
THE STANDARD TERMS & CONDITIONS OF THE SALE AND DELIVERY OF MARINE BUNKER FUEL

(Bunker Procedure)

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(1) DEFINITIONS

- 1.1** “**Buyer**” shall mean the Vessel to which the Marine Bunker Fuel will be or is supplied, and jointly and severally, her Master, Owners, Managers, Operators, Bareboat Charterers, Time Charterers, and/or other Charterers, brokers or any party requesting offers or quotations for the purpose of ordering Marine Bunker Fuel from the Seller and/or services and any party on whose behalf the offers, quotations, orders and subsequent agreements or contracts for the purchase of Marine Bunker Fuel have been made with the Seller.

For the avoidance of doubt, should Marine Bunker Fuel be ordered by an Agent, then such Agent, as well as the Principal shall be bound by, liable for, all obligations as fully and as completely as if the Agent were itself the Principal, whether such Principal be disclosed or undisclosed and whether or not such Agent purports to contract as Agent only. Both the Principal and the Agent each shall be deemed to be a Buyer for purposes of this Contract.

- 1.2** “**Bunker Tanker**” shall mean bunker barge or tanker or tank truck utilized by the Seller to deliver Marine Bunker Fuel to the Vessel.
- 1.3** “**Bunker Delivery Note (BDN)**” is the document issued by the Seller and signed by the Seller and the Buyer, IOE as the Seller/Supplier, and Master or Representative of the Vessel as the Buyer and the Recipient for the confirmation of the supply and receipt of Marine Bunker Fuel as per the relevant Bunker Confirmation.
- 1.4** “**Bunker Confirmation**” shall mean the email confirmation as issued by the Seller and forwarded to the Buyer to conclude the negotiated sale and purchase of the Bunkers. In case of a conflict between the Nomination and the Bunker Confirmation, unless the Seller otherwise agrees in writing, the wording and content of the Bunker Confirmation shall prevail.
- 1.5** “**Bunker Nomination**” shall mean the document sent by e-mail by the Buyer to the Seller requesting the supply of Marine Bunker Fuel to the Vessel named in the Bunker Nomination specifying the Buyer’s requirements;
- 1.6** “**Cancellation Charge**” is a payment levied by IOE on the Buyer for cancellation of a nomination or when the validity of the Bunker Confirmation lapses due to failure to receive the Marine Bunker Fuel on time.
- 1.7** “**Contract**” shall mean the Agreement between IOE and the Buyer evidenced by the Standard Terms and Conditions of the Sale and Delivery of Bunker Marine Fuel and the Bunker Confirmation. If there is any conflict between the Standard Terms and Conditions of the Sale and Delivery of Bunker Marine Fuel and the Bunker Confirmation and any other document unless agreed otherwise by the Seller the Standard Terms and Conditions of the Sale and Delivery of Bunker Marine Fuel and the Bunker Confirmation shall prevail.

- 1.8** “**Marine Bunker Fuel**” shall mean Marine Fuel Oil and intermediate grades, Marine Gas Oil, or whatever type and description as specified in the Seller’s Bunker Confirmation made to the Buyer.
- 1.9** “**Master**” or “**Engineer**” or “**Representative**” shall mean the Master or Engineer of the Vessel.
- 1.10** “**Anchorage**” shall mean the area within the port limits
- 1.11** “**Off Port Limits**” (**OPL**) shall mean Twelve (12) Nautical Miles beyond the coastline of Sri Lanka.
- 1.12** “**Private Barge**” shall mean the Barge owned by any party other than IOE.
- 1.13** “**Seller**” shall mean Interocean Energy (Private) Limited (IOE).
- 1.14** “**Standby Charges**” shall mean the payment levied by IOE from the Buyer to cover up the costs of overtime and other expenses.
- 1.15** “**Tank Truck**” shall mean the bowser used for delivery of Marine Bunker Fuel.
- 1.16** “**Vessel**” shall mean the Vessel, Ship, Barge or off-shore unit that receives Marine Bunker Fuel either as the end user or as the transfer unit to a third party nominated in the Bunker Confirmation.
- 1.17** “**Working Day**” shall mean any day excluding Saturdays, Sundays and Statutory Holidays in Sri Lanka.

(2) BUNKER NOMINATIONS

- 2.1** The Buyer must issue a Bunker Nomination to the Seller detailing the supply of Marine Bunker Fuel to the Buyer’s nominated Vessel which request shall only be binding on IOE upon the issue of the Bunker Confirmation by IOE to the Buyer.
- 2.2** The Buyer shall be responsible for payments of all applicable duties, taxes, fees, penalties and other costs incurred or levied in the provision of Marine Bunker Fuel by IOE to the Vessel.
- 2.3** The Bunker Confirmation shall be valid for Five (05) calendar days and if such Bunker Confirmation is not utilized before midnight on the 5th day it shall be treated as expired. If the nomination is cancelled by the Buyer or expires without being used the Buyer shall pay IOE the currently applicable cancellation charges.

- 2.4 The Bunker Confirmation may be amended to suit the Buyer's requirements with regards to quantity and additional products provided sufficient notice is given to IOE for the supply, therefore and in such an event IOE accepts such amendment in writing. Where additional quantities are required the prices prevailing on the date of acceptance of amendments to the Bunker Confirmation will be applicable for such additional quantities and additional products.
- 2.5 Bunker Confirmation will be issued only up to 17:00 hours on any Working Day. Any Bunker Nominations received by IOE after 17:00 hours would be treated as received on the following Working Day at 08:00 hours for all purposes.

(3) BUYER'S FURTHER OBLIGATIONS

- 3.1 The Buyer warrants that the Marine Bunker Fuel purchased from IOE are for the operation of the Vessel and for that Vessel only.
- 3.2 The Buyer warrants that the Vessel is in compliance with all applicable national and international Laws and Regulations. The Vessel is subject to IOE's acceptance and will not be supplied with Marine Bunker Fuel unless free from all conditions, difficulties, peculiarities, deficiencies or defects which might impose hazards in connection with delivery of Marine Bunker Fuel.
- 3.3 The Buyer warrants and represents IOE that the Marine Bunker Fuel supplied are for the use of Off Port Limits and not for the use and/or consumption in any manner within the territorial waters of Sri Lanka.
- 3.4 However if the Buyer intends to use the Marine Bunker Fuel within the territorial waters of Sri Lanka, the Buyer shall inform the Seller prior to the Bunker Confirmation and shall pay the relevant taxes, levies and duties as applicable for Marine Bunker Fuel to relevant authorities in strict compliance with the local Laws and Regulations.

(4) PRE - DELIVERY DOCUMENTATION

- 4.1 When the Vessel is berthed or anchored as confirmed by the Buyer or the Vessel, the Barge Master or his Representative shall discuss with the Master of the Vessel in order to obtain the required information regarding the delivery of the Marine Bunker Fuel to be included on the Bunker Requisition Form.
- 4.2 Master/Chief Engineer of the Vessel shall sign and place the seal of the Vessel on the Bunker Requisition Form in confirmation of the requirements detailed therein and return same to the Barge, provided that failure to sign and seal the Bunker Requisition Form shall not invalidate the Confirmation for Bunkers and the details contained therein.

4.3 The following information shall be provided in the Bunker Requisition Form:-

- a) Name of the Vessel
- b) Date and time the Vessel would be ready to accept bunkers
- c) Type and quantity of products required (description of each grade)
- d) Order in which Grades are to be supplied
- e) Pumping rate at which delivery can be accepted.
- f) Communication and Emergency procedures to be adopted between the two, Barge and the Vessel.
- g) Whether the Master, Chief Engineer or his Representatives of the Vessel is calling over to the shore tanks, Barge or Tank truck for preliminary soundings.

(5) DELIVERY

- 5.1 Delivery shall be made either from a shore terminal or by Barge or by Truck or by any other accredited method of delivery, where such deliveries are available from time to time. In the case of more than one method of delivery being available the Seller shall at its sole discretion select one provided that it does not breach any other conditions of the Contract.
- 5.2 Where a delivery is made by Barge/Tank Truck the Buyer shall provide free of cost a clear and safe berth for the Barge/Tank Truck alongside the Vessel's receiving lines and IOE shall not be required to provide the steam necessary to affect such deliveries. Provided however for non acceptance of the full or part Cargo quantity which has been confirmed the Buyer shall take full responsibility and be liable to make payment to IOE as morefully described in **Clause 7.7** herein below.
- 5.3 The Buyer shall assume full responsibilities for making all connections and disconnections between the delivery hose and the Vessel's intake pipe and shall ensure that all assistance is given to IOE to make prompt delivery.
- 5.4 It is the responsibility of the Buyer to instruct its Agent at the place of supply to liaise with the Seller so as to ensure compliance with requirements of the Bunker Marine Fuel and the location of the Point of Delivery.
- 5.5 IOE reserves the right not to supply Marine Bunker Fuel into any tank other than a Vessel's running tanks regularly used for Marine Bunker Fuel.
- 5.6 Delivery shall be made subject to working hours at the Place of Delivery and Port Regulations. If required at other times subject to Port Regulations the Buyer shall reimburse the Seller for all additional expenses incurred by the Seller.

- 5.7 The Vessel will be supplied with Marine Bunker Fuel as promptly as circumstances permit however, the Seller shall not 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 affecting the Seller's facilities, howsoever caused.
- 5.8 The Barge used for delivering Marine Bunker Fuel could either be of IOE or of a private barge operator as the case may be.
- 5.9 At the request of the Buyer IOE will use its best endeavours to supply a delayed Vessel on the terms originally agreed by the Parties, however reserves the right to pass on to the Buyer all additional costs including increased basic cost arising for the Vessel's delayed arrival.

(6) QUALITY/GRADES

- 6.1 The Marine Bunker Fuel to be supplied by IOE shall be IOE's commercial grades of Marine Bunker Fuel as currently offered generally to its customers for similar use at the time and place of delivery. There are no guarantees or warranties express or implied as to the satisfactory quality, merchantability, fitness or suitability of the Marine Bunker Fuel for any particular purpose or otherwise whether statutory or otherwise expressed excluded.
- 6.2 Discrepancies in the quality/Grade and quantity of the Marine Bunker Fuel delivered shall be determined in accordance with the procedure set out in **Clauses 7 and 8**.
- 6.3 It is the Buyer's sole responsibility to ensure that Marine Bunker Fuel tendered for delivery is fit for use by the Vessel and is shall be delivered into the correct tanks.

(7) QUANTITY/MEASUREMENTS

- 7.1 IOE's measurements of the Marine Bunker Fuel in accordance with the Bunker Procedure shall be accepted as conclusive evidence of the quantities delivered. Provided however, the Buyer is at liberty to be present at the measuring if it wishes to verify the correctness of IOE's measurements. However IOE is entitled to proceed in the absence of such Representatives and the quantities ascertained by it shall be accepted by the Buyer as correct and conclusive.
- 7.2 In case of a direct delivery by pipeline, the shore tank sounding is final and the Engineer or the Buyer or his Representative may check the shore tank soundings before and after delivery. In case of a Barge delivery the Barge sounding is final and the Engineer/Master or his Representative may check the Barge soundings before and after delivery. In the case of delivery by Tank Truck the Tank truck sounding is final and the Engineer or the Master may check the tank levels are correct before delivery and that the tanks are empty after delivery.

- 7.3 Where the quantity of Marine Bunker Fuel delivered is calculated from tank dip measurements all calculations shall be made in accordance with the ASTM-IP Petroleum Tables for Generalised Products.
- 7.4 The Barge Master or his Representative will not check the Vessel's bunker tanks or its soundings. The calculations based on Vessel's tank readings will not be acceptable under any circumstances and IOE shall not be held liable for claims for shortage of delivery based upon figures obtained by measuring Marine Bunker Fuel in the Vessel's tanks,
- 7.5 Any dispute with regard to shortage of the supplied quantity shall be resolved by re-checking all relevant calculations prior to the departure of the Vessel and any subsequent complaints shall not be entertained by IOE where IOE's figures shall be taken as final.
- 7.6 Any claims for shortage of delivery will be informed to IOE immediately with a 'Note of Protest' and shall be followed up within Seven (07) days of delivery and where delivery was made under Customs supervision with copies of the Customs Declarations.
- 7.7 The Buyer shall be solely responsible for replenishing the total quantity confirmed in the Nomination. In the event of non-acceptance in full or part of the above confirmed quantity as referred to in **Clause 5.3** above, a charge of US\$ 50/- Per Metric Ton (PMT) will be levied from the Buyer.
- 7.8 The Seller shall be at liberty to supply and deliver and the Buyer shall accept a variation of up to Five percent (5%) in the quantity of Marine Bunker Fuel ordered by the Buyer, with no consequence whatsoever other than the corresponding variation in the price payable by the Buyer for such Marine Bunker Fuel.
- 7.9 **Compatibility and Segregation:** Responsibility for establishing compatibility of Marine Bunker Fuel delivered with any other similar product or products and for segregating or co-mingling the same rests solely with the Buyer. The Buyer shall make no claim whatsoever against the Seller if the products delivered is found to have been mixed with another product on board the Vessel.

(8) SAMPLING AND RETENTION OF SAMPLES

- 8.1 The Seller shall take One (01) primary sample of each grade of Marine Fuel delivered, from which Four (04) representative samples shall be taken by the Seller of every consignment. Each such sample must be clearly identified. Such samples shall be drawn in the presence of both IOE and the Buyer's Representatives (if the Buyer has chosen to be present). The Buyer may satisfy itself of the cleanliness of the sampling containers and accuracy of the process. The absence of the Buyer or his Representative/s shall not prejudice the validity of the samples taken.

- 8.2 From and out of the Four (04) representative samples, Three (03) samples shall be for quality purposes (quality samples) and the fourth shall be known as MARPOL sample. One sealed quality sample and the MARPOL sample shall be handed over to the Representative of the Vessel receiving the Marine Bunker Fuel and the other Two (02) sealed quality samples shall be retained by IOE in safe custody for Thirty (30) days after delivery of the Marine Bunker Fuel to the Vessel.
- 8.3 The Master/Chief Engineer shall ensure that the method of taking samples are so as to ensure that the samples are representative of the Marine Bunker Fuel delivered to the Vessel and that the sampling is witnessed by representatives of IOE as well as the Vessel.
- 8.4 All sample cans shall be securely sealed with tamper proof seals. A label shall be affixed to each sample with the following information: -
- i) Name of vessel
 - ii) Grade of Marine Bunker Fuel
 - iii) Date on which sample was drawn
 - iv) Identification numbers
 - v) Place and Seal number
 - vi) Duly signed by both IOE and the Buyer authenticated with the Vessel's stamp and signed by the Seller's representative and the Master of the Vessel or his representative. The Seal Numbers shall be inserted into the Bunker Delivery Receipts (BDR) and by signing the BDR by both parties agree to the fact that the samples referred to therein are deemed valid and taken in accordance with the requirements as specified.
- 8.5 In the event of a dispute in relation to the quality of the Bunkers delivered, it should be informed to IOE within Fourteen (14) days of supplying bunkers to the Vessel. The samples drawn pursuant to this Clause shall be deemed to be conclusive and final evidence for the quality of the product delivered. In case of disputes, the Buyer and the Seller shall appoint an independent surveyor mutually acceptable to both parties to test the barge retained sample at a laboratory in Sri Lanka.

(9) BUNKER DELIVERY NOTE (BDN)

- 9.1 The Quantity/Measurements taken in accordance with **Clause 7** shall be recorded on the Seller's Bunker Delivery Note by the Master/Representative of the Bunker Barge and shall be signed on behalf of the Buyer by the Master of the Vessel or the Chief Engineer or a member of the Crew and on behalf of the Seller by the Seller's representative. Any disclaimer, remark or protest made by the Master of the Vessel, the Chief Engineer or a member of the Vessel's Crew on the Bunker Delivery Receipt will have no affect whatsoever on the Seller's rights and remedies under the Contract. The Bunker Delivery Note signed by or on behalf of the Buyer and the Seller as provided herein shall be final and conclusive of the quantity of Marine Fuel delivered to the Vessel.

- 9.2 Provided however, failure by the Master/Engineer of the Vessel to sign the Bunker Deliver Note shall not prejudice IOE's claim for Marine Bunker Fuel delivered to the Vessel.

(10) NORMAL WORKING HOURS AND HOLIDAYS

- 10.1 Normal working hours of IOE are 08:00 hours to 17:00 hours Local Time. Monday to Friday (both days inclusive).
- 10.2 Delivery of the Marine Bunker Fuel shall be made day and night, (*Saturdays, Sundays and Public Holidays included*), at the Place of Delivery, subject always to the customs of the Port.
- 10.3 If delivery is required outside the normal business hours or the customs and practices of the Port the extra expenses incidental to such delivery shall be reimbursed by the Buyer as additional costs to the Seller.

(11) PRICES AND OTHER CHARGES

- 11.1 The price for Marine Bunker Fuel payable by the Buyer to IOE shall be as per the Bunker Confirmation sent by IOE.
- 11.2 IOE shall have the right to change the list prices, discount and premium aforesaid effective of the date of notification of such change without any obligation to notify the Buyer accordingly.
- 11.3 When deliveries are made outside normal working hours or any non Working Day the Buyer shall reimburse IOE for all additional expenses (including but not limited to overtime and custom expenses incurred by IOE as a result thereof in connection therewith).

(12) PAYMENT

- 12.1 Payments shall be made by the Buyer as directed by the Seller in advance or within the period agreed in writing.
- 12.2 Payment for the delivery and all related charges shall be made by the Buyer to the Seller in full without any deduction, set-off or counterclaim deductions on the bank account indicated by the Seller on the respective invoice (s) to the Seller's nominated bank account, quoting the Seller's invoice number and the Buyer's name according to the terms of payment established in the Bunker Confirmation. The Seller shall provide the Buyer with a documentary invoice or fax invoice.

- 12.3 Payment shall be deemed to have been made on the date on which the Seller has received the payment in full and the proceeds of such payment are available to the Seller. If the payment falls due on a non-banking day the payment shall be made on or before the banking day nearest to the due date. If the preceding and the succeeding banking days are equally near to the due date (which is a non-banking date), then payment shall be made on or before the preceding banking day.
- 12.4 Unless otherwise agreed between parties all payments hereunder shall be made within Fourteen (14) days from the date of delivery (date of delivery to count as day one). The Seller reserves the right to charge interest at the rate of Two percent (2%) per month and pro rata for part thereof on any amount not paid by such time.
- 12.5 Notwithstanding any agreement to the contrary payment will be due immediately in case of bankruptcy, liquidation or suspension of payment or comparable situation of the Buyer, or arrest or assets and/or property of the Buyer, or in case of any other situation, which in the sole discretion of the Seller is deemed to adversely affect the financial position of the Buyer.

(13) TITLE AND RISK

- 13.1 **Title** in and to the Marine Bunker Fuel delivered and/or property rights in and to such Marine Bunker Fuel shall remain vested with the Seller until full payment has been received by the Seller of all amounts due in connection with sale and delivery of such Marine Bunker Fuel to the Buyer.
- 13.2 In the event that the Marine Bunker Fuel is mixed with other marine fuels on board the Vessel, the Buyer hereby grants the Seller a contractual lien over such part of the mixed marine fuels as corresponds to the quantity or net value of Marine Bunker Fuel delivered. The Buyer further warrants to the Seller that the Buyer is duly authorized by the Vessel and or the Owner to grant a lien over the Marine Bunker Fuel to the Buyer.
- 13.3 **Risk** in the Marine Bunker Fuel shall pass to the Buyer at the time the Marine Bunker Fuel passes the Sellers Manifold on the barge/truck/shore tank and connecting to the Vessel's hose. At that moment the Seller shall cease and the Buyer shall assume all risks and liabilities relating thereto including loss damage deterioration, depreciation, contamination, evaporation or shrinkage of the Marine Bunker Fuel supplied and responsibility for loss, damage and harm caused by pollution or in any other manner to third parties at the time Marine Bunker Fuel leaves the Seller's barge/truck/shore tank. The Buyer agrees and indemnifies without limit the Seller in respect of any liability loss damage costs expenses claim or demand arising in connection with Marine Bunker Fuel supplied after risk has passed to the Buyer.

(14) LIEN

Deliveries of Marine Bunker Fuel hereunder are made not only on credit of the Buyer but also on the faith and credit of the Vessel which uses the Marine Bunker Fuel and it is agreed that IOE will have and may assert a lien against such Vessel for the amount of the delivered price of said Marine Bunker Fuel. All costs associated with the seizure of the Vessel shall be to the Buyer's account.

(15) IOE'S LIABILITY

IOE shall not be liable for damages whatsoever nature including physical injury, damage to the Vessel or for delay in delivery of Marine Bunker Fuel or services. The liability of IOE for consequential damages is excluded. Furthermore the Seller shall not be liable for loss or damage or delay as described above when such damages or delays are caused by the fault or negligence of its personnel, representatives or (sub) contractors. In any event and notwithstanding anything to the contrary contained herein the liability of IOE hereunder shall not exceed the invoice value of the Marine Bunker Fuel supplied under the relevant Bunker Confirmation to the Vessel.

(16) SPILLAGE AND ENVIRONMENTAL PROTECTION

- 16.1 The Buyer is familiar with the health effects related to the Marine Bunker Fuel supplied hereunder and with relevant protective safety and health procedures for the handling and use of such Marine Bunker Fuel. The Buyer shall adhere to such safety and health procedures while using or handling IOE's Marine Bunker Fuel. The Buyer shall be responsible for compliance by its employees, agents, and other users with all health and safety requirements or recommendations related to the Marine Bunker Fuel supplied hereunder and shall exert its best efforts to assure that any of its employees or agents, users, and other avoid frequent or prolonged contact with or exposure to the Marine Bunker Fuel both during and subsequent to deliver. IOE accepts no responsibility for any consequence arising from failure by the Buyer, its employees or agents, any users, or any other party to comply with relevant health and safety requirements or recommendations relating to such contact or exposure.
- 16.2 If a spill occurs while the Marine Bunker Fuel is being delivered, the Buyer and IOE shall promptly take such action as is reasonably necessary to remove the spilled Marine Bunker Fuel and mitigate the effects of such spills. IOE is hereby authorized, at its option and at the expense of the Buyer, to take such measures and incur such expenses (whether by employing its own resources or contracting with others) as re reasonably necessary in the judgment of IOE to remove the spilled Marine Bunker Fuels and mitigate the effects of such spills. The Buyer shall cooperate and render such assistance as is required by IOE in the course of such action. All expense, claims, loss, damage, liability and penalties arising from

spills shall be borne by the party that caused the spill. If both parties at fault, all expense, claims, loss, damage, liability and penalties shall be divided between the parties in accordance with the respective degrees of fault.

- 16.3 In the event of spill during fueling, the Buyer shall provide IOE with such documents and information concerning the spill and any programs for the prevention of spills as may be required by IOE or by Laws or Regulations applicable in the port where the spill occurred.
- 16.4 Both the Seller and the Buyer shall obtain valid and comprehensive insurance cover for protection against oil spills and leakages as required under the Laws of Sri Lanka.

(17) INDEMNITY

- 17.1 The Buyer shall confirm whether the Bunker Nomination relates to the provision of Marine Bunker Fuel for export purposes or for consumption within the territorial waters of Sri Lanka and shall be responsible for the payment of any applicable taxes and duties thereon. The Buyer shall indemnify and hold harmless IOE against any loss damage or expenses or penalties arising from or in consequence of such confirmation.
- 17.2 The Buyer shall also indemnify and hold IOE harmless from and against any and all claims, demands, suits or liabilities for damage to property or for bodily injury or death of any person, or for non-compliance with any requirement of any governmental entity or breach of IOE's Bunker Procedure arising out of an act or omission of the Buyer or its agents or servants in receiving, using, storing or transporting Marine Bunker Fuel delivered hereunder, including exposure thereto, or delay or breach by the nominated Vessel or its crew members.

(18) FORCE MAJEURE

IOE or the Buyer shall not be liable for any loss, claim or demand of any nature whatsoever beyond the Buyer's or IOE's control including (but not limiting the generality of the foregoing declared or undeclared war, sabotage, blockade, revolution, police action, riot or disorder, embargo or trade restriction of any sort, non-availability of raw material, government or quasi-government action, Act of God, fire, flood, earthquake, storm tide or tidal wave, explosion, accident, radiation, strike, lockout or other labour dispute or disease.

(19) BREACH AND CANCELLATION

19.1 Notwithstanding anything to the contrary in any agreement between the Buyer and the Seller shall have the option to immediately cancel the Agreement in full or in part, or to store or produce the storage of the Marine Bunker Fuel in whole or in part for the account and risk of the Buyer and to charge the Buyer the expenses thereby incurred, or to hold the Buyer fully to the Agreement or take any other measures which the Seller deems appropriate, without prejudice to its rights of indemnification, without any liability of the Seller, in any but not limited to one of the following cases:

19.1.1 If the Buyer, for whatever reason, fails to accept the Marine Bunker Fuel in part or in full at the place and time designated for delivery;

19.1.2 If the Buyer fails in part or in full to comply with its obligations to pay any amount due to the Seller.

19.1.3 If, before the date of delivery, it appears in the opinion of the Seller, that the financial position of the Buyer entails a risk for the Seller;

19.1.4 If in case of force majeure, the Seller is of the opinion that the execution of the agreement may be cancelled.

19.2 Provided, the Seller may terminate any agreement with the Buyer in whole or in part, in its full discretion, upon the breach of any provisions hereof by the Buyer.

(20) ARREST OF THE VESSEL

Notwithstanding anything to the contrary herein and without prejudice to any rights or remedies otherwise available to the Seller, the Buyer, by its acceptance of these conditions, expressly authorizes the Seller to arrest the Vessel to which Marine Bunker Fuel may have been supplied or any other Vessel owned or operated by or under the management of the Buyer, under any applicable jurisdiction as security for any claims that the Seller may have against the Buyer. Should the Buyer fail to make any payment to the Seller immediately when due, the Seller may dispose of such arrested Vessel whether by sale or otherwise as applicable under the relevant jurisdiction. Any costs or expenses of whatever kind incurred by the Seller in respect of such arrest shall be for the sole account of the Buyer and shall be added to the claim for which arrest is made.

(21) WAIVER

The failure to exercise or delay in exercising any right power or remedy vested in IOE under or pursuant to these provisions shall not constitute a waiver by IOE of that or any other right power or remedy.

(22) AMENDMENT

The Standard Terms and Conditions of the Sale and Delivery of Marine Bunker Fuel (Bunker Procedure) may be amended unilaterally by IOE.

(23) GOVERNING LAW AND JURISDICTION

23.1 All transactions with IOE shall be governed and construed under the Laws of Sri Lanka.

23.2 All disputes or differences arising under these provisions or any agreement relating hereto the parties shall endeavour to settle same amicably save where the Seller decides otherwise in its sole discretion, shall be finally settled by Arbitration.

Failing such settlement such dispute or difference shall be settled by three arbitrators, one to be appointed by each of the parties hereto and the third one to be appointed by such arbitrators. In the case of disagreement between such arbitrators, the third arbitrator shall be appointed by mutual consent of both parties, failing which consent, by the President of the Ceylon Chamber of Commerce. The rules and procedures of the Institute for the Development of Commercial Law and Practice shall apply to such Arbitration. The Arbitration shall be held in Colombo, Sri Lanka and shall be conducted in English Language.

23.3 It is further agreed without prejudice to any rights hereunder of the Seller or any claim raised pursuant to Clause 20.1 hereto the Seller has the right to proceed against the Vessel, the Owner, the Buyer or any third party in such jurisdiction as the Seller in its sole discretion sees fit inter alia for the purpose of securing payment of any amount due to the Seller from the Buyer or the Owner (pursuant to a payment guarantee). In such circumstances the proceedings shall be governed by the Law (substantive and procedural) of such jurisdiction.

(24) APPLICATION

Unless it is otherwise agreed in writing between the Seller and the Buyer, The Standard Terms and Conditions of the Sale and Delivery of Marine Bunker Fuel (Bunker Procedure) shall apply to any Contract for the sale of Marine Bunker Fuel between the Seller and the Buyer for the sale of such Marine Bunker Fuel. Where the Seller agrees expressly with the Buyer in writing for a particular term or terms to be included in their Contracts which are inconsistent with Bunker Procedure of IOE such particular term or terms shall prevail over the Bunker Procedure of IOE only to the extent of such inconsistency. All other Terms and Conditions of the Bunker Procedure of IOE will remain in force.

*** **

APPENDIX 1

PAYMENT PROCESS

All registered Buyers must adhere to the following payment process unless otherwise notified in writing by IOE.

- A. All Payments shall be made in United States Dollars (US\$).
- B. Payment in Sri Lanka Rupees will be accepted only subject to prior agreement with IOE.
- C. Payment should be made in favour of Interocean Energy (Private) Limited for the net value of each nomination including delivery and any other known charges based on any one of the following payment modes to the Bank account mentioned in the Invoice: -
 - i. Telegraphic Transfer
 - ii. Irrevocable, unconditional Letter of Credit at sight.
- D. Where IOE, at its discretion agree in writing to waive the requirement for payment in advance, Buyers would be required to submit a cheque in Sri Lankan Rupees or "Pay on Demand Bank Guarantee" drawn in favour of 'Interocean Energy (Pvt) Ltd.' for the full cost of the bunkers including the delivery charges and any other charges payable, at the time a Bunker Nomination is made. The cheque should be dated the same day the Bunker Nomination is made. No postdated cheques to be accepted. This cheque shall be retained by IOE as security for payment.

During the nomination period, the Marine Bunker Fuel would be delivered and a Bunker Delivery Note issued to the Buyer.

Within Two (02) Working Days from the issuance of the BDN the Buyer shall make a telegraphic transfer in US Dollars for the full cost of the Marine Bunker Fuels, delivery charges and any other charges that are payable, direct to the account mentioned in the Invoice of 'Interocean Energy (Pvt) Ltd'. All details of the Telegraphic Transfer reference/bank details would need to be sent to IOE once the Telegraphic Transfer has been affected.

Where the Buyer is a bunker broker and the Buyer does not have a US Dollar Account, it may direct its Principals to make Telegraphic Transfer direct to IOE's account mentioned in the Invoice and IOE would retain the amounts due to IOE and make payment of the balance remittance to the Broker.

On receipt of payment in US Dollars to the IOE bank account, IOE would release the cheque submitted with the Nomination, to the Buyer.