

Magampura Port Management Company [Pvt] Ltd

BUNKER PROCEDURE

**General Terms and Conditions for the
sale of Marine Bunker Fuels**

June 2014

1. Application

These general terms and conditions for the sale of Marine Bunker Fuels (“**Terms of Sale**”) in conjunction with a Sales Agreement shall collectively form the Contract and shall contain all agreements, arrangements and stipulations between the parties in respect of the supply of Marine Fuels contemplated herein and shall supersede all prior agreements, arrangements and stipulations in respect of the same subject. The Contract can only be amended or changed by written agreement of both parties, and any attempt to do otherwise shall be considered null and void. In the event of any conflict between the documents comprising the Contract, the Sales Agreement and any amendments thereto shall be given priority over the Terms of Sale.

2. Definition

Throughout this document the following definitions shall apply:

“**Seller**” means Magampura Port Management Company (Pvt) Ltd [MPMC]; being the legal entity whose name is included in the Order Confirmation, sent to the Buyer.

“**Buyer**” means the vessel supplied and jointly and severally her Master, Owners, Managers/Operators, Disponent Owners, Time Charterers, Bareboat Charterers and Charterers or any party requesting offers or quotations for or ordering Bunkers and/or Services and any party on whose behalf the said offers, quotations, orders and subsequent agreements or contracts have been made;

For the avoidance of doubt, should Marine Bunker Fuels be ordered by a Broker, then such Broker, as well as the principal Buyer, shall be bound by, and liable for, all obligations as fully and as completely as if the Broker were itself the principal, whether such Buyer be Disclosed or undisclosed, and whether or not such Broker purports to contract as agent only.

“**Bunker Fuel**” means marine bunker fuel or Bunkers or marine fuel and related products of whatever type or grade delivered by the Seller.

“**Vessel**” means ship, facility, tank, container, or craft nominated in the Confirmation to receive Product.

“**Nomination**” means the written request/requirement by the Buyer to the Seller, for the supply of the Bunker Fuels;

“**Order Confirmation**” means the written confirmation as issued by the Seller and forwarded to the Buyer to conclude the conclusion of the negotiated sale/purchase of the Bunkers. In case of conflict between the Nomination and the Order Confirmation, unless the Seller otherwise agrees in writing, the wording and content of the Order Confirmation is deemed contain the prevailing terms of the Agreement;

“**Agreement**” means the concluded terms for the sale/purchase of the Bunker Fuels;

“**BDN**” means the Bunker Delivery Note, being the document(s) which is/are signed by the Buyer’s representative (Master or Engineer of the Vessel) and Sellers representatives at the place of the supply of the Bunker Fuels to the Vessel, evidencing the quality and quantity of the Bunker Fuels supplied to and received by the Vessel.

“**GTC**” means these General Terms and Conditions which shall govern the contractual regulations between the Seller and the Buyer.

“**Bunker Supervisor**” means the Cargo Officer of the Terminal, Barge or Tank Truck.

3. Offers, Quotations and Prices

3.1 An Agreement shall only be concluded and binding on the Seller when the Seller sends the Order Confirmation to the Buyer. Each Order Confirmation shall incorporate these GTC by reference so that the GTC are considered a part of the Confirmation.

3.2 Agreements entered into via brokers, or any other authorized representative on behalf of the Seller, shall only bind the Seller upon the Sellers’ broker or other authorised representative sending the Order Confirmation to the Buyer or the Buyer’s broker as the case may be.

3.3 The Seller’s offer is based on the applicable taxes, duties, costs, charges and price level of components for Bunkers existing at the time of the conclusion of the Agreement. Any later or additional tax, assessment, duty or other charge of whatever nature and however named, or any increase of components for Bunkers or any additional costs borne by the Seller whatsoever caused by any change in the Seller’s contemplated source of supply or otherwise, coming into existence after the Agreement has been concluded, shall be added to the agreed purchase price, provided that the Seller shall give the Buyer prior notice of this effect within a reasonable (under the prevailing circumstances) time after the Seller becoming aware of the relevant circumstances.

3.4 All prices and/or tariffs are exclusive VAT, unless specifically stated otherwise. Any VAT or other charge and/or tax applicable and whenever imposed, shall be promptly paid by the Buyer, and unless otherwise agreed in writing all supplies are quoted and invoiced based on quantity calculated quantity in metric tons in vacuum.

3.5 If the party requesting Bunkers is not the Owner of the Vessel, the Seller shall have the right (but will not be obliged) to insist as a precondition of sale that a payment guarantee is provided by the Owner. The Seller shall have the right (but will not be obliged) to cancel

any agreement with the Buyer at any time, if such payment guarantee is not received upon request thereof from the Seller to the Owner. The Seller's decision to forego obtaining a payment guarantee under this Clause 3.5 shall have no effect on Seller's right to a lien on the Vessel for any Bunkers supplied under this Agreement.

3.6 The Buyer warrants that it is authorized as agent to order Bunkers for the Vessel, and that the Seller has a lien on the Vessel for any Bunkers supplied under this Agreement. If the party requesting Bunkers is not the Owner of the Vessel, Buyer assumes the sole responsibility for communicating the terms and conditions of this Agreement to the Owner of the Vessel prior to the date of delivery.

3.7 If at any time before the delivery the financial standing of the Buyer appears to the Seller (in its absolute discretion) to have become impaired or unsatisfactory, the Seller may require cash payment or security to be provided by the Buyer prior to delivery, failing which the Seller may cancel the delivery without any liability on the part of the latter or its subcontractors.

4. Quality

Unless otherwise specified in the Confirmation, the Products shall be of the quality generally offered by the Seller at the time and place of delivery, for the particular grade or grades ordered by the Buyer. Should the Confirmation guarantee a particular specification, the analysis of any test results shall make allowances for generally recognized industry standards of repeatability and reproducibility. All grades of produce may contain petroleum industry allowed, bio-derived components. Where specifications designate a maximum value, no minimum value is guaranteed unless expressly stated in the Confirmation. Conversely, where minimum values are provided in a specification, no maximum values are guaranteed unless expressly stated in the Confirmation. Buyer shall have the sole responsibility for the selection of proper Products for use in the vessel being supplied ("Receiving Vessel") or other receiving facility. **ANY IMPLIED CONDITIONS AND WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY EXCLUDED AND DISCLAIMED.**

The quantity of Products sold in each Transaction shall be as agreed between the Buyer and the Seller as per the Confirmation. Notwithstanding acceptance of the Buyer's order, the Seller's obligation to supply such quantities shall be subject to availability of Products from the Seller's source of supply at the time and place delivery is requested.

5. Measurements

5.1 The quantities of bunkers shall be determined only from the official gauge or meter of the bunkering barge, tank truck or of the shore tank in case of delivery ex wharf.

5.2 The Buyer's representative shall together with the Seller's representative measure and verify the quantities of Bunker Fuels delivered from the tank(s) from which the delivery is made. When supplied by bunkering barge/tanker the particular barge/tanker will present its tank measurement table and ullage sounding records and when supplied ex-wharf the particular tank reading and measurements will be presented which are agreed to be the sole valid and binding document(s) to determine the quantity or quantities supplied. Quantities calculated from the Receiving Vessel's Tank soundings/measurements shall not be considered.

5.3 Should the Buyer's representative fail or decline to verify the quantities, the measurements of quantities made by the Seller or the Supplier shall be final, conclusive and binding and the Buyer shall be deemed to have waived any and all claims in regard to any variance.

5.4 The Buyer expressly undertakes not to make any endorsement, complaint/ comment (including but without limitation any "No-lien" clause) on the BDN when presented for signature by the Buyer's representative(s), any such insertion shall be invalid and of no effect whatsoever.

5.5 In the event of complaint/comment on the quantity of Bunkers delivered, the Buyer or the Master of the Vessel shall give to the Seller/Supplier a letter of protest separately, followed by a complaint in detail to the Seller, setting out the exact quantity(ies) claimed short-supplied, and with full supporting vouchers, in writing within 7 (seven) days thereof, failing which, any such claim by the Buyer shall be extinguished as nonexistent, and the Buyer shall be deemed to have expressly waived any such claim against the Seller/Supplier, the relevant claim being time barred, and the Seller/Supplier's weight and measurements shall be conclusive evidence of the quantity of Bunkers delivered.

6. Sampling

6.1 The Supplier shall arrange for four (4) representative samples of each grade of Bunker Fuels drawn from Suppliers designated facilities. The Buyer's representative has the responsibility to witness that such samples are drawn correctly and shall confirm his witnessing thereof and also confirm the proper and correct sealing by signing the labels of the sample bottles.

6.2 The samples shall be securely sealed and provided with labels showing the Vessel's name, identity of delivery facility, product name, delivery date and place and seal number, 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 BDN/Bunker Delivery Note, and by signing the BDN both parties agree to the fact that the samples referred to therein are deemed valid and taken in accordance with the requirements.

6.3 Two (2) samples shall be retained by the Seller for thirty (30) days after delivery of the Bunkers. The other two (2) samples shall be retained by the receiving Vessel, one of which being dedicated as the MARPOL sample.

6.4 In the event of a dispute in regard to the quality of the Bunkers delivered, the samples drawn pursuant to this Chapter, shall be conclusive and final evidence of the quality of the Bunkers delivered. One, and only one, of the samples retained by the Sellers shall be forwarded to an independent laboratory to perform a set of tests, the result of which is to be made available to both parties. Those test results shall be final and binding upon both Buyer and Seller as to the parameters tested. The parties are to use best endeavours to agree the independent laboratory to perform the tests. If, however, no agreement can be reached on the choice of laboratory within 7 days of the Buyer being advised of the Seller opting to have the sample tested, the Seller is at liberty to send the sample to a reputable and independent laboratory of its choice for the tests to be conducted, and those test result will be final and binding upon Buyer and Seller as set out above.

6.5 The seal must be breached only in presence of both parties unless one/both in writing have declared that they will not be present, or fails to be present at the appropriate time and place; and both parties shall have the right to appoint independent person(s) or surveyor(s) to witness the seal breaking. All cost shall be shared equally by the Buyer and the Seller.

6.6 No samples subsequently taken shall be allowed as (additional) evidence. If any of the seals have been removed or tampered with by an unauthorised person, such sample(s) shall be deemed to have no value as evidence.

6.7 Any eventual samples drawn by Buyer's personnel either during bunkering or at any later date after bunkering shall not be valid as indicator of the quality supplied. The fact that such samples may eventually bear the signature of personnel on board the barge or tank truck or other delivery conveyance shall have no legal significance as such local personnel have no authority to bind Seller to different contractual terms. Seller shall have no liability for claims arising in circumstances where Buyer may have commingled the products on board the Vessel with other fuels.

7. Notice and Other Delivery Requirements

The Buyer must give in writing to the Physical Supplier not less than 3workingdays notice of the Vessel's readiness to receive Product with a copy to the Company. Notice must be given during the Physical Supplier's normal business hours. Notice given outside these hours will be deemed to have been given at 08.00 on the first working day thereafter. Furthermore it is in all circumstances and on all occasions the responsibility and duty of the Buyer to ascertain and where appropriate to comply with:

7.1 the precise requirements of the Physical Supplier and any other person, body or authority in respect of the giving of notice of the Vessel's time of arrival at the Point of Delivery, and

7.2 the exact location of the Point of Delivery, and.

7.3 any particular requirements to enable delivery to be effected as efficaciously as possible.

7.4 It is the responsibility and duty of the Buyer to instruct its agent at the Place of Supply to liaise with the Physical Supplier so as to ensure compliance with this provision.

7.5 Subject to the availability of Product, the availability of facilities at the Place of Supply and Point of Delivery, and the customary priority and to the Buyer giving notice in accordance with this Clause, the supplier will use its best endeavors to ensure that Product is delivered promptly upon the Vessel's arrival but the Seller shall not be responsible for any loss, expense, damage or increased costs incurred in consequence of the Vessel not being supplied promptly or otherwise being delayed or restrained for any reason whatsoever.

7.6 The Buyer is responsible for ensuring that the Vessel is ready to receive Product at the Point of Delivery on the expiry of the notice given in accordance with this contract.

7.7 In the event that the Vessel's arrival at the Point of Delivery is delayed or likely to be delayed the Buyer must so advise the Supplier and the Vessel's agent at the Place of Supply and must ensure that the Vessel's agent advises the Physical Supplier accordingly. At the Buyer's request the Supplier will use its best endeavors to supply a delayed Vessel on the terms originally agreed but reserves the right to pass on to the Buyer all additional costs including increased Basic Cost arising from the Vessel's delayed arrival.

7.8 Ownership of the Product shall pass to the Buyer only after the Payment has been received by the Seller as provided in Clause 10. Until such time as the Payment is received by the Seller the person or entity in possession of the Product delivered shall hold the Product as a mere bailee and shall hold the Product on behalf of the Seller and to the Seller's order. For the avoidance of doubt, where a mortgagee bank enforces any rights against the vessel and becomes a mortgagee in possession of the product then as bailee the mortgagee bank is liable to the Seller for fulfillment of the Agreement.

8. Risk

The Seller's responsibility for Product shall cease and the Buyer shall assume all risks and liabilities relating thereto, including loss, damage, deterioration, depreciation, contamination, evaporation or shrinkage of Product and responsibility for loss, damage and harm

caused by pollution or in any other manner to third parties at the time Product leaves the Physical Supplier's fixed depot or wharf facilities. The Buyer agrees to indemnify without limit the Seller in respect of any liability, loss, damages, costs, expenses, claim or demand arising in connection with the Product after risk has passed to the Buyer.

9. Liens

Where Product is supplied to a Vessel, in addition to any other security, the Agreement is entered into and Product is supplied upon the faith and credit of the Vessel. It is agreed and acknowledged that a lien over the Vessel is thereby created for the Price of Product supplied and that the Seller in agreeing to deliver Product to the Vessel does so relying upon the faith and credit of the Vessel. The Buyer, if not the owner of the Vessel, hereby expressly warrants that he has the authority of the owner to pledge the Vessel's credit as aforesaid and that he has given notice of the provisions of this Clause to the owner. The Seller shall not be bound by any attempt by any person or entity to restrict, limit or prohibit its lien or liens attaching to a Vessel unless notice in writing of the same is given to the Seller before it sends its Confirmation to the Buyer.

Disclaimer of lien stamps placed on a Bunker Delivery Receipt shall have no effect towards the waiver of such lien. All sales made under these terms and conditions are made to the registered owner of the vessel, in addition to any other parties that may be listed as Buyer in the confirmation. Any bunkers ordered by an agent, management company, charterer, broker or any other party are ordered on behalf of the registered owner and the registered owner is liable as a principal for payment of the bunker invoice.

The Buyer further warrants that the Seller has the right to assert and enforce a lien against the receiving Vessel or any sister or associated Vessel for the amount of the Products and Services provided, plus without limitation, contractual interest and any other expenses related to enforcement of the lien.

10. Payment

10.1 Payment for the Bunkers and/or the relevant services and/or charges shall be made by the Buyer as directed by the Seller within the period agreed in writing.

10.2 Payment shall be made in full, without any set-off, counterclaim, deduction and/or discount free of bank charges to the bank account indicated by the Seller on the respective invoice(s).

10.3 (i) If at any time after delivery but before the due date the financial standing of the Buyer appears to the Seller (in its sole discretion) to have become impaired or unsatisfying, the Seller may require immediate full payment of all its invoices due and/or those not yet due, or such security as it shall deem to be satisfactory.

(ii) In the event that the Buyer shall default in making any payment due, the Seller may suspend deliveries of Bunkers until such payment has been made in full (together with default/delay compensation and costs), or the Seller may, in its discretion, elect to treat such default as a serious breach of the Agreement and thereupon terminate the Agreement on whole or in part without prejudice to any claim against the Buyer for damages, including cancellation charges. Such termination or suspension shall not relieve the Buyer of any obligation undertaken by virtue of an Agreement so terminated.

(iii) Where the Seller has extended any kind of credit facility to a group of companies or associated companies, default by any one relevant Buyer in respect to any invoice of the Seller shall give the right to the Seller to cancel all credit arrangements of the entire group or of all the associates.

(iv) Where the Buyer fails to pay timely, the Seller has the right to (without prejudice to its rights to receive default/delay compensation) take all appropriate steps to secure and enforce its claim; the Seller may also unilaterally cancel any credit arrangements agreed with/extended to the Buyer.

(v) All judicial and extrajudicial costs and expenses, including pre-action costs, fees, expenses and disbursements of the Seller's lawyers/attorneys-at-law, incurred in connection with non payment or delayed payment or by any other breach by the Buyer of these conditions, shall be for the Buyer's account, immediately payable by the latter to the Seller. In case of litigation, the Buyers shall also pay all the relevant expenses to the Seller, including but without limitation all his reasonable attorneys/lawyers' fees, costs and disbursements.

10.4 Payment shall be deemed to have been made on the date of which the Seller has received the full payment and such is available to the Seller. If payment falls due on a non-business day, the payment shall be made on or before the business day nearest to the due date. If the preceding and the succeeding business days are equally near to the due date, then payment shall be made on or before the preceding business day.

10.5 Any delay in payment of the full sum due shall entitle the Seller to interest at the rate of 3 (three) per cent per month (compounded monthly for each month [or part thereof] of non payment) without prejudice to any rights or remedies available to the Seller. Furthermore the Seller is entitled to charge a delayed payment administration fee of USD 1.00 per metric ton supplied, or the equivalent thereof in local currency, with a minimum administration fee of USD 500.00 for each delivery made. All reasonable attorneys' fees incurred by Seller in connection with the collection of overdue payments shall be for the sole account of the Buyer.

10.6 All costs borne by the Seller in connection with the collection of overdue payments, including those of the Seller's own legal and credit department and, including but not limited to, reasonable attorneys' fees, whether made in or out of court and in general all costs in connection with breach of any agreement by the Buyer, shall be for the sole account of the Buyer.

10.7 The Seller shall at all times, in its absolute discretion, be entitled to require the Buyer to provide the Seller what the Seller deems to be proper security for the performance of all of Buyer's obligations under the Agreement. Failing the immediate provision of such security upon Seller's demand, the Seller shall be entitled to stop any further execution of any agreement(s) between the parties until such time as the Buyer has provided the required security.

11. Claims

11.1 The quantity of Bunker Fuel delivered shall be determined in accordance with Clause 4. Any claim regarding the quantity of the Bunker Fuel delivered shall be notified in writing by the Buyer or the master of the Vessel to the Seller as soon as practicable at the conclusion of the delivery of the Bunker Fuels while the delivery hoses are still connected. In any event, such claim shall be deemed to be waived and barred. A notification inserted in the Bunker Delivery Note or in a separate protest handed to the physical supplier of the Bunker Fuel shall not qualify as notice under this section 11.1 and the Seller shall under no circumstances be deemed to have accepted such notice or protest handed to the physical supplier.

11.2 Quantity Claims can be avoided by ensuring proper Pre-delivery and Post-delivery checking by the duty Officer of the Vessel or any other senior representative of the Customer ("the Procedures"). The delivery must be supervised at all times, and documentations be checked to ensure complete and accurate, with signings and stampings. Failure in proper Documentations and/or Procedures will not substantiate a Claim. The Seller will not hesitate to reject Claims whereby these Procedures are not followed. For the avoidance of doubt, the Seller will not accept a Claim for short delivery based on figures obtained by measuring Bunker Fuel in the Vessel's tanks.

11.3 Any claim regarding the quality of the Bunker Fuel delivered shall be presented in writing to the Seller as soon as an alleged quality problem has occurred or the Buyer is notified of any alleged problem and in any event no later than within 14 (fourteen) days from the date of delivery to the Vessel. Should the Buyer fail to make timely notification of any claim regarding the quality of the Bunker Fuel the claim shall be deemed waived and barred.

11.4 In the event of any claim presented in accordance with Section 11.1 and 11.3, the Buyer shall:

- Cooperate with the Seller and make all necessary arrangements for the Seller or its representatives to investigate such claim, including but not limited to the boarding and inspection of the Vessel, the interviewing of crew and the review and copying of Vessel documents.
- Take all reasonable steps and actions to mitigate any damages, losses, costs and expenses related to any claim of alleged off-specification or defective Bunker Fuel.
- Take all reasonable steps to preserve the Seller's recourse against the physical supplier of the Bunker Fuel or any culpable third party.

11.5 A breach by the Buyer of any part of Clause 11.4 above will entitle the Seller to set off losses caused by the breach against any liability to the Buyer.

11.6 Any claims against the Seller in respect of this contract shall be brought before the relevant court or arbitral tribunal in accordance with clause 16 within 3 (three) months of the date of delivery of the Bunker Fuel, failing which such claims shall be deemed to be waived and time- barred.

11.7 Buyer's submission of any claim does not relieve it of responsibility to make full payments as required under Article 8 and Buyer shall not be entitled to set off any claim from payment.

12. Liability – Limit to Seller's Liability

12.1 The Seller and/or Supplier shall not be liable for damages of whatever nature, including physical injury, nor for delay of delivery of Bunkers or services, no matter whether such damages or delay have been caused by fault or negligence on the side of the Seller. The Seller shall furthermore not be liable for damages or delay as described above when such damages or delay have been caused by the fault or negligence of its personnel, representatives, Supplier or (sub)contractors.

12.2 Liabilities of the Seller for consequential and/or liquidated damages including but not limited to loss of time, loss of cargo or charter cancelling date, loss of income or profit/earnings, are excluded. In any event and notwithstanding anything to the contrary herein, liability of the Seller shall under no circumstances exceed the invoice value of the Bunkers supplied under the relevant agreement to the relevant Vessel.

12.3 The Buyer shall be liable towards the Seller and herewith undertakes to indemnify the Seller for any and all damages and/or costs suffered or otherwise incurred on the Seller due to a breach of contract and/or fault or neglect of the Buyers, its Supplier, agents, Servants, (sub) contractors, representatives, employees and the officers, crews and/or other people whether or not on board of the Vessel(s). The Buyer furthermore undertakes to hold the Seller harmless in case of any third party institutes a claim of whatever kind against the Seller whether direct or indirect relation to any agreement regulated by these terms and conditions. Third party shall mean any other (physical or legal) person/company than the Buyer.

12.4 No servant, supplier or agent of the Seller/Supplier (including independent (sub) contractors from time to time employed by the Seller/Supplier) shall be liable to the Buyer for loss, damage or delay, while acting in the course of or in connection with its employment and/or agency for the Seller. Without prejudice to the above every exemption, limitation, condition and liberty herein contained, and every right, exemption from or limit to liability, defence or immunity of whatever nature applicable to the Seller or to which it is entitled

hereunder shall also be available and shall extend to protect every such servant, representative or agent of the Seller and/or the Supplier acting as aforesaid.

12.5 The Seller's liability for any whatsoever, however arising under the Contract whether caused by negligence or not, whether based in tort or contract shall be limited to the value of the Bunkers Fuel as set out in the Invoice.

12.6 For the avoidance of any doubt the Seller shall not be liable for any claims for demurrage by the Buyer howsoever caused, and without prejudice to the generality of the foregoing, even if the demurrage was incurred as a result of the Seller's negligence.

13. Force Majeure

13.1 The Seller shall not be liable for any loss and/or damage of whatever nature resulting from any delay and/or failure in performance under the Bunker Contract:

(i) caused by any circumstance beyond the Seller's direct control, and/or

(ii) if the supply or source of the Bunker Fuel from any facility of production, distribution, storage, transportation or delivery contemplated or intended by the Seller's supplier is disrupted, unavailable or inadequate due to war or war-like situations, riots, strikes, congestion, governmental order or intervention, unavailability of barges or other means of transport or stem, weather, act of God, changed market conditions, or similar situations.

13.2 In the event of a failure of performance as provided in clause 7, the Seller may, but is under no obligation, to source, procure or obtain alternative Bunker Fuel or product, and in such case the Seller shall be entitled to receive from the Buyer payment of any additional costs of performance.

13.3 The Buyer shall have no right of cancellation of the Bunker Contract due to Force Majeure as stated in Article 13.1.

14. Delays and Cancellations

14.1 Notwithstanding anything else 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 agrees that Seller has the sole discretion to cancel or to adjust prices in the event the Vessel is suffering a delay exceeding 24 hours from the (last) nomination date.

14.2 If the Buyer for whatever reason (including circumstances entirely outside Buyer's control) cancels the Agreement, where Order Confirmation has been sent by Seller, the Buyer shall be liable for any and all losses suffered and liabilities incurred by the Seller and/or the Supplier as a result of such cancellation.

15. Safety and Environmental Protection

15.1 It shall be the sole responsibility of the Buyer to comply and advise its personnel, agents and/or customers to comply, both during and after delivery, with all the health and safety requirements applicable to the Products and to ensure so far as possible that any user of such Products avoids without limitation any frequent or prolonged skin contact with the Products. The Seller accepts no responsibility for any consequences arising from failure to comply with such health and safety requirements or arising from such contact. The Buyer shall protect, indemnify and hold the Seller harmless against any damages, expense, claims or liability incurred as a result of the Buyer, or any user of the Products, or its customers failing to comply with the relevant health and safety requirements.

15.2 In the event of a spill or discharge occurring before, during or after bunkering, the Buyer shall immediately notify the appropriate governmental authorities and take whatever action is necessary, and pay all costs to effect the clean-up. Failing prompt action, the Buyer authorizes the Seller and Supplier to conduct such clean-up on behalf of the Buyer at the Buyer's risk and expense, and the Buyer shall indemnify and hold the Seller and Supplier harmless against any damages, expense, claims or liability arising out of any such spill or clean-up unless such spill or clean-up shall be proven to be wholly caused by Seller's negligence.

15.3 The Buyer warrants that the Receiving Vessel is in compliance with all governmental trading and pollution regulations. The Receiving Vessel will not be moored at a wharf or alongside other marine loading facilities of the Seller or Supplier unless free of all conditions, deficiencies or defects which might impose hazards in connection with the mooring, unmooring or bunkering of the Receiving Vessel.

16. Governing Law and Arbitration

All transactions with MPMC shall be governed and construed under the laws of Sri Lanka if any dispute or difference arises under these provisions the parties shall endeavor to settle same amicably. 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 Chairman of the Ceylon Chamber of Commerce. The UNCITRAL rules shall apply to such Arbitration. The Arbitration shall be held in Colombo, Sri Lanka and shall be conducted in the English Language.

17. Disclaimer of warranties and conditions

Any implied warranties and conditions, including the warranties of merchantability and fitness for a particular purpose are expressly excluded and disclaimed.

18. Validity

18.1 These terms and conditions shall be valid and binding for all offers, quotations, prices and deliveries made by the Magampura Port Management Company (Pvt) Ltd, as of June 15th 2014 or at any later date.

18.2 These terms and conditions are available at the website www.mpmc.lk, on which site as well the Sellers may notify amendments, alterations, changes or verifications to same. Such amendments, alterations, changes or verifications are deemed to be a part of the entire terms once same have been advised on the website.