

M&B



Mayfair and Bond Oil Limited
General Terms & Conditions
Purchase and Sale of Crude Oil and Refined Petroleum Products
v.2021

INDEX

ARTICLE 1 - AGREEMENT AND TRANSACTION PROCEDURES	08
1.1 Commercial Term Sheet.	08
1.2 Agreement Formation.	08
1.3 CTS Procedures.	08
1.4 Priority of Terms.	08
ARTICLE 2 - DELIVERY & RECEIPT	08
2.1 Delivery & Receipt Method.	08
2.2 Marine Deliveries or Receipts.	08
2.3 Title and Risk of Loss.	08
ARTICLE 3 - QUANTITY AND QUALITY DETERMINATION AND CLAIMS	09
3.1 Specifications.	09
3.2 Measurement.	09
3.3 Inspection.	09
3.4 Off-Spec Products.	09
3.5 Quality Claims.	09
ARTICLE 4 - DISCLAIMER OF WARRANTIES	09
ARTICLE 5 - BILLING AND PAYMENTS	10
5.1 Invoices and Payment.	10
5.2 Payment Due Date.	10
5.3 Interest.	10
5.4 Disputed Invoices.	10
ARTICLE 6 - FINANCIAL RESPONSIBILITY	10
6.1 Provision of Financial Information.	10
6.2 Assurances of Performance.	10
6.3 Collateral.	11
ARTICLE 7 – TAXES	11
7.1 Notifications.	11
7.2 Transfers.	11
7.3 Ad Valorem Taxes.	11
ARTICLE 8 – INSURANCE	11
ARTICLE 9 - COMPLIANCE WITH LAWS	11
9.1 Duty to Comply.	11
9.2 Pollution Prevention and Responsibility.	11
ARTICLE 10 - FORCE MAJEURE	12
10.1 Performance Excused.	12
10.2 Notice.	12
10.3 Termination.	12
ARTICLE 11 – INDEMNIFICATION	12
11.1 Duty to Indemnify.	12
11.2 No Third Party Rights.	12
11.3 Notice of Claim.	13
11.4 Defence.	13
11.5 Settlement.	13

ARTICLE 12 - DEFAULT AND LIQUIDATION	13
12.1 Event of Default.	13
12.2 Remedies.	14
12.3 Early Termination Date.	14
12.4 Termination Payment.	14
12.5 Exercise of Rights.	14
ARTICLE 13 - REPRESENTATIONS AND WARRANTIES	15
ARTICLE 14 - NOTICES AND COMMUNICATIONS	15
ARTICLE 15 – ASSIGNMENT	16
15.1 Consent to Assign.	16
15.2 Non-compliance.	16
ARTICLE 16 - GOVERNING LAW AND JURISDICTION	16
16.1 CHOICE OF LAW.	16
16.2 Jurisdiction.	16
16.3 Limitation Period.	17
ARTICLE 17 - ISPS COMPLIANCE	17
17.1 FOB Transactions.	17
17.2 CIF/CFR Transactions.	17
17.3 Generally.	17
ARTICLE 18 - LIMITATION ON DAMAGES	17
ARTICLE 19 – CONFIDENTIALITY	17
19.1 Confidentiality.	17
19.2 Disclosure.	17
ARTICLE 20 – MISCELLANEOUS	17
20.1 No Third Party Beneficiaries.	17
20.2 Entire Agreement.	18
20.3 No Waiver.	18
20.4 Savings Clause.	18
20.5 Survival.	18
ARTICLE 21 – INTERPRETATIONS	18
APPENDICES	19
Appendix A Vessel Provisions, Demurrage & Laycans – Petroleum and Crude Oil Products	19
Appendix B Format of Letter of Indemnity	36
Appendix C Format of Documentary Letter of Credit	37
Appendix D Format of Standby Letter of Credit	39
Appendix E Parent Company Guarantee	40
DECLARATION OF AGREEMENT	43



These General Terms and Conditions for the Purchases and Sales of Crude Oil, Refined Petroleum and Commodity Products (“General Terms”) shall be deemed to be incorporated in any agreements (“Transactions”) to purchase or sell commodity products (collectively referred to as “Products”) between Mayfair and Bond Oil Limited, a subsidiary entity of Mayfair and Bond Limited or a Trade Partner acting within and trading under a Managed Trade Services Agreement with Mayfair and Bond Oil Limited (M&B in entirety) and another party (each a “Party” and collectively, “Parties”). All terms used in these General Terms and in any Confirmation for a Transaction are defined when they first appear or in the following definitions.

Definitions.

For purposes of these General Terms and any Transaction, the following terms shall have the meanings indicated below:

“Affiliate” means, in relation to any Party, any entity controlled, directly or indirectly, by such Party, any entity that controls, directly or indirectly, such Party, or any entity directly or indirectly under common control with such Party. For this purpose, “control” of any entity or Party means ownership of a majority of the issued shares or voting power or control in fact of the entity or Party.

“Applicable Law” means any law, statute, regulation, code, ordinance, license, decision, order, writ, injunction, decision, directive, judgment, policy decree and any judicial or administrative interpretations thereof, any agreement, concession or arrangement with any Governmental Authority, any applicable license, permit or compliance requirement applicable to either Party, and any amendments or modification to the foregoing.

“ASTM” means the American Society for Testing and Materials.

“Automatic Bulk Grain Weighers” means the process of measuring the weight of grain

“Bankrupt” means that a Party or its Guarantor, if any, (i) is dissolved, other than pursuant to a consolidation, amalgamation or merger, (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due, (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors, (iv) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditor’s rights, or a petition is presented for its winding-up or liquidation, (v) has a resolution passed for its winding-up, official management or liquidation, other than pursuant to a consolidation, amalgamation or merger, (vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for all or substantially all of its assets, (vii) has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets, (viii) files an answer or other pleading admitting or failing to contest the allegations of a petition filed against it in any proceeding of the foregoing nature or (ix) takes any other action to authorize any of the actions set forth above.

“Barrel” means forty-two (42) net U.S. Gallons, measured at 60 degrees Fahrenheit (60° F).

“Breakage Costs” means all out-of-pocket losses and expenses incurred by the Performing Party as a result of termination and liquidation of Transactions pursuant to Article 12 (excluding any amounts included in Gain, Loss or Unpaid Amounts), including reasonable attorneys’ fees, court costs, collection costs, interest charges and other disbursements and any damages, losses and expenses, including brokerage fees and commissions, incurred in obtaining, maintaining, replacing or liquidating commercially reasonable hedges or related trading positions relating to the Transactions that are being terminated and liquidated, all as determined in a commercially reasonable manner by the Performing Party.

“Business Day” means a 24-hour period ending at 5:00 PM GMT on a weekday on which banks are open for general commercial business in London, England.

“Buyer” means the Party purchasing Products from the Seller.

“Collateral Annex” means any agreement between the Parties providing for credit support or the posting of margin or collateral, including any such agreement relating to these General Terms.

“Commercial Term Sheet (CTS)” means the written documentation that memorialises the material terms of the Parties’ oral agreement as to a particular Transaction.

“Conveyor Belt Weigh System” means the process of measuring the weight of bulk commodities

“Default” or an **“Event of Default”** means an occurrence of the events or circumstances described in Article 12.

“Environmental Laws” means any existing or past laws and regulations, policy, judicial or administrative interpretation thereof, or any legally binding requirement that governs or purports to govern the protection of persons, natural resources or the environment (including the protection of ambient air, surface water, groundwater, land surface or subsurface strata, endangered species or wetlands), occupational health and safety and the manufacture, processing, distribution, use, generation, handling, treatment, storage, disposal, transportation, release or management of solid waste, industrial waste or hazardous substances or materials.

“ETA” means Estimated Time of Arrival.

“Force Majeure” means any cause or event reasonably beyond the control of a Party, including fires, earthquakes, lightning, floods, explosions, storms, adverse weather, landslides and other acts of natural calamity or acts of God; navigational accidents or maritime peril; Vessel damage or loss; strikes, grievances, actions by or among workers or lock-outs, whether or not such labour difficulty could be settled by acceding to any demands of any such labour group of individuals; accidents at, closing of, or restrictions upon the use of mooring facilities, docks, ports, pipelines, harbours, railroads or other navigational or transportation mechanisms; disruption or breakdown of, explosions or accidents to wells, storage plants, refineries, terminals, machinery or other facilities; acts of war, hostilities (whether declared or undeclared), civil commotion, embargoes, blockades, terrorism, sabotage or acts of the public enemy; any act or omission of any Governmental Authority; good faith compliance with any order, request or directive of any Governmental Authority; curtailment, interference, failure or cessation of supplies reasonably beyond the control of a Party; or any other cause reasonably beyond the control of a Party, whether similar or dissimilar to those above and whether foreseeable or unforeseeable, which, by the exercise of due diligence, such Party could not have been able to avoid or overcome. A Party’s inability economically to perform its obligations under any Transaction does not constitute an event of Force Majeure.

“Gain” means, for any Transaction as of the Termination Determination Date, the positive amount, if any, determined by the Performing Party in a commercially reasonable manner, which the Performing Party may determine by obtaining quotations from Third Parties, that the Performing Party would be required to pay to a Third Party to enter into a contract with the Performing Party that had the same terms as the Defaulting Party’s Remaining Contract Obligations.

“Gallon” means a U.S. gallon of two hundred thirty-one (231) cubic inches at 60 degrees Fahrenheit (60° F).

“GOST” is the State Standard of testing for the Soviet Union.

“Governmental Authority” means any foreign or United Kingdom, regional, local, or municipal governmental body, agency, instrumentality, authority or entity established or controlled by a government or subdivision thereof, including any legislative, administrative or judicial body, or any person purporting to act therefore.

“GTC’s” means General Terms and Conditions.

“Guarantor” means any entity or person executing a Guarantee of any or all of a Party’s obligations under any Transaction.

“Guarantee” means any guarantee executed in respect of any or all of a Party’s obligations under any Transaction.

“Interest Rate” means the maximum rate permitted by law.

“ISPS Code” means the International Code for the Security of Ships and of Port Facilities and the relevant 2002 amendments to Chapter XI of the International Convention for the Safety of Life at Sea, 1974.

“Liabilities” means any losses, claims, charges, damages, deficiencies, assessments, interests, penalties, costs and expenses of any kind, including reasonable attorneys’ fees and other fees, court costs and other disbursements, directly or indirectly arising out of or related to any suit, proceeding, judgment, settlement or judicial or administrative order commenced by any third party or Governmental Authority.

“Liquidation Amount” means the aggregate of the net Gain or Loss with respect to all terminated Transactions as of the Termination Determination Date, plus any Unpaid Amounts, any Breakage Costs and interest as provided in these General Terms. Interest shall accrue at the Interest Rate (i) in respect of any net Gain or Loss, from and including the Early Termination Date to, but excluding, the date of the Termination Payment and (ii) in respect of any Unpaid Amounts, from and including the date on which such amounts were originally due and payable to the date of the Termination Payment. Interest shall accrue at the Interest Rate in the case of any Loss or Unpaid Amount owing to the Defaulting Party, and be expressed as a negative number. All Gains, Losses, Unpaid Amounts, Breakage Costs and interest shall be aggregated or netted to a single liquidated amount owing from or to the Defaulting Party.

“Loss” means, with respect to any Transaction as of the Termination Determination Date, the amount (expressed as a negative number), if any, determined by the Performing Party in a commercially reasonable manner (which the Performing Party may determine by obtaining quotations from Third Parties), that a Third Party would be willing to pay to the Performing Party to permit that Third Party to enter into a contract with the Performing Party that had the same terms as the Defaulting Party’s Remaining Contract Obligations.

“Metric Ton” means a unit of mass equal to 1,000 kilograms

“MTSA” means the U.S. Maritime Transportation Security Act of 2002.

“Nomination” means written notice of a proposed Vessel containing all the information required.

“NOR” means the notice of readiness submitted by the Vessel’s master or its agent when the Vessel arrives at the Terminal, confirming that: (i) the Vessel has arrived at the Terminal, (ii) has completed all formalities, including any required coastguard inspections; and (iii) is in all ways ready, legally and operationally, to proceed to the berth and commence cargo operations. The Vessel will be considered to have arrived at the Terminal when it is at the customary berth, anchorage or fleeting area. If these conditions are not met, the NOR shall be considered invalid and the Vessel must re-tender NOR when the conditions for validity are met.

“NSV” means Net Standard Volume

“OBQ” means On Board Quantity

“Off-Spec Product” means any Product that does not conform to the quality specifications set forth in the applicable Confirmation.

“Q88” means Intertanko’s Standard Chartering Questionnaire 88.

“Remaining Contract Obligations” means, at any time, for a Transaction, the rights and obligations of each of the Parties that remain to be performed in respect of all periods after the Early Termination Date, provided, however, the Remaining Contract Obligations shall not include any payment obligation arising in connection with Products delivered or scheduled to be delivered prior to the Early Termination Date, which amounts shall be considered Unpaid Amounts.

“Seller” means the Party selling Products to the Buyer.

“Taxes” means any and all foreign, federal, state and local taxes (other than taxes on income), duties, fees and charges of every description on or applicable to the Products, including, but not limited to, all motor fuel, special fuel, diesel, excise, gross receipts, ad valorem, oil company franchise, environmental or spill taxes and fees, customs, duties, import fees and sales and use taxes, however designated, paid or incurred directly or indirectly with respect to the purchase, storage, exchange, use, transportation, resale, importation or handling of the Products.



“Termination Determination Date” means, for purposes of determining the Gain or Loss for any Transaction terminated pursuant to Article 12, the Early Termination Date or, if that is not reasonably practicable, the earliest date thereafter that is reasonably practicable.

“Termination Payment” has the meaning in Section 12.3.

“Third Parties” means leading dealers, brokers or industry participants trading the Products, as reasonably selected by the Performing Party.

“Tonne” means a unit of mass equal to 1,000 kilograms

“Transaction” means an agreement between the Parties to purchase, sell or exchange Products that is governed by these General Terms.

“Unpaid Amounts” means the net unpaid amount owed to the Performing Party or the Defaulting Party (expressed as a negative number) under (i) any Transaction in respect of any period ending on or before the Early Termination Date, including Transactions for which delivery was made on or before the Early Termination Date but payment therefore has not been made prior to such Early Termination Date or (ii) any Transaction that required physical delivery to a Party on or prior to such Early Termination Date and that has not been delivered on or prior to such date (which amount shall equal the fair market value reasonably determined of the Product that was required to be delivered as of the originally scheduled delivery date).

“VEF” means vessel experience factor calculated in accordance with standard industry practice.

“Vessel” unless otherwise indicated, means any inland barge, tow, ocean-going barge or ocean-going vessel or tanker.

“Weight on Board Ship” means the measurement and stowage factor or draft surveys

ARTICLE 1
AGREEMENT AND TRANSACTION PROCEDURES

- 1.1 **Commercial Term Sheet.**
The Commercial Term Sheet (the “CTS”) of a particular Transaction, as evidenced by signature and these General Terms shall constitute the Parties’ entire agreement as to such Transaction and shall be read and construed together.
- 1.2 **Agreement Formation.**
The Parties shall be deemed to have entered into a Transaction, and a Transaction shall become effective and binding upon the Parties, from the moment on a particular date (the “Trade Date”) when the Parties have agreed upon the terms of a Transaction via M&B sending the other Party (the “Receiving Party”) written communication confirming the terms of the Transaction, (a “CTS”).
- 1.3 **CTS Procedures.**
M&B shall send, by electronic mail, to the Receiving Party the CTS. Absent manifest error, the terms of the Transaction contained in M&B’s CTS, shall be deemed correct and binding on the Parties upon the Parties signing and returning the CTS. The Parties shall cooperate in good faith to reach mutual agreement as to any such objections.
- 1.4 **Priority of Terms.**
In the event of any inconsistency between these General Terms and the CTS, the terms of the CTS shall govern to the extent of such inconsistency.

ARTICLE 2
DELIVERY & RECEIPT

- 2.1 **Delivery & Receipt Method.**
The CTS shall specify the delivery or receipt location, the delivery or receipt method (Vessel, pipeline or shore tank,), whether delivery or receipt is to be made by Seller’s transportation, Buyer’s transportation or common carrier arranged by Seller or Buyer. When appropriate, the Parties also shall specify the applicable Incoterm that shall govern transportation of the Products and the Parties’ allocation of their respective duties, costs and risks. The use of any Incoterm in a CTS or a Transaction shall be deemed to incorporate the latest version of Incoterms as published by the International Chamber of Commerce.
- 2.2 **Marine Deliveries or Receipts.**
If delivery or receipt is to be made by Vessel, the latest version of M&B’s Vessel Provisions (Appendix A & B) shall govern and are incorporated in these General Terms, except where in conflict with the terms of the CTS.
- 2.3 **Title and Risk of Loss.**
Title to and risk of loss of the Products shall pass from Seller to Buyer as appropriate for the delivery method as described in this Section 2.3. Upon transfer of title, Buyer shall assume all responsibility for all losses, contamination and damages attributable to handling, transportation, resale and use of the Products.
- (a) In the case of FOB, CFR and CIF deliveries to a Vessel, when the Products pass the last permanent flange connection between the delivery hose and the hose connection of the Vessel at the loading terminal.
 - (b) In the case delivery is into or out of a pipeline, when the Products pass the downstream flange of the meter measuring the Products upon intake, or the upstream flange of the meter measuring the Products upon discharge.
 - (c) In the case delivery is into or out of any storage tank facility, as the Products enter or leave the tank.
 - (d) In the case delivery is by in-tank or in-line transfer, when the terminal or pipeline executes the transfer order.

ARTICLE 3
QUANTITY AND QUALITY DETERMINATION AND CLAIMS

- 3.1 **Specifications.**
The Products sold in a Transaction shall conform to the quality specifications identified in the CTS, taking into account any stated tolerances.
- 3.2 **Measurement.**
For petroleum products the quality and quantity of the Products shall be determined in accordance with the latest established API/ASTM standards for the method of delivery. All volumes shall be temperature corrected to sixty degrees Fahrenheit (60°F) in accordance with the latest supplement or amendment to ASTM-IP petroleum measurement tables. Quantities delivered into or from Vessels shall be measured by manual gauging using proven API-approved meters and static terminal tank gauges. If shore tanks are active or if the floating tank roofs are not afloat or clear of the critical zone or if the mutually acceptable third party independent petroleum inspector cannot verify the tank measurement prior to or after receipt or determines that the shore tank measurements are not representative of the volume delivered or received; then the quantity measurements shall be based on the Vessel's figures, adjusted with the applicable VEF, as calculated by the mutually acceptable third party independent petroleum inspector. Quantities delivered into or from pipelines shall be determined using calibrated pipeline meters (unless pipeline meter readings are not available, in which case storage tank physical gauging shall be used).
- For dry bulk soft commodities quality and quantity shall be determined in accordance with the latest standards for the method of delivery. Commodities will be weighed and measured by Automatic Bulk Grain Weighers, Conveyor Belt Weigh Systems or Stowage Factors and Draft Surveys.
- 3.3 **Inspection.**
Unless otherwise agreed, the inspection costs will be as outlined within the Vessel Provisions of this document. Certificates of quality and quantity issued by the mutually acceptable third party independent inspector shall be final and binding on both Parties absent manifest error or fraud.
- 3.4 **Off-Spec Products.**
Buyer may elect, at its sole discretion and at Seller's sole expense, to return any Off-Spec Products to Seller and Seller shall immediately remove such Off-Spec Product from Buyer's Vessel or shore tank. All reasonable costs, including clean out and demurrage costs associated with the delivery or receipt and removal of the Off-Spec Product shall be the sole liability and expense of the Seller. Buyer may elect to either purchase replacement Products or have the Seller replace the Off-Spec Products. Seller shall bear all reasonable costs and expenses associated with return and replacement of the Off-Spec Products. If Buyer purchases replacement Products, Seller shall reimburse Buyer upon receipt of Buyer's invoice for all cover costs, including the positive difference, if any, obtained by subtracting the contract price from the cost to Buyer, including incremental transportation and storage costs, to replace the Off-Spec Products pursuant to an arms-length purchase from a third party of the same quality of Product specified in the relevant Confirmation. If Buyer elects to accept the Off-Spec Products, the Parties shall agree in advance of returning the Off-Spec Product to the Seller on a reduced price that reflects such Product's market value and quality.
- 3.5 **Quality Claims.**
Any claim regarding the quality or quantity of any Products delivered or received shall be waived unless submitted to Seller in writing, together with supporting documentation and reasonable details of the facts on which the claim is based, within thirty (30) days from the date of delivery or receipt. The delivery or receipt date shall be determined by the bill of lading or other shipping document as appropriate for the delivery method.

ARTICLE 4
DISCLAIMER OF WARRANTIES

- 4.1 **OTHER THAN THE WARRANTY OF TITLE AND CONFORMANCE OF THE PRODUCTS TO THEIR QUALITY SPECIFICATIONS UNDER ANY TRANSACTION, SELLER MAKES NO OTHER REPRESENTATION OR WARRANTY, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING ANY REPRESENTATION OR WARRANTY THAT THE PRODUCTS WILL BE FIT, SUITABLE OR**



MERCHANTABLE FOR A PARTICULAR PURPOSE. SELLER EXPRESSLY DISCLAIMS ANY WARRANTY AGAINST INFRINGEMENT OF ANY PATENT, TRADEMARK OR COPYRIGHT.

ARTICLE 5
BILLING AND PAYMENTS

- 5.1 Invoices and Payment.
Promptly after delivery or receipt, Seller shall transmit to Buyer an invoice (email or electronic copies acceptable) for the purchase price of the Products and any other amounts due Seller under the Transaction, together with any supporting documents specified in the CTS as required for payment. Buyer shall remit payment without offset, counterclaim or deduction of any kind in US dollars by wire transfer or electronic funds transfer (as per payment method designated on Seller's invoice to Buyer) of immediately available funds. Buyer shall pay for marine deliveries against receipt of an original Seller's Letter of Indemnity, substantially in the form attached as Annex B, if full original shipping documents are not available.
- 5.2 Payment Due Date.
Unless otherwise specified in the applicable CTS, Buyer shall pay for Products within forty eight (48) hours of when physical delivery occurred after the date of receipt of Seller's invoice and any supporting documents specified in the CTS as required for payment (the date of receipt is day zero). If payment should fall due on a Non-Business Day, payment shall be made on the following Business Day. Invoices received after 5:00 PM Buyer's local time shall be considered to be received on the next Business Day.
- 5.3 Interest.
Interest shall accrue on late payments at a rate of 0.2% per calendar day from the date that payment is due until the date that payment is actually received by Seller. The payment of interest shall not be construed as Seller's agreement to extend credit to Buyer or to extend the payment due date.
- 5.4 Disputed Invoices.
If Buyer in good faith disputes the amount of Seller's invoice, it shall pay the undisputed portion of the invoice by the due date and inform Seller, prior to the due date, in writing, why it disagrees with the balance of the invoice amount. The Parties shall cooperate in resolving the dispute expeditiously. If the Parties agree that Buyer owes some or all of the disputed amount, Buyer shall pay such amount, together with interest accrued at the Interest Rate from the original due date, within two (2) Business Days from the date of their agreement.

ARTICLE 6
FINANCIAL RESPONSIBILITY

- 6.1 Provision of Financial Information.
Either Party (the "Requesting Party") may request that the other Party (the "Providing Party") provide it with information sufficient to enable the Requesting Party to ascertain the Providing Party's or its Guarantor's current financial condition and for the Requesting Party to assure itself of the Providing Party's and its Guarantor's ability to perform their obligations under any Transaction or Guarantee, respectively. The Requesting Party shall agree to abide by any confidentiality obligations that the Providing Party or its Guarantor may reasonably impose.
- 6.2 Assurances of Performance.
- (a) M&B may, in its sole discretion and upon notice to the other Party (the "Providing Party") or its Guarantor, require that the Parties or its Guarantor provide it with adequate assurances of the ability of the Parties or its Guarantor to perform any of its obligations under any Transaction or Guarantee, respectively, in an amount determined in a commercially reasonable manner, if M&B determines that reasonable grounds for insecurity exist with respect to the Parties' or its Guarantor's ability to perform its obligations under any Transaction or Guarantee, respectively.
- (b) Adequate assurance means security in an amount and format and from an entity acceptable to M&B, as determined in its sole discretion, in any of the following forms, as may be acceptable to M&B in its sole

discretion: prepayment, an irrevocable standby or documentary letter of credit issued or confirmed by a bank acceptable to the Requesting Party. Unless M&B specifies a later time period, the Parties or its Guarantor shall furnish the required security within two (2) Business Days following receipt of the Requesting Party's written demand.

- (c) All bank charges relating to any letter of credit and any other fees, commissions, costs and expenses incurred with respect to furnishing security shall be paid by the issuing Party or its Guarantor.
- (d) The failure of the Parties or its Guarantor to provide adequate assurances pursuant to this Section 6.2 within the time frame specified shall constitute an Event of Default under Article 12.

6.3 Collateral.

The Parties' rights under Section 6.2 shall be in addition to, and not superseded by, any requirements to deliver collateral as may be provided in any Collateral Annex between the Parties.

ARTICLE 7
TAXES

7.1 Notifications.

Each Party represents that, to the extent permissible by law, each Party may engage in tax-free Transactions with respect to the Products. Prior to the scheduled delivery or receipt; or book, stock or inventory transfer date, Buyer shall provide Seller with proper notification, exemption or resale certificates or direct pay permits. If no certificate or permit is furnished as provided above, Buyer shall be responsible for and shall pay to Seller all applicable Taxes paid or incurred by Seller directly or indirectly with respect to the purchase, storage, exchange, use, transportation, resale, importation or handling of the Products. Upon receipt of Seller's invoice, Buyer shall reimburse Seller for all said Taxes as provided above, together with all penalties and interest and Buyer shall indemnify Seller for any such Tax liability.

7.2 Transfers.

Seller may refuse to transfer title to Products in-tank to Buyer if Buyer is not a registered "position holder" in the same "approved terminal" unless Buyer demonstrates to Seller's satisfaction that the terminal will transfer the inventory position to such Products to a subsequent position holder.

7.3 Ad Valorem Taxes.

If any Governmental Authority assesses any ad valorem or personal property taxes against Products sold in a Transaction, the Party having title to the Products at the time such tax liability accrues shall be responsible for payment of such taxes.

ARTICLE 8
INSURANCE

- 8.1 Each Party is advised to obtain its own insurance coverage of risk of loss or contamination of the Products in addition to provisions outlined in the Vessel Provisions (Appendix A). The mere purchase and existence of insurance does not reduce or release either Party from any liability incurred or assumed under any Transaction.

ARTICLE 9
COMPLIANCE WITH LAWS

9.1 Duty to Comply.

In the performance of its duties under these General Terms and any Transaction, each Party shall comply in all material respects with all Applicable Laws, including all Environmental Laws. Each Party shall maintain the records required to be maintained by the Environmental Laws and shall make such records available to the other Party upon its request. Each Party also shall immediately notify the other Party in writing of any violation or alleged violation with respect to the Products sold under any Transaction and, upon request, shall provide the other Party with all evidence of environmental inspections or audits by any Governmental Authority with respect to such Products.

9.2 Pollution Prevention and Responsibility.

Upon the occurrence of any spill or discharge reportable under Applicable Law or other environmental pollution in connection with any transfer, delivery, transportation or receipt of Products, the Parties shall take any action required under Applicable Law, including actions to prevent or mitigate resulting pollution damage. Even if not required by Applicable Law, a Party may take such actions to prevent or mitigate pollution damage as it deems appropriate or is required by any Governmental Authority, in which case such Party shall notify the other Party immediately of any such actions, and shall take such actions in accordance with the National Contingency Plan, any other Applicable Law, or as may be directed by the relevant Coast Guard or any other Governmental Authority. If either Party incurs costs to clean up or contain a spill or discharge or to prevent or mitigate resulting pollution damage, such Party reserves any rights provided by law to recover such costs from the other Party or from any third party. If a third party is legally liable for such costs and expenses, each Party shall cooperate with the other Party for the purpose of obtaining reimbursement from such third party. Each Party also shall cooperate with the other Party for the purpose of obtaining reimbursement from any other applicable entity or source under UK Law. Each Party acknowledges that (i) no provision under any Transaction is intended to imply that a Party assumes any pollution liability for the benefit of or on behalf of the other Party and (ii) a Party shall not be liable to indemnify the other Party for any Liabilities in connection therewith, except as may be imposed under UK Law on an owner of Product or voyage chargers.

ARTICLE 10
FORCE MAJEURE

10.1 Performance Excused.

Neither Party shall be liable to the other Party if it is rendered unable by an event of Force Majeure to perform in whole or in part any obligation or condition of a Transaction for so long as the event of Force Majeure exists and to the extent that performance is hindered by the event of Force Majeure, provided, however, that the Party unable to perform shall use commercially reasonable efforts to avoid or remove the event of Force Majeure. During the period that a Party's performance of its obligations has been suspended in whole or in part by reason of an event of Force Majeure, the other Party likewise may suspend the performance of all or part of its obligations to the extent that such suspension is commercially reasonable, except for any payment and indemnification obligations related to Products received prior to such event.

10.2 Notice.

The Party rendered unable to perform shall notify the other Party within one (1) day after learning of the occurrence of a Force Majeure event, including, to the extent feasible, the details and the expected duration of the Force Majeure event and the volume of Products affected. Such Party also shall promptly notify the other Party when the Force Majeure event is terminated.

10.3 Termination.

If a Party's performance of a Transaction is suspended due to an event of Force Majeure in excess of thirty (30) days from the date that notice of such event is given, and so long as such event is continuing, either Party, in its sole discretion, may terminate the Transaction by written notice to the other Party, and neither Party shall have any further liability to the other Party in respect of such Transaction except for the rights and remedies previously accrued.

ARTICLE 11
INDEMNIFICATION

11.1 Duty to Indemnify.

Each Party (the "Indemnifying Party") shall indemnify and hold the other Party, its Affiliates, and their employees, directors, officers, representatives, agents and contractors (collectively, the "Indemnified Party") harmless from and against any and all Liabilities directly or indirectly arising from the Indemnifying Party's (i) breach of its obligations under a Transaction, (ii) failure to comply with Applicable Law with respect to the sale, transportation, storage, handling or disposal of the Products, unless and to such extent that such liability results from the Indemnified Party's gross negligence or wilful misconduct or (iii) representations, covenants or warranties made under these General Terms which prove to be materially incorrect or misleading when made.

11.2 No Third Party Rights.

The Parties' obligations to defend, indemnify and hold each other harmless under the terms of a Transaction shall not vest any rights in any third party, whether a Governmental Authority or private entity, nor shall they be considered an admission of liability or responsibility for any purposes other than those enumerated herein.

11.3 Notice of Claim.

The Indemnified Party shall notify the Indemnifying Party as soon as practicable after receiving notice of any claim, demand, suit or proceeding brought against it which may give rise to the Indemnifying Party's obligations under these General Terms (such claim, demand, suit or proceeding, a "Third Party Claim"), and shall furnish to the Indemnifying Party the complete details within its knowledge. Any delay or failure by the Indemnified Party to give notice to the Indemnifying Party shall not relieve the Indemnifying Party of its obligations except to the extent, if any, that the Indemnifying Party shall have been materially prejudiced by reason of such delay or failure.

11.4 Defence.

The Indemnifying Party shall have the right to assume the defence, at its own expense and by its own counsel, of any Third Party Claim; provided, however, that such counsel is reasonably acceptable to the Indemnified Party. Notwithstanding the Indemnifying Party's appointment of counsel to represent an Indemnified Party, the Indemnified Party shall have the right to employ separate counsel, and the Indemnifying Party shall bear the reasonable fees, costs and expenses of such separate counsel if (i) the use of counsel chosen by the Indemnifying Party to represent the Indemnified Party would present such counsel with a conflict of interest or (ii) the Indemnifying Party shall not have employed counsel to represent the Indemnified Party within a reasonable time after notice of the institution of such Third Party Claim. If requested by the Indemnifying Party, the Indemnified Party agrees to reasonably cooperate with the Indemnifying Party and its counsel in contesting any claim, demand or suit that the Indemnifying Party defends, including, if appropriate, making any counterclaim or cross complaint. All costs and expenses incurred in connection with the Indemnified Party's cooperation shall be borne by the Indemnifying Party.

11.5 Settlement.

No Third Party Claim may be settled or compromised (i) by the Indemnified Party without the consent of the Indemnifying Party or (ii) by the Indemnifying Party without the consent of the Indemnified Party. Notwithstanding the foregoing, an Indemnifying Party shall not be entitled to assume responsibility for and control of any judicial or administrative proceedings if such proceedings involves an Event of Default by the Indemnifying Party under these General Terms which shall have occurred and be continuing.

ARTICLE 12
DEFAULT AND LIQUIDATION

12.1 Event of Default.

Notwithstanding any other provision of these General Terms, or of any Transaction, or Guarantee, an Event of Default shall be deemed to occur when:

- (a) Either Party fails to make payment when due under any Transaction within one (1) Business Day following receipt of a demand for payment by the other Party.
- (b) Either Party fails to provide acceptable security or assurances of its ability to perform in accordance with Article 6 or fails to deliver collateral under any Collateral Annex within one (1) Business Day following receipt of a demand therefore, or such other period as may be specified in the Transaction, or a Collateral Annex.
- (c) Either Party fails to deliver Products as required by a CTS and such failure is not cured to the satisfaction of the other Party in its sole discretion, within three (3) Business Days following receipt of notice to such Party that corrective action is needed.
- (d) Either Party fails to perform or repudiates any obligation to the other Party under any Transaction (other than an event of Default described in Sections 12.1(a), (b) and (c), or breaches any representations, covenants or warranty in any material respect under any Transaction, that, if capable of being cured, is

not cured to the satisfaction of the other Party in its sole discretion, within five (5) Business Days following receipt of notice to such Party that corrective action is needed.

- (e) In respect of a party who has provided a Guarantee, its Guarantor (i) fails to satisfy, perform or comply with any obligation in accordance with such Guarantee issued in favour of the other Party if such failure continues after any applicable grace or notice period, (ii) breaches any representation, covenant or warranty or any representation proves to have been incorrect or misleading in any material respect under a Guarantee issued by a Guarantor in favour of the other Party, which is not cured to the satisfaction of the other Party, in its sole discretion, within any applicable grace or notice period or (iii) repudiates, disclaims, disaffirms or rejects, in whole or in part, any obligation under a Guarantee issued by a Guarantor in favour of the other Party, or challenges the validity of a Guarantee.
- (f) Either Party or its Guarantor becomes Bankrupt.
- (g) Either Party or its Guarantor consolidates or amalgamates with, merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, (i) the resulting, surviving or transferee entity fails to assume all of the obligations of such Party or Guarantor under any Transaction or under any Guarantee made pursuant to any Transaction, either by operation of law or by agreement satisfactory to the other Party or otherwise or, (ii) in the reasonable opinion of the other Party, the creditworthiness of the successor, surviving or transferee entity, taking into account any Guarantee, is materially weaker than immediately prior to the consolidation, amalgamation, merger or transfer.
- (h) An assignment by either Party in violation of the provisions of Article 15.

12.2 Remedies.

Notwithstanding any other provision of these General Terms, any Transaction or Guarantee, upon the occurrence of an Event of Default, that remains uncured for five (5) Business Days after notice from the Performing Party (as defined below) to the Defaulting Party (as defined below), with respect to either Party or its Guarantor (the “Defaulting Party”), the other Party (the “Performing Party”) may, in its sole discretion, in addition to all other remedies available to it and without incurring any liability to the Defaulting Party, its Guarantor or to third parties (for demurrage or any other costs arising from delay or otherwise), the Performing Party may do any one or more of the following: (i) withhold or suspend its obligations under any Transaction without prior notice to the Defaulting Party, (ii) proceed against the Defaulting Party or its Guarantor or both for damages occasioned by the Defaulting Party’s or Guarantor’s failure to perform, (iii) upon one (1) Business Day’s prior written notice to the Defaulting Party, immediately terminate and liquidate all Transactions between the Parties by calculating Settlement Payments in the manner set forth in Sections 12.3 and 12.4. Notwithstanding the foregoing, in the case of an Event of Default described in Section 12.1(f), no prior notice shall be required.

12.3 Early Termination Date.

When an Event of Default has occurred and is continuing, the Performing Party may, by notice given to the Defaulting Party, designate a date not earlier than the date of such notice (“Early Termination Date”) on which all Transactions shall terminate and the Performing Party shall then determine the Liquidation Amount as of the Termination Determination Date. The Performing Party shall notify the Defaulting Party of the Liquidation Amount due from or due to the Defaulting Party, after taking into account any collateral or margin held by either Party (“Termination Payment”), to be paid as provided in Section 12.4.

12.4 Termination Payment.

On the Early Termination Date or as soon as reasonably practicable thereafter, the Performing Party shall provide the Defaulting Party with a statement showing, in reasonable detail, the calculation of the Liquidation Amount and the Termination Payment, each as determined under Section 12.3. If the Performing Party owes the Termination Payment to the Defaulting Party, the Performing Party shall pay the Termination Payment once it has reasonably determined all amounts owed by the Defaulting Party to it under all Transactions. If the Defaulting Party owes the Termination Payment to the Performing Party, the Defaulting Party shall pay the Termination Payment on the first Business Day after it receives the statement.

12.5 Exercise of Rights.

The Performing Party may enforce any of its remedies under these General Terms. The Performing Party's rights under this Article 12 shall be in addition to, and not in limitation or exclusion of, any other rights of setoff, recoupment, combination of accounts, liens or other right which it may have, whether by agreement, operation of law or otherwise, provided, however, that (i) if the Performing Party elects to exercise its rights under Section 12.3, it shall do so with respect to all Transactions. No delay or failure on the part of a Performing Party to exercise any right or remedy shall constitute an abandonment of such right or remedy and the Performing Party shall be entitled to exercise such right or remedy at any time after an Event of Default has occurred. Each Party shall reimburse the other Party for its reasonable costs and expenses, including reasonable attorneys' fees, incurred in connection with the enforcement of, suing for or collecting any amounts payable by it under these General Terms or any Transaction.

ARTICLE 13
REPRESENTATIONS AND WARRANTIES

- 13.1 Each Party represents and warrants to the other Party, as of the date of each Transaction,
- (a) It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing.
 - (b) It has the corporate, governmental or other legal capacity, authority and power to execute, deliver and perform any Transaction, and has taken all necessary action to duly authorise the foregoing.
 - (c) The execution, delivery and performance of any Transaction does not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or Governmental Authority applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets that would impair a Party's ability to perform its obligations under any Transaction.
 - (d) Its obligations under any Transaction constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application regardless of whether enforcement is sought in a proceeding in equity or at law).
 - (e) There is not pending or, to its knowledge, threatened against it or its Guarantor any action, suit or proceeding at law or in equity or before any court, tribunal, Governmental Authority, official or any arbitrator that is likely to affect the legality, validity or enforceability against it of any Transaction or its ability to perform its obligations under any Transaction.
 - (f) It has entered into each Transaction as principal, and not as advisor, agent, broker, or in any other capacity, fiduciary or otherwise, with a full understanding of the material terms and risks of the same, and it is capable of assuming those risks.
 - (g) It has made its trading and investment decisions, including regarding the suitability thereof, based upon its own judgment and any advice from such advisors, as it has deemed necessary and not in reliance upon any view expressed by the other Party.
 - (h) In respect of any Transaction, the other Party (i) is acting solely in the capacity of an arm's-length contractual counterparty, (ii) is not acting as a financial advisor or fiduciary or in any similar capacity and (iii) has not given to it any assurance or guarantee as to the expected performance or result.
 - (i) Seller is not in default under any contract or agreement pertaining to the Product.
 - (j) Seller has free and clear title to the Product delivered in accordance with any Transaction.
 - (k) Product shall be delivered free from any lawful security interest, lien, taxes or encumbrances.

ARTICLE 14
NOTICES AND COMMUNICATIONS

- 14.1 All notices required or permitted hereunder shall be in writing and shall be served at the addresses set forth in the CTS as to the designated Buyer or Seller. Any such notices shall, unless otherwise provided herein, be given or served:
- (a) by depositing the same in the United Kingdom mail, postage paid, certified and addressed to the Party to be notified, with return receipt requested, or
 - (b) by overnight delivery using a nationally recognised overnight courier, or
 - (c) by personal delivery, or
 - (d) by electronic mail addressed to the electronic mail address set forth in the CTS for the Party to be notified with a read receipt request.

Notice given in accordance herewith for all permitted forms of notice other than by electronic mail, shall be effective upon the earlier to occur of actual delivery to the address of the addressee or refusal of receipt by the addressee (even if such addressee refuses delivery thereof). Notice given by electronic mail in accordance herewith shall be effective upon the entrance of such electronic mail into the information processing system designated by the recipient's electronic mail address. Except for electronic mail notices as described above, no notice hereunder shall be effective if sent or delivered by electronic means. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice.

ARTICLE 15
ASSIGNMENT

- 15.1 Consent to Assign.
Neither Party shall assign its rights or interests or delegate its obligations under a Transaction in whole or in part without the express written consent of the other Party.
- 15.2 Non-compliance.
Any attempted assignment of a Transaction in violation of this Article 15 shall be null and void *ab initio* and the non-assigning Party may, without prejudice to any other rights or remedies it may have hereunder or otherwise, terminate such Transaction effective upon notice to the Party attempting such assignment.

ARTICLE 16
GOVERNING LAW AND JURISDICTION

- 16.1 CHOICE OF LAW.
THE EXISTENCE, VALIDITY, INTERPRETATION AND ENFORCEMENT OF ANY TRANSACTION AND ANY CONTROVERSY OR CLAIM RELATED TO OR ARISING UNDER A TRANSACTION SHALL BE GOVERNED BY, INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE UNITED KINGDOM WITHOUT GIVING EFFECT TO ITS CONFLICTS OF LAWS PRINCIPLES.
- 16.2 Jurisdiction.
Each Party irrevocably submits to the nonexclusive jurisdiction of any court of competent jurisdiction situated in London, England or, if any court declines to exercise or does not have jurisdiction, in any court in England and to service of process by certified mail, delivered to the Party at its last designated address. Each Party irrevocably waives, to the fullest extent permitted by Applicable Law, any objection to the jurisdiction of any such court or to venue therein or any claim of inconvenient forum of such court or of sovereign immunity. FURTHER, EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY PROCEEDINGS RELATING TO ANY TRANSACTION. Nothing in these General Terms shall preclude either Party from bringing proceedings in any other jurisdiction in order to enforce any judgment or arbitration decision obtained in any proceeding covered by

this Article 16, nor shall the bringing of such enforcement proceeding in any one or more jurisdictions preclude the bringing of an enforcement proceeding in any other jurisdiction.

16.3 Limitation Period.

Except when a shorter period is expressly provided, any claim or dispute arising under any Transaction shall be made within two (2) years from the date of the events giving rise to the claim or shall be deemed waived and barred without recourse to litigation.

ARTICLE 17
ISPS COMPLIANCE

17.1 FOB Transactions.

For FOB sales, Buyer warrants that the Vessel complies with the ISPS Code and the MTSA. Seller warrants that the loading port and loading terminal are in compliance with the ISPS Code and the MTSA.

17.2 CIF/CFR Transactions.

For CIF/CFR sales, Buyer warrants that the discharge port and discharge terminal are in compliance with the ISPS Code and the MTSA. Seller warrants that the Vessel fully complies with the ISPS Code and the MTSA. In addition, upon Seller's breach of warranty, Buyer may give notice to Seller voiding the transfer of title and risk to Buyer retroactively to the time when such transfer occurred. If Buyer does not give such notice, Seller agrees to use best efforts to offload the cargo at a place that Buyer reasonably selects to receive it.

17.3 Generally.

In all cases, a Party that breaches any warranty set forth in this Article 17 shall indemnify the other Party against any resulting delays, demurrage, expenses, fines, penalties or other costs (excluding any consequential or indirect damages).

ARTICLE 18
LIMITATION ON DAMAGES

18.1 Except for the Parties' indemnification obligations set forth in these General Terms, or unless otherwise expressly provided in a Transaction, the Parties' liability for damages is limited to direct, actual damages only and neither Party shall be liable for specific performance, lost profits or other business interruption damages, or special, consequential, incidental, punitive, exemplary or indirect damages, in tort, contract or otherwise, of any kind, arising out of or in any way connected with the performance, the suspension of performance, the failure to perform, or the termination of a Transaction. Each Party acknowledges the duty to mitigate damages hereunder.

ARTICLE 19
CONFIDENTIALITY

19.1 Confidentiality.

The terms and conditions of any Transaction between the Parties are confidential and neither Party shall disclose them to any third party except (i) as may be required by court order, Applicable Law or a Governmental Authority or (ii) to such Party's or its Affiliates' employees, auditors, consultants, banks, financial advisors and legal advisors. The confidentiality obligations under these General Terms and any Transaction shall survive termination of any Transaction for a period of one (1) year.

19.2 Disclosure.

In the case of disclosure covered by sub clause (i) of Section 19.1, and if the disclosing Party's counsel advises that it is permissible to do so, the disclosing Party shall notify the other Party in writing of any proceeding of which it is aware which may result in disclosure, and use reasonable efforts to prevent or limit such disclosure. The Parties may exercise all remedies available at law or in equity to enforce or seek relief in connection with the confidentiality obligations contained in these General Terms and any Transaction.

ARTICLE 20
MISCELLANEOUS

- 20.1 **No Third Party Beneficiaries.**
Nothing expressed or implied in these General Terms is intended to create any rights, obligations or benefits in any person other than the Parties and their successors and permitted assigns.
- 20.2 **Entire Agreement.**
These General Terms, the CTS, and the Transaction into which they are incorporated constitute the entire agreement between the Parties as to such Transaction, and no representations or warranties shall be implied or provisions added in the absence of a written agreement to such effect between the Parties. These General Terms may not be amended or modified unless reduced to writing and executed by the Parties' duly authorised representatives.
- 20.3 **No Waiver.**
The failure of a Party to assert a right or enforce an obligation of the other Party shall not be deemed a waiver of such right or obligation. The waiver by any Party of a breach of any provision of, or Event of Default under, any Transaction shall not operate or be construed as a waiver of any other breach of that provision or as a waiver of any breach of another provision of, or Event of Default under such Transaction, whether of a like kind or different nature. Each right granted to either Party under these General Terms, or allowed it by law or equity, shall be cumulative and may be exercised from time to time in accordance with these General Terms and applicable law.
- 20.4 **Savings Clause.**
If any Article, Section or provision of these General Terms shall be determined to be null and void, voidable or invalid by a court of competent jurisdiction, then for such period that the same is void or invalid, it shall be deemed to be deleted and the remaining portions of these General Terms shall remain in full force and effect.
- 20.5 **Survival.**
All payment, confidentiality and indemnification obligations set forth in these General Terms shall survive the completion of delivery or receipt of Products under a Transaction as provided herein. A Party's payment obligation shall not be deemed fulfilled for so long as the payment has not been credited in full into the other Party's bank account.

ARTICLE 21
INTERPRETATIONS

- 21.1 **Interpretations.**
Unless otherwise specified, all references herein are to the Articles, Sections and Appendices of these General Terms. All headings are intended solely for convenience of reference and shall not affect the meaning or interpretation of the provisions hereof. Unless expressly provided otherwise, the word "including" as used herein does not limit the preceding words or terms. The Parties acknowledge that they and their counsel have reviewed these General Terms and that no presumption of contract interpretation or construction shall apply to the advantage or disadvantage of the drafter of these General Terms.

APPENDICES

APPENDIX A

VESSEL PROVISIONS, DEMURRAGE & LAYCANS

- 1.0 Requirements in respect of Vessels at the load Terminal or discharge Terminal:
 - 1.1. If any Vessel does not meet any of the following requirements of this Appendix A:
 - 1.1.1. at the load Terminal, the Seller or the Seller's supplier may refuse to berth, load or continue loading such Vessel; and/or
 - 1.1.2. at the discharge Terminal, the Buyer or the Buyer's receiver may refuse to berth, discharge or continue discharging such Vessel.
 - 1.2. Vessel Responsibility:
 - 1.2.1. FOB Provisions:
 - (a) For Tankers, the Buyer shall ensure that the Vessel has full and valid Protection and Indemnity ("P&I") insurance coverage and valid pollution liability insurance with a P&I Club that is a member of the International Group of P&I Clubs. The P&I insurance coverage shall be at no additional cost to the Seller and must include coverage against liability for loss and damage to the Goods for the full value of the Goods.
 - (b) For Inland Barges, the Buyer shall ensure that the Inland Barge has insurance coverage from a fixed premium insurer, including coverage for liability for loss and damage to the Goods for the full value of the Goods, and pollution coverage with a limit not less than \$100,000,000 USD. Nothing contained herein shall limit or waive the Vessel owner's legal or contractual responsibility to the charterer.
 - 1.2.2. CIF/CFR/Ex-Ship Provisions:
 - (a) For Tankers, the Seller shall ensure that the Vessel has full and valid P&I insurance coverage and valid pollution liability insurance with a P&I Club that is a member of the International Group of P&I Clubs. The P&I insurance coverage shall be at no additional cost to the Buyer, and must include coverage against liability for loss and damage to the Goods for the full value of the Goods.
 - (b) For Inland Barges, the Seller shall ensure that the Inland Barge has insurance coverage from a fixed premium insurer, including coverage for liability for loss and damage to the Goods for the full value of the Goods, and pollution coverage with a limit not less than \$100,000,000 USD. Nothing contained herein shall limit or waive Vessel owner's legal or contractual responsibility to the charterer.
 - 1.3. ISPS Code:
 - 1.3.1. FOB Provisions:
 - (a) The Buyer shall procure that the Vessel shall comply with the requirements of the ISPS Code and where the load Terminal is within the USA and U.S. territories or waters, with the MTSA or the equivalent of in other international destinations.
 - (b) The Vessel shall when required submit a DOS to the load Terminal when requested to do so.
 - (c) Notwithstanding any prior acceptance of the Vessel by the Seller, if at any time prior to the passing of title the Vessel ceases to comply with the requirements of the ISPS Code or MTSA:
 - (i) the Seller shall have the right not to berth such nominated Vessel and any demurrage resulting shall not be for the account of the Seller; and
 - (ii) the Buyer shall be obliged to substitute such nominated Vessel with a Vessel complying with the requirements of the ISPS Code and MTSA.
 - (d) The Seller shall procure that the load port/Terminal/installation shall comply with the requirements of the ISPS Code and if located within the USA and U.S. territories, with the MTSA. Subject always to subsection (e) below, any costs or expenses in respect of the Vessel, including demurrage or any additional charge, fee or duty, levied on the Vessel at the load Terminal and actually incurred by the Buyer resulting directly from the failure of the load port/Terminal/installation to comply with the ISPS Code and if located within the USA and U.S. territories, with the MTSA, shall be for the account of the Seller, including the time required or costs incurred by the Vessel in taking any action or any special or additional security measures required by the ISPS code or MTSA.
 - (e) Save where the Vessel has failed to comply with the requirements of the ISPS Code and within the USA and U.S. territories or waters, with the MTSA, the Seller shall be responsible for any demurrage actually incurred by the Buyer arising from delay to the Vessel at the load Terminal resulting directly from the Vessel being required by the Terminal facility or any relevant authority to take any action or any special or additional security measures or undergo additional inspections.
 - 1.3.2. CIF/CFR/Ex-Ship Provisions:

- (a) The Seller shall procure that the Vessel shall comply with the requirements of the ISPS Code and if located within the USA and U.S. territories or waters, with the MTSA.
- (b) The Vessel shall when required submit a DOS to the discharge Terminal when requested to do so.
- (c) Notwithstanding any prior acceptance of the Vessel by the Buyer, if at any time prior to the arrival of the Vessel at the discharge Terminal the Vessel ceases to comply with the requirements of the ISPS Code or MTSA:
 - (i) the Buyer shall have the right not to berth such Nominated Vessel at the discharge Terminal and any demurrage resulting shall not be for the account of the Buyer; and
 - (ii) the Seller shall be obligated to substitute such Nominated Vessel with a Vessel complying with the requirements of the ISPS Code and MTSA. If title and risk of loss to the Goods on board the Vessel subsequently substituted has already passed to the Buyer, such title and risk of loss shall be deemed to have reverted to the Seller.
- (d) The Buyer shall procure that the discharge Terminal / installation shall comply with the requirements of the ISPS Code and if located within the USA and U.S. territories, with the MTSA. Subject always to subsection (e) below, any costs or expenses in respect of the Vessel including demurrage or any additional charge, fee or duty levied on the Vessel at the discharge Terminal and actually incurred by the Seller resulting directly from the failure of the discharge Terminal/installation to comply with the ISPS Code and if located within the USA and U.S. territories, with the MTSA, shall be for the account of the Buyer, including the time required or costs incurred by the Vessel in taking any action or any special or additional security measures required by the ISPS Code or MTSA.
- (e) Save where the Vessel has failed to comply with the requirements of the ISPS Code and within the USA and U.S. territories or waters, with the MTSA, the Buyer shall be responsible for any demurrage actually incurred by the Seller arising from delay to the Vessel at the discharge Terminal resulting directly from the Vessel being required by the Terminal facility or any relevant authority to take any action or any special or additional security measures or undergo additional inspections.

1.4. Vessel Management:

The Vessel shall be manned, operated and maintained so as to fully comply with: (i) guidance provided within the latest edition of the ISGOTT; (ii) the Vessel's flag state requirements; and (iii) the OCIMF Guidelines for the Control of Drugs and Alcohol On-board Ship (1990), each as amended from time to time.

1.5. Closed loading and/or discharge:

Vessels which are loading/discharging a cargo must operate at all times in the Closed Operations mode. "Closed Operations" refers to the procedures whereby Vessels conduct cargo transfer and ballasting operations into cargo tanks, with tank apertures closed and with vapours being emitted only by means of the dedicated venting system which is designed to disperse vapour clear of working areas and possible ignition sources. For the purposes of this sub-clause:

- (a) "volatile" shall mean a liquid from which gas evaporates rapidly and shall be taken to include any naturally volatile Goods or any Goods being carried at a temperature which is higher than the flash point of the Goods minus 10 degrees Celsius;
- (b) "toxic" shall mean a poison which can affect personnel following inhalation, absorption or ingestion and shall be taken to include all Goods which give off vapours containing substances for which exposure limits are recommended as they may be hazardous to the health of personnel exposed to them; and
- (c) "noxious" shall mean harmful to personnel or the environment.

1.6. IGS:

In relation to any cargo, if it is required by Applicable Law for the Vessel to be fitted with an inert gas system ("IGS") and for such IGS to be operative and the cargo tanks inerted in order to lawfully load or discharge the Goods, the Vessel will not be permitted to berth or to load or discharge the Goods unless the IGS is in good order, operative and the cargo tanks inerted at all times. In the event that:

- (a) such Vessel arrives with the IGS inoperative, the Vessel will not be berthed until the IGS is operative and the cargo tanks inerted and until that time NOR shall not be given, or if given shall not be effective, and Laytime shall not commence until commencement of loading or discharge, as the case may be; or
- (b) the IGS fails after the Vessel has berthed, transfer operations shall be terminated immediately and the Vessel may be ordered to clear the berth until the IGS is fully operational and tanks are inerted to the pre-arrival condition. Costs and time associated with Vessel movement for IGS repair shall be for the account of the FOB Buyer or the CIF/CFR/Ex Ship Seller (as the case may be). The use of temporary or substitute equipment or procedures to correct IGS malfunctions must be accepted by the other Party prior to re-admittance to the relevant Terminal, or for continuation of Vessel loading/discharging at the Terminal.

Any Vessel time lost as a result of the Vessel not complying with all of the provisions in this section shall not count as used laytime or as time on demurrage.

- 1.7. Overboard Discharges:
The Vessel must comply with all applicable Ballast Water Management System (BWMS) regulations in effect for its flag and the ports called. The overboard discharge of bilges, slops or sewage within the confines of the relevant Terminal is forbidden.
- 1.8. Port Regulations:
The Vessel shall at all times remain compliant with all local laws and government regulations in effect at the point of operation.
- 1.9. Automated Manifest System:
Where the Terminal is located within the USA or US Territories, the Buyer shall exercise reasonable efforts to ensure that the Vessel is aware of the requirements of the U.S. Bureau of Customs and Border Protection ruling issued on December 5, 2003 under Federal Register Part II Department of Homeland Security 19 CFR Parts 4 and 103 and will comply fully with these requirements for entering US Terminals (including the requirements of the Automated Manifest System).
If the Terminal is changed at the Seller's request such that, despite the Buyer exercising commercially reasonable efforts, the Buyer's Nominated Vessel is unable to comply with the notification period required by the US Bureau of Customs and Border Protection ruling issued on December 5, 2003 under Federal Register Part II Department of Homeland Security 19 CFR Parts 4 and 103, (including the requirements of the Automated Manifest System), then any delay directly resulting from such non-compliance shall be for the Seller's account and the Buyer shall not be liable for failure of performance directly resulting from such non-compliance.
- 1.10 Non-Cargo Shipments:
Under all delivery terms, and with priority over any rule or tariff, no vessel will be required to load, ship or transport slops, waste, non-cargo line fills, produced water, drill fluids, or any other non-cargo material; even for purposes of admixture, line return, or recycling. Any cost, expense, lost time, or other financial exposure due to such a terminal demand shall be for the account, as relevant, the FOB Seller, the CIF/CFR Buyer or the Ex Ship Buyer.

FOB – FREE ON BOARD TRANSACTIONS

- 1.0 Delivery
- 1.1 The Goods shall be delivered by the Seller to the Buyer FOB at the load Terminal.
- 2.0 Measurement and Sampling; Independent Inspection
- 2.1 Performance of Measurement and Sampling Obligations:
 - 2.1.1 The Parties shall jointly agree on an independent inspector to perform all Measurements. The Seller shall arrange for access by such inspector to the load Terminal. All costs associated with a Measurement shall be shared equally between the Parties.
 - 2.1.2 Subject to FOB Sections 2.1.3 and 2.1.4, and unless otherwise mutually agreed by the Parties in writing, Measurements shall be carried out in accordance with Approved Industry Practice. The Parties each agree to instruct the inspector to provide Inspector's Reports to both Parties. In the event the inspector fails to send the Inspector's Reports to both Parties, the Party receiving the report shall deliver a copy of the report to the other Party on its request.
 - 2.1.3 Quantity shall be measured using, in order of precedence:
 - (a) for crude oil, fuel oil, vacuum gasoil and residual fuel, by
 - (i) the load Terminal's calibrated meter; or if none;
 - (ii) shore tank measurements taken immediately before and immediately after loading from shore tanks that are static and which at all times have the floating roofs afloat and are above the critical zone by a minimum of six (6) inches; or failing that,
 - (iii) the Vessel's receiving figures for the NSV on board at the completion of loading, less any OBQ of the Goods present at the time loading commences, corrected by the Vessel's valid load VEF; and
 - (b) for all other Goods, by
 - (i) shore tank measurements taken immediately before and immediately after loading from shore tanks that are static and which at all times have the floating roofs afloat and are above the critical zone by a minimum of two (2) inches for gasoline or gasoline components and six (6) inches for all other Goods, or failing that,

- (ii) the Vessel's receiving figures for the NSV on board at the completion of loading, less any OBQ of the Goods present at the time of the Goods present at the time loading commences, corrected by the Vessel's valid load VEF, or failing that
 - (iii) the load Terminal's calibrated meter.
- 2.1.4 Subject to FOB Section 2.3, quality shall be determined by
 - (a) Seller's static shore tank or, if active,
 - (b) inline sampling at the Vessel's manifold at the time of the loading of the Vessel at the load Terminal, or, if not available, then
 - (c) by volumetrically correct composite sampling of the Vessel's tanks at the time of loading.
- 2.1.5 The Buyer may at its own expense, upon prior reasonable notice to the Seller, require the Seller to use reasonable efforts to allow the Buyer's representative to witness any Measurements.
- 2.2 Inspector's Reports:
The Inspector's Reports shall be used to prepare invoices hereunder. For invoicing purposes, all volumes shall be net volumes with full deduction for all sediment and water and free water content shall be made according to Approved Industry Practice, and the quantity shall be adjusted to sixty (60) degrees Fahrenheit (or fifteen point six (15.6) degrees Centigrade) using the appropriate tables.
- 2.3 Blending, Dyeing and Addition of Additives: Without prejudice to Article 3, the Seller may: (a) blend Goods; (b) add or inject dye; and/or (c) add additives to the Goods on board the Vessel during and/or after loading but always prior to sailing (each, an "On-Board Operation"), provided always that any delay arising solely out of or in connection with such activity shall be for the Seller's account. In particular, where agreed in the CTS that the specification for the Goods shall be the Vessel composite, the Buyer shall confirm in its Nomination pursuant to FOB Section 5 that the Vessel is fully capable of blending evenly during loading operations. The Seller shall provide, at its own cost, a representative to supervise the On-Board Operation. The Buyer, as the charterer of the Vessel, shall direct the Vessel to comply with the Seller's reasonable instructions for the On-Board Operations, and shall otherwise assist the Seller in ensuring the On-Board Operation is done properly. Quality shall be measured by sampling of the Vessel composite after completion of the On-Board Operation.
- 3.0 Title and Risk of Loss
- 3.1 Title to and risk of loss or damage to any Goods delivered shall be transferred from the Seller to the Buyer as the Goods pass the Vessel's permanent manifold connection at the load Terminal.
- 4.0 Laydays
- 4.1 The "Laydays" are the day or range of days in which the Buyer's Vessel must tender NOR at the load Terminal
- 4.2 The Laydays shall be either specified in the CTS or determined in accordance with the procedure specified in the CTS.
- 5.0 Nominations of Vessels, Rejection, Substitution, etc.
- 5.1 Full Cargo and Part Cargo:
The Buyer may elect to take delivery of the Goods as either a full cargo or part cargo, provided that, where there will be a part cargo delivery by more than one Vessel or from more than one Terminal, it shall be subject to the prior agreement of the Seller and the load Terminal Operator.
- 5.2 Nomination of Vessels:
- 5.2.1 The Buyer shall nominate in writing to the Seller each Vessel that will load Goods pursuant to any transaction hereunder. Subject to FOB Section 2.3, the Buyer's Nomination shall include:
 - (a) a completed and accurate Q88 or the information that would be required in a completed Q88;
 - (b) the grade and approximate quantity to be loaded;
 - (c) the ETA of the Vessel at the load Terminal;
 - (d) the destination of the Vessel prior to its arrival at the load Terminal;
 - (e) full written instructions regarding the particulars and destination of the bills of lading and such other customary load Terminal documentation which may be required; and
 - (f) full details of any cargo on board or to be loaded on board if loading a part cargo.
- 5.2.2 The Buyer must deliver its Nomination to the Seller no later than the fifth day prior to the first day of the Laydays. Notwithstanding the foregoing, if the Seller receives the Buyer's Nomination after such fifth day and the Seller accepts such Nomination pursuant to FOB Section 5.4, such Nomination shall be deemed effective; provided, however, subject to FOB Sections 6.2.1 and 7.2, running Laytime allowed for the Seller to load the Goods in accordance with FOB Section 7 shall not commence until such time as the Vessel has been approved by the Seller in accordance with FOB Section 4.4 and the Vessel has actually commenced loading. In the event this Agreement is entered into five (5) or fewer days prior to the first day of the Laydays, the Buyer's Nomination must be received by the Seller no fewer than two (2) days prior to the first day of the Laydays.

- 5.3 Vessel Substitution:
The Buyer may nominate a substitute Vessel for any Vessel previously nominated pursuant to FOB Section 5.2 and must nominate a substitute Vessel for any Vessel rejected by the Seller pursuant to FOB Section 5.4. With respect to any such substitution:
- 5.3.1 the size of the substitute Vessel and the quantity of Goods to be loaded shall not, without the Seller's prior written consent, materially differ from the size of the Vessel previously nominated and the quantity of Goods specified in such prior Nomination;
- 5.3.2 the Laydays which would have applied in respect of the Buyer's originally-nominated Vessel shall apply to the substitute Vessel; and
- 5.3.3 the Buyer shall provide the Seller with written notice of the substitution containing all information that would have been required had the substitute Vessel been originally nominated pursuant to FOB Section 5.2 by the later of:
- (a) one (1) Business Day following the Buyer's fixing of such Vessel "sub-details"; and
 - (b) the earlier of the ETA of the substitute Vessel or the ETA of the Buyer's originally-nominated Vessel.
- 5.4 Acceptance or Rejection of Vessels and Consequences of Rejection:
- 5.4.1 The Seller shall deliver written notice to the Buyer accepting or rejecting any Vessel nominated by the Buyer within one (1) Business Day of the Seller's receipt of the Buyer's Nomination.
- 5.4.2 Notwithstanding anything to the contrary, the Seller shall have the right:
- (a) to reject, on any reasonable ground, any Nomination made by the Buyer, including where the Seller determines that the Vessel is unacceptable under the Seller's documented vessel assurance requirements;
 - (b) to refuse, on any reasonable ground, to load any Vessel named in a Nomination;
 - (c) to reject a Vessel, notwithstanding any prior acceptance of such Vessel (whether named in the CTS or nominated or substituted pursuant to FOB Sections 5.2 or 5.3), if, at any time after such prior acceptance, more recent information becomes available to the Seller that reasonably indicates that the Vessel and/or its crew is unsafe for the performance of the voyage in question.
- 5.4.3 In the event a rejection, delay, or other restriction of the Vessel occurs as a direct result of the application of any Applicable Law, the requirements of this FOB Section 5, or the applicable requirements of this Vessel provisions document::
- (a) the Seller shall not be liable for the consequences of such rejection, delay or restriction, and any time consumed as a result thereof shall not count as used Laytime or, if the Vessel is on demurrage, as time on demurrage;
 - (b) the Buyer shall be liable for any direct costs or damages incurred by the Seller:
 - (i) arising out of any such rejection, delay or restriction; and/or
 - (ii) resulting from any delays in loading the Goods hereunder due to the failure by the Buyer to comply with the requirements of this FOB Section 5 in a timely manner; and
 - (c) the Buyer's obligations under the Agreement to nominate a suitable Vessel in accordance with FOB Section 5.2 and to ensure that it tenders NOR at the load Terminal in accordance with FOB Section 6.1.2 shall be unaffected.
- 5.5 Vessel Requirements:
The Vessel shall comply with:
- (a) Applicable Law; and
 - (b) the applicable requirements set out in this Vessel Provisions document.
- 5.6 Changes in Procedures:
Without prejudice to the Buyer's rights and obligations as set out in FOB Section 6.3.1, and upon prior written notice from the Seller to the Buyer, the Seller may modify terms agreed to between the Parties pursuant to this FOB Section 5 to take account of changes in the Nomination and/or other procedures applicable from time to time at the load Terminal.
- 5.7 Prompt Delivery:
If the date of the Agreement is later than any of the dates for notifications, Nominations, procedures and/or any other obligations specified in the CTS or these GTCs, then both Parties shall use best efforts to complete, within two (2) Business Days of the date of the Agreement, any outstanding time limited requirements, notifications, Nominations, procedures and/or any other obligations which would have preceded the date of the Agreement.
- 6.0 Arrival of Vessel, Berth, etc.
- 6.1 Arrival of Vessel:
- 6.1.1 The Buyer shall notify the Seller and the load Terminal of the Vessel's ETA on request of the Seller, and otherwise in accordance with the standard reporting procedure applicable from time to time at the load Terminal. If the Buyer's Vessel fails, for any reason, to give at least twenty four (24) hours' prior notice of arrival at the load

Terminal, the time allowed to the Seller for loading pursuant to FOB Section 7.2 shall be extended by a period equal to the delay in giving such twenty four (24) hours' notice, but in any case not exceeding an additional twenty four (24) hours.

- 6.1.2 The Buyer shall ensure that the NOR has been tendered by no later than 24:00 hours (local time) on the last day of the Laydays. In the event that the Buyer fails to tender NOR by such time, the Seller shall be entitled to recover from the Buyer any damages available to the Seller under the Agreement or at law as a result of such failure and, in addition to such damages, where:
- (a) subject to Section 6.1.2 (b), NOR has not been tendered within five (5) days of the last day of the Laydays, the Seller shall be entitled to terminate this Agreement upon notice to the Buyer; or
 - (b) the Goods are crude oil and NOR has not been tendered within ten (10) days of the last day of the Laydays, the Seller shall be entitled to terminate this Agreement upon notice to the Buyer.
- 6.1.3 Once NOR has been tendered pursuant to this FOB Section 6 and subject to FOB Section 7 , the Buyer shall be obligated to receive delivery of the Goods in accordance with FOB Section 6.2.
- 6.2 Loading:
- 6.2.1 Unless otherwise agreed in writing by the Seller, the Seller shall not be under any obligation to commence loading of the Goods prior to 06:00 hours (local time) on the first (1st) day of the Laydays.
- 6.2.2 After receipt of the NOR, the Seller, subject to:
- (a) the requirements and procedures of the load Terminal;
 - (b) FOB Sections 7.3.1 (c) or 7.3.2(c) (as relevant);
 - (c) the time when the Vessel has complied with the provisions of FOB Section 6.1, shall commence and complete loading in a commercially reasonable manner, even if this means the loading is completed outside the Laydays.
- 6.3 Vessel Berths:
- 6.3.1 Subject to compliance by the Buyer and its nominated Vessel with all other requirements of the load Terminal at the time in question, the Seller shall use due diligence to provide a safe berth, free of wharfage for a normal cargo transfer.
- 6.3.2 The Seller shall at all material times and at no expense to the Buyer cause to be provided and maintained, in good working order, all necessary flexible hoses, connections, pipelines and tankage facilities necessary for the loading of the Buyer's Vessel.
- 6.3.3 The Seller shall not be deemed to warrant the safety of any channel, fairway, anchorage, or other waterway used in approaching or departing from the berth and shall not be liable for:
- (a) any loss, damage, injury, or delay to the Vessel resulting from the use of such waterways; or
 - (b) any damage to the Vessel caused by other vessels passing in the waterway either while in transit or while at the berth. If, while the Vessel nominated by the Buyer is approaching, entering or departing from or is present in the berth, the length, draft or other dimensions of such Vessel shall exceed the length, draft or other dimensions so ascertained for the berth in question for whatever reason, the Seller shall not be liable for any loss or damage caused as a result thereof and the Seller shall not be obligated to commence or continue loading.
- 6.4 Vacation of Berth:
- 6.4.1 The Buyer shall ensure that the Vessel vacates the berth as soon as hoses have been disconnected following loading, provided that such Vessel's departure is not delayed awaiting production of load Terminal documents, unless:
- (a) such documents can be delivered to the Vessel at a suitable anchorage; or
 - (b) an early departure procedure can be applied.
- 6.4.2 If the Vessel fails to vacate the berth, other than for reasons attributable to the Seller, its supplier or the load Terminal operator:
- (a) any loss or damage suffered by the Seller or its supplier resulting from such failure shall be paid by the Buyer to the Seller; and
 - (b) any excess berth utilization charge imposed on the Seller in respect of the Buyer's Vessel at the load Terminal in accordance with either Applicable Law or a contractually agreed or other established scale, shall be for the account of the Buyer who shall reimburse and indemnify the Seller for such charges.
- 6.5 Vessel Shifting:
- 6.5.1 The Buyer agrees to shift the Vessel's berth to another berth or to anchorage if so requested by either the load Terminal or the Seller.
- 6.5.2 When shifting is done for the convenience of the load Terminal or the Seller, the Seller shall pay all pilot, tug, and load Terminal expenses incurred in shifting the Vessel, and the time consumed on account of shifting shall count as used Laytime or, if the Vessel is on demurrage, as time on demurrage.

- 6.5.3 Save as provided in FOB Section 6.5.2, when shifting is required for any other reason, including due to an unsafe condition or breakdown of the Vessel or her crew, the Buyer shall be responsible for and shall indemnify the Seller for all related expenses and the time shall not count as Laytime or, if the Vessel is on demurrage, as time on demurrage.
- 6.5.4 If the Vessel's master determines that he/she requires a stand-by tug for assistance, and tug assistance is not required by the Terminal, the Buyer shall be responsible for and shall indemnify the Seller for all resulting delays or costs related to the tug assistance, and the time shall not count as Laytime or, if the Vessel is on demurrage, as time on demurrage.
- 6.6 Lightering, Vessel-to-Vessel and Transshipment Transfer Operations:
- 6.6.1 Either Party may, upon prior written notice to the other Party, exercise the option to load the nominated Vessel by Lightering, Vessel-to-Vessel, or transshipment transfer operations. The requesting Party shall be responsible for the risk thereof and shall pay and indemnify the other Party for the cost of such operations (together with any additional expenses reasonably incurred by the Vessel in respect thereof). In the event that:
- (a) the Buyer is the requesting Party, any Vessel proposed by the Buyer to perform these operations may be rejected by the Seller on any basis as may be set out in FOB Section 5.4 which shall be equally applicable to this Section; and
 - (b) the Seller is the requesting Party, the Buyer shall have the right to reject any Vessel proposed by the Seller to perform these operations on any reasonable ground. The requesting Party shall pay, be liable for and indemnify the other Party for any losses, costs, damages and proceedings arising from any Lightering, Vessel-to-Vessel or transshipment transfer operations.
- 6.6.2 Any Lightering, Vessel-to-Vessel transfer operations, or transshipment shall be carried out in accordance with the procedures set out in the ICS/ OCIMF ship-to-ship transfer guide and MARPOL as amended by Resolution MEPC.186 (59), Chapter 8: Prevention of Pollution during Transfer of Oil Cargo between Oil Tankers at Sea, Regulations 40, 41, 42 for the transfer of Crude Oil and Petroleum Products or any modifications thereto. Any Lightering, Vessel-to-Vessel, or transshipment transfer operations, whether at sea or inside the load Terminal limits, shall always be performed at a location considered safe and acceptable to both the owner of the nominated Vessel and the other Party. The Party requesting the Lightering, Vessel-to-Vessel or transshipment transfer operation must notify the place of Lightering, Vessel-to-Vessel or transshipment transfer operation to the nominated Vessel and the other Party when NOR is tendered. The place of Lightering, Vessel-to-Vessel or transshipment transfer operation so notified shall be deemed to be the berth for purposes of this FOB Section and FOB Section 7, and all references therein to the berth shall be construed accordingly.
- 6.6.3 In relation to any dispute as to quantity when Lightering, Vessel-to-Vessel or transshipment operations have been undertaken, the figures of the nominated Vessel shall prevail, subject always to the provisions of Article 3.
- 6.6.4 Article 18 shall not apply to this FOB Section 6.6.
- 6.7 Fees and Other Charges at the Load Terminal:
- 6.7.1 The Buyer shall be solely liable for, and shall reimburse and indemnify the Seller of all dockage and service fees incurred in respect of the Vessel at the load Terminal, including those for mooring, tugs, pilots, port costs (including fleeting and quay), fresh water, steam, and oily slops receipts, but excluding, for the avoidance of doubt, any taxes, imposts and dues on the Vessel at the load Terminal which are more fully referred to in, and recoverable under, Article 7.
- 6.7.2 Any claims by the Seller for reimbursement of these dockage and service fees by the Buyer must be made by written notice delivered to the Buyer within one hundred and eighty (180) days of the date of title transfer and shall be accompanied with supporting documentation and reasonable details of the facts on which the claim is based. Any claim submitted after the relevant notice period is deemed waived.
- 7.0 Delays, Time Allowed and Demurrage
- 7.1 Delays and demurrage:
- If the shipment is not loaded within the time allowed in accordance with FOB Section 7.2, the Seller shall pay to the Buyer demurrage, in the same currency as is prescribed for payment of the Goods delivered under the Agreement, in respect of the excess time at the appropriate rate per day (or pro rata for part of a day) as specified in this FOB Section, subject to FOB Sections 5.4.3, 7.2, 7.3, 7.4 and the following conditions:
- 7.1.1 The Seller shall pay demurrage at the rate specified below for each running hour and pro rata for each part of an hour, for all time that running Laytime (as calculated pursuant to FOB Section 7.3) exceeds the allowed Laytime. Should the Vessel be loaded for the account of two (2) or more parties at a single Terminal or at single berth (as the case may be), the Seller shall be liable only for:
- (a) its pro rata share of demurrage based on the part cargo loaded for the Seller's account at such Terminal or single berth (as applicable) as a percentage of total gross volume of the Goods loaded at that Terminal or berth (as applicable); and

- (b) its share of time waiting for the berth based on its cargo volume loaded for its account as a percentage of the total gross cargo loaded at such berth. However, the Seller shall not be liable for any portion of Laytime used which is solely attributable to the other party.
- 7.1.2 For a Tanker and an Ocean-Going Barge, the demurrage rate shall be, in order of precedence:
- (a) the rate, if any, specified in the CTS;
 - (b) the demurrage rate or overtime rate, if applicable, specified in the voyage charterparty, or if neither (a) nor (b) apply; then (c) the market rate current on the date the Laytime commences for a Vessel of the size and type appropriate to the Vessel's cargo for a single voyage charter from the load Terminal to the Buyer's discharge Terminal. In determining the market rate:
 - (i) each Party shall refer to an independent broker;
 - (ii) each independent broker shall give a written opinion about the spot market level on the day Vessel berthed, and the rate used shall be based on the arithmetic mean of the two (2) levels, provided the two (2) levels do not differ by more than twenty (20) percent;
 - (iii) in the event the two (2) levels specified by the independent brokers differ by more than twenty (20) percent, each Party shall refer the matter to another broker who shall each give a written opinion on the spot market level, using a rate based on the arithmetic mean of the two new levels, provided these levels do not differ more than twenty (20) percent; and
 - (iv) in the event the levels in (iii) differ more than twenty (20) percent, the arithmetic mean of the middle two (2) of the four (4) specified levels shall be used.
- 7.1.3 For an Inland Barge, the demurrage rate shall be, in order of precedence:
- (a) the rate, if any, specified in the CTS; or
 - (b) the rate specified in the voyage charterparty; or, if neither (a) or (b) apply; (c) the daily hire rate of the Inland Barge on the date the Laytime commences.
- 7.1.4 Any demurrage claim must be delivered in writing:
- (a) by the Buyer to the Seller within ninety (90) days of the date of disconnection of loading hoses; and
 - (b) must include a statement of claim setting out the demurrage calculation and all supporting documentation substantiating each and every constituent part of the calculation in respect of the demurrage claim. In the event the Buyer fails to comply with the requirements in the preceding sentence with respect to any demurrage claim, such claim shall be deemed to be waived and the Seller shall be discharged and released from all liability in respect of any demurrage claims which the Buyer may have against the Seller under this Section with respect to such occurrence.
- 7.2 Allowed Laytime: Laytime shall be:
- 7.2.1 In the case of a Tanker or Ocean-Going Barge, where the Goods comprise a cargo of:
- | | |
|--|--------------------------|
| (a) 24,999 barrels or fewer | twelve (12) hrs; |
| (b) between 25,000 barrels to and including 99,999 Barrels : | twenty (20) hrs; |
| (c) between 100,000 barrels to and including 149,999 Barrels | twenty four (24) hrs; or |
| (d) 150,000 barrels or greater | thirty six (36) hrs. |
- 7.2.2 In the case of an Inland Barge, where the Goods comprise a cargo of 25,000 barrels or greater, shall be three (3) hours plus such amount based either:
- (a) on the applicable charterparty terms, or, in the absence thereof;
 - (b) one hour for each 2,500 barrels discharged, provided that, in either case, Laytime shall never be less than twelve (12) hours. All days, including all holidays, shall be included in such allowed Laytime unless loading on the day or holiday in question is prohibited by Applicable Law.
- 7.3 Running Laytime Hours:
- 7.3.1 Subject to FOB Sections 7.3.3 and 7.3.7, when a Tanker or Ocean-Going Barge tenders NOR:
- (a) within the Laydays in accordance with FOB Section 6.1.2, running Laytime shall commence (berth or no berth) as of the earlier of:
 - (i) six (6) hours after the Seller's receipt of such NOR; or
 - (ii) when such Vessel is All Fast;
 - (b) earlier than the Laydays, running Laytime shall commence as of the earlier of:
 - (i) 06:00 hours local time on the first day of the specified Laydays; or
 - (ii) when such Vessel is All Fast; or
 - (c) after the last day of the Laydays and is accepted for loading by the Seller in its sole and absolute discretion, then, without prejudice to any of the Seller's other rights, running Laytime shall commence when such Vessel is All Fast.
- 7.3.2 Subject to FOB Sections 7.3.3 and 7.3.7, when an Inland Barge:
- (a) tenders NOR within the Laydays, running Laytime shall commence upon its arrival;

- (b) tenders NOR earlier than the Laydays, running Laytime shall commence as of the earlier of:
 - (i) 00:01 hours on the first day of the Laydays; or
 - (ii) when the Inland Barge is All Fast; or
 - (c) arrives after the last day of the Laydays and is accepted for loading by the Seller in its sole and absolute discretion, then, without prejudice to any of the Seller's other rights, running Laytime shall commence when the Inland Barge is All Fast.
- 7.3.3 When a Vessel is loaded at a Public Dock, Laytime shall commence when the Vessel is All Fast. "Public Dock" for the purposes of this FOB Section 7.3.3 means any marine terminal facility for handling cargo to or from Vessels requiring a wharf, dock, quay or buoy, that is
- (a) not operated by the Seller or any of its Affiliates, and
 - (b) which berths Vessels on a first come, first served basis, subject to dock availability.
- 7.3.4 For purposes of calculating running Laytime, running Laytime shall end when the Vessel's cargo hoses are disconnected.
- 7.3.5 After NOR has been tendered and Laytime has commenced, any delay arising from a Force Majeure Event shall count as one half running Laytime or, if the Vessel is on demurrage, as one half the time on demurrage, provided that:
- (a) Article 10 with regard to the giving of notices only shall not apply to this FOB Section 7.3.5; and
 - (b) if the Force Majeure Event continues for a period of fifteen (15) days, any such delay shall count as full running Laytime or, if the Vessel is on demurrage, as full time on demurrage.
- 7.3.6 All time used for extra sampling and analysis to determine the quality of the Goods will be for the account of the Party requesting the extra tests, provided however that, if the Goods prove to be off specification, the Seller shall be liable for all costs, including running Laytime or demurrage, related to the extra sampling and analysis.
- 7.4 Laytime Exceptions:
- In addition to any deductions from running Laytime set out in FOB Sections 5.4.3, 6.5 or 7.3, any time consumed due to, but not limited to, any of the following situations shall not count as Laytime or, if the Vessel is on demurrage, as time on demurrage:
- 7.4.1 on inward passage from the time the Vessel passes the customary point of entry into the load Terminal until it is All Fast at berth, or from the time the Vessel passes the customary point of entry into the load Terminal until the Vessel is secure at anchorage and from the time the Vessel weighs anchor until it is All Fast at berth;
 - 7.4.2 time awaiting Free Pratique, except if concurrent with cargo-related operations or customarily given after All Fast;
 - 7.4.3 time awaiting pilots, tugs, tides or daylight, provided however that the Seller shall only be entitled to deduct time awaiting one tide and/or one wait for daylight immediately preceding berthing. If during this waiting period the dock or berth is not available, the exclusions for waiting pilots, tugs, tide or daylight shall not apply;
 - 7.4.4 restrictions imposed by the owner, charterer, or master of the Vessel, or load Terminal authority including load Terminal closure or prohibitions on cargo operations at night;
 - 7.4.5 discharging slops; cleaning and inspection of the Vessel's tanks, pumps, pipelines (but excluding any time spent on inspection of the Goods themselves pursuant to FOB Section 2); ballasting or de-ballasting; bunkering; or for these and any other purposes of the Vessel unless such operations are performed concurrent with cargo operations and do not delay cargo operations;
 - 7.4.6 overflow, breakdown, inefficiency, repairs or other conditions whatsoever attributable to the Vessel, master, officers, crew, owners, the Buyer or their representatives, employees or agents, including any inability to load or discharge the Goods expeditiously;
 - 7.4.7 the Vessel's failure to comply with the requirements of the load Terminal with respect to equipment aboard or any other matter causing delay or restriction of cargo operations;
 - 7.4.8 delays due to the Vessel's failure to have the required certificate of financial responsibility, or failure to be in compliance with Applicable Law (or hold the necessary waiver if not in compliance), or failure to have any other required documentation;
 - 7.4.9 delay or suspension of cargo operations by the Seller because of the Vessel's or the Buyer's failure to comply with the requirements of the Agreement relating to payment;
 - 7.4.10 escape or discharge of Goods or the threat of an escape or discharge of Goods on or from the Vessel;
 - 7.4.11 delay or suspension of cargo operations directed by the Seller or the load Terminal operator due to an unsafe condition of the Vessel;
 - 7.4.12 quarantine, unless such quarantine was in force at the time when such load Terminal or place was nominated by the Buyer to the Vessel owner;
 - 7.4.13 delays due to fire or explosion on the Vessel, labour dispute, strike, go slow, work to rule, lockout, stoppage or restraint of labour involving the master, officers or crew of the Vessel or tugboats or pilots;

- 7.4.14 any action, additional inspections, or special or additional security measures required by a relevant authority, pilots (excluding those described in FOB Section 7.4.3), coast guard or other security agency over which neither Party has control; and
- 7.4.15 any other delay solely for the Buyer's or the Vessel's purposes.

CIF/CFR – Cost Insurance Freight/Cost & Freight

- 1.0 Delivery
- 1.1 The Goods shall be delivered by the Seller to the Buyer at the load Terminal and the Seller shall contract or arrange a contract for the carriage of the Goods CFR or CIF (as applicable) from the load Terminal to the discharge Terminal specified in the CTS.
- 2.0 Measurement and Sampling; Independent Inspection
- 2.1 Performance of Measurement and Sampling Obligations:
 - 2.1.1 The Parties shall jointly agree on an independent inspector to perform all Measurements. The Seller shall arrange for access by such inspector to the load Terminal. All costs associated with a Measurement shall be shared equally between the Parties.
 - 2.1.2 Subject to CIF/CFR Sections 2.1.3 and 2.1.4, and unless otherwise mutually agreed by the Parties in writing, Measurements shall be carried out in accordance with Approved Industry Practice. The Parties each agree to instruct the inspector to provide Inspector's Reports to both Parties. In the event the inspector fails to send the Inspector's Reports to both Parties, the Party receiving the report shall deliver a copy of the report to the other Party on its request.
 - 2.1.3 Quantity shall be measured using, in order of precedence:
 - (a) for crude oil, fuel oil, vacuum gasoil and residual fuel, by
 - (i) the load Terminal's calibrated meter; or if none;
 - (ii) shore tank measurements taken immediately before and immediately after loading from shore tanks that are static and which at all times have the floating roofs afloat and are above the critical zone by a minimum of six (6) inches; or failing that,
 - (iii) the Vessel's receiving figures for the NSV on board at the completion of loading, less any OBO of the Goods present at the time loading commences, corrected by the Vessel's valid load VEF; and
 - (b) for all other Goods, by
 - (i) shore tank measurements taken immediately before and immediately after loading from shore tanks that are static and which at all times have the floating roofs afloat and are above the critical zone by a minimum of two (2) inches for gasoline or gasoline components and six (6) inches for all other Goods, or failing that,
 - (ii) the Vessel's receiving figures for the NSV on board at the completion of loading, less any OBO of the Goods present at the time of the Goods present at the time loading commences, corrected by the Vessel's valid load VEF, or failing that
 - (iii) the load Terminal's calibrated meter.
 - 2.1.4 Subject to CIF/CFR Section 2.3, quality shall be determined by inline sampling at the Vessel's manifold at the time of the loading of the Vessel at the load Terminal, or, if not available, then by volumetrically correct composite sampling of the Seller's or its supplier's shore tanks at the time of loading.
 - 2.1.5 The Buyer may at its own expense, upon prior reasonable notice to the Seller, require the Seller to use reasonable efforts to allow the Buyer's representative to witness any Measurements.
 - 2.1.6 The Buyer may at its own expense upon prior reasonable notice to Seller request an independent inspection of the product at Port of Discharge. Any fees incurred by the implementation of this inspection with regard to laycan and demurrage charges are at the expense of the Buyer and will be calculated as per CIF/CFR Section 9.
 - 2.2 Inspector's Reports:

The Inspector's Reports shall be used to prepare invoices hereunder. For invoicing purposes, all volumes shall be net volumes with full deduction for all sediment and water and free water content shall be made according to Approved Industry Practice, and the quantity shall be adjusted to sixty (60) degrees Fahrenheit (or fifteen point six (15.6) degrees Centigrade) using the appropriate tables.
 - 2.3 Blending, Dyeing and Addition of Additives Without prejudice to Article 3, and subject always to CIF/CFR Section 6.1.5, the Seller may:
 - (a) blend Goods;
 - (b) add or inject dye; and/or

- (c) add additives to the Goods on board the Vessel during and/or after loading but always prior to sailing (“On-Board Operation”), provided always that any delay arising solely out of or in connection with such activity shall be for the Seller’s account. In particular, where agreed in the CTS that the specification for the Goods shall be the Vessel composite, the Buyer shall confirm in its Nomination pursuant to CIF/CFR Section 7 that the Vessel is fully capable of blending evenly during loading operations. The Seller, as the charterer of the Vessel, shall direct the Vessel to comply with the Seller’s reasonable instructions for the On-Board Operations, and shall otherwise assist the Buyer in ensuring the On-Board Operation is done properly. Quality shall be measured by sampling of the Vessel composite after completion of the On-Board Operation.

2.4 Part Cargo Delivered CFR or CIF:

Where delivery is made as an un-segregated part cargo lot to the Buyer and a third party, the quantity determined in accordance with the foregoing shall be adjusted so that, following completion of discharge of the relevant part cargo lots, the Buyer and such third party shall each be allocated a percentage of the total loaded quantity equal to that percentage of the total quantity (determined at each discharge Terminal in the same manner as set out in CIF/CFR Section 2.1) which was discharged at its discharge Terminal. The costs of such independent inspection shall be shared equally between the parties for their respective Discharge Terminals and the Inspector's Report shall be made available to all parties.

3.0 Title and Risk of Loss

- 3.1 Notwithstanding the Seller’s right to retain the documents referred to in Article 5 until payment, title to and risk of loss or damage to any Goods delivered shall be transferred from the Seller to the Buyer as the Goods pass the Vessel’s permanent manifold connection at the load Terminal.

4.0 Indicative Discharge Date

- 4.1 The Seller may expressly or by implication, whether in the CTS or otherwise, provide the Buyer with a date or range of dates for the arrival of the Vessel at the discharge Terminal and/or its performance of discharge operations. The Seller shall provide any such dates in good faith and shall not assume any responsibility for the delivery of the Goods at the discharge Terminal, but unless otherwise expressly stated in writing as a definitive commitment to ensure delivery or arrange for delivery on the specified dates, they are estimates only, not binding commitments, and are also subject to Article 10 and CIF/CFR Section 5.3.2.

5.0 Insurance

- 5.1 For CFR deliveries, neither Party shall have any obligation to the other Party to secure insurance, whether against marine or other risks.

- 5.2 For CIF deliveries, the Seller shall procure and pay for insurance against marine risks to the full value of the Goods plus ten percent (10%). Such insurance, which shall operate from the time the Goods pass the Vessel’s permanent hose connection at the load Terminal until the time the Goods pass the Vessel’s permanent hose connection at the discharge Terminal, shall be in accordance with the provisions of a Marine Cargo Insurance Policy subject to Bulk Oil Clauses SP-13C, or at the Seller’s option, Institute Cargo Clauses (A), and the benefit thereof shall accrue to the Buyer upon the passing of risk in the Cargo as provided for in the Agreement. The Seller is not obligated to procure insurance against war, strikes, riots, or civil commotions in respect of the delivery of the Goods hereunder, save where the Seller shall, by written notice actually received by it at least two (2) Business Days prior to the commencement of loading, have been requested by the Buyer to procure such insurance. Where, upon request as aforesaid, the Seller procures such insurance, it shall be subject to the Institute War Clauses (Cargo) and Institute Strikes Clauses (Cargo) current on the date of sailing of the Vessel and the actual premium payable at the current London Market rate for the voyage to be performed shall be charged to, and be recoverable from, the Buyer by the Seller as an addition to the purchase price in the Agreement under the CTS and such addition shall then form part of such purchase price. If requested by the Buyer, the Seller shall provide the Buyer with the original certificate of insurance or broker’s cover note.

5.3 Additional Vessel Insurance, etc.:

- 5.3.1 If the Seller determines that additional insurance or war risk insurance premiums are necessary in excess of those in place as at the date of the Agreement for the Vessel’s hull and machinery and/or Goods during the voyage to the discharge Terminal or while on any seas through which the Vessel has to travel in performance of the Agreement, the Seller will obtain quotes for such additional insurance or premiums and provide the Buyer with the Seller’s recommendation to obtain such additional insurance or pay such additional premiums and the quotes obtained by the Seller for same. The Buyer shall then determine, at its sole discretion, whether the Seller should obtain such additional insurance or pay such additional premiums. If the Seller, at the Buyer’s instruction, incurs such additional insurance or pays such additional premiums, the cost of such additional insurance and/or additional premiums shall be paid by the Buyer to the Seller in addition to the price payable pursuant to the Agreement. The

Buyer and the Seller shall mutually agree on the invoicing procedures for amounts payable pursuant to this paragraph.

- 5.3.2 The Seller reserves the right to refuse at any time:
- (a) to direct any Vessel to undertake or to complete the voyage to the discharge Terminal if such Vessel would thereby be required to transit or to proceed to or to remain in waters so that the Vessel concerned would be involved in a breach of any Institute Warranties (if applicable) or, in the Seller's opinion, to risk its safety or to risk ice damage, or to transit or to proceed to or to remain in waters where there is war (de facto or de jure) or threat thereof;
 - (b) prior to the commencement of loading, to direct any Vessel to undertake the voyage to the intended discharge Terminal if such Vessel would thereby be required to transit waters which, in the Seller's reasonably held opinion, would involve abnormal delay; or
 - (c) to undertake any activity in furtherance of the voyage which in the opinion of the Vessel's Master could place the Vessel, its cargo or crew at risk.
- 5.3.3 If the Seller in its sole discretion agrees to direct a Vessel to undertake or to complete the voyage under any circumstances listed in CIF/CFR Sections 5.3.2(a)–(c), the Buyer shall reimburse the Seller, in addition to the price payable under the Agreement, for costs incurred by the Seller in respect of any additional insurance premium and any other sums that the Seller may be required to pay to the Vessel's owner, including any sums in respect of any amounts deductible under such owner's insurance and any other costs and/or expenses incurred by the Seller.
- 6.0 Charterparty Conditions
- 6.1 The contract of carriage shall contain the following conditions:
- 6.1.1 that amounts due under the charterparty or other contract of carriage shall be directly paid by the Seller;
 - 6.1.2 that Vessel pumping off expenses shall be included in freight, or if not, at no additional cost to the Buyer;
 - 6.1.3 that the charterparty shall include an alternative discharge port should the nominated discharge port become illegal for any involved party due to trade sanctions, legislation, or executive pronouncement; or if not included, another safe port may be nominated by the Buyer, always subject to the Seller's reasonable acceptance and in that instance, all expenses including additional freight and deviation for such shall be for the Buyer's account;
 - 6.1.4 that discharge without presentation of, and/or at a different place than named on, the bill of lading is allowed under a letter of indemnity from the Seller to the Vessel owner, of which a reciprocal letter shall be issued from the Buyer to the Seller; and
 - 6.1.5 that the following operations after completion of loading are allowed in the charterparty, or otherwise agreed to: blending, breach of natural segregation, the addition of additives (other than dye), on board blending, the carriage of additives or dye on deck, or other reasonable and similar requests. The above operations are always subject to vessel design, safe circumstances, and the Master's discretion; and only will be attempted after the receipt of a letter of indemnity in the Vessel owner's wording issued from the Buyer to the Seller. Additional costs caused, if any, are for the Buyer's account.
- 6.2 Any indemnity given by the Buyer to the Seller pursuant to either this CIF/CFR Section shall not be subject to the provisions of Article 11.
- 6.3 Save as otherwise set forth herein, and without limiting the Buyer's obligations under CIF/CFR Section 9, the Seller shall be responsible for paying any freight and/or demurrage due to the Vessel owner.
- 7.0 Nomination of Vessels, Rejection, Substitution, etc.
- 7.1 Full Cargo and Part Cargo: The Goods shall be delivered to the Buyer as either a full cargo or part cargo at the Seller's option.
- 7.2 Nomination of Vessels: The Seller shall nominate in writing to the Buyer each Vessel that will load Goods pursuant to any transaction hereunder. The Seller's Nomination shall include:
- 7.2.1 a completed and accurate Q88 or the information that would be required in a completed Q88;
 - 7.2.2 the grade and approximate quantity to be loaded;
 - 7.2.3 the ETA of the Vessel at the load and discharge Terminals;
 - 7.2.4 the Vessel/charterer's agent at the discharge Terminal;
 - 7.2.5 full details of any cargo on board or to be loaded on board if loading a part cargo;
 - 7.2.6 in the case of any sales afloat, whereby the Goods have been or will be laden onboard (which shall include storage, and any intervening transshipment as well as by way of carriage) more than one Vessel, the name of each such Vessel, date built and flag; and
 - 7.2.7 confirmation that the Vessel complies with the applicable requirements of this Vessel Provisions document hereto.
- 7.3 Vessel Substitution: The Seller may nominate a substitute Vessel for any Vessel previously nominated pursuant to CIF/CFR Section 7.2, and must nominate a substitute Vessel for any Vessel rejected by the Buyer pursuant to CIF/CFR Section 7.6. With respect to any such substitution:

- 7.3.1 the size of the substitute Vessel and the quantity of Goods to be loaded shall not, without the Buyer's prior written consent, materially differ from the size of the Vessel previously nominated and the quantity of Goods specified in such prior Nomination; and
- 7.3.2 the Seller shall provide the Buyer with written notice of the substitution containing all information that would have been required had the substitute Vessel been originally nominated pursuant to CIF/CFR Section 7.2 by the earlier of the ETA at the load Terminal of
- (a) the substitute Vessel and
 - (b) the Seller's originally-nominated Vessel.
- 7.4 Acceptance or Rejection of Vessels and Consequences of Rejection:
- 7.4.1 The Buyer shall within one (1) Business Day, or such other period as may be specified in the CTS, of the Buyer's receipt of the Seller's Nomination:
- (a) deliver written notice to the Seller accepting or rejecting any Vessel nominated by the Seller;
 - (b) notify the Seller of the final discharge Terminal, if not already specified in the CTS. The Seller must accept or reject the final discharge Terminal within one (1) Business Day after receiving the Buyer's notice, such acceptance not to be unreasonably withheld. No change to the final discharge Terminal so nominated or specified shall be made without the Seller's prior written acceptance which shall not be unreasonably withheld and subject always to the provisions of CIF/CFR Sections 7.6.1 and 7.6.2. If the CTS provides a range within which a discharge Terminal or ports may be nominated by the Buyer, the Seller's acceptance of each discharge Terminal or port shall be required in writing within one (1) Business Day after any valid nomination, such acceptance not to be unreasonably withheld; and
 - (c) provide full written instructions regarding the particulars and destination of the bills of lading and such other customary load Terminal documentation which may be required. The Seller shall have the right to issue its own instructions if such instructions are not so provided by the Buyer. All costs (including demurrage) arising out of any failure by the Buyer to comply with this Section shall be for the Buyer's account.
- 7.4.2 Notwithstanding anything to the contrary, the Buyer shall have the right (which right may only be exercised prior to the passing of risk and title in the Goods):
- (a) to reject, on any reasonable ground, any Nomination made by the Seller, including where the Buyer determines that the Vessel is unacceptable under the Buyer's documented vessel assurance requirements;
 - (b) to reject a Vessel, notwithstanding any prior acceptance of such Vessel (whether named in the CTS or nominated or substituted pursuant to this Section), if, at any time after such prior acceptance, more recent information becomes available to the Buyer which reasonably indicates to the Buyer that the Vessel and/or its crew is unsafe for the performance of the voyage in question.
- 7.4.3 In the event a rejection, delay or other restriction of the Vessel occurs as a direct result of the application of any Applicable Law, the requirements of this CIF/CFR Section 7, and/or the applicable requirements of this Vessel provisions document:
- (a) the Buyer shall not be liable for the consequences of such rejection, delay or restriction, and any time consumed as a result thereof at the discharge Terminal shall not count as used Laytime or, if the Vessel is on demurrage, as time on demurrage;
 - (b) the Seller shall be liable for any direct costs or damages incurred by the Buyer
 - (i) arising out of any such rejection, delay or restriction of the Vessel; and/or
 - (ii) resulting from any delays in discharging the Goods hereunder due to the failure by the Seller to comply with the requirements of this Section in a timely manner; and
 - (c) the Seller's obligations under the Agreement to nominate a suitable Vessel in accordance with CIF/CFR Section 7.2 shall be unaffected.
- 7.5 Vessel Requirements:
- 7.5.1 The Vessel shall comply with:
- (a) Applicable Law; and
 - (b) the applicable requirements set out in this Vessel provisions document.
- 7.5.2 The Buyer shall provide all information regarding restrictions at the discharge Terminal and such other discharge Terminal regulations or requirements that are readily available to it, upon the Seller's written request.
- 7.6 Alternative Discharge Terminal: Unless otherwise negotiated by the Parties, where the Buyer exercises any discharge Terminal options in accordance with the CTS that are available to the Seller under the terms of the relevant charterparty:
- 7.6.1 The price stated in the CTS shall be adjusted by the freight differential calculated in accordance with such charterparty terms or, if the Vessel has not been voyage chartered, such rate as shall be mutually agreed between

the Parties in respect of such discharge Terminal. Any delays arising out of the failure of the Parties to agree shall be for the Buyer's account.

- 7.6.2 The Buyer shall be liable for any reasonable additional costs incurred by the Seller, including, but not limited to, deviation costs and costs in respect of any additional bunker consumption.
- 7.7 Loaded Details:
As soon as possible after loading has been completed, the Seller shall notify the Buyer of the actual quantity loaded and, if requested by the Buyer, the latest ETA of the Vessel at the discharge Terminal.
- 8.0 Arrival of Vessel, Berth, etc.
- 8.1 Arrival of Vessel:
- 8.1.1 The Seller shall notify the Buyer or its representative and the discharge Terminal of the Vessel's ETA on request of the Buyer, and otherwise in accordance with the standard reporting procedure applicable from time to time at the discharge Terminal. If the Seller's Vessel fails, for any reason, to give at least twenty four (24) hours' prior notice of arrival at the discharge Terminal, the time allowed to the Buyer for discharging pursuant to CIF/CFR Section 9.2 shall be extended by a period equal to the delay in giving such twenty four (24) hours' notice, but in any case not exceeding an additional twenty four (24) hours.
- 8.1.2 After receipt of NOR, both Parties, subject to the requirements and procedures of the discharge Terminal, shall perform their respective obligations to commence and complete discharge in a commercially reasonable manner.
- 8.2 Vessel Berths:
- 8.2.1 Subject to compliance by the Seller and its nominated Vessel with all other requirements of the discharge Terminal at the time in question, the Buyer shall provide a safe berth, free of wharfage for a normal cargo transfer.
- 8.2.2 The Buyer shall at all material times, and at no expense to the Seller, cause to be provided and maintained, in good working order, all necessary flexible hoses, connections, pipelines and tankage facilities necessary for the discharge of the Seller's Vessel.
- 8.2.3 Notwithstanding the Buyer's obligations under CIF/CFR Section 8.2.1, where the Buyer has purchased the Goods on board a named Vessel, the Seller represents to the Buyer and warrants that the named Vessel can safely berth and discharge the contractual quantity of Goods at the discharge Terminal regardless as to whether the contractual quantity is a full cargo or part cargo and irrespective of the port scheduling the Vessel. Failure to comply with this term shall entitle the Buyer to refuse to berth the named Vessel. Any costs incurred by the Seller in providing a substitute Vessel, or Lightering and/or transshipping the Goods at the discharge Terminal, including demurrage, pursuant to such refusal by the Buyer shall be paid by and the sole responsibility of the Seller.
- 8.3 Vessel Shifting:
- 8.3.1 The Buyer shall have the right to request the Vessel to shift from one berth to another. All costs, including damages for delay, shall be paid by and the sole responsibility of the Seller if such shifting is due to reasons within the Seller's control and/or the Vessel's control and otherwise shall be paid by and the sole responsibility of the Buyer.
- 8.4 Lightering, Vessel-to-Vessel and Transshipment Transfer Operations:
- 8.4.1 Either Party may, upon prior written notice to the other Party, request that the nominated Vessel be discharged by Lightering, Vessel-to-Vessel, or transshipment transfer operations, provided always that the requesting Party shall be responsible for the risk thereof and shall pay and indemnify the other Party for the cost of such operations (together with any additional expenses reasonably incurred by the Vessel in respect thereof). The non-requesting Party may reject any Vessel proposed by the requesting Party to perform these operations on any basis as may be set out in CIF/CFR Section 7.4.2 which shall be equally applicable to this Section, save that references in CIF/CFR Section 7.4.2 to "Seller" shall refer to "requesting Party", "Buyer" shall refer to "non-requesting Party" and "Nomination" shall refer to a request for Lightering, Vessel-to-Vessel, or transshipment transfer operations.
- 8.4.2 Any Lightering, Vessel-to-Vessel transfer operations, or transshipment shall be carried out in accordance with the procedures set out in the ICS/OCIMF ship-to-ship transfer guide and MARPOL as amended by Resolution MEPC.186 (59), Chapter 8: Prevention of Pollution during Transfer of Oil Cargo between Oil Tankers at Sea, Regulations 40, 41, 42 for the transfer of Crude Oil and Petroleum Products or any modifications thereto. Any Lightering, Vessel-to-Vessel, or transshipment transfer operations, whether at sea or inside the discharge Terminal limits, shall always be performed at a location considered safe and acceptable to both the nominated Vessel's owner and the non-requesting Party, and the requesting Party must notify the place of Lightering, Vessel-to-Vessel or transshipment transfer operation to the nominated Vessel and the non-requesting Party when NOR is tendered. The place of Lightering, Vessel-to-Vessel or transshipment transfer operation so notified shall be deemed to be the berth for purposes of this Section and CIF/CFR Section 9, and all references therein to the berth shall be construed accordingly.
- 8.4.3 To the extent the Buyer elects to discharge the Vessel by Lightering, Vessel-to-Vessel or transshipment transfer operations pursuant to this Section, all time used for any such operations (excluding any time consumed for the

purposes set out in CIF/CFR Section 9.4) and any additional steaming and/or waiting time used solely for the purposes of any such operations shall be for the Buyer's account.

- 8.4.4 In relation to any dispute as to quantity when Lightering, Vessel-to-Vessel or transshipment operations have been undertaken, the figures of the nominated Vessel shall prevail, subject always to the provisions of CIF/CFR Section 2.3.
- 8.4.5 Article 11 shall not apply to this CIF/CFR Section 8.4.
- 8.5 Fees and Other Charges at the Discharge Terminal:
- 8.5.1 Save where specified in Worldscales as being for the Vessel owner's account, the Buyer shall be solely liable for, and shall reimburse and indemnify the Seller for all dockage and service fees incurred at the discharge Terminal, including those for mooring, tugs, pilots, port costs (including fleeting and quay), fresh water, steam, and oily slops receipts, but excluding, for the avoidance of doubt, any taxes, imposts and dues on the Vessel at the discharge Terminal which are more fully referred to in, and recoverable under, Article 7.
- 8.5.2 Any claims by the Seller for reimbursement hereof by the Buyer must be made by written notice delivered to the Buyer within one hundred and eighty (180) days of the date of discharge and shall be accompanied supporting documentation and reasonable details of the facts on which the claim is based. Any claim submitted after the relevant notice period is deemed waived.
- 9.0 Delays, Time Allowed and Demurrage
- 9.1 Delays and Demurrage: If the shipment is not discharged within the time allowed in accordance with CIF/CFR Section 9.2, the Buyer shall pay to the Seller demurrage, in the same currency as is prescribed for payment of the Goods delivered under the Agreement, in respect of the excess time at the appropriate rate per day (or pro rata for part of a day) as specified in this CIF/CFR Section 9.1, subject to CIF/CFR Sections 7.4.3, 8.3, 9.2, 9.4 and the following conditions:
- 9.1.1 The Buyer shall pay demurrage at the rate specified below for each running hour and pro rata for each part of an hour, for all time that running Laytime (as calculated pursuant to CIF/CFR Section 9.3) exceeds the allowed Laytime. Should the Vessel be discharged for the account of two (2) or more parties at a single Terminal, the Buyer shall be liable only for its pro rata share of demurrage incurred at the Terminal based on the part cargo discharged for the Buyer's account at a Terminal as a percentage of total gross volume of cargo discharged at that Terminal. However, the Buyer shall not be liable for any portion of Laytime used solely attributable to the other party.
- 9.1.2 For a Tanker or Ocean-Going Barge, the demurrage rate shall be, in order of precedence:
- (a) the rate, if any, specified in the CTS;
 - (b) the demurrage rate or overtime rate, if applicable, specified in the voyage charterparty, or if neither (a) nor (b) apply; then
 - (c) the market rate current on the date the Laytime commences for a Vessel of the size and type appropriate to the Vessel's cargo for a single voyage charter from the load Terminal to the Buyer's discharge Terminal. In determining the market rate:
 - (i) each Party shall refer to an independent broker;
 - (ii) each independent broker shall give a written opinion about the spot market level on the day such Vessel berthed, and the rate used shall be based on the arithmetic mean of the two (2) levels, provided the two (2) levels do not differ by more than twenty (20) percent;
 - (iii) in the event the two (2) levels specified by the independent brokers differ by more than twenty (20) percent, each Party shall refer the matter to another broker who shall each give a written opinion on the spot market level, using a rate based on the arithmetic mean of the two new levels, provided these levels do not differ more than twenty (20) percent; and
 - (iv) in the event the levels in (iii) differ more than twenty (20) percent, the arithmetic mean of the middle two of the four (4) specified levels shall be used.
- 9.1.3 For an Inland Barge, the demurrage rate shall be, in order of precedence:
- (a) the rate, if any, specified in the CTS; or
 - (b) the rate specified in the voyage charterparty or, if neither (a) or (b) apply; (c) the daily hire rate of the Inland Barge on the date the Laytime commences.
- 9.1.4 Any demurrage claim must be delivered in writing
- (a) by the Seller to the Buyer within ninety (90) days of the date of disconnection of discharge hoses, and
 - (b) must include a statement of claim setting out the demurrage calculation and all supporting documentation substantiating each and every constituent part of the calculation in respect of the demurrage claim. In the event the Seller fails to comply with the requirements in the preceding sentence with respect to any demurrage claim, such claim shall be deemed to be waived and the Buyer shall be discharged and

released from all liability in respect of any demurrage claims which the Seller may have against the Buyer under this Section with respect to such occurrence.

- 9.2 Allowed Laytime: Laytime shall be:
- 9.2.1 In the case of a Tanker:
- (a) thirty-six (36) running hours for a full cargo;
 - (b) in the event of a partial delivery of the Goods under the Agreement, thirty six (36) hours allocated pro rata by dividing the contractual quantity of the Goods delivered to the Buyer by the Tanker's full cargo volume for the voyage as determined either:
 - (i) by the bills of lading for such voyage or, if not available;
 - (ii) the total NSV outturn volume, provided that, in either case, Laytime shall never be less than twelve (12) hours; and
 - (c) if for any reason, other than safety, the Tanker is required to discharge the Goods separately, the Party requiring separate discharge shall be responsible for Laytime or demurrage, if on demurrage.
- 9.2.2 In the case of an Ocean-Going Barge, where the Goods comprise a cargo of:
- | | |
|--|-------------------------|
| (a) 24,999 barrels or fewer | twelve (12) hrs; |
| (b) between 25,000 to and including 49,999 barrels | fourteen (14) hrs; |
| (c) between 50,000 to and including 74,999 barrels | sixteen (16) hrs; |
| (d) between 75,000 to and including 99,999 barrels | eighteen (18) hrs; |
| (e) between 100,000 to and including 124,999 barrels | twenty (20) hrs; |
| (f) between 125,000 to and including 149,999 barrels : | twenty two (22) hrs; or |
| (g) 150,000 barrels or greater | twenty four (24) hrs. |
- 9.2.3 In the case of an Inland Barge, where the Goods comprise a cargo of 25,000 barrels or greater, shall be three (3) hours plus such amount based either:
- (a) on the applicable charterparty terms, or, in the absence thereof;
 - (b) one hour for each 2,500 barrels discharged, provided that, in either case, Laytime shall never be less than twelve (12) hours. All days, including all holidays, shall be included in such allowed Laytime unless discharging on the day or holiday in question is prohibited by Applicable Law.
- 9.3 Running Laytime Hours:
- 9.3.1 Running Laytime shall commence (berth or no berth) six (6) hours after NOR is tendered at the discharge Terminal or when the Vessel is All Fast, whichever is the earlier. Notwithstanding the foregoing, in the event the cargo documents are not on board the Vessel within three (3) hours of the commencement of the running Laytime, the running Laytime shall be suspended and the running Laytime will not resume until the cargo documents are on board the Vessel.
- 9.3.2 For purposes of calculating running Laytime, running Laytime shall end when the Vessel's discharge hoses are disconnected.
- 9.3.3 After NOR has been tendered, any delay arising from a Force Majeure Event shall count as one half running Laytime or, if the Vessel is on demurrage, as one half the time on demurrage, provided that,
- (a) Article 10 with regard to the giving of notices only, shall not apply to this CIF/CFR Section 9.3.3; and
 - (b) should the Force Majeure Event continue for a period of fifteen (15) days, any such delay shall count as full running Laytime or, if the Vessel is on demurrage, as full time on demurrage.
- 9.3.4 All time used for extra sampling and analysis to determine the quality of the Goods pursuant to any right given to the relevant Party under the Agreement shall be for the account of the Party requesting the extra tests, provided however that, if the Goods prove to be off specification, the Seller shall be liable for all costs, including running Laytime or demurrage related to the extra sampling and analysis.
- 9.4 Laytime Exceptions: In addition to any deductions from running Laytime set out in CIF/CFR Section 9.3, any time consumed due to, but not limited to, any of the following situations shall not count as Laytime or, if the Vessel is on demurrage, as time on demurrage:
- 9.4.1 on inward passage from the time the Vessel passes the customary point of entry into the discharge Terminal until it is All Fast at berth, or from the time the Vessel passes the customary point of entry into the discharge Terminal until the Vessel is secure at anchorage and from the time the Vessel weighs anchor until it is All Fast at berth;
 - 9.4.2 time awaiting Free Pratique, except if concurrent with cargo-related operations or customarily given after All Fast;
 - 9.4.3 time awaiting pilots, tugs, tides or daylight, provided, however, that the Buyer shall only be entitled to deduct time awaiting one tide and/or one wait for daylight immediately preceding berthing. If during this waiting period the dock or berth is not available, the exclusions for waiting pilots, tugs, tide or daylight shall not apply;
 - 9.4.4 restrictions imposed by the owner, charterer, or master of the Vessel, or discharge Terminal authority including discharge Terminal closure or prohibitions on cargo operations at night;

- 9.4.5 discharging slops; cleaning and inspection of the Vessel's tanks, pumps, pipelines; ballasting or de-ballasting; bunkering; or for these and any other purposes of the Vessel unless such operations are performed concurrent with cargo operations and do not delay cargo operations;
- 9.4.6 overflow, breakdown, inefficiency, repairs or other conditions whatsoever attributable to the Vessel, master, officers, crew, owners, the Seller or their representatives, employees or agents, including any inability to load or discharge the Goods expeditiously;
- 9.4.7 the Vessel's failure to comply with the requirements of the discharge Terminal with respect to equipment aboard or any other matter causing delay or restriction of cargo operations;
- 9.4.8 delays due to the Vessel's failure to have the required certificate of financial responsibility, or failure to be in compliance with Applicable Law (or hold the necessary waiver if not in compliance), or failure to have any other required documentation;
- 9.4.9 escape or discharge of Goods or the threat of an escape or discharge of Goods on or from the Vessel;
- 9.4.10 delay or suspension of cargo operations directed by the Buyer or the discharge Terminal operator due to an unsafe condition of the Vessel;
- 9.4.11 quarantine, unless such quarantine was in force at the time when such discharge Terminal or place was nominated by the Seller to the Vessel owner;
- 9.4.12 delays due to fire or explosion on the Vessel, labor dispute, strike, go slow, work to rule, lockout, stoppage or restraint of labor involving the master, officers or crew of the Vessel or tugboats or pilots;
- 9.4.13 any action, additional inspections, or special or additional security measures required by a relevant authority, pilots (excluding those described in CIF/CFR Section 9.4.3), coast guard or other security agency over which neither Party has control; and
- 9.4.14 any other delay solely for the Seller's or the Vessel's purposes.



APPENDIX B
SELLER'S LETTER OF INDEMNITY FORMAT

[Date]

To: [Name and Address of Buyer]

We refer to our agreement with you dated ____, 2019, in respect of your purchase from us of _____ net US barrels/metric tons of _____ shipped on board the vessel M/V _____ at the port of _____, _____ with bills of lading dated ____, 2017.

To date we are unable to provide you with the original shipping documents required for presentation and in consideration of your making payment of the full sale price of USD _____ on the payment due date without presentation of the Documents, we hereby represent and warrant all of the following:

- (i) the existence and validity of the Documents;
- (ii) that we are entitled to possession of the Documents;
- (iii) that we were entitled to possession of the Goods;
- (iv) that we had good title to the Goods;
- (v) that title in the Goods has been passed as provided in the Agreement to you free of all liens, charges or encumbrances of whatever kind;
- (vi) that you will have the benefit of the warranty as to enjoyment of quiet possession implied by law in the Agreement but without prejudice to any other warranty so implied.

Without prejudice to your rights under the Agreement we hereby agree to protect, indemnify and hold you harmless from and against any and all damages, losses, liabilities, costs, claims and reasonable expenses which you may suffer by reason of:

- (a) our failure to present the Documents to you in accordance with the Agreement; and/or
- (b) any action or proceeding brought or threatened against you by reason of our said failure and any breach of our above express representations and warranties in connection with questions of title to or the right to possession of the Documents or the Goods or the proceeds of either; or any liens, charges or encumbrances asserted on the documents or the Goods or any other claims arising out of or in connection with the Documents.

Our liability hereunder shall remain in full force and effect unless and until we provide you with the Document, which we irrevocably agree to provide to you promptly after the same have come into our possession. No term of this indemnity is intended to, or does, confer a benefit or remedy on any party other than the named Buyer under the Agreement. This Letter of Indemnity shall be governed by, construed and enforced under the laws of the United Kingdom, without giving effect to its conflicts of laws principles. This Letter of Indemnity shall cease to have any effect upon our presentation to you of the Documents. We ask that you confirm to us by electronic or postal cancellation of this Letter of Indemnity upon receipt of the Documents.

[Name of Seller]

Date: _____

[THE BELOW SECTION TO BE COMPLETED AND SIGNED WHERE THE SELLER EXERCISES ITS RIGHT TO REQUIRE A BANK TO COUNTER-SIGN THE LETTER OF INDEMNITY]

Quote

In consideration of you agreeing as aforesaid we the undersigned [BANK NAME] whose customer is [FULL NAME OF SELLER] hereby jointly and severally agree to be bound by the terms of the above letter of indemnity

By:
Bank Authorised Signatory

Unquote

APPENDIX C
DOCUMENTARY LETTER OF CREDIT

Please urgently advise [FULL NAME OF SELLER], [ADDRESS], that we [BANK] hereby issue our irrevocable documentary letter of credit number [L/C NUMBER], in their favour for account of [FULL NAME OF BUYER], [ADDRESS] for an amount of USD [US DOLLAR AMOUNT] ([US DOLLAR AMOUNT IN WORDS]) plus (±) ten percent (10%) available at our counters [DAYS] days [FROM/AFTER] [PAYMENT TERMS] against presentation of the following documents in one original and [NUMBER OF] copies unless otherwise stated:

1. One or more signed commercial invoices.
- 2.* [in the case of FOB/CFR/CIF delivery] one or more full sets of 3/3 original clean on board ocean bills of lading issued or endorsed to the order of.....].
[in the case of In Tank Transfer/pipeline delivery] copy of the transfer certificate
3. One or more certificates of quality.
4. One or more certificates of quantity.
- 5.* [One or more certificates of origin].
6. [in the case of CIF delivery] insurance certificate covering 110% of the cargo value

*Amend as appropriate

Evidencing [SHIPMENT/DELIVERY] of [QUANTITY] [UNIT OF MEASURE] plus (±) ten percent (10%) of [PRODUCT] [INCOTERM] [LOAD/DISCHARGE PORT] between [DATE] and [DATE] (both dates inclusive).

PRICE CLAUSE [Here insert text of Price Clause as per the agreement]

This credit expires on [DATE]

In the event that the above documents are unavailable at the time of presentation, payment will be made against document number one above (the Invoice) and a letter of indemnity issued by beneficiary in the following format:

Quote

To:

[here insert text of Letter of Indemnity]

Unquote

SPECIAL CONDITIONS

1. This letter of credit shall take effect in accordance with its terms but such terms shall not alter, add to or in any way affect the provisions of the agreement between [BUYER] and [SELLER] to which this letter of credit relates.
2. [In the case of delivery FOB/CFR/CIF only] Charterparty bills of lading/vessel bills of lading and/or bills of lading and/or bills of lading signed by the master or agent and not indicating that they have been issued by a named carrier are acceptable.
3. Documents presented later than twenty-one (21) days after the [BILL OF LADING/NOTICE OF READINESS] date but within the validity of this credit are acceptable.
4. Transshipment [ALLOWED/PROHIBITED].
5. Partial shipment [ALLOWED/PROHIBITED].
6. Photocopies in lieu of copy documents acceptable.
7. Swift/fax invoice and letter of indemnity acceptable.
8. All banking charges are for the account of the applicant.
9. The construction, validity and performance of this letter of credit shall be governed by and construed in accordance with [*] law. Any dispute or claim arising out of or in connection with this letter of credit shall be subject to the exclusive jurisdiction of the United Kingdom courts.
10. Typographical and spelling errors shall not constitute a discrepancy unless with regard to quantity and amount.
11. The value of this letter of credit may escalate/de-escalate above or below the tolerances allowed without any amendment on our behalf.

12. Except as otherwise expressly stated herein, this letter of credit is subject to the Uniform Customs and Practice for Documentary Credits 2007 Revision, (ICC publication no. 600).
13. Multiple/partial drawings allowed.
14. Original documents stating grade name different to LC acceptable.
15. Any discrepancy resulting from the invoiced quantity exceeding or falling below the quantity range allowed in this letter of credit is acceptable. Payment will be effected on the invoiced quantity in case the maximum quantity allowed in this letter of credit is not exceeded. In case the invoiced quantity exceeds the maximum quantity allowed in this letter of credit the bank will pay on the maximum quantity allowed in this letter of credit.
16. Beneficiary may discount this LC at own cost and request.
17. Documents named as different but servicing the same purpose is acceptable.
18. Price clause and calculation not stated on the commercial invoice is acceptable.
19. [In event that payment due date falls on a Saturday or a UK bank holiday, except Monday, payment will be effected on the last banking day prior. If the payment due date falls on a Sunday or Monday bank holiday in the UK payment will be made on the next business day].
20. [Beneficiary may draw under this letter of credit against provisional invoice based on price quotation on [NOR/BL] date. If no quotation is published on the date of [NOR/BL] date. If no quotation is published on the date of [NOR/BL], the provisional invoice to be based on the quotation published immediately preceding the date of [NOR/BL]. Balance payment to be effected under this L/C within 3 UK banking days against presentation of final invoice if the amount owed is in beneficiary's favour. If the balance of the payment is in the applicant's favour payment to be effected outside of the letter of credit].
21. [NOR date to count as delivery date and to appear on invoice only].
22. [Ports of discharge other than mentioned are acceptable].
23. [Presentation of a Tax invoice acceptable].
24. [In the case of delivery Ex Ship only] In the event that the outturn quantity is not known at the time of presentation, beneficiary may draw under the letter of credit against a provisional invoice based on the mean volume of the LC quantity. In the event the actual outturn quantity is greater than mean volume of the LC quantity beneficiary may present a final claim under this LC. If the actual outturn quantity is less than mean volume of the LC quantity then the difference is to be settled outside of the LC.
25. PDF copies acceptable.
26. Documents showing different density to invoice are acceptable.
27. Any discrepancy resulting from the invoice value exceeding or falling below the US dollar range allowed in this letter of credit is acceptable. In the event that the invoice amount does not exceed the LC value, payment will be effected on the invoice amount. In the event that the invoice value exceeds the maximum value of the LC, the bank will pay on the maximum value allowed under this Letter of Credit.

APPENDIX D
STANDBY LETTER OF CREDIT

APPLICANT:

[Name and Address]

BENEFICIARY:

At the request of the above applicant, and for its account, we *[name and address of bank]* hereby issue in your favour our irrevocable standby letter of credit no *[XXX]*.

In consideration of you, the Beneficiary, having agreed to enter into a contract or contracts for the sale and/or purchase of *[*]* (referred to herein as the contracts”) from time to time with the Applicant, we hereby establish our irrevocable standby letter of credit (‘this Letter of Credit’) in your favour for the principal amount of *(XXX)* United States Dollars (US\$ _____) plus or minus (\pm) ten percent (10%) effective immediately and payable upon our irrevocable undertaking as follows :

This Letter of Credit is available for payment at sight, but not prior to “*the Effective Date*” by presentation of the following documents:

1. A written statement certifying that the Applicant has defaulted in the performance of any of the terms and conditions, including but not limited to payment for any of the products, of any of the contract(s), as it or they may have been amended or varied; and
2. A copy of the Seller’s commercial invoice(s) marked unpaid; and
3. A written statement as to the amount to be paid in respect of the default may include, but shall not be limited to, the invoiced amount and/or demurrage, and/or any damages, losses, late payment interest, expenses or costs suffered or incurred by you as a result of such default, determined in accordance with the contract and applicable law.

Counterparty SBLC: This Letter of Credit covers all contracts for the sale and/or purchase of oil, refined petroleum products, ethanol and/or petrochemicals and/or allied products (referred to herein as the contracts) from time to time between *[*]* and *[Name of applicant]*

We hereby agree with you that presentation of the documents in compliance with the terms of this standby letter of credit will be duly honoured on presentation to us no later than the Expiration Date of this credit. The expiration of this Letter of Credit is “*Expiration Date*”.

47A: Additional conditions

1. Partial and multiple drawings are permitted.
2. All banking charges are for the applicant’s account
3. Above documents presented in telex, fax or photocopy form are acceptable.
4. This Letter of Credit shall take effect in accordance with its terms but such terms shall not alter, add to or in any way affect the contract (s) between *[*]* and *[Name of Applicant]* to which this letter of credit relates.
5. Combined documents are acceptable
6. Documents received 21 days after the date of delivery, and prior to the date of expiry of this Letter of Credit are acceptable.
7. Typographical and spelling errors, with the exception of quantity and amount, are not to be considered as discrepancies as long as meaning is consistent with the other documents presented.
8. Except as otherwise expressly provided herein, this standby letter of credit is subject to the “Uniform Customs and Practices For Documentary Credits” (2007 Revision) International Chamber of Commerce Publication No. 600.

We hereby agree with you that presentation of the documents in compliance with the terms of this Letter of Credit will be duly honoured on presentation to us no later than the expiration date of this Letter of Credit.

Name

Authorized Signatory

Issuing Bank



APPENDIX E
PARENT COMPANY GUARANTEE

This Guarantee is made and given the ___ day of _____, 2019, by [*] (hereinafter referred to as the "Guarantor"), in favour of _____ (hereinafter referred to as the "Beneficiary").

The Guarantor enters into this Guarantee in consideration of the Beneficiary having entered into or entering into [*] (hereinafter referred to as "Covered Transactions") with [*] (hereinafter referred to as the "Company"). The Guarantor acknowledges the benefit to it of the Covered Transactions between the Beneficiary and the Company.

1. The Guarantor hereby irrevocably and unconditionally guarantees to the Beneficiary the prompt payment when due (subject to written demand by Beneficiary upon Guarantor) of all amounts that now are or may hereafter become due and payable from the Company to the Beneficiary (the "Guaranteed Obligations") with respect to any Covered Transactions entered into prior to the termination of this Guarantee. This Guarantee shall continue to be effective or reinstated, as the case may be, if at any time any payment of any of the Guaranteed Obligations are annulled, set aside, invalidated, declared to be fraudulent or preferential, rescinded, or most otherwise be returned, refunded or repaid by the Beneficiary as a result of or pursuant to the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Company or any other guarantor, or upon, or as a result of, the appointment of a receiver, intervener or conservator of, or trustee or similar officer for, the Company or any other guarantor or any substantial part of its property or otherwise, all as though such payment or payments had not been made.
2. In addition to the Guaranteed Obligations, the Guarantor agrees to pay on demand any and all costs, including reasonable legal fees and other expenses incurred by the Beneficiary in enforcing the Guarantor's payment obligations under this Guarantee; provided that the Guarantor shall not be liable for any expenses of the Beneficiary if no payment under this Guarantee is due.
3. Anything to the contrary notwithstanding, the aggregate of the Guarantor's obligations under this Guarantee, including without limitation liability with respect to the Guaranteed Obligations or liability with respect to costs, including reasonable legal fees and other expenses incurred by the Beneficiary in enforcing the Guarantor's payment obligations, shall not exceed [amount] million U.S. dollars (US \$_____).
4. This Guaranty shall remain in full force and effect until the earlier of (a) [date], or (b) until thirty (30) days following the Guarantor's notice, in writing, to the Beneficiary of the Guarantor's termination of this Guarantee provided, however, the expiration or termination of this Guarantee shall not affect the Guarantor's obligations hereunder with respect to Covered Transactions entered into prior to such expiration or termination.
5. The Guarantor's payments hereunder shall be made to the Beneficiary at its address set forth in Section 10 below, within ten (10) business days after receiving written demand for payment from the Beneficiary.
6. The Guarantor hereby waives:
 - (a) Notice of acceptance of this Guarantee by the Beneficiary;
 - (b) Notice that the Beneficiary has entered into a Covered Transaction with the Company;
 - (c) The modification or amendment of any Covered Transaction between the Company and the Beneficiary, including renewal or extension of time for repayment and performance of Guaranteed Obligations or notice thereof; and
 - (d) Notice of presentment, default, dishonour, protest or notice of protest with respect to any notes, drafts or other instruments evidencing indebtedness, received from the Company or demand for payment on the Company.
7. The Guarantor agrees that the Beneficiary may, from time to time, extend the time of payment of the whole, or any part, of the indebtedness of the Company and may receive and accept notes, bills, cheques, trade acceptances and other instruments for the payment of money made, accepted or delivered by the Company and any other person or persons, as well as extensions or renewals thereof, without in any way releasing or discharging the Guarantor from its obligations hereunder.
8. This Guarantee is a guaranty of payment and not of collection. The Beneficiary shall not be required to proceed first against the Company or any other person, firm or corporation, or against any property or security or any other guarantee before resorting to the Guarantor for payment under this Guarantee.

9. Demands on the Guarantor for payment under this Guarantee shall be in writing and delivered by mail or telecommunication to the following address:

If to the Guarantor:

[Guarantor & contact name]

[Address]

[Email]

With a mandatory copy to:

All demands for payment shall be effective when received by the Guarantor. The Guarantor may change the address to which demands for payment are to be sent upon written notice to the Beneficiary.

10. Notices under this Guarantee, or which either party desires to give to the other, shall be in writing or telecommunication and delivered as follows:

To the Guarantor:

[Guarantor & contact name]

[Address]

[Email]

With a copy to:

To the Beneficiary:

[Beneficiary & contact name]

[Address]

[Email]

All notices given shall be deemed to have been given at the earlier of: (a) the date the notice shall be delivered, (b) the date on which the delivery shall have been refused at the address herein provided, or (c) the date as of which the delivery service shall have indicated such notice to be undeliverable at the address herein provided. The Guarantor and the Beneficiary may change the persons and/or addresses to which notices are to be sent upon written notice to the other party.

11. This Guarantee and each of its provisions may be waived, varied, released, modified, terminated (except as provided elsewhere herein) or surrendered, in whole or in part, only by a written instrument signed by the Beneficiary and the Guarantor. No failure or delay by the Beneficiary in exercising its rights or remedies under this Guarantee, subject to statute of limitations, shall operate as a waiver thereof, nor shall any single or partial exercise by the Beneficiary of any right or remedy hereunder preclude any other or future exercise of any right or remedy hereunder.
12. The Beneficiary may, at any time, assign its rights to receive payment under this Guarantee to any party to whom it assigns its interest under any Covered Transaction. Except as provided in the previous sentence, neither the Guarantor nor the Beneficiary shall assign its rights or obligations under this Guarantee to any other person without the express written consent of the other Party.
13. This Guarantee shall be governed by and construed in accordance with the laws of the United Kingdom, without regard to principles of conflicts of laws. The Guarantor and the Beneficiary agree that any action or proceeding to enforce or arising out of this Guarantee shall be commenced in English Court of Law, but nothing herein shall limit Beneficiary's right to initiate legal proceedings in any other court of competent jurisdiction to enforce a judgment of the Forum Courts. The Guarantor and the Beneficiary hereby knowingly, voluntarily, and intentionally waive any right to trial by jury in connection with this Guarantee or the transactions related hereto.
14. The Guarantor represents and warrants that (a) the execution, delivery, and performance of this Guarantee has been authorised by all necessary corporate action and does not contravene any provision of its constituent documents, and (b) upon proper execution and delivery thereof, this Guarantee will constitute the legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms, subject to bankruptcy, insolvency, reorganisation and other laws affecting creditors' rights generally and to equitable principles of general applicability.

Without limiting the Guarantor's own defences and rights hereunder, the Guarantor reserves to itself all rights, setoffs, counterclaims and other defences that the Company may have to payment of all or any portion of the

Guaranteed Obligations, except for defences arising from bankruptcy, insolvency, dissolution or liquidation of the Company and other defences expressly waived in this Guarantee.

The obligations of the Guarantor hereunder are severable from the Company or any other person, and are primary obligations concerning which the Guarantor is the principal obligor.

15. [This Guarantee supersedes and replaces in its entirety that certain Guarantee dated as of [] issued by Guarantor in favour of *[List Beneficiary or Beneficiaries name(s)]*.]
16. [The Guarantor hereby irrevocably appoints [*insert name of UK process agent] to receive, for it and on its behalf, service of process in any proceedings. If for any reason [*insert name of UK process agent] is unable to act as such, the Guarantor will promptly notify the Beneficiary and within thirty (30) days, appoint a substitute process agent acceptable to the Beneficiary.]

Intending to be legally bound, the Guarantor has executed this Guarantee through its duly authorised representative.

[*]

By: _____
Name: _____
Title: _____



DECLARATION OF AGREEMENT

It is hereby agreed by the below parties that these General Terms and Conditions including the articles outlined with the Appendixes set forth within this document shall be the provisions with which to conclude business from date of signature below until further notice as provided by the signatories in accordance with this document.

AS WITNESS the hands of the parties hereto;

.....

Duly authorised for and on behalf of 'Mayfair & Bond Oil Limited'

Dated

Signed by

Name: Mr. Richard M Spencer
Title: Director
Address: Finance House, 20/21 Aviation Way, Southend-on-Sea, Essex, SS2 6UN, England

.....

Duly authorised for and on behalf of

Dated

Signed by

Name:
Title:
Address: