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Adopted by: < NM_040700/ND-od/000840> date <7/8/2013>		
	<b>GENERAL TERMS AND CONDITIONS ON SALES OF OILS AND LUBRICANTS INTENDED TO MEET THE DIRECT NEEDS OF VESSELS</b>	<b>UP-04.04.12-001</b>
		Version no.: 01
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## 1. General

- 1.1 The General Terms and Conditions on Sales of oils and lubricants which vessels Use (hereinafter: General Terms and Conditions) constitute an integral part of "Supply Confirmation" document (hereinafter: Sales Contract) and produce legal effect equal to the Contract. These General terms and Conditions are exclusively applied for supplying the foreign ships, which have the status of a non-residents legal persons \*foreign buyers).
- 1.2 By signing the Sales Contract, it shall be deemed that the Buyer is familiar with and accepts the General Terms and Conditions hereof.
- 1.3 The Sale contract shall regulate conditions on sales of Lubricants between the party named as Seller and the party named as Buyer, of oil which are used by vessels for their own needs (hereinafter as: Lubricants), based on which the Seller, in compliance with the General Terms and Conditions of the Sales Contract, sells and delivers to the vessel nominated by the Buyer, and the Buyer purchases – takes over and pays for the delivered, unless the General Terms and Conditions otherwise require, any words denoting the singular shall include the plural and vice-versa.

## 2. References\*

- International Convention for the Unification of Certain Rules relating to the Arrest of Sea-Going Ships,
- Appendices I and II to the United Nations' Convention on the Registration of Sea-Going and Inland Navigation Vessels,
- Law on Maritime and Inland Navigation ("Сл. Лист СФРЈ", бр. 12/98, 44/99, 74/99 и 73/2000 и "Сл. Гласник РС", бр. 101/2005 - др. закон и 85/2005 – др. закон),
- Law on Enforcement and Security ("Сл. Гласник РС ", бр. 31/2011 и 99/2011 - др. закон),
- Law on Court Procedure ("Сл. Гласник РС ", бр.. 72/2011),
- Law on Contracts and Torts ("Сл. Лист СФРЈ", бр. 29/78, 39/85, 45/89 и 57/89 и " Сл. Лист СРЈ", бр. 31/93).

\*Note – when using this document, check the validity of documents stated in the clause «References». If the referenced document is replaced (changed), it should be necessary to take updated document. If the referenced document is withdrawn, then the provisions in referenced document is applicable only in that part, which is not related to the stated document

### 3. Definitions

In these General Terms and Conditions and the Sale Contract, unless otherwise explicitly specified, the following definitions shall be applied:

**Lubricants** – means the products which are used for the maintenance of the vessels, which have been or need to be delivered for the Vessel.

**Seller** – means the party contracting to sell and deliver Lubricants.

**Buyer** – means the party contracting to purchase, take delivery of and pay for the Lubricants.

**Vessel** – means the vessel of the Buyer to which the lubricants are physically delivered, with its own motor drive, which is registered by the state, and which operates on international lines.

**Sale contract** – means any written contract created by acceptance by Seller of an order placed by Buyer for Lubricants presented in the form of a “Supply confirmation”(downloaded from the official internet presentation of NIS j.s.c). Each delivery constitutes a separate Sale Contract governed by these General Terms and Conditions and any other special conditions which may have been agreed in writing in the Sale contract. Where there is a conflict between the General Terms and Conditions and any special conditions which may have been agreed in writing in the Sale contract, the latter shall prevail.

**Delivery Voucher** – shall mean a dispatch note – a document signed by the Seller’s and the Buyer’s authorized persons (the persons who sign the aforementioned document shall be deemed authorized signatories), which presents an evidence that the Lubricants have been delivered as per the quantity and the quality specified in the Voucher.

**Current Regulations** – shall mean relevant regulations of the Republic of Serbia (quoted in item 2. of the General Terms and Conditions) applicable to any issue not regulated by the General Terms and Conditions and the Sales Contract, which govern and are related to governing of rights, obligations, and responsibilities of the Contracting Parties – signers of the Sales Contract, and which include, but are not limited to, the following: International Convention for the Unification of Certain Rules relating to the Arrest of Sea-Going Ships, Appendices I and II to the United Nations’ Convention on the Registration of Sea-Going and Inland Navigation Vessels, Law on Enforcement and Security, Law on Court Procedure, Law on Contracts and Torts, as well as local regulations of other countries where the Seller may require security and enforcement of a temporary measure or other rights arising out of and in connection with these General Terms and Conditions and the Sales Contract.

### 4. Grades/Quality – Type of Lubricants

- a. The Buyer shall have the sole responsibility for the nomination of the grades - types of Lubricants suitable to the Vessel, and shall state the required and suitable grades – types of Lubricants in the Sale contract.
- b. The Seller warrants that the Lubricants shall comply with the grades nominated by the Buyer, shall be of satisfactory quality and that their characteristics will correspond to those generally offered in the relevant port of delivery. Unless otherwise agreed and stated in the Sale contract

the delivered Lubricants, in terms of their quality, shall be in compliance with the quality requirements labelled on the package and satisfying the international standards and specifications and specifications of equipment manufacturer, as stated in the Technical Lists, as well as the Rulebook on Technical and Other Requirements Related to Lubricants, industrial oils and similar products (Official Journal SCG 62/2004, 50/205)

- c. The Seller can in no circumstances be held responsible for any consequences incurred by inadequate nomination of Lubricants type stated by the Buyer in the Sales Contract. The Seller shall not be obliged to verify the type of Lubricants and its suitability for the Vessel.
- d. It is the duty of the Buyer to take all reasonable actions, including minimizing of any costs associated with delivery in case of doubts that the respective Lubricants are inappropriate – specification. To this end, the Buyer shall cooperate with the Seller in achieving the most cost effective solution. In any event, Seller's obligation hereunder shall not exceed direct expenses incurred for removal and replacement of fuel and shall not include any consequential or indirect damages or injuries, including without limitations, demurrage claims, loss of contract or loss of profit. If the Buyer removes such Lubricants without the consent of the Seller, then all such costs shall be borne by the Buyer account.

## **5. Quantities**

The quantities of Lubricants nominated to be delivered are those stated in the Sale contract. The quantity of Lubricants delivered to the Vessel shall be denominated in pieces/kilograms or liters and shall not fall short or exceed the quantity stated in the Sale contract.

## **6. Measurements**

- a. The quantities of Lubricants, specified in the Delivery Voucher and delivered to the Vessel, shall be determined by counting the packages in the warehouse or in the premises of the Seller where delivery takes place.;
- b. The Buyer and the Seller shall both have the right to be present or represented during such counting and shall receive sufficient information to verify the quantity delivered. If the Buyer or his representative fails to avail himself this right, the quantity delivered, as determined by the Seller, shall be binding for charging and payment purposes.

## **7. Sampling and Complaint Procedure**

- a. If the Buyer determines the quality of delivered Lubricants is not in compliance with the items specified in the Delivery Voucher, it shall be obliged to immediately notify the Seller thereof in writing.
- b. The Buyer shall be obliged to submit a written complaint about the delivered Lubricants quality to the Seller within 15 (fifteen) days from the date of delivery. Any complaint sent after the fore given period shall not be accepted by the Seller.
- c. Along with the complaint under Clause 5 (b), the Buyer shall be obliged to enclose a Record of the Independent Inspection Body (this and any other independent inspection organization - hereinafter: IB) containing analysis results of Lubricants delivered to Buyer's Vessel.
- d. If the Seller rejects the Buyer's complaint regarding the Lubricants quality, the Contracting Parties shall hire IB to conduct a comparative analysis of the Buyer's and the Seller's arbitration samples. The costs of IB services shall be borne by the Buyer in case of an

ungrounded complaint or by the Seller in case IB determines that the Buyer's complaint is grounded. The IB's report shall be binding for both Contracting Parties.

## 8. Delivery

- a. The Lubricants shall be delivered to the Vessel at bunker station, i.e. at the place of delivery as stated in the Sale contract, depending on the working hours of the bunker station, delivery shall be made day and/or night, Sundays and/or bank holidays included, which will be defined in the Sales Contract for every single delivery.
- b. The Vessel's estimated time of arrival (ETA) shall be as stated in the Sale contract. Seller shall be under no obligation to deliver if the Vessel arrives outside the time (date and hour) range as stated in the Sale contract. Moreover, the Seller shall be entitled to unilaterally postpone the delivery deadline and to notify the Buyer and Master of the Vessel on the new delivery deadline.

Regarding the Seller's conduct under the previous paragraph, the Seller shall not be liable in any respect for the damage which the Vessel and/or the Buyer may incur by such action.

The Buyer, or his agents (whose names are to be specified by Buyer in the contract in writing to the Seller) shall send a written notice to the Seller on the arrival of the Vessel, i.e. a 48/24/6 hour notice prior to the contracted delivery, and verify the time (denominated in hours) on the date when the Vessel will be ready to take over the Lubricants in the quantity and type specified under the Sales Contract. In case the Buyer or its agents do not act as prescribed above, the Seller shall not be liable for possible consequences.

- c. The Buyer's Vessel shall be obliged to take over the Lubricants specified under the Sales Contract within the contracted deadline, at the contracted place, and at the contracted time, and in compliance with all other terms and conditions defined in the Sales Contract. This Clause represents an important requirement and, in case the Buyer's nominated Vessel fails to fulfil the above obligation, the Seller shall be entitled to undertake action in any manner defined under Clause 8 (b).
- d. The Lubricants shall be delivered from the harbour/place of delivery specified in the Sales Contract:
  - I at the Seller terminal-warehouse or
  - II. by tank barge
- e. The Seller shall be in possession of all permits requiring complying with all relevant regulations pertaining to delivery of Lubricants at the port or place of delivery.
- f. The Buyer is obliged to:
  - I advise the Seller in writing, prior to delivery, of the specific conditions, difficulties, specificities, flaws, or shortcomings related to a specific vessel which could negatively affect the delivery of the Lubricants, as well as about the communication procedures and interruption of delivery in emergency situations;
  - II Provide conditions to receive the Lubricants and to render all necessary assistance which may reasonably be required to moor or unmoor the vessel after delivery.

- g. The Master of the Vessel or the person authorized by him shall provide free space to receive the contracted quantity of Lubricants. The Seller shall not be responsible for on board safety or storage on the Vessel, equal loading and/or other circumstance which might affect the delivery, but, during the loading of the Vessel, the Seller shall act in accordance with instructions of the Master of the Vessel or some other authorized person of the Vessel.
- h. The period of Lubricants delivery onto the Vessel shall be counted from the moment of attaching, coupling the Vessel, and shall last until the moment of the signing of the Bill of lading – Delivery Voucher.
- i. In case of unsettled Buyer's debt regarding any payable amount based on delivered Lubricants, the Seller may postpone the delivery deadline until the amount due for payment is settled or it can cancel agreed delivery. The Seller shall not be held liable in neither of the above cases for any damage incurred by the Vessel and/or the Buyer.

## 9. Documentation

- a. Once the delivery is completed and quantities measured, a Delivery Voucher shall be signed and stamped by the Master of the Vessel or his representative, and returned to the Seller, or his representative, as acknowledgement of the delivery. One (1) duplicate copy shall be retained by the Master of Vessel. One (1) copy shall remain with the Master of the Vessel. This document shall contain minimum the following information:
  - I Name and Buyer's headquarters
  - II Name of the vessel
  - III IMO number of the vessel
  - IV Goods name and cod
  - V Unit of measurement
  - VI Delivered quantity
- b. The Lubricants shall be considered handed over to the Buyer on the date and in the quantity stated in the dispatch note delivery Voucher.
- c. If the Vessel, after the receipt of the Lubricants, leaves the customs area of the Republic of Serbia, the Seller shall issue a document in compliance with the current customs regulations relating to allowed customs goods handling. The dispatch note – Delivery Voucher and the invoice shall be made in 3 numbered copies.
- d. The Seller shall send one copy of the dispatch note and invoice under Clause 9 (c) to the Buyer, to the address stated in the Sales Contract. The Seller shall deliver the above documents to the Buyer within 5 (five) days from the date of delivery in terms of Clause 9(b).

## 10. Price

- a. The price of the Lubricants shall be the amount expressed per unit and in the currency stated in the Sale contract for each type of Lubricants delivered to the Vessel as stated in the Sale contract. The price shall be valid for the specific delivery stated in the Sale contract.
- b. Should the Vessel not arrive within the determined time range, the Sale contract shall be deemed terminated unless the Seller elects to keep the Contract in force, offering a new time

(hour) of delivery, and the buyer accepts that according to Clause 8 (b). In that case, the Buyer and the Seller shall exchange written notices regarding the new hour of delivery and acceptance of that new time of delivery. Otherwise, a new date of readiness for delivery of Lubricants shall be the basis for a new Sales Contract under the terms and conditions (price included) agreed upon with the Buyer.

## 11. Payment

- a. Payment for the Lubricants shall be made by the Buyer in accordance with the provisions of the Sales Contract ("Terms of Payment") defining the price currency, payment deadline within which the Buyer shall be obliged to pay the value of the delivered fuel, as well as all other data related to the terms of payment.

The delivery date shall be deemed the date specified in the dispatch note – Delivery Voucher.

In case that, after the advance payment has been made, the Seller delivers the Lubricants in the quantity exceeding the quantity specified in the Sales Contract, the Buyer shall be obliged to pay the difference in the value pertaining to the surplus quantity of delivered Lubricants based on the Seller's invoice, to the Seller's transfer account no later than 10 (ten) days from the date of delivery.

In case of smaller quantity of Lubricants delivered, the Seller shall, upon the written request, make a return of excess payment for the period of VAT accounting with the Seller.

- b. Payment shall be made in full, without set-off, counterclaim, deduction or discount, free of bank charges.
- c. Payment shall be deemed to have been made, i.e. that the Buyer has settled its obligations related to payment in the adequate manner, at the moment when the funds are registered at the Seller's transfer account. Any delay in payment shall entitle the Seller to claim arrears on interest in compliance with 11 (d).
- d. In case the Buyer is late for payment of the Lubricants, the Seller shall be entitled to claim and the Buyer shall be obliged to pay the arrears on interest at a monthly level, specifically from the due date of the currency by the date of debt settlement in the amount of 1M (monthly) USD Libor (published in Reuters on the date of delivery) +5%. The Buyer shall be obliged to settle the calculated interest within 8 (eight) calendar days from the date of receipt of the monthly calculation on the arrears on interest. In case the Buyer, beside the debt for the delivered Lubricants (principal) also owes the interest and charges, the debt shall be settled from the first following Buyer's payment (if the payment is not referenced) according to debt maturity, charges and interest included.
- e. When making a payment, the Buyer shall settle each invoice, profoma invoice, and accounted interest individually. The Buyer shall enter the reference number in the payment order based on which the payment shall be made. Otherwise, the Buyer shall be charged with penalties and delivered the debit memo in the amount 0.1% of the payment for the purpose of reimbursement of expenses of manual work performed by the Seller's employees regarding posting of unreferenced or inaccurately referenced payments.

## 12. Taxes and Other Public Revenues

### a. Value Added Tax (VAT)

The Seller shall not be obliged to calculate the VAT based on the Lubricants turnover, if the Lubricants are delivered from the customs warehouse at the wharf, i.e. port open to international traffic and only in case the Lubricants are delivered to the Buyer who is engaged in international river transport. The Seller shall enter the remark into the invoice issued to the Buyer, stating that the sale of Lubricants is VAT exempted, with the fulfilment of legal requirements and possession of the necessary documents for the application of VAT exemption, in compliance with current regulations.

## 13. Risk/Title

Risk in the Lubricants shall pass to the Buyer once the Lubricants have passed the flange of the Buyer's Vessel. Title to the Lubricants shall pass to the Buyer upon payment for the value of the Lubricants delivered, pursuant to the terms of Clause 9 hereof. Until such payment has been made, the Seller shall have the right of lien over any of the Buyer's Vessels, for the purpose of securing and settling the claims in the amount of delivered Lubricants in compliance with the International Convention for the Unification of Certain Rules relating to the Arrest of Sea-Going Ships, adopted in 1952 in relation to sea-going ships, and amended in terms of inland navigation by Addenda I and II United Nations' Convention on the Registration of Sea-Going and Inland Navigation Vessels.

## 14. Termination

Without prejudice to accrued rights hereunder, either party shall be entitled to terminate the Sale contract in the event of:

- a. any application being made or any proceedings being commenced, or any order or judgement being given by any court, for
  - I the liquidation, winding up, bankruptcy, insolvency, dissolution, administration or re-organisation or similar, or
  - II The appointment of a receiver, liquidator, trustee, administrator, administrative receiver or similar functionary of the other party or all or a substantial part of its assets (otherwise than for the purpose of a reconstruction or amalgamation);
- b. Any suspension of payment, cessation to carry on business, any act being done or event occurring which, under the applicable law hereof, has a substantially similar effect to any of the said acts or events described above.
- c. In other cases specified in the General Terms and Conditions and positive regulations of the Republic of Serbia.

## 15. Force Majeure

The effects of Force Majeure are recognized as the circumstances relieving one or both Contracting Parties affected by them to, partly or in the whole, fulfil their contractual obligations.

Neither Party shall be liable to the other in respect of the non-fulfilment of any obligation arising out of this Contract to the extent that the non-fulfilment is caused by an event of Force Majeure.

The force major will imply in particular as follows: fire, flood, storm, prohibition of navigation, earthquake, war, mobilization, hostilities, riots, strikes -other than strikes with the Contracting parties, sabotage, epidemics, traffic accidents and Acts of God, imposing of embargo, blockade or sanctions by bodies or organizations of the international community or several countries, act of the bodies of international community against any Party, blockades organized by third parties, and also other cases and occurring of other events not attributable to the fault of either or both Parties, which fully or in part prevent or hamper either or both Parties to meet the agreed upon obligations, and which could not have been either envisaged or avoided by either or both Parties.

The Party which is prevented in the fulfilment of its contractual obligations due to the effects of Force Majeure shall immediately, without delay, inform the other Party in writing, not later than 3 (three) working days thereafter, under the threat of losing the right to refer to Force Majeure, about its occurrence and reckoned or expected duration and submit the evidence of its existence.

The Party affected by a Force Majeure event shall take all necessary measures to mitigate the effects preventing it to perform its obligations stipulated herein, also shall keep the other Party informed of how long the Force Majeure will impede the fulfilment of obligations under the Contract, and shall notify the other Party of the cessation of the Force Majeure circumstances. Paragraph 1 of this clause respectively applies in case of both Contractual Parties are affected by Force Majeure.

During the effect of Force Majeure, each party shall bear its own costs.

## **16. Safety and the Environment**

The Buyer shall be responsible and shall be obliged to apply all positive regulations, rules, and provisions of deeds related to Vessels, as well as all laws and bylaws of the Republic of Serbia – governing fire prevention, sanitary protection, environmental protection, as well as undertaking activities in terms of prevention and remediation of environmental contamination by Lubricants.

In case of any accident (including, for the purpose of this Clause, spillage, leakage, drainage of Lubricants) which causes or may cause contamination at any phase of loading, the Buyer and the Seller shall jointly, regardless of whether it is the Buyer's or the Seller's responsibility, immediately undertake activities related to cleaning, collection, and remediation of the accident, which will be conducted in compliance with regulations of the Republic of Serbia. Costs of remediation and possible damage shall be borne by the party responsible for the accident.

## **17. Dispute Resolution and Applicable Law**

Any disputes arising out of or in connection with the Sales Contract or the General Terms and Conditions hereof, for the purpose of securing and settling claims of the Seller based on the delivered Lubricants, shall be referred to competent court in the place determined by the Seller, and other relevant authorities for the part regarding the right of lien and temporary arrest/detention measure applied in relation to any of the Buyer's vessels, whereas in other cases the dispute shall be referred to the Foreign Trade Arbitration of the Serbian Chamber of Commerce with the registered seat in Belgrade, with application of its rules and substantive law of the Republic of



Serbia. Regarding anything else not regulated by the General Terms and Conditions and the Sales Contract, positive regulations of the Republic of Serbia, excluding application of the UN Convention on Contracts in the International Trade in Goods, shall apply.

#### **18. Sanctions clause:**

1. International sanctions under this Contract shall mean, including but not limited to, any restrictive measures or sanctions imposed by any of the bodies or authorities of the United Nations (UN), the European Union (EU) or its Member States, the United Kingdom (UK), or the United States of America (USA) ("**International Sanctions**").

2. The Partner shall be obliged to notify NIS if the Partner becomes subject to International Sanctions which limit the transactions which are covered under this Contract. The notification shall be provided in written form, without delay, and in any case in a period not longer than 7 calendar days from the day The Partner became subject to International Sanctions. Failure to notify within the prescribed deadline shall give NIS the right to suspend or terminate the contract without prior notice.

3. In case The Partner becomes subject to International Sanctions which limit the transactions which are covered under this Contract, the Parties shall without delay, and in any case no longer than 30 calendar days from the date of notification prescribed in paragraph 2 of this Article, use all efforts to amend the provisions of this Contract, so as to fully comply with the prescribed limitations foreseen in International Sanctions. Failure to amend the provisions of this Contract within the 30-day deadline shall give NIS the right to suspend or terminate this Contract without prior notice.

4. The Partner shall be obliged to notify NIS if the Partner becomes subject to International Sanctions which prohibit the transactions which are covered under this Contract. The notification shall be provided in written form, immediately upon The Partner becoming subject to International Sanctions. In any case, if The Partner becomes subject to International Sanctions which prohibit the transactions that are covered under this Contract NIS shall have the right to suspend or terminate this Contract without prior notice.

5. If the suspension of the Contract lasts continuously for 30 calendar days, NIS shall have the right to unilaterally terminate the Contract.

6. In case of suspension or termination of the Contract as foreseen in paragraphs 2-5 of this Article, the Partner waives all its claims and shall hold NIS harmless in relation to the suspension or termination of the Contract, except with regards to entitlements due under the Contract which arose before the Partner became subject to International Sanctions.