

**Universal Oil, Ltd.**  
**General Terms and Conditions**  
**Revised and effective as of September 1, 2005**

The following General Terms and Conditions (hereinafter “terms and conditions” or “agreement”) shall apply to all sales of petroleum products to vessels and / or other marine sales or transfers (hereinafter “product”) by Universal Oil, Ltd. to Buyer:

**1. Sales and Ordering Procedure**

- 1.1 Buyer shall give Universal Oil, Ltd. and / or its designated sales agent (hereinafter collectively referred to as “Seller”) at least forty-eight (48) hours advanced notice of requirements (Sundays and Holidays excluded) prior to the time of requested delivery. Such notices shall specify the following requested shipping instructions: (1) Buyer’s name; (2) vessel’s name; (3) approximate time of tendering; (4) port and / or location; (5) time and method of delivery; (6) type, quantity, and specification of product; and (7) any other necessary information.
- 1.2 Upon Seller’s acceptance of Buyer’s offer to purchase product, Buyer shall be obligated to purchase and Seller shall be obligated to sell product in accordance with these terms and conditions. Seller shall provide written confirmation of the parties’ agreement (hereinafter referred to as “Account / Broker Confirmation”) to Buyer.
- 1.3 In the event that an agent purchases product on behalf of an undisclosed principal, as Buyer, the agent and the Buyer shall be jointly and severally responsible for all obligations hereunder, including but not limited to, payment.

**2. Deliveries**

- 2.1 Deliveries shall be made at shore terminals or, at Seller’s option, by marine vessel, barge, or truck to the vessel designated by Buyer (hereinafter “receiving vessel”). The term “receiving vessel” used throughout this agreement includes, but is not limited to, its captain, crew, appurtenant equipment, and / or agents.
- 2.2 Buyer shall be responsible for and make all connections and disconnections of Seller’s and / or its agent’s delivery hose, of reasonable size and length, to vessel. Buyer shall render all other necessary assistance and provide sufficient tankage and equipment to receive the delivery.
- 2.3 Upon arrival of delivery equipment, Buyer shall immediately furnish clear and safe berth or shore access alongside receiving vessel. Buyer shall be bound by any and all terms set forth in the tariff of the common carrier, marine vessel, barge, or other transportation company, to the extent that such tariff does not conflict with Seller’s terms and conditions herein.
- 2.4 Deliveries need not be made where, in Seller’s and / or its agent’s opinion, clear and safe berth or shore access to the receiving vessel is not available or when, for any other reason, delivery would be unsafe or inadvisable. Under these circumstances, Buyer shall be responsible for any and all costs (including, but not limited to, demurrage) incurred by Seller.
- 2.5 Any rejection of the product by Buyer must occur before the receiving vessel leaves the port of delivery.
- 2.6 Each delivery shall be deemed to constitute a separate contract.
- 2.6 Should the receiving vessel require hoses, reducers and / or flanges that do not comply with American National Standards Institute (A.N.S.I.), Buyer shall be responsible for all costs, delays, and / or demurrage, which result therefrom.

**3. Price / Payment**

- 3.1 The price of product sold and delivered hereunder shall be the price set forth in the Account / Broker Confirmation (hereinafter “purchase price”), except as provided herein. Expenses for deliveries made by barge or marine vessel shall be for Buyer’s account and shall be included in the purchase

price unless otherwise set forth by Seller. The purchase price does not include any or all taxes, duties, fees, port charges, or other assessments imposed or levied by any governmental authority (hereinafter "assessment") unless otherwise set forth by Seller. Such assessments shall be for Buyer's account and shall be added to the purchase price as necessary.

- 3.2 Payment for each delivery shall be made without discount, offset, or deduction in United States Dollars to Seller within thirty (30) days from the date of delivery or such other time designated by Seller in writing, notwithstanding any disputes or claims.
- 3.3 The sale of product herein shall be sold on the credit of the Buyer, the receiving vessel, and / or as otherwise provided in Section 1.3. Buyer acknowledges and agrees that Seller shall have a valid maritime lien, superior in priority to other liens, mortgages, or encumbrances, against the receiving vessel. Buyer represents and warrants that Buyer and / or its agents are authorized to encumber the receiving vessel as provided herein.
  - 3.3.1 If Buyer fails to pay timely for product sold and delivered hereunder, Seller, in its sole discretion, may suspend further deliveries, without waiving any rights or remedies it may have, and declare any outstanding indebtedness immediately due and payable.
- 3.4 If, in the sole judgment of Seller, the financial responsibility of Buyer, or its agent, becomes impaired or unsatisfactory, or if sufficient credit for this and any other pending transaction is not established by Buyer through Seller's credit department, Buyer shall prepay or provide security acceptable to Seller prior to delivery. Failure of Buyer to establish acceptable credit prior to delivery shall be considered a breach of the agreement. Upon such breach, Seller shall have the right, upon written notice, to cancel the agreement and proceed against the Buyer for damages occasioned by Buyer's failure to perform.
- 3.5 In the event that payment has been made in advance, same shall be adjusted based on delivered quantities identified on the Bunker Delivery Receipt, Bunker Ticket, or such other form designated by Seller and / or Seller's agent and additional payment / credit shall be made within ten (10) days of delivery.
- 3.6 Buyer and Seller agree that notwithstanding anything in the agreement to the contrary, Buyer's continual compliance with Seller's credit policy and requirements as same may be revised from time to time shall be a condition precedent to Seller's obligation to deliver product under the agreement.
- 3.7 All overdue payments shall bear interest at the rate of two percent (2%) per month or any part thereof, or, if a lesser amount, the maximum legal amount allowed by law. In the even that suit is filed to recover any indebtedness, Seller shall be entitled to recover reasonable costs and attorney's fees.

#### 4. Taxes

The amount of taxes, duties, and other governmental exactions, of whatever kind and however denominated (hereinafter called "taxes"), directly or indirectly applicable with respect to delivered products shall be for the account of Buyer, except for taxes on Seller's net income and taxes on ownership other than Buyer. Whenever any amounts of taxes for the account of Buyer is collectible from any person other than Buyer, it shall be paid by Buyer on Seller's demand notwithstanding the third party's liability for such. Any such payments shall be in addition to the prices otherwise herein agreed.

#### 5. Documentation

- 5.1 Qualified personnel of the receiving vessel must sign an Inspection Declaration and / or any other applicable documentation provided by Seller and / or its agent and comply with Article 17 before product will be transferred.
- 5.2 Upon completion of delivery, the receiving vessel will be presented a Bunker Delivery Receipt or Bunker Ticket (hereinafter collectively referred to as "BDR"). The BDR shall identify products and quantities delivered. Buyer or its authorized representative shall sign the BDR, Sounding Report,

and / or any other applicable documentation provided by Seller or its agent, without alteration, prior to disconnecting the transfer hose.

## 6. Quantity

- 6.1 Quantity shall be determined by the Seller, in its sole discretion, from the gauge or meter of shore tanks, barge tanks, marine vessel tanks or truck tanks. Seller's determination as to quantity shall be conclusive. Buyer shall have the right to have a representative present at time of measurement. Delivered quantities shall be calculated using the latest revision of the Petroleum Measurement Tables currently designated as ASTM D1250, IP 200 and API D2540.
- 6.2 In the event that Buyer or its authorized representative is unable or refuses to accept any quantity of product ordered, Buyer shall pay Seller all costs incurred by Seller as a result thereof in accordance with Article 15. Such costs shall include, but are not limited to, downgrade of product, demurrage, backhaul, pumpback, and / or additional labor.

## 7. Quality

The product to be delivered by Seller hereunder shall conform to the specifications set forth in Seller's written confirmation to Buyer subject to variances for repeatability and reproducibility. Buyer represents that it and its agent have superior knowledge of the receiving vessel's fuel requirements than Seller and Buyer shall be responsible for purchasing product with the appropriate specifications. In the event that the product sold herein is commingled with other product on the receiving vessel, Seller does not warrant or represent that the product sold hereunder can be used, without complication, in the specific engines, boilers, and / or generators of the receiving vessel, or that the product will be compatible with the products already existing in the receiving vessel's tanks.

## 8. Warranty

- 8.1 Seller warrants that it will convey good title and that the products shall be delivered free and clear of all liens and encumbrances.
- 8.2 THERE ARE NO REPRESENTATIONS, GUARANTEES OR WARRANTIES, EXPRESS OR IMPLIED, IN FACT OR IN LAW, INCLUDING WITHOUT LIMITATION, OF MERCHANTABILITY, FITNESS, SUITABILITY OF THE PRODUCT FOR ANY PARTICULAR PURPOSE, OR OTHERWISE, NOTWITHSTANDING ANY COURSE OF PERFORMANCE, USAGE OF TRADE OR LACK THEREOF.

## 9. Samples

- 9.1 Seller and / or its agents shall collect three (3) samples of product from Seller's or Seller's representative's marine vessel, barge, truck, or shore tank (hereinafter "retain samples"). Buyer shall have the right to have a representative present at the time of sampling. Seller or its representative shall sign, seal and label the retain samples. Seller shall provide one retain sample to the receiving vessel and store the remaining two samples. Buyer acknowledges that only Seller's retain samples as provided herein shall be used to determine the quality of the product delivered.
- 9.2 Seller's representatives are not authorized to witness, receive, or accept any samples or any documentation collected or generated by Buyer and / or the receiving vessel.

## 10. Claims and Limitation of Actions

### 10.1 Quantity Claims

- 10.1.1 Complaints as to quantity must be made to Seller's representative at time of delivery and confirmed in writing within thirty (30) calendar days from the date of delivery. If no written complaint is received by Seller within thirty (30) calendar days after delivery, it shall be deemed waived.
- 10.1.2 Determination of quantity shall be made in accordance with Article 6. Any claims based on measurements taken by the receiving vessel will not be accepted.

## 10.2 Quality Claims

- 10.2.1 Complaints as to quality must be submitted to the Seller in writing no later than thirty (30) calendar days from the date of delivery. Buyer's written complaint must include all necessary information for Seller to evaluate Buyer's claim and results of any and all analyses of the product. Buyer shall preserve any parts allegedly damaged from the product and make the receiving vessel available for inspection within a reasonable time. Buyer shall also provide Seller with immediate access to the receiving vessel's logs, computer records, communications, and / or any other pertinent documentation. If no written complaint concerning quality is received by Seller within thirty (30) calendar days from date of delivery, then any and all claims and complaints shall be deemed waived.
- 10.2.2 Determination of quality shall only be based on tests of Seller's retain sample(s) made as soon as possible by a mutually agreeable independent laboratory. It is acknowledged by Buyer that any claims based on samples other than Seller's and / or its agents' retain sample(s) will not be acceptable or enforceable in any court of law or equity. If the parties are unable to agree on an independent laboratory, then Seller shall select one.
- 10.2.3 Seller shall not be responsible for any claim arising from the coming of Seller's product with other products or materials by the receiving vessel.
- 10.2.4 Costs for laboratory analysis of the Seller's retain sample(s) shall be paid by the nonprevailing party.

## 10.3 Limitations of Actions

IF BUYER DESIRES TO BRING AN ACTION AGAINST SELLER, ITS OFFICERS, EMPLOYEES, AGENTS, OR REPRESENTATIVES, FOR BREACH OF THE AGREEMENT, BUYER MUST INSTITUTE THE ACTION WITHIN ONE YEAR FROM THE DATE OF THE BREACH.

## 11. Title and Risk of Loss

Title and risk of loss shall pass to Buyer at the flange connecting Seller's delivery hose with the receiving vessel's intake or hose connection.

## 12. Force Majeure / Contingencies

- 12.1 The Seller and / or its agents shall not be liable for loss, damage or demurrage due to any delay or failure in performance (1) because of compliance with any order, regulation, request or control of any governmental authority of any nation, or person purporting to act therefore which in the opinion of the Seller is or purports to be applicable to any performance hereunder regardless of whether or not any such order, regulation, request or control is in fact legally enforceable against the Seller or (2) when the supply of products or any constituent thereof or any facility of production, refining, manufacture, storage, transportation, distribution or delivery contemplated by the Seller is interrupted, unavailable or inadequate because of wars (declared or undeclared), hostilities, public disorders, acts of enemies, sabotage, strikes, lockouts, fires, floods, perils of sea, embargoes, accidents, labor disputes, acts of God, or weather conditions, or any cause beyond its control whether or not similar to any of the foregoing, or (3) for any other cause whatsoever which is not within the control of the Seller. The expression "for any other cause whatsoever which is not within the control of the Seller" shall be deemed to include, without limitation, the failure, cessation, termination or curtailment of any of the sources of supply of Seller including, but not limited to the failure, cessation, termination or curtailment of any of the existing or contemplated sources of supply of crude oil or petroleum products of Seller. Without limitation of the foregoing, the Seller shall not be required to remove any such cause or replace the affected source of supply or facility if it shall involve additional expense or a departure from its normal practices. The Seller shall not be required to make up deliveries omitted due to any of the causes specified herein. Buyer shall not be liable for failure to take any particular delivery of products if the Buyer is prevented therefrom by

any cause beyond its control. Buyer understands that in the event that there is any form of price control, rationing or allocation imposed on Seller's sales or products by any governmental body in the country or state effective at the port where Buyer desires to purchase, product that the Seller has the right to either suspend or cancel deliveries of product contracted for herein for such period or periods as Seller may determine it requires to resolve uncertainties raised by such governmental actions, or allocate such quantities of product to the Buyer as Seller may determine.

12.2 Notwithstanding the provisions of this Article, Buyer shall not be relieved of any obligation to make payments with respect to product delivered or received hereunder.

### 13. Indemnity

Buyer, at its sole risk, shall indemnify, hold harmless, and defend Seller, its officers, employees, and agents from and against any and all claims, costs, losses, fines, penalties, expenses, and liabilities for any damage to property or the environment, injury and / or death to persons resulting from the acts, omissions, negligence, or willful misconduct, of the Buyer, its officers, employees, agents, representatives, or other persons acting for, under the authority of, or permission of Buyer, and / or the receiving vessel, and its captain, crew, and appurtenant equipment, arising from any cause whatsoever in connection with any deliveries or performance hereunder.

### 14. Demurrage

Vessels shall be bunkered, loaded, and / or unloaded in turn and Seller and / or its agents shall not be liable to Buyer or the receiving vessel for any loss or demurrage incurred by the Buyer or the receiving vessel caused directly or indirectly by delays due to prior barge requirements, congestion at the terminal or at the location of the delivery, weather, malfunction of equipment, or any other circumstances not within Seller's and / or its agents' reasonable control. The Buyer shall be liable for demurrage at rates established by Seller and for losses or delay incurred by Seller and / or its agents caused directly or indirectly by the Buyer or the receiving vessel, including but not limited to, a reduced receiving rate.

### 15. Cancellation

Whenever Buyer cancels an order, in whole or in part, Seller reserves the right to impose a cancellation fee of five thousand United States dollars (US\$5,000.00) or ten percent (10%) of the total dollar amount of the order, whichever is greater, as liquidated damages.

### 16. Limitation of Liability

16.1 IN NO EVENT SHALL SELLER AND / OR ITS AGENTS BE LIABLE FOR PROSPECTIVE OR SPECULATIVES PROFITS OR FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES.

16.2 IN NO EVENT SHALL SELLER'S AND / OR ITS AGENTS' LIABILITY FOR ANY CLAIM, CAUSE OF ACTION, OR ANY OTHER MATTER WHATSOEVER, IN LAW, IN ADMIRALTY, OR IN EQUITY, IN REM OR IN PERSONAM, ARISING FROM, OR IN ANY WAY RELATED TO, THE SALE, USE, CONSUMPTION OR PURCHASE OF THE PRODUCT, EXCEED THE PRICE OF THE PRODUCT SOLD HEREUNDER.

16.3 IN NO EVENT SHALL SELLER AND / OR ITS AGENTS BE LIABLE TO BUYER, ITS OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, UNDERWRITERS, OR ANY OTHER PERSONS OR ENTITIES, FOR NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER CLAIM, CAUSE OF ACTION, OR ANY OTHER MATTER WHATSOEVER, IN TORT. BUYER ITS OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, UNDERWRITERS, OR ANY OTHER PERSONS OR ENTITIES SOLE REMEDY SHALL BE IN CONTRACT IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT.

### 17. Compliance with Laws / Environmental Protection

- 17.1 Buyer warrants that the receiving vessel shall be seaworthy, safe, and in good condition and shall be capable of receiving product without leakage or spillage.
- 17.2 Buyer warrants that Buyer, its officers, employees, and agents, and the receiving vessel and its officers, employees, crew, and agents shall, at all times, fully comply with the requirements of all federal, state, and local laws, statutes, ordinances, rules, acts, regulations, codes, and orders applicable to Buyer's performance of its obligations hereunder. It is the intent of this Agreement that any product spilled from vessels, facilities or equipment of either party be cleaned up immediately so as to minimize environmental damage, liability and exposure to fines, penalties and the like. Each party, on its own behalf and on the behalf of the other, shall immediately notify the appropriate governmental authority, and all other required officials of any spill. When a spill occurs, if either Buyer or Seller is the owner, operator, contractor of, or person in charge of the vessel, facility or equipment from which the product is discharged, that party shall immediately commence the initial clean up and shall conduct said clean up in accordance with all applicable governmental statutes, regulations, and directions. Each party agrees to indemnify the other for any liability, expense, fine or penalty resulting from a spill which arises from the indemnitor's negligence or willful misconduct or that of the indemnitor's employees, agents, contractors or invitees, or for any failure to carry out its responsibilities under this Agreement or under any applicable law in regard to conducting clean-up operations or making governmental notification.
- 17.3 Should Buyer or the receiving vessel fail to comply with the requirements herein, Seller, in its sole discretion, may suspend the delivery, without penalty, until such time as Seller is satisfied of Buyer's or the receiving vessel's ability to comply as required. If Buyer is unable to satisfy these requirements, the delivery shall be deemed canceled by Buyer in accordance with Article 15.

#### 18. Governing Law

This agreement, its performance and enforcement (inclusive of maritime liens arising hereunder) shall be governed and determined by the General Maritime [Law of the Republic of Panama](#). Buyer, its officers, employees, agents, and the receiving vessel and her employees, agents, and crew agree to submit themselves exclusively to a court of competent jurisdiction, in rem and in personam, at Tribunal Marítimo de Panama, Balboa, Republic of Panama, regardless of the law of the forum in which any proceeding is instituted relating to this agreement or to any vessel to which deliveries are made hereunder.

#### 19. Entire Agreement

Except as provided herein, these General Terms and Conditions and the Seller's Confirmation supersede all other terms and conditions and agreements. These General Terms and Conditions set forth the entire agreement and understanding between all the parties covering the subject matter herein and may not be amended except in writing, signed by Buyer and Seller. The right of either party to require strict performance shall not be affected by any prior waiver or course of dealing. All rights and remedies are cumulative and election of one remedy shall not exclude another.

#### 20. Assignment

Buyer shall not assign all or any part of this agreement or any rights hereunder without the prior written consent of Seller.

#### 21. Setoff

Without prejudice to any other rights of Seller, Seller shall be entitled at Seller's option to apply, in satisfaction of any obligation owing hereunder by Buyer, the amount of any monies which may then be or thereafter become owing from Seller to Buyer.

#### 22. Reclamation

Seller reserves the right to reclaim any products delivered hereunder by notice to Buyer if Buyer, its agents, or the receiving vessel has received the products from Seller while insolvent. Buyer, on

behalf of itself and / or the owner of the vessel, represents and agrees that the delivery of products hereunder to the vessel shall create a valid maritime lien in favor of Seller.

23. Waiver of Default

No waiver of any default by Seller or any of the obligations of conditions imposed by this agreement shall be construed as waiving any other default, whether prior or subsequent, or any of the obligations or conditions imposed by this agreement.

24. Severability

If any provisions of this agreement shall be held invalid or unenforceable, such invalidity or unenforceability shall attach only to such provisions of this agreement, and this agreement shall be carried out as if any such invalid or unenforceable provisions were not contained herein.

25. Headings

The section headings herein have been inserted as a matter of convenience for reference only and shall not control or affect the meaning or construction of any of the terms or provisions hereof.

26. Confidentiality

Buyer agrees that this agreement and any test results concerning the product shall be deemed to be proprietary information and shall be confidential in nature and shall not be disclosed to a third party unless agreed to in writing by Seller or as required by law, government, or a court of competent jurisdiction.

27. Acceptance of Terms and Conditions

The parties hereto acknowledge their agreement to be governed by these terms and conditions for all sales contemplated herein.