

Banle Energy International Ltd

**GENERAL TERMS AND CONDITIONS**  
for sales and supply of marine fuels

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## 1. Application of General Terms and Conditions for Sales of Marine Fuels

- 1.1 These General Terms and Conditions for Sales of Marine Fuels (hereinafter referred to as "GTC") are incorporated and are applicable to all offers, orders, nominations, Sales Confirmations and agreements issued or agreed in purpose to sell and deliver of Marine Fuels purchased from the Seller by the Buyer and together with this GTC constitute an exclusive and complete agreement on sale of Marine Fuels.
- 1.2 In case of any discrepancies between these GTC (as amended from time to time) and provisions of the Sales Confirmation, provisions of the Sales Confirmation shall prevail and are binding on the Seller and the Buyer.
- 1.3 General terms and conditions of the Buyer or any other entity are hereby entirely excluded and not applicable to any agreement concluded or existing between the Seller and the Buyer. The Seller is bound by a general terms and conditions mentioned above only if he expressly accepts them in written form.

## 2. Binding agreement

- 2.1. An agreement on sale of Marine Fuels is binding on the Seller since the Buyer received the Sales Confirmation.
- 2.2. The Buyer shall send nomination to the Seller indicating quantity and grades of Marine Fuels required for delivery, vessel's estimated time of arrival ("ETA") at the port of loading, the name of the vessel and vessel's IMO number, contact details of the vessel's Master, Owners, Manager, Operators, Disponent Owner, Charterers and any special conditions of the vessel which might adversely affect the delivery.

## 3. Amendments to the GTC

The Seller has a right to unilaterally amend this GTC. The Seller shall notice the Buyer about amendments. The new version of the GTC is binding for a the Buyer and applicable to existing agreements on sale of Marine Fuels between the Seller and the Buyer.

## 4. Definitions

For the purpose of these GTC, these terms have following meaning:

- "Buyer" means (depending on context) any person (or persons) who contract to purchase, take delivery of and pay for the Marine Fuels from the Seller including (but not limited to): the vessel supplied and jointly and severally her master, owners, managers, operators, disponent owners, charterers.
- "Seller" means (depending on context) one of the entities being part of Banle Energy International Ltd.

“Marine Fuels” means hydrocarbons derived from crude oil, delivered or to be delivered by the Seller to the Buyer to the vessel for consumption, meeting specification detailed in the Sales Confirmation.

“Sales Confirmation” means the written confirmation issued by the Seller to the Buyer specifying the terms applying to the sale of Marine Fuel to the Buyer as a response to the Buyers nomination.

## 5. Price

- 5.1. The price of Marine Fuel delivered or to be delivered shall be in the amount per unit and in the currency as stated in the Sales Confirmation for each grade of Marine Fuels delivered into the Vessel’s tanks as determined in accordance with the Clause 8.2 below and evidenced in the bunker delivery receipt, save fraud or manifest error. Where the price is quoted in volume units, the price shall be converted to price per metric ton at 60 degrees Fahrenheit or at 15 degree Celsius.
- 5.2. The price agreed and stated in Sales Confirmation is only valid 3 calendar days (1 day before and 1 day after the vessel’s ETA specified in the nomination) in which the Sales Confirmation is issued and beyond such validity period, it is the Seller’s option to adjust the price upward in parallel to the price frustration of the market.
- 5.3. Unless the parties agree otherwise, the price stated in the Sales Confirmation is ex-wharf and excludes any charges for wharfage, barging, mooring or other similar charges. Delivery charges, fees, port duties, taxes, and all other costs and expenses, including without limitations those imposed by government authorities are for the Buyers account and are not included in the price, unless otherwise stated in Sales Confirmation.

## 6. Delivery

- 6.1. The Marine Fuels shall be delivered to the vessel at the location and in delivery method stated in the Sales Confirmation.
- 6.2. Any delivery which is outside the working days and hours at the port of delivery (if permitted by the port authorities) may cause additional charges which are for the Buyer’s account. Seller is not obliged to deliver Marine Fuels and shall not be liable for any loss if the port of delivery does not operate at time of delivery specified in Sales Confirmation.
- 6.3. The Buyer shall give the Seller at least 48, 24, 12 and 6 hours notice of the approximate time of tendering, the location of the receiving vessel and any other necessary information required by the port authorities in the place of delivery, as per the Seller’s request. The Seller’s obligation to deliver is in force only if the Buyer fulfills the aforementioned obligation.
- 6.4. Subject to the availability of the Marine Fuels and the availability of facilities at the place of delivery.
- 6.5. For delivery by bunker barge, the Buyer shall at its own expense provide a clear and safe berth or safe anchorage for the bunker barge or to proceed and remain safely alongside the receiving vessel and shall provide all necessary facilities and assistance required to effect delivery. The Buyer agrees to pay and indemnify the Seller against all claims and expenses in respect of any loss, damage or delay caused by the receiving vessel to the delivering bunker barge or any other facility or person.
- 6.6. The Buyer shall assist in safe mooring of the bunker barge or bunker tanker and make all connection/disconnection between the delivery hoses or the pipelines and the intake pipe of the receiving vessel. The Buyer shall provide all necessary assistance and sufficient tank space and equipment to promptly receive Marine Fuels. It is the Buyer’s responsibility to ensure that the

Marine Fuels is being received at a safe rate and pressure and that all receiving equipment utilized are fully functional, oil tight, and in good working order and condition and in every way fit to receive Marine Fuels safely. In the event that only part of Marine Fuels ordered by the Buyer can be received by the vessel because of lack of space tank in the vessel or any other reason resulting from the vessel's incapacity the Buyer is responsible for all costs resulting thereof.

- 6.7. In event the receiving vessel's arrival at the place of delivery is later than the date of delivery as stated in the Sales Confirmation, or the receiving vessel refuses to receive the Marine Fuels expeditiously for whatsoever reason, the Seller hereby reserved the right to claim the Buyer for all losses, additional expenses, charges arising therefrom including without limitation, demurrage and any increase in the price of the Marine Fuels.
- 6.8. In event the receiving vessel arrived earlier or later than the date of delivery as stated in the Sales Confirmation or is unable or refused to receive the Marine Fuels, the Marine Fuels will be delivered by the Seller on a best endeavor basis. The Seller is under no obligation whatsoever to effect prompt delivery and any guarantee or warranty given expressly or impliedly as to prompt delivery is hereby expressly excluded.
- 6.9. With regards to Buyer's request for information on the place of delivery or other place of delivery, the Seller shall use its best endeavors to obtain or provide the information requested. Whilst every care will be taken by the Seller that such information is accurate and up to date, it is the Buyer's responsibility to countercheck the accuracy of any information provided and such information are furnished to the Buyer on a strict understanding that it is not a contractual representation and that no responsibility of whatsoever nature will attach to the Seller for its accuracy or completeness.
- 6.10. Before commencement of the delivery, authorized personnel of the receiving vessel (the Master or Chief Engineer of the vessel) will sign the tank measurement form and the bunker requisition form, which shall contain the quantities to be delivered and all information required in accordance with IMO/ISO recommendations and specifications, including in particular, actual values for viscosity, density, water content, sulfur content, flashpoint, delivery temperature, pour point (in addition, and if available, similar information shall be provided for aluminium/silicon, vanadium and ash content).
- 6.11. Should the Marine Fuels supplied to the vessel from two different sources or barges have different specification characteristics it will be assumed that the Marine Fuels are compatible unless a statement to the contrary is made on the bunker requisition form duly signed by the Seller and Buyer or persons authorized by them.
- 6.12. Upon completion of the delivery and before disconnection or the transfer hose, authorized personnel of receiving vessel (the master or chief engineer of the vessel) will sign and stamp the bunker delivery note and return it to the Seller or his representatives, as acknowledgement of the delivery. A duplicate copy of the bunker delivery note shall be retained by the Master of the vessel. The bunker delivery note shall contain the following information:
  - 1) Delivered quantity in volume units at actual temperature
  - 2) Actual delivery temperature
  - 3) Delivered quantity in volume at 15 degr. C.
  - 4) Density in kg/cbm at 15 degr. C.
  - 5) Delivered quantity in weight units.
  - 6) Flashpoint
  - 7) Sulphur content in % m/m

## 7. Quality

- 7.1. The Seller warrants that the Marine Fuel delivered under the agreement meets the specifications for the Marine Fuels as set forth in the Sales Confirmation.
- 7.2. The Buyer have the sole responsibility for the nomination of the grades of Marine Fuels suitable to the vessel and shall state the grades required in the nomination order.

- 7.3. The Seller does not represent or warrant that ordered Marine Fuels will be fit and suitable for the purpose of particular intended vessel's engine or boiler. It is the Buyers sole responsibility to select and order a proper Marine Fuels in the vessel being supplied.
- 7.4. In no event shall the Seller be responsible for damages or loss resulted from the situation that delivered Marine Fuels was mixed or comingled with any other substances onboard the receiving vessel.
- 7.5. Any other warranties and implied conditions are expressly excluded.

## 8. Quantity

- 8.1. The quantity of Marine Fuel to be delivered shall be those quantities specified in the Sales Confirmation, subject to the availability of quantities and grades of such Marine Fuel on the date of delivery at the delivery location.
- 8.2. The quantity of Marine Fuels actually delivered will be determined from the official gauge or meter of the delivery bunker tanker at the Seller's election or the shore-meter in the case of ex-wharf delivery. Quantity measured is therefore considered as conclusive and binding to both the Buyer and the Seller and such shall be evidenced in the bunker delivery receipt.
- 8.3. The Buyer and the Seller shall both have the right to be present or represented at such measurements, and shall be given sufficient information and access to the relevant gauge or meter and relevant documentation to verify the quantities delivered. If the Buyer is not present or represented at such measurements, then the Seller's determination of quantities shall be conclusive and binding on the Buyer.
- 8.4. The Buyer shall be responsible to ensure that the bunker manifold of the vessel into which the Marine Fuel is to be loaded is suitable in all respects and complies with all relevant regulations and is capable of accommodating the full quantity of Marine Fuel ordered by the Buyer.

## 9. Sampling

- 9.1. The Seller shall arrange at least for four (4) identical representative samples of each grade of the Marine Fuels to be drawn throughout the entire bunkering operation in the presence of both the Seller and the Buyer or their respective representatives.
- 9.2. Samples shall be drawn at a point at the Seller's option.
- 9.3. The samples shall be drawn using a mutually accepted sampling device which shall be constructed, secured and sealed in such a way so as to prevent the sampling device and the samples being tampered with throughout the transfer period.
- 9.4. The aforementioned samples shall be securely sealed and provided with labels showing the vessel's name, identity of delivery facility, Marine Fuels name, delivery date and place, the seal number and date of sampling.
- 9.5. However, sample bottles must be fitted with two seal lugs to enable the Buyer representatives to counterseal the samples. In case the Seller cannot provide such sample bottles, the Buyer shall hand over said bottles to the Seller free of charge until further notice.
- 9.6. Two (2) samples shall be retained by the Seller for ninety (90) days after delivery of Marine Fuels to the vessel or, on being requested in writing by the Buyer, for as long as the Buyer requires, and the other two (2) samples shall be retained by the vessel or by the vessel's representatives in Masters option.
- 9.7. The samples issued in compliance with above procedure are deemed to be representative of the quality of the Marine Fuels delivered to the vessel. Any samples drawn from the vessel's tanks are not a valid indicator of the quality of Marine Fuels delivered to the vessel.
- 9.8. In the event of the Buyer's claim, samples shall be tested and analyzed by an independent surveyor, appointed by the parties by mutual agreement, whose results will be conclusive and binding on both the Seller and the Buyer. Surveyor's fee will be shared equally by the Buyer and

the Seller. In the event that Seller proposes an independent inspector and Buyer takes no action to accept this proposal or suggest other independent inspector in reasonable time the Seller's choice is binding with all consequences of his decision mentioned above.

## 10. Payment

- 10.1. The Buyer will pay for delivered Marine Fuels in US Dollars within the period specified in the Sales Confirmation, notwithstanding any disputes or claims. The payment will be made in full, without any set-off, counterclaim, deduction, withholding or discount and free of bank charges on Seller's account indicated in the invoice.
- 10.2. Any delay in payment shall entitle the Seller to charge interest and delivery costs on any amounts not paid by such date at the higher of 3% per month and the maximum rate allowable under applicable law.
- 10.3. Notwithstanding any other provision of these GTC or any agreement on sales of Marine Fuels between the Buyer and the Seller, the Seller has a right at his sole discretion and at any time (if he suspect or believes that Buyer will not pay the price for Marine Fuels) to require from the Buyer that payment be secured by a bank guarantee, parent guarantee, stand-by letter of credit confirmed by a first class international bank acceptable to the Seller or other type of payment security. The format of stand-by letter of credit shall be acceptable to the Seller.
- 10.4. The Seller reserves the right to withdraw credit granted to the Buyer at any time and for any reason, before, during or after delivery and at its sole discretion.
- 10.5. In the event that the Buyer failed to make payment in agreed time or did not provide the Seller with requested type of payment security in requested time, the Seller is entitled to suspend any or all deliveries for the Buyer or terminate the agreement on sales of Marine Fuels for which the payment should be made. Any other seller's remedies and claims shall remain unaffected.
- 10.6. Marine Fuels are delivered under this agreement not only on the credit of the Buyer but also on the credit of the vessel receiving Marine Fuels and it is agreed that the Buyer will assure that the Seller will have and may assert a lien against the receiving vessel for the amount of the price of delivered Marine Fuels.
- 10.7. If payment falls on a non-business day, payment shall be made on or before the business day prior to the due date. Non-business day means Saturday or Sunday or another day on which the Seller's bank is not open for the transaction of non-automated business.

## 11. Claims

- 11.1. In the event that the Buyer is not satisfied with the quality or the quantity of the Marine Fuel delivered, he shall make an appropriate note of protest. Any remarks on the Bunker Delivery Note and tank measurement form are deemed to be invalid.
- 11.2. Any Buyer's claim regarding, delivery, quality, quantity and prices must be submitted to the Seller immediately upon discovery of alleged defects or differences but in any case no more than seven (7) days from the date of delivery with all supporting documents and proper evidence. The Buyer will formally confirm such claims to the Seller in aforementioned time in the note of protest (issued in written form).
- 11.3. If any claim is not made in accordance with the foregoing procedure and within the time limit stipulated herein, it will be deemed waived by the Buyer and that the Buyer's right to such claims would be extinguished.
- 11.4. Notwithstanding the foregoing, no claims shall be admitted in respect of any deficiency of density when the difference between the delivered and sample inspection by independent surveyor is not more than 0,5%.

11.5. The Buyer's submission of any claim does not relieve it of its obligations to pay the price stated in the agreement on sale of Marine Fuels concluded between the Seller and the Buyer in full, without sett-off, deduction or counterclaim as per invoice issued by the Seller.

11.6. The liability of the Seller for any loss, damage, claim or other expenditure arising out of or in connection with the failure by the Seller to perform its obligation under the agreement on sales of Marine Fuels shall exclude any indirect, consequential, punitive or special damages.

## 12. Title and Risk

12.1. All risks connected with the Marine Fuels delivered shall pass to the Buyer once the Marine Fuels passed the Seller's flange connecting the receiving vessel's bunker manifold with the delivery facilities provided by the Seller.

12.2. Title to the Marine Fuels delivered shall remain vested in the Seller until full payment has been received by the Seller of the agreed price together with all interest, cost and expenses due. If, prior to full payment, the Marine Fuel delivered by the Seller to the receiving vessel is commingled with other marine fuel, the Seller shall have title to such quantities of such commingled marine fuel which correspond to the quantities of Marine Fuel delivered to the receiving vessel. The above is without prejudice to other rights the Seller may have against the Buyer and/or the receiving vessel in the event of non-payment.

12.3. The sale of Marine Fuel shall be made on the credit of the receiving vessel as well as on the credit of the Buyer and the Buyer agrees and warrants that the Seller shall have and may assert a maritime lien against the receiving vessel for the invoice amount of delivered Marine Fuel increased by the amount of interests and all costs and expenses of the Seller against the Buyer and/or the receiving vessel (including legal costs on a full indemnity basis) in connection with the enforcement of the Seller's title or maritime lien.

## 13. Limitation of liability

13.1. In no event shall the Seller be liable to the Buyer for any incidental, consequential or punitive damages. The Seller shall furthermore not be liable for damages as described above when such damages have been caused by the fault or negligence of its personnel, representatives and/or contractors.

13.2. The Buyer's exclusive remedy for any losses or damages resulting from the sale of the Marine Fuel delivered under the agreement of Sale of Marine Fuel, including but not limited to any allegation of breach of warranty or breach of contract or negligence or strict liability, shall be limited to the price of the Marine Fuel, for which a claim is submitted.

## 14. Indemnification

The Buyer agrees to indemnify, defend and hold harmless the Seller from and against any penalties, fines, liabilities, claims, expenses (including attorney's fees and costs of defense), losses and damages (i) caused by the negligence or willful misconduct of the Buyer, its employees, agents, brokers, authorized representatives or subcontractors, including without limitation, those of the Receiving Vessel, in the course of its performance of the agreement of sale of Marine Fuels and (ii) failure of the Buyer, its employees, agents, brokers, authorized representatives or subcontractors to comply with all applicable laws, ordinances, rules and regulations of any government or agency having jurisdiction, except to the extent cause by the negligence, willful misconduct or omission of the Buyer, its officers, employees, agents, brokers, authorized representatives or subcontractors. In addition to the other obligations that the Buyer



may assume under the terms of the Agreement, the Buyer shall obtain insurance covering its indemnity hereunder to the extent permitted by law.

## 15. Cancellation

- 15.1. Marine Fuels that have been ordered by the Buyer and confirmed by the Seller in the Sales Confirmation cannot be cancelled except with the written consent of the parties.
- 15.2. In the event of any cancellation by the Buyer without written consent of the Seller or receiving vessel failed to take delivery of part or all of the Marine Fuels stated in the Sales Confirmation, the Seller shall have the right to claim for all losses and damages suffered, including the loss of profit, expenses and charges incurred.
- 15.3. The Seller has a right to cancel the agreement on sale of Marine Fuels if the vessel delays for more than 12 hours from agreed time of delivery. In case the Buyer or the vessel requests for early delivery before the agreed time of delivery, it is only the endeavor of the Seller to deliver Marine Fuels in such time and no demurrages claim of the Buyer or the vessel shall be acceptable.
- 15.4. If the Buyer chose to cancel the agreement, the Seller has a right to charge the Buyer with cancellation fee in amount of 4'000 USD or the amount of the damage resulted from cancellation of agreement by the Buyer – whichever is higher.
- 15.5. In any case, if any person files a petition or otherwise commences or authorizes the commencement of a proceeding under any bankruptcy, insolvency, reorganization or similar law or has any such petition filed or proceeding commenced against the Buyer or a liquidator, administrator, receiver, trustee or officer with similar powers appointed with respect to it or any substantial portion of the Buyer's property or assets was appointed or the Buyer otherwise becomes insolvent (however evidenced) or is unable to pay its debts as they become due, the Seller, in his sole discretion, shall be entitled to suspend or cease his performance under any existing agreement with the Buyer and/or to terminate with the immediate effect by written notice any or all existing agreements between the Seller and the Buyer. In case the Seller noticed the Buyer on termination, all amounts owed from the Buyer to the Seller became due.

## 16. Force majeure

Neither the Buyer nor the Seller shall be responsible for damages caused by delays, failure to perform in whole or in part any obligation hereunder (other than the payment of money), or non-compliance with any of the terms hereof when such delay, failure or non-compliance is due to or results from causes beyond the reasonable control of the affected party, including, without limitation, acts of God, fires, floods, perils of the sea, war (declared or undeclared), embargoes, accidents, strikes, labor disputes, failure or shortage of vessel or barge service normally available to the Seller or its supplier, to breakdown of or damage to, or shortage in facilities used for production, refining or transportation of Marine Fuels, acts in compliance with requests of any governmental authority or person purporting to act therefore, or any other similar causes. The expression "or any other similar causes" is deemed to include, without limitation, the failure, cessation, termination or curtailment of any of the existing or contemplated sources of Marine Fuels of the Seller. Neither party shall be required to settle any labor dispute against its will.

## 17. Safety and the environment

- 17.1. In the event of any spillage, which shall mean any leakage, escape, spillage or overflow of the marine fuels, causing or likely to cause pollution occurring at any stage of the bunkering operation, the Buyer and the Seller shall jointly, and regardless as to whether the Buyer or the

Seller is responsible, immediately take such actions as are necessary to effect clean up and which shall always be conducted in accordance with such local laws and regulations which may compulsorily apply.

- 17.2. Where it is a compulsory requirement of the law of the port or place of delivery of the Marine Fuels that the Seller shall have in place their own oil spill contingency plans, the Sellers shall ensure that valid oil spill contingency plans approved by the relevant authorities are in effect to the extent that is so required.

## 18. Insurance

The Buyer is responsible for effecting and maintaining in force adequate insurance which will fully protect the Buyer, their agents, brokers and authorized personnel and all third parties from all risks, hazards and perils associated with or arising from the agreement on sale of Marine Fuel and the actual delivery of the Marine Fuel.

## 19. Vessel seaworthiness

- 19.1. The Buyer represents that the receiving vessel is seaworthy, safe and in good condition and is capable of receiving the Marine Fuel without leakage or spillage. Should the receiving vessel fail to comply with the foregoing representation, the Seller may at his sole discretion:
- 1) suspend the delivery of the Marine Fuel until such time as the Seller received evidence satisfactory, in its sole discretion that the receiving vessel adequately complies with these representations
  - 2) or decline delivery with no liabilities towards the Buyer.
- 19.2. If the receiving vessel is unable to comply with such requirements, the Buyer shall be deemed in breach of the agreement on Sale of Marine Fuels and the Seller may declare a default thereunder and terminate the agreement with immediate effect.

## 20. Notices

All notices and communications under these GTC and/or the document under the agreement on sale of Marine Fuels must be in writing, be made to the addresses, whether physical or electronic, as specified in writing by each Party to the other from time to time, and will be deemed given to a Party, (i) if delivered by hand or sent by overnight carrier, on the day of receipt by the receiving Party, (ii) if sent by registered or certified mail return receipt requested, on the date of receipt, or (iii) if transmitted by electronic mail or facsimile, at the time of confirmation of transmission or in reasonable time in which the relevant party, in the normal course of dealing, would be available to receive such message.

## 21. Assignment and no waiver

- 21.1. The Buyer may not assign its rights or delegate its performance under the agreement on sale of Marine Fuel without the prior written consent of the Seller, which consent shall not be unreasonably withheld, conditioned or delayed. Any assignment made without obtaining such prior approval shall be void and of no effect.
- 21.2. No waiver by the Seller of any provision of the agreement on sale of Marine Fuel shall be binding unless made expressly and expressly confirmed in writing. Furthermore, any such

waiver shall relate only to such matter, non-compliance or breach as it expressly relates to and shall not apply to any subsequent or other matter, non-compliance or breach.

## 22. Law and arbitration

- 22.1. These GTC and all agreements on sale of Marine Fuels shall be governed by, and construed in accordance with the English law, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof.
- 22.2. Nothing in an agreement on sale of Marine Fuels shall prevent the Seller, in the event of a breach of the agreement by the Buyer, from taking any legal action as the Seller, in its absolute discretion, considers necessary to enforce or secure the Seller's rights under the agreement in any court or tribunal of any country or state, including, but not limited to the action to enforce rights of lien against a vessel, the existence and procedure of enforcement of such right of lien being determined by the local law of the place where enforcement is sought, or to otherwise obtain security by seizure, attachment or arrest of assets for any amount due to Seller.
- 22.3. All disputes arising out of or in connection to this agreement shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force. The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceedings are commenced. The language of proceedings shall be English. The reference shall be to three arbitrators. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other party requiring the other party to appoint its own arbitrator within 14 calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other party appoints its own arbitrator and gives notice that it has done so within the 14 days specified. If the other party does not appoint its own arbitrator and give notice that it has done so within the 14 days specified, the party referring a dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the other party accordingly. The award of a sole arbitrator shall be binding on both parties as if he had been appointed by agreement. In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.

## 23. Entire agreement

The terms and conditions as set out hereof together with the Sales Confirmation form the entire agreement. No modification, waiver or discharge of any term of this agreement shall be valid unless in writing and signed by the Seller. The failure by the Seller to enforce any of its right against the Buyer shall not be construed as a waiver of that right or in any way affect the validity of this agreement.