

2019 Edition

Marine Fuels Sales Addendum

Table of Contents

PART I: GENERAL AND DEFINITIONS	1
ARTICLE 1. GENERAL	1
Section 1.1. Applicability.	1
Section 1.2. Priority of Terms.....	1
ARTICLE 2. DEFINITIONS	1
PART II: DELIVERY; TITLE AND RISK OF LOSS	3
ARTICLE 3. DELIVERY	3
Section 3.1. Generally.	3
Section 3.2. Notice.	3
Section 3.3. Arrival and Delays.	4
Section 3.4. Safe Berth.	4
Section 3.5. Connections and Operations.....	5
Section 3.6. Failure to Accept Delivery.....	5
ARTICLE 4. TITLE AND RISK OF LOSS	5
PART III: QUANTITY AND QUALITY	6
ARTICLE 5. MEASUREMENT	6
Section 5.1. Generally.	6
Section 5.2. Samples; Independent Inspector.....	6
Section 5.3. BDN.....	7
ARTICLE 6. QUANTITY, QUALITY, AND CLAIMS	7
Section 6.1. Quantity.	7
Section 6.2. Quality.....	7
Section 6.3. Claims.	8
PART IV: GENERAL TERMS	9
ARTICLE 7. PRICE; PAYMENT	9
Section 7.1. Price.	9
Section 7.2. Price Adjustment.	9
Section 7.3. Payment Terms.....	9
Section 7.4. Required Documentation.....	9
Section 7.5. Facsimiles or PDF Transmission.....	9

Table of Contents

ARTICLE 8. REPRESENTATIONS AND WARRANTIES	10
Section 8.1. Title.	10
Section 8.2. Product Specifications.....	10
Section 8.3. Disclaimer of Warranties.	10
ARTICLE 9. INDEMNITY	10
ARTICLE 10. LIMITATION OF LIABILITY	11
ARTICLE 11. DEMURRAGE AND DELAYS.....	11
ARTICLE 12. SPILL PROTECTION.....	11
Section 12.1. Unsafe or Potential Spill Conditions.	11
Section 12.2. Spill Protection and Responsibility.	12
Section 12.3. Safety.....	12
ARTICLE 13. DEFAULT; REMEDIES.....	12
Section 13.1. Default.	12
Section 13.2. Remedies.	13
ARTICLE 14. PERMITTING.....	13
ARTICLE 15. MARPOL ANNEX VI, JANUARY 1, 2020 REQUIREMENTS.....	13
ARTICLE 16. CHOICE OF LAW AND JURISDICTION.....	13

PART I: GENERAL AND DEFINITIONS

ARTICLE 1. GENERAL

Section 1.1. Applicability.

This Marine Fuels Sales Addendum applies to the Special Provisions between Seller and Buyer to which this Marine Fuels Sales Addendum is attached or incorporated by reference and is intended to apply exclusively to the Product. The Marine Provisions and General Terms applies to every Transaction for which this Marine Fuels Sales Addendum applies. Capitalized terms that are used, but not defined, in this Marine Fuels Sales Addendum have the meanings ascribed to them in the Marine Provisions or the General Terms, as the context requires.

Section 1.2. Priority of Terms.

If there is a conflict between or among any terms or conditions in the Special Provisions (including amendments thereto), this Marine Fuels Sales Addendum, the Marine Provisions, or the General Terms, the order of precedence for conflict resolution in descending order will be (a) the Special Provisions (including amendments thereto), (b) this Marine Fuels Sales Addendum, (c) the Marine Provisions, and (d) the General Terms.

ARTICLE 2. DEFINITIONS

“Agreement” means and includes the following documents in connection with each separate sale entered into by and between Buyer and Seller: (a) the Special Provisions (including amendments thereto), (b) this Marine Fuels Sales Addendum, (c) the Marine Provisions, and (d) the General Terms, and any schedules attached hereto or thereto.

“BDN” means the bunker delivery note (and otherwise known as the bunkering certificate) that complies with MARPOL, Annex VI, which may include a bunkering certificate addendum for Product purchases and sales in the US.

“Buyer” means the Party identified as the buyer (or purchaser) of the Product in the Special Provisions. If the Product is ordered by Buyer as agent, the term “Buyer” as used in the Agreement means such Buyer as agent and the Receiving Vessel and its owner (and the charterer of such Receiving Vessel, as the context requires) each as principal. Each of these parties shall be bound by and liable for all obligations as fully and as completely as if they were principal, whether disclosed or undisclosed, and whether or not such agent purports to act as agent only.

“Delivery Date” means the date on which the Product is to be delivered to the Receiving Vessel by Seller.

“Delivery Point” means the place at which the Product purchased by Buyer is to be delivered to the Receiving Vessel.

“ECA” means Emission Control Areas designated under MARPOL, Annex VI.

“**General Terms**” mean the version of Valero Marketing and Supply Company General Terms and Conditions for Petroleum Product Purchases and Sales in effect at the time of the respective delivery under the Agreement.

“**IMO**” means International Maritime Organization.

“**Marine Fuels Sales Addendum**” means this Marine Fuels Sales Addendum.

“**Marine Provisions**” mean the version of Valero Marketing and Supply Company Marine Provisions in effect at the time of the respective delivery under the Agreement.

“**MARPOL**” means the International Convention for the Prevention of Pollution from Ships adopted by the IMO, as amended.

“**Product**” means distillate marine fuel, residual marine fuel, low sulfur diesel fuel, global marine fuel, or other substance or material of any nature intended for combustion purposes for propulsion on board a Vessel and identified in the Special Provisions as being the subject of the Transaction.

“**Receiving Vessel**” means the Vessel to which the Product purchased by Buyer is to be delivered.

“**Seller**” means Valero Marketing and Supply Company or its Affiliate, as set forth in the Special Provisions.

“**Special Provisions**” means the specific terms for a particular Transaction agreed to between the Parties that incorporates this Marine Fuels Sales Addendum, the Marine Provisions, and the General Terms to form the Agreement for the Transaction.

“**Spill**” has the meaning specified in Section 12.2.

PART II: DELIVERY; TITLE AND RISK OF LOSS

ARTICLE 3. DELIVERY

Section 3.1. Generally.

- a) Delivery of Product hereunder will be made by Vessel provided or caused to be provided by Seller or by way of a wharf to the Receiving Vessel at the Delivery Point, as agreed upon by Seller and Buyer in the Special Provisions, subject to any port or dock regulations. Buyer warrants that the Product purchased hereunder is for the operation of the Receiving Vessel only. Unless otherwise agreed in the Special Provisions, Buyer shall pay all applicable delivery charges.

- b) Buyer irrevocably confirms, warrants, and represents to Seller that: (i) it has the authority to purchase Product on behalf of the owner and (where applicable) Charterer of the Receiving Vessel; (ii) it has the authority of the owner of the Receiving Vessel to bind the owner and the Receiving Vessel to the creation of a lien against the Receiving Vessel; and (iii) Seller is entering into the Agreement and providing fuel on the order and credit of such owner and (where applicable) Charterer, or an authorized representative of either of them. Buyer irrevocably agrees that by virtue of the foregoing: (i) Seller possesses a maritime lien against the Receiving Vessel under US maritime law and the Commercial Instruments and Maritime Lien Act; and (ii) Seller possesses and may at any time assert a lien against the Receiving Vessel in respect of all sums payable by Buyer to Seller under the Agreement in any jurisdiction whatsoever regardless of the location of the Delivery Point. Any remarks placed on the BDN or other documentation by the master, crew, or other representative of the owner and/or Charterer of the Receiving Vessel or Buyer purporting to disclaim any lien shall not impair, prejudice, waive or in any way affect the lien possessed by Seller.

Section 3.2. Notice.

Buyer shall give Seller written notice at least seventy-two (72) hours, forty-eight (48) hours, and twenty-four (24) hours prior to the Delivery Date of the estimated time(s) on such date when the Receiving Vessel will be ready to receive the Product purchased by Buyer at the Delivery Point. The notices will include any special condition, peculiarity, deficiency, or defect of or with respect to the Receiving Vessel or its equipment which might delay, hinder, or otherwise affect the mooring, unmooring, or delivery of the Product to the Receiving Vessel. If Buyer fails to provide any one or more of the notices required pursuant to this Section and/or any notice is defective in any material respect (including without limitation by specifying a readiness time after the Delivery Date), Buyer shall be in default and such event shall constitute an Event of Default for the purposes of Section 14.1 of the General Terms.

Section 3.3. Arrival and Delays.

- a) Buyer shall ensure that the Receiving Vessel arrives at the Delivery Point, or any customary waiting place close thereto, and is ready in all respects to receive the Product in sufficient time to allow Seller to deliver the Product to the Receiving Vessel on the Delivery Date. In the event of a breach of the foregoing and/or if the Receiving Vessel fails to take delivery of Product for any reason whatsoever when called upon to do so by Seller or its representatives, Buyer shall be in default and such event shall constitute an Event of Default for the purposes of Section 14.1 of the General Terms.
- b) The time of delivery of the Product by Seller shall not be of the essence. Provided the Receiving Vessel has arrived on time, the Product will be delivered as promptly as circumstances permit (including without limitation by reference to Seller's other commitments and operations). However: (i) Seller does not guarantee that delivery will take place on the Delivery Date; and (ii) Seller will not be liable under any circumstances for demurrage or for any loss due to (A) delays or prior commitments of available delivery Vessels or facilities at the wharf, as applicable, even where the wharf is under the control of the Seller, or (B) delays caused, in whole or in part, by the terminal or storage facilities in delivering Product (or in delivering off-specification Product) to the delivery Vessel.
- c) If Buyer causes delays to Seller's vessels and/or Seller's or a third party's facilities in effecting deliveries, Buyer shall pay demurrage (to the extent applicable) at Seller's established rates and reimburse Seller for all other expenses in connection therewith.
- d) In the case of actual delays not caused by the above circumstances in Section 3.3 of this Marine Fuels Sales Addendum, and which can be attributed solely to the gross negligence of Seller, Seller will reimburse Buyer for reasonable port costs such as shifting, pilotage, and berthing only. However, under no circumstances will Seller be liable for the costs of the Receiving Vessel's demurrage, charter hire or off-hire time, or for any type of damages, profits, or losses which the recovery thereof is expressly prohibited under Article 10 and Article 11 of this Marine Fuels Sales Addendum and Article 18 of the General Terms.

Section 3.4. Safe Berth.

If delivery of Product is by Vessel, Buyer shall provide, free of charge, a clear and safe berth, position, or anchorage alongside the Receiving Vessel's receiving lines. Seller shall have no obligation to make deliveries when, in Seller's sole opinion, a clear and safe berth, position, or anchorage is not available. Seller does not otherwise warrant the safety of any berth, port, or place to which the Receiving Vessel may be directed.

Section 3.5. Connections and Operations.

- a) Vessel Delivery. If delivery of Product is by Vessel, such delivery is at the direction and control of Buyer and the Receiving Vessel. The Receiving Vessel shall be solely responsible for making all connections and disconnections between the delivery hose and Receiving Vessel's intake pipe, shall render all other necessary assistance and supervision, and provide sufficient tankage and equipment to receive promptly all deliveries hereunder. The Receiving Vessel shall be deemed to have sole and complete control, supervision, and direction of the bunkering operations (with responsibility for coordinating all Persons and communicating all directions during such operations), including weather and sea conditions as they affect the delivery operations.

- b) Wharf Delivery. If delivery of Product is by way of a wharf, such delivery is at the direction and control of Buyer and its Receiving Vessel. The responsibility for making all connections and disconnections between the delivery facilities and Receiving Vessel's intake pipe shall be in accordance with the custom at the Delivery Point.

Section 3.6. Failure to Accept Delivery.

Notwithstanding anything to the contrary contained in the Agreement, in the event Buyer fails to take delivery of all or any part of the quantity of Product ordered, Buyer shall pay to Seller, in addition to any and all other amounts that Buyer is required to pay under the Agreement, the following: (a) an amount that is not less than one hundred percent (100%) of the delivery costs of the quantity of Product ordered, irrespective of the amount that Buyer actually takes delivery of, and (b) all additional costs, expenses, and losses incurred by Seller in connection with any failure of Buyer to take delivery of the full quantity of ordered Product, including (i) Seller's lost profits related to the quantity of Product in which Buyer failed to take delivery, and (ii) if Product has been loaded onto a delivery Vessel or scheduled for loading, then for any costs, fees, or charges related to the cancellation of the delivering Vessel plus Seller's cost to offload and restock the Product.

ARTICLE 4. TITLE AND RISK OF LOSS

Title to and risk of loss of the Product will pass from Seller to Buyer as the Product passes the flange at the end of the physical supplier delivery hose or pipe connected to the Receiving Vessel.

PART III: QUANTITY AND QUALITY

ARTICLE 5. MEASUREMENT

Section 5.1. Generally.

The quantity of the Product delivered will be conclusively determined from the official gauge or meter of the Vessel effecting delivery, shore meter, or shore official gauge, as applicable. Quantities calculated from the Receiving Vessel's soundings will not be considered. Quantity claims are waived by Buyer unless expressly noted in writing on the BDN at the time of delivery or presented at the time of delivery to the physical supplier's personnel in a separate letter of protest.

Section 5.2. Samples; Independent Inspector.

- a) With respect to the quality of the Product supplied, Seller (or its designee) shall draw minimum samples at the time of delivery, which samples shall be properly sealed by Seller (or its designee). After Seller (or its designee) draws such minimum samples, Seller (or its designee) shall provide Buyer with one (1) of the samples that has been sealed and Buyer shall, in return, provide Seller (or its designee) with a receipt of such sealed sample. Any sampling above the minimum or any additional samples requested by Buyer shall be at Buyer's sole cost and expense. Buyer shall retain its sealed sample for a minimum of twelve (12) consecutive months unless otherwise required by Applicable Law. The method of sampling will be in accordance with Seller's normal sampling procedures at the Delivery Point. Buyer or its representatives may witness the sampling but the absence of Buyer or its representatives at the time of sampling will not prejudice the validity of the samples taken. Seller's samples will conclusively represent the quality of the Product supplied to the Receiving Vessel. In the event of a claim by Buyer, the sample(s) in Seller's or its physical supplier's possession will be tested and analyzed by an Independent Inspector, located in the country (and where available, port) of supply, whose results will be conclusive and binding on both Buyer and Seller, absent fraud or manifest error. The Independent Inspector shall be appointed by mutual agreement of the Parties and the fee related thereto will be shared equally (provided, however, if such inspector's analysis does not show any deviations from agreed-upon quality, the Independent Inspector's fee shall be for Buyer's account). In the event Seller proposes an Independent Inspector and Buyer takes no action to either accept this proposal or to suggest an alternative inspector, then Seller's choice for the Independent Inspector shall be binding and any tests performed by such inspector's lab will be similarly binding, regardless of whether or not Buyer elects to send a representative to such testing.
- b) Any samples drawn by Buyer's personnel either at the time of delivery or at any date after bunkering will not be valid as an indicator of the quality of the Product supplied. The fact that such samples may bear the signature of personnel aboard the delivery Vessel or at the wharf will have no legal significance as these local personnel have no authority to bind Seller to different contractual terms.

Section 5.3. BDN.

Each Party shall execute the BDN and, if applicable, any addendum attached thereto.

ARTICLE 6. QUANTITY, QUALITY, AND CLAIMS

Section 6.1. Quantity.

The quantity of Product sold in each Transaction will be as agreed between Buyer and Seller in the Special Provisions, subject to availability of the Product from Seller's source of supply at the time and place delivery is requested. Actual quantity delivered may vary in accordance with normal operational tolerances of delivery equipment.

Section 6.2. Quality.

- a) Buyer shall have the sole responsibility for the selection and acceptance of Product, including determination of compatibility with Product already on board the Receiving Vessel for use in the Receiving Vessel. Buyer warrants that the Product selected by Buyer for the Receiving Vessel is suitable for the Receiving Vessel.
- b) Unless otherwise specified in the Special Provisions, the Product will be of the quality generally offered by Seller at the time and place of delivery for the particular grade or grades ordered by Buyer. If the Special Provisions refer to a particular specification, the analysis of any test results will make allowances for generally recognized industry standards of repeatability and reproducibility. All grades of Product may contain bio-derived components generally acceptable in the petroleum industry. Where specifications designate a maximum value, no minimum value is guaranteed unless expressly stated in the Special Provisions. Conversely, where minimum values are provided in a specification, no maximum values are guaranteed unless expressly stated in the Special Provisions.
- c) It is the duty of Buyer to take all reasonable actions to eliminate or minimize any damages or costs associated with any off-specification or suspected off-specification Product. To this end, Buyer shall cooperate with Seller in achieving the most cost-effective solution, including the consumption of the Product after treatment, blending and/or special handling, but under no circumstance does Buyer have a duty or obligation to treat, blend, handle, or repurchase the Product. If the Product is off-specification and cannot be consumed by the Receiving Vessel, Buyer's remedies will be limited exclusively and solely to the replacement of the nonconforming Product. If Buyer removes the Product without the express written consent of Seller, then all such removal and related costs will be solely for Buyer's account.

Section 6.3. Claims.

- a) Any claim regarding the quality or quantity of any Product delivered will be waived unless submitted to Seller in writing, together with supporting documentation and reasonable details of the facts on which the claim is based, promptly after discovering that a claim may exist but no later than fifteen (15) days from the date of delivery. In support of any claim, Buyer must be able to provide, upon request of Seller, a sealed sample from the bunkering operation that occurred immediately prior to the delivery of Product in which the claim against Seller is based in order for Seller to investigate and validate such claim.
- b) If Buyer submits a claim against Seller with respect to the quantity or quality of the Product supplied, Seller shall be entitled and Buyer shall allow, or where Buyer has chartered the Receiving Vessel, shall obtain authorization from the owner of such Receiving Vessel to allow Seller or its designee to board the Receiving Vessel and investigate the Receiving Vessel's records and to make copies of documents which Seller may consider necessary for its investigation. Failure to allow boarding and/or to produce copies of documents will constitute a waiver of Buyer's claim.
- c) IN NO EVENT WILL SELLER HAVE LIABILITY FOR ANY CLAIMS ARISING IN CIRCUMSTANCES WHERE BUYER AND/OR ANY OTHER PERSON COMMINGLED OR BLENDED THE PRODUCT ON BOARD THE RECEIVING VESSEL WITH OTHER FUELS OF ANY TYPE, ADDITIVES, OR OTHER SUBSTANCES.

PART IV: GENERAL TERMS

ARTICLE 7. PRICE; PAYMENT

Section 7.1. Price.

The price of Product sold and delivered under this Agreement will be the price set forth in the Special Provisions. All prices for Product wherever delivered are exclusive of all wharfage, port dues or charges, taxes, duties, fees, and other assessments imposed or levied by any Governmental Authority (whether at the Delivery Point or otherwise), which will be for Buyer's account. Unless otherwise specified in the Special Provisions, the price does not include the delivery charges for the Product, which charges will be for Buyer's account.

Section 7.2. Price Adjustment.

Seller reserves the right, upon notification to Buyer, to adjust the price after the date of the Special Provisions to reflect any unanticipated increase in costs to Seller incurred after issuance of the Special Provisions. If Buyer does not accept such adjustment, the delivery of the affected quantity of the Product will be cancelled without liability to either Party.

Section 7.3. Payment Terms.

Any payments hereunder will be made to Seller pursuant to the payment terms set forth in the Special Provisions. All payments will be made in US dollars without offset, discount, deduction, withholding, netting or counterclaim by wire transfer of immediately available funds on or before the payment due date to the bank and account designated by Seller.

Section 7.4. Required Documentation.

In addition to any documentation required by Applicable Law, payment will be made by Buyer against the presentation of Seller's invoice and the BDN.

Section 7.5. Facsimiles or PDF Transmission.

Invoices and BDNs may be submitted via facsimile or a PDF file email attachment.

ARTICLE 8. REPRESENTATIONS AND WARRANTIES

Section 8.1. Title.

Seller represents and warrants that (a) as of the date of delivery of the Product hereunder, Seller has good title to the Product sold and delivered, free and clear of any liens or encumbrances; and (b) Seller has full right and authority to transfer such title of such Product to Buyer.

Section 8.2. Product Specifications.

Product sold or transferred under the Agreement will, at the time that title passes to Buyer, conform to the requirements of this Marine Fuels Sales Addendum unless specific specifications for the Product are set forth in the Special Provisions in which case the Product will conform to such specifications, taking into account any stated tolerances and customarily accepted testing methods at delivery. Whether set forth in the Special Provisions or elsewhere in the Agreement, no reference to Typical or to time of delivery will ever form a part of the Product's specifications or operate or be construed as a warranty of any sort.

Section 8.3. Disclaimer of Warranties.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NOTWITHSTANDING ANY COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE (OR LACK THEREOF) THE PROVISIONS OF SECTION 8.2 OF THIS MARINE FUELS SALES ADDENDUM CONSTITUTE THE SOLE AND EXCLUSIVE OBLIGATIONS OF SELLER WITH RESPECT TO THE SPECIFICATIONS, DESCRIPTION, QUALITY, CONDITION OR FITNESS OF THE PRODUCT, AND, EXCEPT FOR THOSE STATED IN THE AGREEMENT, SELLER MAKES NO OTHER AND EXPRESSLY DISCLAIMS ANY AND ALL OTHER REPRESENTATIONS, GUARANTEES, ASSURANCES, CONDITIONS AND/OR WARRANTIES, EXPRESS OR IMPLIED INCONSISTENT HERewith, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND ANY IMPLIED CONDITIONS OF SATISFACTORY QUALITY OR FITNESS FOR PURPOSES, AS OTHERWISE APPLICABLE.

ARTICLE 9. INDEMNITY

IN ADDITION TO AND NOT IN LIEU OF ANY OTHER INDEMNITIES SET FORTH IN THE AGREEMENT, BUYER SHALL DEFEND, INDEMNIFY, AND HOLD SELLER AS WELL AS SELLER'S AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, AND CONTRACTORS HARMLESS FROM AND AGAINST ANY LIABILITY, LOSS, CLAIM, EXPENSE, OR DAMAGE SUFFERED OR INCURRED BY REASON OF, OR IN ANY WAY CONNECTED WITH, THE ACTS, OMISSIONS, FAULT, OR DEFAULT OF BUYER OR ITS AGENTS OR REPRESENTATIVES IN THE PURCHASE, RECEIPT, USE, STORAGE, HANDLING, OR TRANSPORTATION OF THE PRODUCT IN CONNECTION WITH EACH TRANSACTION, WHETHER CAUSED IN WHOLE OR IN PART BY SELLER'S NEGLIGENCE.

ARTICLE 10. LIMITATION OF LIABILITY

IN ADDITION TO THE LIMITATIONS OF LIABILITY SET FORTH IN ARTICLE 18 OF THE GENERAL TERMS AND NOT IN LIEU OF SUCH LIMITATIONS OR ANY OTHER LIMITATIONS OF LIABILITY SET FORTH IN THE AGREEMENT, SELLER SHALL HAVE NO LIABILITY FOR (A) INJURY, LOSS (INCLUDING LOSS OF PROFIT), OR DAMAGE (I) TO THE RECEIVING VESSEL OR ANY VESSELS WHICH BUYER REPRESENTS OR IS RESPONSIBLE FOR AS AGENT, (II) TO CONTENTS AND EQUIPMENT OF SUCH VESSELS, (III) TO CARGO OR TO PERSONS ABOARD SUCH VESSELS OR ADJACENT THERETO, (VI) FOR DELAYS OR DEBUNKERING, (V) UNDER ANY OF BUYER'S THIRD-PARTY CONTRACTS RELATED HERETO OR OTHERWISE, AND/OR (B) ANY OTHER INJURY, LOSS (INCLUDING LOSS OF PROFIT), OR DAMAGE OF LIKE OR DIFFERENT KIND SUFFERED BY REASON OF THE PROVISION OF PRODUCT OR MECHANICAL FAILURE CAUSED BY SUCH PRODUCT, AND WHETHER OR NOT OCCASIONED BY SELLER'S NEGLIGENCE. SELLER IS ALSO NOT LIABLE FOR CONSEQUENTIAL, INDIRECT, OR SPECIAL DAMAGES OF ANY KIND, WHETHER IN CONTRACT OR TORT, INCLUDING BUT NOT LIMITED TO LOST PROFITS, BUSINESS INTERRUPTION DAMAGES, LOST CONTRACT OPPORTUNITIES, AND DAMAGE ACCRUING UNDER THIRD-PARTY CONTRACTS.

ARTICLE 11. DEMURRAGE AND DELAYS

Seller shall not be liable for any demurrage relating to the Receiving Vessel or to Buyer caused directly or indirectly by delays due to or resulting from delays in the arrival or departure of the delivery Vessel or delays at the wharf, weather (whether unusual or normal), local congestion at the Delivery Point affecting the delivery equipment, the prior committed use, non-availability, and/or malfunction of the delivery Vessel or facilities at the wharf, pollution incident, or any event of Force Majeure. Buyer shall be liable for demurrage at rates established by Seller and for losses incurred by Seller due to any delay caused directly or indirectly by Buyer or the Receiving Vessel.

ARTICLE 12. SPILL PROTECTION

Section 12.1. Unsafe or Potential Spill Conditions.

If, at any time prior to or during delivery, Seller reasonably determines that the circumstances for delivery are unsafe or have the potential for a Spill (as defined below) occurring due to conditions such as, but not limited to, unsafe or inadequate working environment, practices or procedures, facilities, tools or equipment, incompatible configurations or bad weather, Seller reserves the right not to commence delivery or to terminate the supply immediately without any prior notice to Buyer and without liability. Buyer shall be solely responsible for any loss or damage occurring on board or to the Receiving Vessel resulting from any incident arising out of or relating to any such conditions.

Section 12.2. Spill Protection and Responsibility.

Buyer represents and warrants that the Receiving Vessel is properly insured, equipped, maintained, and operated to avoid the escape, spillage, or discharge of any petroleum product or similar substance (a “Spill”) at the time of all deliveries of Product hereunder. If a Spill does occur while Product is being delivered by Seller to the Receiving Vessel, then Buyer shall promptly take such action as is reasonably necessary to remove the Product or similar substance and mitigate the effects of such Spill; however, notwithstanding the cause of such Spill, Seller is hereby authorized at its option, to take such measures and incur such expenses (whether by employing its own resources or by contracting with others) as are reasonably necessary to remove the Product or similar substance and mitigate the effects of such Spill. In the event Seller has exercised its option to remove the Product or similar substance and mitigate the effects of such Spill as aforesaid, Buyer agrees to cooperate and render such assistance as is reasonably requested by Seller and further agrees that Buyer or its insurance carrier will promptly pay all expenses, damages, costs, fines, and penalties arising from such Spill or any pollution caused thereby. Buyer and Seller shall each give the other copies of all documents and other information reasonably requested concerning the Spill.

Section 12.3. Safety.

Buyer shall be solely responsible for compliance 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 Product and to ensure so far as possible that any user of such Product avoids, without limitation, any frequent or prolonged contact with the Product. Seller accepts no responsibility for any consequences arising from failure to comply with such health and safety requirements or arising from such contact. Buyer shall protect, indemnify and hold Seller harmless against any damages, expenses, claims or liability incurred due to Buyer, or any user of the Product, or its customers failing to comply with the relevant health and safety requirements.

ARTICLE 13. DEFAULT; REMEDIES

Section 13.1. Default.

In addition to those events listed as an Event of Default under the General Terms, it will be an Event of Default if any Vessel owned or operated by Buyer is arrested or attached by Seller or a third party for unpaid debts. For the avoidance of doubt, no reference in this Marine Fuel Sales Addendum to a Party failing to perform a specific obligation hereunder and such failure being a default and constituting an Event of Default for the purposes of Section 14.1 of the General Terms shall preclude a Party from asserting that any other failure to perform by a Party is a default and constitutes an Event of Default for the purposes of Section 14.1 of the General Terms.

Section 13.2. Remedies.

In addition to any rights or remedies available to Seller under the Agreement, Seller has the right to assert all maritime liens available to it against the Receiving Vessel, wherever found, for the full amount of the delivered price of the Product supplied to the Receiving Vessel by Seller, plus accrued interest, collection costs, and other amounts owed hereunder. Seller is entitled to recover its reasonable attorneys' fees in any action to enforce its rights under the Agreement or to otherwise enforce a maritime lien against the Receiving Vessel.

ARTICLE 14. PERMITTING

If a delivery permit is required from any Governmental Authority or any instrumentality thereof, or by any public or private port authority, for any delivery of Product hereunder, then Buyer shall be responsible for obtaining such permit. No deliveries will be made until Buyer has obtained all required delivery permits. All costs and expenses occasioned by Buyer's failure to timely obtain such delivery permits will be paid by Buyer.

ARTICLE 15. MARPOL ANNEX VI, JANUARY 1, 2020 REQUIREMENTS

As of January 1, 2020, Seller shall supply Product meeting the requirements of MARPOL, Annex VI, as follows: 0.1% or less sulfur content for use within ECAs and 0.5% or less sulfur content for all other areas, unless (a) higher sulfur content fuel is supplied to a Vessel exempt from such requirements, or (b) such Vessel is otherwise fitted with an approved marine air scrubber designed to reduce sulfur emissions to authorized levels.

ARTICLE 16. CHOICE OF LAW AND JURISDICTION

For all Product Transactions and deliveries under this Marine Fuels Sales Addendum, the Parties agree to be bound to Section 12.2 (Choice of Law) and Section 12.3 (Arbitration) of the Marine Provisions.

