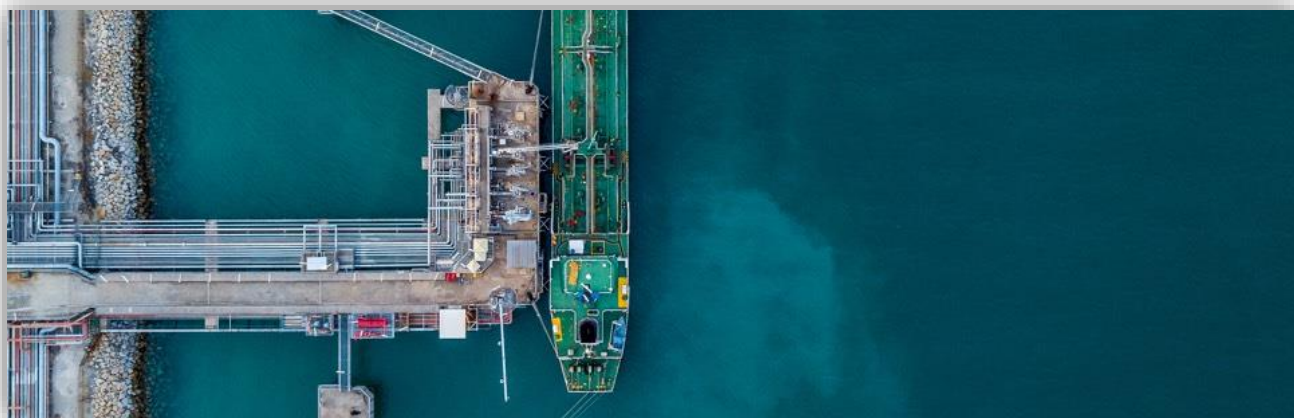


General Terms & Conditions for Sales and Purchases of Crude Oil & Petroleum Products



RCPD Direct Sales, 2020



INDEX

PART I. GENERAL

1. Definitions	4
2. Applicability and Interpretation	10
3. Payment	11
4. Assignment	17
5. VAT, GST, Customs, Mineral Oil Tax, U.S. Domestic Taxes, and Other Taxes and Duties	18
6. Termination	25
7. Force Majeure	27
8. Liability	28
9. Jurisdiction	30
10. Applicable Law	30
11. Time Limitation	31
12. Notices	31
13. Rights, Powers and Remedies	32
14. Amendments and waivers	32
15. Severability and Survivability	33
16. Recording, Retention and Monitoring of Communications	33
17. Confidentiality	34
18. Third Party Rights	34
19. Miscellaneous	34
20. Health Safety and Environment	40

PART II. FOB

21. General	45
22. Quality	46
23. Quantity	47
24. Nomination	48
25. Laytime and Demurrage	55

PART III. CFR AND CIF

26. General	61
27. Quality	62
28. Quantity	64
29. Insurance	65
30. Nomination	66
31. Laytime and Demurrage	71

PART IV. DES AND DAP DELIVERIES

32. General	77
33. Quality	78
34. Quantity	79
35. Nomination	80
36. Laytime and Demurrage	86

PART V. EX TANK, INTO TANK, IN TANK and FIP

37. General	91
38. Independent Inspection	91
39. Quality	92
40. Quantity	94

PART VI. TRUCK DELIVERY

41. General	96
42. Extra costs and Cancellation fees	98

PART VII. ANNEXES

ANNEX A: Documentary Credit Format	99
ANNEX B: Letter of Indemnity Format	102
ANNEX C: Standby Letter of Credit Format	103

PART I GENERAL

1. Definitions

Affiliate(s)	Means a company or other legal entity which directly, or indirectly through one or more intermediaries, controls, or is under common control with or is controlled by another party. For this purpose, “control” means the direct or indirect ownership of fifty (50) per cent or more of the voting rights attached to the issued share capital of such company or other legal entity.
AFRA	Means Average Freight Rate Assessment published by the London Tanker Brokers’ panel.
Agreement	Means these General Terms and Conditions (including, where applicable, the Schedules attached hereto) together with the Special Provisions.
API	Means the American Petroleum Institute.
Associated Company	Means a company in which another company has a stake between 20% and 50% of voting shares.
ASTM	Means the American Society for Testing and Materials.
Banking Day	Means a Day when the banks in the banking system of the currency in which the price is payable, are open for a proper transaction in the country where payment is due to be made.
Barrel	Means 42 US standard gallons at 60 degrees Fahrenheit.
Berth	Means a berth, buoy, dock, anchorage, submarine line, single point or single berth mooring facility, offshore location, alongside vessels or lighters, floating storage, or any other loading or discharge place as may be indicated by the party in question.

Buyer	Means the party stated in the Special Provisions as being the buyer of the Oil or Product.
CFR and CIF	Shall each have the meaning ascribed thereto in Incoterms 2010 except as expressly modified in the Agreement. In case of conflict or inconsistency between Incoterms and this Agreement, the express terms of the Agreement shall prevail.
Confirmation Note	Means the written confirmation as issued by the Seller and forwarded to the Buyer to conclude of the negotiated sale/purchase of the Bunkers. In case of conflict between the Nomination and the Confirmation Note, unless the Seller otherwise agrees in writing, the wording and content of the Order Confirmation is deemed contain the prevailing terms of the Agreement.
DAP	Shall have the meaning ascribed thereto in Incoterms 2010 except as expressly modified in the Agreement. In case of conflict or inconsistency between Incoterms and this Agreement, the express terms of the Agreement shall prevail.
Day	Means a calendar day.
DES	Shall have the meaning ascribed thereto in Incoterms 2000 except as expressly modified in the Agreement. In case of conflict or inconsistency between Incoterms and this Agreement, the express terms of the Agreement shall prevail.
Discharge Port	Means the port, terminal, Berth or other facility at which the Oil or Product to be delivered hereunder is to be discharged.
EEA	European Economic Area.
ETA	Estimated time of arrival.
EU Qualified	Means that the Oil or Product may be freely circulated within the territory of the member states of the European Union, and will not be charged with any import duties.

ExTank, Into Tank

and In Tank Shall have the meaning ascribed thereto in Part V.

FIP Shall have the meaning ascribed thereto in Part V.

FOB Shall have the meaning ascribed thereto in Incoterms 2010 except as expressly modified in the Agreement. In case of conflict or inconsistency between Incoterms and this Agreement, the express terms of the Agreement shall prevail.

IMO International Maritime Organization.

Institute Cargo Means the most recent publication of the terms and conditions known as Institute Cargo Clauses (A) issued by the Lloyd's Market Association and International Underwriting Association of London.

ISGOTT Means the International Safety Guide for Oil Tankers and Terminals, a guide published by the International Chamber of Shipping and the OCIMF.

ISM Code International Safety Management ("ISM") Code means the International Management Code for the Safe Operation of Ships and for Pollution Prevention.

Laydays Means the Day or range of days as specified in the Special Provisions in which the nominated Vessel must tender N.O.R. at the Loading or Discharge Port as the case may be. In no circumstance are Laydays to be construed as a time for delivery and Buyer's only remedy, if any, for the failure of the Vessel to load, arrive or discharge within Laydays shall be demurrage.

Laytime Means the time allowed for the loading or discharge of the Oil or Product at the Loading or Discharge Port as the case may be.

L/C Shall have the meaning ascribed to it in Clause 3.6.1.

Loading Port	Means the port, terminal, Berth or other facility at which the Oil or Product to be delivered hereunder is to be loaded.
LPG	Means liquid petroleum gas (butane and/or propane).
MARPOL	Means the International Convention for the Prevention of Pollution from Ships as amended from time to time.
MPMS	Means the API Manual of Petroleum Measurement Standards.
N.O.R.	Means the valid notice of readiness to load or discharge, as the case may be, as given by the Master (or his/her representative) in conformity with the provisions of the Agreement.
OCIMF	Means the Oil Companies International Marine Forum.
Oil	Means the crude oil sold under the Agreement.
Office Hours	Means from 09:00 hours to 16:00 hours on a full Working Day in the Seller's Place of Business.
Party	Means either the Buyer or the Seller and collectively the "Parties".
Payment Security	Means the L/C in accordance with the provisions of Clauses 3.6, the prepayment in accordance with the provisions of Clause 3.7, the parental guarantee in accordance with the provisions of Clause 3.8, a guarantee from a guarantor acceptable to the Seller, a bank guarantee, a net-ting agreement or any other financial instrument agreed between the Parties.
Product	Means wholly or partially refined petroleum product or petrochemical product or LPG or biofuels or hydro treated vegetable oil of the grade specified in the Special Provisions.
REACH	Means Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Regulation, Evaluation, Authorization and Restriction of Chemical substances (REACH) as amended from time to time. Wherever in the Agreement reference is made to the "Article", "Importer", "Manufacturer", "Only Representative", "Preparation",

“Substance” and “Supplier” these shall have the same meanings in this Agreement as in REACH.

REPSOL	Means Repsol Comercial de Productos Petroliferos and all Affiliates and Associated Companies.
Sanctions	Means any economic, financial and commercial sanctions and embargoes regulations issued by the U.S. Treasury Department’s Office of Foreign Assets Control (OFAC), or similar measures promulgated by the United Nations Security Council, the European Union, and EU member state and Switzerland, or other relevant sanctions authority, applicable to the Parties.
Seller	Means the party stated in the Special Provisions as being the seller of the Oil or Product.
Seller’s Place of Business	Means the Seller’s registered office at the location where the Seller develops and coordinates its main activities where all the communications and notices should be sent. Where the Seller is one of the following Repsol Group entities, the Seller’s Place of Business will be deemed located at Repsol Comercial de Productos Petroliferos: Madrid, Spain
Seller’s Suppliers	Means any legal entity or natural person being a direct or indirect source of supply for the Seller.
Shifting	Means inward passage until the Vessel is securely moored at the Berth and its gangway is ashore or any other loading/discharging place or passage from Berth to lightering place or from lightering place to Berth if lightering is to take place at the anchorage or other loading/discharging place.
SIGTTO	Means the Society of International Gas Tanker and Terminal Operators.
Special Provisions	Means the contractually binding fax, or e-mail, or other form of oral or written agreement in which, by reference, these General Terms and Conditions are incorporated to form the Agreement.
TBN	To be nominated.

Ton	Means a metric ton or tonne in vacuum or air, in accordance with standard practice at the Loading Port or Discharge Port (as applicable).
Typicals	Means a quality or characteristic often attributable to Oil or Product from a particular source, given without guarantee and not amounting to a representation or warranty that such typical quality or attribute will be present in the Oil or Product supplied.
VAT	Means value added tax.
Vessel	Means a tankship or other vessel of any type whatsoever which is wholly or mainly constructed or adapted for the carriage of Oil or Product in bulk as cargo.
Working Days	Means a regular working day where the Seller's Place of Business is situated.
World scale	Means the Worldwide Tanker Nominal Freight Scale.

2. Applicability and Interpretation

- 2.1.** Unless otherwise expressly agreed in writing, these General Terms and Conditions shall apply to all contracts for the sale of Oil or Product by or on behalf of Repsol Comercial de Productos Petroliferos, or any of its Associated Companies or Affiliates, into which contracts are incorporated by reference.
- 2.2.** The Agreement contains the entire agreement between the Seller and the Buyer and supersedes all representations, prior agreements, oral or written, in connection with the matters, which are the subject of this Agreement.
- 2.3.** In case of any conflict between the Special Provisions and these General Terms and Conditions, the Special Provisions shall prevail.
- 2.4.** Except where Oil or Product is being sold on a DES basis, Incoterms 2010 (and subsequent revisions) shall apply to the Agreement as supplementary provisions. In case of conflict, ambiguity or inconsistency between the provisions of the Agreement and Incoterms 2010 (and subsequent revisions), the provisions of the Agreement shall prevail.
- 2.5.** Where Oil or Product is being sold on a DES basis, Incoterms 2000 shall apply to the Agreement as supplementary provisions. In case of conflict, ambiguity or inconsistency between the provisions of the Agreement and Incoterms 2000, the provisions of the Agreement shall prevail.
- 2.6.** All clauses, articles and headings used in the Agreement are for convenience only and shall not affect the construction or interpretation of any of the terms and/or conditions of the Agreement.
- 2.7.** The Buyer and the Seller each warrant that in connection with the Agreement, they have not relied upon any representations, written or oral, made by or on behalf of the other Party, but have relied exclusively on their own knowledge, judgment and expertise.

2.8. Any words following the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2.9. Unless otherwise stated herein or in the Special Conditions, time shall be of the essence in relation to any obligation for which a time for performance is specified and expressed to be a factor.

However, nothing in these General Terms and Conditions shall imply or be taken to imply that any time for delivery and the obligations under clauses 24.3, 30.3 and 35.3 to accept or reject nominated Vessels, and to give or update ETAs shall be of the essence.

3. Payment

3.1. Payment Amount

Payment shall be made in full by the Buyer to the Seller before or on the payment due date, without any discount, deduction, withholding, set-off or counterclaim of any kind whatsoever. Payment shall be made in U.S. dollars or any other convertible currency agreed in the Special Provisions by telegraphic transfer immediately against presentation of the documents stated in Clause 3.2 below. Any payment made by the Buyer to the Seller should be net of any applicable bank fees, which should be paid separately by Buyer.

3.2. Payment documents

3.2.1. Payment shall be made by the Buyer to the Seller against presentation to the Buyer of:

(a) In the case of FOB, CFR or CIF deliveries by Vessel:

- a. The Seller's fax or e-mail commercial invoice (provisional invoice acceptable where applicable);
- b. 3/3 original bills of lading issued or endorsed to the order of the Buyer; and
- c. copy of certificate(s) of quantity and quality issued at the Loading Port.

(b) In the case of DES or DAP, deliveries by Vessel:

- a. The Seller's fax or e-mail commercial invoice (provisional invoice acceptable where applicable);
- b. copy of certificate(s) of quantity and quality issued in accordance with Part IV; and

- c. only if necessary due to customs clearance requirements at the Discharge Port, at least 1/3 original bills of lading issued or endorsed to the order of the Buyer.
- (c)** In case of Ex Tank, Into Tank, In Tank, FIP, DAP, deliveries not involving a Vessel as a means of transportation against presentation to the Buyer of the Seller's fax or e-mail commercial invoice (provisional invoice acceptable where applicable).

3.2.2. Invoice

- 3.2.2.1.** The Seller's invoice shall be prepared based on the quantities contained in the bill of lading which are to be based on the quantities stated in the certificate of quantity (or other equivalent document) or, where applicable, based solely on the certificate of quantity (or other equivalent document) issued at the delivery point.
- 3.2.2.2.** For invoicing purposes, the Buyer must provide the Seller no later than two (2) Working Days prior to the commencement of loading of the Vessel, with:
- (a)** if applicable, the VAT and excise duty numbers when the Buyer is the final consignee of the Oil and/or Product; or
 - (b)** if applicable, the VAT and excise duty numbers of the final consignee of the Oil and/or Product if the final consignee is not the Buyer hereunder; and
 - (c)** Documentary instructions or other necessary information.
- 3.2.2.3.** In case the invoice is not issued in good time due to the Buyer's failure to present the required information on time, the Seller shall be entitled to charge interest at a commercial rate for the period of delay in payment.

3.2.3. Provisional Invoice

- 3.2.3.1.** Unless otherwise agreed in writing, when the pricing mechanism or other issue does not allow the preparation of the final invoice to be completed before the payment due date, the Seller may issue and the Buyer shall make payment against a provisional invoice. The provisional invoice shall, (unless otherwise agreed between the Parties) be based upon the pricing or other information available to the Seller at the time it issues such provisional invoice.
- 3.2.3.2.** Payment of any balance due by either Party to the other shall be made on the due date specified in the Special Provisions or, where there is no final due date specified in the Special Provisions, within five (5) Banking Days of receipt of the Seller's final invoice which shall be prepared as soon as practicable after all the relevant pricing and/or quantity information

becomes available to the Seller. Unless otherwise agreed in the Special Provisions, no interest shall be due on the difference between the provisional and final invoice.

3.2.4. Pricing in case of late arrival

If the Vessel tenders N.O.R. outside the agreed Laydays and the Seller accepts to load the Vessel or if loading is completed more than 36 hours after the Laydays have ended and, in either case, the price of the Oil or Product under the Agreement is to be determined by reference to the date of the bill of lading, the Seller shall have the right to elect instead, the second day after the end of the agreed Laydays as the date by reference to which the price for the Oil or Product shall be determined. The decision shall be notified to the Buyer the first Day after the last Day of the agreed Laydays.

3.2.5. Seller's letter of indemnity

If the documents referred to in Clauses 3.2.1(a) and 3.2.1(b) above are not available for presentation to the Buyer on or before the payment due date, the Buyer agrees to pay the Seller upon presentation to the Buyer of:

- (a) The Seller's fax or e-mail commercial invoice (provisional invoice acceptable where applicable); and
- (b) The Seller's Letter of Indemnity, in the format set out in Annex B. The Seller's indemnity presented in the form of a fax or attached to an e-mail shall be acceptable.

3.3. Payment due date

3.3.1. Payment(s) shall be made to the Seller's bank, account name and account number as notified by the Seller to the Buyer in writing.

3.3.2. The payment due date shall be as specified in the Special Provisions. In the absence of a payment due date being specified in the Special Provisions, and in the absence of provisions to the contrary herein, payment is due within five (5) Working Days after delivery.

3.3.3. Payment due at weekend or on bank holidays

In the event that the due date for payment falls on a Saturday or a non-Banking Day other than Monday, payment will be made on the previous Banking Day and in the event that the due date for payment falls on a Sunday or a non-banking Monday, payment will be made on the following Banking Day (the bank holidays and Banking Days will be those agreed by the Parties in the

Agreement or, in the absence of agreement, those applicable to the banking system of the currency in which the payment is to be effected).

3.4. Interest

- 3.4.1.** Without limitation to any of the Seller's legal rights, if the Buyer fails to pay in full any invoiced amount by the due date, the Seller shall have the right to require the payment by the Buyer of interest on any unpaid amount from the due date until the Seller receives cleared funds in the full amount outstanding into the Seller's payment account at one month LIBOR, plus three (3) per cent; where "LI BOR" means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for dollars or euro, as applicable, for the relevant period displayed on page LIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) on the date which is two (2) London Banking Days prior to the contractual due date (due date as shown on the invoice).
- 3.4.2.** The provisions of this Clause 3.4 shall not be construed as an indication of any willingness on the part of the Seller to provide extended credit as a matter of course, and shall be without prejudice to any rights and remedies that the Seller may have under the Agreement or otherwise. Any expenses incurred by the Seller, including but not limited to reasonable legal fees, court costs and collection agency fees, caused by delayed or non-payment by the Buyer of the amount(s) due shall be for the account of the Buyer and payable upon demand with supporting documentation.

3.5. Payment Security

- 3.5.1.** The Buyer shall periodically provide to the Seller that financial information or security deemed necessary by the Seller to support any credit extension.
- 3.5.2.** If Payment Security is not already provided for in the Special Provisions, or if it has been provided for in the Special Provisions but becomes unacceptable to the Seller, the Seller shall be entitled at any time before the payment due date and/or before title transmission, on giving the Buyer notice to that effect, to demand payment to be:
- (a)** Made by means of an irrevocable documentary credit, in accordance with the provisions of Clause 3.6;
 - (b)** Supported by a standby letter of credit, in accordance with the provisions of Clause 3.6;
 - (c)** Made by means of prepayment in accordance with the provisions of Clause 3.7; and

- (d) supported by, in the Seller's option, a parental guarantee, a guarantee from a guarantor acceptable to the Seller, a bank guarantee, a netting agreement or any other financial instrument agreed between the Parties on or before the deadline stated in the contract, in each case in a form acceptable to the Seller.

3.5.3. Failure by the Buyer to provide Payment Security as required by the Seller shall constitute an Event of Default (as defined in Clause 6.1), entitling the Seller to the remedies specified in Clause 6.

3.5.4. In no event shall the Seller be obliged:

- (a) In the case of FOB, CFR and CIF deliveries, to commence or complete loading until the required Payment Security is accepted by the Seller. In CFR/CIF, if Seller decides to proceed with the loading, the risk shall be transferred to the Buyer when the Oil or Product passes the manifold flange connection of the Vessel's delivery hose at the Loading Port, and the title shall be transferred to the Buyer when the required Payment Security is accepted by the Seller or when the loading is completed, whichever occurs later.
- (b) In the case of DES and DAP deliveries, to commence discharging until the required Payment Security is accepted by the Seller.

In all cases above, any delay, costs and damages whatsoever, including but not limited to demurrage, arising from the failure of the Buyer to open and/or confirm the Payment Security required by the Seller, shall be for Buyer's account.

3.6. Letter of Credit

- 3.6.1.** Where under the Agreement or by virtue of Clause 3.5, payment is to be made by means of an irrevocable documentary credit or to be supported by a standby letter of credit in favor of the Seller (both herein referred to as an "L/C"), the Buyer shall cause such L/C to be opened with or confirmed by a first class international bank acceptable to the Seller (the "Bank") in the terms specified in this Clause 3.6.
- 3.6.2.** The provisions hereof for payment by or payment supported by L/C are not to be construed as altering, varying or qualifying the Buyer's obligation to pay for the Product delivered hereunder by the payment due date.
- 3.6.3.** The L/C shall be sufficient to cover the contractual mean value of the Oil or Product at the price specified in the Special Provisions plus a minimum of ten percent (10%), and a further amount to cover escalation in duties including VAT if appropriate, and the Buyer shall cause it to be issued

(and advised if applicable) and confirmed (if requested by Seller) in writing by the Bank to the Seller, provided further that such L/C shall be in the forms set out in Annex A and C.

3.6.4. The Buyer shall cause the L/C to be opened (and confirmed and/or advised if requested by Seller) and duly receipted and accepted by the Seller:

- (a)** In the case of FOB, CIF and CFR deliveries not later than 16:00 hours (local time at the Seller's Place of Business) on the fifth (5th) Working Day prior to the first (1st) Day of loading Lay days;
- (b)** In the case of a DES and DAP deliveries, not later than 16:00 hours (local time at the Seller's Place of Business) on the fifth (5th) Working Day prior to the first (1st) Day of the discharging Lay days; and
- (c)** In the case of Ex Tank, Into Tank, In tank and FIP, not later than 16:00 hours (local time at the Seller's Place of Business) on the fifth (5th) Working Day prior to the agreed transfer date.

If the date of the Agreement is later than any of the dates for opening and/ or confirming the L/C specified in the Special Provisions or in this Clause 3.6, then the Buyer shall make best efforts to open or confirm the L/C as soon as practicably possible but in any case never later than 12:00 hours (local time at Seller's Place of Business) on the Banking Day immediately prior to the first (1st) Day of the Lay days.

3.6.5. If Buyer does not provide an acceptable L/C for the Seller on or before the deadline stated in Clause 3.6.4, the Seller may terminate the Agreement immediately without prejudice to any rights or remedies of the Seller.

3.6.6. Should any amendment be requested by the Seller or the Seller's Bank, the Buyer shall comply with it upon request, and within the times set out in Clause 3.6.4 and the Buyer shall be liable for any delay, cost or damage arising from any failure by the Buyer or its bank so to comply.

3.6.7. All charges in respect of the L/C shall be for Buyer's account.

3.7. Prepayment

3.7.1. Where, under the Agreement or by virtue of the provisions of this Clause 3.7, prepayment of the price is required, the Seller shall issue a provisional invoice and the Buyer shall make due payment. The provisional invoice shall, unless otherwise agreed between the Parties, be based upon:

- (a) The pricing information available to the Seller at the time it issues such provisional invoice; and
 - (b) The 120% of maximum contractual quantity specified in the Special Provisions.
- 3.7.2.** The prepayment shall be received by the Seller no later than three (3) Banking Days before first (1st) Day of the loading lay days, in any event, prior to the transfer of title of the Oil or Product.
- 3.7.3.** If Buyer does not provide prepayment to the Seller on or before the deadline stated in this Clause 3.7, the Seller may terminate the Agreement immediately without prejudice to any rights or remedies of the Seller.
- 3.7.4.** Payment of any balance due by either Party should be made in accordance with Clause 3.2.3.2.

3.8. Parental Guarantee

If the Seller agrees that payment shall not be by way of an L/C, nor is prepayment required, in such a case, at the Seller's option and on notice by the Seller, the Buyer shall provide a parent company guarantee in a form and on terms acceptable to Seller.

4. Assignment

- 4.1.** Party shall assign all or part of its rights and obligations under the Agreement without the prior written consent of the other Party (which shall not be unreasonably withheld or delayed), save that the Seller shall be free to assign its rights and obligations under the Agreement to any of its Associated Companies or Affiliates.
- 4.2.** Additionally, the Seller may assign its rights to receive and obtain payment to any third party without the prior written consent to the Buyer.
- 4.3.** The assignee shall not contravene any applicable law, order or regulation.
- 4.4.** If such written consent is given to an assignment of rights and obligations of the Buyer, the assignee of the Buyer shall fully comply with the terms of payment contained in Clause 3 herein or any other payment provision substituted for Clause 3 with the consent of the Seller.
- 4.5.** Except as expressly agreed in writing by the other Party, the assignor shall nevertheless remain jointly and severally liable with the assignee for the proper performance of all its obligations under the Agreement, including but not limited to all payment obligations.
- 4.6.** Any assignment not made in accordance with the terms of this Clause 4 shall be null and void.

5. VAT, GST, Customs, Mineral Oil Tax, U.S. Domestic Taxes, and Other Taxes and Duties

5.1. VAT/GST or a similar tax

- 5.1.1** Where VAT, a goods and services tax ("GST") or a similar tax (collectively, "VAT/ GST") becomes payable under the rules applicable at the Loading Port and/or Discharge Port, the Seller shall issue a valid tax invoice setting out such VAT/GST or similar tax and the date for its payment in accordance with the requirements of the VAT/GST or similar tax legislation for the relevant jurisdiction where the supply has taken place.
- 5.1.2** Payment of such VAT/GST or similar tax shall be made to the Seller in addition to the price specified in the Special Provisions as well as any duty payable and in the same manner as provided for payment of such price. Such invoice may be rendered in either local currency of the country in which such VAT/GST or similar tax is payable or, at the Seller's option, in the invoicing currency for the Oil or Product, converted at the appropriate exchange rate prevailing at the date of the tax point under the relevant VAT/GST or similar tax legislation, provided that the amount of VAT/GST or similar tax payable is expressed in the national currency of the country in which the tax is payable. Where the relevant legislation makes provision for VAT/GST or similar tax exemptions or reliefs or domestic zero rates, then these shall be applied accordingly where the relevant requirements are fulfilled. The Parties shall provide one another with the necessary documentation/information required to support such treatment within the appropriate time limits.
- 5.1.3** A sale of Oil or Product may be zero rated for VAT/GST purposes, provided that:
- (a)** If the destination of the Oil or Product is within the EU, and if requested by the Seller, the Buyer provides to the Seller:
 - a. Within thirty (30) Days of the date of completion of loading:
 - i. evidence satisfactory to the EU states in which the Loading Port and Discharge Port are located that the Oil or Product has been received by the Buyer, or on the Buyer's behalf, or by some other party acting on its own behalf, within another EU state, and
 - ii. Such other evidence as is satisfactory to the relevant authorities in the above EU states to allow zero rating of the supply of the Oil or Product; and

- b. before transfer of title in the Oil or Product to the Buyer, a valid VAT registration number issued by an EU state other than the EU state in which the Loading Port is situated; and
 - c. Evidence satisfactory to the EU states in which the Loading Port and Discharge Port are located that the transport arrangements for the Oil or Product qualify for zero rating; or
- (b)** if the destination of the Oil or Product is outside the EU or outside the country in which the Loading Port is located and if required by the applicable VAT/GST regime in which the Loading Port is located, the Buyer shall provide to the Seller, within thirty (30) Days of the date of completion of loading of the Oil or Product, evidence satisfactory to the EU state or the applicable VAT/GST regime in which the Loading Port is located that the Oil or Product has been received by the Buyer, or on the Buyer's behalf, or by some other party acting on its own behalf, at such destination.

- 5.1.4** In circumstances where Clause 5.1.3 above may apply, the Seller will issue a valid tax invoice in respect of the Oil or Product, which is zero-rated for VAT/GST purposes. However, if the Buyer fails to comply with the requirements set out in Clause 5.1.3 above within the allowed time frame or in the event of any fraud or misappropriation in respect of the Oil or Product and/or the documents/information referred to in Clause 5.1.3 above, or as appropriate for transactions that are effected outside the EU Member States, the Seller shall be entitled to issue a further tax invoice for the amount of any VAT/GST payable on the Oil or Product (inclusive of duty if appropriate) together with any penalties and/or interest at the rate stipulated under the VAT/GST rules applicable. Such invoice may be rendered either in local currency of the country in which such tax is payable or, at the Seller's option, in the invoicing currency for the Oil or Product, converted.
- 5.1.5** The Buyer shall indemnify the Seller in respect of any costs, penalties and interest incurred by the Seller as a result of the Buyer's failure to pay, or delay in paying, any VAT /GST required to be paid or borne by the Buyer in accordance with the Agreement.
- 5.1.6** If the Seller is subsequently able to obtain a credit or repayment from the authorities of any such VAT/GST which has been paid or borne by the Buyer, the Seller shall within five (5) Banking Days from the time the Seller received the credit or repayment, reimburse the Buyer with the net amount so credited or repaid less any costs, expenses, penalties and interest. The Seller shall use commercially reasonable efforts, at the cost of the Buyer, to obtain such credit or repayment.

5.2. Customs, Excise Duty or Mineral Oil Tax

- 5.2.1.** The provisions of this Clause 5.2 shall apply only in respect of deliveries of the Oil or Product under the Agreement where either the Loading Port or Discharge Port is located within the EU.
- 5.2.2.** An excise duty or mineral oil tax may be payable in respect of the Oil or Product being removed from a duty suspension regimen in an EU Member State unless:
- (a)** it is moving to another EU Member State under the provisions of the Excise Movement Control System ("EMCS") as established pursuant to the European Council Directive 2008/118/EEC, any amendments thereto and any other subsequent successor or subordinate legislation and within the timeframe stipulated by EMCS and the Electronic Administrative Document ("e-AD") is receipted by the nominated consignee; or
 - (b)** where allowed under National Excise Legislation it has moved to another approved bonded location under National Legislation based on EMCS and within the timeframe stipulated by National Legislation the Oil or Product is receipted by the nominated consignee; or
 - (c)** the Buyer can provide evidence satisfactory to the EU state where the Oil or Product was taken out of bonded premises without an e-AD as a result of the Buyer's nomination, that the Oil or Product was delivered into bonded premises within the EU in circumstances where such deliveries allow for suspension of mineral oil tax or excise duty has been accounted for; or
 - (d)** The Buyer can provide evidence satisfactory to the EU state where the Oil or Product was taken out of bonded premises, that the Oil or Product was delivered to a non-EU state either duty paid or into bonded premises.
- 5.2.3.** The nomination provided by the Buyer to the Seller must include full details in accordance with Clause 24.1 necessary to comply with the requirements of EMCS, and must include (without limitation) full details (name, address and excise license number) of the relevant excise license holder (authorized warehouse keeper) and tax warehouse itself.
- 5.2.4.** Where the Oil or Product has not been released for free circulation in the EU (i.e. has T1 status), the Buyer must provide sufficient information about the Oil or Product's destination as to enable the Seller to comply with the applicable customs and related legislation, including but not limited to export or EU Community Transit rules (including by the use of the New Computerized Transit System ("NCTS").

- 5.2.5.** Where amendments are legitimately required to e-ADs after the Vessel has sailed, the Seller shall ensure such changes are made by the consignor. If the Seller fails to ensure such changes are made, the Seller shall indemnify, and hold indemnified, the Buyer against any and all liability in respect of excise duty or mineral oil tax incurred by the Buyer. The indemnity is subject to the Buyer informing the Seller of any such changes.
- 5.2.6.** If the Buyer fails to take the necessary steps to ensure one of the exceptions in Clauses 5.2.2(a) to 5.2.2(d) applies, or does not comply with Clauses 5.2.3 to 5.2.4, or in the event of any fraud or misappropriation in respect of the Oil or Product and/or the documents referred to in such Clauses, the Buyer shall indemnify, and hold indemnified, the Seller against any and all liability in respect of customs and/or excise duty or mineral oil tax incurred by the Seller, including any interest, penalties and costs in respect thereof. In addition, notwithstanding compliance with such Clauses, the Buyer shall, except in the case of CIF, CFR, DES or DAP delivery, remain liable under the above indemnity for any customs and/or excise duty or mineral oil tax claimed by any relevant EU Member State in respect of discrepancies between the loaded and discharged quantities.

5.3. Definitions

For the purposes of Clause 5.1 (VAT/GST or a similar tax) and Clause 5.2 (Customs, Excise Duty or Mineral Oil Tax) “evidence satisfactory” to an EU state or a non-EU state shall, as a minimum and without prejudice to the provisions of Clause 19.2 hereof, require a certificate of discharge of the Oil or Product. For the avoidance of doubt, the Buyer shall not be obliged to provide any documents pursuant to this Clause 5, which are not required by the relevant authorities in the EU Member state or non-EU state in question.

5.4. U.S. Domestic Taxes

- 5.4.1.** This Clause 5.4 shall apply only where the point of title transfer, the Loading Port, or Discharge Port is located within the U.S.
- 5.4.2.** Except as provided below, the Seller shall pay all taxes, fees, and other charges that may be levied or assessed or are otherwise applicable upon the possession, manufacture, sale, and transportation of the Oil or Product prior to its delivery to the Buyer; if the Buyer is required by law to pay any such taxes, fees, and other charges, the Seller shall promptly reimburse the Buyer for such items. In addition to any other amounts required to be paid by the Buyer pursuant to the Agreement, the Buyer shall reimburse the Seller for any (1) federal, state or local excise taxes or fees or other charges now in effect or hereafter levied, assessed or imposed on gasoline, gasoline

blend stocks, liquefied petroleum gas, natural gas liquids, additives, diesel fuel, aviation fuel, carbon content, carbon dioxide emissions and special motor fuels and (2) taxes, fees, or other charges which may be hereafter levied, assessed, or imposed on or with respect to the possession, manufacture, removal, sale, transportation, receipt or delivery of the Oil or Product at and after delivery to the Buyer. To the extent, any state law imposes tax on the Seller on such reimbursements, and the Seller pays such tax, then the Buyer shall reimburse the Seller for the amount of such additional tax. The Seller shall have the right to invoice tax and any such additional tax, as described in the preceding sentence, at the same time at the combined effective tax rate then applicable to the Seller. The Buyer shall furnish the Seller with satisfactory tax exemption certificates where exemption is claimed.

- 5.4.3.** When one Party makes payments to be reimbursed by the other Party, the paying Party shall use commercially reasonable efforts to verify the correctness of the charges and to pay only the minimum amount due. All taxes shall include any related interest and penalties. There shall be no reimbursement for penalties or interest, which are incurred as the result of the paying Party's negligence.
- 5.4.4.** Notwithstanding anything to the contrary in the Agreement, each Party is responsible for payment of its federal, state, and local income taxes and state franchise, license, and similar taxes required for the maintenance of business existence, including the Business and Occupation Tax levied by the State of Washington or any political subdivision of the State of Washington.
- 5.4.5.** Each Party is responsible for obtaining the proper licenses in the states where the transactions under the Agreement take place. Should any taxes, fees, and other charges, including penalty or interest, occur because of one Party's failure to obtain such licenses, the Party who fails to obtain the required licenses agrees to bear all the costs associated with this failure and shall indemnify the other Party from the additional costs.
- 5.4.6.** Each Party agrees to indemnify and hold the other Party harmless from and against all claims, causes of action, proceedings, judgments, interest, penalties, fees or other liabilities brought by or awarded to third parties arising out of or connected with taxes to be paid or otherwise required to be borne by such Party pursuant to this Clause. Said indemnity includes the payment of reasonable attorneys' fees and expenses incurred in defense of said claims, proceedings or causes of action.
- 5.4.7.** The Parties agree to cooperate with each other in defending the tax treatment of the transactions entered into pursuant to the Agreement if a Party is audited by or on behalf of a taxing jurisdiction for sales, use, excise, or similar taxes. Such cooperation shall include, but not be limited to

providing the other Party with prompt and timely notice of any such audit if such audit pertains to taxes for which the other Party is required to reimburse the notifying Party pursuant to this Clause 5.4.7, producing existing documentation, generating new reports from existing electronic reporting systems and making employees available at no cost, other than reasonable out-of-pocket expenses, to the other Party. Both Parties further agree, in furtherance of this cooperation agreement, to retain applicable records for a period of not less than the applicable statute of limitations, including any waivers thereof, executed by either Party for any taxes collected by or reimbursed to that Party. For purposes of this Clause 5.4.7, "prompt and timely notice" shall mean providing a Party with notice at such time so as to permit such Party with enough time and a reasonable opportunity to appeal, protest, or litigate the pending or actual assessment of tax in an appropriate venue. If a Party (the "failing Party") fails to give the other Party (the "reimbursing Party") prompt and timely notice of any audit pertaining to taxes for which the reimbursing Party is required to indemnify or reimburse the failing Party, then the reimbursing Party shall not be required to indemnify or reimburse the failing Party pursuant to this Clause 5.4.7 for such taxes to the extent such taxes could have been reduced or eliminated had the failing Party provided prompt and timely notice to the reimbursing Party.

5.5. Other Taxes, Duties

5.5.1. Buyer's Responsibilities

- 5.5.1.1.** The amount of any taxes, duties, imposts, fees, charges and dues of every description imposed or levied by any governmental, local or port authority on the Oil or Product supplied hereunder, or on its export, delivery, transportation, ownership, sale or use, in respect of any stage after title and risk in such Oil or Product has passed to the Buyer, shall be for Buyer's account. The Buyer shall not be obligated to indemnify or hold harmless Seller for any taxes levied or imposed by any governmental authority in any country and payable by Seller (i) which does not directly relate to the performance by Seller of its obligations hereunder or (ii) resulting from the creation of a permanent establishment, trade or business or presence by Seller (or any Affiliate thereof).
- 5.5.1.2.** In the case of FOB sales, all taxes, duties, imposts, fees, charges (including, without limitation, pilotage, mooring and towage expenses) and dues (including, without limitation, quay dues) in respect of the Vessel incurred at the Loading Port shall be for Buyer's account.
- 5.5.1.3.** In the case of CFR and CIF sales, all taxes, duties, imposts, fees, charges (including, without limitation, pilotage, mooring and towage expenses) and dues (including, without limitation,

quay dues) in respect of the Vessel incurred at the Discharge Port shall be for Buyer's account, except for those specified in Worldscale as being for Vessel owners' account.

- 5.5.1.4.** For the avoidance of doubt and in respect of every type of sale, the Seller shall not be the importer of record but should provide to the Buyer the necessary documentation and/or information in the Seller's possession, direction or control required to comply with customs and excise entry procedures at the Discharge Port. All duties and taxes that arise in respect of such customs and excise entry shall be for Buyer's account.

5.5.2. Seller's Responsibilities

- 5.5.2.1.** The amount of any taxes, duties, imposts, fees, charges and dues of every description imposed or levied by any governmental, local or port authority on the Oil or Product supplied hereunder, or on its export, delivery, transportation, ownership, sale or use, in respect of any stage prior to passage of risk and title in such Oil or Product passing to the Buyer, shall be for Seller's account.
- 5.5.2.2.** The Seller shall not be obligated to indemnify or hold harmless Buyer for any taxes levied or imposed by any governmental authority in any country and payable by Buyer (i) which do not directly relate to the performance by Buyer of its obligations hereunder, or (ii) resulting from the creation of a permanent establishment, trade or business or presence by Buyer (or any Affiliate thereof).
- 5.5.2.3.** In the case of CFR and CIF sales, all taxes, duties, imposts, fees, charges (including, without limitation, pilotage, mooring and towage expenses) and dues (including, without limitation, quay dues) in respect of the Vessel incurred at Loading Port shall be for Seller's account, except for those specified in Worldscale as being for Vessel owners' account.
- 5.5.2.4.** In the case of DES and DAP sales, all taxes, duties, imposts, fees, charges (including, without limitation, pilotage, mooring and towage expenses) and dues (including, without limitation, quay dues) in respect of the Vessel incurred at the Discharge Port shall be for Seller's account, other than those that arise in respect of customs and excise entry which shall be for the Buyer's account.
- 5.5.3.** Notwithstanding anything to the contrary in this Clause 5.5, if there is a conflict between this Clause 5.5 and Clause 5.1 (VAT/GST or a similar tax), Clause 5.2 (Customs, Excise Duty or Mineral Oil Tax, or Clause 5.4 (U.S. Domestic Taxes), then Clause 5.1, Clause 5.2, and Clause 5.4, as applicable, shall apply.

5.6. No time bar for claims relating to taxes and duties

There shall be no time limit on claims solely for taxes and duties pursuant this Clause 5, and the provisions of Clause 11 shall not apply.

The Seller may request the Buyer to provide documentation for presentation to relevant authorities and the Buyer shall provide the Seller with the required documentation upon request.

6. Termination

6.1. Each of the events specified below with respect to either Party (the “Defaulting Party”) shall constitute an “Event of Default” under this Agreement:

- (a)** The Defaulting Party:
 - a. has insolvency or bankruptcy proceedings instituted against it;
 - b. becomes insolvent;
 - c. makes an assignment for the benefit of its creditors;
 - d. Proposes or makes any arrangements for the liquidation of its assets; or
 - e. Appoints or becomes subject to the appointment of an administrator, liquidator, receiver or other similar official;
- (b)** The Defaulting Party fails to provide Payment Security in accordance with the requirements of the Agreement, within the stipulated period;
- (c)** The Defaulting Party fails to make a payment due in full by the payment due date and does not correct such a failure within five (5) Working Days of notice being given by the non-Defaulting Party of this breach; or
- (d)** Where the Defaulting Party is the Buyer, it fails to take delivery of the Oil or Product in accordance with quantity or delivery provisions in the Agreement.

Upon the occurrence of an Event of Default, the non-Defaulting Party at its sole discretion, without prejudice to its other rights, including its right to claim damages for breach of contract or demurrage, by notifying the Defaulting Party orally (confirming such notification in writing) or in writing, may:

- (a)** Immediately terminate this Agreement;
- (b)** If it is the Seller, suspend or withhold delivery under the Agreement;
- (c)** Refuse to commence loading or discharge as applicable.

6.2. If the Seller has any reason whatsoever to doubt the continuing ability of the Buyer to perform its obligations hereunder, the Seller may suspend deliveries until the Buyer has either agreed to make

prepayment for future deliveries or has provided such other Payment Security as the Seller, in its absolute discretion may require or, alternatively the Seller may terminate the Agreement by written notice without prejudice to any right of action or claim accrued to its benefit at the date of termination.

If the Buyer should fail to pay in whole or in part the invoiced amount by the due date, the Seller may, upon written notice to the Buyer, immediately suspend all or any supplies of Oil or Product until the Buyer has paid all of the amount owing, or may, at the Seller's option, upon written notice to the Buyer immediately terminate the Agreement without prejudice to any right of action or claim accrued at the date of termination.

- 6.3.** The Seller shall, in addition to the above, be entitled to set-off monies payable by the Seller against the liabilities of the Buyer pursuant to the Agreement or any other contract between the Seller and the Buyer.
- 6.4.** When the Agreement provides for one or multiple deliveries and the Buyer fails, without justification, to take delivery of any cargo at the date specified under the Agreement (events of force majeure excepted), the Seller may at its sole option and upon written notice to the Buyer, either suspend all or any supplies of Oil or Product, or immediately terminate the Agreement without prejudice to any right of action or claim accrued at the date of termination.
- 6.5.** The Seller shall, in addition to the preceding paragraph, and to any other legal remedies it may have, be entitled to sell the Oil or Product comprised in such deliveries, in a public or private sale, after a written notification by the Seller to the Buyer.

The Buyer shall reimburse the Seller for any difference between the price(s) stated in the Agreement and the price obtained through a public or private sale, including all commercial losses suffered by the Seller, for the quantity of the Oil or Product that was not taken for delivery by the Buyer, together with all expenses incurred by the Seller through the Buyer's failure to take delivery. The payment shall be made by the Buyer to the Seller within five (5) Days after the date of the Seller's invoice (the date of the Seller's invoice being Day 0 (zero)).
- 6.6.** Written notice of termination provided for under this Clause 6 shall be effective at the time it is received by the Buyer in accordance with Clause 12.

7. Force Majeure

- 7.1.** No failure or delay by either Party in fulfilling any of its obligations contained in the Agreement shall give rise to any claim by one Party against the other, except in relation to obligations to make payments under the Agreement, if such failure or delay arises out of force majeure, which for the purposes of the Agreement shall be any occurrence or circumstance reasonably beyond the control of that Party which could not be foreseen the moment of the contract formation.
- 7.2.** Examples of force majeure include, but are not limited to: acts of God, war, whether declared or undeclared, civil disorder, riot, strike, lockout, sabotage, embargo, storm, earth- quake, perils of the sea, accident of navigation, fire, breakdown or interruption of the functioning of installations production plant or machinery or other facilities of the Seller or of the means of transportation of the Oil or Product, non-availability of feedstock, stoppage or restraint to labour in or about the plant of the Seller or its supplier, governmental laws, regulations or directions or acts of any officer, department agency, committee or similar bodies, national or international.
- Notwithstanding anything to the contrary contained in this Agreement, in the event that a Force Majeure Event shall have occurred and be continuing for consecutive period of thirty (30) Days, either Party shall be entitled to terminate this Agreement upon ten (10) Days written notice to the other Party.
- 7.3.** For the purposes of this Clause 7, the terms “Seller” and “Party” where applied to the Seller shall include the relevant Seller’s Suppliers, Affiliates and subsidiaries and the Seller shall be entitled to rely on an event of force majeure affecting the relevant Seller’s Suppliers, Affiliates and subsidiaries.
- 7.4.** The Seller shall not be required to make up deliveries omitted on account of the occurrence of incidents of force majeure.
- 7.5.** Notwithstanding this Clause 7, the Buyer shall not be relieved of any obligation to make payment for all amounts due under the Agreement for despatch, demurrage, detention or any other financial obligation whatsoever. This provision shall not apply in case when the Buyer is banned to order payments to the Seller due to the embargo, assets freezing and any other restrictive measures adopted by the government, public administration, supranational bodies and international

organizations of Buyer's jurisdiction against Seller, its designated banks or the country of its jurisdiction. In this case, the Buyer shall perform payment as soon as embargo, assets freezing and other restrictive measures have been lifted.

- 7.6.** Each Party shall promptly notify the other upon occurrence of any circumstances excusing or likely to excuse that Party's non-performance or delay under this Clause 7 and, if possible describe its extent and estimated duration. That Party shall also communicate when the effects of the force majeure event terminate.
- 7.7.** If by any reason or cause reasonably beyond the control of the Seller, including but not limited to the reasons set out in Clause 7.2, in the Seller's reasonable opinion there is a curtailment or shortage or interference of the Seller's sources or anticipated sources of supply, or transportation of any grade of Oil or Product from whatever country such that the Seller is unable to meet its own planned requirements, or anticipates that it will be unable to meet its own planned requirements, and those of its Associated Companies and Affiliates and its requirements for sales to customers, including the Buyer, the Seller may allocate on a fair and reasonable basis according to its own discretion, its available supply of the grades of Oil or Product among its own requirements, those of its subsidiaries and Affiliates and its requirements for sales to customers including the Buyer. In no circumstances shall the Seller be required to search for alternative sources of supply of Oil or Product under the Agreement when there are shortages or deficiencies of deliveries resulting from an impediment of any kind.

8. Liability

- 8.1.** Except as specifically provided in the Agreement, in no event, including the negligent act or omission by it or its Affiliates, agents and/or servants, shall either Party be liable to the other in contract, tort or otherwise for any special, consequential or indirect losses, nor shall either Party be liable to the other for any prospective or speculative profits.
- 8.2.** No claim by the Buyer in respect of the quality of Oil or Product delivered, quantity of Oil or Product delivered, or any other reason, may exceed the agreed price according to the Special Provisions except as provided for in Clause 8.3 below. If no Oil or Product is delivered, the Agreement price

shall be deemed to be the price that should have been applied according to the Agreement terms if a bill of lading had been issued on the last of the Laydays.

- 8.3.** Where the Loading Port is not operated by the Seller or an Associated Company of the Seller, any claims in respect of shortage of quantity or variation of quality of the Oil or Product shall be recoverable only in accordance with the usual terms applicable for the purchase of Oil or Product at the Loading Port and the Buyer shall not be entitled to re- cover any costs, losses or damages incurred arising out of any shortage in quantity or variation of quality of the Oil or Product from the Seller unless the Seller is able to recover and does recover such shortage or compensation or variation of quality from its supplier or other relevant third party, and then only to the extent of such recovery. The Seller shall, use all reasonable efforts to recover from its supplier or other relevant third party any such costs, losses or damages for which the Buyer has submitted a claim in accordance with the provisions of this Clause.
- 8.4.** Clauses 22, 27, 33 and 39, as applicable, constitute the whole of the Seller's obligations with respect to the description, quality and fitness for purpose of the Oil or Product supplied under the Agreement. The Buyer agrees with the provisions of Clauses 22, 27, 33 and 39, as applicable, and acknowledges that it is fully familiar with the characteristics of the Oil or Product. All statutory or other guarantees, conditions, representations or warranties, express or implied, with respect to the description or satisfactory quality of the Oil or Product or its fitness for any purpose are excluded. Unless otherwise stated in the Special Provisions, the quality of: (i) the Oil delivered here- under shall be the quality of such Oil as usually made available at the time and delivery point as specified in the Special Provisions; and (ii) Product delivered hereunder shall be not inferior to the specification (if any) set out in the Special Provisions. Whether set out in these General Terms and Conditions or in the Special Provisions, neither Typicals nor any stipulation as to time of delivery shall form part of the Oil or Product's description, quality or fitness for purpose. Any individual listed quality or characteristic of the Oil or Product delivered expressed numerically must (save if the Special Provisions provide otherwise) be correct in accordance with the relevant test methodology.
- 8.5.** The provisions of this Clause 8 shall continue to apply notwithstanding the termination or expiry of the Agreement for any reason whatsoever.

- 8.6.** The Buyer shall assume all risks and liability for loss, damage or injury to persons or property arising out of its possession, use, or resale of the Oil or Product either singly or in combination with other substances, and shall indemnify Seller accordingly.
- 8.7.** There are no guarantees, conditions, warranties or representations, express or implied, given in relation to the quality, merchantability, fitness or suitability of the Oil or Product, for any particular purpose or otherwise, which extend beyond the description of the Oil or Product and any specification contained in the Agreement.

9. Jurisdiction

Each Party irrevocably agrees that the Court of Spain in Madrid shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

10. Applicable Law

- 10.1.** This Agreement and any dispute or claim (including non-contractual disputes) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of Spain to the exclusion of any other law which may be imputed in accordance with choice of law rules applicable in any jurisdiction.
- 10.2.** The United Nations Convention on Contracts for the International Sale of Goods of Vienna dated 11th of April 1980, shall not apply to the Agreement.
- 10.3.** Each Party to the Agreement warrants that it has entered into the Agreement in its commercial capacity and that it is in this respect subject to civil and commercial law. Each Party hereby irrevocably and unconditionally and to the fullest extent permitted by law waives any rights of sovereign immunity (whether related to service of process, attachment prior to the execution, or attachment in aid of execution) which it may have now or which it may subsequently acquire in respect of its status, position or any of its property and/or assets belonging to it.

11. Time Limitation

With the exception of the specific provisions and time limits in the Agreement concerning demurrage, quality and quantity, legal proceedings in respect of any dispute or difference whatsoever arising under the Agreement must be commenced within either one (1) year of the date of the Agreement or within one (1) year of the date of the event giving rise to the cause of action, whichever occurs later, failing which such dispute or difference shall be deemed to have been waived and shall be time barred and no claim whatsoever may be brought in respect thereof.

12. Notices

- 12.1.** All notices and other communications given under the Agreement shall be in writing and unless otherwise specified in the Special Provisions or these General Terms and Conditions shall be deemed to have been delivered when despatched, provided the notice is despatched within Office Hours, by letter, facsimile and/or email to the Seller or the Buyer at the address set out in the Special Provisions.
- 12.2.** All notices or other communications sent outside the Office Hours will be deemed to have been delivered on the next Working Day.
- 12.3.** All notices or other communications shall be deemed to be received as follows:
- a)** By email: on the Day the email was delivered.
 - b)** By courier: if delivered on a Working Day before 16:00 hours then on that Day; if after 16:00 hours on the next Working Day after it was delivered.
 - c)** Airmail: on the fifth (5th) Day after it was posted.
 - d)** By facsimile: if transmitted on a Working Day before 16:00 hours then on that Day; if after 16:00 hours on the next Working Day after it was transmitted.
- 12.4.** Any change of address, telephone, and email or fax details must be notified to the other Party in writing, at least seven (7) Working Days prior to the change taking effect.

13. Rights, Powers and Remedies

- 13.1.** No failure or delay on the part of the Seller or the Buyer in exercising any right, power or remedy under the Agreement and no course of dealing between the Seller and the Buyer shall operate as a waiver by the Seller or the Buyer of any such right, power or remedy, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy under the Agreement.
- 13.2.** The remedies in the Agreement provided to the Seller or the Buyer are cumulative and not exclusive of any legal rights or remedies which the Seller or Buyer may otherwise have.
- 13.3.** Except as required by the Agreement, no notice or demand upon the Seller or the Buyer in any case shall entitle the Seller or the Buyer to any other or future notice or demand in similar or other circumstances or constitute a waiver of the right of the Seller or the Buyer to take any other or future action in any such circumstances without notice or demand.

14. Amendments and Waivers

- 14.1.** Any amendment or waiver of any provision of the Agreement shall not be effective unless it is made by the express written agreement of both Parties.
- 14.2.** Any waiver of any breach of any provision of the Agreement by either Party shall not be considered to be a waiver of any subsequent or continuing breach of that provision unless expressly agreed otherwise by the Parties in writing.
- 14.3.** No waiver by either Party of any breach of any provision of the Agreement shall release, discharge or prejudice the right of the waiving Party to require strict performance by the other Party of any other of the provisions of the Agreement.
- 14.4.** Failure by either Party to take action against the other Party in case of any breach of any provision of the Agreement shall not be considered to be a waiver by either Party of their right to take action for any subsequent breach of that or any other provision of the Agreement.

15. Severability and Survivability

15.1. Severability

If any provision of the Agreement is declared to be illegal, invalid or otherwise unenforceable by a court of competent jurisdiction or either Party's compliance with any applicable ruling or resolution has a like or similar effect, the remainder of the Agreement (and of such provision) shall not be affected except to the extent necessary to delete such illegal, invalid or unenforceable provision (or part thereof).

15.2. Survivability

If for any reason the Agreement shall be terminated then such termination shall be without prejudice to any rights, obligations or liabilities of either Party which have accrued at the date of termination but have not been performed or discharged, and any parts of the Agreement having any relevance thereto or any bearing thereon shall, notwithstanding the termination of the Agreement for any reason, continue in force and effect.

16. Recording, Retention and Monitoring of Communications

Each Party hereby acknowledges and consents that the other Party may upon the prior notice to the other Party in a form required by the applicable laws and regulations:

- a)** record and retain electronic transmissions (including telephone conversations, e-mail and instant messaging between the Parties' respective representatives in connection with the Agreement or other commercial matters between the Parties), and in case of disagreements, misunderstandings or any other problem, the aforementioned information may be used for the purposes of resolving such matters;
- b)** submit the above mentioned recordings as evidence in any proceedings; and
- c)** Monitor electronic transmissions for purposes of security and compliance with applicable laws, regulations and internal policies.

17. Confidentiality

- 17.1.** The terms of the Agreement shall be kept strictly confidential and the details of the Agreement shall not be disclosed by either Party to any third party without the previous consent in writing of the other Party.
- 17.2.** Notwithstanding the provisions of Clause 17.1, a Party (the “Disclosing Party”) may disclose details of the Agreement without the other Party’s prior written consent if:
- a)** Such disclosure is required by law or by any securities exchange or regulatory or governmental body or fiscal authority having jurisdiction over it, wherever situated, and whether or not the requirement has the force of law; or
 - b)** the confidential information is or was already in the public domain other than through the fault or action of the Disclosing Party; or
 - c)** such disclosure is to an Affiliate, Associated Company, legal advisor, agent, financing bank, insurance company/broker or in connection with any dispute, legal or arbitration proceedings or pursuant to Clause 9, and the Disclosing Party shall cause all Parties in receipt of such information to be bound by the same obligations of confidentiality as contained in the Agreement; or
 - d)** The information is revealed in connection with the assignment of the contract, if permitted, or the assignment of the right to receive payment.

18. Third Party Rights

No term of the Agreement shall be enforceable under the Contracts (Rights of Third Parties Act) 1999 by any person, company or other legal entity, which is not a party to the Agreement against one of the Parties to the Agreement. The Parties may rescind or vary the Agreement in whole or in part, subject to the provisions of Clause 4, without the consent of any third party.

19. Miscellaneous

19.1. Change in regulations

- 19.1.1** It is understood that the Parties are entering into the Agreement in reliance on the laws, rules, regulations, decrees, agreements, concessions and arrangements (“Regulations”) in effect on the

date of the Agreement with governments, government instrumentalities or public authorities affecting directly or indirectly the Oil or Product sold under the Agreement including but without limitation to the generality of the foregoing, those relating to the production, acquisition, gathering, manufacturing, transportation, storage, trading or delivery of the Oil or Product, insofar as such Regulations affect the Parties or the Seller's Supplier(s).

19.1.2 If at any time and from time to time during the currency of the Agreement any Regulations are changed or new Regulations have become or are due to become effective, whether by law, decree or regulation or by response to the insistence or request of any governmental or public authority or any person purporting to act for such organizations, and the material effect of such changed or new Regulations is:

- (a) Not covered by any other provision of the Agreement; and
- (b) Has or will have a material adverse economic effect on either Party.

The Parties shall have the option to request renegotiation of the price(s) and/or other relevant terms of the Agreement. Such option may be exercised at any time after such changed or new Regulations are notified by written notice to either Party, such notice shall contain the new price(s) and/or terms and conditions desired by the affected Party. If the Parties do not agree upon the new price(s) or terms and conditions within fifteen (15) Days after the date of the notice, either Party shall have the right to terminate the Agreement immediately at the end of such fifteen (15) Day period. Any Oil or Product delivered during such fifteen (15) Day period shall be sold and purchased at the price(s) and on the terms and conditions specified under the Agreement without any adjustment in respect of the new or changed regulations.

19.2. Destination

19.2.1 It is a condition of the Agreement, that the Oil or Product delivered under the Agreement shall not be imported (by the Buyer or any other), directly or indirectly and irrespective of means, to any destination which is, at the time of such import, either prohibited under the laws of the country in which such Oil or Product was produced or contrary to any Sanctions. The Buyer shall keep itself informed as to such laws, regulations, rules, directives or guidelines and shall ensure that they are complied with.

19.2.2 Without diminution of such obligation on the Buyer, the Seller undertakes to inform the Buyer as soon as practicable of any changes in such Sanctions which become known to the Seller. The

Seller undertakes to ensure that to the best of its knowledge, none of the Oil or Product originates from any Restricted Jurisdiction, save where in selling such Oil or Product, the Seller is not in breach of any sanctions applicable in any Restricted Jurisdiction. The Buyer acknowledges that at the date here of it is informed of all Sanctions relevant to its undertakings under this Clause.

19.2.3 The Buyer undertakes that the Oil or Product deliverable hereunder shall not:

- (a) Be exported to any Restricted Jurisdiction; or
- (b) Be sold or supplied to any natural or legal person in any Restricted Jurisdiction; or
- (c) be sold or supplied to any natural or legal person for the purposes of any commercial activity carried out in or from any such Restricted Jurisdiction; or
- (d) Be sold or supplied to any natural or legal person subject to the United States jurisdiction if such activity will cause any such persons to breach the United States laws and regulations.

19.2.4 For the purposes of this Clause 19.2 , “Restricted Jurisdiction” shall mean any country, state, territory or region to which the import of the Oil or Product is prohibited according to Sanctions under the laws of the country in which such Oil or Product was produced pursuant to Clause 19.2.1 above.

19.2.5 The Buyer shall, if the Seller requires, provide the Seller with appropriate documentation for the purposes of verifying the final destination of any delivery hereunder. Such documentation shall be provided within thirty (30) thirty Days of the Seller’s request or within such lesser period as will enable the Seller or its supplier to comply with any requirement or request of the government or authority in question and shall include the name of the port(s) of discharge, the date(s) of discharge and the grade and quantity discharged. The obligations of the Buyer to comply with such requirement shall not be affected by any sale or disposal of the Oil or Product in question by the Buyer.

19.2.6 Without prejudice to the foregoing provisions of this Clause 19.2, in the event of any failure to comply with such undertakings or if the Seller has reasonable grounds for believing that such undertakings will not be complied with, the Seller may (without prejudice to its other rights) at its sole discretion terminate the Agreement forthwith or forthwith suspend delivery under the Agreement until further notice or decline to commence or complete loading hereunder on notifying the Buyer either in writing or orally (with written confirmation to follow).

19.3. Trade controls and boycotts

19.3.0. Notwithstanding anything to the contrary herein:

- a)** Nothing in the Agreement is intended, and nothing herein should be interpreted or construed, to induce or require either Party hereto to act in any manner (including failing to take any actions in connection with a transaction) which is inconsistent with, penalized or prohibited under any laws, regulations, decrees, ordinance, order, demand, request, rules or requirements of the European Union, any EU member state, Switzerland, the United Nations or the United States of America that could be applicable to such Party which relate to international boycotts of any type; and
- b)** neither Party shall be obliged to perform any obligation otherwise required by this Agreement (including without limitation an obligation to (a) per- form, deliver, accept, sell, purchase, pay or receive monies to, from, or through a person or entity, or (b) engage in any other acts) if this would be in violation of, inconsistent with, or expose such Party to punitive measures under Sanctions.

19.3.1. Where any performance by a Party would be in violation of, inconsistent with, or expose such Party to punitive measures under, the Sanctions, such Party (the "Affected Party") shall, as soon as reasonably practicable give written notice to the other Party of its inability to perform. Once such notice has been given the Affected Party shall be entitled to:

- (a)** Immediately suspend the affected obligation (whether payment or performance) until such time as the Affected Party may lawfully discharge such obligation; o
- (b)** if it is not possible to suspend the affected obligation and the inability to discharge the obligation continues (or is reasonably expected to continue) until the end of the contractual time for discharge thereof, to a full release from the affected obligation, provided that where the relevant obligation relates to payment for goods which have already been delivered, the affected payment obligation shall remain suspended (without prejudice to the accrual of any interest on an outstanding payment amount) until such time as the Affected Party may lawfully resume payment; and

(c) Where the obligation affected is acceptance of the Vessel, to require the other Party to nominate an alternative Vessel; In each case without any liability whatsoever (including but not limited to any damages for breach of contract, penalties, costs, fees and expenses).

19.3.2. Nothing in this Clause shall be taken to limit or prevent the operation, where available under the governing law of the Agreement, of any doctrine analogous to the English Common Law doctrine of frustration.

19.3.3. The Buyer undertakes to comply at all times with Repsol's "Ethic and Conduct Code". In this regard, the Buyer undertakes to respect the code and to prevent, mitigate and remedy any violation thereof. The Buyer will cooperate with the Seller to ensure that the business principles contained in Repsol's "Ethic and Conduct Code", as may be amended from time to time and as posted on the Repsol website (www.repsol.com), are complied with.

19.4. Anti-money laundering and anti-terrorism financing

19.4.0. The Parties agree that in connection with the Agreement, they will comply with all treaties and regulations of the United Nations, European Union, Spanish government and, as the case may, be any other legislation or requirements that could be applicable to such Party relating to anti-money laundering and anti-terrorism financing.

19.4.1. In particular each Party represents to the other that they shall not employ in transactions in connection with the Agreement any financial resources, assets or securities originated or derived from:

- a) unlawful activity of any nature;
- b) terrorists or terrorist organizations; or
- c) Persons or entities subject to Sanctions, and as the case may be, any other legislation or requirements that could be applicable to such Party.

19.4.2. Either Party may terminate the Agreement forthwith upon written notice to the other Party at any time, if in its reasonable judgment, supported by credible evidence, the other Party is in breach of any of the above representations, warranties or undertakings in this Clause.

19.5. Facilitation Payments and Anti-Corruption

19.5.0. The Parties agree that in connection with the Agreement, they will each respectively comply with all applicable laws, rules, regulations, decrees and/or official government orders of the European Union, any EU member state, Switzerland, the United Nations and the United States of America relating to anti-bribery/anti-corruption and anti-money laundering.

19.5.1. The Buyer and the Seller each represent, warrant and undertake to the other that they shall not, directly or indirectly and with the intent to obtain or keep business or to secure some other improper advantage:

(a) Pay, offer, give or promise to pay or authorize the payment of, any monies or otherwise convey any other things of value to:

- (i) Any employee of a state or government owned business, school, hospital or other entity;
- (ii) An officer or employee of any government entity, department or agency;
- (iii) Any person acting in an official capacity for or on behalf of any government;
- (iv) A public international organization or any department, agency, or instrumentality thereof;
- (v) Any political party or official thereof, or any candidate for political office;
- (vi) Any director, officer, employee or agent/representative of an actual or prospective counterparty, supplier or customer of the Buyer or Seller;
- (vii) Any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities; or

(b) Engage in other acts or transactions, in each case if such could in violation of or inconsistent with the anti-bribery/anti-corruption or anti-money laundering legislation of any government, including the U.S. Foreign Corrupt Practices Act, the U.K. Anti-Terrorism, Crime and Security Act 2001, the Money Laundering Regulation 2007, the Proceeds of Crime Act 2002 and the applicable country legislation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

19.5.2. Either Party may terminate the Agreement upon written notice to the other Party at any time, if in its reasonable judgment, supported by credible evidence, the other Party is in breach of any of the above representations, warranties or undertakings in this Clause.

20. Health Safety and Environment

20.1. The Buyer shall not be entitled to an indemnity from the Seller for any liability, claim or proceeding whatsoever for loss, damage or personal injury resulting from any hazards inherent in the nature of the Oil or Product delivered under the Agreement.

20.2. Sustainability

If applicable, Seller and the Buyer will comply with the requirements of the Renewable Energy Directive 2009/28/EC, Fuel Quality Directive 2009/30/EC amending Directive 98/70/EC and any other law, rule or regulation as amended from time to time relating to this subject which may arise in connection with the Agreement.

20.3. Material Safety Data Sheet

The Seller shall provide the Buyer with a copy of the current Material Safety Data Sheet ("MSDS") for the Oil or Product and any other information relating to health safety and environmental data in connection with the Oil or Product in compliance with the requirements of any applicable laws, rules or regulations.

20.4. Corporate Responsibility

The Buyer must obey all the regulations relating to the Environment and Health and Safety that are in use and applied to the Contract and, in any case, will not carry out actions that go against those established regarding this in the internal regulations and practice of the Repsol Group.

The Buyer must respect the internationally recognized human rights, which cover, as a minimum, the rights enunciated in the International letter of Human Rights and the principles relating to fundamental rights established in the International Labour Organization Declaration on Fundamental Principles and Rights at Work.

Furthermore, it shall not take any action that contravenes any dispositions relating to ethical behavior and respect for human rights that are in force in the internal regulations and policies of the Repsol Group.

20.3.1. The Buyer's responsibilities

- 20.3.1.1.** The Buyer shall provide its employees, agents, contractors, customers and other persons to whom it supplies the Product delivered hereunder with either:
- (a)** a copy of the Seller's current MSDS or a comparable MSDS and any other information relating to health, safety and environmental data in connection with the Product delivered hereunder; or
 - (b)** Comparable other information relating to health, safety and environmental data in connection with the Oil or Product delivered hereunder where performance of the obligations under the Special Provisions is outside the EEA ("Other Information").
- 20.3.1.2.** The Buyer shall be responsible for any consequences that result from the use of a MSDS or Other Information. For the purposes of this Clause, "supplies" shall have the same meaning as "supply" set out in Clause 46 of the Consumer Protection Act, 1987.
- 20.3.1.3.** The Buyer shall provide persons responsible for the management of health, safety and environment matters within its own organization with a copy of the MSDS or Other Information.
- 20.3.1.4.** The Buyer shall provide its employees with appropriate information and training to enable them to handle and use the Oil or Product delivered hereunder in a manner, which does not endanger their health or safety.

20.5. Registration, Evaluation, Authorization, and Restrictions of Chemicals (REACH)

In this Clause, the expressions "Importer", "Manufacturer", "Only Representative" and "Substance" shall have the same meanings in this Agreement as in REACH.

The provisions of this Clause 20.4 shall apply only in respect of deliveries of Oil or Product under the Agreement where either the Loading Port or Discharge Port is located within the EEA.

- 20.4.1.** The Seller and the Buyer each agree and undertake to the other that they will comply with those obligations under REACH which (subject to any exemption which may apply) are applicable to the sale of the Product under the Agreement and its physical introduction into the EEA.
- 20.4.2.** The Seller shall provide the following information ("Substance Identifier") to the Buyer for each chemical substance contained in or comprising the Product at the relevant time:

- (a)** a Chemical Abstracts Service ("CAS") registry number and/or the European Commission ("EC") number, which includes European Inventory of Existing Chemical Substances (EINECS), European List of Notified Chemical Substances (ELINCS), "no-longer polymers" list (NLP) and/or or any other appropriate identifier number as defined by REACH; or
- (b)** If the Seller is unable to provide the Buyer with any of the information described in (a) above, then the Seller shall provide the Buyer with the information necessary for the Buyer to ascertain the CAS or EC number.

20.4.3. The Seller shall provide the Substance Identifier to the Buyer no later than the time when title and risk passes from the Seller to the Buyer, but in respect of sales afloat, as soon as practically possible.

20.4.4. Where the Seller is neither an Importer, nor an EEA manufacturer, the following shall apply:

- (a)** In providing the Buyer with Substance Identifiers pursuant to its obligations under Clause 20.4.2, regardless of their source, it provides no warranty or representation as to the accuracy or completeness of such Substance Identifiers; and
- (b)** notwithstanding any other provision to the contrary in this Agreement, it accepts no liability for loss, damage, delay or expense incurred by the Buyer for whatever reason arising from its reliance on the accuracy of the Substance Identifiers provided and the existence of a valid (pre) registration of the Substances to be imported into the EEA.

20.4.5. For Oil or Product originating outside and to be imported into the EEA:

- (a)** The Importer, whether the Buyer or the Seller as the case may be, of the Product shall comply with those of its obligations under REACH, which are applicable to the physical introduction of the Product into the EEA.
- (b)** If an Only Representative has been appointed by a non-EEA Manufacturer or Manufacturers of any Substance contained in or comprising the Product, the Seller shall inform the Buyer of that fact and provide to the Buyer the relevant written statement and the contact details of the Only Representative.

20.4.6. For Oil or Product originated within the EU or EEA (as defined for REACH purposes) the Seller warrants that any REACH registration obligations in respect of the Oil or Product sold to the Buyer have been complied with.

20.4.7. In the case of substances manufactured as transported isolated intermediates, the Buyer/recipient shall receive from the Seller the strictly controlled conditions (SCC) document which shall have to

be signed, stamped and returned by the Buyer/Recipient to Seller in accordance with the requirements of any applicable laws and rules concerning the Registration, Evaluation, Authorization, and Restrictions of Chemicals (REACH).

20.6. ISPS

This Clause 20.5 applies for transport via Vessel.

20.5.1. The Buyer in FOB sales and the Seller in CFR, CIF, DAP and DES sales, shall procure that the Vessel complies with the requirements of the International Code for the Security of Ships and of Port Facilities and the relevant amendments to Chapter XI of SOLAS (ISPS Code) and where the Loading or Discharge Port, as applicable, is within the USA and US territories or waters, with the US Maritime Transportation Security Act 2002 (MTSA).

20.5.2. The Vessel shall when required submit a Declaration of Security (DoS) to the appropriate authorities prior to arrival at the Loading or Discharge Port, as applicable.

20.5.3. Notwithstanding any prior acceptance of the Vessel by the Seller in FOB sales and the Buyer in CFR, CIF, DAP and DES sales, if at any time prior to the passing of risk and title in FOB sales, or to the arrival of the Vessel at the Discharge Port in CFR, CIF, DAP and DES sales, the Vessel ceases to comply with the requirements of the ISPS code or MTSA:

- (a)** the Seller in FOB sales and the Buyer in CFR, CIF, DAP and DES sales, shall have the right not to berth such nominated Vessel and any demurrage resulting shall not be for the account of the Seller in FOB sales and the Buyer in CFR, CIF, DAP and DES sales;
- (b)** the Buyer in FOB sales and Seller in CFR, CIF, DAP and DES sales, shall be obliged to substitute such nominated Vessel with a Vessel complying with the requirements of the ISPS Code and MTSA and, as applicable, with Clauses 24.2, 30.2 and 35.2 (Substitution of vessels) and Clauses 24.3, 30.3 and 35.3 (Rejection of nomination of vessels) below. With CFR, CIF, DAP and DES sales, if title and risk to the cargo on board the Vessel subsequently substituted pursuant to this Clause 20.5.3(b) has already passed to the Buyer, such title and risk shall be deemed to have reverted to the Seller.

20.5.4.

20.5.4.1. The Seller in FOB sales and the Buyer in CFR, CIF, DAP and DES sales, shall procure that the Loading or Discharge Port, as applicable, shall comply with the requirements of the International Code for the Security of Ships and of Port Facilities and the relevant amendments

of Chapter XI of SOLAS (ISPS Code) and if located within the USA and US territories, with the US Maritime Transportation Security Act 2002 (MTSA).

- 20.5.4.2.** Any costs or expenses in respect of the Vessel including demurrage or any additional charge, fee or duty levied on the Vessel at the Loading or Discharge Port, as applicable, and actually incurred by the Buyer in FOB sales and Seller in CFR, CIF, DAP and DES sales, resulting directly from the failure of the Loading or Discharge Port, as applicable, to comply with the ISPS Code and if located within the USA and US territories, with the MTSA, shall be for the account of the Seller in FOB sales and Buyer in CFR, CIF, DAP and DES sales, including but not limited to 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.
- 20.5.5.** Save where the Vessel has failed to comply with the requirements of the International Code for the Security of Ships and of Port Facilities and the relevant amendments of Chapter XI of SOLAS (ISPS Code) and within the USA and US territories or waters, with the US Maritime Transportation Security Act 2002 (MTSA), the Seller in FOB sales and Buyer in CFR, CIF, DAP and DES sales, shall be responsible for any demurrage actually incurred by the Buyer in FOB sales and Seller in CFR, CIF, DAP and DES sales, arising from delay to the Vessel at the Loading or Discharge Port, as applicable, resulting directly from the Vessel being required by the port facility or any relevant authority to take any action or any special or additional security measures or undergo additional inspections.
- 20.5.6.** The liability of the Seller in FOB sales and of the Buyer in CFR, CIF, DAP and DES sales, under this Agreement for any costs, losses or expenses incurred by the Vessel, the charterers or the Vessel's owners resulting from the failure of the Loading or Discharge Port, as applicable, to comply with the ISPS Code or MTSA shall be limited to the payment of demurrage and costs actually incurred by the Buyer in FOB sales and Seller in CFR, CIF, DAP and DES sales, in accordance with the provisions of this Clause.

20.7. ITOPF

Each Vessel shall be owned by or demise chartered to a member or associate member e.g. for non-tankers of the International Tanker Owners Pollution Federation Ltd. ("ITOPF").

PART II FOB

21. General

21.1. Title and risk

21.1.1. Notwithstanding any right of the Seller to retain documents until payment, title and risk shall be vested in the Buyer when the Oil or Product passes the manifold flange connection of the Vessel's delivery hose at the Loading Port. At that point, the Seller's responsibility with respect to the Oil or Product shall cease, and the Buyer shall assume all risk of loss or damage including but not limited to deterioration or evaporation, spills or other risks or damage caused to or by the Oil or Product delivered.

21.1.2. Any loss of or damage to the Oil or Product during loading, or any consequences of Oil pollution, or any environmental damage or contamination of the seawater, if caused by the Vessel or its officers or crew, shall be for the account of the Buyer

21.2. Independent inspection

21.2.1. The Buyer and the Seller will mutually appoint an independent and first class inspection company ("Independent Inspector") to determine at the Loading Port the compliance of the Oil or Product with the quality and quantity provisions in the Special Provisions, with costs to be shared equally between the Parties.

21.2.2. Where the Loading Port is operated by the Seller or the Seller's Affiliates or the Seller's Associated Companies, the Seller shall ensure that the Independent Inspector (and any representative of the Buyer, which the Buyer may appoint) shall have full access to the facilities at the Loading Port necessary to enable him to perform his duties. The report of such Independent Inspector shall include quality and net quantity. The certificates of quality and quantity (or other equivalent document) shall, except in cases of manifest error or fraud, be conclusive and binding for invoicing purposes and the Buyer shall be obliged to make full payment in accordance with Clause 3 but

without prejudice to the rights of either Party to make any claim pursuant to Clause 22.3 and Clause 23.2.

21.2.3. Where:

- (a)** the Loading Port is not operated by the Seller or the Seller's Affiliates or the Seller's Associated Companies and the Loading Port refuses access to any Independent Inspector appointed by the Parties; or
- (b)** The Parties are unable to reach an agreement on the appointment of an Independent Inspector; the report shall be made by the Loading Port's own qualified inspector ("Loading Port Inspector").

21.2.4. Each Party may, at their own expense, have an authorized representative present at the Loading Port to observe loading, testing, sampling and measuring, provided that it is reasonably possible to do so.

22. Quality

22.1. The Oil or Product to be supplied shall be of the quality, description and/or specification as set out in the Special Provisions. Unless otherwise agreed between the Parties in the Special Provisions, the quality of the Oil or Product shall be determined at the Loading Port in accordance with the latest ASTM standards and MPMS or, if for whatever reason those standards are not applicable, according to good standard practice in use at the Loading Port at the time of shipment.

22.2. Unless otherwise agreed, the quality of the Oil or Product shall be stated from a composite sample taken from the shore tanks at the Loading Port, in accordance with good standard practice at the Loading Port at the time of shipment. The sample will be retained in three sets of sealed containers; one set to be retained by the Independent Inspector or Loading Port Inspector, as the case may be; the second set to be retained by the Seller; and the third set being placed on board the receiving Vessel to be submitted to the Buyer. The samples shall be kept for a period of ninety (90) Days.

22.3. Quality claims

22.3.1. Any claim of variation of quality shall be admissible provided that:

- (a)** a fully documented claim is presented to the Seller within forty-five (45) Days after the date on which the loading of the Oil or Product has been completed; and

- (b) The claim includes a copy of the analysis report by a first class inspection company on the Loading Port sample placed on board the receiving Vessel showing that the quality of this sample does not comply with the Special Provisions differing by a greater amount than the reproducibility and repeat- ability as per the applicable standards.

- 22.3.2.** In the event that the report of analysis referred to at (b) above is not accepted by the Seller, the sample retained by the Independent Inspector or Loading Port Inspector at the Loading Port shall be referred for a new analysis to a new mutually acceptable inspection company. Each party shall have the right to appoint a representative to witness the new analysis.
- 22.3.3.** The results of the new analysis in clause 22.3.2 shall be conclusive and binding on both parties for all purposes.
- 22.3.4.** If the Buyer fails to comply with the provisions of Clause 22.3.1 and 22.3.2, all claims regarding quality shall be deemed to have been waived by the Buyer and no claim may be brought in respect of quality

23. Quantity

- 23.1.** Unless otherwise agreed, the quantity of the Oil or Product loaded shall be determined by shore measurements taken at the Loading Port and carried out in accordance with good standard practice in use at the Loading Port at the time of shipment.

23.2. Quantity claims

- 23.2.1.** Nothing in Clause 23 shall prejudice the right of either Party to challenge the accuracy of the measurement taken and recorded in the certificate of quantity (or other equivalent document), provided always that the Buyer shall first have paid the invoiced amount. Any claim of deficiency of quantity shall be admissible provided that:

 - a. a fully documented claim is presented to the Seller within forty-five (45) Days after the date on which loading of the Oil or Product has been completed; and
 - b. the claim includes, as a minimum, a copy of the full report issued by a first class inspection company at the Discharge Port and the receiving Vessel's ullage reports at both the Loading Port and Discharge Port.
- 23.2.2.** If the Buyer fails to comply with the provisions of Clause 23.2.1, all claims regarding quantity shall be deemed to have been waived by the Buyer and no claim may be brought in respect of them.

- 23.2.3.** The Seller shall not be liable for any dead freight that the Buyer may have incurred unless such dead freight has arisen due to the inability of the Seller to comply with the minimum contractual quantity agreed between the Parties. In such case, the Seller shall only be liable for dead freight arising from the difference between the minimum contractual quantity and the quantity loaded on board the Vessel and always leaving sufficient space for expansion of cargo. In no case shall the Seller be liable for more dead freight than such incurred by the Buyer.
- 23.2.4.** No claim shall be made or allowed in respect of any shortage of quantity where the difference between the quantity stated in the bill of lading and the quantity discharged at the Discharge Port is 0.5% of the quantity recorded in the bill of lading or less. The Buyer may only claim from the Seller any shortage in excess of 0.5%.

24. Nomination

24.1. Nomination of Vessels

- 24.1.1.** Unless otherwise provided in the Special Provisions, the Buyer shall advise the Seller, during Seller's Office Hours, of the Vessel nomination for full or part cargo, no later than eight (8) Working Days for purchases of Oil and five (5) Working Days for purchases of Product (hereinafter in this Part II, the "Deadline"), prior to the first Day of the agreed Laydays.
- 24.1.2.** In the event the Agreement is entered into after the Deadline but prior to the first Day of the Laydays then the nomination must be received by the Seller as soon as possible.
- 24.1.3.** Notice of nomination shall be given in writing by the Buyer to the Seller and shall include:
- (a)** the name of the Vessel, up-to-date Q88, IMO number, date built, flag, deadweight, cargo tank capacity, length, beam, draught and such other information as may be required by the Loading Port operator from time to time;
 - (b)** the destination(s) of the Vessel; in any case, the final destination(s) will be declared no later than the Deadline;
 - (c)** the grade and quantity of Oil or Product to be loaded; the Buyer will declare the final quantity to be loaded not later than the fourth Day prior to the first Day of the Laydays;
 - (d)** the ETA of the Vessel at the Loading Port;
 - (e)** the Vessel agent at the Loading Port;

- (f) details of any cargo on board if loading a part cargo; if the Buyer fails to declare the nature, quality and quantity of any part cargo on board or if the Vessel arrives at the Loading Port carrying on board different cargoes than those declared, or if the in-transit cargoes are rejected by the Loading Port, the Seller shall have the right to refuse to berth the Vessel or to make it anchor if she has already berthed, with the Buyer being fully responsible for all the costs and consequences arising from any action required under this Clause;
- (g) the demurrage rate for the voyage;
- (h) full written instructions regarding the preparation and disposition of bills of lading and such other customary Loading Port documentation, which may be required. The Buyer shall be liable for all costs resulting from any delays in loading the Oil or Product due to failure by the Buyer to supply such information in a timely manner but at least two working days before the commencement of the Laydays. Any such delays shall not count as used Lay- time or if the Vessel is on demurrage, as demurrage. If the Buyer fails to send such information and documentation before the Deadline, the Seller shall have the right to produce all documentation necessary for the Vessel to leave the Loading Port, not being liable for any possible direct or indirect consequences; and
- (i) any other information as the Seller may reasonably require.

24.1.4. A TBN nomination shall not be considered a valid nomination for the purposes of the Agreement unless the Seller accepts it expressly on each occasion.

24.1.5. Notwithstanding the foregoing, should the Buyer fail to nominate in due time an acceptable Vessel in accordance with this Clause 24.1, the Seller shall have the right, in its sole discretion (a) to refuse to load the Vessel until a proper nomination has been made and/or (b) to cancel the Agreement with immediate effect and, in any event, (c) to claim damages. However, if the Seller accepts to load the Vessel, then the nomination shall be effective subject to the provisions of Clause 25.3, so time for the purposes of Laytime or demurrage shall not commence until such time as the Vessel has actually commenced loading.

24.2. Substitution of Vessels

The Buyer shall have the right, with due notification in writing to the Seller, to substitute, at least two (2) Working Days prior to the first Day of the agreed Laydays, the nominated Vessel with another Vessel of similar class, type, size, capacity and position, complying with the provisions and

warranties under Clause 24.4, provided that the substitute Vessel tenders N.O.R. to load before or within the agreed Laydays and that the Buyer shall provide in the substitute nomination notice the same details as required under Clause 24.1.3.

24.3. Rejection or acceptance of nomination

- 24.3.1.** The Seller shall have one (1) full Working Day after receipt of the Buyer's nomination notice, including substitute nomination notices, to accept or reject the Vessel nominated.
- 24.3.2.** Notwithstanding anything to the contrary express or implied elsewhere in the Agreement, the Seller shall have the right to reject any nomination, including a substitute nomination, made by the Buyer on any reasonable grounds or to refuse to load any Vessel nominated by the Buyer, including a substitute nomination on any grounds which the Seller in its sole discretion considers reasonable. Any Vessel can be rejected at any time by the Seller, notwithstanding any prior acceptance of such Vessel, if all or part of the information provided by the Buyer at the time of nomination is found to be false or inaccurate or it turns out that the Vessel is not in compliance with any Repsol's internal procedures and rules related to the Marine Safety Criteria and Repsol's vetting process and criteria all published on www.vetting.repsol.com as amended from time to time.

24.3.3. Consequences of rejection

- 24.3.3.1.** The Seller shall not incur any liability for refusing to accept a nomination and the Seller's acceptance of any Vessel for loading shall not constitute a continuing acceptance of such Vessel for any subsequent loading.
- 24.3.3.2.** If the Seller rejects the Buyer's Vessel nomination, the Buyer's obligations under the Agreement to nominate a suitable Vessel and to ensure that it tenders N.O.R. at the Loading Port in accordance with Clause 25.1 shall be unaffected.
- 24.3.3.3.** The Buyer shall be liable for any costs or damages incurred by the Seller arising out of any rejection of, delay to or restriction of the Vessel as a result of the Vessel not meeting the operational and safety standards of the Loading Port. In such event, and without prejudice to its or the Seller's rights, the Loading Port Operator may suspend or delay loading or order the removal of an anchored or a Vessel, which is all fast.

24.4. Vessel's warranties

- 24.4.1.** The Buyer hereby declares that it is aware of all limitations of the Loading Port or area and shall not nominate a Vessel exceeding such limitations and that in operational and technical aspects nominated Vessels shall be in full compliance with all applicable laws, regulations and other requirements of the country of the Vessel's registry and countries, port authorities and terminals at which Vessel may be loading or calling. The Buyer shall also ensure that the Vessel is fully capable of loading the maximum cargo under the Agreement at the Loading Port always safely afloat.
- 24.4.2.** The Buyer warrants that the Vessel's owners, throughout the currency of the charter related to the Agreement, will maintain the certificate issued pursuant to the Civil Liability Convention 1969 or the 1992 Protocols to that Convention (or any further amendment thereto), whichever be the case.
- 24.4.3.** The Buyer warrants that during the currency of the charter the Vessel's owners shall maintain adequate cover up to US\$ 1000 million and in accordance with the terms of the Civil Liability Convention 1969 or the 1992 Protocols (or any amendment thereto) and warrants the fully entry of the chartered Vessel in a P&I Club member of the International Group of P&I Clubs. Otherwise the Buyer holds the Seller harmless for any damage or loss arising from that failure.
- 24.4.4.** The Buyer warrants that each Vessel loaded hereunder shall be manned and maintained so as to fully comply with the standards set out in ISGOTT/SIGTTO, shall comply with appropriate IMO recommendations and comply with the OCI- MF guidelines for the control of drugs and alcohol on-board ship (1995), and every further revision or amendment.
- 24.4.5.** If requested by the Seller, the Buyer also agrees that the terms of this Clause 24.4 will be incorporated into any bill of lading issued in respect of the Oil or Product sold under the Agreement.
- 24.4.6.** The Vessel shall have on board at all times valid ISM certificates (original SMC and copy of the DOC) and the Vessel's owners, before and during the voyage, shall comply with the requirements of the ISM Code.
- 24.4.7.** The Buyer shall indemnify the Seller for any claim made by the Seller's Supplier(s) against the Seller in respect of damage to any facilities at the Loading Port caused by the Buyer's Vessel.

24.5. Inert Gas System ("IGS")

- 24.5.1.** Regardless of their tonnage, Vessels calling at marine and river ports operated by Repsol must have an inserting system when operating with volatile Oil or Product with a flashpoint below 60° C (according to ISGOTT). If there is any doubt as to the characteristics of a cargo, or if a non-volatile,

cargo is being handled at a temperature above its flashpoint minus 10°C, it should be treated as volatile petroleum.

- 24.5.2.** The inert gas system must comply with SOLAS, providing at least an average equivalent to 125% of the unloading rate. Vessel loading and unloading operations for flammable or toxic Oil or Product must be conducted with the Vessel's tanks inerted.
- 24.5.3.** If a Vessel arrives with the IGS inoperative, the Vessel will not be berthed until the IGS is operative and the cargo tanks inserted and until that time N.O.R. shall not be effective, and time for Laytime or demurrage shall not start counting until commencement of loading. All inert gas systems and operations shall comply with the regulations related to the prevention and mitigation measures of fire, explosions and toxic leakages published by Repsol and amended from time to time.

24.6. Vessel's Compliance

- 24.6.1.** The Buyer warrants that the Vessel complies with any and all international, European or national laws or regulations applicable to oil tankers. In this respect the Buyer shall contact the Vessel's local agents at the Loading or Discharge Port, as applicable, in order to get updated information on international, European, and national laws and regulations, and to obtain from the relevant authorities any required authorization, which shall be sent to the Seller. All applicable local and port authority regulations, and any other requirements of whatever nature applicable at the Loading Port, shall apply to the Buyer's Vessel.
- 24.6.2.** If the Vessel does not comply with any of the foregoing provisions, the Seller or the Seller's Suppliers may reject the Vessel when nominated or subsequently and refuse to berth or load the Vessel.
- 24.6.3.** The Seller shall not be liable for any loss, damage or delay derived from Vessel's non-compliance with any of the foregoing provisions.

24.7. ETA

- 24.7.1.** The Buyer shall arrange for the Vessel to give to the Seller or the Seller's Suppliers its ETA at the Loading Port by fax or by email at least 72 hours before arrival, again at least 48 hours before arrival and again at least 24 hours prior to arrival, thereafter promptly advising any variation of

more than 2 hours. The Laydays shall be revised only with the Seller's specific written agreement. The acceptance or withholding of such agreement shall be at the absolute discretion of the Seller.

24.7.2. If the Buyer's Vessel fails, for any reason, to give at least 24 hours prior notice of arrival at the Loading Port, the time allowed to the Seller for loading pursuant to Clause 25.2 shall be extended by a period equal to the delay in giving such 24 hours prior notice, but in any case not exceeding an additional 24 hours.

24.7.3. Any delays resulting from any failure to give the required notices shall not count as Laytime nor, if the Vessel is on demurrage, as time on demurrage.

24.8. Shifting

24.8.1. The Seller shall have the right to shift the Vessel from one Berth to another within the Loading Port provided that the Vessel can when fully laden, safely reach and leave and always safely lie afloat at such Berth. Laytime and Shifting costs shall be for Seller's account if such Shifting is for the Seller's purposes, otherwise any other costs, including but not limited to Shifting costs due to bad weather conditions, shall be for Buyer's account.

24.8.2. For the purposes of this Clause 24.8, a Vessel movement within the same Berth will not be considered as Shifting. In case the Vessel movement within the same Berth is due to the Vessel's personnel, equipment and facilities' technical restrictions, the cost shall be for Buyer's account.

24.9. Vacation of Berth

The Buyer's Vessel shall vacate the Berth as soon as loading hoses have been disconnected, provided that the Vessel's departure is not delayed awaiting production of Loading Port documents unless such documents can be delivered to the Vessel at a suitable anchorage or where early departure procedure ("EDP") is applied. If the Vessel fails to vacate the Berth, unless for reasons attributable to the Seller, its supplier or the Loading Port operator, any loss or damage caused to the Seller or its supplier or the Loading Port operator or any third party resulting from such failure, including such as may be incurred by other vessels awaiting their turn to load, shall be for Buyer's account.

24.10. Berth utilization

Notwithstanding Clause 5.5.1.2, if at the Loading Port the Seller's Supplier or any agency (whether or not an Associated Company of the Seller), imposes on the Seller in respect of the Buyer's Vessel, an excess Berth utilization charge in accordance with the Loading Port regulations or a contractually agreed or otherwise established scale for any hours of Berth utilization in excess of the agreed Laytime or a specified period of hours (as such scale may be advised by the Seller to the Buyer from time to time), but does not impose such charge directly on the Buyer's Vessel itself, such charge shall be for Buyer's account. The afore- mentioned shall not apply where such excess Berth utilization is caused by the Loading Port, the Seller or the Seller's Supplier. For the avoidance of doubt, it is agreed that for the purposes of this Clause 24.10 any technical failure or breakdown of the Vessel shall be a cause within the control of the Vessel and the Buyer.

24.11. Lightering, floating storage and ship-to-ship

- 24.11.1.** The Seller shall have the option to deliver the cargo to the Buyer's Vessel from lighters, a floating storage facility or other Vessel by means of ship-to-ship transfer, subject always to the Buyer's prior consent (which shall not be unreasonably withheld).
- 24.11.2.** Should any lightering or ship-to-ship transfer operations be carried out, the operation shall be conducted in accordance with the most recent edition of the Ship to Ship Transfer Guide as published by OCIMF as may be amended from time to time and MARPOL Annex I as amended by Resolution MEPC.186 (59), Chapter8: 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 amendments thereto.
- 24.11.3.** The provider of any lightering, loading from floating storage or ship-to-ship transfer services must be acceptable to both the Seller and the Buyer.
- 24.11.4.** Any lighter, floating storage unit or Vessel involved in any lightering, loading from floating storage or ship-to-ship transfer operations must be acceptable to both the Seller and the Buyer.
- 24.11.5.** The Seller shall be obliged to notify the place of lightering or loading to a floating storage facility or other Vessel by ship-to-ship transfer to the Vessel when N.O.R. is tendered. The place of lightering or loading so notified shall be deemed the Berth for the purposes of Clause 25 and all references therein to the Berth shall be construed accordingly.

25. Laytime and Demurrage

25.1. Laydays

The nominated Vessel shall arrive at the Loading Port or area, complete formalities and tender N.O.R. and shall be in all respects ready for loading within the agreed Laydays. If the nominated Vessel tenders N.O.R. before the agreed Laydays, the Seller shall not be obliged to load the Vessel until the first Day of the Laydays. If the nominated Vessel tenders N.O.R. after the agreed Laydays, the Seller shall not be obliged to load the Vessel. Should the Seller agree to load the Vessel, it shall be without prejudice to the rights and remedies of the Seller.

25.2. Time allowed

25.2.1. Except, as expressly provided in the Special Provisions, the time allowed to the Seller for loading of a full cargo shall be as per the applicable charter party of the performing Vessel or pro rata for a part cargo. In the absence of such a provision in the applicable charter party or in the absence of a charter party with laytime and demurrage provision:

- a) in the case of Vessel of 15,000 tons summer deadweight or less, 24 running hours for full cargo or pro rata for part cargo; or
- b) in all other cases, 36 running hours for full cargo or pro rata for part cargo; An additional 2 hours shall be allowed for each additional grade loaded.

25.2.2. All days and holidays shall be included unless loading on the day or holiday in question is prohibited by Applicable Law(s) at the Loading Port.

25.3. Running hours

25.3.1. Time allowed for loading shall commence Berth or no Berth, six (6) hours after valid N.O.R. is tendered in writing to the Seller or its representative by the Master of the Vessel or his representative, or when the Vessel is securely moored at the Berth or other loading place, whichever is earlier. The N.O.R. shall only be valid when tendered after the Vessel has arrived at and anchored within the customary anchorage or waiting place at the terminal of the Loading Port

or, if the Vessel proceeds directly to the Berth, when the Vessel arrives and is securely moored at the Berth and, in any case, the Vessel is ready to load in every respect.

- 25.3.2.** In case of lightering, loading from a floating storage or ship-to ship operations, the Seller's Vessel or the floating storage shall be deemed to be the Berth for the purposes of Clause 25 and all the reference therein to Berth shall be construed accordingly. Time shall commence upon the expiration of six (6) hours after the Vessel arrives at the designated lightering area or when the Vessel is all fast alongside, whichever is earlier, and in either case, when the Vessel is ready to load in every respect, whichever is earlier, and time shall end when hoses are disconnected and all ship-to-ship equipment and personnel have been removed from the Vessel.
- 25.3.3.** If N.O.R. is tendered by the Vessel before the agreed Laydays at the Loading Port, time shall commence at 06:00 hours on the first Day of the Laydays or on commencement of loading, whichever is earlier.
- 25.3.4.** If N.O.R is tendered by the Vessel after the last of the agreed Laydays at the Loading Port and the Seller accepts to load the Vessel in its absolute discretion, then, without prejudice to any of the Seller's other rights, time shall commence upon commencement of loading.
- 25.3.5.** Where the Vessel tenders N.O.R. and an inspection or some other act is necessary to determine whether the Vessel is in fact ready in every respect to load, including but not limited to being in compliance with the security requirements, laws or regulations pertaining at the Loading Port, then the N.O.R. shall be deemed valid only when the Vessel has been inspected and accepted to load by the port authorities or the Seller or its agent. For tanks inspection, this clause shall only be valid in cases where the tanks are not ready for loading as determined by the independent inspector as may have been agreed between the Seller and the Buyer.
- 25.3.6.** The time allowed for loading shall cease upon disconnection of the loading hoses.
- 25.3.7.** Any time taken for any of the following purposes shall not be counted as time taken by the Seller to load the Oil or Product or time in respect of which the Seller is liable for demurrage (whether or not the Vessel is on demurrage and provided always that an otherwise valid N.O.R has been tendered):
- a)** inward passage until the Vessel is securely moored at the Berth and its gangway is ashore or any other loading place or passage from the Berth to lightering place if lightering is to take place at anchorage or other loading place (such passage will not be considered to be Shifting under Clause 24.8);

- b)** awaiting daylight, tugs, tide, ice, pilot, free pratique or customs or immigration procedures or local administration requirements or sanitary clearance or any other reason of similar nature beyond the Seller's control;
- c)** time taken due to bad weather and/or sea conditions or port closure before, during or after the Vessel has berthed;
- d)** time taken in handling or preparing to handle ballast, slops, bunkers or other substances, unless this is carried out concurrently with loading or other normal cargo operations;
- e)** time taken for handling, cleaning, inerting and inspecting the Vessel's cargo tanks and ship lines;
- f)** time spent in complying with local laws, regulations and other requirements of loading operations of the port or intervention by local authorities, including but not limited to any prohibition against operating at night;
- g)** Vessel's breakdown or failure to comply with the requirements of the Loading Port with respect to equipment aboard or for any other cause whatsoever attributable to the Vessel or its crew causing restrictions to loading operations (unless such breakdown or failure existed at the time the Vessel purported to tender N.O.R., in which case such N.O.R. shall not be valid);
- h)** time spent due to labour disputes, strikes, go slows, work to rules, lockouts, stoppages or restraints of labour involving the Master, officers or crew of the Vessel or tugboats or pilots or mooring men;
- i)** delays caused by the failure of the Buyer to comply with any of the terms of the Agreement including but not limited to delays caused by the Vessel's master or her representatives' failure to give the appropriate ETA as provided in Clause 24.7;
- j)** restrictions imposed by the owners, charterer or master of the Vessel;
- k)** any other delay attributable to the Vessel, the Buyer or agents of the Buyer;
- l)** Inspection – including all time taken in the drawing and testing of the “first foot” samples, ullaging and sampling and all associated operations.

25.3.8. Notwithstanding the provisions of Clause 7, any delay in loading by reason of or resulting, directly or indirectly, from fire or explosion or strike, picketing, slow-down, work to rule, lock-outs, stoppage or restraint of labour or other industrial action involving shoreside workmen essential to loading, or any failure/break-down of plant and/or machinery at Loading Port, act of God, act of war, riot, civil

commotion, or arrest or restraint of rules or peoples, shall count as one half Laytime or, if the Vessel is on demurrage, at one half of the demurrage rate provided always that the cause of the delay was not within the reasonable control of the Seller.

25.3.9. Part Cargoes loaded at the Loading Port

If the nominated Vessel loads Oil or Product purchased by the Buyer from the Seller in addition to other cargoes at the same Loading Port (a part cargo), the time allowed for loading such part cargo shall not commence until the Vessel is securely moored at the Berth or other loading place at the Seller's loading terminal and is ready to load. However, if the different part cargoes are loaded at the same Berth, the time allowed for loading the Seller's part cargo shall not start counting until loading has actually commenced.

25.4. Demurrage

25.4.1. If the Oil or Product is not loaded within the Laytime allowed, the Seller shall pay demurrage to the Buyer, in the same currency as established for payment in the Agreement, for the time in excess at the appropriate rate per day or pro rata (for part a day), provided always that the Buyer has fully satisfied the nomination requirements, under Clause 24, and the Buyer has not restricted the loading rate. The Seller shall not be liable for any other loss and/or damages, direct or indirect, which the Buyer may incur as a result of the Oil or Product not being loaded within the time allowed in Clause 25.2.

25.4.2. The rate of demurrage shall be as follows:

- (a)** if any, the rate specified in the Special Provisions;
- (b)** if no rate is specified in the Special Provisions, the applicable charter party rate; or
- (c)** in the absence of both, or if in the Seller's sole opinion the applicable charterparty rate is not representative of the market rate and the Parties fail to reach an agreement with respect to the demurrage rate within thirty (30) Days, the market rate for a Vessel of the size and type used for a single voyage charter from the Loading Port to the Discharge Port shall apply. The market rate shall be established by reference to the AFRA published at the beginning of the month in which the Vessel loads, irrespective of the reference period mentioned in the publication. In case of LPG Vessels, the market rate shall be assessed by reference to the Braefoot Bay Assessments.

- 25.4.3.** In the event of any delay of any kind or from any cause whatsoever whether in connection with the scheduling of the Vessel's turn to load (including any changes in such scheduling), provision of a Berth for the Vessel, berthing or loading of the Vessel or otherwise howsoever without limitation, and provided always that the Vessel is eventually loaded, any rights of the Buyer against the Seller, however the same may arise and whether or not arising under the Agreement, shall be limited to any claim for the payment of demurrage as herein specified, excluding any kind of port expenses directly attributable to time spent on such demurrage, and the Buyer shall not be entitled to complain directly or indirectly of any delay except for the purpose of founding a claim to such demurrage.
- 25.4.4.** In cases where the demurrage rate is agreed as per the applicable charterparty in the Special Provisions or as per Clauses 25.4.2(b) and 25.4.2(c) and a nominated Vessel loads less than a full cargo or it loads a part cargo, for the purposes of determining the appropriate rate of demurrage, the applicable rate shall be established by reference to a Vessel which has a summer deadweight equal to the loaded cargo or part cargo plus 5%.
- 25.4.5.** If the delivery hereunder is co-loaded with Oil or Product being delivered to the Buyer by another supplier at the same Berth, the Seller shall only be liable for that proportion of the demurrage equal to the ratio of the volume delivered by the Seller to the total volume loaded onto the Vessel at that Berth.
- 25.4.6.** In no event shall the Seller be liable for payment of demurrage hereunder in excess of the amount that is actually paid by the Buyer to the Vessel owner or disponent owner for net demurrage related to the cargo delivered by the Seller.

25.5. Demurrage claims

- 25.5.1.** Notwithstanding Clause 25.4 above, the Seller shall not be liable for demurrage under the Agreement unless a notice of a demurrage claim has been submitted to the Seller in writing within thirty (30) Days from the date of the bill of lading but in any case such notice shall not be sent earlier than the bill of lading date. The fully documented demurrage claim must be received in writing within ninety (90) Days from the date of the bill of lading.
- 25.5.2.** The fully documented claim shall include:
- (a)** Owner's calculation for Laytime and demurrage for loading at Loading Port;
 - (b)** the applicable charter party and/or fixture recap;

- (c) time log/statement of facts issued and signed by the terminal;
- (d) ETA notices;
- (e) any Letter of Protest (L.O.P.); and
- (f) the N.O.R.;

25.5.3. In order to effect payment of any demurrage, the Buyer must previously deliver proof of payment of the same to the Vessel's owners.

25.5.4. If the Buyer fails to comply with the provisions of Clause 25.5, all claims regarding demurrage shall be deemed to have been waived and any liability of the Seller for demurrage shall be extinguished.

PART III. CFR AND CIF

26. General

26.1. Title and risk

- 26.1.1.** Notwithstanding any right of the Seller to retain documents until payment, title and risk shall be vested in the Buyer when the Oil or Product passes the manifold flange connection of the Vessel's delivery hose at the Loading Port. At that point, the Seller's responsibility with respect to the Oil or Product shall cease, and the Buyer shall assume all risk of loss or damage including but not limited to deterioration or evaporation, spills or other risks or damage caused to or by the Oil or Product delivered.
- 26.1.2.** In the case of delivery as a part cargo lot where the Oil or Product deliverable under the Agreement is not identifiable or ascertainable on board the Seller's Vessel separately from Oil or Product destined for receivers other than the Buyer, the Buyer agrees to be allocated, and accept risk and title, in accordance with Clause 26.1.1, in such percentage of the total quantity of Oil or Product loaded as is represented by the bills of lading issued to the Buyer in relation to the total quantity of Oil or Product recorded in all the bills of lading issued in respect of the voyage in question.
- 26.1.3.** If the Vessel has commenced or completed loading prior to being nominated to the Buyer as per Clause 30, notwithstanding any right of the Seller to retain documents until payment and title of the Oil or Product according to Security Payment Clause 3.5.3, the risk in the Oil or Product delivered shall be deemed to have passed to the Buyer as the Oil or Product passes the manifold flange of the Vessel's delivery hose at the Loading Port and the title of the Oil or Product shall pass immediately upon receipt by the Seller of the Buyer's acceptance of such nomination.

26.2. Independent inspection

- 26.2.1.** The Buyer and the Seller will mutually appoint an Independent Inspector to determine at the Loading Port the compliance of the Oil or Product with the quality and quantity provisions in the Special Provisions, with costs to be shared equally between the Parties.

26.2.2. Where the Loading Port is operated by the Seller or the Seller's Affiliates or the Seller's Associated Companies, the Seller shall ensure that the Independent Inspector (and any representative of the Buyer which the Buyer may appoint) shall have full access to the facilities at the Loading Port necessary to enable him to perform his duties. The report of such Independent Inspector shall include quality and net quantity. The certificates of quality and quantity (or other equivalent document) shall, except in cases of manifest error or fraud, be conclusive and binding for invoicing purposes and the Buyer shall be obliged to make full payment in accordance with Clause 3 but without prejudice to the rights of either Party to make any claim pursuant to Clause 27.3 and Clause 28.2.

26.2.3. Where:

- (a) the Loading Port is not operated by the Seller or the Seller's Affiliates or the Seller's Associated Companies and the Loading Port refuses access to any Independent Inspector appointed by the Parties; or
- (b) the Parties are unable to reach an agreement on the appointment of an Independent Inspector,
- (c) the report shall be made by the Loading Port Inspector.

26.2.4. Each Party may, at their own expense, have an authorized representative present at the Loading Port to observe loading, testing, sampling and measuring, provided that it is reasonably possible to do so.

26.2.5. If an independent inspector has already been appointed by the Seller or any third party in respect of the Oil or Product prior to the appropriation of the cargo by the Seller to the Buyer or if such inspection has already been carried out, then both Parties shall be bound by the certificates of quantity and quality issued by said inspector for invoicing purposes, provided that the certificates of quantity and quality (or such other equivalent documents) of the Oil or Product comprising the cargo are issued in accordance with Clauses 27 and 28 below.

27. Quality

27.1. The Oil or Product to be supplied shall be of the quality, description and/or specification as set out in the Special Provisions. Unless otherwise agreed between the Parties in the Special Provisions, the quality of the Oil or Product shall be determined at the Loading Port in accordance with the

latest ASTM standards and MPMS or, if for whatever reason those standards are not applicable, according to good standard practice in use at the Loading Port at the time of shipment.

27.2. Unless otherwise agreed, the quality of the Oil or Product shall be stated from a composite sample taken from the shore tanks at the Loading Port, in accordance with good standard practice at the Loading Port at the time of shipment. The sample will be retained in three sets of sealed containers; one set to be retained by the Independent Inspector or Loading Port Inspector, as the case may be; the second set to be retained by the Seller; and the third set being placed on board the receiving Vessel to be submitted to the Buyer. The samples shall be kept for a period of ninety (90) Days.

27.3. Quality claims

27.3.1. Any claim of variation of quality shall be admissible provided that:

- (a)** a fully documented claim is presented to the Seller within forty-five (45) Days after the date on which the loading of the Oil or Product has been completed; and
- (b)** the claim includes a copy of the analysis report carried out by a first class inspection company on the Loading Port sample placed on board the receiving Vessel showing that the quality of this sample does not comply with the Special Provisions differing by a greater amount than the reproducibility and repeatability as per the applicable standards.

27.3.2. In the event that the report of analysis referred to at (b) above is not accepted by the Seller, the sample retained by the Independent Inspector or Loading Port Inspector at Loading Port shall be referred for a new analysis to a new mutually acceptable inspection company. Each party has the right to appoint a representative to witness the new analysis.

27.3.3. The results of the new analysis in Clause 27.3.2 shall be conclusive and binding on both parties for all purposes.

27.3.4. If the Buyer fails to comply with the provisions of Clause 27.3.1 and 27.3.2, all claims regarding quality shall be deemed to have been waived by the Buyer and no claim may be brought in respect of quality.

27.3.5. In case of a quality discrepancy, the Buyer will proceed with a formal claim according to this Clause 27.3, but no claim exempts the Buyer from its obligation to discharge the Oil or Product.

28. Quantity

28.1. Unless otherwise agreed, the quantity of the Oil or Product loaded shall be determined by shore measurements taken at the Loading Port and carried out in accordance with good standard practice in use at the Loading Port at the time of shipment.

28.2. Quantity claims

28.2.1. Nothing in Clause 28 shall prejudice the right of either Party to challenge the accuracy of the measurement taken and recorded in the certificate of quantity (or other equivalent document), provided always that the Buyer shall first have paid the invoiced amount. Any claim of deficiency of quantity shall be admissible provided that:

- (a)** a fully documented claim is presented to the Seller within forty-five (45) Days after the date on which loading of the Oil or Product has been completed; and
- (b)** the claim includes, as a minimum, a copy of the full report issued by an inspection company at the Discharge Port and the receiving Vessel's ullage reports at both the Loading Port and Discharge Port.

28.2.2. If the Buyer fails to comply with the provisions of Clause 28.2.1, all claims regarding quantity shall be deemed to have been waived by the Buyer and no claim may be brought in respect of them.

28.2.3. No claim shall be made or allowed in respect of any shortage of quantity where the difference between the quantity stated in the bill of lading and the quantities discharged at the Discharge Port is 0.5% of the quantity recorded in the bill of lading or less. The Buyer may only claim from the Seller any shortage in excess of 0.5%.

28.2.4. Where delivery is made as an unsegregated 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 outturn quantity (determined at each Discharge Port) which was discharged at its Discharge Port.

29. Insurance

29.1. CFR deliveries

The Seller shall not be responsible for securing insurance whether against marine or other risks.

29.2. CIF deliveries

The Seller shall procure and pay for insurance against ordinary marine risks (excluding insurance against war, strikes, riots, civil commotions, blocking and trapping) to the full value of the Oil or Product under the Agreement plus 10%. Such insurance shall cover the time from when the Oil or Product passes the manifold flange connection of the Vessel's delivery hose at the Loading Port to the time it passes the permanent connection of the Vessel's delivery hose at Discharge Port and shall be in accordance with the provisions of the Institute Cargo Claims (A) or ILU Bulk Oil Clauses (at the Seller's option). The benefit of the insurance shall pass to the Buyer upon the passing of risk in the Oil or Product to the Buyer as described in Clause 26.1.

29.3. War Clause

29.3.1. 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 Port if such Vessel is required in the performance of the Agreement:
 - a. 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
 - b. to transit or to proceed or to remain in waters where there is war (de facto or de jure) or the threat thereof; or
- (b)** prior to the commencement of loading, to direct any Vessel to undertake the voyage to the intended Discharge Port if such Vessel is required in the performance of the terms of the Agreement 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.

29.3.2. If the Seller agrees to direct a Vessel to undertake or to complete a voyage as referred to in Clause 29.3.1 above, the Buyer undertakes to reimburse the Seller, in addition to other amounts payable under the Agreement, for costs incurred by the Seller in respect of any additional insurance premia including, but not limited to:

- (a)** any and all costs in respect of war risk insurance for the Vessel's hull and machinery in respect of the voyages to any of the ports of discharge or any seas through which the Vessel has to travel in the performance of the Agreement, including any additional insurance or war risk insurance premia in excess of those prevailing at the date of the Agreement, as well as crew war bonuses or any other bonuses relating to the shipment; and
- (b)** any other sums that the Seller may be required to pay to the Vessel's owner including but not limited to any sums in respect of any amounts deductible under such owner's insurance and any other costs and/or expenses incurred by the Seller.

29.3.3. The Seller will advise the Buyer in a timely manner of the best estimation of any additional insurance costs as described in Clause 29.3.2 above and the Seller will confirm final costs by invoice.

29.3.4. Payment of extra costs assumed by the Buyer under clause 29.3.2 will be subject to the presentation by the Seller of supporting documents from the Vessel's owner together with any invoices.

30. Nomination

30.1. Nomination of Vessels

30.1.1. Unless otherwise provided in the Special Provisions, the Seller shall advise the Buyer, during the Seller's Office Hours, of the Vessel nomination for full or part cargo, no later than five (5) Working Days for purchases of Oil and three (3) Working Days for purchases of Product (hereinafter in this Part III, "the Deadline"), prior to the first Day of the loading Laydays or, in absence of loading Laydays, prior to the Vessel's commencement of loading.

30.1.2. In the event the Agreement is entered into after the Deadline but prior to the first Day of the Laydays then the nomination must be received by the Buyer as soon as possible.

30.1.3. Notice of nomination shall be given in writing by the Seller to the Buyer and shall include:

- (a) the name of the Vessel, up-to-date Q88, IMO number, date built, flag, deadweight, cargo tank capacity, length, beam, draught;
- (b) the grade and approximate quantity of Oil or Product to be loaded;
- (c) the ETA of the Vessel at the Loading Port;
- (d) the last three cargoes of the Vessel on its three previous voyages;
- (e) (e) details of any other cargo on board if delivery is a part cargo at Discharge Port; (f) the Laydays at the Loading Port or bill of lading date where the Vessel is already loaded at the time such notice has been advised by the Seller and ETA
- (f) at Discharge Port; and
- (g) the demurrage rate for the voyage.

30.2. Substitution of Vessels

The Seller shall have the right, with due notification in writing to the Buyer, to substitute, prior to the first Day of the agreed Laydays, the nominated Vessel with another Vessel of similar class, type, size, and capacity and position, complying with the provisions and warranties under Clause 30.4, provided that the substitute Vessel tenders N.O.R. to load or discharge before or within the agreed Laydays and that the Seller shall provide in the substitution nomination notice the same details as required under in Clause 30.1.3.

30.3. Rejection or acceptance of nomination

30.3.1. The Buyer shall have one (1) full Working Day after receipt of the Seller's nomination notice, including substitute nomination notices, to accept or reject the Vessel nominated. The Buyer's acceptance shall not be unreasonably withheld. Buyer shall not be entitled to reject the nomination of a Vessel on any grounds which are not related to the Vessel herself.

30.3.2. Consequences of rejection of nomination

In the event of a rejection of the nomination by the Buyer, the Seller shall nominate a substitute Vessel. The Seller's obligations under the Agreement to nominate a suitable Vessel and to ensure that it tenders N.O.R. within the agreed lay- days shall be unaffected.

30.4. Vessel's warranties

- 30.4.1.** The Seller hereby declares that the nominated Vessel shall be in full compliance with all applicable laws, regulations and other requirements of the country of the Vessel's registry and countries, port authorities and terminals at which the Vessel may be discharging.
- 30.4.2.** The Seller warrants that the Vessel's owners, throughout the currency of the charter relating to the Agreement, will maintain the certificate issued pursuant to the Civil Liability Convention 1969 or the 1992 Protocols to that Convention (or any further amendment thereto), whichever be the case.
- 30.4.3.** The Seller warrants that during the currency of the charter the Vessel's owners shall maintain adequate cover up to US\$ 1000 million and in accordance with the terms of the Civil Liability Convention 1969 or 1992 Protocols (or any further amendments thereto) and warrants the full entry of the chartered Vessel in a P&I Club member of the International Group of P&I Clubs. Otherwise the Seller holds the Buyer harmless from any damage or loss arising from that failure.
- 30.4.4.** The Seller warrants that each Vessel loaded hereunder shall be manned and maintained so as to fully comply with the standards set out in ISGOTT/SIGTTO, shall comply with appropriate IMO recommendations and comply with the OCI- MF guidelines for the control of drugs and alcohol on-board ship (1995), and every further revision or amendment.
- 30.4.5.** If requested by the Buyer, the Seller also agrees that the terms of this Clause 30.4 will be incorporated into any bill of lading issued in respect of the Oil or Product sold under the Agreement.
- 30.4.6.** The Vessel shall have on board at all times valid ISM certificates (original SMC and copy of the DOC) and the Vessel's owners, before and during the voyage, comply with the requirements of the ISM Code.

30.5. Vessel's compliance

- 30.5.1.** The Seller warrants that the Vessel complies with any and all international, European or national laws or regulations applicable to oil tankers. In this respect the Seller shall contact with the Vessel's local agents at the Loading or Discharge Port, as applicable, in order to get updated information on international, Europe- an, and national laws and regulations, and to obtain from the relevant authorities any required authorization, which shall be sent to the Buyer. All applicable local and port authority regulations, and any other requirements of whatever nature applicable at the Loading and Discharge Ports, shall apply to the Seller's Vessel.

- 30.5.2.** If the Vessel does not comply with any of the foregoing provisions, the Buyer may reject the Vessel when nominated or subsequently and refuse to berth or discharge the Vessel.
- 30.5.3.** The Buyer shall not be liable for any loss, damage or delay derived from the Vessel's non-compliance with any of the foregoing provisions.

30.6. Nomination of Discharge Port

- 30.6.1.** Within two (2) Working Days before the first Day of the loading Laydays or commencement of loading, the Buyer shall nominate to the Seller the Discharge Port which shall be within the range of destinations in the applicable charter party. The Buyer warrants that the Discharge Port will accommodate all the physical characteristics of the nominated Vessel including, but without limitation, the length, beam and draught of the nominated Vessel.
- 30.6.2.** Full written documentary instructions, including any instruction needed by the Seller to issue documents in accordance with the regulations in force at the Discharge Port (including, but not limited to, any export regulations), and port destination to be included in the bills of lading will be received by the Seller within two (2) Working Days before the first Day of the loading Laydays or the commencement of loading. The Seller shall have the right to issue its own instructions if such instructions are not so provided by the Buyer in a timely manner.
- 30.6.3.** All costs (including demurrage) arising out of any failure by the Buyer to comply with the provisions in this Clause 30.6 shall be for Buyer's account.

30.6.4. Alternative Discharge Port

- 30.6.4.1.** The Buyer may request another Discharge Port as per the options, terms and conditions of the applicable charter party.
- 30.6.4.2.** Whenever the Buyer exercises such option, the price stated in the Special Provisions shall be adjusted by the freight differential calculated in accordance with the terms of the applicable charter party or as otherwise agreed between the Parties. The Buyer shall be liable for any additional costs incurred by Seller, including, but not limited to, any deviation costs and costs in respect of any additional bunker consumption. In exercising its Discharge Port options, the Buyer must take account of the dimensions and characteristics of the Vessel nominated by the Seller.

- 30.6.4.3.** No change to the final Discharge Port shall be made without the Seller's written acceptance, which shall not be unreasonably withheld. Any Laydays at the Discharge Port named in the Special Provisions shall relate to the Discharge Port, if any, named in the Special Provisions.

30.7. ETA

The Seller shall arrange for the Vessel to give to the Buyer or its representatives the ETA at the Discharge Port by fax or by email at least 72 hours before arrival, again at least 48 hours before arrival and again at least 24 hours prior to arrival, thereafter promptly advising of any variation of more than 3 hours, if possible and practicable.

30.8. Shifting

- 30.8.1.** The Buyer shall have the right to shift the Vessel from one Berth to another within the Discharge Port provided that the Vessel can when fully laden, safely reach and leave and always safely lie afloat at such Berth. All costs, including but not limited to damages for delay, shall be for Seller's account if such Shifting is due to reasons within the control of the Seller and/or the Vessel and shall otherwise be for Buyer's account.
- 30.8.2.** For the purposes of this Clause 30.8, a Vessel movement within the same Berth will not be considered as Shifting. In case the Vessel movement within the same Berth is due to the Vessel's personnel, equipment and facilities' technical restrictions, the cost shall be for Seller's account.

30.9. Lightering, floating storage and ship-to-ship

- 30.9.1.** If the Discharge Port requires the Seller's Vessel to be discharged to a lighter, floating storage or other Vessel by a ship-to-ship transfer, this shall be subject to Seller's prior consent. The Seller may, on any reasonable grounds and without liability, refuse the use of such lighter, floating storage facility or other Vessel for the purpose of discharging its nominated Vessel. The cost of such lightering or such discharging shall be for Buyer's account. Any additional costs in excess of those provided for in Clause 31 (including but not limited to additional steaming and/ or waiting time) shall be for Buyer's account.

- 30.9.2.** Either Party may request to discharge the Vessel to lighters or to floating storage or another Vessel by ship-to-ship transfer, with such request subject to acceptance by the non-requesting Party, such acceptance not to be unreasonably withheld.
- 30.9.3.** In the event of discharge, being requested by the Seller in accordance with Clause 30.9.2, the cost of such discharge shall be for Seller's account. Any additional costs in excess of those provided for in Clause 31 (including but not limited to additional steaming and/or waiting time) shall be Seller's account.
- 30.9.4.** In the event of discharge being requested by the Buyer in accordance with Clause 30.9.2, the cost of such discharge shall be for Buyer's account. Any additional costs in excess of those provided for in Clause 31 (including but not limited to additional steaming and/or waiting time) shall be for Buyer's account.
- 30.9.5.** Should any lightering or ship to ship transfer operations be carried out, the operation shall be conducted in accordance with the most recent edition of the Ship to Ship Transfer Guide as published by OCIMF as may be amended from time to time and MARPOL Annex I 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 amendments thereto.
- 30.9.6.** The provider of any lightering, discharging from floating storage or ship-to-ship transfer services must be acceptable to both the Seller and the Buyer.
- 30.9.7.** Any lighter, floating storage unit or Vessel involved in any lightering, discharge from floating storage or ship-to-ship transfer operations must be acceptable to both the Seller and the Buyer.
- 30.9.8.** The Buyer shall be obliged to notify the place of lightering or discharge to a floating storage facility or other Vessel by ship-to-ship transfer to the Vessel when N.O.R. is tendered. The place of lightering or discharge so notified shall be deemed the Berth for the purposes of Clause 31 and all references therein to the Berth shall be construed accordingly.

31. Laytime and Demurrage

31.1. Laydays at discharge port

Where Laydays at Discharge Port are specified in the Special Provisions or as established in accordance with the procedures specified in the Special provisions, these shall be the Day or range

of Days in which the Seller's nominated Vessel should tender N.O.R. at the Dis- charge Port and Discharge shall commence and complete as soon as reasonably practicable thereafter, even if this means discharge is effected or completed outside the Laydays.

31.2. Berth

For the discharge of the Oil or Product the Buyer shall provide or cause to be provided free of charge to the Seller a Berth to be indicated by the Buyer or its representative which the Vessel can when fully laden, safely reach and leave and where she can always lie safely afloat. The Buyer warrants that the plant and machinery at the indicated Berth is in good working order. The Buyer shall indemnify and hold the Seller fully harmless in respect of any damages or losses incurred by the Seller or in respect of any claim to which the Seller is exposed by reason of any breach of this Clause 31.2.

31.3. Oil washing and stripping

Any time taken during the discharge used for Oil washing and/or stripping of cargo tanks and lines shall count against Laytime, or if already on demurrage, for demurrage. The Seller shall provide the Buyer with a crude oil washing log identifying each tank washed, and stating whether such tank has been washed to the MARPOL minimum standard.

31.4. Time allowed

31.4.1. Except as expressly provided in the Special Provisions, the time allowed to the Buyer for discharge of a full cargo shall be as per the applicable charter party of the performing Vessel or pro rata for a part cargo lot. In the absence of such a provision in the applicable charter party or in the absence of a charter party with laytime and demurrage provisions:

- a)** in the case of a Vessel of 15,000 tons summer deadweight or less, 24 running hours for full cargo or pro rata for part cargo; or
- b)** in all other cases, 36 running hours, for full cargo or pro rata for part cargo.

31.4.2. 31.4.2 All days and holidays shall be included unless discharging on the day or holiday in question is prohibited by law or regulation at the Discharge Port.

31.5. Running hours

- 31.5.1.** Except for 31.5.3, time allowed for discharge shall commence, Berth or no Berth, six (6) hours after N.O.R. is tendered in writing to the Buyer or its representative by the Master of the Vessel or his representative, or when the Vessel is securely moored at the Berth or other discharge place, whichever is earlier and irrespective of whether the Vessel loaded within the agreed loading Laydays or arrived at the Discharge Port within any Indicative Discharge Range.
- 31.5.2.** In case of lightering, discharge at a floating storage or ship-to-ship operations, the Buyer's Vessel or floating storage shall be deemed the Berth for the purposes of Clause 31 and all references therein to Berth shall be construed accordingly. Time shall commence upon the expiration of six (6) hours after the Vessel arrives at the designated lightering area for discharging or when the Vessel is all fast alongside, whichever is earlier, and in either case, when the Vessel is ready to discharge in every respect, and time shall end when hoses are disconnected and all ship-to-ship equipment and personnel has been removed from the Vessel. All other terms in connection with the running hours for the purposes of calculating the liability for demurrage shall be governed as per the applicable charter party, and in the absence of an applicable charter party or in case of a Time Charter Vessel, as per ShellVoy6 and subsequent amendments.
- 31.5.3.** In the cases where discharge Laydays have been agreed in the Special Provisions, the following shall apply:
- (a)** if N.O.R. is tendered within the agreed Laydays at the Discharge Port, time allowed for discharge shall commence, Berth or no Berth, six (6) hours after N.O.R. is tendered in writing to the Buyer or its representative by the Master of the Vessel or his representative, or when the Vessel is securely moored at the Berth or other discharge place, whichever is earlier;
 - (b)** if N.O.R. is tendered by the Vessel before the agreed Laydays at the Discharge Port, time shall commence at 06:00 hours on the first Day of the Laydays or on commencement of discharge, whichever is earlier;
 - (c)** if N.O.R. is tendered by the Vessel after the last of the agreed Laydays at the Discharge Port, time shall begin upon commencement of discharge or twenty four (24) hours after N.O.R. has been tendered, whichever is earlier.
- 31.5.4.** The time allowed for discharging the cargo shall cease upon disconnection of the discharging hoses.

31.5.5. Any time taken for any of the following purposes shall not be counted as time taken by the Buyer to discharge the Oil or Product or time in respect of which the Buyer is liable for demurrage (whether or not the Vessel is on demurrage):

- (a) inward passage until the Vessel is securely moored at the Berth or any other discharging place (even if lightering has taken place at the anchorage or other waiting place);
- (b) awaiting daylight (but only if it is a port regulation), tugs, tide, ice, pilots, free pratique or immigration procedures;
- (c) time taken in handling or preparing to handle ballast, slops, bunkers or other substances, unless this is carried out concurrently with discharging or other normal cargo operations;
- (d) time spent in complying with the regulations and other requirements of discharging operations of the Discharge Port;
- (e) the Vessel's breakdown or failure to comply with the requirements of the terminal with respect to equipment aboard or for any other cause whatsoever attributable to the Vessel or its crew causing restrictions to discharging operations;
- (f) time spent due to labour disputes, strikes, go slows, work to rules, lockouts, stoppages or restraints of labour involving the Master, officers or crew of the Vessel or tugboats or pilots or mooring men; and
- (g) any other delay directly attributable to the Vessel, the Seller or agents of the Seller.

31.5.6. Any other circumstance not covered by the above provisions (a) to (g) will be regulated as per the applicable charter party's terms and conditions, and in the absence such a charter party or in case of a Time Charter Vessel, as per Shellvoy6 terms and conditions as amended from time to time.

31.5.7. Part cargoes discharged at different Berth at the same Discharge Port

If the nominated Vessel is to discharge Oil or Product purchased by the Buyer from the Seller in addition to other cargoes at the same Discharge Port, but at different Berths, then, time allowed for discharging such part cargo shall count:

- (a) if the Buyer's terminal or Berth is the first terminal or Berth at which the Vessel commences discharge, six (6) hours after N.O.R. is tendered in writing to the Buyer or his representative, or when the Vessel is securely moored at the Berth whichever is earlier;
- (b) if the Buyer's terminal is not the first terminal or Berth for which the Vessel commences the discharge, when the Vessel tenders N.O.R. for the Buyer's parcel and is cleared from the previous Berth or in case there is not a N.O.R tendered for the Buyer's parcel, when the

hoses disconnected in the previous operation, except for those provisions set out in Clause 31.5.8 below.

31.5.8. Part cargoes discharged at the same Berth at the same Discharge Port

- 31.5.8.1.** If the nominated Vessel discharges Oil or Product purchased by the Buyer from the Seller in addition to other cargoes at the same Berth, the time allowed for discharging the Buyer's part cargo, shall count six (6) hours after N.O.R. is tendered in writing to the Buyer or his representative, or when the Vessel is securely moored at the Berth, whichever is earlier.
- 31.5.8.2.** The time consumed shall be prorated proportionately to the percentage of cargo due to the Buyer against the cargo quantity discharged in that Discharge Port except for the time used for the discharge of each Buyer's parcel.

31.6. Pumping

- 31.6.1.** The Seller warrants that the Vessel shall be capable of discharging a full cargo within 24 hours or maintaining an average back pressure of 100 P.S.I. (or 7 bar) at the Vessel's manifold, provided the receiving facilities are prepared to receive cargo under such pressure.
- 31.6.2.** Any claim for demurrage which can be attributed to any failure to comply with Clause 31.6.1 shall be reduced only by that proportion of time which is directly attributable to that failure.

31.7. Demurrage

- 31.7.1.** If the Oil or Product is not discharged within the time allowed, the Buyer shall pay demurrage to the Seller, in the same currency as established for payment in the Agreement, for the time in excess at the appropriate rate per day or pro rata (for part a day).
- 31.7.2.** The rate of demurrage shall be as follows:
- (a)** if any, the rate specified in the Special Provisions;
 - (b)** if no rate is specified in the Special Provisions, the applicable charter party rate;
 - (c)** in the absence of both, the market rate for a Vessel of the size and type used for a single voyage charter from the Loading Port to the Discharge Port. The market rate shall be established by reference to the AFRA published at the beginning of the month in which the Vessel discharges, irrespective of the reference period mentioned in the publication. In

case of LPG vessels, the market rate shall be assessed by reference to the Braefoot Bay Assessments.

- 31.7.3.** The Seller shall also be entitled to claim against the Buyer for all costs due to excess Berth occupancy or any other port cost which is directly attributable to the time on demurrage for which the Buyer is obliged to reimburse the Seller.
- 31.7.4.** Any demurrage claim must be notified to the Buyer in writing within 90 (ninety) days of the date of disconnection of discharging hoses, with full supporting documentation (including, but not exclusively, the time computation, N.O.R, Vessel's port log, statement of facts and, where applicable, evidence of charter party rate), together with any other documentation that the Buyer may reasonably require. Any such documentation not then available shall be provided to the Buyer within one hundred and eighty (180) days of the disconnection of discharging hoses. If the Seller fails to give such notice or provide such documentation within the above respective time limits, then the Seller's claim shall be deemed to have been waived and any liability of the Buyer for demurrage shall be extinguished.

PART IV. DES AND DAP DELIVERIES

32. General

32.1. Title and risk

Notwithstanding any right of the Seller to retain documents until payment, title and risk shall be vested in the Buyer:

- (a) in case of pipeline transfers, when the Oil or Product is passing the flange connection at receiver's facilities;
- (b) when delivery by Vessel when the Oil or Product passes the manifold flange connection of the Vessel's delivery hose at discharge port;
- (c) when delivery by other means of transport at the nominated Delivery Place or nominated discharge place.

At that point the Seller's responsibility with respect to the Oil or Product shall cease, and the Buyer shall assume all risk of loss or damage including but not limited to loss, deterioration, evaporation, spills or other risks or damage caused to or by the Oil or Product delivered.

32.2. Independent inspection

32.2.1. The Buyer and the Seller will mutually appoint an Independent Inspector to determine at the Discharge Port the compliance of the Oil or Product with the quality and quantity provisions in the Special Provisions, with costs to be shared equally between the Parties.

32.2.2. Where the Discharge Port is operated by the Buyer or the Buyer's Affiliates or the Buyer's Associated Companies, the Buyer shall ensure that the Independent Inspector (and any representative of the Seller which the Seller may appoint) shall have full access to the facilities at the Discharge Port necessary to enable him to perform his duties. The report of such Independent Inspector shall include quality and net quantity. The certificates of quality and quantity (or other equivalent document) shall, except in cases of manifest error or fraud, be conclusive and binding for invoicing purposes and the Buyer shall be obliged to make full payment in accordance with

Clause 3 but without prejudice to the rights of either Party to make any claim pursuant to Clause 33.3 and Clause 34.2

32.2.3. Where:

- (a) the Discharge Port is not operated by the Buyer or the Buyer's Affiliates or the Buyer's Associated Companies and the Discharge Port refuses access to any Independent Inspector appointed by the Parties; or
- (b) the Parties are unable to reach an agreement on the appointment of an Independent Inspector; the report shall be made by Discharge Port's own qualified inspector ("Discharge Port Inspector").

32.2.4. Each party may, at their own expense, have an authorized representative present at the Discharge Port to observe discharging, testing, sampling and measuring, provided that it is reasonably possible to do so.

32.2.5. If an independent inspector has already been appointed by the Seller or any third party in respect of the Oil or Product prior to the appropriation of the cargo by the Seller to the Buyer or if such inspection has already been carried out, then both Parties shall be bound by the certificates of quantity and quality issued by said inspector for invoicing purposes, provided that the certificates of quantity and quality (or such other equivalent documents) of the Oil or Product comprising the cargo are issued in accordance with Clauses 33.3. and 34.2 below.

33. Quality

33.1. The Oil or Product to be supplied shall be of the quality, description and/or specification as set out in the Special Provisions. Unless otherwise agreed between the Parties in the Special Provisions, the quality of the Oil or Product shall be determined at the Discharge Port in accordance with the latest ASTM standards and MPMS or, if for whatever reason those standards are not applicable, according to good standard practice in use at the Discharge Port at the time of discharge.

33.2. Unless otherwise agreed, the quality of the Oil or Product shall be stated from a composite sample taken from the Vessel's tanks at the Discharge Port, in accordance with good standard practice at the Discharge Port. The sample will be retained in three sets of sealed containers; one set to be retained by the Independent Inspector or Discharge Port Inspector, as the case may be; the second

set to be retained by the Seller; and the third set will be submitted to the Buyer. The samples shall be kept for a period of ninety (90) Days.

33.3. Quality claims

33.3.1. Any claim of variation of quality shall be admissible provided that:

- (a) a fully documented claim is presented to the Seller within fifteen (15) Days after the date on which the discharge of the Oil or Product has been completed; and
- (b) the claim includes a copy of the analysis report carried out by a first class inspection company on the Discharge Port sample submitted to the Buyer, showing that the quality of this sample does not comply with the Special Provisions differing by a greater amount than the reproducibility and repeat- ability as per the applicable standards.

33.3.2. In the event that the report of analysis referred to at (b) above is not accepted by the Seller, the sample retained by the Independent Inspector or Discharging Port Inspector at Discharging Port) shall be referred for a new analysis to a new mutually acceptable inspection company. Each party shall have the right to appoint a representative to witness the new analysis.

33.3.3. The results of the new analysis in Clause 33.3.2 shall be conclusive and binding on both parties for all purposes.

33.3.4. If the Buyer fails to comply with the provisions of Clause 33.3.1 and 33.3.2., all claims regarding quality shall be deemed to have been waived by the Buyer and no claim may be brought in respect of quality.

33.3.5. In case of a quality discrepancy, the Buyer will proceed with a formal claim according to this Clause 33.3, but no quality claim exempts the Buyer from its obligation to discharge the Oil or Product.

34. Quantity

34.1. Unless otherwise agreed, the quantity of the Oil or Product shall be determined by Vessel's measurements in accordance with good standard practice in use at the Discharge Port at the time of discharge.

34.2. Quantity claims

34.2.1. Nothing in Clause 34 shall prejudice the right of either Party to challenge the accuracy of the measurement taken and recorded in the certificate of quantity (or other equivalent document), provided always that the Buyer shall first have paid the invoiced amount. Any claim of deficiency of quantity shall be admissible provided that:

- (a)** a fully documented claim is presented to the Seller within fifteen (15) Days after the date on which the discharge of the Oil or Product has been completed; and
- (b)** the claim includes, as a minimum, a copy of the full report issued by an inspection company at the Discharge Port and the receiving Vessel's ullage reports at the Discharge Port.

34.2.2. If the Buyer fails to comply with the provisions of Clause 34.2.1, all claims regarding quantity shall be deemed to have been waived by the Buyer and no claim may be brought in respect of them.

34.2.3. No claim shall be made or allowed in respect of any shortage of quantity where the difference between the quantity of the Oil or Product discharged and the quantity measured in accordance with the Special Provisions, is equal to or less than 0.5%. The Buyer may only claim from the Seller any shortage in excess of 0.5%.

34.2.4. Where delivery is made as an unsegregated 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 discharged quantity equal to that percentage of the total outturn quantity (determined at each Discharge Port) which was discharged at its Discharge Port.

35. Nomination

35.1. Nomination of Vessels

35.1.1. Unless otherwise provided in the Special Provisions, the Seller shall advise the Buyer, during the Seller's Office Hours, of the Vessel nomination for full or part cargo, no later than five (5) Working Days for purchases of Oil and three (3) Working Days for purchases of Product (hereinafter in this Part IV, the "Dead- line"), prior to the Vessel's commencement of loading.

35.1.2. In the event the Agreement is entered into after the Deadline but prior to the first Day of the Laydays then the nomination must be received by the Buyer as soon as possible.

35.1.3. Notice of nomination shall be given in writing by the Seller to the Buyer and shall include:

- (a) the name of the Vessel, up-to-date Q88, IMO number, date built, flag, deadweight, cargo tank capacity, length, beam, draught;
- (b) the grade and approximate quantity of the Oil or Product to be loaded;
- (c) the ETA of the Vessel at the Loading Port;
- (d) the last three cargoes of the Vessel in its three previous voyages;
- (e) details of any other cargo on board if delivery is a part cargo at the Dis- charge Port;
- (f) the Laydays at the Loading Port or bill of lading date where the Vessel is al- ready loaded at the time such notice has been advised by the Seller and ETA at Discharge Port; and
- (g) the demurrage rate for the voyage.

35.2. Substitution of Vessels

The Seller shall have the right, with due notification in writing to the Buyer, to substitute prior to the first Day of the agreed Laydays, the nominated Vessel with another Vessel of similar class, type, size and capacity and position, complying with the provisions and warranties under Clause 35.4, provided that the substitute Vessel tenders N.O.R. to discharge before or within the agreed Laydays and that the Seller shall provide in the substitution nomination notice the same details as required under Clause 35.1.3.

35.3. Rejection or acceptance of nomination

35.3.1. The Buyer shall have one (1) full Working Day after receipt of the Seller's nomination notice, including substitute nomination notices, to accept or reject the Vessel nominated. The Buyer's acceptance shall not be unreasonably withheld. Buyer shall not be entitled to reject the nomination of a Vessel on any grounds which are not related to the Vessel herself.

35.3.2. Consequences of rejection of nomination

In the event of the rejection of a nomination by the Buyer, the Seller shall nominate a substitute Vessel. The Seller's obligations under the Agreement to nominate a suitable Vessel and to ensure that it tenders N.O.R. at the Discharge Port within the agreed Laydays shall be unaffected.

35.4. Vessel's warranties

- 35.4.1.** The Seller hereby declares that the nominated Vessel shall be in full compliance with all applicable laws, regulations and other requirements of the country of the Vessel's registry and countries, port authorities and terminals at which the Vessel may be discharging.
- 35.4.2.** The Seller warrants that the Vessel's owners, throughout the currency of the charter relating to the Agreement, will maintain the certificate issued pursuant to the Civil Liability Convention 1969 or the 1992 Protocols to that Convention (or any further amendment thereto), whichever be the case.
- 35.4.3.** The Seller warrants that during the currency of the charter the Vessel's owners shall maintain adequate cover up to US\$ 1000 million and in accordance with the terms of the Civil Liability Convention 1969 or 1992 Protocols (or any further amendments thereto) and warrants the full entry of the chartered Vessel in a P&I Club member of the International Group of P&I Clubs. Otherwise the Seller holds the Buyer harmless from any damage or loss arising from that failure.
- 35.4.4.** The Seller warrants that each Vessel loaded hereunder shall be manned and maintained so as to fully comply with the standards set out in ISGOTT/SIGTTO, shall comply with appropriate IMO recommendations and comply with the OCI- MF guidelines for the control of drugs and alcohol on-board ship (1995), and every further revision or amendment.
- 35.4.5.** If requested by the Buyer, the Seller also agrees that the terms of this Clause 35.4 will be incorporated into any bill of lading issued in respect of the Oil or Product sold under the Agreement.
- 35.4.6.** The Vessel shall have on board at all times valid ISM certificates (original SMC and copy of the DOC) and the Vessel's owners, before and during the voyage, comply with the requirements of the ISM Code.

35.5. Vessel's compliance

- 35.5.1.** The Seller warrants that the Vessel complies with any and all international, European or national laws or regulations applicable to oil tankers. In this respect the Seller shall contact the Vessel's local agents at Loading or Discharge Port, as applicable, in order to get updated information on international, European, and national laws and regulations, and to obtain from the relevant authorities any required authorization, which shall be sent to the Buyer. All applicable local and port authority regulations, and any other requirements of whatever nature applicable at the Loading and Discharge Ports, shall apply to the Seller's Vessel.

- 35.5.2.** If the Vessel does not comply with any of the foregoing provisions, the Buyer may reject the Vessel when nominated or subsequently and refuse to berth or discharge the Vessel.
- 35.5.3.** The Buyer shall not be liable for any loss, damage or delay derived from Vessel's non-compliance with any of the foregoing provisions.

35.6. Nomination of Discharge Port

- 35.6.1.** Within two (2) Working Days before the commencement of loading, the Buyer shall nominate to the Seller the Discharge Port which shall be within the range of destinations in the applicable charter party. The Buyer warrants that the Dis- charge Port will accommodate all the physical characteristics of the nominated Vessel including, but without limitation, the length, beam and draught of the nominated Vessel.
- 35.6.2.** Full written documentary instructions, including any instruction needed by the Seller to issue documents in accordance with the regulations in force at the Dis- charge Port (including, but not limited to any export regulations) and port destination to be included in the bills of lading will be received by the Seller within two (2) Working Days before the first Day of the commencement of loading. The Seller shall have the right to issue its own instructions if such instructions are not so provided by the Buyer in a timely manner.
- 35.6.3.** All costs (including demurrage) arising out of any failure by the Buyer to comply with the provisions in this Clause 35.6 shall be for Buyer's account.

35.6.4. Alternative Discharge Port

- 35.6.4.1.** The Buyer may request another Discharge Port as per the options, terms and conditions of the applicable charter party.
- 35.6.4.2.** Whenever the Buyer exercises such option, the price stated in the Special Provisions shall be adjusted by the freight differential calculated in accordance with the terms of the applicable charter party or as other- wise agreed between the Parties. The Buyer shall be liable for any additional costs incurred by Seller, including, but not limited to, any deviation costs and costs in respect of any additional bunker consumption. In exercising its Discharge Port options, the Buyer must take account of the dimensions and characteristics of the Vessel nominated by the Seller.

- 35.6.4.3.** No change to the final Discharge Port shall be made without the Seller's written acceptance, which shall not be unreasonably withheld. Any Laydays at the Discharge Port named in the Special Provisions shall relate to the Discharge Port, if any, named in the Special Provisions and the Laydays shall be adjusted.

35.7. ETA

The Seller shall arrange for the Vessel to give to the Buyer or its representatives the ETA at the Discharge Port by fax or by email at least 72 hours before arrival, again at least 48 hours before arrival and again at least 24 hours prior to arrival, thereafter promptly advising of any variation of more than 3 hours, if possible and practicable.

35.8. Shifting

- 35.8.1.** The Buyer shall have the right to shift the Vessel from one Berth to another within the Discharge Port provided that the Vessel can when fully laden, safely reach and leave and always safely lie afloat at such Berth. All costs, including but not limited to damages for delay, shall be for Seller's account if such Shifting is due to reasons within the control of the Seller and/or the Vessel and shall otherwise be for Buyer's account.
- 35.8.2.** For the purposes of this Clause 35.8, a Vessel movement within the same Berth will not be considered as Shifting. In case the Vessel movement within the same
- 35.8.3.** Berth is due to the Vessel's personnel, equipment and facilities' technical restrictions, the cost shall be for Seller's account.

35.9. Lightering, floating storage and ship-to-ship

- 35.9.1.** If the Discharge Port requires the Seller's Vessel to be discharged to a lighter, floating storage or other Vessel by a ship-to ship transfer, this shall be subject to the Seller's prior consent. The Seller may, on any reasonable grounds and without liability, refuse the use of such lighter, floating storage facility or other Vessel for the purpose of discharging its nominated Vessel. The cost of such lightering or such discharging shall be for Buyer's account. Any additional costs in excess of

those provided for in Clause 36 (including but not limited to additional steaming and/or waiting time) shall be for Buyer's account.

- 35.9.2.** Either Party may request to discharge the Vessel to lighters or to floating storage or another Vessel by ship-to-ship transfer, with such request subject to acceptance by the non-requesting Party, such acceptance not to be unreasonably withheld.
- 35.9.3.** In the event of discharge being requested by the Seller in accordance with Clause the cost of such discharge shall be for Seller's account. Any additional costs in excess of those provided for in Clause 36 (including but not limited to additional steaming and/or waiting time) shall be Seller's account.
- 35.9.4.** In the event of discharge being requested by the Buyer in accordance with Clause 35.9.2, the cost of such discharge shall be for Buyer's account. Any additional costs in excess of those provided for in Clause 36 (including but not limited to additional steaming and/or waiting time) shall be for Buyer's account.
- 35.9.5.** Should any lightering or ship to ship transfer operations be carried out, the operation shall be conducted in accordance with the most recent edition of the Ship to Ship Transfer Guide as published by OCIMF as may be amended from time to time and MARPOL Annex I 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 amendments thereto.
- 35.9.6.** The provider of any lightering, discharging from floating storage or ship-to-ship transfer must be acceptable to both the Seller and the Buyer.
- 35.9.7.** Any lighter, floating storage unit or Vessel involved in any lightering, discharge from floating storage or ship-to-ship transfer operations must be acceptable to both the Seller and the Buyer.
- 35.9.8.** The Buyer shall be obliged to notify the place of lightering or discharge to a floating storage facility or other Vessel by ship-to-ship transfer to the Vessel when N.O.R. is tendered. The place of lightering or discharge so notified shall be deemed the Berth for the purposes of Clause 36 and all references therein to the Berth shall be construed accordingly.

36. Laytime and Demurrage

36.1. Laydays at Discharge Port

36.1.1. The Laydays shall be the Day or range of Days as specified in the Special Provisions or as established in accordance with the procedure(s) specified in the Special Provisions in which the Seller's nominated Vessel must tender N.O.R. at the Discharge Port and Discharge shall commence and complete as soon as reasonably practicable thereafter, even if this means discharge is effected or completed outside the Laydays.

36.2. Berth

For the discharge of the Oil or Product the Buyer shall provide or cause to be provided free of charge to the Seller a Berth to be indicated by the Buyer or its representative which the Vessel can when fully laden, safely reach and leave and where she can always lie safely afloat. The Buyer warrants that the plant and machinery at the indicated Berth is in good working order. The Buyer shall indemnify and hold the Seller fully harmless in respect of any damages or losses incurred by the Seller or in respect of any claim to which the Seller is exposed by reason of any breach of this Clause 36.2.

36.3. Oil washing and stripping

Any time taken during the discharge used for Oil washing and/or stripping of cargo tanks and lines shall count against Laytime, or if already on demurrage, for demurrage. The Seller shall provide the Buyer with a crude oil washing log identifying each tank washed, and stating whether such tank has been washed to the MARPOL minimum standard.

36.4. Time allowed

36.4.1. Except as expressly provided in the Special Provisions, the time allowed to the Buyer for discharge of a full cargo shall be as per the applicable charter party of the performing Vessel or pro rata for a part cargo lot. In the absence of such a provision in the applicable charter party or in the absence of a charter party with laytime and demurrage provisions:

- (a) in the case of a Vessel of 15,000 tons summer deadweight or less, 24 running hours; for full cargo or pro rata for part cargo; and
- (b) in all other cases, 36 running hours, for full cargo or pro rata for part cargo.

36.4.2. All days and holidays shall be included unless discharging on the day or holiday in question is prohibited by law or regulation at the Discharge Port.

36.5. Running hours

- 36.5.1.** Time allowed for discharge shall commence, Berth or no Berth, six (6) hours after N.O.R. is tendered in writing to the Buyer or its representative by the Master of the Vessel or his representative, or when the Vessel is securely moored at the Berth or other discharge place, whichever is earlier.
- 36.5.2.** In case of lightering, discharge at a floating storage or ship-to-ship operations, the Buyer's Vessel or floating storage shall be deemed the Berth for the purposes of Clause 36 and all references therein to Berth shall be construed accordingly. Time shall commence upon the expiration of six (6) hours after the Vessel arrives at the designated area for discharging or when the Vessel is all fast alongside, whichever is earlier, and in either case, when the Vessel is ready to discharge in every respect, and time shall end when hoses are disconnected and all ship-to-ship equipment and personnel have been removed from the Vessel. All other terms in connection with the running hours for the purposes of calculating the liability for demurrage shall be governed as per the applicable charter party, and in the absence of an applicable charter party or in case of a Time Charter Vessel, as per ShellVoy6 and subsequent amendments.
- 36.5.3.** If N.O.R. is tendered by the Vessel before the agreed Laydays at the Discharge Port, time shall commence at 06:00 hours on the first Day of the Laydays or on commencement of discharge, whichever is earlier.
- 36.5.4.** If N.O.R. is tendered by the Vessel after the last of the agreed Laydays at Discharge Port, time shall begin upon commencement of discharge or twenty four (24) hours after N.O.R. has been tendered, whichever is earlier.
- 36.5.5.** The time allowed for discharging the cargo shall cease upon disconnection of the discharging hoses.

36.5.6. Any time taken for any of the following purposes shall not be counted as time taken by the Buyer to discharge the Oil or Product or time in respect of which the Buyer is liable for demurrage (whether or not the Vessel is on demurrage):

- (a) inward passage until the Vessel is securely moored at the Berth or any other discharging place (even if lightering has taken place at the anchorage or other waiting place);
- (b) awaiting daylight (but only if it is a port regulation), tugs, tide, ice, pilots, free pratique or immigration procedures;
- (c) time taken in handling or preparing to handle ballast, slops, bunkers or other substances, unless this is carried out concurrent with discharging or other normal cargo operations;
- (d) time spent in complying with the regulations and other requirements of discharging operations of the Discharge Port;
- (e) the Vessel's breakdown or failure to comply with the requirements of the terminal with respect to equipment aboard or for any other cause whatsoever attributable to the Vessel or its crew causing restrictions to discharging operations;
- (f) time spent due to labour disputes, strikes, go slows, work to rules, lockouts, stoppages or restraints of labour involving the Master, officers or crew of the Vessel or tugboats or pilots or mooring men; and
- (g) any other delay directly attributable to the Vessel, the Seller or agents of the Seller.

36.5.7. Any other circumstance not covered by the above provisions (a) to (g) will be regulated as per applicable charter party's terms and conditions, and in the absence of such a charter party, or in case of a Time Charter Vessel, as per Shellvoy6 terms and conditions as amended from time to time.

36.5.8. Part cargoes discharged at different Berth at the same Discharge Port

If the nominated Vessel is to discharge Oil or Product purchased by the Buyer from the Seller in addition to other cargoes at the same Discharge Port, but at different Berths, then, time allowed for discharging such part cargo shall count:

- (a) if the Buyer's terminal or Berth is the first terminal or Berth at which the Vessel commences discharge, six (6) hours after N.O.R. is tendered in writing to the Buyer or his representative, or when the Vessel is securely moored at the Berth whichever is earlier.
- (b) if the Buyer's terminal is not the first terminal or Berth for which the Vessel commences the discharge, when the Vessel tenders N.O.R. for the Buyer's parcel and is cleared from the

previous Berth or in case there is not a N.O.R tendered for the Buyer's parcel, when the hoses disconnected in the previous operation, except for those provisions set out in Clause 36.5.9 below.

36.5.9. Part cargoes discharged at the same Berth at the same Discharge Port

- 36.5.9.1.** If the nominated Vessel discharges Oil or Product purchased by the Buyer from the Seller in addition to other cargoes at the same Berth, the time allowed for discharging the Buyer's part cargo, shall count six (6) hours after N.O.R. is tendered in writing to the Buyer or his representative, or when the Vessel is securely moored at the Berth, whichever is earlier.
- 36.5.9.2.** The time consumed shall be prorated proportionately to the percentage of cargo due to the Buyer against the cargo quantity discharged in that Discharge Port except for the time used for the discharge of each Buyer's parcel.

36.6. Pumping

- 36.6.1.** The Seller warrants that the Vessel shall be capable of discharging a full cargo within 24 hours or maintaining an average back pressure of 100 P.S.I. (or 7 bar) at the Vessel's manifold, provided the receiving facilities are prepared to receive cargo under such pressure.
- 36.6.2.** Any claim for demurrage which can be attributed to any failure to comply with Clause 36.6.1 shall be reduced only by that proportion of time which is directly attributable to that failure.

36.7. Demurrage

- 36.7.1.** If the Oil or Product is not discharged within the time allowed, the Buyer shall pay demurrage to the Seller, in the same currency as established for payment in the Agreement, for the time in excess at the appropriate rate per day or pro rata (for a part day).
- 36.7.2.** The rate of demurrage shall be as follows:
- (a)** if any, the rate specified in the Special Provisions;
 - (b)** if no rate is specified in the Special Provisions, the applicable charter party rate; or
 - (c)** in the absence of both, the market rate for a Vessel of the size and type used for a single voyage charter from the Loading Port to the Discharge Port. The market rate shall be established by reference to the AFRA published at the beginning of the month in which the

Vessel discharges, irrespective of the reference period mentioned in the publication. In case of LPG vessels, the market rate shall be assessed by reference to the Braefoot Bay Assessments.

- 36.7.3.** The Seller shall also be entitled to claim against the Buyer for all costs due to excess Berth occupancy or any other port cost which is directly attributable to the time on demurrage for which the Buyer is obliged to reimburse the Seller.
- 36.7.4.** Any demurrage claim must be notified to the Buyer in writing within 90 (ninety) Days of the date of disconnection of discharging hoses, with full supporting documentation (including, but not exclusively, the time computation, N.O.R., vessel's port log, statement of facts and, where applicable, evidence of charter party rate), together with any other documentation that the Buyer may reasonably require. Any such documentation not then available shall be provided to the Buyer within 180 (one hundred and eighty) Days of the disconnection of discharging hoses. If the Seller fails to give such notice or provide such documentation within the above respective time limits, then the Seller's claim shall be deemed to have been waived and any liability of the Buyer for demurrage shall be extinguished.

PART V. EX TANK, INTO TANK, IN TANK and FIP

37. General

37.1. Title and risk

Notwithstanding any right of the Seller to retain documents until payment, the title and risk in the Oil or Product shall be vested in the Buyer:

- (a) in the case of delivery Ex Tank, as the Oil or Product passes the outlet flange of the Seller's storage tank from which the Oil or Product is being delivered;
- (b) in the case of delivery Into Tank, as the Oil or Product passes the inlet flange of the Buyer's receiving storage tank;
- (c) in the case of delivery In Tank, at the date and time and in such storage tank as agreed between the Parties;
- (d) in the case of delivery FIP, as the Oil or Product passes the inlet flange of the Buyer's receiving pipeline system.

At that point the Seller's responsibility for the Oil or Product shall cease, and the Buyer shall assume all risk of loss or damage including but not limited to deterioration or evaporation, spills or other risks or damage caused to or by the Oil or Product delivered.

37.2. Nomination

37.2.1. In case of Ex Tank, Into Tank or In Tank: Nomination of the Oil or Product shall be made in accordance with the standard operating procedures of the relevant storage company.

37.2.2. In case of delivery FIP: Nomination of the Oil of Product shall be made in accordance with the standard operating procedures of the relevant pipeline operating company.

38. Independent Inspection

38.1. Unless specifically agreed between the Parties in the Special Provisions, and where permitted by the storage company, the Buyer and the Seller may mutually appoint an Independent Inspector to

determine at the storage facility the compliance of the Oil or Product with the quality and quantity provisions in the Special Provisions, with costs to be shared equally between the Parties. In the absence of an agreement to appoint an Independent Inspector jointly, either the Buyer or the Seller may appoint an Independent Inspector. If for any reason, there is no Independent Inspector, the determination shall be carried out by the storage company.

- 38.2.** The Independent Inspector or in his absence the storage company shall determine or witness the determination of the quantity and quality of the Oil or Product as required, identify the Oil or Product to be transferred and retain the samples. The report of such Independent Inspector or storage company, as applicable, shall include quality and net weight. The certificates of quality and quantity (or other equivalent document) shall, except in cases of manifest error or fraud, be conclusive and binding for invoicing purposes and the Buyer shall be obliged to make full payment in accordance with Clause 3 but without prejudice to the rights of either Party to make any claim pursuant to Clause 39.5 and Clause 40.3.

39. Quality

- 39.1.** The Oil or Product to be supplied shall be of the quality, description and/or specification as set out in the Special Provisions.
- 39.2.** Regarding Ex Tank, Into Tank and In Tank deliveries, unless specifically agreed between the Parties in the Special Provisions, the quality of the Oil or Product delivered shall be determined at the storage terminal in accordance with the latest ASTM standards and MPMS or, if for whatever reason those standards are not applicable, carried out with test results run from a volumetrically correct composite of samples drawn from the relevant tank(s) and in accordance with good standard practice in use at the storage terminal at the time of delivery.
- For the avoidance of doubt, where delivery is made from more than one tank, then the quality shall be determined in accordance with test results run on a blend of volumetrically correct samples drawn from each of the Seller's tanks and then blended according to the proportions from each tank. If any of the Seller's tanks are active, the quality shall be determined on volumetrically correct composite samples drawn from the Buyer's tank(s).

39.3. Regarding FIP deliveries, unless specifically agreed between the Parties in the Special Provisions, the quality of the Oil or Product delivered shall be determined at the pumping terminal in accordance with the latest ASTM standards and MPMS or, if for whatever reason those standards are not applicable, carried out with test results run from flow proportional in line samples taken in accordance good standard practice in use at the pumping terminal at the time of delivery. For the avoidance of doubt, where delivery is made from more than one tank, then the quality shall be determined in accordance with test results run on a blend of volumetrically correct samples drawn from each of the Seller's tanks and then blended according to the proportions from each tank. If any of the Seller's tanks are active, the quality shall be determined on volumetrically correct composite samples drawn from the Buyer's tank(s).

39.4. The samples will be retained in three sets of sealed containers; one set to be retained by the Independent Inspector or storage company, as the case may be; the second set to be retained by the Seller; and the third set will be submitted to the Buyer. The samples shall be for a period of ninety (90) Days.

39.5. Quality claims

39.5.1. Any claim regarding quality shall be admissible provided that:

- (a) a fully documented claim is presented to the Seller within fifteen (15) Days after the date on which the transfer of the Oil or Product has been completed; and
- (b) the claim includes a copy of the analysis report on the sample submitted to the Buyer carried out by an Independent Inspector showing that the quality of this sample does not comply with the Special Provisions differing by a greater amount than the reproducibility and repeatability as per the applicable standards.

39.5.2. If the Buyer fails to comply with the procedure in Clause 39.5, all claims regarding quality shall be deemed to have been waived by the Buyer and no claim may be brought in respect of them.

39.5.3. Whenever the Buyer is entitled to recover quality costs, losses or damages from the Seller, the Buyer shall only be entitled to recover such costs, losses or damages from the Seller to the extent that the Seller is able to recover, and does recover, such costs, losses or damages from storage terminal or pumping terminal as the case may be, and the Seller shall not be obligated to pay any

amount to the Buyer in excess thereof. The Seller shall however use reasonable endeavors to recover from storage terminal or pumping terminal as the case may be such costs, losses or damages for which the Buyer has presented a claim in accordance herewith.

40. Quantity

40.1. Regarding Ex Tank, Into Tank and In Tank deliveries, unless otherwise agreed in the Special Provisions, the quantity of the Oil or Product delivered shall be determined by meter measurements taken at the storage terminal and carried out in accordance with good standard practice in use at the storage terminal at the time of delivery.

40.2. Regarding FIP deliveries, unless otherwise agreed in the Special Provisions, the quantity of the Oil or Product delivered shall be determined by meter measurements taken at the pumping terminal and carried out in accordance with good standard practice in use at the pumping terminal at the time of delivery.

40.3. Quantity claims

Nothing in Clause 40 shall prejudice the right of either Party to challenge the accuracy of the measurement taken and recorded in the certificate of quantity (or other equivalent document), provided always that the Buyer shall first have paid the invoiced amount. Any claim of deficiency of quantity shall be admissible provided that:

- (a)** a fully documented claim is presented to the Seller within fifteen (15) Days after the date on which the transfer of the Oil or Product has been completed; and
- (b)** the claim includes, as a minimum, a copy of the full report issued by an inspection company or the storage company at the storage terminal or pumping terminal.

40.4. If the Buyer fails to comply with Clause 40.3, all claims regarding quantity shall be deemed to have been waived by the Buyer and no claim may be brought in respect of them.

40.5. The Buyer may only claim from the Seller any shortage in excess of 0.5%.

- 40.6.** Whenever the Buyer is entitled to recover quantity costs, losses or damages from the Seller, the Buyer shall only be entitled to recover such costs, losses or damages from the Seller to the extent that the Seller is able to recover, and does recover, such costs, losses or damages from storage terminal or pumping terminal as the case may be, and the Seller shall not be obligated to pay any amount to the Buyer in excess thereof. Seller shall however use reasonable endeavors to recover from storage terminal or pumping terminal as the case may be such costs, losses or damages for which the Buyer has presented a claim in accordance herewith.

PART VI. TRUCK DELIVERY

41. General

- 41.1.1.** The price to be paid by the Buyer for the Product shall be the price stated in the Confirmation Note for each grade(s) of Marine Fuels, for a specific delivery within the agreed Delivery Range Period (the "Price"). The Price is fixed and not subject to review, save as may be expressly otherwise indicated
- 41.1.2.** The Buyer will be liable for any difference in freight, delivery charges, taxes or any other expenses deriving from default of the dispatch instructions or any other conditions established in or applicable to the Confirmation Note.
- 41.1.3.** In all cases other than prepaid freight, any increase in freight, even after acceptance of the Confirmation Note, and any additional cost deriving from alternative transport, storage charges, etc., shall be payable by the Buyer subject to the notification which appears in this GTCs. Continuation with the Nomination will depend on the Buyer's acceptance of these costs.
- 41.1.4.** Additional costs deriving from special requests for delivery made by the Buyer shall be payable by the Buyer.
- 41.1.5.** In the event, the vessel needs to modify the quantity required in the Confirmation Note, the client must inform to the Seller of this situation by written and with twenty four labour hours in advanced.
- 41.1.6.** In case, that the Buyer or the Vessel fails to take delivery, in whole or in part, of the quantities of Marine Fuels specified in the Confirmation Note, the Buyer shall be liable for all expenses and losses incurred by the Seller as a direct or indirect result of the failure of the Vessel and/or the Buyer to take delivery, including but not limited to losses, demurrage and transportation of the Marine Fuels from the storage tanks to the Vessel and back to the storage tanks (or such other location as the Seller may wish to transport the Marine Fuels).
- 41.1.7.** The quantities of Marine Fuels to be delivered shall not be less than or exceed the quantities specified in the Confirmation Note except a variation of 10% (ten percent) without the Seller's prior written agreement.
- 41.1.8.** If the vessel needs to modify the quantity required in the Confirmation Note, the client must inform to the Seller of this situation by written and with twenty four labour hours in advanced.

- 41.1.9.** The Buyer shall ensure that the Vessel is in possession of all certificates to comply with all relevant and applicable law and regulations pertaining to the Vessel and the delivery of the Marine Fuels at the place of delivery and shall instruct the master and any agent of the Buyer to:
- (a)** notify the Sellers, in writing prior to delivery, of any special conditions, characteristics, difficulties, peculiarities, deficiencies, or defects in respect of or particular to the Vessel which might adversely affect the delivery of the Marine Fuels;
 - (b)** provide a free and safe side alongside the Vessel so as to receive the Marine Fuels and to render all necessary assistance which may reasonably be required to safely moor and unmoor the Bunker Tanker.
 - (c)** advise the Seller in writing prior to delivery, of the maximum allowable pumping rate and pressure and agree on communication and emergency shutdown procedure.
- 41.1.10.** The Seller shall not be obliged to deliver the Marine Fuels in any location or circumstances, which in its sole opinion is unsafe for the Bunker Tanker and/or the delivery process. All deliveries shall be carried out in accordance with all applicable laws, regulations, conventions, procedures and guidelines (whether local or international).
- 41.1.11.** The Seller may at any time refuse to effect delivery of Marine Fuels to any Vessel if such Vessel is not free of all conditions, difficulties, peculiarities, deficiencies or any other defects which, in the sole opinion of the Seller, could impose hazards to the Bunker Tanker, the Seller's delivery facilities, its employees or agents, in connection with the delivery, mooring, unmooring or bunkering.
- 41.1.12.** The Buyer shall not be entitled to demurrage or any other compensation for any delay or any waiting period prior to, during or after the delivery, even if the delivery is not completed within the Delivery Range Period.
- 41.1.13.** In the event of delay in delivery due to any failure, act or omission of the Buyer, its representative, agent or the Vessel for any reason whatsoever, the Buyer shall, without prejudicing or limiting any other rights or remedies available to the Seller, reimburse and indemnify the Seller for any costs or expenses incurred due to such delay.
- 41.1.14.** Any claim in respect of the quantity of Marine Fuels delivered must be notified by the Buyer to the Seller in writing immediately before the delivery hose is disconnected, failing which any such claim shall be deemed to be waived and absolutely barred.
- 41.1.15.** Payment of the Price and of all other sums payable by the Buyer under the Contract shall be made by the Buyer in US Dollars or Euro, as per invoice, in full without any deduction, set-off counter claim, including services of correspondent banks shall be on the Buyer's account or

discount whatsoever and by the payment date specified in the Contract or, if different, in the sales invoice (the "Payment Date").

42. Extra costs and Cancellation fees

- (a) After having agreed on a time to carry out the supply, if the buyer makes the truck wait more than one hour, we will proceed to charge the stoppage fees for hour.
- (b) If the driver decides that the expected time is too long or the vessel it's not ready for the supply he/she can return the truck to the storage, in this case we will proceed to charge the return rates.
- (c) If (for any reason) a nominated supply is cancelled and the seller is not notified with a minimum of 24 hours, the full cancellation fee will be charged. If the cancellation is notified before 24 hours, the reduced rate will be charged.

42.1.1. Rates:

Cancellation	The largest 14 EUR per m3 or 4.000 EUR	
Stoppage	57,8 EUR per extra hour	
Return to loading dock	32 EUR/m3	Minimum: 200 EUR

PART VII. ANNEXES

ANNEX A: Documentary Credit Format

We hereby open our irrevocable Documentary Credit number: _____

By order of:

In favor of:

Amount: (currency) _ (amount) plus/minus _ per cent (currency in words) _ (amount in words) plus/minus _ per cent

Expiry date: [at least twenty-one (21) days after the estimated contractual due date]

Quantity: _ net plus/minus _ per cent Goods description: _ (as described in the agreement)

Delivery: _Incoterms _ (Port)

Availability: By deferred payment/at sight/by negotiation at _ (description of the contractual due date according to the terms of the agreement), against presentation of the following documents at _ (bank) counters, in one original plus two (2) copies unless otherwise specified:

1. Invoice.
2. Full set (3/3) original shipped on board bills of lading issued or endorsed to the order of _.
3. Certificate of quantity issued or countersigned by [SELLER] or its agent or such independent inspector as may have been agreed between [SELLER] and [BUYER].
4. Certificate of quality issued or countersigned by [SELLER] or its agent or such independent inspector as may have been agreed between [SELLER] and [BUYER].

In case the documents under points no. 2 to no. 4 are not available at the time of payment, credit will be payable against presentation of the following documents:

1. Invoice.
2. Beneficiary's letter of indemnity covering temporarily missing documents

QUOTE

Letter of Indemnity

To: _____ (Applicant)

Dear Sirs,

We refer to a cargo of (quantity) of (product) loaded on board the vessel () at () terminal pursuant to bills of lading dated ()

Although we sold and transferred title to the above cargo to you, we have been unable to provide you with the original bills of lading and other shipping documents covering the said sale.

In consideration of your paying us the amount of () being the full purchase price of the above cargo, we hereby expressly warrant that we had marketable title free and clear of any lien or encumbrance to such product that we had full right and authority to transfer such title to you and to effect delivery of the said product and that we are entitled to possession of the documents.. We agree to protect, indemnify and save you harmless from and against any and all damages, costs, legal fees and other expenses which you may suffer by reason of such original bills of lading and other shipping documents not being presented to you on the due date or breach of the warranties given above, including but not limited to, any claims or demands which may be made by the carrier, consignor, consignee or any other third parties claiming an interest in or lien on the cargo or proceeds thereof.

We agree to make all reasonable efforts to obtain and surrender to you, as soon as possible, the original bills of lading and other shipping documents referred to above and this letter of indemnity shall expire upon our tendering these documents to you.

In any case this letter of indemnity shall terminate on the 36 (thirty-six) calendar months after the date of issue. Our obligation to indemnify you is subject to the condition that you give us prompt notice of assertion of any claims and full opportunity to conduct the defense thereof.

This indemnity shall be governed by and construed in accordance with English law and shall be subject to the exclusive jurisdiction of the English courts

Yours faithfully

(Beneficiary's company name)

Authorized signatory (name / title)

UNQUOTE

Special conditions:

1. Price: _ (as described in the agreement).
2. Transhipments permitted / partial shipments permitted.
3. Photocopies instead of copies of documents are acceptable.
4. Documents presented later than twenty-one (21) days after the bill of lading date but within validity of this documentary credit are acceptable.
5. Combined or separate documents are acceptable.
6. Fax invoice and fax letter of indemnity for missing documents are acceptable.
7. Charterparty bills of lading are acceptable.
8. Typographical and spelling errors not to be considered as discrepancies.
9. Shipments covered by more than one set of documents acceptable.
10. All bank charges for the opener's account.

11. Only for floating price agreements:

The value of this documentary credit may escalate/de-escalate in accordance with the above price clause without any further amendment on our part.

12. The value of this letter of credit will automatically escalate/de-escalate in accordance with the loaded quantity, even above or below the stated limits, without any further amendment

13. In the case of currency being U.S. Dollars:

If the contractual due date falls on a Saturday or New York bank holiday other than Monday, then payment is to be effected on the preceding New York bank working day; if the contractual due date falls on a Sunday or Monday New York bank holiday, then payment is to be effected on the next New York bank working day.

In the case of currency being Euros:

If the contractual due date falls on a Saturday or Target holiday other than Monday, then payment is to be effected on the preceding Target day; if the contractual due date falls on a Sunday or Monday Target holiday, then payment is to be effected on the next target day.

14. We (the bank) further engage that payments against your invoice will include interest from the contractual due date (due date which is shown on the invoice) to our effective payment date at one month LIBOR, plus 3 (three) per cent; where "LIBOR" means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for dollars or euro, as applicable, for the relevant period displayed on page LIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate, on the date which is two London Banking Days prior to the contractual due date under the

condition that the documents in strict conformity with this documentary credit are presented at least one day before the maturity date of the invoice.

15. When the pricing mechanism does not allow the invoice to be completed before the payment day, payment shall be made against a provisional invoice (fax provisional invoice acceptable), which will be calculated on the basis of information available at the moment that such provisional invoice is issued. The provisional invoice will be replaced as soon as the complete information becomes available by the presentation of the beneficiary's final invoice (fax invoice will be acceptable).
16. This communication is the operative instrument and will not be followed by written confirmation.
17. This documentary credit is subject to the Uniform Customs and Practice for Documentary Credits issued by the International Chamber of Commerce, 2007 Revision (ICC Publication 600) and to the extent not covered under UCP 600, the construction, validity and performance of this documentary credit shall be governed by and construed in accordance with English law. All disputes, controversies or claims arising out of or in relation with this documentary credit shall be subject to the non-exclusive jurisdiction of the English Courts.
18. Quantities expressed in metric tons and/or barrels and/or cubic meters and/or US gallons will be acceptable.

ANNEX B: Letter of Indemnity Format

Letter of Indemnity

To: _____ (Applicant)

Dear Sirs,

We refer to a cargo of (quantity) of (product) loaded on board the vessel () at () terminal pursuant to bills of lading dated ().

Although we sold and transferred title to the above cargo to you, we have been unable to provide you with the original bills of lading and other shipping documents covering the said sale.

In consideration of your paying us the amount of () being the full purchase price of the above cargo, we hereby expressly warrant that we had marketable title free and clear of any lien or encumbrance to such product that we had full right and authority to transfer such title to you and to effect delivery of the said product and that we are entitled to possession of the documents. We agree to protect, indemnify and save you harmless from and

against any and all damages, costs, legal fees and other expenses which you may suffer by reason of such original bills of lading and other shipping documents not being presented to you on the due date or breach of the warranties given above, including but not limited to, any claims or demands which may be made by the carrier, consignor, consignee or any other third parties claiming an interest in or lien on the cargo or proceeds thereof.

We agree to make all reasonable efforts to obtain and surrender to you, as soon as possible, the original bills of lading and other shipping documents referred to above and this letter of indemnity shall expire upon our tendering these documents to you.

In any case this letter of indemnity shall terminate on the 36 (thirty-six) calendar months after the date of issue. Our obligation to indemnify you is subject to the condition that you give us prompt notice of assertion of any claims and full opportunity to conduct the defense thereof.

This indemnity shall be governed by and construed in accordance with English law and shall be subject to the exclusive jurisdiction of the English courts.

Yours faithfully

Repsol's company name

Authorized signatory (name/title)

ANNEX C: Standby Letter of Credit Format

We hereby open our irrevocable Standby Letter of Credit Number: _____

By order of:

In favor of:

Amount: (Currency) _ (amount) plus/minus _ per cent (currency in words) _ (amount in words) _
plus/minus _ Per cent

Expiry date: [at least twenty-one (21) days after the estimated contractual due date]

Quantity: _ net plus/minus _ per cent of _ Goods Description: _ (as described in the agreement).

Delivery: _ Incoterms _ (Port)

Availability: Available for payment at sight payment at (bank) counters but not before (description of the contractual due date according to the terms of the agreement), against presentation of the following documents:

1. Copy of unpaid invoice.
2. Copy of the Beneficiary's letter of indemnity in the following format:

QUOTE

Letter of Indemnity

To: ____ (Applicant)

Dear Sirs,

We refer to a cargo of (quantity) of (product) loaded on board the vessel () at () terminal pursuant to bills of lading dated ().

Although we sold and transferred title to the above cargo to you, we have been unable to provide you with the original bills of lading and other shipping documents covering the said sale.

In consideration of your paying us the amount of () being the full purchase price of the above cargo, we hereby expressly warrant that we had marketable title free and clear of any lien or encumbrance to such product that we had full right and authority to transfer such title to you and to effect delivery of the said product and that we are entitled to possession of the documents. We agree to protect, indemnify and save you harmless from and against any and all damages, costs, legal fees and other expenses which you may suffer by reason of such original bills of lading and other shipping documents not being presented to you on the due date or breach of the warranties given above, including but not limited to, any claims or demands which may be made by the carrier, consignor, consignee or any other third parties claiming an interest in or lien on the cargo or proceeds thereof.

We agree to make all reasonable efforts to obtain and surrender to you, as soon as possible, the original bills of lading and other shipping documents referred to above and this letter of indemnity shall expire upon our tendering these documents to you.

In any case this letter of indemnity shall terminate on the 36 (thirty-six) calendar months after the date of issue. Our obligation to indemnify you is subject to the condition that you give us prompt notice of assertion of any claims and full opportunity to conduct the defense thereof.

This indemnity shall be governed by and construed in accordance with English law and shall be subject to the exclusive jurisdiction of the English courts.

Yours faithfully

(Beneficiary's company name)

Authorized signatory (name / title)

UNQUOTE

3. Beneficiary's statement purporting to be signed by an official of the beneficiary certifying that "the amount demanded represents a payment which has not been made to [NAME OF THE BENEFICIARY] by [NAME OF THE APPLICANT] within the terms of the contract in respect of the invoice number [NUMBER] which is legally and properly due."

SPECIAL CONDITIONS:

1. Price: _ (as described in the agreement).
2. Transhipments permitted / partial shipments permitted.
3. Partial drawings are authorized.
4. Combined or separate documents are acceptable.
5. Fax invoice, fax letter of indemnity and fax Beneficiary's statement will be acceptable.
6. Charter party bills of lading are acceptable.
7. Typographical and spelling errors not to be considered as discrepancies.
8. Shipments covered by more than one set of documents acceptable.
9. All bank charges are for the opener's account.
10. **Only for floating price agreements.**

The value of this standby letter of credit may escalate/de-escalate in accordance with the above price clause without any further amendment on our part.

11. The value of this letter of credit will automatically escalate/de-escalate in accordance with the loaded quantity, even above or below the stated limits, without any further amendment.

12. In the case of currency being U.S. Dollars:

If the contractual due date falls on a Saturday or New York bank holiday other than Monday, then payment is to be effected on the preceding New York bank working day; if the contractual due date falls on a Sunday or Monday New York bank holiday, then payment is to be effected on the next New York bank working day.

In the case of currency being Euros:

If the contractual due date falls on a Saturday or Target holiday other than Monday, then payment is to be effected on the preceding Target day, if contractual due date falls on a Sunday or Monday Target holiday, then payment is to be effected on the next Target day.

- 13.** We (the bank) further engage that payments against your invoice will include interest from the contractual due date (due date which is shown on the invoice) to our effective payment date at one month LIBOR, plus 3 (three) per cent; where "LIBOR" means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for dollars or euro, as applicable, for the relevant period displayed on page LIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate, on the date which is two London Banking Days prior to the contractual due date.
- 14.** When the pricing mechanism does not allow the invoice to be completed before the payment day, payment shall be made against a provisional invoice (fax provisional invoice acceptable), which will be calculated on the basis of the information available at the moment that such provisional invoice is issued. The provisional invoice will be replaced as soon as the complete information becomes available by the presentation of the beneficiary's final invoice (fax invoice will be acceptable).
- 15.** This communication is the operative instrument and will not be followed by written confirmation.
- 16.** This standby letter of credit is subject to the Uniform Customs and Practice for Documentary Credits issued by the International Chamber of Commerce, 2007 Revision (ICC publication 600) and to the extent not covered under UCP 600, the construction, validity and performance of this standby letter of credit shall be governed by and construed in accordance with English law. All disputes, controversies or claims arising out of or in relation with this Standby Letter of Credit shall be subject to the non-exclusive jurisdiction of the English Courts.
- 17.** Documents presented more than twenty-one (21) days after bill of lading date but within the validity of this standby letter of credit are acceptable.
- 18.** Quantities expressed in metric tons and/or barrels and/or cubic meters and/or US gallons will be acceptable.

