



**STARBUNKER OU**

**GENERAL TERMS AND CONDITIONS**

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## STARBUNKER OU GENERAL TERMS AND CONDITIONS

The following General Terms and Conditions apply on all businesses where Starbunker OU acts as a Seller of Marine Fuel Oil or other Oil Products and provides related to Oil Products services. The exception is if clearly stated otherwise in the Order Confirmation. These General Terms and Conditions shall be applied to offers, quotations, orders, agreements, services and all following contracts, except otherwise clearly stated in writing by Starbunker OU.

### Definitions

The definitions in these Terms and Conditions except the context requires otherwise:

“Seller” – means Starbunker OU as a legal entity, whose name is stated in the Order Confirmation;

“Buyer” – means the party who could be the Master, Owner, Manager/Operator, Managing Owner, Time Charterer, Bareboat Charterer, Charterers separately or jointly. The party from whom the Seller receive a request to arrange the delivery of Fuel Oil;

“Agreement” – means agreed terms of sale/purchase of the Products;

“General Terms and Conditions” – means these General Terms and Conditions which provide contractual policies between the Seller and Buyer;

“Nomination” – means the request to deliver Products or provide services in written from Buyer to Seller;

“Order Confirmation” – means the confirmation in written for agreed sale/purchase of Products from Seller to Buyer. The content of Order Confirmation is prevailing in case the conflict with Nomination arise. The exception is when Seller stated otherwise in writing.

“Supplier” – means the party on behalf of the Seller who shall deliver the Products to the Buyer;

“Vessel” – means the Vessel, which owns the Buyer. The Vessel is supposed to receive Products or services as a last user or transfer them to the third party;

“Owner” – means the registered Owner or Bareboat Charterer of the Vessel;

“Products” – means bunker Fuel Oils or other Lubrication Products offered by the Seller at the concrete time and place of delivery;

“Delivery Port” – means the place where Supplier deliver the Products as stated in Nomination or unless the Seller otherwise agrees in writing;

“Fuel Oil Prices” – means the prices quoted by Seller

### 1. Nominations

1.1 The Buyer shall provide the Nomination to the Seller not less than two working days in advance prior to Products delivery.

1.2 The Nomination shall contain the Vessel’s name and agent; Delivery Port; estimated arrival date; grades and quantities of Products.

- 1.3 The Seller may refuse the Nomination by notice provided to the Buyer at any time.
- 1.4 The Buyer shall inform the Vessel's Master or representative that they have to contact the Seller or Supplier and advise if they are ready to receive the Products at least one (1) working day in advance to delivery. The exact quantities of Products, time and location shall also be reported not less than 1 working day in advance before the delivery of Products.
- 1.5 If the Vessel will arrive later than two (2) days of the Delivery Date stated in Nomination, the Buyer will be responsible for all losses, expenses and damages that caused Buyers late arrival.
- 1.6 The Buyer shall accept the Supplier that was nominated by the Seller.

## 2. Prices

- 2.1 The Agreement shall be obligatory only in case if Buyer receives the Order Confirmation from the Seller. General Terms and Conditions shall cover all Order Confirmations.
- 2.2 The Seller's price depends on the price level of components used for Products, taxes, duties, costs and charges.
- 2.3 The Seller shall provide the price quotation of Marine Fuels and its delivery to the Buyer considering Buyer's requirements. In case if there are any additional charges arise like local taxes, any duties or anything that increase price to the Seller then it shall be added to the final price.
- 2.4 If the party requesting a delivery of Fuel Oil is not registered Owner of the Vessel then the Seller has a right to request a payment guarantee. The Seller has a right to cancel the Agreement at any time if the payment guarantee is not received.

## 3. Charges

In addition to the price for the Fuel Oil delivery, the Buyer shall be responsible for the following charges:

- 3.1 All charges for any delivery by barge including any barging charges; similar charges for bulk lorry, rail tank wagon and drum deliveries.
- 3.2 Any mooring or unmooring charges or port dues which may be incurred by the Supplier in connection with any Vessel to which Marine Fuels are delivered hereunder.
- 3.3 Any expenses incurred as a result of the Master of Vessel rejecting the whole or any part of the delivery including (but without limitation) any losses incurred by the Seller in returning and downgrading the Marine Fuel.
- 3.4 Any other applicable charges, e.g. overtime or additional costs incurred by the Supplier in respect of deliveries made hereunder.
- 3.5 Any customs or other duties, taxes, (other than taxes on profits), impositions charges, freights, premiums, or other costs incurred by the Supplier, or for which the Supplier is accountable, in respect of deliveries of Marine Fuels hereunder.
- 3.6 If the Supplier (not having duty-free stocks available, and having first advised the Buyer that this is the case) delivers to the Buyer from the duty paid stocks the amount of such a duty.

## 4. Invoicing Policy

- 4.1 The Seller's invoice shall be sent by post, facsimile, telex or e-mail in the Seller's discretion.
- 4.2 The invoice shall be in US Dollars or any other currency as Seller will set.
- 4.3 The dispatch of the invoices by the Seller shall be deemed as a proof of receipt by the Buyer.

## 5. Payment, Collection and Enforcement

- 5.1 The Buyer shall become liable to pay immediately after Marine Fuels passing the Buyer's ship rail. The Payment for the product shall be made not later than 30 days after the delivery date with value date not later than mentioned due date in the Invoice. The exception is if another due date is agreed and stated in the Order Confirmation. In case if the payment has been made before the delivery depending on quantity delivered payment or refund if needed shall be paid not later than 30 days after the delivery date with value date not later than mentioned due date in the Invoice. Payment shall be made in full amount stated in the Invoice without any deduction, set-off, counterclaim, discount or bank charges.
- 5.2 The payment is deemed to be received only in case if the total amount stated in invoice is credited on the bank account specified by the Seller in the Invoice. If the due date is on the non-banking day then payment shall be made in the banking day nearest to the non-banking day so the payment credited to the Seller's bank account not later than the due date stated in the Invoice.
- 5.3 The Buyer agrees that in case of any failure to pay on time interest compounded at the rate of 2.0 per cent per month or any part of a month from the due date until the payment is actually received. Marine Fuels are supplied on the faith and credit of the Vessel (hereinafter called "the Vessel") to which they are supplied as well as on the faith and credit of the Buyer and amounts due shall constitute liens against the Vessel to the extent permitted by local law. In case if Buyer failed to make a payment, the Seller has a right to prosecute a remedy in order to receive a full payment.

## 6. Delivery

- 6.1 Deliveries shall be made by ex truck or by barge at Seller's option.
- 6.2 The time of delivery is approximate unless Seller states it otherwise in writing. In case if in Nomination stated more than one date of delivery the Seller has a right to make a decision at what time and date start the delivery. The Vessel shall be bunkered as soon as prevailing circumstances allow it. Seller is not liable for any delays caused by waiting for berth, completion of bunkering unless otherwise is agreed in writing. Seller is not liable to deliver the product before the nominated date or range of dates.
- 6.3 The Buyer shall provide a notice of the exact place of delivery not less than 72 hours in advance prior to delivery unless otherwise agreed in writing. The notice of delivery has to be provided to Seller or Seller's representative.
- 6.4 The Seller shall not deliver the Products for export without permit from the government.
- 6.5 In case if by any reason the Seller realizes that there could be a shortage in supply and as a result can not supply at full all customers, the Seller has a right to distribute the supply in a such way that is most reasonable in its sole discretion.
- 6.6 The Seller shall not be liable for any demurrage/loss/damage/delay/congestion at the loading terminal or any other reason of any nature. The Buyer shall provide the safe, afloat and accessible side for the delivery of Products. The Seller or Seller's representatives shall render all needed assistance with delivery. If Supplier states that safe berth is not available for any reason, the delivery shall be delayed/cancelled in Seller's option and liable for all costs related to above mentioned will be the Buyer.
- 6.7 In case if the Buyer's Vessel refuses to receive the Products promptly the Buyer shall be responsible for all damages and demurrage expenses.
- 6.8 Delivery shall be considered as a completed when the Products reach the flange/connecting pipe line(s)/delivery hoses provided by the Seller on the barge/tank truck/shore tank. From the time of

delivery, completion all risks like any damage, deterioration, depreciation, evaporation or shrinkage of the Products shall pass to the Buyer.

- 6.9 If the Buyer for any reason refuses to receive a full amount of ordered product then the Seller shall have a right to invoice the Buyer for expenses used for transportation of undelivered product or selling the undelivered Products at a lower price.
- 6.10 If delivery is required on the non-business hours, local weekends or national public holidays the extra expenses to the Buyer may be applied.
- 6.11 In Case if the Product Delivery is done as a ship-to-ship transfer and any damage/collision/swell or related to weather condition damage arise is supposed to be solved with Owners directly of the involved parties and Seller or Supplier shall not be responsible for any above mentioned damages. If any of involved parties decides to chase Seller and/or Supplier, Buyer shall reimburse in full.

## 7. Title

- 7.1 The Seller guarantees that it has a good title to the Products supplied.
- 7.2 At the moment when payment of invoiced amount received in full, the Title of the Products supplied shall pass to the Buyer.
- 7.3 Until the payment is made, the Buyer's Vessel shall use the Product only for Vessel's propulsion. The Buyer's Vessel shall not use the Product for mix, blend, sell, encumber, pledge, alienate or surrender the bunkers to the third parties until the payment is made.
- 7.4 In the event of partly or whole non-payment the Seller has a right to take back the Products without any prior juridical intervention. In case if Products are not anymore present at the Vessel, the Seller has a right to arrest the Vessel and/or any other sister ship and/or any other assets of the Buyer wherever located in the world without prior notice.
- 7.5 In case if prior the payment the Seller's Products mixing with another product on board of the Vessel, title of the Product shall remain Seller's considering the quantity delivered.

## 8. Documents

- 8.1 When the delivery is completed the Master of the Vessel or the Buyer's accredited representative shall provide a signed receipt to the Supplier.

## 9. Quality

- 9.1 Marine Fuels to be sold shall be the Supplier's regular commercial grades of bunker Fuel Oil and/or intermediate Fuel Oil and/or marine diesel oil and/or light marine diesel oil and/or marine gas oil, which may be offered at the time and place of delivery by the Seller or its appointed suppliers or authorized agents.
- 9.2 The Buyer shall be responsible for the grade and type of Fuel Oils ordered for use for the Vessel.
- 9.3 The Seller do not guarantee or give a warranty merchantability, fitness or suitability of the marine fuels delivered for any particular purposes or otherwise, which extends beyond the description of marine fuels ordered.

## 10. Measurements

10.1 The quantity of Marine Fuels delivered shall be determined from the gauge or meter of the barge effecting delivery at the election of the Supplier. Adjustment in volume owing to difference in temperature shall be made in accordance with ASTM-IP Petroleum Measurement Tables or the methods of any other recognized standards authority at the discretion of the Supplier. The Buyer may be present or represented by its properly accredited representative when such measurements are taken, but if the Buyer is not present or represented then the determination of quantity made by the Supplier shall be deemed to be correct.

## 11. Claims

11.1 All claims on quantity or/and quality shall be provided in writing to the Seller not later than five (5) calendar days after delivery.

11.2 The Buyer shall pay in full amount for the delivery, whether or not they have claims or complaints. If Buyer gives a claim of quality or quantity of the Products the Seller or Seller's representative shall investigate the records, logbooks, engine logs and etc. if anything connected to the investigation arise the Seller or Seller's representative shall make copies of documents.

11.3 Every claim case shall be time-limited unless arbitration/legal proceedings have been started at the competent court and served within six (6) months from the date of delivery or the date when the Delivery should have been started according to the written Order Confirmation.

## 12. Force Major

12.1 The Seller shall not be responsible for any delivery delay, demurrage of Vessel if it became more expensive by circumstances beyond the Seller's control. The Seller shall not be responsible for any demurrage, damage or other loss arising by such a delay or failure to deliver.

## 13. Environmental protection

13.1 If an escape, spillage or discharge of oil occurs while a delivery of Marine Fuels on behalf of the Buyer, the Buyer shall promptly take an action to remove the oil and mitigate the effects of spill.

13.2 Despite the reason of such a spill the Seller or the Supplier is authorized in option with or without notice to the Buyer, with or without co-operation with the Buyer to incur expenses (whether by employing its own resources or by contracting others) to remove the oil and mitigate the effects of such a spill. If the Seller choose such an option then the Buyer shall co-operate and render an assistance as the Seller may require it. Such an option by the Seller shall not be constructed and perceived as a confession of liability for the spill.

13.3 Any expenses, damages, costs, fines and penalties arising from the escape, spillage, discharge or pollution of oil shall be incurred by the party that caused by its negligent act or omission even if paid in the first instance by the other party.

13.4 If both parties have acted negligently, any expenses, damages, costs, fines and penalties arising shall be divided between the parties in accordance with their respective degrees of negligence.

13.5 In case of Seller's negligence, the Buyer shall provide the proof.

13.6 The Buyer agrees to provide all documents and other information concerning any spill or any program for the prevention thereof, which are requested by the Seller or by laws/regulations.

## 14. Indemnity

14.1 The Buyer shall indemnify to the Seller and the Supplier all claims, losses, costs (including costs as between attorney or solicitor and client), damages, liabilities, fines, penalties and expenses arising in a connection to the delivery of Marine Fuels against a nomination except such claims, losses, costs, damages, liabilities and expenses arise from the negligent act or omission of the Seller or Supplier.

## 15. Waiver

15.1 Any waiver by the Seller, Supplier or the Buyer of any of their respective rights hereunder or in respect of a nomination shall not prejudice their respective rights to enforce the same strictly and in full on any subsequent occasion.

## 16. Agents

16.1 If the nomination is provided by the Buyer's agent whether such an agency is disclosed or undisclosed then such an agent shall be liable as well as the Buyer and not only as an agent but also as a principle for the performance of all the obligations of the Buyer.

## 17. Notices

17.1 The notices shall be given to the last known address of the party to whom the notice is addressed.

17.2 If the nomination is made by the Buyer's agent then the notice may be given either to the agent or to the Buyer directly at Seller's option.

17.3 Notices shall be given by actual delivery or by registered or ordinary post, facsimile, telex or e-mail. Proof of dispatch by post shall be deemed as a proof of receipt in due course.

## 18. Law and Jurisdiction

18.1 The contract or agreement between the Seller and the Buyer shall be governed by the English Law unless otherwise stated. Any disputes arising shall be resolved by the arbitration under LMAA Rules.

18.2 The Seller shall be authorized to start and maintain the legal proceedings in any other jurisdiction to obtain security of outstanding payment in respect of Product or otherwise.



## 19. Amendments and representations

- 19.1 The Buyer is hereby notified that any employee of the Seller has no authority to make or accept any alteration or amendment to the terms and conditions contained herein or to make any representation binding upon the Seller.
- 19.2 If any provision of this agreement is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect unless the severance of the invalid or unenforceable provision would unreasonably frustrate the commercial purposes of this agreement.