be subjected to receipt of such documents by Buyer.
- 9.2 All payments made shall be free and clear, without any discount, deductions, withholding, legal or equitable set-off, or counterclaim whatsoever. For the avoidance of doubt, the Buyer shall make full payment of the invoice notwithstanding that there may be a dispute between the parties, including but not limited to any dispute arising out of or in connection with the quality or quantity of Products supplied.
- 9.3 For the purpose of effecting delivery, the Seller may require Telegraphic Transfer payment prior to delivery or an irrevocable standby letter of credit, banker's guarantee, corporate guarantee or personal guarantee for payment on the relevant date to be issued in the Seller's favor. The Seller reserves the right to terminate the Contract without liability in the event that the Buyer fails to comply with the above requirement.
- 9.4 All overdue payments are subjected to an interest charge of two (02) percent per calendar month on the outstanding sum calculated on a daily basis from the due date until actual receipt by the Seller of sufficient cleared funds.
- 9.5 If the buyer fails to make payment on the due date of any invoice under any Contract between Seller and Buyer, then without prejudice to the Sellers' other rights and remedies, the Seller shall be entitled to:
- 9.5.1 Suspend or cancel any or all orders or deliveries of Products to the Buyer; and/or
  - 9.5.2 Appropriate any payment made by the Buyer to such Products or for Products supplied under any other Contract with the Buyer, as the Seller may in its sole discretion think fit; and/or
  - 9.5.3 Enforce any security for payment provided by the Buyer without further notice to the Buyer in order to recover any sums due and payable.

## 10. ENVIRONMENTAL PROTECTION

- 10.1 It is the sole responsibility of the Buyer to ensure that the Vessel, its crew and those responsible for its operation and management observe and comply with all health, safety and environmental laws and regulations with regard to the receipt, handling and use of the Products. Buyer warrants that the Vessel at all times will be in compliance with all national and international regulations. It shall be the responsibility of Vessel's Master to notify Seller of any special conditions, difficulties, peculiarities, deficiencies or defects with respect to the Vessel or any part thereof, which might adversely affect the delivery of Products. Seller has the right to refuse to deliver Products to the Vessel if in his sole discretion such delivery may result in adverse consequences of any kind whatsoever.
- 10.2. In the event of any leakage, spillage, overflow of Products causing or likely to cause pollution occurring at any stage, the Buyer shall, regardless as to whether Buyer or Seller is responsible, immediately take such action as is necessary to effect clean up and failing prompt action, Buyer authorizes Seller to take whatever measures Seller deems fit to effect clean up at Buyer's expense.
- 10.3 The Buyer agrees to disclose to the Seller immediately following such escape, spillage or discharge of the Products, all documents and information concerning such escape, spillage or discharge or any standing instructions or programs for the prevention, which are requested by the Seller or required by law or regulation applicable at the time and place where the Seller delivers the Products to the Buyer.
- 10.4. The Buyer shall indemnify and keep indemnified the Seller against any liability, claim or proceedings whatsoever arising out of or in connection with any failure by the Buyer to comply with its obligations under this Clause 10.

## 11. SANCTIONS COMPLIANCE

- 11.1 Buyer and Buyer's Vessel are not a specially designated national (SDN) or entity sanctioned by the



United Nations or the European Union (Sanctioned Persons) or owned 50% or more or controlled by one or more Sanctioned Persons. Seller represents and warrants not to be an entity sanctioned/listed by the UN, the EU or the USA (or owned 50% or more, also in the aggregate, by an entity/individual listed by the USA). Moreover, Seller represents and warrants to be fully compliant with all the applicable provisions on international restrictive measures currently in force.

- 11.2 Buyer's Vessel will comply with all economic sanctions laws, including the laws of the US, UN and EU;
- 11.3 Buyer's Vessel is not carrying and will not carry any cargo in which any Sanctioned Person has an interest of any sort;
- 11.4 Buyer's Vessel is not engaging and will not engage in any other transaction that could be subject to secondary sanctions under the laws of the US, UN or EU;
- 11.5 Whenever Seller's performance would be in violation of, or risk the imposition of sanctions under any US, UN or EU economic or trade sanctions laws, Seller may at its sole discretion not perform and any contractual provisions requiring such performance by Seller shall be null and void.
- 11.6 Buyer agrees to indemnify and hold harmless Seller in any case Buyer does not comply with the above clauses.

## **12 LIABILITY**

- 12.1 Without prejudice to any other condition of this Contract, Seller shall not be responsible for any expenses, claim, losses, damages and liabilities arising in connections with Buyer's receipt, use, storage and transportation of Products delivered under this Contract, unless the same be due to Seller's willful and proven misconduct. In all other cases Seller shall not be responsible and Buyer shall indemnify Seller against all losses, claims, demands and costs arising from actions by any third party.
- 12.2 The Buyer agrees to indemnify the Seller, its servants, agents or sub-contractors and hold them harmless from and against all claims, cost, damages, fines, penalties, and liabilities of whatsoever nature and howsoever arising (including without limitation injury to person or property) arising directly or indirectly out of or in any way connected with any breach of the Contract by the Buyer or from any act, omission, negligence or misconduct of its agents, employees, contractors, or persons acting under its authority.
- 12.3 Notwithstanding anything herein contained, the Seller shall not be liable to the Buyer, for any consequential or special losses or damages of whatsoever kind and howsoever caused in connection with the performance or failure to perform the Contract, including but not limited to loss of profits or business, loss by reason of shutdown, breakdown in machinery, non-operation, or any demurrage, loss of hire, cost of overheads thrown away, cost of substitute Vessel, physical loss or damage of or to Vessel or cargo due to delay or damages for detention payable by the Buyers.
- 12.4 Any loss or damage to the Products or to any property of the Seller or its supplier or of any person, during loading caused by the Buyer's designated Vessel, shall as between the parties hereto, be borne by the Buyer and the Buyer shall to such extent indemnify of reimburse the Seller for the same.
- 12.5 Seller's liability for any claims for loss, damage or expense whatsoever arising under this Contract whether caused by negligence or not, whether based in tort or contract and whether failing on the Buyer or any third party shall in any case be limited to and shall in no circumstances exceed the invoice value of the Products supplied.
- 12.6 For the avoidance of any doubt the Seller shall not be liable for any claims for demurrage by the Buyer howsoever caused, and without prejudice to the generality of the foregoing, even if the demurrage was incurred as a result of the Seller's negligence.
- 12.7 The Buyer shall pay the Seller all reasonable costs and expenses (including legal costs on an indemnity basis) incurred by the Seller in connection with any claim or counterclaim in any proceeding which may be brought by the Seller against the Buyer in connection with or arising out of any breach by the Buyer of the Contract.

## **13 FORCE MAJEURE**

- 13.1 In addition to any other excuses (arising out of the same or other causes) provided by law, no failure or omission by the Seller to carry out or observe any of these General Sales Terms and Conditions shall give rise to any claims against the Seller or be deemed to be a breach of these General Sales Terms and Conditions and/or the Contract if the same shall arise out of causes not reasonably within the control of the Seller, whether or not foreseen. Without prejudice to the generality of the above, the following shall be regarded as and deemed to be causes not reasonably within the control of the Seller:-
  - 13.1.1 strikes, lockouts or other industrial action or labor disputes (whether involving employees of the Seller or third parties);
  - 13.1.2 acts, restrictions, regulations, bye laws, prohibitions or measures of any kind on the part of any government or local authority



- body;
- 13.1.3 war or threat of war, sabotage, insurrection, civil commotion or requisition;
  - 13.1.4 fire, flood, explosion, accident, tempest, storm or any act of God;
  - 13.1.5 difficulties in obtaining raw materials, labor, fuel, parts or machinery;
  - 13.1.6 power failure or breakdown in machinery, equipment or vessel.
- 13.2 This provision however does not excuse the Buyer from its obligation to make payment for all amounts due to the Seller under the Contract.
- 13.3 In the event that the Seller is prevented by reason of any cause whatsoever outside the Seller's control from performing or completing any service for which an order has been given or an agreement made, the Buyer will pay to the Seller the amount of all abortive expenditure actually made or incurred and a price in proportion to the Products delivered.
- 13.4 The Seller shall give prompt notice of the force majeure and, so far as possible, of its extent and duration.
- 13.5 If as a result of any Force Majeure event, or any other event impacting on the global supply and/or price of petroleum products, supplies of crude oil or petroleum products are curtailed or become available to the Seller only under conditions which, in the Seller's sole judgment are deemed unacceptable, the Seller shall be entitled to withhold, reduce or suspend deliveries of the Products to such an extent as the Seller in its absolute discretion decide. The Seller may allocate Products on any fair and reasonable basis according to its own discretion to any buyers but shall not be required to increase supplies from other sources or to purchase the Products to replace the supplies so curtailed or be liable to the Buyer or indemnify the Buyer against any loss or liability incurred by the Buyer arising from or as a result of any deficiency in the quantities of Products delivered.

#### **14 TITLE AND RISK**

- 14.1 The risk in the Products shall pass onto the Buyer when the Products delivered have reached the flange connecting the delivery facilities provided by the Seller with the receiving facilities provided by Buyer and thereafter Seller shall not be responsible for any loss or damage.
- 14.2 Notwithstanding delivery and the passing of risk in the Products, title and property in the Products shall not pass from the Seller to the Buyer until the Seller has received full payment for the Products and all applicable taxes (including Goods and Services Tax) levies, duties, expenses, delivery charges and all other costs arising out of or in connection with the supply and/or delivery of the Products. For the avoidance of doubt, the Seller shall be entitled to seek, recover and enforce payment on the invoice notwithstanding that property has not passed.
- 14.3 Until property in the Products has passed to the Buyer in accordance with Clause 14.2, the Buyer shall hold the Products as fiduciary and Bailee of the Seller. The Buyer shall upon the written demand of the Seller return the Products at the Buyer's costs. If the Buyer fails to do so the Seller may enter upon the Vessel and repossess the Product, in which event the Buyer shall be liable for all costs and expenses incurred (including legal costs on an indemnity basis), and shall also be liable for any delays caused to the Vessel.
- 14.4 The Buyer shall not pledge or in any way charge by way of security for any indebtedness, the Products or any part thereof which are the Property of the Seller. Without prejudice to the other rights of the Seller, if the Buyer does so, all sums whatsoever owing by the Buyer to the Seller shall immediately become due and payable.

#### **15 WAIVER**

- 15.1 The failure of the Seller to insist upon strict compliance of any of the Conditions hereunder shall not constitute a waiver of any of the rights of the Seller.

#### **16 GOVERNING LAW AND ARBITRATION**

- 16.1 Except where otherwise herein provided, these Conditions are governed by and shall construed in accordance with the laws of Singapore.
- 16.2 Any disputes arising out of or in connection with this Contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration at the Singapore Chamber of Maritime Arbitration (SCMA) in accordance with the Singapore Bunker Claims Procedure ("SBC" Terms) for the time being in force at the commencement of the arbitration which terms are deemed to be incorporated by reference into this clause.

**FRATELLI COSULICH BUNKER (S) PTE LTD**