

**TRINITY HOUSE STANDARD CONDITIONS OF CONTRACT**  
**SUPPLY OF MARINE FUELS TO TRINITY HOUSE VESSELS (CP5)**

**These Conditions may only be varied with the written agreement of Trinity House. No conditions put forward by the Contractor shall form any part of the Contract**

**1. DEFINITIONS**

**“Bunker”** means the Road Tank Wagon or floating refuelling tanker used for the transport and delivery of the Goods;

**“Confidential Information”** means any information, which has been designated as confidential by either party in writing, or that ought reasonably to be considered as confidential, however it is conveyed, including information that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Contractor, including intellectual property rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential;

**“Conditions”** means these conditions of Contract;

**“Contract”** means the contract between Trinity House and the Contractor consisting of the Purchase Order and specifications mentioned thereon, including these Conditions;

**“Contractor”** means the company or organisation, to whom the Purchase Order has been issued;

**“Density”** means the Density of the Goods, as tested in accordance with the Specification.

**“Goods”** means the supply of Marine Gas Oil to the Specification, as stated on the Purchase Order;

**“Intellectual Property Rights”** means all proprietary and other rights in and to: (i) trademarks, service marks, brand names, certification marks, trade dress, assumed names, trade names and other indications of origin; (ii) patents, inventors certificates and invention disclosures; (iii) trade secrets and other confidential or non-public business information, including ideas, formulae, compositions, inventions, discoveries and improvements, know-how, manufacturing and production processes and techniques, and research and development information (whether patentable or not); drawings, specifications, designs, plans, proposals and technical data; and financial, marketing and business data, pricing and cost.

**“Letter of Protest”** means the formal document issued by the Vessel to register a discrepancy in quality of the Goods or the method by which the Goods have been delivered, at the point and time of delivery.

**“Premises”** means the location to where the Goods shall be delivered, including any Vessel owned or operated by Trinity House;

**“Purchase Order”** means the Trinity House Purchase Order specifying that these Conditions apply to it;

**“Specification”** means ISO8217, Version 6, dated March 2017, as amended, and any associated Trinity House specification documents, including the Purchase Order and Trinity House Specification S079.

**“Sub-Contractor”** means any company or organisation to whom the Contractor has assigned the task of delivery of the Goods to the Premises;

**“Sulphur Content”** means the percentage of Sulphur within the Goods, as tested in accordance with the Specification

**“Trinity House”** means the Corporation of Trinity House of Deptford Strond of Trinity House, Tower Hill, London, EC3N 4DH, in its capacity as a general lighthouse authority;

**“Vessel”** means the sea-going ships owned, chartered or operated by Trinity House, including, but not limited to, the THV Patricia (IMO 8003632), THV Galatea (IMO 9338591) and THV Alert (IMO 9338618).

## **2. TIME OF PERFORMANCE**

2.1 Time is of the essence of the Contract and failure to deliver the Goods to the Premises within the timescales stated on the Purchase Order shall be a fundamental breach of contract.

2.2 In the event of failure to deliver by the due date Trinity House may at its option release itself from any obligation to accept the Goods and/or cancel all or part of the Purchase Order, in either case without prejudice to its other rights and remedies herein.

2.3 Should the Contractor or Sub-Contractor fail to meet the delivery requirements stated in the Purchase Order, a Letter of Protest will be issued by the Vessel to Contractor or Sub-Contractor, dependent on which is attending the Vessel.

2.4 The Contractor shall provide Trinity House with such reports on progress with the Purchase Order as Trinity House may from time to time require.

## **3. VARIATION**

3.1 Trinity House reserves the right by notice in writing to modify the quantity of the Goods within a reasonable time of the delivery timescales agreed with the Contractor.

3.2 Trinity House reserves the right by notice in writing to modify the Premise to which the Goods are to be delivered.

3.3 Any alteration to the price of the Contract as a result shall be agreed in writing between Trinity House and the Contractor prior to delivery.

## **4. STATUS OF CONTRACTOR**

4.1 The relationship between the Contractor, and Sub-Contractor, and Trinity House shall be deemed for all purposes to be that of an independent contractor.

4.2 In carrying out the Contract the Contractor shall be acting as principal and not as agent of Trinity House. Accordingly:

(a) the Contractor shall not (and procure that his Sub-Contractors, servants and agents do not) say or do anything that might lead any other person to believe that the Contractor is acting as agent of Trinity House;

(b) nothing in this Contract shall impose any liability on Trinity House in respect of any liability incurred by the Contractor to any other person, but this shall not be taken to exclude or limit any liability of Trinity House to the Contractor that may arise by virtue of either a breach of this Contract or any negligence on the part of Trinity House, its staff or agents.

## **5. SUB-CONTRACTING**

Sub-contracting shall not relieve the Contractor of any obligation or duty attributable to him under this Contract.

## **6. QUALITY & FITNESS FOR PURPOSE**

6.1 Goods shall be of satisfactory quality and free from contamination.

6.2 Goods shall conform to ISO8217, as from time to time amended, and Trinity House Specification document S079, and in all respects to any particulars specified in the Purchase Order or any variation thereto.

6.3 The Contractor shall demonstrate the Density and Sulphur content of the Goods upon delivery, with appropriate information included in the delivery documentation.

6.4 Should the Goods fail to meet the required levels of quality, a Letter of Protest will be issued by the Vessel to Contractor or Sub-Contractor, dependent on which is attending the Vessel.

## **7. DELIVERY**

7.1 Goods shall be delivered to the place agreed with the Contractor and named on the Purchase Order. Any access to Premises and any labour and equipment that may be provided by Trinity House in connection with delivery shall be provided without acceptance by Trinity House of any liability whatsoever.

7.2 Where any access to the Premises is necessary in connection with delivery, the Contractor and Sub-contractors shall at all times comply with the reasonable requirements of Trinity House.

## **8. PROPERTY & RISK**

Property and risk shall without prejudice to any other rights or remedies of Trinity House herein contained remain with the Contractor until delivery to the Premises and the acceptance of the Goods by Trinity House.

## **9. LOSS OR DAMAGE IN TRANSIT**

9.1 The Contractor shall confirm in writing to Trinity House the date and time for delivery. The Contractor shall, free of charge, replace such of the Goods as may either: be damaged in transit or having been placed in transit fail to be delivered to Trinity House.

9.2 Should Goods be deemed unacceptable following Transit to Trinity House, a Letter of Protest will be issued by the Vessel to Contractor or Sub-Contractor, dependent on which is attending the Vessel.

## **10. LABELLING & PACKING**

10.1 Goods shall be marked in a proper manner and in accordance with Trinity House instructions and any statutory requirements. All delivery documentation shall be marked with the Purchase Order number, the quantity and the level of evidenced Sulphur content.

10.2 The Contractor shall make available the Material Safety Data sheets, and all other relevant technical documentation, upon request from Trinity House and/or the Vessel to which the Goods have been delivered.

10.3 All requirements prominent and adequate warnings signage, in accordance with current legislation, shall be observed and it is the responsibility of the Contract to ensure compliance with all guidance and regulations published by the Health and Safety Executive.

## **11. INSPECTION, REJECTION & GUARANTEE**

11.1 Prior to delivery and acceptance of the Goods, the Contractor shall permit Trinity House or its authorised representatives to make all necessary inspections and tests it may reasonably require.

11.2 The Contractor shall confirm the source of the Goods and confirm in writing the number of production batches and manufacturers from whom the Goods have been sourced.

11.3 The Contractor shall make available sample bottles for the extraction of samples for inspection and testing. Trinity House reserves the right to extract samples for the following:

- a) For each production batch supplied by the Contractor;
- b) From each tank and/or compartment on the Bunker.

11.4 No approval given during or after such tests or inspections shall constitute a waiver by Trinity House of any rights or remedies in respect of the Goods.

11.5 Trinity House may, by issue of a Letter of Protest to the Contractor and reject any of the Goods that fail to meet the requirements specified by Trinity House in the Purchase Order. If Trinity House shall reject any of the Goods pursuant to this Condition, Trinity House shall be entitled (without prejudice to other rights and remedies) either:

- (a) to have the Goods concerned, as quickly as possible, replaced by the Contractor with Goods which comply in all respects with the requirements specified herein; or
- (b) to cancel the Contract, or part-quantities thereof.

11.6 If Trinity House shall within 30 days of the Letter of Protest thereafter give notice in writing to the Contractor of any defect in the Goods, the Contractor shall (without prejudice to any other rights and remedies which Trinity House may have) as quickly as possible remedy such defects (whether by replacement or by refunding of the cost of the defective Goods).

11.7 Should the supply of Goods supplied to the Contractor result in additional damage to plant and equipment owned or operated by Trinity House, the Contractor shall be liable for the costs of rectification of said equipment, including but not limited to the engines aboard the Vessels.

## **12. PRICE & PAYMENT**

12.1 The price of the Goods shall be agreed with Trinity House and stated on the Purchase Order. This pricing may only be varied with the written agreement of Trinity House at its absolute discretion.

12.2 Unless otherwise agreed in writing by Trinity House, payment will be made within 30 days of receipt of the Goods or the correct invoice thereof, whichever is the later. Should an invoice be subject to challenge, due to the issue of a Letter of Protest, the timescales of this Clause may be subject to extension without penalty to Trinity House.

12.3 Save where provided to the contrary, all sums payable by any party to any other party pursuant to this Agreement shall be deemed to be exclusive of any Value Added Tax which is chargeable on the supply or supplies for which such sums are the whole or part of the consideration for Value Added Tax purposes.

## **13. AUDIT**

The Contractor shall keep and maintain until two years after completion of the Contract records to the satisfaction of Trinity House of all expenditures, which are reimbursable by Trinity House

to the Contractor in connection with the Contract. The Contractor shall on request afford Trinity House such access to those records as required by Trinity House in connection with the Contract.

#### **14. HEALTH, SAFETY AND THE ENVIRONMENT**

14.1 The Contractor shall demonstrate that appropriate procedures are established at the Contractor, and Subcontractors, to ensure all relevant Health and Safety legislation requirements (and best practice) for the delivery of the Goods are met.

14.2 The Contractor and Subcontractors shall supply the Goods in such ways as to eliminate risk of harm to the environment and to comply with all relevant environmental laws.

14.3 While on property owned or occupied by Trinity House, the Contractor and Subcontractors shall comply, and ensure that its officers, employees, servants and/or agents comply, with all relevant health and safety and environmental laws and all other requirements of Trinity House in respect of health, safety and the environment, including (where applicable) the health, safety and environmental policies of Trinity House, which Trinity House will provide to the Contractor on request.

14.4 The Contractor shall ensure that all necessary tests and examination of the Goods are made prior to delivery to ensure that they comply with all health and safety legislation.

#### **15. INDUCEMENTS & REWARDS**

The Contractor shall not offer or give or agree to give, to any employee or representative of Trinity House any gift or consideration of any kind as an inducement or reward for doing or refraining from doing or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other Contract with Trinity House or for showing or refraining from showing favour or disfavour to any person in relation to this or any such contract. The attention of the Contractor is drawn to the criminal offences created by the Bribery Act 2010.

#### **16. INDEMNITY & INSURANCE**

16.1 The Contractor shall indemnify Trinity House, its servants and agents against all actions, claims, demands, costs and expenses incurred by or made against Trinity House, its servants or agents in respect of any loss, damage or personal injury (including death) which arises out of or in connection with this Contract.

16.2 Except in the case of loss, damage or personal injury (including death) suffered by an employee of the Contractor (in respect of which the indemnity in Condition 16.1 shall apply whether or not the loss, damage or personal injury was caused by the negligent or wilful act or omission of Trinity House, or any its servants or agents); the indemnity contained in Condition 16.1 shall not apply to the extent that the loss, damage or injury is caused by the negligent or wilful act or omission of Trinity House, its servants or agents.

16.3 The Contractor shall have in force and shall require any sub-contractor to have in force:

- (a) employer's liability insurance in accordance with any legal requirements for the time being in force, and
- (b) public and professional liability insurance for such sum and range of cover as the Contractor deems to be appropriate but covering at least all matters which are the subject of indemnities or compensation obligations under these Conditions in the sum of not less than £10,000,000 for any one incident and unlimited in total, unless otherwise agreed by Trinity House in writing.

16.4 The policy or policies of insurance referred to in Condition 16.3 shall be shown to Trinity House whenever requested, together with satisfactory evidence of payment of premiums.

## **17. INTELLECTUAL PROPERTY RIGHTS**

The Contractor will not use any Intellectual Property, owned by or associated with Trinity House without first obtaining the written approval of Trinity House.

## **18. FORCE MAJEURE**

Neither party shall be liable for failure to perform its obligations under the Contract if such failure results from circumstances which could not have been contemplated and which are beyond the party's reasonable control. Industrial disputes and failures by sub-contractors are not force majeure hereunder.

## **19. INSOLVENCY**

If the Contractor becomes insolvent or bankrupt or makes an arrangement with its creditors or has an administrative receiver or administrator appointed or commences to be wound up (other than for the purpose of reconstruction), Trinity House may, without prejudice to any other of its rights, terminate the Contract forthwith by notice to the Contractor or any other person in whom the contract may have become vested.

## **20. RECOVERY OF SUMS DUE**

Wherever under this Contract any sum of money is recoverable from or payable by the Contractor, that sum may be deducted from any sum then due, or which at any later time may become due, to the Contractor under this Contract or under any other agreement or contract with Trinity House.

## **21. EQUALITY**

The Contractor shall comply and shall procure that all servants, employees or agents of the Contractor and all sub-contractors comply with all relevant equality laws for the time being in force and any policies and procedures established by Trinity House in respect of, and to ensure compliance, with such equality laws.

## **22. FREEDOM OF INFORMATION**

The Contractor acknowledges that whilst Trinity House is not designated as a public authority pursuant to the Freedom of Information Act 2000 ("FOIA"), Trinity House has elected to act within the spirit of the FOIA where appropriate, and as such will provide such information as requested, with the exception of information of which would be exempt from disclosure in accordance with the provisions of the FOIA.

## **23. CONFIDENTIALITY**

23.1 The Contractor shall keep secret and shall not divulge to any third party (except Subcontractors accepting a like obligation of confidentiality and then only to the extent necessary for the performance of the sub-contract) all information given by Trinity House in connection with the Contract or which becomes known to the Contractor through performance of the Contract.

23.2 The parties acknowledge that, except for any information which would be exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not

Confidential Information. Trinity House shall be responsible for determining in its absolute discretion whether any of the content of the Contract would be exempt from disclosure in accordance with the provisions of the FOIA.

23.3 Trinity House may be required to publish the Contract to the public. Notwithstanding any other term or Condition of the Contract, the Contractor hereby gives his consent for Trinity House to publish the Contract in its entirety, (but with any information which would be exempt from disclosure in accordance with the provisions of the FOIA redacted) including from time to time agreed changes to the Contract, to the general public.

23.4 The provision of this Condition 23 shall apply during the continuance of this Contract and after its termination howsoever arising.

## **24. DEFAULT OF CONTRACTOR**

If the Contractor commits a breach of the Contract and fails within 24 hours of notice from Trinity House to take such steps as may be necessary to remedy such breach, Trinity House may, without prejudice to any of its other rights terminate the Contract forthwith by notice to the Contractor.

## **25. ARBITRATION**

All disputes, differences or questions between the parties to the Contract with respect to any matter or thing arising out of or relating to the Contract, other than a matter or thing as to which the decision of Trinity House is under the Contract to be final and conclusive, and except to the extent to which special provision for arbitration is made elsewhere in the Contract, shall be referred to the arbitration of two persons one to be appointed by Trinity House and one by the Contractor, in accordance with the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment thereof.

## **26. NOTICES**

26.1 Any notice given under or pursuant to the Contract shall be sent to the address of Trinity House or the Contractor given on the Purchase Order, or to such other address as the parties advise the other by notice.

26.2 Notices may be served personally, by post or by electronic mail (email) or other means of telecommunication resulting in the receipt of a written communication in permanent form. Letters shall be deemed served 48 hours after posting and facsimiles on despatch.

26.3 Should any criteria for the rejection or non-acceptance of the Goods apply, as detailed in Clauses 2.3, 6.5 and 9.2, a Letter of Protest shall be issued by the Master of the Vessel directly to the attending Contractor or Sub-Contractor.

## **27. WAIVER**

No delay or omission by Trinity House in exercising any of its rights or remedies under this Contract or under any applicable law shall be deemed a waiver of, or bar to, the exercise of such right or remedy or any other right or remedy upon any other occasion.

## **28. SEVERANCE**

In the event that any provision of this Contract shall be void and unenforceable by reason of any provision or applicable law, it shall be deleted and the remaining provisions hereof shall continue in full force and effect.

## **29. HEADINGS**

The headings in these Conditions are for ease of reference only and shall not affect their interpretation.

## **30. GOVERNING LAW**

These Conditions shall be subject to English Law and the parties hereto agree to submit to the jurisdiction of the English Courts.