

ABU DHABI NATIONAL OIL COMPANY (ADNOC) P.J.S.C.

GENERAL TERMS AND CONDITIONS

FOR THE SALE OF OLEFINS

**FOB THE LOADING PORT OR
CFR THE DESTINATION PORT OR
CIF THE DESTINATION PORT**

JANUARY 2023 EDITION

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PART 1

PROVISIONS APPLICABLE TO FOB, CFR AND CIF SALES

The provisions of this Part 1 shall apply to Contracts for the sale of Olefins between Seller and Buyer for which the Standard Contract Terms are specified as any of (i) FOB the Loading Port; (ii) CFR the Destination Port; or (iii) CIF the Destination Port.

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

For all purposes of these GTCs, the following terms shall have the following meanings:

“**Abu Dhabi**” shall mean the Emirate of Abu Dhabi, United Arab Emirates.

“**Accepted Vessel**” shall have the meaning ascribed thereto in Article 40.5.

“**ADNOC**” shall mean Abu Dhabi National Oil Company (ADNOC) P.J.S.C., a company existing under the laws of Abu Dhabi, UAE and whose principal postal address is P.O. Box 898, Abu Dhabi, UAE.

“**ADNOC Group**” shall mean ADNOC and each Person directly or indirectly Controlled by ADNOC.

“**ADNOC L&S**” shall mean the Abu Dhabi Marine Operations and Services Company LLC (which trades as ADNOC Logistics and Services), a company duly organized and existing under the laws of the Abu Dhabi Global Market.

“**ADNOC Operating Company**” shall mean the Abu Dhabi Company for Onshore Petroleum Operations Ltd trading as ADNOC Onshore (“**ADNOC Onshore**”), ADNOC Fertilizers, ADNOC L&S, the Abu Dhabi Polymers Company Ltd, or the Abu Dhabi Company for Offshore Petroleum Operations trading as ADNOC Offshore (“**ADNOC Offshore**”), or Abu Dhabi Oil Refining Company (Takreer) trading as ADNOC Refining (“**ADNOC Refining**”) or Abu Dhabi National Oil Gas Industries Limited trading as ADNOC Gas Processing (“**ADNOC Gas Processing**”) or whichever company performs and/or regulates the operations and procedures for the shipment and export of the particular Product that is to be shipped and delivered under this Contract.

“**Adjustment Amount**” shall mean the absolute value of the amount derived by multiplying (a) the Quantity of such type(s) of Product set out in Seller's Original Invoice for such shipment by (b) the Price minus the Invoice Price for such type(s) of Product.

“**ADNOC Fertilizers**” shall mean Abu Dhabi Fertilizer Company (Fertil), a corporation duly organised and existing under the laws of Abu Dhabi, United Arab Emirates.

“**ADNOC Refining**” shall mean Abu Dhabi Oil Refining Company (Takreer), a corporation duly organised and existing under the laws of Abu Dhabi, United Arab Emirates.

“**ADNOC Ship Vetting**” shall mean the approval process undertaken for or on behalf of the relevant ADNOC Operating Company for the vetting of vessels used for the carriage of Product.

“Affiliate” means:

- (a) in relation to Seller or a member of the ADNOC Group, each other member of the ADNOC Group; and
- (b) in relation to Buyer, any other Person that, now or hereafter, directly or indirectly, Controls, is Controlled by or is under common Control with, Buyer.

“Agreed Schedule” shall have the meaning described in Article 4.5 of these GTCs.

“Amended Seller Vessel Nomination” shall have the meaning ascribed thereto in Article 40.4 of these GTCs.

“Applicable Law(s)” shall mean all applicable national and international laws, including governmental, local, port authority or terminal operator laws and regulations and any other laws and regulations or requirements in force of whatever nature and howsoever communicated;

“ASTM” shall mean ASTM International, formerly known as the American Society for Testing and Materials, a global society working to advance the development and delivery of international voluntary consensus standards.

“Authorised Recipients” has the meaning given to it in Article 21.4.

“Banking Day” shall mean any Day of the Year other than a Saturday, Sunday or a public or bank holiday in New York City, U.S.A.

“Buyer” shall mean the party defined in the Sales Confirmation as the “Buyer”.

“Buyer Amendment” shall have the meaning ascribed thereto in Article 4.4 of these GTCs.

“Buyer Schedule” shall have the meaning ascribed thereto in Article 4.2 of these GTCs.

“Buyer Vessel Confirmation” shall have the meaning ascribed thereto in Article 40.2 of these GTCs.

“Certificates of Quantity and Quality” shall mean the certificates of quantity and quality that document the quantity and quality of each Shipment of Product as determined by the processes set forth in this Contract.

“CIF” or **“Cost Insurance and Freight”** shall have the meaning ascribed thereto in the Incoterms, except as modified by this Contract.

“CLC” shall mean the International Convention on Civil Liability for Bunker Oil Pollution Damage of 2001, as amended or supplemented from time to time.

“CFR” or **“Cost and Freight”** shall have the meaning ascribed thereto in the Incoterms, except as modified by this Contract.

“Commercially Reasonable Endeavours” shall mean the efforts that a prudent Person would use in similar circumstances to ensure that its obligations are fulfilled expeditiously without incurring additional costs beyond what it would have had to incur in the usual circumstances.

"Confidential Information" shall mean:

- (a) shall mean the efforts that a prudent Person would use in similar circumstances to ensure that its obligations are fulfilled expeditiously without incurring additional costs beyond what it would have had to incur in the usual circumstances;
- (b) all commercial, fiscal, financial, technical, operational or other information relating to the sale and purchase of Product, the Parties or their respective Affiliates and their respective business affairs (including information on assets, records, data, samples, business plans, production forecasts, actual production, budgets, financial statements, customers, clients, suppliers, plans, intentions and opportunities) which is obtained, whether before, on or after the date of this Contract, by a Party or any of its Authorised Recipients from the other Party, any of the other Party's Affiliates or any of their respective Personnel, professional advisers (including financial advisers, legal counsel, auditors and accountants) or Contractors, in any form (including orally, in writing, in electronic form or otherwise) and for whatever purpose (including for the purposes of the performance of this Contract or in connection with the negotiation of this Contract); and
- (c) any report, analysis, compilation, study or other document prepared by, on behalf of or for any Party or its Affiliates which contains, derives from or otherwise reflects any information described in sub-paragraphs (a) and (b) above, whether provided or obtained before, on or after the date of this Contract,

but excludes any information which:

- (i) at the time of its supply by (or on behalf of) a Party, is in, or subsequently comes into, the public domain, except by the breach of any of the undertakings set out in this Contract;
- (ii) subsequently comes lawfully into the possession of either Party or any of its Authorised Recipients from a Third Party who does not owe the Party to which the Confidential Information relates an obligation of confidence in relation to such Confidential Information;
- (iii) was independently developed by a Party or any of its Authorised Recipients without any reliance on any part of the Confidential Information; or
- (iv) the Parties agree in writing is not confidential.

"Contract" and references herein to this **"Contract"** shall mean these General Terms and Conditions together with the Sales Confirmation.

"Contractors" shall mean contractors, agents and representatives.

"Control" shall mean, in relation to a Person:

- (a) having, directly or indirectly, the power to vote fifty percent (50%) or more of the voting stock (other than directors' qualifying shares or other *de minimis* holdings required by Applicable Law to be held by other Person(s)) of such Person;

- (b) ownership, directly or indirectly, of fifty percent (50%) or more of the equity interests (other than directors' qualifying shares or other *de minimis* holdings required by Applicable Law to be held by other Person(s)) in such Person; or
- (c) having, directly or indirectly, the ability to direct or procure the direction of the management and policies of such Person, whether through the ownership of shares, by contract or otherwise,

and the terms "**Controlling**", "**Controlled by**" and "**common Control with**" shall be construed accordingly.

"**Day**" shall a calendar day in Abu Dhabi, United Arab Emirates, unless otherwise stated in the Contract.

"**Delivery Period**" shall mean the period or each of the periods of time during which Product is to be delivered pursuant to this Contract and listed under the heading "Delivery Period(s) and Quantity" in the Sales Confirmation.

"**Delivery Point**" shall mean in respect of a Shipment, the junction point of the connecting flange connecting the delivery hose of the loading installation or Vessel with the receiving manifold of the Vessel at the Loading Port.

"**Destination Port**" shall mean the port, terminal or refining system at which the Product to be delivered hereunder is to be discharged, consistent with the "Destination Port(s) / Terminal(s)" column set forth in the Sales Confirmation and set as forth in each applicable Buyer Nomination.

"**Destination Port Limits**" shall mean the port limits (as prescribed by the Port Authority) at the Destination Port.

"**Dispute**" shall have the meaning ascribed thereto in Article 18.1.

"**DoS**" shall have the meaning ascribed thereto in Annex A of this Contract.

"**ETA**" shall mean the expected date and time of arrival (in local time) of the Vessel at the Loading Port or the Destination Port, as applicable.

"**Fax**" shall mean an electronic facsimile transmission, including "E-Fax".

"**FOB**" or "**Free on Board**" shall have the meaning ascribed thereto in the Incoterms, except as modified by this Contract.

"**Force Majeure Event**" shall have the meaning ascribed thereto in Article 15.1.

"**Full Cargo**" shall mean a quantity of Product under the Contract which is loaded and transported on a Vessel without other cargo.

"**Governmental Authority**" shall mean any governmental authority of Abu Dhabi, the UAE or any jurisdiction in which Seller or Buyer operates or conducts business (including the SCFEA), and any political subdivision, agency, department, commission, board, bureau, court or other authority, or any quasi-governmental or private body exercising, or purporting to exercise, any executive, legislative, judicial, administrative, police, regulatory or taxing

authority or power of any nature, or any company (other than a member of the ADNOC Group) or instrumentality owned or controlled by any governmental authority, in each case of one of the foregoing.

“**General Terms and Conditions**” and “**GTC**” shall mean these general terms and conditions for the sale of Product, together with all Parts and Annexes hereto.

“**Incoterms**” shall mean the international commercial terms for the sale of goods promulgated by the International Chamber of Commerce entitled Incoterms® 2020, as amended or supplemented from time to time.

“**Indicative Discharge Dates**” shall mean a date or range of dates given in good faith and without guarantee, within which a nominated Vessel is reasonably expected to arrive at the Destination Port and always subject to safe navigation and/or bad weather and/or Force Majeure Event.

“**Institute Cargo Clauses**” or “**ICC**” shall mean the most recent set of terms for cargo insurance policies voluntarily adopted as standard terms by many international marine insurance organizations, including the Institute of London Underwriters and the American Institute of Marine Underwriters.

“**Institute Strikes Clauses**” shall mean the most recent set of terms for cargo insurance policies to cover losses caused by strikers, locked-out workers, people taking part in labour disturbances, riots and commotions, as well as acts by terrorists or any person acting for a political motive, as issued by the Lloyd’s Market Association and International Underwriting Association of London.

“**Institute War Clause**” shall mean the most recent set of terms for cargo insurance policies to cover war risks, as issued by the Lloyd’s Market Association and International Underwriting Association of London.

“**ISGOTT**” shall mean the International Safety Guide for Oil Tankers and Terminals (5th edition), as amended or supplemented from time to time.

“**ISPS**” shall mean the International Ship and Port Facility Security Code and the relevant amendments to Chapter XI of SOLAS (2003 edition), as amended or supplemented from time to time.

“**Laytime**” shall mean the time allowed to Seller for the loading of each shipment of on board a Vessel, or the time allowed to Buyer for the unloading of Product from a Vessel (as the case may be), as calculated in accordance with the Contract.

“**Lifting Month**” shall mean, in respect of a particular delivery of Product, the Month in which the first Day of the Set Range occurs.

“**Loading Port**” shall mean the Ruwais port, United Arab Emirates, or any other port as may be notified by Seller to Buyer.

“**Loading Port Limits**” shall mean the port limits, as prescribed by the Port Authority.

“**Loading Terminal**” shall mean the Loading Port and the delivery facilities at which the Product is to be loaded.

“**Master**” shall mean the master, captain or commander of a Vessel.

“**Month**” shall mean a period of time beginning on the first Day of a calendar month (Gregorian calendar) and ending on the last Day of such calendar month and “**Monthly**” shall be construed accordingly.

“**MT**” shall mean a metric tonne, being equal to 1,000 kilograms or 2,204.62 pounds.

"**New Worldscale**" shall mean the New Worldwide Tanker Nominal Freight Scale, issued jointly by the Worldscale Association (London) Limited and the Worldscale Association (NYC) Inc., as amended or supplemented from time to time.

"**NOR**" shall mean the notice tendered by the Vessel giving notice of the Vessel's arrival at the place designated under the Contract.

"**Operator**" shall mean:

- (a) in respect of ethylene, ADNOC Fertilizers, Abu Dhabi Polymers Company Limited (Borouge) or such other organisation, body or entity responsible from time to time for the operation of the Ethylene loading and unloading terminal; or
- (b) in respect of propylene, ADNOC Refining or such other organization, body or group responsible from time to time for the operation of the bulk cargo and propylene loading and unloading terminal.

"**Part Cargo**" shall mean a quantity of Product under the Contract which is loaded and transported on a Vessel together with other cargo which is bought or sold by Third Parties.

“**Party**” shall mean either Seller or Buyer, and together the “**Parties**”.

“**Person**” shall mean an individual, partnership, corporation (including a business trust), company, trust, unincorporated association, joint venture or other entity, whether a body corporate or an unincorporated association of persons, or a government or any political subdivision or agency or instrumentality thereof and “**Persons**” shall be construed accordingly.

"**Personnel**" shall mean, in relation to a Person, the senior executives, directors, officers, employees or secondees of such Person.

“**Port Authority**” shall mean, any group or organization which at any time assumes the responsibilities with respect to the regulation of the Loading Port or the Destination Port, as applicable.

“**Price**” shall have the meaning given to it in Article 7.1 of these GTCs.

"**Product**" or "**Olefins**" shall mean ethylene and/or propylene as agreed between the Parties and specified in the Sales Confirmation.

“**Quantity**” shall mean the quantity, in MT, of Product, to be purchased for each Delivery Period, as set out under the heading “Delivery Period(s) and Quantity” in the Sales Confirmation.

"Reasonable and Prudent Operator" shall mean a Person seeking in good faith to perform its contractual obligations and in so doing and in the general conduct of its undertaking, exercising that degree of skill diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances and conditions.

"Sales Confirmation" shall mean the sales confirmation entered into between Seller and Buyer with respect to the sale of Product which forms part of the Contract.

"Sanctioned Territory" shall have the meaning ascribed thereto in Article 13.2.

"Sanctions" shall have the meaning ascribed thereto in Article 13.2.

"Sanctions Authority" shall have the meaning ascribed thereto in Article 13.2.

"SCFEA" shall mean the Supreme Council for Financial and Economic Affairs or such other government representative as may be directed by SCFEA.

"Seller" shall mean ADNOC.

"Seller Schedule" shall have the meaning ascribed thereto in Article 4.1 of these GTCs.

"Seller Vessel Nomination" shall have the meaning ascribed thereto in Article 40.1 of these GTCs.

"Set Range" shall mean, in respect of:

- a) a FOB Shipment, a three (3) Day period as specified in an Agreed Schedule during which lifting is scheduled to occur, extending from 00:01 Abu Dhabi, UAE local time on first Day of the period specified in an Agreed Schedule until 23:59 Abu Dhabi, UAE local time on the last Day of the three (3) Day period specified in an Agreed Schedule. However, Seller shall, if required by the relevant ADNOC Operating Company in the exercise of its sole discretion shorten the Set Range from three (3) Days to two (2) Days and which shall be notified by Seller to Buyer in writing under the terms of this Contract;
- b) a CFR/CIF Shipment, a three (3) Day period as specified in an Agreed Schedule during which the Accepted Vessel is to tender NOR at the Loading Port, extending from 00:01 Abu Dhabi, UAE local time on the first Day of the period specified in an Agreed Schedule until 23:59 Abu Dhabi, UAE local time the last Day of the three (3) Day period specified in an Agreed Schedule.

"Shipment" shall mean a quantity of Product in Full or Part Cargo to be delivered under this Contract.

"SOLAS" shall mean the International Convention for the Safety of Life at Sea of 1974 and the related Protocol of 1978, both as amended or supplemented from time to time.

"Specification" shall mean, in relation to each Product, the relevant specifications set out in the relevant Sales Confirmation.

“**Standard Contract Terms**” shall mean either (a) FOB the Loading Port, (b) CFR the Destination Port, or (c) CIF the Destination Port, as specified in the Sales Confirmation under the heading “Standard Contract Terms”.

“**STCW**” shall mean the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers of 1978, as amended or supplemented from time to time.

“**TBN**” shall mean “to be nominated”.

“**Third Party**” shall mean any Person other than Seller and Buyer.

“**US Dollars**” or “**US\$**” shall mean the lawful currency of the United States of America.

“**VAT Law**” shall mean all applicable laws relevant to the imposition of taxes on the supply or deemed supply of goods and services at each stage of the production and distribution, as may be applicable under the Contract, including but not limited to the Federal Decree-Law No (8) of 2017 on Value Added Tax in the United Arab Emirates.

“**Vessel**” shall mean any ship or vessel designed, constructed, equipped and maintained to safely load and carry Product.

“**Working Day**” shall mean any Day of the Year other than a Friday, Saturday or a public holiday in Abu Dhabi, United Arab Emirates.

“**Year**” shall mean a period of time beginning on the first Day of a calendar year (Gregorian calendar) and ending on the last Day of such calendar year and “**Yearly**” shall be construed accordingly.

1.2. Interpretation

- (a) The Annexes attached are incorporated herein by reference and form a part of this Contract.
- (b) The headings in this Contract are for convenience only and shall not be interpreted in any way to limit or change the subject matter of this Contract.
- (c) As used in this Contract, the words “**include**” and “**including**” shall be read respectively as “include, without limitation” and “including, without limitation”, unless expressly provided otherwise.
- (d) Unless otherwise expressly stated in this Contract, all references in this Contract to Articles, Schedules and Annexes shall be to the Articles, Schedules and Annexes of this Contract.
- (e) As used in this Contract, except where the context otherwise requires, the singular includes the plural and vice-versa.
- (f) As used in this Contract, references to this Contract or any other contract or document shall be construed as a reference to such agreement, contract or document as amended, novated, modified or supplemented and in effect from time to time and shall include a reference to any document which amends,

novates, modifies or supplements it, or is entered into, made or given pursuant to or in accordance with its terms.

- (g) As used in this Contract, references to any statute, law or statutory instrument shall be construed as a reference to such statute, law or statutory instrument as the same may have been, or may from time to time be, amended or re-enacted and all instruments, orders, plans, regulations, by-laws, permissions and directions at any time made thereunder.
- (h) As used in this Contract, a reference to a Party or to any a Person includes a reference to its successors, permitted transferees and assigns.
- (i) References to any legal term used in this Contract for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any other legal concept or thing shall, in respect of any jurisdiction, be deemed to include what most nearly approximates such legal term in that jurisdiction.
- (j) Unless where otherwise stated, in the event of a conflict or inconsistency between the body of these GTCs and any of its Annexes, the body of these GTCs shall prevail, and in the event of a conflict or inconsistency between these GTCs and the Sales Confirmation, the Sales Confirmation shall prevail.

2. **PURCHASE AND SALE**

2.1. Subject to all of the terms and conditions of this Contract, Buyer shall purchase from Seller, take delivery of, and pay for, and Seller shall sell and deliver to Buyer Product of the types, in the quantities, during the Delivery Period(s), at the Price(s) and under the specified Standard Contract Terms set forth in the Contract.

3. **WARRANTY OF TITLE**

3.1. At the time property in the Product passes to Buyer under this Contract;

- (a) Seller warrants that it is entitled to possession of the Product, has title to the Product which shall be free of any liens, charges and encumbrances of whatsoever kind unless disclosed or known to Buyer before this Contract was made, and has the right to sell the Product; and
- (b) Buyer will have the benefit of the warranty as to enjoyment of quiet possession implied by law.

4. **SCHEDULING & VESSEL NOMINATION**

4.1. At least thirty (30) Days prior to the first Day of each Month of each Delivery Period, Seller shall provide to Buyer the following ("**Seller Schedule**") comprising:

- (a) written notice identifying the required Lifting Month;
- (b) the type(s) of Product to be lifted; and

- (c) the Quantity of each type of Product to be lifted (including notice of the exercise of any option granted to Seller in the Sales Confirmation in respect of the Quantity).
- 4.2. At least twenty-five (25) Days prior to the first Day of each Month of each Delivery Period and no later than five (5) Days after receipt of Seller's Schedule, Buyer shall, after taking full account the requirements set out in Seller Schedule, give written notice to Seller ("**Buyer Schedule**") confirming:
 - (a) the quantity of each type of Product to be lifted in such Lifting Month, the Loading Port(s);
 - (b) the proposed Set Range to be within the Lifting Month of the Vessel;
 - (c) if the Parties have agreed in the Sales Confirmation to a term contract, an estimate of the lifting schedule during the next two (2) succeeding Months (or for the next anticipated lifting where deliveries are to be made less frequently than Monthly); and
 - (d) for FOB Shipment only, the Vessel nomination to be provided in accordance and together with the requirements listed under Article 28.
- 4.3. At least nineteen (19) Days prior to the first Day of each Month of each Delivery Period and no later than six (6) Days after receipt of Buyer Schedule Seller shall give Buyer written notice of any amendments required to be made to any matters within Buyer Schedule ("**Seller Request**").
- 4.4. At least seventeen (17) Days prior to the first Day of each Month of each Delivery Period and within two (2) Days of receipt of Seller Request Buyer shall, after using all endeavours to agree any amendments to Seller Request, shall submit to Seller an amended Buyer Schedule ("**Buyer Amendment**").
- 4.5. At least fifteen (15) Days prior to the first Day of each Lifting Month of each Delivery Period, Seller shall give written notice to Buyer ("**Agreed Schedule**") of the following which shall be the agreed terms upon which the Product will be carried:
 - (a) confirming the terms of Buyer Schedule, as agreed by Seller and Buyer or as amended pursuant to Articles 4.3 and 4.4; and
 - (b) identifying the Set Range.
- 4.6. At any given time before the loading of Product, Buyer may request a change to the applicable Set Range. Seller shall use its reasonable endeavours to accommodate the requested change in granting a few days flexibility on the Set Range and after, as appropriate, obtaining any necessary approvals and consents from the relevant ADNOC Operating Company. If Seller is unable to accommodate Buyer's request the Set Range as agreed shall remain unchanged.

5. RISK AND PROPERTY

- 5.1. The property in the Product delivered under this Contract shall pass from Seller to Buyer as the Product passes the Vessel's permanent hose connection at the Delivery Point. Buyer assumes all risk of, and full responsibility for, any loss, deterioration, evaporation and damage of whatsoever nature to or in respect of the Product howsoever caused arising after the Product passes the Vessel's permanent hose connection at the Delivery Point.

6. DETERMINATION OF QUANTITY AND QUALITY

- 6.1. The Quantity of Product delivered on board any Vessel under the Contract shall be determined in the manner provided in Article 6.
- 6.2. The quantity and quality of each shipment of Product shall be determined by a mutually agreed independent inspector from a recognised inspection company (the "**Independent Inspector**") at the time of loading in accordance with the customary practices at the Loading Port, which currently includes the use of readings from volume measuring devices associated with the relevant shore tanks, and/or using readings from measuring devices associated with the relevant loading lines.
- 6.3. Notwithstanding, Article 6.2, Seller may in its sole discretion request that the quantity of a shipment of Product be determined at the time of loading using readings from volume measuring devices associated with the relevant cargo tank(s) on the Vessel taken immediately prior to start of loading and immediately after the completion of loading operations. If however, following the exercise of Seller's discretion under this Article 6.3, it subsequently transpires that for any reason whatsoever the quantity of a shipment of Product cannot be determined at the time of loading using readings from volume measuring devices associated with the relevant cargo tank(s) on the Vessel the parties agree that the quantity of a shipment of Product shall be determined using measurements and estimates from any on-shore volume measuring devices and/or loading activities.
- 6.4. The quantity of a shipment of Product determined in accordance with Articles 6.2 or 6.3 shall be adjusted to a temperature of sixty degrees Fahrenheit (60°F) or 15 degrees Centigrade (15°C) in accordance with the ASTM Petroleum Measurement Tables approved for use at the Loading Port at the time of loading by the Government of the Emirate of Abu Dhabi. A copy of the conversion calculation, if any, shall be provided to Buyer or its representative.
- 6.5. Seller shall give Buyer written notice of one or more proposed independent inspectors who shall be from a recognised inspection company. Buyer may within two (2) Days of receipt of Seller's notice confirm the acceptance of the proposed inspector or propose one or more alternative independent inspectors who shall be from a recognised inspection company. In the event that the parties cannot agree on a mutually agreed independent inspector within five (5) Days of Seller's original notice then Seller shall be entitled at its sole discretion to appoint the Independent Inspector on behalf of the parties whose costs shall be shared equally. If the Independent Inspector is not available for any reason at

the time of loading, the quantity loaded shall be determined by Seller or Seller's representative on the basis of the weighing equipment in use at the Loading Port.

- 6.6. Buyer shall have the right to designate a representative at its own expense, subject to Seller's approval (such approval not to be unreasonably withheld), who shall have the right to witness the determination of quantity and quality at the time of loading. All reasonable assistance shall be provided, as necessary, to such representative of Buyer at the Loading Port to enable him to witness the measurements taken on shore and the taking of the samples to be provided to Buyer.
- 6.7. Whether or not Buyer's representative witnesses the determination of quantity and quality at the time of loading, the quality and quantity of the Product as determined by the Independent Inspector (or Seller or Seller's representative, if Seller or Seller's representative has made such determination) shall be recorded in Certificates of Quantity and Quality which shall be final and binding on the parties, except in cases of fraud or manifest error.
- 6.8. The Certificates of Quantity and Quality shall be used for all references to quantity and quality in all documentation, including all invoicing and bill of lading purposes. Certificates of Quantity and Quality issued by the Independent Inspector, Seller or Seller's representative, as applicable, shall be accepted by Buyer and any third party (including a bank if a letter of credit is involved) for the purpose of payment of Product sold under the Contract.
- 6.9. Two (2) representative samples of each shipment of Product shall be taken from each of the shore tanks that the Product is loaded from, in accordance with the customary practices of the Operator of each storage tank at the time of loading. The samples shall be sealed by the Independent Inspector and one (1) sample shall be placed on board the Vessel for Buyer or the consignee, and one (1) shall be retained by Seller as a reference sample and properly kept for thirty (30) Days, unless Buyer requests a longer period of retention which in any event may not exceed sixty (60) Days.
- 6.10. Without prejudice to Article 6.7, no claim in respect of the quality of the Product shall be admissible after the disposal of the reference sample by Seller.
- 6.11. In the event that the Certificate of Quality shows that the Product does not conform to its Specification, Buyer shall not be entitled to reject the Product. The parties shall negotiate an adjustment amount, and in the event that the parties fail to agree such amount within ten (10) Days of Seller's receipt of Buyer's claim for an adjustment to the Price, the Parties shall refer the determination of such amount to an independent and internationally recognised expert to be appointed by mutual agreement of the Parties, failing which the expert shall be appointed by the ICC International Centre for ADR at the request of either Party. The expert shall act as an expert and not as an arbitrator. The cost of the expert's determination shall be shared equally and the expert's determination shall be final and binding on the parties. Buyer's rights under this Article 6.11 shall be its sole and exclusive remedy in the event that the Product does not conform to its Specification.

6.12. Any amount due by Buyer to Seller in connection with the determination of the quality and quantity of the Product pursuant to this Article 6 shall be paid by Buyer within thirty (30) Days of Seller's invoice and in accordance with the payment terms of the relevant Sales Confirmation.

7. **PRICES**

7.1. The Price(s) of the Product shall be as set out in the Sales Confirmation.

8. **INVOICE AND PAYMENT**

8.1. Unless otherwise provided in the Sales Confirmation, the invoicing and payment terms shall be as set out in Annex C.

9. **PAYMENT BY LETTER OF CREDIT**

9.1. Unless otherwise provided in the Sales Confirmation, the terms applicable to payment by letter of credit shall be as set out in Annex C.

10. **DUTIES AND TAX**

Buyer's Responsibilities

10.1. Buyer shall be liable for all duties, taxes, imposts, levies, wharfage, landing fees and other port and marine service charges imposts, fees, and dues of every description imposed or levied by any Government Authority or port authority in relation to the Product delivered, its export including the delivery, transportation, ownership, sale or use after the Delivery Point.

Seller's Responsibilities

10.2. Seller shall be liable for all duties, taxes, imposts, levies, wharfage, landing fees and other port and marine service charges imposts, fees, and dues of every description imposed or levied by any Government Authority or port authority in relation to the Product at any stage before the Delivery Point.

Value Added Tax

10.3. The consideration payable in respect of any supplies made under this Contract ("**the Consideration**") is exclusive of value added tax ("**VAT**").

10.4. Where VAT is or becomes applicable to any supplies made or provided by Seller under this Contract, Seller shall be entitled to charge VAT in addition to the Consideration. The VAT for such supply will be calculated as follows:

A x R

Where:

A is the Consideration payable for the supply; and

R is the applicable rate of VAT under the VAT Law

10.5. If Seller charges VAT pursuant to Article 10.4 above, Seller shall:

- (a) include the VAT amount as an additional line item in the applicable invoice for the payment of the supply (or, if such invoice was issued without VAT, in a separate tax invoice in accordance with the VAT Law);
- (b) provide to Buyer information that may be reasonably required to establish Seller's liability for VAT under the relevant VAT Law; and
- (c) do such things and provide such information and documents as may reasonably be required by Buyer to enable Buyer to claim an input tax credit under the VAT Law.

11. FAILURE TO TAKE DELIVERY

11.1. If for any reason other than the fault of Seller or a Force Majeure Event affecting Buyer, Buyer is unable to or fails to take delivery of all or any part of the Product to be delivered to Buyer under the Contract (the "**Undelivered Quantity**"), Seller shall, at its sole discretion have the right, after serving notice on Buyer, sell, at such time(s) and in such amount(s) as Seller deems commercially reasonable, the Undelivered Quantity to a Third Party and the price(s) thereof shall be deemed conclusively to be the best price(s) which Seller could obtain.

11.2. In the event of an Undelivered Quantity, Buyer shall pay compensation to Seller in an amount equal to, where such amount is greater than zero:

$$(CP * \text{Undelivered Quantity}) - (RP * \text{Undelivered Quantity}) + C$$

where:

"**CP**" = the Contract Price for the Undelivered Quantity;

"**RP**" = either (i) the realised price in US\$ actually obtained by Seller for the re-sale of the Undelivered Quantity in accordance with Article 11.1; or, in the absence of such a re-sale, (ii) the estimated value of the Undelivered Quantity at the time of Buyer's default; and

"**C**" = the sum of (i) the reasonable costs and expenses actually incurred by Seller as a result of Buyer's failure to take delivery of the Undelivered Quantity, including any storage fees, deviation costs and demurrage payable by Seller and/or Seller's supplier in respect of a Vessel or other vessels waiting at the Loading Port and (ii) an amount equal to five percent (5%) of the total Price which would have been paid by Buyer for such Undelivered Quantity.

11.3. Buyer shall settle any amount payable under Article 11.2 within ten (10) Days of Seller's invoice and in accordance with the payment terms set forth in the Sales Confirmation.

- 11.4. The remedies set out in this Article 11 shall be Seller's sole and exclusive remedy for Buyer's failure to take the Undelivered Quantity, without prejudice however to Seller's rights under Article 16.

12. **WARRANTIES**

- 12.1. Whether set out in these General Terms and Conditions or in the Sales Confirmation, neither typicals nor any stipulation as to time of delivery shall form part of the Product's description, quality or fitness for purpose. Unless otherwise stated in the Sales Confirmation, all statutory or other conditions or warranties, express or implied with respect to the description or satisfactory quality of the Product or its fitness for any particular purpose or otherwise are hereby excluded (save to the extent that exclusion thereof is not permitted or is ineffective under the governing law).

13. **COMPLIANCE WITH LAWS**

- 13.1. The laws, rules and regulations issued and revised from time to time by the Government of the United Arab Emirates and Abu Dhabi shall apply to the Shipment of the Product from the United Arab Emirates under this Contract, and the Parties agree to comply with all Applicable Laws in their performance of this Contract.

- 13.2. For the purposes of this Article:

"**Sanctioned Territory**" shall mean any country, state, territory or region against which there are Sanctions that target, prohibit, restrict, penalize, or condition the Shipment through or thereto of the Product.

"**Sanctions**" shall mean economic or financial sanctions together with any other law, regulation, order, directive, prohibition or guidance (with the effect of law) imposed by a Sanctions Authority that imposes trade or economic restrictive measures against countries, territories, individuals or entities.

"**Sanctions Authority**" shall mean the Cabinet of the United Arab Emirates Federal Government, the United Arab Emirates Committee for Goods & Materials Subjected to Import & Export Control, the United Nations Security Council (the Council as a whole and not its individual members), the U.S. Department of State, the U.S. Department of Commerce Bureau of Industry and Security, the U.S. Department of the Treasury Office of Foreign Assets Control, the European Union Council and/or Commission (including any present or future member state of the European Union), His Majesty's Treasury of the United Kingdom, and any other applicable government or regulatory body, institution or agency having similar jurisdiction.

Destination

- 13.3. It is a condition of this Contract that the Product purchased and delivered under this Contract shall not be (or not be permitted to be):

- (a) discharged or imported (whether by Buyer or others) directly or indirectly and irrespective of the means of carriage into any destination; or
- (b) delivered to any Person or entity,

if such discharge, import or delivery is prohibited under the Applicable Laws or Sanctions. Buyer shall keep itself informed as to such Applicable Laws and Sanctions and acknowledges that, at the time of entering into this Contract and during the Delivery Period, it is informed of all such Applicable Laws and Sanctions.

13.4. Buyer represents and warrants that none of Buyer, any of Buyer's affiliates, any individual or entity ("Relevant Person") acting directly or indirectly for or on behalf of Buyer in connection with this Contract, or any other Relevant Person with a direct or indirect interest or participation in, or direct or indirect control over, any Contract, whether as principal, agent, shipper, ultimate consignee, intermediate consignee, end-user, insurer, source of funding, or otherwise, is:

- (a) subject to or otherwise the target of any Sanctions;
- (b) directly or indirectly owned or controlled by (in whole or in part), or acting for or on behalf of, any person that is subject to or otherwise the target of any Sanctions.

13.5. Buyer undertakes that the Product deliverable hereunder shall not be:

- (a) exported or resold to any Sanctioned Territory;
- (b) sold or resold or supplied to any Person or loaded on board a Vessel: (i) organized under the laws of, resident in or operating from any Sanctioned Territory; or (ii) otherwise targeted by Sanctions;
- (c) sold or resold or supplied to any Person or loaded on board a Vessel for the purposes of any commercial activity carried out in or from any such Sanctioned Territory; or
- (d) otherwise dealt in, or with, in a manner which would be a violation of Sanctions.

13.6. Where requested by Seller, Buyer shall provide Seller with all appropriate documentation verifying the final destination of the Product purchased and delivered under this Contract within thirty (30) Days of the request or within such lesser period as will enable Seller to comply with any requirement or request of any government or authority and shall identify the port(s) of discharge (if applicable), the date(s) of discharge, and the grade and quantity discharged and whether or not the Product delivered has been otherwise sold or disposed of. The obligations of Buyer to comply with the requirements of this Article shall not be affected by any sale or disposal of the Product in question by Buyer.

13.7. Within ninety (90) Days of the date of the bill of lading or equivalent shipping document of each Shipment under this Contract, Buyer shall deliver to Seller a

duly certified copy of the official discharge certificate for such cargo in the form required by and acceptable to the Government of the United Arab Emirates and Abu Dhabi.

- 13.8. Within ninety (90) Days of confirmation of delivery for each other delivery made hereunder, Buyer shall forward to Seller a duly certified copy of the official discharge certificate for such delivery in the form required by and acceptable to the Government of the United Arab Emirates and Abu Dhabi.
- 13.9. Where, in Seller's sole and absolute discretion, Seller reasonably believes that Buyer has not or may not have complied with this Article, Seller may at its sole discretion and without incurring further liability under this Contract, by written notice to Buyer or orally (with written confirmation to follow):
- (a) terminate this Contract immediately;
 - (b) suspend this Contract or any further delivery of the Product under this Contract until further notice as determined by Seller in its sole and absolute discretion; and / or
 - (c) decline to commence or complete loading of any Shipment of the Product (if applicable).
- 13.10. Where Seller incurs any losses, liability or expenses arising out of or in connection with the carriage of the Product, as a consequence of Buyer's failure to comply with this Article or pursuant to Article 13.9:
- (a) Buyer shall indemnify Seller for any such losses, liabilities or expenses; and
 - (b) exercise its best endeavours to make any payments due under this Contract, notwithstanding any hindrances to payment; and
 - (c) where the Product has not been delivered to Buyer, Seller shall be entitled to exercise a lien on the Product, in respect of any such losses, liabilities or expenses; and
 - (d) if Buyer does not pay any sums due under sub-clause (a) for any reason (including because payments from Buyer to Seller are restricted or otherwise hindered due to Sanctions), Seller may sell part or all of any Product over which it exercises a lien under sub-clause (b).

This Article 13.10 applies to sales on CFR and CIF terms only.

- 13.11. The rights provided to Seller under this Article shall be without prejudice to Seller's common law rights and other rights under this Contract.

Trade controls and boycotts

- 13.12. Buyer agrees to comply with all relevant trade controls, export and re-export controls, embargoes, and applicable laws in a manner in which there is no breach of the aforementioned undertakings of this Article. Notwithstanding

anything to the contrary elsewhere in this Contract, nothing in this Contract is intended, and nothing herein should be interpreted or construed, to induce or otherwise require either Party hereto to act or refrain from acting (or agreeing to act or refrain from acting) in any manner which is penalised or prohibited under any laws, regulations, decisions, decrees, ordinances, orders, demands, requests, rules, requirements or other legally binding measures relating to foreign trade controls, export controls, embargoes, or international boycotts of any type, as applicable to such Party.

13.13. Nothing in this Article 13 shall be taken to limit or prevent the operation of the English common law doctrine of frustration (including frustration of the adventure or purpose of this Contract).

14. **ANTI-BRIBERY AND CORRUPTION**

14.1. Buyer and Seller agree and undertake to each other that in connection with this Contract, they will each respectively comply with all Applicable Law(s) relating to anti-bribery and anti-money laundering and that they shall each respectively take no action which would subject the other to fines, or penalties under such laws, regulations, rules or requirements.

14.2. Buyer and Seller each represent, warrant and undertake to the other that they shall not, directly or indirectly:

- (a) pay, offer, give or promise to pay or authorise the payment of any monies or the transfer of any financial or other advantage or other things of value to:
 - (i) a government official or an officer or employee of a government or any department, agency or instrumentality of any government;
 - (ii) an officer or employee of a public international organisation;
 - (iii) any person acting in an official capacity for or on behalf of any government or department, agency or instrumentality of such government or of any public international organisation;
 - (iv) any political party or official thereof, or any candidate for political office;
 - (v) any director, officer, employee or agent/representative of an actual or prospective counter-party, supplier or customer of Buyer or Seller;
 - (vi) any other person, individual or entity at the suggestion, request or direction of 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 this is in violation of or inconsistent with the anti-bribery or anti-money laundering law, rule or regulation of any government including without

limitation the US Foreign Corrupt Practices Act, the UK Bribery Act 2010, the UK Anti-Terrorism, Crime and Security Act 2001, the Money Laundering Regulation 2007 and the Proceeds of Crime Act 2002 and the applicable country legislation implementing the Organisation for Economic Cooperation and Development (“OECD”) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

- 14.3. In particular, each Party represents and warrants to the other that it has not made any payments or given anything of value to officials, officers or employees of the Government of the United Arab Emirates or any agency, department or instrumentality of such government in connection with the Product which is the subject of the Contract which would be inconsistent with or contravene any of the above-referenced legislation.
- 14.4. Buyer warrants that it has not made or given, and shall not make or give, directly or indirectly, any payment or anything of significant value to any representative of Seller or any other person or entity, to secure or influence the award of the Contract or its terms, performance, administration, extension or termination.
- 14.5. Buyer or Seller may terminate the Contract forthwith upon written notice to the other at any time, if in its reasonable judgment (supported by credible evidence) the other is in breach of any of the above representations, warranties or undertakings in this Article 14.

15. **FORCE MAJEURE**

- 15.1. Neither Party shall be considered in default of the performance of its obligations under this Contract to the extent that such performance is prevented, hindered or delayed as a direct result of any event or combination of events which is beyond the reasonable control of such Party (such event being a "**Force Majeure Event**"), provided that the Party claiming relief from its obligations under this Contract as a result of a Force Majeure Event ("**Affected Party**") may only be so relieved if the Affected Party:
- (a) notifies the non-Affected Party of the Force Majeure Event in accordance with Articles 15.4 and 15.7; and
 - (b) mitigates the effects of the Force Majeure Event in accordance with Article 15.8,
- and such relief may only be to the extent permitted under Article 15.9.
- 15.2. A Force Majeure Event shall include, subject to and without limiting the generality of Article 15.1:
- (a) natural disasters such as floods, lightning, storms, typhoons, tornados, earthquakes, tidal waves, landslides, soil erosion, subsidence, washouts, radioactive contamination or epidemics;

- (b) war (whether declared or undeclared), blockade, acts of piracy, terrorist acts, seizure or act of sabotage, imposition of sanctions, embargo or breaking off of diplomatic relations;
- (c) revolution, rebellion, civil war, riot, civil disturbance, civil commotion, insurrection or military uprising;
- (d) trade or labour disputes, boycotts, strikes, lockouts, industrial disturbances, go-slows or occupation of premises;
- (e) failures, explosions, breakages, fires or destruction of tankage, pipelines, refineries, terminals or any kind of installation and, where Seller is the Affected Party, tankers, vessels or any other similar means of transportation of the Product;
- (f) any accidents at, closing of, or any sudden and unforeseeable capacity restrictions (outside of the ordinary course of business) of, mooring facilities, docks, ports, harbours or other similar navigational facilities and, where Seller is the Affected Party, navigational accidents or maritime peril;
- (g) any compliance with Applicable Law; and
- (h) in case of Seller only, any curtailment, reduction in, interference with, failure or cessation of supplies of Product from any of Seller's or Seller's suppliers' sources of supply or by any refusal to supply, whether lawful or otherwise by Seller's suppliers (provided in fact the sources of supply are for the purposes of this Contract), including:
 - (i) a change in the production policies or sales policies of the Emirate of Abu Dhabi; and
 - (j) any declared Force Majeure Event affecting any of Seller's suppliers under any applicable supply arrangements between Seller and such suppliers.

Exclusions

15.3. Notwithstanding anything to the contrary in Article 15.1, a Force Majeure Event shall not include or excuse:

- (a) failure to make any payment of monies due and payable in accordance with this Contract (other than as to any specified means, currency or place of payment);
- (b) changes in market conditions, including changes that directly or indirectly affect the demand for or price of Product or other commodity produced from refined hydrocarbon products (such as loss of customers or loss of market share), changes to market prices or currency devaluation;
- (c) financial hardship or the inability of the Affected Party to make a profit or achieve a satisfactory rate of return in relation to or in connection with any activities undertaken pursuant to this Contract; or

- (d) the ability of either Party to obtain better economic terms from a Third Party.

Notification of a Force Majeure Event

- 15.4. As soon as reasonably practicable after the occurrence of the Force Majeure Event becomes known to it, the Affected Party shall notify the other Party in writing of the date on which the Force Majeure Event started, the effects of the Force Majeure Event on its ability to perform its obligations and the likely duration of its delayed performance or non-performance as a result of the Force Majeure Event.
- 15.5. The Affected Party shall bear the burden of proving that a Force Majeure Event has occurred that has so affected it.
- 15.6. If an Affected Party fails to notify the other Party as soon as reasonably practicable in accordance with Article 15.4, such Affected Party may only be relieved from the date of such notification.
- 15.7. The Affected Party shall provide to the non-Affected Party:
 - (a) updates on any material developments with respect to any Force Majeure Event, from time to time; and
 - (b) promptly after the end of the Force Majeure Event, written notice that the Force Majeure Event has ended, in which case, the Affected Party shall resume performance of its obligations as soon as reasonably practicable.

Mitigation of the Effect of a Force Majeure Event

- 15.8. The Affected Party shall use all reasonable endeavours to mitigate the effects of the Force Majeure Event on the performance of its obligations (including co-operating with the non-Affected Party to develop and implement a plan of remedial action and reasonable alternative measures to remedy the effects of the Force Majeure Event).

Force Majeure Event Relief

- 15.9. Subject to the requirements for relief set out in Article 15.1, if a Force Majeure Event occurs in respect of a Shipment of Product:
 - (a) if Seller is the non-Affected Party, Seller may immediately terminate the affected Shipment(s) without liability for damages and other contractual remedies and shall be entitled to dispose of, in its sole discretion, such undelivered Shipment(s); and
 - (b) in all other circumstances, the Affected Party may only be relieved from its obligations under this Contract until the earlier of:
 - (i) the end of the Force Majeure Event; or
 - (ii) the expiry of the Set Range,

and, if the Force Majeure Event continues beyond the Set Range, the affected Shipment(s) shall be deemed terminated without liability for damages and other contractual remedies.

Obligation of the Non-Affected Party to Co-operate

15.10. The non-Affected Party shall use all reasonable endeavours to co-operate with the Affected Party in mitigating the effects of any Force Majeure Event (including co-operating to develop and implement a plan of remedial action and reasonable alternative measures to remedy the effects of such Force Majeure Event).

No Extension of Time

15.11. Nothing in this Article 15 shall operate to extend the term of this Contract.

15.12. Nothing in this Article 15 shall be taken to limit or prevent the operation of the English common law doctrine of frustration (including frustration of the adventure, of purpose or of this Contract).

16. DEFAULT EVENTS

16.1. The events and circumstances set out below with respect to a Party (the "**Defaulting Party**") shall constitute "**Default Events**".

- (a) The Defaulting Party or its immediate or ultimate parent or the party which has issued any credit support (including a letter of credit, performance guarantee or other financial instrument) pursuant to the terms of this Contract in favour of the Defaulting Party:
 - (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
 - (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
 - (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
 - (iv) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation and is not withdrawn, dismissed, discharged, stayed or restrained within fifteen (15) Days of the institution or presentation thereof;
 - (v) has a resolution passed for its winding up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);

- (vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
 - (vii) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within fifteen (15) Days thereafter;
 - (viii) causes or is subject to any event which, under the Applicable Law (s) of any jurisdiction, has an analogous effect to any of the events specified in sub-Articles (i) to (vii) above; or
 - (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts;
- (b) the Defaulting Party commits a repudiatory or renunciatory breach of this Contract;
 - (c) Buyer, as the Defaulting Party, fails to deliver to Seller as the Non-Defaulting Party, any credit support complying with Article 9 of this Contract within the time set out in the Contract;
 - (d) without prejudice to the Non-Defaulting Party's rights under Article 16.1(c) above, the Defaulting Party fails to make a payment in full and by the due date of any amount due to the Non-Defaulting Party under this Contract and does not correct such failure within fourteen (14) Days' notice being given by the other Party of such breach; or
 - (e) a change of Control of the Defaulting Party occurs.
- 16.2. In the event of a Default Event, the Party not subject to the Default Event (the "**Non- Defaulting Party**") may at its absolute discretion, without prejudice to its other statutory or common law rights, by and upon notifying the Defaulting Party by notice in writing:
- (a) identifying the Default Event and requiring that the Default Event be cured to the Non-Default Party's satisfaction within seven (7) Days failing which the Non-Defaulting Party may terminate this Contract by notice under Article 16.2(b); and/or
 - (b) terminate this Contract with immediate effect; and/or
 - (c) in the case of the Non-Defaulting Party being Seller, suspend delivery of the Product under this Contract until the Default Event has been remedied in full; and/or

- (d) in the case of the delivery of multiple cargoes, terminate an individual cargo; and/or
- (e) set-off monies payable by the Non-Defaulting Party against the liabilities of the Defaulting Party pursuant to this Contract or any other contract between the Non-Defaulting and Defaulting Party,

provided that where remedies under Articles 16.2(c)-(e) are exercised, should the Default Event continue for at least seven (7) Days, the Non-Defaulting Party may at any time terminate this Contract under Article 16.2(b).

- 16.3. So long as Buyer is in default of any of its obligations under this Contract (including any default for which a sum of money is payable by Buyer under this Contract), Seller, without relieving Buyer of any of its obligations, shall be fully relieved of any obligation to sell or deliver Product to Buyer under this Contract or under any other contract between the Parties.
- 16.4. Enforcement of any provisions of this Contract shall not be affected by any previous waiver or course of dealing, and election of any particular remedy shall not be exclusive of any other. The remedies provided in this Contract are in addition to and not by way of limitation upon any other rights and remedies Buyer or Seller has. All rights and remedies are cumulative.

17. GOVERNING LAW

- 17.1. The construction, validity and performance of the Contract and any Dispute in relation thereto shall be governed by and construed in accordance with English law.

18. DISPUTE RESOLUTION

- 18.1. The Parties shall attempt in good faith to amicably settle any dispute, controversy or claim arising out of or in connection with the conclusion, validity, effect, interpretation, performance, termination or dissolution of this Contract and/or any non-contractual obligations arising out of or in connection with this Contract (the “**Dispute**”).
- 18.2. If the Dispute is not settled amicably within sixty (60) Days from the date the Dispute is first notified in writing to the other Party or Parties, such Dispute shall be referred by any Party and finally resolved by arbitration in accordance with the rules of arbitration of the International Chamber of Commerce applicable at the time of conclusion of this Contract (the “**ICC Rules**”) by three (3) arbitrators. Each Party shall nominate an arbitrator for confirmation by the International Court of Arbitration (the “**Court**”) under the ICC Rules. The two arbitrators nominated by the Parties shall nominate the third arbitrator who will act as president of the arbitral tribunal (the “**President**”) within thirty (30) Days from their confirmation by the Court. Failing nomination by the arbitrators of the President within the time limit provided for in this Article or any other time limit agreed by the Parties, the President shall be appointed by the Court. The seat of the arbitration shall be London, England.

- 18.3. The arbitration shall be conducted in the English language.
- 18.4. Either Party may apply to any competent judicial authority for interim or conservatory relief. The application for such measures or the enforcement of such measures ordered by such judicial authority shall not be deemed an infringement or waiver of this agreement to arbitrate and shall not affect the powers of the arbitrator.
- 18.5. The arbitration proceedings, including all documents, submissions, written and oral evidence, transcripts and correspondence used therein or relating thereto, as well as any order or award issued in connection therewith shall be strictly confidential (“**Confidential Arbitration Information**”). Notwithstanding this provision, but without prejudice to any other confidentiality obligation which may otherwise be applicable, either Party may disclose to a domestic court, for the purposes of setting aside and/or enforcement proceedings pending before such domestic court, any Confidential Arbitration Information, which it deems necessary for the purposes of those proceedings, after seeking an appropriate confidentiality order from such court, if available under the applicable law.

Small Claims

- 18.6. Notwithstanding Article 18.2 above, the Parties agree, pursuant to Article 30(2)(b) of the ICC Rules, that the Expedited Procedure Rules shall apply, provided the amount in dispute does not exceed US\$ 500,000 at the time of the communication referred to in Article 1(3) of the Expedited Procedure Rules. The seat of the arbitration shall be London, England.

Demurrage Claims

- 18.7. Notwithstanding Articles 18.2 and 18.6 above, the Parties agree that where the Dispute between them is in relation to demurrage, including the commencement and computation of laytime, then the dispute shall be referred to arbitration to be conducted in accordance with the London Maritime Arbitrators Association (“**LMAA**”) Terms current at the time when the claiming Party commences arbitration proceedings. The tribunal shall consist of three (3) arbitrators, each arbitrator shall be a full Member of the LMAA, and the timetable for constitution of the tribunal shall be in accordance with that laid out in the current LMAA Terms.

19. LIMITATION OF LIABILITIES

- 19.1. Except as specifically provided in this Contract, in no event, including the negligent act or omission on its part, shall either Party be liable to the other, whether under this Contract or otherwise in connection with it, in contract, tort, breach of statutory duty or otherwise, in respect of any indirect or consequential losses or expenses including if and to the extent that they might otherwise not constitute indirect or consequential losses or expenses, loss of anticipated profits, plant shut-down or reduced production, loss of power generation, blackouts or electrical shut-down or reduction, goodwill, use, market reputation, business receipts or contracts or commercial opportunities, whether or not foreseeable.

19.2. In addition to the foregoing, in respect of any claims relating to Seller's failure to supply the agreed quantity, as set out in Seller Schedule or with respect to any deficiency of quantity or variation in quality, Seller shall in no circumstances be liable for more than the difference between the market price and the Price for the Product deliverable under the Contract.

19.3. The provisions of this Article shall continue to apply notwithstanding the termination or expiry of the Contract for any reason whatsoever.

20. MISCELLANEOUS PROVISIONS

Survival of Rights upon Termination

20.1. The termination or expiration of this Contract shall not discharge or release any rights, duties, obligations or liabilities arising prior to such termination or expiration nor prejudice any right or remedy accruing before, at, or in consequence of such termination or expiration or any proceeding with respect to any such right or remedy including any proceeding by way of arbitration under this Contract.

Severability

20.2. If any provision of the Contract is declared to be illegal, invalid or otherwise unenforceable by a court of competent jurisdiction, the remainder of the Contract (and of such provision) shall not be affected except to the extent necessary to delete such illegal, invalid or unenforceable provision (or part thereof).

Agency

20.3. Buyer represents that:

- (a) this Contract is entered into without the assistance or intervention, direct or indirect, of any broker, intermediary, commission agent or any similar person, firm or corporation (each hereinafter referred to as an "**Agent**");
- (b) neither Buyer nor any of its Affiliates, directors, officers, employees, agents, representatives and consultants have engaged the services of any such Agent for the purposes of exercising or obtaining improper influence in connection with this Contract; and
- (c) no contractors fee or other compensation has been paid or is payable by Buyer or any of its Affiliates, directors, officers, employees, agents, representatives and consultants to any Agent in connection with this Contract.

No Partnership

- 20.4. The relationship between Seller and Buyer shall be that of independent contractors and nothing in this Contract is intended to, nor shall it, establish any relationship of partnership, joint venture, employment, franchise, agency or other form of legal association between Seller and Buyer or their respective Personnel. Neither Seller nor Buyer shall have, nor represent to any Third Party that it does have, any power or authority to bind the other Party or incur any obligations on the other Party's behalf.

Further Assurance

- 20.5. Each Party shall, from time to time, execute such documents and perform such acts and things as either Party may reasonably consider necessary for the performance of this Contract and to give each of them the full benefit of this Contract.

Costs

- 20.6. Except as otherwise stated in this Contract, each Party shall pay its own costs and expenses in relation to the negotiation, preparation, execution and carrying into effect of this Contract.

No Third Party Rights

- 20.7. This Contract shall be binding upon and inure solely to the benefit of the Parties and their respective successors and permitted assignees and nothing in this Contract, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever.
- 20.8. Except where expressly stated to the contrary, the Parties do not intend that any term of this Contract may be relied upon or enforced solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any Person who is not party to it.

21. CONFIDENTIALITY

- 21.1. For the purpose of this Contract, a Party who discloses Confidential Information shall be a "**Disclosing Party**" and a Party who receives Confidential Information shall be a "**Receiving Party**".
- 21.2. Subject to Article 21.4, the Receiving Party shall not, without the prior written approval of the Disclosing Party (such approval not to be unreasonably withheld):
- (a) disclose any Confidential Information to any Person; and
 - (b) use the Confidential Information for any purpose other than for the performance of its obligations under this Contract.
- 21.3. The Receiving Party shall use the same degree of care, but no less than reasonable efforts, to safeguard the confidentiality of any Confidential Information that it would use to safeguard the confidentiality of its own Confidential Information of like kind.

21.4. The Receiving Party may disclose Confidential Information:

- (a) to a Third Party only to the extent such disclosure is limited to operational information and is required to discharge the Disclosing Party's contractual obligations under this Contract, any related charterparty, or any sales agreement related to the relevant Product;
- (b) to its Personnel who are required to have access to the Confidential Information in order to discharge their functions and contractual obligations under this Contract, provided that such Personnel agrees to abide by the obligations of such Party with respect to the Confidential Information;
- (c) to an Affiliate, provided that the Affiliate agrees to abide by the obligations of such Party with respect to the Confidential Information;
- (d) to a Contractor engaged by or on behalf of such Party or its Affiliates, provided that such Contractor agrees in writing to an undertaking of confidentiality no less onerous than that set out in Articles 21.2 and 21.3, except that under no circumstances shall the Receiving Party disclose any Confidential Information to a Contractor that is a competitor, or Personnel of a competitor, of the Disclosing Party;
- (e) to any professional advisers (including financial advisers, legal counsel, auditors and accountants) of such Party subject to such adviser providing a written undertaking of confidentiality no less onerous than that set out in Articles 21.2 and 21.3, except where such adviser is subject to a professional obligation of confidentiality under its applicable code of practice;
- (f) to the extent required by Applicable Law, by any Governmental Authority with jurisdiction over the subject matter or in connection with any court, judicial or other similar proceedings, provided that the Receiving Party uses its Commercially Reasonable Endeavours to, and only to the extent permitted by Applicable Law:
 - (i) provide the Disclosing Party with prompt notice of such requirement to disclose Confidential Information so as to enable the Disclosing Party to:
 - a. seek an appropriate protective order or other remedy in respect of such disclosure; and/or
 - b. consult with the Receiving Party on taking steps to resist or narrow the scope of such disclosure; and
 - (ii) use Commercially Reasonable Endeavours to disclose only that part of the Confidential Information required to be disclosed and not otherwise subject to a protective order or other remedy,

(the recipients in this Article 21.4 being the "**Authorised Recipients**").

21.5. Each Party shall be responsible for any breach of the terms of this Article 21 by its Personnel or Affiliates to whom it discloses Confidential Information pursuant to Articles 21.4(a) and 21.4(c) respectively.

- 21.6. Notwithstanding anything to the contrary in this Contract, Seller may disclose the terms of these GTCs, including to other potential buyers, without the consent of Buyer.

22. ASSIGNMENT

- 22.1. Save as provided for under Article 22.2. Buyer may not assign nor transfer its rights and obligations under this Contract directly or indirectly whether by way of merger, consolidation, acquisition or sale of assets to any Third Party or a receiver or trustee in bankruptcy or otherwise without the prior written consent of Seller.
- 22.2. Subject to Article 12, it shall not be deemed an "assignment" for the purposes of this Article 22 if Buyer permits or agrees one or more Shipments of Product to be delivered under this Contract to a company or companies of which Buyer owns at least fifty-one percent (51%) of all outstanding voting securities.
- 22.3. Any assignment in contravention of this Article 22 shall be void and unenforceable as against Seller and shall give Seller the right to terminate this Contract.
- 22.4. Seller shall have the right to assign or transfer its rights and obligations under this Contract directly or indirectly to any Affiliate of Seller without the prior consent of Buyer.

23. ENTIRE AGREEMENT, MODIFICATION AND WAIVER

- 23.1. This Contract constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements between the Parties, whether oral or written, with respect to such subject matter.
- 23.2. No amendment, modification or alteration of this Contract or any term or provision herein shall be valid unless reduced to writing and signed by and on behalf of Seller and Buyer.
- 23.3. No waiver by either Seller or Buyer of any term or provision including any condition or warranty or innominate term or waiver of any breach of such shall be effective unless made in writing and no such waiver shall be construed as waiver of or apply to another term or provision.

24. NOTICES

- 24.1. Unless otherwise provided elsewhere in this Contract any communication by either Party to the other in connection with this Contract shall be in writing and in the English language. Such communication (other than routine communication for the performance of this Contract) shall be in letter format on the headed paper of the notifying Party and served by receipted hand delivery, Fax transmission, email or registered post or courier to the address of the other Party specified for this purpose in the Sale Confirmation and shall, unless otherwise provided herein, be deemed to have been received as follows:

- (a) in case of hand delivery, at the moment it was received at the correct address (for administration purposes only with a copy of the notice to be sent by email transmission);
 - (b) in case of Fax transmission, if it was transmitted on a Business Day before 1600 hours, on that day; in any other case, on the following Business Day, and always provided that:
 - i. a transmission record is retained by the sender to show that the transmission was correctly completed and that all pages were transmitted; and
 - ii. a hard copy of the notice or other communication is forwarded by the sender to the recipient on the same day as the Fax transmission by receipted hand delivery or registered post;
 - (c) in case of registered post or courier, if delivered on a Business Day before 1600 hours, on that day; in any other case, on the following Business Day (in all cases for administration purposes only with a copy of the notice to be sent by email transmission); and
 - (d) in case of email transmission, at the time it was received by the receiving Party, save that if received on a non-Business Day it shall be deemed received on the following Business Day; and the notifying Party bears the risk of a failure in transmission.
- 24.2. For the purpose of this Article, "**Business Day**" means a day (a period of twenty-four (24) hours starting at 00.00 hours and finishing at 24.00 hours on the same day) on which the office of the Party receiving the relevant communication is ordinarily open for business.
- 24.3. Any alterations to the contacts or addresses specified in the Sales Confirmation shall be notified immediately to the other Party in accordance with Article 25.1.
- 24.4. Notices may not be given by instant messaging.

25. **TIME BAR**

- 25.1. Without derogating from the specific time limit set out in Article 18.7 (*Demurrage claims*), and any other provisions requiring compliance within a given period, all of which shall remain in full force and effect, arbitration proceedings in respect of any claim or Dispute arising under this Contract shall be commenced in accordance with Article 18 within one (1) year of the date on which the Product was delivered or, in the case of a total loss, the date upon which the Product should have been delivered, failing which the claim shall be time barred and any liability or alleged liability of the other Party shall be finally extinguished.

PART 2

PROVISIONS APPLICABLE TO FOB SALES ONLY

The provisions of this Part 2 shall apply to Contracts for the sale of Product between Seller and Buyer which are specified as FOB the Loading Port in the Sales Conformation.

26. VESSEL(S) AT THE LOADING PORT

26.1. While any Vessel tendered in accordance with this Contract is awaiting berth, proceeding to berth, berthing, unberthing, or proceeding from berth at the Loading Port, each Party shall be responsible for and shall indemnify the other Party in respect of any proven loss, damage or injury whatsoever of or to (a) the Product, (b) the Vessel, (c) the Loading Port or (d) otherwise, (excluding all indirect or consequential damages except as specifically provided in Article 26.2), which may be caused by its act or omission or those of its agents, employees, Contractors or suppliers of services and provided that for FOB Loading Port only, the Master, crew and agents of the Vessel shall be considered to be the agents of Buyer. In the event of any such damage caused to the Loading Port, Buyer shall cooperate and comply fully with Seller's and the Port Authority's accident procedures then in effect at the Loading Port.

26.2. Without limiting the foregoing, in the event that berthing, loading or unberthing of any such Vessel is delayed by reason of congestion or the giving of priority to another vessel or vessels, or the Port Authority or any causes whatsoever not solely attributable to the fault of Seller, Buyer shall have no claim against Seller in respect of such delay or the consequences thereof and shall indemnify and hold harmless Seller against all losses, claims, damages, expenses or liabilities (including liability for demurrage payable to third parties) which Seller may suffer or to which Seller may become subject in consequence thereof, and will reimburse Seller in respect of any legal, administrative or other expenses whatsoever incurred by Seller in connection with the investigation or defence of any claims, whether or not resulting in liability, arising out of any such delay.

27. SHIPPING TERMS

27.1. Buyer shall pay for and arrange for the lifting of the Product to be delivered under this Contract at the Loading Port.

27.2. Upon completion of loading Buyer shall ensure the Master of the Vessel, or the Vessel's agent on the Master's behalf, signs as presented by or on behalf of Seller a full set of original negotiable bills of lading and returns the same to Seller.

27.3. Each Vessel tendered by Buyer for the carriage of Product under this Contract shall be designed, constructed, equipped and maintained to safely load and carry the Product fully refrigerated.

27.4. Buyer undertakes to pay the freight and any demurrage due to the Vessel in accordance with the terms of the applicable charter party.

27.5. When considering to contract for such a Vessel from an entity unaffiliated with Buyer to lift the Product under the terms of the Contract Buyer undertakes to Seller that it shall:

- (a) Invite Seller or a party nominated by Seller to offer to and negotiate with Buyer suitable terms and on a non-exclusive basis upon which to contract to charter a Vessel for that lifting; and
- (b) To give preference to the terms offered by Seller or the party nominated by Seller to contract for such a Vessel provided that those terms offered are no less favourable to Seller, commercially or otherwise, than those available to Buyer for comparable services to provide a Vessel by other parties unaffiliated with Buyer.

27.6. Subject to the provisions of the Contract, at the time of loading, Buyer may increase or decrease, for trim purposes only and by a maximum of five percent (5%) in either direction, the quantity of Product specified in the Agreed Schedule in respect of any Vessel, if Seller, in its sole discretion, determines that Seller's programme will not thereby be adversely affected. If the Parties have agreed in the Sales Confirmation to a term contract, any such increase or decrease shall be offset, if Seller so requires, by an appropriate adjustment in subsequent liftings of the same type of Product. If the Parties have agreed in the Sales Confirmation to a spot contract, the quantity to be purchased and sold pursuant to the Contract shall be deemed modified accordingly.

28. **NOMINATED VESSEL REQUIREMENTS**

28.1. The nomination of the Vessel to load the Product under Buyer's Schedule of Article 4.2 shall specify:

- (a) the name of the Vessel, flag and IMO Number of the Vessel, or TBN;
- (b) the Vessel's agent at the Loading Port;
- (c) the Vessel's summer deadweight tonnage, draft, overall length, net registered weight and date of construction, H&M value, P&I Club;
- (d) the Vessel's questionnaire and Form C;
- (e) the ETA of the Vessel at the Loading Port (which must be a date sufficiently early to permit the Set Range for that Vessel to end before the expiry of the Month to which the nomination relates);
- (f) the quantity of each type of Product to be loaded (in accordance with the Agreed Schedule) and where a Part Cargo is to be loaded at the Loading Port, the details (including the quantity) of any cargo on board, and the name of the immediately prior loading port;
- (g) the Destination Port of the Product (consistent with the "Destination Port" column set forth in the Sales Confirmation), the end-user of the Product and documentation schedule, if known;

- (h) full written instructions regarding the particulars and destination of the bills of lading and such other customary Loading Port documentation which may be required. For the avoidance of doubt:
 - i. Buyer shall be liable for all costs resulting from any delays in loading the Product hereunder due to failure by Buyer to supply such information in a timely manner, and
 - ii. any such delays shall not count as used Laytime or, if the Vessel is on demurrage, as time on demurrage;
 - (i) the nature of the product(s) contained in the tanks of the Vessel during her current voyage and during her preceding three (3) voyages; and
 - (j) the quantity of dirty and clean ballast expected to be on board the Vessel on arrival and the time required to discharge such.
- 28.2. The nomination shall not be effective unless it is received by Seller not later than the time specified in Article 4.2. Notwithstanding the foregoing, if the nomination is received by Seller after the above deadline and is accepted by Seller, it shall be effective but Laytime shall not commence until such time as the Vessel has actually commenced loading.
- 28.3. In the case of a TBN nomination, the name and flag of the Vessel and details of her characteristics as specified in this Article 28 shall be particularised in writing and written notice provided to Seller at least five (5) Working Days prior to the first Day of the Set Range for the Product lifting for which the TBN was nominated.
- 28.4. Buyer shall not nominate the lifting of a parcel of Product of: (i) less than three thousand (3,000) MT; or (ii) more than twenty thousand (20,000) MT of Product without Seller's prior written approval which shall not be unreasonably withheld.

29. **SUBSTITUTION OF VESSEL**

- 29.1. In respect of any Vessel named in the nomination, Buyer may, or if necessary to perform its obligations under the Contract must, substitute a Vessel provided always that:
- (a) the quantity of each type of Product to be loaded into the substitute Vessel does not, without the prior written consent of Seller, vary, except for vessel trim, from the Quantity specified in the Agreed Schedule; and
 - (b) the substitute Vessel will not prejudice Seller's vessel lifting schedule at the relevant Loading Port(s) or such other commitments and obligations of Seller and to be determined by Seller in its absolute discretion;
 - (c) the Set Range specified in the Agreed Schedule for the nominated Vessel shall continue to apply;

- (d) any approval of the substitute Vessel by Seller shall be subject to ADNOC Ship Vetting and compliance with Article 32.1; and
- (e) the consent of the relevant ADNOC Operating Company where Seller in its sole discretion considers it appropriate or necessary to obtain that consent.

30. **ETA**

30.1. Buyer shall notify Seller of any change or changes to the ETA notified under Article 28.1(e).

31. **REJECTION OF NOMINATIONS AND VESSELS**

31.1. Seller shall give written notice accepting or rejecting any Vessel nominated by Buyer within three (3) Working Days of receipt of Buyer's nomination.

31.2. Notwithstanding anything to the contrary express or implied elsewhere herein, Seller shall have the right (which right may only be exercised prior to the passing of property hereunder):

- (a) To reject any nomination made by Buyer pursuant to Article 28 and/or 29 on any reasonable grounds;
- (b) To refuse on any reasonable grounds, to accept for loading any Vessel named pursuant to Article 28 and/or 29; and
- (c) To reject the Vessel in question, notwithstanding any prior acceptance of such Vessel on any reasonable grounds if such Vessel is involved in any incident or more recent information regarding such Vessel becomes available to Seller at any time after such prior acceptance.

31.3. Without derogating from any other reasonable grounds that may be available to Seller, reasonable grounds shall include if the Vessel is determined by Seller to be unacceptable under Seller's documented marine insurance requirements.

32. **VESSEL COMPLIANCE AND APPROVAL**

32.1. The Vessel shall:

- (a) Comply with all Applicable Laws(s) at the Loading Port (including in relation to draft limitations and/or other restrictions);
- (b) Be required to satisfy ADNOC Ship Vetting; and
- (c) Comply with the applicable requirements set out in Annex A.

32.2. Notwithstanding anything to the contrary express or implied in the Contract, if any Vessel nominated by Buyer does not comply with the foregoing terms in Articles 28 and/or 29 and/or 31 Seller may:

- (a) reject the Vessel when nominated subsequently;

- (b) refuse to berth or load the Vessel in question.

33. CONSEQUENCES OF REJECTION

33.1. In the event of a rejection or a delay of the Vessel or other restriction suffered in respect of the Vessel by virtue of the application of any regulations or other applicable requirements of Article 28 and/or 29 and/or 31:

- (a) Seller shall not be liable for the consequences of rejection, delay, or restriction of the Vessel, including demurrage;
- (b) Buyer shall be liable for any costs or damages incurred by Seller arising out of any such rejection of, delay to or restriction of the Vessel, including demurrage;
- (c) Without prejudice to Seller's rights under the Contract to treat the failure to give a valid nomination as a repudiatory breach of the shipment or the Contract, Buyer's obligations under the Contract to nominate a suitable Vessel and to ensure that it tenders NOR at the Loading Port in accordance with Article 34.3 shall be unaffected.

34. ARRIVAL OF VESSEL, BERTH AND LOADING ETC.

34.1. Buyer shall arrange for the Vessel to notify Seller and the Loading Port by electronic mail or Fax ninety-six (96) hours, seventy-two (72), forty-eight (48) hours, thirty-six (36) and twenty-four (24) hours in advance of the ETA of each Vessel at the Loading Port Limits or in advance of the first Day of the Set Range. Buyer shall notify Seller and the Loading Port immediately upon learning of any reason whereby any such ETA is unlikely to be achieved.

34.2. Buyer shall notify Seller by electronic mail or Fax of the Destination Port of the Product to be lifted and the documentation required for each Vessel at least ninety-six (96) hours prior to the first Day of the Set Range, for each Vessel.

34.3. The Vessel shall give Seller, the relevant ADNOC Operating Company and the Loading Port a written NOR when the Vessel:

- (a) has arrived at the Loading Port Limits;
- (b) is in every respect ready to receive the Product;
- (c) is in free pratique; and
- (d) the Vessel has completed all customs and other governmental and Port Authority formalities to commence loading of the Product.

34.4. The Vessel shall not be permitted to purge, cool down, inert or de-inert its cargo tanks after berthing at the Loading Port.

34.5. Subject to the Port Authority's prior approval, (a) clean ballast, that is, ballast free from oil, chemicals and other harmful materials, shall be discharged overboard and (b) dirty ballast, that is, ballast containing any oil, chemicals or

other harmful materials, shall be discharged into the shore facilities provided by the Port Authority for this purpose, if any. In its discretion, the Port Authority may require a chemical analysis prior to any discharge. Only clean ballast shall be discharged overboard and Buyer shall be fully and solely responsible for any costs, consequences, penalties or liabilities arising out of any discharge overboard of any dirty ballast.

- 34.6. Before the commencement of loading of any Vessel at the Loading Port, Seller and/or Operator shall have the right to inspect and test the Vessel's tanks to determine what product(s) were previously carried in the Vessel's tanks and whether the loading of such Vessel could contaminate the Product if loaded on-board. Seller and/or Operator shall have the right to reject the Vessel if Seller and/or Operator determine in their absolute discretion that such Vessel's condition is such as to cause a substantial risk of contamination or of loss, damage or injury ashore or afloat. Buyer shall indemnify Seller on demand against any loss or damage whatsoever arising to Seller from such condition or from such rejection or either of them, and Seller shall be under no liability of any nature whatsoever arising from any such inspection of or failure to inspect any Vessel and any subsequent acceptance or rejection thereof.
- 34.7. Buyer shall ensure that no lifting of Product causes the Vessel to exceed the draft limitations and/or other restrictions at the Loading Port.
- 34.8. Upon request of Seller, Buyer shall tender NOR and commence loading of a Vessel prior to the Set Range for that Vessel provided Seller offers suitable terms to cover any additional direct cost by way of bunkers and demurrage incurred by Buyer for so doing.
- 34.9. Seller shall provide a safe berth at which the Vessel having an overall length, loaded draft, displacement and deadweight tonnage consistent with the restrictions in effect at the Loading Port can safely reach and leave and at which it can always lie safely afloat.
- 34.10. Buyer shall ensure the Vessel meets all the restrictions regarding overall length, loaded draft, displacement, deadweight tonnage, port and berth conditions and other relevant limitations currently in effect at each Loading Port and shall keep itself familiar with all changes which may occur from time to time in the vessel restrictions in force at each Loading Port and shall not tender any Vessel with specifications not in compliance with the said restrictions
- 34.11. If, while the Vessel nominated by Buyer is approaching, entering or departing from or is present in the berth and the length, draught or other dimensions of such Vessel shall exceed the length, draught or other dimensions so ascertained for the berth in question for whatever reason, Seller shall not be liable for any loss or damage caused as a result thereof and Seller shall not be obliged to commence or continue loading.
- 34.12. Seller shall have the right to shift the Vessel from one berth to another. All costs of shifting the Vessel shall be for Seller's account if for Seller's purposes. If shifting is for Buyer's purposes such costs shall be for Buyer's account.

- 34.13. Vessels which have arrived at the Loading Port and have given NOR in accordance with Article 34.3 and other vessels which have been accepted for loading at the Loading Port under arrangements and contracts between Seller or other parties shall be loaded on in accordance with the procedures as applied by the relevant ADNOC Operating Company and/or the Port Authority at the Loading Port as are applied from time to time, which may include a “first come first served” basis, upon condition that the NOR has been tendered for the Vessel to load within its Set Range and without prejudice to Seller's rights under this Contract. Seller may without liability to Buyer decline to load any Vessel that does not arrive and tender an NOR to load within the appropriate Set Range. Seller will nevertheless endeavour to load such Vessel as soon as it is convenient to do so, consistent with the tanker programme for the Month.
- 34.14. The Vessel shall vacate the berth as soon as loading has been completed, provided that such 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 an early departure procedure is applied (if applicable). If the Vessel fails to vacate the berth, unless for reasons attributable to Seller, any loss or damage suffered by Seller or its supplier resulting from such failure shall be paid by Buyer to Seller.
- 34.15. Seller shall cause the Product to be delivered and Buyer shall receive such Product with due regard for appropriate safety and quality precautions.

35. **LAYTIME, DELAY AND DEMURRAGE**

- 35.1. 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 change 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 Buyer against Seller, however the same may arise and whether or not arising under this Contract shall be limited in all circumstances whatsoever to a claim for the payment of demurrage as specified below, and Buyer shall not be entitled to complain directly or indirectly of any delay except for the purpose of founding a claim to such demurrage.
- 35.2. The Laytime allowed to Seller for the loading of each shipment of the Product shall be calculated on the basis of a loading rate of 100 MT/hour, weather permitting, all days and holidays included, provided that any period of time where Loading at the Loading Port is prohibited by any Applicable Law(s) shall not count towards Laytime.
- 35.3. After the Vessel has arrived at the Loading Port and has tendered her NOR:
- (a) within the Set Range, Laytime shall commence six (6) hours after the NOR has been tendered and accepted or upon the commencement of loading, whichever occurs first;
 - (b) prior to the first Day of its Set Range, Laytime shall commence at 1400 hours on of the first day of the Set Range, notwithstanding the fact that

loading may have commenced prior to 1400 hours on the first day of the Set Range; and

- (c) after the expiry of its Set Range, and without prejudice to Seller's common law rights and rights of termination under Article 11 time shall commence only upon the commencement of loading.
- 35.4. Laytime shall not commence or run, and Seller shall be under no obligation to load nor be under liability for demurrage if Buyer has failed to provide the finalised documentation required by Seller or the relevant ADNOC Operating Company to enable the loading of the Product (including, if applicable, confirmed letters of credit), and Seller shall be under no obligation to maintain any berth at the Loading Port to the benefit of Buyer's Vessel, and Seller shall be entitled to issue a "Free Berth Basis" notification and berth other Vessels as Seller deems appropriate.
- 35.5. Loading shall be deemed to be completed and time shall cease to count towards Laytime or demurrage upon the disconnection of the loading hoses. However, time shall recommence if, three (3) hours after the disconnection of the hoses, the Vessel's departure is delayed for Seller's purpose and shall continue until the termination of such delay.
- 35.6. If for any reason a Vessel tendered by Buyer should require its cargo tanks to be purged or cooled down or both, or is in the Operator's reasonable judgment unable to receive the Product upon arrival at the Loading Port, loading may be refused or delayed until in the Operator's reasonable judgment the Vessel is fit and ready to load safely. All costs incurred as a result, including the cost of any nitrogen, Product used for purging, cool down or both, if subsequently flared shall be for Buyer's account. In such cases the Operator may instruct the Vessel (at its sole discretion) to vacate the berth and await its turn for loading when it is fit and ready to load safely. In all such cases and notwithstanding any other provisions of the Contract, laytime will commence upon the connection of the cargo hoses to the Vessel when the Vessel is in berth and in the Operator's reasonable judgment fit and ready to load the Product, and not before. There is no purging/de-gassing/cool down facility available for a Vessel arriving to load Product at the berth.
- 35.7. Any time lost as a result of delay, prevention or hindrance by reason of any cause or circumstance whatsoever beyond the reasonable control of Seller shall not be counted toward Laytime or, if the Vessel is on demurrage, time on demurrage. Without prejudice to the generality of the forgoing, this shall include the following:
- (a) Inward passage of the Vessel from those places identified under Article 34.3 or 34.4 until the Vessel is securely moored at the berth and its gangway, if to be used, is in place;
 - (b) awaiting free pratique, pilot, tugs, tides or daylight;

- (c) preparing for and handling or discharge of ballast, Vessel inspection, cargo tank cleaning/purging, and/or handling slops to the extent that this is not concurrent with the loading of Product;
- (d) any breakdown of the Vessel, inefficiency or other cause(s) which result in a failure of the Vessel to load Product at the normal rate in effect from time to time at the Loading Port in respect of the equipment used by or on behalf of Seller;
- (e) cleaning and/or inspection of the Vessel's cargo tanks;
- (f) restrictions, including those as to the loading rate, imposed by the owner, charterer or Master of the Vessel;
- (g) any action taken by an independent inspector, if any, appointed by Buyer and Seller or by Seller or any action taken by Seller at the said independent inspector's request;
- (h) bad weather;
- (i) industrial disturbance including any strike, lock out, stoppage or restraint of labour of the Master, officers or crew of the Vessel or tugboat or pilot or shoreside workmen;
- (j) bunkering or awaiting bunkers;
- (k) any other matter attributable to the Vessel, her Master or crew;
- (l) any event related to the conditions under which time is excluded from demurrage and Laytime under Article 35; or
- (m) Force Majeure Event.

35.8. In the event of a Vessel's failure or inability (due to breakdown, inefficiency or other causes attributable to the Vessel, her Master or crew) to carry out deballasting, loading, or shifting operations efficiently and without delay, Seller shall have the right:

- (a) to require the Vessel to defer berthing or loading or to vacate the loading berth until the Vessel is again in an efficient state and ready to carry out such operations efficiently and without delay, and any time thereby lost shall not count towards Laytime or demurrage whether or not the Vessel is on demurrage when this right is exercised by Seller; and/or
- (b) to recover from Buyer in compensation for the disruption to the loading programme at the Loading Port a sum per hour (or pro rata for a part thereof), for the time the Vessel is alongside in excess of the Laytime allowed hereunder, determined in accordance with the demurrage rate specified in Article 35.10 if it is mutually agreed between the Parties that Buyer's Vessel shall continue to remain alongside the berth. Payment of such sum shall be effected by Buyer by telegraphic transfer of funds immediately upon notification from Seller.

35.9. If the Product is not loaded within the time allowed in accordance with Article 35.2, Seller shall pay to Buyer demurrage in US\$ (except where the Vessel has been chartered under a charterparty which permits Buyer to pay demurrage in another currency, Seller may, at its absolute option pay demurrage in that other currency,) in respect of the excess time at the appropriate rate per day (or pro rata for part of a day) as hereinafter specified. Seller shall not be liable (other than for demurrage as aforesaid) for any loss or damage, direct or indirect, which Buyer may suffer as a result of the Product not being loaded within the time allowed in accordance with Article 35.2.

35.10. The appropriate rate of demurrage shall be:

- (a) The demurrage rate, if any, specified in the Sales Confirmation; or
- (b) If no demurrage rate was agreed in the Sales Confirmation, the demurrage rate for a vessel of the same size or class used in the applicable lifting as published by Poten & Partners, and / or Gibson and/ or Clarkson (at Seller's sole discretion) and in effect on the first day of the Set Range, but not exceeding the demurrage rate applicable under the charterparty for the Vessel used in the applicable lifting; or

35.11. In no event shall Seller be liable for demurrage unless the demurrage claim has been received by Seller in writing within sixty (60) Days from the disconnection of loading hoses, stating in detail the specific facts upon which the claim is based together with any supporting documentation. If Buyer fails to give such notice or fails to provide such documentation within the sixty (60) Days, then any liability of Seller for demurrage shall be extinguished. Any claim for demurrage which has been accepted by Seller shall be notified by Seller to Buyer, and Buyer shall issue an invoice for such demurrage within thirty (30) Days from the date of Seller's notice.

36. **BUYER INDEMNITY**

36.1. All taxes, fees, imposts, wharfage and duties in respect of the Vessel (not the Product) incurred at the Loading Port shall be for Buyer's account.

36.2. Buyer shall indemnify Seller against all direct loss, damage, injury or liability of whatsoever nature caused to Seller by or arising out of:

- (a) the fault or negligence of the Vessel while at or off each Loading Port; and
- (b) the failure of Buyer to provide timely notifications or to follow the other procedures set forth in this Article 36.

PART 3

PROVISIONS APPLICABLE TO CFR AND CIF SALES ONLY

The provisions of this Part 3 shall apply to Contracts for the sale of Product between Seller and Buyer only for which the Sales Confirmation specify as either (i) CFR the Destination Port or (ii) CIF the Destination Port.

37. SHIPPING TERMS

- 37.1. Seller shall arrange lifting of the Product to be delivered under this Contract and for its carriage to the Destination Port as per the terms of the applicable charterparty for the Vessel used (on ASBANTANKVOY form, with logical amendments). In case of inconsistency between these GTCs and the terms of such applicable charterparty, the charterparty terms will prevail.
- 37.2. Upon completion of loading Seller shall ensure the Master of the Vessel signs and returns a full set of original negotiable bills of lading as presented and which may incorporate the terms of the applicable charterparty for that Vessel.

38. SET RANGE AND INDICATIVE DISCHARGE DATES

- 38.1. Any references in the Sales Confirmation to, or where Seller provides Buyer in writing with a set range being dates within which the Vessel is scheduled to arrive at the Destination Port are to be indicative dates only and so shall the Indicative Discharge Dates. Save for the calculation of laytime and demurrage, Seller shall not assume any responsibility whatsoever for the delivery of the Product at the Destination Port.

39. PASSING OF RISK AND PROPERTY

- 39.1. Risk and property in the Product shall pass in accordance with Article 5 save that, if a Vessel has commenced or completed loading prior to being nominated pursuant to Article 40 then subject to Seller's rights to retain documents until payment in accordance with the terms of the Contract, property in the Product shall pass upon Seller's receipt of Buyer's acceptance of the nomination and risk shall be deemed to have passed at the Delivery Point.

40. VESSEL NOMINATION

- 40.1. No later than the earlier of (a) fifteen (15) Days from the first Day of the Lifting Month or (b) fifteen (15) Days prior to the first Day of the Set Range in such Agreed Schedule, Seller shall give to Buyer its written nomination ("**Seller Vessel Nomination**") which shall specify as to each such Vessel:
- (a) the name of the Vessel, flag and IMO Number of the Vessel, or TBN;
 - (b) the Vessel's/charterer's agent at the Loading Port and Destination Port (if known);

- (c) the Vessel's summer deadweight tonnage, draft, overall length, net registered weight and date of construction, H&M value, P&I Club;
 - (d) the Vessel's questionnaire and Form C;
 - (e) the quantity of each type of Product to be loaded (in accordance with the Agreed Schedule) or the bill of lading quantity (if known) and the estimated or actual (if known) sailing draft on completion of loading;
 - (f) the expected date on which the lifting is scheduled to occur or the bill of lading date (if known);
 - (g) the ETA to the Loading Port and the ETA to the Destination Port (if known); and documentation schedule, if known; and
 - (h) details of any other cargo on board or to be laden on board if delivery is of a Part Cargo.
- 40.2. Within one (1) Day of receiving Seller Vessel Nomination, Buyer shall give written notice to Seller either accepting or rejecting Seller's nominated Vessel ("**Buyer Vessel Confirmation**") and which shall also provide:
- (a) in case of acceptance of Seller's nominated Vessel, any additional information which Buyer might require and identified in Article 40.3 below; or
 - (b) in case of rejection of Seller's nominated Vessel, reasons for such rejection.
- 40.3. The additional information referred to in Article (a) and to be specified in Buyer Vessel Confirmation shall include:
- (a) any requirements at the Destination Port in relation to the berths for vessels; and
 - (b) full written instructions regarding the particulars and destination of the bills of lading and such other customary Loading Port documentation which may be required by Buyer. For the avoidance of doubt, Buyer shall be liable for all costs resulting from any delays in loading Product hereunder due to failure by Buyer to supply such information in a timely manner; and
 - (c) the Destination Port (consistent with the "Destination Port" column set forth in the Sales Confirmation) and Destination Port Limits; and
 - (d) all restrictions at the Destination Port with respect to maximum draft, length, deadweight, displacement, age, flag and the like, the procedures relevant to health, safety and Vessel operations and all applicable governmental, local and port authority regulations, and any other applicable requirements of whatsoever nature in force at the Destination Port that shall apply to the Vessel.

- 40.4. In the event of Buyer's rejection of Seller's nominated Vessel, Seller shall nominate another Vessel within two (2) Days of receiving Buyer's Vessel Confirmation (an "**Amended Seller Vessel Nomination**"). Buyer shall give written notice to Seller of its Buyer Vessel Confirmation within one (1) Day of receiving the Amended Seller Vessel Nomination whether to accept the Amended Seller Vessel Nomination.
- 40.5. A Vessel accepted by Buyer pursuant to a Buyer Vessel Confirmation shall be an "Accepted Vessel".
- 40.6. All costs, expenses or liabilities incurred as a direct result of Buyer's failure to comply with its obligations under this Article 40 shall be for Buyer's account.

41. **SUBSTITUTE VESSELS**

- 41.1. Seller shall be entitled to substitute an Accepted Vessel for another Vessel provided that:
- (a) the quantity of each type of Product to be loaded in the substitute Vessel does not vary, except for vessel trim, from the Quantity specified in the Agreed Schedule;
 - (b) the Vessel complies with the requirements at the Destination Port in relation to the berths for Vessels provided in Buyer Vessel Confirmation; and
 - (c) Buyer is notified in relation to the substitute Vessel of the information specified in Article 40.1 for such Vessel at least five (5) Working Days prior to the beginning of the Set Range.

42. **ETA**

- 42.1. Seller shall notify Buyer of any change or changes to the ETA notified under Article 40.1, but the Set Range shall only be revised with Seller's specific written agreement. The giving or holding of such agreement shall be in the absolute discretion of Seller.

43. **REJECTION OF NOMINATIONS AND VESSEL**

- 43.1. Notwithstanding anything to the contrary express or implied elsewhere, Buyer shall have the right (which right may only be exercised prior to the passing of property hereunder) to refuse, on only reasonable grounds, to accept any Vessel named pursuant to Articles 40 and 41. Buyer shall not be liable for any loss or damage, direct or indirect, which Seller may suffer as a result of Buyer exercising such right.
- 43.2. Notwithstanding any prior acceptance of a Vessel under Articles 40.2 and 41.1 Buyer shall have the right (which right may only be exercised prior to the passing of property hereunder) to reject the Vessel in question on any reasonable grounds if such Vessel is involved in any incident or more recent information regarding such Vessel becomes available to Buyer at any time after such prior acceptance.

- 43.3. Without derogating from any other reasonable grounds that may be available to Buyer, reasonable grounds shall include if the Vessel is determined by Buyer to be unacceptable under Buyer's documented marine assurance requirements.
- 43.4. Nothing herein shall qualify Seller's common law rights against Buyer for a wrongful or invalid rejection of a Vessel nomination under the terms of the Contract including for the avoidance of doubt treating the rejection as a repudiatory breach of the lifting or the Contract.

Vessel requirements

- 43.5. The Vessel shall comply with:
- (a) all Applicable Laws(s) at the Destination Port; and
 - (b) the applicable requirements set out in Annex A.
- 43.6. Notwithstanding anything to the contrary express or implied in this Article 43 or Annex A, if any Vessel nominated by Seller does not comply with the foregoing terms in this Article 43, Buyer may:
- (a) reject the Vessel when nominated subsequently; and/or
 - (b) refuse to berth or discharge the Vessel in question.
- 43.7. It is understood that Buyer is familiar with the vessel restrictions regarding overall length, loaded draft, displacement, deadweight tonnage and other relevant limitations currently in effect at each Destination Port. Buyer shall keep itself familiar with all changes which may occur from time to time in the vessel restrictions in force at each Destination Port and shall immediately inform Seller in writing of any changes to the information provided in a Buyer Vessel Confirmation.
- 43.8. Except as otherwise provided herein, each Accepted Vessel shall deliver the type or types and Quantity or Quantities of Product specified to it in the corresponding Agreed Schedule, and Seller shall be under no obligation to ensure any Vessel arrives at a Destination Port on a specific day or range of days.

44. VESSEL ARRIVAL AND DISCHARGE

- 44.1. As soon as practicable after the loading has been completed, the Master of the relevant Accepted Vessel shall notify Buyer of such completion of loading and the sailing date of the Vessel.
- 44.2. Seller shall arrange for the Vessel to notify Buyer and the Port Authority at the Destination Port by Fax or email not less than twenty-four (24) hours, and again twelve (12) hours in advance of the ETA of each Vessel at the Destination Port Limits. Seller shall notify Buyer and the Port Authority at the Destination Port immediately upon learning of any reason whereby any such estimated time of arrival is unlikely to be achieved.

- 44.3. Upon arrival of the Vessel at the Destination Port the Vessel shall tender her NOR to discharge at the Destination Port after she has arrived at the customary anchorage at each Destination Port and is in every respect ready to discharge cargo;
- (a) whether in berth or not;
 - (b) whether it is in free pratique or not; and
 - (c) whether it has received the required clearance(s) from customs and other governmental authorities or not.
- 44.4. Unless otherwise agreed in writing by Seller, Seller shall not be under any obligation to commence discharge hereunder prior to 0600 hours (local time) on the first day of the Set Range.
- 44.5. After tender of NOR pursuant to Article 44.3 above, Seller having regard to the requirements and procedures of the Terminal at the Destination Port and the time when the Vessel has complied with the provisions of Articles 44.2 and 44.3, shall commence and complete discharge as soon as reasonably practicable.
- 44.6. Buyer at all times warrants that the Destination Port is a safe port and shall provide a safe berth at the Destination Port at which a fully laden Vessel having an overall length, loaded draft, displacement and deadweight tonnage consistent with the information previously provided to Seller and the restrictions in effect at the Destination Port can safely reach and leave and at which it can always lie safely afloat.

45. FLOATING STORAGE, STS TRANSFERS AND LIGHTERING

- 45.1. The parties may mutually agree in writing that delivery of the Product is to be made by discharge into a floating storage facility, another Vessel by means of an STS operation or to a lighter.
- 45.2. Where discharge of the Product requires the Vessel to discharge into a floating storage facility, another Vessel by means of an STS operation or to a lighter, then this shall be subject to the prior written approval of ADNOC Vetting, the Master of the Accepted Vessel and the Accepted Vessel's owners. Buyer shall ensure that the floating storage facility, other Vessel(s) or lighter(s) remain acceptable throughout such operations. Seller shall be entitled on reasonable grounds and without incurring any liability whatsoever to refuse to discharge the Vessel into a floating storage facility, another Vessel by means of an STS operation or to a lighter.
- 45.3. All costs, expenses, charges or dues incurred in respect of a discharge of the Vessel into a floating storage facility, another Vessel by means of an STS operation or lighter shall be borne and paid for by Buyer who shall indemnify Seller for all costs, expenses, charges, dues and liabilities incurred by reason of such discharge of the Product.

- 45.4. All time used to discharge the Vessel into a floating storage facility or to another Vessel by means of an STS operation or lightering shall count as running hours for the purposes of determining laytime and demurrage under Article 46.
- 45.5. Buyer shall have the right to shift the Vessel from one berth to another. All costs shall be for Seller's account if such shifting is for Seller's purposes and shall otherwise be for Buyer's account.

46. **LAYTIME, DELAY AND DEMURRAGE**

- 46.1. The Laytime allowed to Buyer for the unloading of each shipment of the Product shall be calculated on the basis of a loading rate of 100 MT/hour, all days and holidays included, provided that any period of time where Loading at the Loading Port is prohibited by any Applicable Law(s) shall not count towards Laytime.
- 46.2. If the Vessel has arrived at the Destination Port and tendered NOR:
- (a) within the Indicative Discharge Date, Laytime shall commence either six (6) hours after NOR has been given to discharge in accordance with Article 44.3; or at the time the Vessel is all fast and safely and securely moored, whichever occurs first berth or no berth;
 - (b) prior to the first Day of the Indicative Discharge Date, Laytime shall commence either six (6) hours after the start of the first Day of the Indicative Discharge Date; or at the time the Vessel is all fast and safely and securely moored, whichever occurs first; or
 - (c) after the expiry of the Indicative Discharge Date, Laytime shall commence only upon the commencement of discharging.
- 46.3. Seller shall be under no obligation to discharge nor be under liability for any time lost if Buyer has failed to provide the finalised documentation (including any letters of credit) required by Seller or the Vessel to enable the discharge of the Product.
- 46.4. Any time lost as a result of delay, prevention or hindrance by reason of any cause or circumstance whatsoever beyond the reasonable control of Buyer shall not be counted toward laytime or, if the Vessel is on demurrage, time on demurrage. Without prejudice to the generality of the forgoing, this shall include the following:
- (a) Any inward passage until the Vessel is securely moored at the berth and its gangway, if to be used, is in place;
 - (b) awaiting free pratique, pilot, tugs, tides or daylight;
 - (c) preparing for and handling or discharge of ballast, Vessel inspection, Vessel inerting or de-inerting, tank cleaning and/or handling slops to the extent that this is not concurrent with the discharging of Product;

- (d) any breakdown of the Vessel, its equipment including its pumps or a failure to comply with the requirements of the Destination Port with respect to equipment aboard or any other matter causing delay or restriction to loading operations;
 - (e) cleaning and/or inspection of the Vessel's cargo tanks;
 - (f) restrictions, including those as to the discharging rate, imposed by the owner, charterer or Master of the Vessel;
 - (g) industrial disturbance including any strike, lock out, stoppage or restraint of labour of the Master, officers or crew of the Vessel or tugboat or pilot or shoreside workmen;
 - (h) bunkering or awaiting bunkers;
 - (i) any other matter attributable to the Vessel, her Master or crew, Seller or Seller's Agents; or
 - (j) Force Majeure Event.
- 46.5. Discharge shall be deemed to be completed and time shall cease to count towards Laytime or demurrage upon disconnection of the discharge hoses.
- 46.6. Time shall recommence if, three (3) hours after the disconnection of the hoses, the Vessel's departure is delayed for Buyer's or Buyer's receiver's purposes, and shall continue until the termination of such delay.
- 46.7. If the time used at the Destination Port in discharging any Vessel carrying a shipment of the Product sold hereunder exceeds the Laytime allowed for such unloading, Buyer shall be liable for demurrage for such excess time.
- 46.8. The appropriate rate of demurrage payable shall be determined by:
- (a) The demurrage rate specified in the Sales Confirmation; or, if no demurrage rate was agreed in the Sales Confirmation,
 - (b) The applicable charterparty rate.
- 46.9. Demurrage shall be payable per running hour and "pro rata" for any part of an hour for all time that used Laytime exceeds the allowed Laytime. Delays in berthing for loading or discharging, and any delays after berthing due to weather conditions shall count as one half Laytime or, if on demurrage, at one half demurrage rate. This Article 46.9 shall not be applicable to any ship to ship transfer ("STS") operation, discharge to a floating storage facility or lightering where full Laytime shall count.
- 46.10. In no event shall Buyer be liable for demurrage unless the demurrage claim has been received by Buyer in writing within ninety (90) Days from the disconnection of the discharging hoses stating in detail the specific facts upon which the claim is based together with any supporting documentation. If Seller fails to give such notice or fails to provide such documentation within the ninety

(90) Days, then any liability of Buyer for demurrage shall be extinguished. Any claim for demurrage which has been accepted by Buyer shall be notified by Buyer to Seller, and Seller shall issue an invoice for such demurrage within thirty (30) Days from the date of Buyer's notice.

46.11. Buyer shall settle Seller's invoice for demurrage within thirty (30) Days of the invoice date and in accordance with the terms of Annex C.

47. **INSURANCE**

47.1. In the case of CFR shipments only, neither party shall have any obligation to secure insurance for the Product.

47.2. In all cases and for so long as the voyage to the Destination Port or any seas through which the Vessel has to travel in performance of the Contract, Seller shall pursuant to the terms of the relevant charterparty incur additional insurance or war risk insurance premia whether at the date of the Contract or subsequently for the Vessel's hull and machinery, protection and indemnity or cargo insurances, crew bonuses and the provision of security services for the Vessel, or any or all of them, the cost of such additional insurance and/or additional premia shall be paid by Buyer to Seller in addition to the price payable pursuant to the Contract.

48. **ALLOCATION OF COSTS**

48.1. All imposts, fees, port charges (including shifting expenses, pilotage, mooring and towage expenses) and dues (including quay dues) in respect of the Vessel (not the Product) incurred at the Destination Port shall be for Buyer's account, except those included in the contract of carriage.

48.2. The following shall, subject to Seller contracting and paying for the carriage of the Product from the Loading Port to the Destination Port, be for Buyer's account and paid by Buyer to Seller (or such person as Seller may instruct in writing):

- (a) all costs relating to the Product from the time they have been delivered on board the Vessel at the Loading Port, except, where applicable, the costs of customs formalities necessary for export as well as all duties, taxes and other charges payable upon export;
- (b) all costs and charges relating to the Product while in transit until their arrival at the Destination Port, unless such costs and charges are for Seller's account under the contract of carriage;
- (c) unloading costs including lighterage, wharfage charges, oil tax, wayleave and cargo handling fee; and
- (d) where applicable, all duties, taxes and other charges as well as the costs of carrying out customs formalities payable upon import of the goods and, where necessary, for their transit through any country unless included within the cost of the contract of carriage; and

- (e) unless otherwise agreed in the Sales Confirmation, the freight to the Destination Port(s) calculated in accordance with the New Worldscale terms and conditions (including fixed differentials, variable differentials and charterers account) applicable on the date of the first bill of lading issued in respect of the Product at the Loading Port.
- 48.3. Except where otherwise provided, any amount due by Buyer to Seller pursuant to this Part 3 shall be settled within thirty (30) Days of Seller's invoice and in accordance with the terms set forth in this Sales Confirmation.

PART 4

PROVISIONS APPLICABLE TO CIF SALES ONLY

The provisions of this Part 4 shall apply to Contracts for the sale of the Product between Seller and Buyer only for sales which are specified in the Sales Confirmation as CIF the Destination Port.

49. CARGO INSURANCE

- 49.1. Buyer may procure any additional cover required at Buyer's expense. Seller shall provide Buyer, at Buyer's request, risk and expense, if any, with the information necessary for Buyer to procure any additional insurance.
- 49.2. Seller undertakes to procure and pay for insurance against marine risks to the full value of the Product hereunder plus ten (10) per cent.. Such insurance, which shall operate from the time the Product passes the Vessel's permanent hose connection at the Loading Port until the time the Product passes the Vessel's permanent hose connection at the Discharge Terminal, shall be in accordance with the provisions of a Marine Cargo Insurance Policy subject to Bulk Oil Clauses SP 13C, and, at Seller's option, Institute Cargo Clauses (A), Institute War Clauses and/or Institute Strike Clauses and the benefit thereof shall accrue to Buyer upon the passing of risk in the Product as provided for in the Contract.
- 49.3. Seller does not undertake to procure insurance against war, strikes, riots and civil commotions risks in respect of the delivery of the Product hereunder save where Seller shall, by written notice actually received by it at least two (2) Days prior to the commencement of loading, have been requested by Buyer to procure such insurance. Where, upon request as aforesaid, Seller procures such insurance, it shall be subject to Institute War Clauses (Cargo) and Institute Strikes Clauses (Cargo) current on the date of sailing of the Vessel and the actual premium payable at the current London Market rate for the voyage to be performed ruling on the said date shall be charged to and be recoverable from Buyer by Seller as an addition to the price in the Agreement under the Special Provisions and such addition shall then form part of such price in the Contract.
- 49.4. If requested by Buyer, Seller shall provide Buyer with the original certificate of insurance or broker's cover note.

ANNEX A

VESSELS REQUIREMENTS IN RESPECT OF VESSELS AT THE LOADING PORT OR DESTINATION PORT WHERE APPLICABLE, DURING THE VOYAGE

1. Requirements in respect of Vessels at the Loading Port and Destination Port

1.1 If any Vessel does not meet any of the following requirements of this Part 1 of this Annex A:

- (a) at the Loading Port, Seller may refuse to berth, load or continue loading such Vessel; and/or
- (b) at the Destination Port, Buyer or Buyer's receiver may refuse to berth, discharge or continue discharging such Vessel.

1.2 VESSEL DISPLACEMENT

Each Vessel shall have a maximum displacement on arrival at the Loading Port of thirty-six thousand (36,000) MT or as amended from time to time and shall at all times comply with the IMO Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (1983) and any amendments thereto.

1.3 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**").

1.4 ISPS CODE

A. FOB Provisions

- (i) Buyer shall procure that the Vessel shall comply 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).
- (ii) The Vessel shall when required submit a Declaration of Security ("**DoS**") to the appropriate authorities prior to arrival at the Loading Terminal.
- (iii) Notwithstanding any prior acceptance of the Vessel by Seller, if at any time prior to the passing of risk and title the Vessel ceases to comply with the requirements of the ISPS Code:
 - (a) Seller shall have the right not to berth such nominated Vessel and any demurrage resulting shall not be for the account of

Seller.

- (b) Buyer shall be obliged to substitute such nominated Vessel with a Vessel complying with the requirements of the ISPS Code and MTSA and with Article 43 of these GTCs.
- (iv)
 - (a) Seller shall procure that the terminal/installation at the Loading Port shall comply 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).
 - (b) Subject always to sub-paragraph (vi) below any costs or expenses in respect of the Vessel including demurrage or any additional charge, fee or duty levied on the Vessel at the loading port and actually incurred by Buyer resulting directly from the failure of the Loading Port to comply with the ISPS Code shall be for the account of Seller, including the time required or costs incurred by the Vessel in taking any action or any special or additional security measures required by the ISPS Code.
- (v) 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 to Chapter XI of SOLAS (ISPS Code), Seller shall be responsible for any demurrage actually incurred by Buyer arising from delay to the Vessel at the Loading Port 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.
- (vi) If the Loading Port is not operated by Seller or an Affiliate of Seller, Seller's liability to Buyer hereunder for any demurrage, costs, losses or expenses incurred by the Vessel, the charterers or the Vessel owners resulting from the failure of the terminal/installation at the Loading Port to comply with the ISPS Code shall be limited to the payment of demurrage, costs, losses or expenses that Seller is able to recover and does recover from its supplier or other relevant Third Party, and then only to the extent of such recovery. Seller shall, however, use reasonable endeavours so to recover from its supplier or other relevant Third Party.

B. CIF/CFR Provisions

- (i) Seller shall procure that the Vessel shall comply 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).
- (ii) The Vessel shall when required submit a Declaration of Security

(“**DoS**”) to the appropriate authorities prior to arrival at the Destination Port.

(iii) Notwithstanding any prior acceptance of the Vessel by Buyer, if at any time prior to the arrival of the Vessel at the Destination Port the Vessel ceases to comply with the requirements of the ISPS Code.

(a) Buyer shall have the right not to berth such nominated Vessel at the Destination Port and any demurrage resulting shall not be for the account of Buyer.

(b) Seller shall be obliged to substitute such nominated Vessel with a Vessel complying with the requirements of the ISPS Code and also with Article 40 of this Contract. If title and risk to the cargo on board the Vessel subsequently substituted pursuant to this Article has already passed to Buyer, such title and risk shall be deemed to have reverted to Seller.

(iv)

(a) Buyer shall procure that the Destination Port shall comply 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).

(b) Subject always to sub-paragraph (vi) below, any costs or expenses in respect of the Vessel including demurrage or any additional charge, fee or duty levied on the Vessel at the Destination Port and actually incurred by Seller resulting directly from the failure of the Destination Port to comply with the ISPS Code shall be for the account of Buyer, including the time required or costs incurred by the Vessel in taking any action or any special or additional security measures required by the ISPS Code.

(v) 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 to Chapter XI of SOLAS (ISPS Code), Buyer shall be responsible for any demurrage actually incurred by Seller arising from delay to the Vessel at the Destination Port 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.

(vi) If the Destination Port is not operated by Buyer or an Affiliate of Buyer, Buyer's liability to Seller under this agreement for any costs, losses or expenses incurred by the Vessel, the charterers or the Vessel owners resulting from the failure of the terminal/installation at the Destination

Port to comply with the ISPS Code shall be limited to the payment of demurrage, costs, losses or expenses that Buyer is able to recover and does recover from its receiver or other relevant Third Party, and then only to the extent of such recovery. Buyer shall, however, use reasonable endeavours so to recover from its receiver or other relevant Third Party.

1.5 CLC

The Vessel shall:

- (a) carry on board certificate(s) as required pursuant to the 1992 Civil Liability Convention for Oil Pollution Damage or any Protocols thereto ("CLC"); and
- (b) have in place insurance cover for oil pollution no less in scope and amounts than available at that time under the rules of P&I Clubs entered into the International Group of P&I Clubs (currently standard oil pollution cover of US\$ 1,000 million),

provided always the Vessel constitutes a "Ship" for the purpose of CLC.

1.6 ISM Certificates

The Vessel shall have on board at all times a valid ISM certificate and the owners, before and during the voyage, comply with the requirements of the ISM Code. (For the purposes of the Contract, "ISM" means the International Management Code for the Safe Operations of Ships and for Pollution Prevention.)

1.7 ISGOTT, etc.

The Vessel shall be manned, operated and maintained so as to fully comply with (i) the standards set out in ISGOTT or ISGINTT as applicable, (ii) appropriate IMO recommendations, and (iii) the OCIMF Guidelines for the Control of Drugs and Alcohol Onboard Ship (1990), each as amended from time to time. (For the purposes hereof, "ISGOTT" means the International Safety Guide for Oil Tankers and Terminals, "ISGINTT" means International Safety Guide for Inland Navigation Tank-Barges and Terminals as current from time to time, and "IMO" means the International Maritime Organisation.)

1.8 Closed loading and/or discharge

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

purposes of this sub-paragraph:

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

1.9 IGS

If the Product is required to be carried in a Vessel which is both fitted with and actually uses an inert gas system ("IGS"), the following shall apply.

Any Vessel fitted with an IGS will not be permitted to berth or to load or discharge Product unless the IGS is in good order, operative and the cargo tanks inerted.

If an IGS-equipped Vessel arrives with the IGS inoperative, the Vessel will not be berthed until the IGS is operative and the cargo tanks inerted and until that time NOR shall not be given, or if given shall not be valid, and Laytime shall not commence until commencement of loading or discharge, as the case may be.

1.10 Ballast

Discharge of dirty ballast, bilges, slops or other substances into water shall be in accordance with MARPOL 73/78, as amended from time to time, and is in any event totally prohibited within the confines of the Loading Port or the Destination Port.

1.11 Port Regulations

The Vessel shall comply with Buyer's regulations (or Buyer's receivers' regulations, as applicable) at the Destination Port.

1.12 Maritime Traffic Schemes

The Vessel shall comply with all regulations and recommendations contained in any Maritime Traffic Schemes applicable to the voyage the subject matter of the Contract and in particular and as appropriate the Vessel shall comply with the "Turkish Straits Maritime Traffic Scheme Regulations" dated 6th November 1998, as amended or re-issued from time to time.

1.13 CFR and CIF delivery: Seller shall ensure that all Vessels tendered for loading hereunder shall be no more than sixteen (16) years old or, if in excess of sixteen

(16) years old, shall have been suitably modified to ensure compliance with all Destination Port requirements and regulations, but in no event shall any Vessel exceed twenty- five (25) years in age.

- 1.14 FOB delivery: Buyer shall ensure that all Vessels tendered for loading hereunder shall be no more than sixteen (16) years old or, if in excess of sixteen (16) years old, shall have been suitably modified to ensure compliance with all Loading Port requirements and regulations, but in no event shall any Vessel exceed twenty-five (25) years in age and always subject to ADNOC Ship Vetting acceptance.

ANNEX B

FORM OF LETTER OF INDEMNITY

To: *[insert Buyer's name]*

We refer to our Contract dated the *[insert date]* (“the Contract”) in respect of your purchase from us of *[insert quantity]* MT of *[PRODUCT]* (the “Product”).

In consideration of your making payment of US dollars *[US\$ Amount]* for *[QUANTITY]* MT of Product in accordance with the Contract and accepting delivery of the Product without having been provided with a full set(s) of clean original negotiable bills of lading [and *HERE INSERT ANY OTHER CONTRACTUALLY REQUIRED ORIGINAL DOCUMENTS*], (“the Documents”), we hereby represent and warrant that:

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

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

- (a) our failure to present the Documents to you in accordance with the Contract, except to the extent that such liability could have been avoided or minimised by the exercise of due diligence by you, your servants or agents.
- (b) any action or proceeding brought or threatened against you by reason of our said failure and any breach of our above express representations and warranties in connection with questions of title to or the right to possession of the Documents or the Cargo or the proceeds of either; or any liens, charges or encumbrances asserted on the documents or the Cargo or any other claims arising out of or in connection with the Documents.

Our obligation to indemnify you is subject to the conditions that you give us prompt notice if the assertion of any claim and full opportunity to conduct the defence thereof and that you do not settle any such claim without our approval.

Our liability hereunder shall cease one year from the date of issue of this letter or on the date that we provide you with the Documents whichever is earlier. We agree to provide the Documents to you after they have come into our possession.

No term of this indemnity is intended to, or does, confer a benefit or remedy on any party other than you whether by virtue of the Contracts (Rights of Third Parties) Act 1999 or howsoever.

This indemnity shall be governed by and construed in accordance with English law and any dispute, controversy or claim arising out of or in connection with this indemnity shall be subject to, and finally resolved by, arbitration in accordance with the rules of arbitration of the International Chamber of Commerce (ICC) applicable at the time of conclusion of the Contract and shall cease to have effect upon the Documents being provided to you. The arbitration shall be conducted in the English language and the seat of the arbitration shall be in London, England.

Signed by:

Title:

of: ADNOC

ANNEX C
INVOICING AND PAYMENT TERMS

[Intentionally left blank]
