

# HAMBURG TRADING HOUSE FZE

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## GENERAL TERMS AND CONDITIONS

Terms and conditions where under HAMBURG TRADING HOUSE FZE ( Seller ) agrees to sell and deliver, or to arrange for the sale and delivery of, Marine Lubricants.

Unless otherwise agreed in writing between Seller and the Buyer, these terms and conditions, as amended from time to time, which supersede any earlier terms and conditions issued by Seller, shall override any terms and conditions stipulated, incorporated or referred to by the Buyer whether in its order, stamping of documentation or elsewhere.

### 1. Definitions

Unless the context otherwise demands:

"Buyer" means the party requesting the Seller either to sell and deliver to it, or to arrange for the sale and delivery to it of, Marine Lubricants.

"Delivering Company" means a party requested by Seller to deliver to the Buyer on Seller's behalf.

"Delivery" means the delivery of Marine Lubricants to a Buyer's vessel or any other destination like the Buyer's Agent at a Delivery Port in response to a Nomination.

"Delivery Port" means the port or place at which Marine Lubricants are delivered to a vessel or any other destination the Buyer has asked the seller to deliver to.

"Equipment" means the Buyer's equipment at the Delivery Port.

"Marine Lubricants" means any of the products described in the HAMBURG TRADING HOUSE listed price list.

"Nomination" has the meaning attributed to it in section 2.

"Pre-delivery Check List" means the check list prepared by Seller and signed by or on behalf of Seller (or the Delivering Company) and the Buyer to confirm agreement on the conditions and procedures under which physical delivery of the Marine Lubricants shall take place.

"Pollution Event" has the meaning attributed to it in section 8.7(a).

"Price List" means the "HAMBURG TRADING HOUSE Marine Lubricants Price List" published by the Seller and as amended from time to time.

"Ship's Receipt" has the meaning attributed to it in section 9.

"Working Days" means the days when Marine Lubricants are normally delivered in the Delivery Port.

### 2. Nominations

2.1 The Buyer or his agent shall give the Seller or its designated representative notice (a "Nomination") of a requirement by a vessel for delivery of Marine Lubricants specifying grades, quantities, method of delivery and expected date of arrival at a Delivery Port.

2.2 Unless otherwise agreed, a Nomination shall allow not less than **Five Working Day's** notice. If any circumstances arise which prevent the Seller or its Delivering Company from making a delivery then the Buyer shall be informed. The Seller or its Delivering Company will make reasonable efforts to satisfy the Nomination but shall otherwise have no liability.

## HAMBURG TRADING HOUSE FZE

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- 2.3 In addition to Nominations outlined under section 2.1, a Nomination will be considered as having been made within time when a vessel is supplied with Marine Lubricants at a Delivery Port on the authority of the Master of the vessel.
- 2.4 If the vessel has not arrived at the Delivery Port within ten days after the expected date of arrival notified pursuant to clause 2.1, the Nomination will be considered as cancelled by the Buyer. The Buyer shall, in addition to any liability under these terms and conditions, be liable to the Seller for any expense incurred by the Seller or its Delivering Company as a result of the Nomination. If the vessel arrives earlier than the expected date of arrival notified pursuant to clause 2.1, the Seller shall exercise reasonable efforts to supply the vessel upon request but shall not be bound to do so until the expected date of arrival.

### 3. Price

- 3.1 Except as otherwise agreed between Seller and the Buyer, the price to be paid for Marine Lubricants delivered hereunder shall be the price shown in the Price List valid on the date the Seller receives the Nomination from the Buyer. This price is valid for no longer than ten (10) days after Nomination. In the event that delivery takes place after this ten (10) day period, the price shown in the updated Price List will apply.
- 3.2 The Buyer shall be liable for all costs, expenses and/or charges incurred by Seller or its Delivering Company on account of the Buyer's failure, breach and/or non-compliance with its obligations under any Nomination as set out in section 2.
- 3.3 Unless otherwise agreed, the Seller will provide the Buyer with at least 30 days written notice of any proposed increase to the price to be paid for Marine Lubricants resulting from a price review. If in the Buyer's opinion the increased prices are unreasonable, the Buyer may within 30 days of receiving such notification from Seller terminate the contract governed by these terms and conditions by giving 30 days written notice.

### 4. Charges

In addition to the prices payable for Marine Lubricants, the Buyer shall pay to the Seller the following charges:

- (a) All charges listed in the Price List, including those for delivery ex-lighter / barge and packed deliveries;
- (b) Any expenses incurred as a result of the Master of the vessel rejecting, cancelling or significantly delaying the whole or any part of the delivery requested under a Nomination.
- (c) Any mooring or unmooring charges or port dues which may be incurred (whether at the Delivery Port or otherwise) in connection with any Delivery.
- (d) Any duties, taxes (other than taxes on profits), impositions, charges, freights, premiums, or other costs incurred (whether by the Seller or by the Delivering Company), or for which the Seller or the Delivering Company is accountable, in respect of a Delivery. For the avoidance of doubt, 'taxes' includes sales taxes, value added taxes and goods and services taxes.
- (e) Where the Seller delivers to the Buyer from duty paid stocks in accordance with section 2.5, the amount of such duty.

## HAMBURG TRADING HOUSE FZE

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- (f) Any additional costs incurred in respect of a Delivery including payments for overtime.

### 5. Invoices

- 5.1 The Seller shall invoice the Buyer in US \$ or in such other currency as may have been agreed between the Seller and the Buyer before delivery.
- 5.2 By agreement between the Seller and the Buyer the invoice may be submitted to the Buyer by electronic means including without limitation facsimile.

### 6. Payment

- 6.1 All money owed by the Buyer under a Nomination shall be paid to the Seller in the manner set out herein.
- 6.2 Payment by the Buyer shall be due in US \$ according to Seller's invoices, and without any discount, withholding, offset or allowance and shall be made by means of electronic wire transfer to the bank account stated on the invoice, such that funds are received into such account by the due date stated on the relevant invoice or as otherwise agreed with the Seller. Seller reserves the right to charge interest and delivery costs on any amounts not paid by such date at the higher of 1.5% per month and the maximum rate allowable under applicable law.
- 6.3 Delivery documents may be provided to the Buyer if requested, but payment shall not be conditional upon the Buyer's receipt of such documents.

### 7. Credit

- 7.1 If Marine Lubricants are supplied or to be supplied on credit and if the financial condition of the Buyer becomes in the opinion of Seller impaired, or unsatisfactory, Seller may demand that payment be made at any time before the date due for payment whether before or after delivery of the Marine Lubricants or may demand the giving of such security as it may specify.
- 7.2 Marine Lubricants are supplied under a Nomination on the faith and credit of the vessel to which they are supplied as well as on the faith and credit of the Buyer. The Seller and the Delivering Company shall not be bound by any attempt by any person to restrict, limit or prohibit its lien or liens attaching to a vessel.
- 7.3 If at any time the Buyer has exceeded any credit limit as set by Seller, Seller shall, in addition to any other remedy, be entitled to suspend or terminate deliveries under the Nomination concerned (in so far as they have not already taken place). If at any time the Buyer fails to make any payment or give any security required (whether in terms of this section or not), the Seller shall, in addition to any other remedy, be entitled to suspend or terminate deliveries under the Nomination concerned (in so far as they have not already taken place) and to assert all its rights against the vessel or vessels belonging to the Buyer. In the event of such suspension or termination the Buyer shall have no recourse against either the Seller or any Delivering Company concerned.

## HAMBURG TRADING HOUSE FZE

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### 8. Delivery and Health and Safety and Environmental Requirements

- 8.1 Subject to any special agreements between the parties as to the manner of delivery, the Seller or its Delivering Company shall arrange delivery in bulk or container at the nearest point to the vessel at which delivery is in the opinion of the Seller or its Delivering Company reasonably possible.
- 8.2 Subject to section 8.3, delivery of Marine Lubricants will be made during customary hours of work at the Delivery Port.
- 8.3 Delivery of Marine Lubricants may continue, if the Master of the vessel so requests, during night hours and religious and secular holidays (unless prohibited by laws or regulations applicable in the Delivery Port), in which event the Buyer shall reimburse Seller for all additional expenses incurred by Seller or the Delivering Company.
- 8.4 The vessel will be supplied as promptly as circumstances permit, but neither the Seller nor its Delivering Company shall be liable for any loss, expense, damage, delay or demurrage whatsoever which may be suffered by the Buyer as a result of any delay arising from congestion at the terminal or to prior commitments of available barges, or when in the Seller's or in the Delivering Company's opinion clear and safe berth or the assistance of qualified staff to secure moorings is unavailable.
- 8.5 In any case where delivery is ex lighter, the Buyer shall provide free of cost a clear and safe berth for the lighter(s) alongside the vessel's receiving lines and the assistance of qualified staff to secure the lighter(s) moorings.
- 8.6 Neither the Seller nor the Delivering Company shall be required to supply or arrange to supply Marine Lubricants for the export of which a Government permit is required but which has not been obtained by the Buyer or the Buyer's accredited representative.
- 8.7 If in the course of any delivery under a Nomination there is any escape or spillage of Marine Lubricants:
- (a) The Buyer agrees that, if a Pollution Event occurs before, during or after delivery of the Marine Lubricants, Seller may at its sole discretion take reasonable steps to control and terminate the Pollution Event, contain and remove the escaped Marine Lubricants and clean the affected area. The Buyer must afford Seller and the Delivering Company its reasonable co-operation in implementing steps under this section. If the Pollution Event is caused by an act or omission of the Buyer, its servants or agents (other than Seller and the Delivering Company), the Buyer must indemnify Seller and the Delivering Company for the cost of any steps taken under this section 8.7(a). In this section 8.7(a), "Pollution Event" means any occurrence as a result of which the Marine Lubricants escaped onto or into land or water.
  - (b) The Buyer or his agent shall supply the Seller or its Delivering Company with any documents and information concerning the same or any programme for the prevention thereof as are requested by the Seller or its Delivering Company or are required by law or regulations applicable at the Delivery Port.
- 8.8 The Buyer shall be fully responsible for the proper use, maintenance, and repair of the Equipment. The Buyer will immediately inform Seller of any defects, ruptures, spills, or other problems with or related to the Equipment which occur during the delivery process.

## **HAMBURG TRADING HOUSE FZE**

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- 8.9 The Buyer will provide ready and safe means of access to the Equipment for delivery of the Marine Lubricants at the Delivery Port and shall not obstruct access to the Equipment for delivery. Delivery will not commence until such time as the Pre-delivery Check List has been jointly and satisfactorily completed and signed by or on behalf of both the Seller (or the Delivering Company) and the Buyer.
- 8.10 The Seller and the Buyer represent to each other that they are in compliance with all applicable laws and government regulations with respect to the environment and that they have policies of environmental responsibility in place concerning their respective Marine Lubricants processes.

### 9. Documents

On completion of a Delivery of Marine Lubricants to a vessel under a Nomination, the Master of the vessel or the Buyer's accredited representative shall sign a receipt for the grades and quantities delivered in a form required by the Seller or its Delivering Company ("Ship's Receipt") of which two copies shall be retained by the Master or such representative.

### 10. Risk and Title

- 10.1 Except as may be otherwise agreed, delivery of Marine Lubricants at a Delivery Port shall be deemed to be complete and title and risk shall pass to the Buyer either:
- (a) for bulk Deliveries, when the Marine Lubricants pass the flange connecting the delivery facilities with the receiving facilities provided by the Buyer; or
  - (b) for delivery in containers, when the Ship's Receipt is signed in accordance with section 9 hereof.
- 10.2 The responsibility for connecting the bulk delivery facilities provided by the Seller or its Delivering Company to the receiving facilities provided by the Buyer shall be in accordance with the custom of the Delivery Port.

### 11. Quality

The Marine Lubricants to be supplied hereunder shall conform with any specification or description agreed between Seller and the Buyer in relation to the Marine Lubricants, including the specification or description set out in the "Typical Physical Characteristics" section of any applicable Product Specification Data Sheet(s) contained in the Port Guide. This section constitutes the whole of Seller's and the Delivering Company's obligations with respect to the quality of the Marine Lubricants to be supplied and (save to the extent that exclusion thereof is not permitted or is ineffective by operation of law) all statutory or other conditions and/or warranties, express or implied, with respect to the description or quality of the Marine Lubricants or its fitness for any purpose are hereby excluded.

### 12. Measurement and Samples/Quantity and Quality Claims

- 12.1 The quantity to be entered on the Ship's Receipt shall be in accordance with the measurements of the Seller or its Delivering Company. The quantities of Marine Lubricants delivered shall be measured by volume, and calculated at standard temperature at 15 degrees Celsius in accordance with the ASTM - IP Petroleum Measurement Tables or the methods of any other recognised standards authority at the discretion of the Seller or its Delivering Company.

## HAMBURG TRADING HOUSE FZE

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- 12.2 The Buyer or Buyer's accredited representative shall be at liberty to witness and check the weights and measurements at the time of delivery.
- 12.3 If the Buyer's representative or the Master of the vessel disputes the quantity delivered in any Delivery, he may at the time of signing the Ship's Receipt (but not later) annotate the Ship's Receipt accordingly, giving brief particulars of the quantity he alleges to have been delivered.
- 12.4 A clean Ship's Receipt once signed shall be conclusive evidence of the quantity delivered unless the Party challenging the receipt can prove manifest error. In the event that a Ship's Receipt is annotated in accordance with section 12.3 above, Buyer shall be required to make timely payment in accordance with Seller's or its Delivering Company's figures (which shall in the absence of contrary proof be deemed correct) provided that such payment shall not prejudice Buyer's right to make any claim with respect to quantity provided further that such claims shall be made in writing (in addition to the Ship's Receipt annotation) as soon as possible and in any event within thirty days of the date of delivery, in default of which the Buyer shall be deemed to have waived such complaint or claim. Any unresolved disputes shall be determined in the same manner as set out for quality disputes in section 12.8 below.
- 12.5 During bulk deliveries, the Seller or its Delivering Company shall take three representative samples of the Marine Lubricants. The Buyer or its representative will be provided the opportunity to witness the taking of such samples. One sealed sample shall be handed to the Master of the vessel receiving the Marine Lubricants and the other two retained by the Seller or its Delivering Company for a 30 day period or the minimum period allowable under applicable law, whichever is the longer, from the date of delivery in a safe place where they will not deteriorate. At the end of the said period the remaining samples may be discarded unless the Buyer has made a complaint or claim under section 12.6 within the said period, in which case one of the samples shall be retained by the Seller or its Delivering Company for its own use and the other sample shall be retained by the Seller or its Delivering Company for analysis by the expert referred to in section 12.8.
- 12.6 Any complaint or claim on the part of the Buyer with regard to the quality of Marine Lubricants delivered must be made to Seller in writing as soon as possible and in any event within 30 days after the date of delivery, in default of which the Buyer shall be deemed to have waived all complaints or claims in relation to the quality of the Marine Lubricants so delivered.
- 12.7 No claim for any defects in quality may be made in respect of Marine Lubricants that have been transported or stored in containers provided by the Buyer.
- 12.8 Any dispute as to quantity or quality of Marine Lubricants delivered shall, save for in instances of manifest error or fraud, be determined finally and conclusively by an independent expert appointed jointly by the Buyer and the Seller or, if they cannot agree to such an appointment, then an expert appointed by the President for the time being of the Energy Institute. In the case of quality disputes, the expert shall be requested to analyse one or more of the samples taken in accordance with clause 12.5 above and where possible, base his or her decision upon the results thereof.

## **HAMBURG TRADING HOUSE FZE**

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### 13. Technical Service

13.1 In addition to technical advice and services which may be provided by the Seller or its Delivering Company upon the Buyer's request and at its cost (which advice and service shall be provided not pursuant to these terms and conditions but pursuant to a separate services agreement), the Buyer may avail himself of certain technical advice and services which are provided free of charge by the Seller or its Delivering Company. Such free services are provided voluntarily and not as an obligation under this contract.

13.2 Neither the Seller nor its Delivering Company shall be liable for any loss or damage suffered by the Buyer or its servants or agents in respect of or arising from the provision by the Seller or its Delivering Company of any advice or services provided voluntarily as aforesaid.

### 14. Restrictions on Use

Unless otherwise agreed the Buyer represents and warrants that the Marine Lubricants supplied will be used solely for the lubrication requirements of the vessel to which they are delivered or of other vessels owned or managed by the Buyer.

### 15. Exceptions

15.1 Neither the Seller nor the Buyer shall be responsible for any failure to fulfill their respective obligations under a contract governed by these terms and conditions (other than the payment of money) if fulfilment has been delayed, hindered, interfered with, curtailed or prevented by:

- (a) any circumstance whatsoever which is not within the control of the Seller or the Delivering Company or of the Buyer as the case may be; or
- (b) any curtailment, failure or cessation of supplies of Marine Lubricants or the petroleum or other substances from which such Marine Lubricants are derived or any of the Seller's or the Delivering Company's sources of supply (whether in fact sources of supply for the purposes of these terms and conditions or not) or packages into which they might be filled, provided that such curtailment, failure or cessation is related to a circumstance which is outside the control of the Seller or the Delivering Company; or
- (c) compliance with any law, regulation or ordinance, or with any order, demand or request of any international, national, port, transportation, local or other authority or agency or of any body or person purporting to be or to act for such authority or agency or any corporation directly or indirectly controlled by any of them; or
- (d) any strike, lock-out or labour dispute (whether or not the Seller or the Delivering Company or the Buyer as the case may be is party thereto or would be able to influence or procure the settlement thereof).

15.2.1 The performance of any obligation, whether arising out of any contract, arrangement or otherwise, by which any authority, agency, body or person is entitled to require and does require any Marine Lubricants by way of royalty in kind shall be deemed to constitute a compliance with an order or request as provided in section 15.1(c).

## HAMBURG TRADING HOUSE FZE

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- 15.3 If by reason of any of the causes referred to in section 15.1 above, either the availability from any of the Seller's or its Delivering Company's sources of supply (wherever situated) of Marine Lubricants, whether deliverable under a contract governed by these terms and conditions or not, or the normal means of transport of such Marine Lubricants is delayed, hindered, interfered with, curtailed or prevented, then the Seller shall be at liberty to withhold, reduce or suspend supplies under a contract governed by these terms and conditions to such extent as the Seller may in its absolute discretion think fit, and the Seller shall not be bound to acquire by purchase or otherwise additional quantities from other suppliers. Any additional quantities which Seller does acquire from other suppliers or from alternative sources may be used by the Seller at its complete discretion and need not be taken into account by the Seller for the purpose of determining the extent to which it is to withhold, reduce or suspend deliveries under a contract governed by these terms and conditions.
- 15.4 The Buyer shall be free to purchase from other suppliers any deficiencies of deliveries of Marine Lubricants caused by the operation of section 15.3 but Seller shall not be responsible for any additional cost thereby incurred by the Buyer.
- 15.5 The Seller reserve the right to increase the price charged for any Marine Lubricants (whether the price was originally determined by reference to the Seller's prices or separately agreed in writing) if there is any increase in the costs incurred or to be incurred by the Seller or the Delivering Company in making the relevant supply due to factors which are beyond the control of the Seller or the Delivering Company. These factors include without limitation any increased taxes, duties, the making of any law, order bye-law or other regulation, the occurrence of any currency fluctuation affecting the cost of any imported items.
- 15.6 No curtailment or suspension of deliveries, or acceptance of deliveries, pursuant hereto shall operate to extend the term of a contract governed by these terms and conditions or to terminate such contract, unless such curtailment or suspension lasts for a continuous period of 30 days, in which case either party shall be entitled to terminate such contract forthwith on written notice to the other party. Neither the Seller, the Buyer nor the Delivering Company shall be liable for any damage, loss, expense, claim or costs incurred by the other party as a result of such termination. Such termination shall be without prejudice to any right, obligation or liability which has accrued prior to the effective date of such termination. Shipments of Marine Lubricants or any portion thereof, the delivery or acceptance of which has been prevented by any of the causes referred to in section 15.1 above, shall be deducted from the amount required to be delivered and received hereunder unless otherwise agreed. Performance under such contract shall resume to the extent made possible by the end or amelioration of the cause(s) referred to in section 15.1 above.

### 16. Indemnity/Liability

- 16.1 The Buyer will indemnify the Seller and its Delivering Company against any claims, losses, costs (including costs as between Attorney or Solicitor and Client), damages, liabilities, fines, penalties and expenses incurred or sustained arising out of or in connection with a contract governed by these terms and conditions and/or a Nomination (including but not limited to recovery of any sums due hereunder) except to the extent that such claims, losses, costs, damages, liabilities and expenses arise through the negligent act or omission of Seller or its Delivering Company.

## HAMBURG TRADING HOUSE FZE

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16.2 The Seller shall have no liability to the Buyer under or in connection with a contract governed by these terms and conditions and/or a Nomination for:

- (a) loss of actual or anticipated profit;
- (b) losses caused by business interruption;
- (c) loss of goodwill or reputation; or
- (d) any indirect, special or consequential cost, expense, loss or damage

even if such cost, expense, loss or damage was reasonably foreseeable or might reasonably have been contemplated by the Seller or its Delivering Company and whether arising from breach of contract, tort, negligence, breach of statutory duty or otherwise.

### 17. Agents

If a Nomination is made by an agent acting for or on behalf of the Buyer, whether such agency is disclosed or undisclosed then such agent shall be liable (as well as the Buyer) not only as agent but also as principal for the performance of all the obligations of the Buyer.

### 18. Governing Law and Jurisdiction

The provisions hereof shall be governed by the laws of the United Arab Emirates as implemented in Dubai.

### 19. Notices

- 19.1 Except where expressly stated otherwise, a notice, demand, request, statement, or other communication under or in connection with these terms and conditions shall only be effective if it is in writing. Faxes and e-mail are permitted provided however that any notice of breach sent by email must be followed by a fax or letter.
- 19.2 Notices, demands, requests, statements, or other communications under or in connection with these terms and conditions shall be sent to a party at the addresses or numbers specified from time to time by the party to whom the notice is addressed and shall be marked for the attention of the company secretary.
- 19.3 Any notice given under these terms and conditions shall be effective only upon actual receipt at the appropriate address.
- 19.4 Any notice given under these terms and conditions outside working hours in the place to which it is addressed shall be deemed not to have been given until the start of the next period of working hours in such place.
- 19.5 No notice given under these terms and conditions may be withdrawn or revoked except by notice given in accordance with this section.
- 19.6 Where a Nomination is made by an agent acting for the Buyer then notice may be given either to the agent or to the Buyer at the option of the party giving the notice.

## **HAMBURG TRADING HOUSE FZE**

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### 20. Waiver

The failure of either of the parties to enforce any of the provisions of these terms and conditions at any time shall not be construed as a waiver of that provision unless specifically so notified by that party in writing which expressly states it is a waiver. No waiver of any breach of these terms and conditions shall be held to be a waiver of any other breach or a continuing waiver of any further breach of these terms and conditions.

### 21. Severability

The validity of the provisions of these terms and conditions shall not be affected if any particular provision or provisions of these terms and conditions is or are declared illegal, unenforceable, or contrary to law or public policy. If as a result of a specified declaration any of the rights or obligations of a party are materially affected, then the parties shall meet and negotiate in good faith in order to arrive at an amendment of the provision(s) of these terms and conditions so affected, in such manner as will most closely and accurately reflect the intents and purposes of these terms and conditions.

### 22. Succession

22.1 These terms and conditions shall inure to the benefit of and be binding upon the parties and their respective successors and assigns. The Buyer shall not assign all or any part of the benefit of, or any rights or benefits under, a contract governed by these terms and conditions without the prior written consent of the Seller, which consent shall not be unnecessarily or unreasonably withheld or denied.

22.2 The Seller may at any time assign all or any part of the benefit of, or its rights or benefits under, a contract governed by these terms and conditions. Seller may at any time sub-contract or enter into any arrangement whereby another person is to perform any or all of its obligations under a contract governed by these terms and conditions.

### 23. Language

23.1 Each notice, demand, request, statement, or other communication under or in connection with these terms and conditions shall be:

- a. **in English; or**
- b. **if not in English, accompanied by an English translation made by a translator, and certified by an officer of the party giving the notice to be accurate.**

23.2 The receiving party shall be entitled to assume the accuracy of and rely upon any English translation of any document provided pursuant to sub-section 23.1(b).

### 24. New and Changed Regulations

24.1 It is understood by the parties that the parties are entering into a contract governed by these terms and conditions in reliance on the laws, rules, regulations, decrees, agreements, concessions and arrangements (hereinafter called "Regulations") in effect on the date hereof with governments, government instrumentalities or public authorities affecting the Marine Lubricants sold hereunder including, but without limitation to the generality of the foregoing, those relating to the production, acquisition, gathering, manufacturing, transportation, storage, trading or delivery thereof, insofar as such Regulations affect Seller or its Delivering Company.

## HAMBURG TRADING HOUSE FZE

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24.2 In the event that at any time and from time to time during the term of a contract governed by these terms and conditions any Regulations are changed or new Regulations become effective whether by law, decree or regulation or by response to the insistence or request of any governmental or public authority or any person purporting to act therefore, and the effect of such changed or new Regulations (a) is not covered by any other provision of these terms and conditions, and (b) has a material adverse economic effect upon either Seller or the Buyer, then Seller or the Buyer (as the case may be), shall have the option to request renegotiations of the prices or other pertinent terms provided for in these terms and conditions. Said option may be exercised by the relevant party at any time after such changed or new Regulation is promulgated, by written notice of desire to renegotiate, such notice to contain the new prices or terms desired by that party. If the parties do not agree upon new prices or terms within thirty (30) days after the relevant party has given such notice, that party shall have the right to terminate a contract governed by these terms and conditions at the end of the said thirty (30) day period. Any Marine Lubricants lifted during such thirty (30) day period shall be sold and purchased at the price and on the terms applying hereunder without any adjustment in respect of the new or changed Regulations concerned.

### 25. No Partnership

Nothing in these terms and conditions and no action taken by the parties under a contract governed by these terms and conditions shall constitute a partnership, association, joint venture or other co-operative entity between any of the parties.

### 26. Information

- 26.1 Data supplied, whether personal or otherwise, by a Buyer and/or which relates to a Buyer's account will be held and processed by computer or otherwise by the Seller to operate the Buyer's account(s); to confirm, update and enhance the Seller's customer records; for statistical analysis; to establish any identity or otherwise as required under applicable legislation; to assess each Buyer's credit status on an ongoing basis; and otherwise as considered necessary or appropriate by the Seller. In each case the processing may continue after the relevant contract governed by these terms and conditions has ended. Alternatively, the Buyer may be requested to complete or fulfil other checks as may be necessary to satisfy credit assessments, money laundering or fraud detection requirements.
- 26.2 The Seller may disclose data relating to the Buyer and/or a Buyer's account(s) to (a) a credit reference agency where it may be accessed by other financial institutions to assist assessment of any application for credit made to the Seller and for debt tracing and fraud prevention; (b) to any agent or sub-contractor of the Seller performing services in connection with the Buyer's account; (c) to any person to whom the Seller proposes to transfer any of its rights and/or duties under a contract governed by these terms and conditions; (d) to any guarantor or person providing security in relation to Buyer's obligations under a contract governed by these terms and conditions; (e) as required or permitted by law or any regulatory authority; (f) as otherwise considered necessary or appropriate by the Seller.
- 26.3 Without prejudice to any other provisions for termination contained in a contract governed by these terms and conditions, all monies due and owing by the Buyer to the Seller shall become due and payable forthwith if the Seller discovers that any information provided by the Buyer to the Seller is materially inaccurate.

## HAMBURG TRADING HOUSE FZE

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### 27. Contracts (Rights of Third Parties) Act 1999

- 27.1 It is intended that the undertakings and obligations of the Buyer herein are taken by Seller for its own benefit and, subject to the provisions of section 27.3, are intended to be enforceable by such parties by virtue of The Contracts (Rights of Third Parties) Act 1999.
- 27.2 Except as provided in section 27.1, no term or condition contained in a contract governed by these terms and conditions shall be enforceable, by virtue of The Contracts (Rights of Third Parties) Act 1999, by any person who is not a party to such contract.
- 27.3 Notwithstanding section 27.1 above, a contract governed by these terms and conditions may be varied or terminated by the parties without notice to or the consent of any third party.

### 28 Confidentiality

28.1 Each party shall treat as confidential all information obtained as a result of entering into or performing a contract governed by these terms and conditions which relates to:

- (a) **the subject matter of these terms and conditions; or**
- (b) **the other party.**

28.2 Each party shall:

- (a) **not disclose any such confidential information to any person other than any of its directors or employees who needs to know such information in order to discharge his/her duties;**
- (b) **not use any such confidential information other than for the purpose of satisfying its obligations under a contract governed by these terms and conditions; and**
- (c) **procure that any person to whom any such confidential information is disclosed by it complies with the restrictions contained in this section as if such person were a party to a contract governed by these terms and conditions.**

28.3 Notwithstanding the other provisions of this section, either party may disclose any such confidential information:

- (a) **if and to the extent required by law or for the purpose of any judicial proceedings;**
- (b) **to a Delivering Company;**
- (c) **to its affiliates, professional advisers, auditors and bankers;**
- (d) **if and to the extent the information has come into the public domain through no fault of that party; or**
- (e) **if and to the extent the other party has given prior written consent to the disclosure, such consent not to be unreasonably withheld.**

Any information to be disclosed pursuant to sub-section 28.3(a) shall be disclosed only after notice to the other party.

## HAMBURG TRADING HOUSE FZE

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28.4 The restrictions contained in this section shall continue to apply after the termination of a contract governed by these terms and conditions without limit in time.

### 29. Amendments & Variations

These terms and conditions may not be amended or modified orally and no amendment or modification shall be effective unless it is in writing and signed by authorised representatives of each of Seller and the Buyer.

### 30. Termination

- 30.1 Either party may terminate a contract governed by these terms and conditions for any reason by giving not less than 3 months' prior written notice to the other party.
- 30.2 Without prejudice to any other rights and remedies, Seller may by notice to the Buyer terminate a contract governed by these terms and conditions with immediate effect or may suspend deliveries or vary the stipulated method of payment with immediate effect if:
- (a) **the Buyer is in breach of any of its obligations under a contract governed by these terms and conditions and fails to remedy such breach within 30 days after written notice of the existence of such breach;**
  - (b) **there is a Change of Control of the Buyer;**
  - (c) **the Buyer should go into liquidation or should do or suffer any similar act or thing under any applicable law, such as (a) the making of a general assignment for the benefit of creditors by the Buyer; or (b) the entering into of any arrangement or composition with creditors (other than for the purposes of a solvent reconstruction or amalgamation); or (c) the institution by the Buyer of proceedings seeking to adjudicate the Buyer as bankrupt or insolvent, or seeking protection or relief from creditors, or seeking liquidation, winding up, or rearrangement, reorganization or adjustment of the Buyer or its debts (other than for purposes of a solvent reconstruction or amalgamation), or seeking the entry of an order for the appointment of an administrator, a receiver, trustee or other similar official for the Buyer or for all or a substantial part of the Buyer's assets; or (d) the institution of any proceeding of the type described in (c) above against the Buyer; or**
  - (d) **anything analogous to any of the events described in paragraph (c) happens to or in relation to the Buyer in any jurisdiction.**
- 30.3 Subject to section 30.4, a Change of Control shall occur for the purposes of these terms and conditions where:
- (a) **a person acquires Control of the Buyer where no person previously had Control of the Buyer; or**

## **HAMBURG TRADING HOUSE FZE**

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- (b) **the ultimate parent company of the Buyer ceases to have Control of the Buyer; or**
  - (c) **a person acquires Control of the ultimate parent company of the Buyer; or**
  - (d) a person who is not under the Control of the ultimate parent company of the Buyer acquires Control of the Buyer.
- 30.4 For the purposes of these terms and conditions, Control means, in relation to any company, having legal and beneficial ownership of not less than 50 per cent of the voting rights attached to the issued share capital of that company.
- 30.5 On termination of a contract governed by these terms and conditions all sums owed to Seller shall become immediately due and payable.

### 31. Appointment of Experts

- 31.1 Where pursuant to any provisions in the agreement a matter must be determined by an expert, the expert shall be a person fitted by the possession of expert knowledge for the determination of the particular matter in question.
- 31.2 Seller and Buyer shall furnish the expert with all written or oral information that he may reasonably require for his determination.
- 31.3 The cost of the services of the expert, if appointed, shall be shared equally between the Seller and the Buyer.

**Hamburg Trading House FZE**  
**Jebel Ali Free Zone**  
**License No. 12002**  
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