

**CEPSA MARINE FUELS, S.A. (CMF) GENERAL TERMS AND  
CONDITIONS FOR MARINE BUNKER SALES**

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**INDEX**

<b><u>CLAUSE</u></b>	<b><u>PAGE</u></b>
1. Request by the Buyer and Offer by the Seller	3
2. Quantities and measurements	6
3. Quality	8
4. Sampling	8
5. Notice of supply	9
6. Supply	10
7. Price	14
8. Invoicing and payment	15
9. Claims	16
10. Risk and title	17
11. Indemnity	18
12. Force majeure	19
13. Protection of the environment	20
14. Substitution	21
15. Applicable law, arbitration and competence	21

**CEPSA MARINE FUELS, S.A. (CMF) GENERAL TERMS AND  
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1<sup>st</sup> JUNE 2009 EDITION (This edition leaves any previous edition void).

**These General Terms of Sale are not subject to the United Nations Convention on Contracts for international sale of Goods of 1980, nor shall that Convention be applicable to these Terms of Sale. This exclusion is pursuant to article 6 of the said Convention.**

These General Terms govern the Marine Bunker Sale Contracts that are entered into between "CMF" (hereinafter "THE SELLER") and "THE BUYER" with regard to everything related to nomination, delivery, price and payment of the Marine Fuel sold. In the event of any discrepancy between the General Terms of Sale and the Specific Terms agreed by the parties, in each case, the latter shall prevail.

**1. REQUEST BY THE "BUYER" AND OFFER TO SELL BY THE "SELLER"**

- (A) **REQUEST FOR SUPPLY:** "THE BUYER" will provide the "SELLER" written notice of the Request for Supply, that must contain at least the detailed description of the type of Marine Fuel that will be supplied by the "SELLER" to the ship assigned by the "BUYER", as well as an approximate indication of the volume of Marine Fuel to be supplied and of the location (s) and date(s) on which the supply is to be received.
- (B) **OFFER TO SELL:** The "SELLER" will draw up a Sale Offer, which shall establish the terms of the location and date on which it is willing to provide the supply requested. In that Sale Offer, the "SELLER" will also state the price (or formula to determine this) and the terms of payment of the supply, as well as, when appropriate, the maximum amount of "Marine Fuel" it is willing to supply, and the means it has available to provide the supply at the port or location requested.
- (C) **COMPLETION OF THE SALE:** In its Sale Offer, that except if stated otherwise therein, shall be in force during the same day on

which the customer requests it, the "SELLER" shall request the "BUYER" to send in writing its Final Order.

In that Final Order, the "BUYER", in addition to confirming its decision to acquire the "MARINE FUEL" at the price and under the conditions offered by the "SELLER" in the Sale Offer, it will provide the latter the following information in writing:

- The name, personal or corporate T.I.N. or equivalent complete tax identification number under the laws of the "BUYER"; address and place of registry inscription of the "BUYER"; in the case of ships registered under a non-Spanish flag, the name and T.I.N. of the agent.

- The name and flag and the IMO No. of the ship (s) to be supplied.

- The name, personal or corporate T.I.N. or equivalent complete tax identification number under the laws of the "BUYER"; address and place of registry inscription of the Ship Owner Company;  
In the case of Spanish ships, the following particulars must be provided:

- The location or port of supply of the Marine Fuel;

- The date and estimated or approximate time of arrival (ETA) of the ship at that location or port;

- The description and quantity of the Marine Fuel to be supplied;

- Specific, unconditional acceptance of the price (or the means of determining it), and of the terms of payment established in the Sale Offer, as well as the means of supply and specific acceptance of its respective cost;

- The estimated date of supply of the Marine Fuel;

- The name and address of the person or company that is expressly assigned as the agent of the ship to be supplied at the location or port of supply.

- All the information that may be necessary or of use for adequate performance of the supply operation.

- Knowledge and unconditional acceptance of these General Terms and the specific ones that may have been agreed for the relevant supply.

**(D) DEFINITIVE SUPPLY ORDER:** The “BUYER” will fill in the information requested by the "SELLER" in its Sale Offer and will send its Final Supply Order in writing to the "SELLER".

**(E)** That Final Supply Order, that implies specific acceptance without alteration of any of the terms set forth in the Sale Offer by the "SELLER", shall only be valid, acceptable and binding upon the latter if, in addition to providing the information requested in the Supply Order, it is received by the "SELLER" within the term of validity of the Supply Order and at least two (2) working days in Spain prior to the date of arrival of the ship at the place or port of supply.

**(F)** Should the "BUYER" wish to modify the terms of the Supply Order as to the Final amount of "MARINE FUEL" to be supplied, the place and/or deadline for supply and/or the price (or formula to determine this) and/or the terms of payment of that supply, it must expressly inform the "SELLER" in writing within the term of validity of the Supply Order from the "SELLER".

**(G)** The “SELLER” shall not be bound by the new terms and conditions of supply proposed by the “BUYER” until they are expressly accepted in writing in a new Supply Order notice to the "BUYER".

**(H)** If that specific acceptance is not given, or if the "SELLER" were to specifically reject the new terms proposed by the “BUYER”, the Supply Order by the latter shall be declared completely void and the "SELLER" shall not be obliged to provide any supply of "MARINE FUEL" to the “BUYER”, unless the latter reconsiders its position and specifically and unconditionally accepts the terms of the original Supply Order from the "SELLER".

**(I)** Formulation by the “BUYER” of the Final Supply Order, or formulation by the "SELLER" of a new Supply Order accepting the

new terms of supply proposed by the “BUYER” shall complete, according to the case concerned, the purchase contract between both parties. The commitment to supply thus contracted shall be maintained for a term of **four (4) days**. If the “BUYER” does not withdraw the “MARINE FUEL” within the term established above, the commitment to supply shall be considered **cancelled and without any effect whatsoever, notwithstanding the parties being able to enter into a new contract amending the original terms**.

- (J) Should the “BUYER” request cancellation of the supply, this must be requested at least 48 working hours prior to the ETA of the ship; if not, the "SELLER" reserves the right to request the relevant compensations.
- (K) The means of valid notification accepted by "THE SELLER" are fax and E-mail with acknowledgement of receipt.

## **2. QUANTITIES AND MEASUREMENTS**

- (A) In its Final Supply Order, "THE BUYER" shall state the quantity of Marine Fuel to be supplied and that amount must be stated in metric tonnes (Tm), or in cubic metres.
- (B) The amount of Marine Fuel to be supplied will be measured, determined and calculated according to the generally accepted methods, using the supply equipment and measurement appliances of the "SELLER" to that end.
- (C) The measurements taken on board the ship supplied shall not be binding on "THE SELLER", so any claim concerning the amount of Marine Fuel supplied based on measurements taken unilaterally on board the ship shall be completely inadmissible and irrelevant.
- (D) **Should** "THE BUYER" require any kind of control or supervision with regard to measurement of the bunker supply, it must request this previously in writing to the "SELLER", at which time it must propose the independent expert to be charged with that supervision. Such control or supervision will be subject to the specific agree stated in writing by "THE SELLER" with regard to the independent

expert commissioned to conduct it. The result of that control will only be taken into consideration by "THE SELLER" if it has been performed in the presence of a representative of the "SELLER" and by an organisation of recognised international prestige, specialised in matters of control and supervision and previously approved in writing by "THE SELLER". The expenses arising from supervision of measurement of the bunker supply will, in all cases, be exclusively borne by and at the expense of the "BUYER".

- (E) "THE BUYER" and/or Ship's Master supplied shall be entitled to personally present at the measurements, or through a representative specifically appointed for that purpose. The total or partial absence of the "BUYER" and/or the Ship's Master, or their respective representatives during the measurement taking operation is irrelevant, and the measurement taken by "THE SELLER" shall be conclusive and binding evidence for the parties of the amount of Marine Fuel supplied, and any claim to the "SELLER" concerning the quantity supplied will not be considered.
- (F) The provisions of sections (C, D and E ) above are understood to be notwithstanding the rights and obligations that might be established in the laws in force in Spain as to measurement of bunker supplies.

### **3. QUALITY**

- (A) "THE BUYER" has the absolute, exclusive responsibility for the choice and description of the Marine Fuel to be supplied, which must be suitable for the ship concerned. "THE BUYER" shall also be solely, absolutely and exclusively liable as to the compatibility between the Marine Fuel stated and the fuels that are on board the ship prior to the supply.
- (B) The quality of the Marine Fuel supplied by the "SELLER" shall match the quality guaranteed at the moment and location or port of supply for such Marine Fuel.

### **4. SAMPLING**

- (A) "THE SELLER" shall take three (3) commercial samples of each degree of Marine Fuel supplied during the bunker operation, in the

presence of the "BUYER" or the Ship's Master, or their respective representatives.

Such commercial samples shall be the only authentic, conclusive, binding proof for the parties, to determine the quality of the Marine Fuel supplied to the ship, and the absence of the "BUYER" or the Ship's Master or their respective representatives during the sample taking process shall be considered irrelevant to those ends.

- (B) The samples taken will be duly sealed and bear labels showing the name of the ship, identifying the means of supply of the Marine Fuel, name of the product, date and place of supply, and they will bear the seal of the Ship Owner Company and be signed by "THE SELLER" and the Ship's Master or his representative.
- (C) "THE SELLER" shall deliver one of the commercial samples to the Master of the ship bunkered or his representative, who shall acknowledge receipt of same at the moment of receipt. The other two commercial samples shall remain in the possession of the "SELLER" for thirty (30) days from the date of the supply. One of those samples will be held in custody by the "SELLER".

When the aforementioned 30 days have elapsed, and if no written claim has been lodged (just as established in Clause 9 (c) below) by the "BUYER", "THE SELLER" is empowered to proceed to destroy the commercial sample or samples held by it, except if their conservation for a longer time is obligatory pursuant to the terms set forth in Addendum VI of the Marpol Convention 73/78, or any other applicable regulation.

**In supplies under 30 Tm, also in all supplies by tanker truck, the "Seller" will not take samples, except when asked to do so by the "BUYER", in writing and at least 48 hours before the supply, and the "BUYER" shall accept the cost of same. Under no circumstances will the "SELLER" take samples on supplies made at fishing posts.**

- (D) Pursuant to the terms and conditions set forth in Addendum VI of Marpol Convention 73/78, for all ships with a GT of more than 400, the "SELLER" shall take two (2) samples of each grade of Marine

Fuel supplied during each supply operation, in the presence of the "BUYER" or the Ship's Master, or their respective representatives.

The samples taken will be duly sealed and bear labels identifying them specifically as "MARPOL SAMPLE", showing the name of the ship, identifying the means of supply of the Marine Fuel, name of the product, date and place of supply, and they will bear the seal of the Ship Owner Company and be signed by "THE SELLER" and the Ship's Master or his representative.

The "SELLER" shall give one of these samples to the Ship's Master or his representative, who will acknowledge receipt of the aforementioned sample in the moment of reception.

(E) The commercial samples will be taken, according to the supply method used, at the following points:

- (1) At the manifold of the supply barge;
- (2) At the manifold of the land terminal from which the supply is made.
- (3) At the manifold of the tanker truck, if necessary delivery of samples according to point C.

(F) The samples will be taken using the methods, as well as the appliances and devices to take samples provided by the "SELLER".

## **5. PRIOR NOTICE OF SUPPLY**

(A) "THE BUYER" and the agent of the ship to be supplied in port or at the supply location shall notify the estimated time of arrival (ETA) of the ship to the "SELLER" and to its local representative at the port or supply location 48, 24 and 12 working hours prior to arrival of the ship and shall also notify the "SELLER" and its local representative concerning any change in the arrival of the ship exceeding three hours (one hour in the case of supplies by tanker truck), and will report the exact position of the ship and time at which the supply is required. Any change exceeding those margins will immediately be reported in writing to the "SELLER".

(B) The prior notice will include the following information:

- The estimated place of mooring / anchoring of the ship to be supplied.
  - Written notification to the "SELLER" – at least 48 hours prior to the date of supply – of all the special conditions, difficulties, peculiarities, deficiencies or defects concerning the ship, or that are specific to the ship and might adversely affect the supply of the Marine Fuel.
  - All information that might be necessary or useful for the smooth running of the supply operation.
- (C) All additional costs and expenses that arise from a change in the supply conditions shall be borne by the “BUYER”.

## **6. SUPPLY**

- (A) **"Confirmation of supply and invitation to witness measurements"**: Prior to the delivery, the Master of the ship to be supplied will confirm the quantity and description of the Marine Fuel, signing and stamping with the Ship Owner’s seal (or seal of the ship) the document called “Confirmation of Supply and Invitation to Witness Measurements”, that will be delivered to him by "THE SELLER".  
The Ship’s Master shall also declare in writing in that document, whether or not he intends to be present, or represented, at the moment of measuring the quantity supplied and the sample taking.  
The supply will only commence if the said document is delivered to the "SELLER" signed and sealed just as aforementioned .
- (B) **Supply**: The supply of Marine Fuel will take place according to the Supply Request previously made by "THE BUYER". The Marine Fuel shall be supplied to the ship at the location or port of supply. The supply shall be performed according to the laws in force and applicable at the moment and in the location or port of supply and, especially, according to the by-laws of the port or location of supply.
- (C) The supply shall be delivered:
- (1) At the SELLER’s terminal.

- (2) By tank trucks.
- (3) By bunkering barge.

(1, 2 and 3 are alternatives according to the supply mean agreed upon).

- (D) "THE SELLER" shall deliver the supplies to the ships strictly in their order of arrival, and it will not be liable for delays caused by congestion at the land terminal or, if appropriate, due to commitments previously contracted by the available barges or tanker trucks.

Ships that do not meet their estimated or approximate time of arrival (ETA) will not be bunkered until other ships that have met their ETA have been supplied, and the "SELLER" will not accept any complaints for delays lodged by "THE BUYER" due to that reason.

**In any case, passenger ships have absolute priority to be supplied.**

- (E) When the supply is by barge, "THE BUYER" and/or the Master of the ship to be supplied shall previously check and ensure that the barge has free access to the side of the ship and that the ship has all the necessary means available to secure the barge alongside.
- (F) With supplies by barge, "THE BUYER" is obliged to perform all the connections and disconnections of the supply hoses to the intake points on the ship, and to ensure and guarantee that the hose is duly connected / fastened to the manifold on the ship before the bunkering operation commences.  
"THE BUYER" shall also provide all the necessary services for adequate performance of the supply operation and guarantees that the ship to be supplied has sufficient tank capacity and bears equipment allowing the supply to be carried out with the required speed.

Barge supplies will not be carried out at a speed under 200 m<sup>3</sup>/h, except if previously accepted by the seller.

- (G) "THE BUYER" also guarantees that the ship holds all the necessary certificates to comply with the regulations applicable to supplies of marine fuel at the moment, location or port of supply and shall instruct the Ship's Master so that:

(1) He fulfils the applicable legislation, that is, most especially, the regulations of the port or place of supply.

(2) He reports to the "SELLER" in writing and prior to the supply on the maximum pumping capacity and pressure admitted by the ship. He must also report on the communication procedures and emergency measures to be followed in the event of a situation of risk or hazard arising during the bunker operation.

(3) He provides a free side to receive the supply and provide all the necessary assistance that may be required to fasten and/or cast off the supply barge from alongside.

(4) He provides and guarantees that the ship has sufficient tank space and equipment available to receive the Marine Fuel swiftly and safely.

(5) If possible, for the ship to have segregated tanks to receive the quantity of Marine Fuel ordered.

**(H)** "THE BUYER" shall compensate the "SELLER" and maintain its indemnity before third parties of all damages and losses resulting from or related to any act or omission by the "BUYER", its employees, representatives, ship's Master, officers or crew, in relation to the supply of Marine Fuel.

"THE SELLER" shall not be held responsible, in any case, for damages or losses of any nature suffered by "THE BUYER" as a result of:

(1) Exceeding, for reasons due to the ship, the time foreseen to commence or conclude the Marine Fuel bunkering operation.

(2) Any port fees related to barge supplies or delays arising from congestion in the port facilities, or difficulties in providing services for barge supplies.

(3) Lack of capacity of the tanks of the ship to be supplied to receive the supply just as it is agreed by the parties.

(4) Inadequacy and/or insufficiency of the receiving equipment or fuel storage tanks, or incorrect identification of the tanks on board the ship to be supplied.

(5) Non compliance by the ship's Master, officers or crew, and/or any other person on board the ship and/or representatives or agents of the ship, of the regulations for safety and protection of the environment applicable at the moment the operation takes place to supply Marine Fuel to the ship.

- (I) Each supply constitutes a separate Marine Fuel Sale Contract.
- (J) "THE BUYER" shall be liable for all the expenses, damages and losses caused to the "SELLER" due to a delay exceeding six (6) hours in the arrival of the ship to be supplied at the location or port of supply, compared with the estimated time of arrival (ETA) notified according to Clauses One and Five above.
- (K) A delay exceeding **four (4) days** in the arrival of the ship to be supplied at the location or port of supply, compared with the estimated date and time of arrival (ETA) notified according to Clause One above, shall lead to this being considered a breach by the "BUYER", which may automatically cause cancellation of this Marine Fuel sale contract due to breach by the "BUYER", **with the rights reserved as stated in clause 1, section I**

That cancellation will entitle the "SELLER" to refuse to provide the contractual supply. Notwithstanding its right to be compensated by the "BUYER" for all the expenses (including judicial and lawyers' fees), damages and losses incurred directly or indirectly due to, or arising from the delay prior to that cancellation.

- (L) **Bunker receipt**: Once the supply is completed and the measurement of the quantity supplied performed and samples taken, "THE SELLER" shall present the ship a receipt that must be signed by the Ship's Master supplied, or the agent, and it will bear the ship's seal, confirming satisfactory receipt of the Marine Fuel on board the ship.

A copy of the receipt will be delivered by "THE SELLER" to the Ship's Master (or to his representative or consignment agent) and

the original, after being signed and sealed in the manner aforementioned, will be kept by the "SELLER".

That receipt will remain "clean" in all cases and thus it shall not include any kind of protest or remarks of whatever kind.

## **7. PRICE**

- (A) The price shall be that stipulated by the "THE SELLER" in the Sale Offer, or in its express acceptance of the new conditions proposed by the "BUYER", just as indicated in Clause 1.

Any of all taxes, duties or charges of all kind imposed upon the "SELLER" by any Authority, related to or due to the production, storage and supply, transport, distribution, sale or commercialisation of the Marine Fuel, will be paid by "THE BUYER" to the "SELLER".

## **8. INVOICING AND PAYMENT**

- (A) All the invoices shall be issued in Euros or U.S. Dollars (or the currency adopted by mutual agreement by the parties). The payment will always be made in the currency agreed by the parties.
- (B) The price of the Marine Fuel supplied will be paid in full, without any discount, compensation or withholding whatsoever, without deductions due to difference in the currency exchange indexes, free of bank charges from the "THE BUYER" to the "SELLER", on receipt of the invoice sent by the "THE SELLER" to the "BUYER", according to the terms of payment established in the Sale Offer made by the "THE SELLER" (see Clause 1 B).
- (C) The sale price is payable in all cases, notwithstanding any claim that may be presented by the "THE BUYER" against the "SELLER".
- (D) Any delay or failure to pay the price of the Marine Fuel supplied by "THE SELLER" shall accrue a delay interest of 0.75 % per month, if the debt is in euros (€) and of 0.83% per month if it is in dollars (\$).
- (E) In the event of any invoice being unpaid 15 days after its due date, "THE SELLER" may:

- (1) Refrain from providing new supplies pending delivery, annual accounts new sales to the "BUYER" as well as to third parties on its behalf.
- (2) Rebound upon the "BUYER" all the expenses of recovery (including judicial expenses and lawyer's fees) of any of the sums aforementioned, that will be borne by the "BUYER".
- (F) Partial payment of an invoice is not equivalent, in any case, not even in the case of claims by the "BUYER" pending resolution, to effective payment and, thus, the "SELLER" shall effectively be entitled to full collection of the sums it is owed and the debit balance shall attract interest at the rate mentioned in section (D) above.
- (G) "THE BUYER" and the Ship Owner Company shall be joint and severally liable for payment of the price of the Marine Fuel supplied and, thus, the "SELLER" may enforce his credit, in the manner and within the legal limits foreseen, on the ship bunkered and on the chartered goods accrued thereon.
- (H) The sum owed by "THE BUYER" for payment of the price of the Marine Fuel supplied, plus the interest and expenses accrued, may be compensated with other debts that "THE SELLER" has to the "BUYER", arising from other commercial transactions with "THE BUYER", with the exception of debts that do not allow such compensation by mandatory legal provision.

## **9. CLAIMS**

- (A) **Letter of Protest**: Should the Master of the ship supplied not agree with the quality, quantity or any other circumstance related to the Marine Fuel or its supply, he must state these circumstances in a Letter of Protest, which must be delivered to "THE SELLER" within twenty four (24) hours following the supply of Marine Fuel.
- (B) **Term for documentation**: Any claim of quantity or quality that has been notified within the term provided in said clause 9 (A) must be completely documented within 30 days following the date of supply of the Marine Fuel. Claims over quantity that have not been made within the term and in the manner foreseen in Clause 9 A, or documented within the term foreseen in this clause, shall be

considered finally expired and shall be considered not to have been made if received after the term.

**(C) Specific rules for quality claims:**

- (1) The term stated in section (B) above, in the case of claims over the quality of the Marine Fuel supplied will begin to elapse on the day of delivery and will have a term of thirty (30) days from that day. When a documented claim is received within the term stated in this clause, both parties shall be obliged to extend the maximum term to keep the commercial sample provided in clause 4(B) above until the commercial sample or samples are analysed.
- (2) The parties expressly agree that the commercial sample retained in custody by the "SELLER", just as established in clause 4 (B) above, shall be analysed by a qualified independent laboratory of international prestige, specialised in performing analysis of marine fuels, appointed by mutual agreement between the parties.

The result of such analysis shall be conclusive and binding for both parties. The expenses incurred in performing such analysis shall be borne by the party losing. The analysis shall be performed according to the criteria and instructions agreed by the parties, always with regard to the quality guaranteed by "THE SELLER".

- (3) The analysis of the commercial sample retained by the SELLER shall be done within three months (3) as of the supply's date. SELLER undertakes to cooperate with BUYER to execute the said analysis before the deadline.

In case the analysis of the commercial sample retained by the SELLER is not executed for any reason attributable to BUYER before the referred deadline, the BUYER's claim shall be rejected.

- (D) Should there be a delay due to failure by the "BUYER" to duly provide notice, and/or breach of the notifications according to Clause 5 above, and/or the ship, during the reception of the Marine Fuel, does not comply with the pumping capacity mentioned in Clause 6 (F and G (2)) above, "THE SELLER" shall receive compensation from the "BUYER" for that delay, according to the terms agreed by the parties.

- (F) The terms and information, just as stated here above in this Clause, are essential for "THE SELLER" to be able to consider a claim. Any other claim that is not related to the quality and/or quantity of the Marine Fuel must be notified by "THE BUYER" to the "SELLER" in writing, including all the documentation to prove and justify such a claim, within the term of 15 days from the supply. Should such notice not be provided, any claim will be considered to have expired and will be considered not to have been lodged.

## **10. RISK AND TITLE**

(A) **Risk:** Risk in and of the Marine Fuel is transferred to the "BUYER" at the moment it passes the loading flange on the ship supplied. At that moment, "THE SELLER" shall cease to be responsible for the damage suffered or caused by the Marine Fuel supplied. More precisely, "THE SELLER" shall not be held liable for the losses or damages caused by leakage, fire, spills, escapes, shrinkage and/or overflowing of the Marine Fuel or for the risk or damage of shrinkage, contamination or loss suffered by the latter.

(B) **Title:** Title of the Marine Fuel is transferred to the "BUYER" once it has fully paid the purchase price to the "SELLER". Up to that moment, "THE SELLER" shall continue to be the owner of the Marine Fuel supplied. In the event of the Marine Fuel having been mixed with other fuel aboard the ship bunkered, "THE SELLER" will be entitled to the part of the mixed fuel that is equivalent to the quantity and quality of the Marine Fuel supplied. "THE SELLER" will be entitled to request the return of the fuel remaining on board, as foreseen in the laws in force.

## **11. INDEMNITY**

(A) **“The Seller” will not be held liable under any circumstance for indirect or consequential damage that may be due to or arise in relation to operations performed within the framework of these General Terms of Sale of Marine Fuel.**

(B) **Limitation on Liability:** in any case, “THE SELLER” will not be liable for damages and losses of a quantity exceeding the amount of the fuel supplied, according to the invoice provided at that moment.

## **12. FORCE MAJEURE**

None of the parties will be responsible in the event of breach or defective fulfilment of any of the terms of same when this is due to causes of Force Majeure.

For the purposes of these General Terms of Sale, Force Majeure is understood as all foreseeable or unforeseeable events that, being beyond the control of the parties, could not be avoided by these by use of reasonable means, that have a direct effect on its execution, preventing or hindering, beyond what is reasonable, the fulfilment of the obligations arising from these General Terms of Sale. This item expressly excludes the payment obligations of the "BUYER" with regard to the "MARINE FUEL" supplied.

The party that, due to this reason, is prevented from performing the Contract, shall inform the other party without delay and will take all measures reasonably available to it to eliminate the cause of hindrance, or to palliate its effects on the Contract, it being duly understood that it will re-establish fulfilment of the Contract as soon as possible after elimination of that cause. If the situation persists for more than one (1) month, the party not affected by the Force Majeure may decide to terminate this Contract.

Under no circumstance will Force Majeure cause obligations to pay money to be waived. Moreover, in the event of Force Majeure preventing or suspending the supply for a term exceeding 15 days, "THE SELLER" may terminate the Sale.

To these ends, Force Majeure is understood (without this being limiting) as all cause of such like: (1) War, hostilities, blockades, riots, civil uprising, strike, lockout, labour or employment litigation, epidemics, fire, flooding, ice, hazards of the sea, other eventualities caused by nature, (2) prohibition to import, export or on transit, or other executive or legislative action by any government in the country of origin, or within the territory to which it or its raw materials are to be supplied, (3) total or partial failure of the means of supply, problems in transport that affect the fuel that is to be supplied, or its raw materials, outage in the supply of energy or other causes or circumstances that aggravate any existing difficulty at the time of the contract and that affect the possibility of supplying the "MARINE FUEL" ordered.

### **13. PROTECTION OF THE ENVIRONMENT**

- (A) In the event of leakage/spillage/escape/overflow of the Marine Fuel during the operation of supply to the ship, "THE BUYER" shall take all reasonable measures to guarantee that the officers, crew and staff on the ship and/or representatives of the "BUYER" assist the "SELLER" and immediately co-operate with "THE SELLER" in performing any action to remove, remedy or mitigate the damaging or hazardous consequences of same.
- (B) In the event of leakage/spillage/escape/overflow during the Marine Fuel supply operation, "THE SELLER" is authorised to take or authorise third parties to take measures and to make the expenditure it considers reasonable to remove, remedy or mitigate the effects of the leakage/spillage/escape/overflow.
- (C) All the expenses, damages, losses and penalties arising from the leakage/spillage/escape/overflow caused by the ship supplied shall immediately be paid by "THE BUYER" and/or the Ship Owner Company according to the terms provided in the applicable legislation on the matter. Thus, "THE BUYER" and the Ship Owner Company (if different companies) shall be joint and severally in such case.
- (D) All the expenses, damages, losses and penalties arising from the leakage/spillage/escape/overflow caused by "THE SELLER", shall immediately be paid by "THE SELLER" according to the terms provided in the applicable legislation on the matter.
- (E) In the event of both parties causing the leakage/spillage/escape/overflow, the expenses, damages, losses and penalties shall be borne by the parties in proportion to their respective degree of culpability, negligence or omission.

#### **14. SUBSTITUTION**

"THE SELLER" reserves the right to be substituted by a third party in fulfilment of all or part of the obligations established under these General Terms of Sale of Marine Fuel.

The "BUYER" shall not assign all or part of the supply ordered to a third party without the prior written consent of the "SELLER". Such consent

shall not be withheld by the “SELLER” where the “BUYER” as assignee and the third party as assignor remain joint and severally liable for the due fulfilments of any and all contractual obligations.

## **15. APPLICABLE LAW, ARBITRATION AND COMPETENCE**

**Applicable law:** These General Terms of Sale of Marine Fuel are ruled and governed by Spanish Law. Thus, their clauses will be interpreted and complemented, as appropriate, by the precepts and principles of the Spanish Juridical Order that are of pertinent application to the case.

**Arbitration and Competence:** The parties hereby expressly and irrevocably agree that any dispute that might arise between them with regard to the Marine Fuel supply contract and that concern the existence, interpretation, validity, effectiveness or an other effect shall be subject to Arbitration before three arbitrations, that:

1. In the event of the “BUYER” being a foreign person, entity or company (that is one that is not incorporated or domiciled in Spain) shall be chosen and shall act in accordance with the Rules on Conciliation and Arbitration of the International Chamber of Commerce that is in force at the moment of formalising the Arbitration.

2. If the "BUYER" is a person, entity or company that is Spanish, or a branch of a foreign company in Spain, they shall be chosen and shall act in accordance with the regulations on Arbitration of the Chamber of Commerce, Industry and Navigation of Madrid. In both cases:

I. The venue of the Arbitration will be Madrid, Spain.

II. The applicable law will be Spanish law and the language of arbitration will be Spanish.

III. The Chairman of the Arbitration Tribunal must be a Graduate in Law, whether or not he is a practising Lawyer.

The parties expressly undertake to maintain the content of the Arbitration and arbitration finding strictly confidential.

IV. The arbitration finding handed down will be final and binding upon both parties.

In all matters requiring judicial formalisation of the arbitration, execution of the arbitration finding or injunctive measures that are not the direct competence of the Arbitration Tribunal, the parties submit to the jurisdiction and competence of the Courts and Tribunals of Madrid the capital