

**QATAR CHEMICAL AND PETROCHEMICAL MARKETING  
AND DISTRIBUTION COMPANY (MUNTAJAT) Q.P.J.S.C.**

**GENERAL TERMS AND CONDITIONS  
FOR  
DOWNSTREAM PRODUCTS**

**FREE ON BOARD ("FOB")**

**January 2023**

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## 1. INTRODUCTION

These General Terms and Conditions are for use by Qatar Chemical and Petrochemical Marketing and Distribution Company (Muntajat) Q.P.J.S.C. ("**Seller**") in support of specific Free on Board ("**FOB**") sale and purchase agreements for downstream Products.

Where there is a conflict or discrepancy between these General Terms and Conditions ("**GTCs**") and any Specific Agreement for a particular contract then the terms set out in the Specific Agreement shall prevail.

## 2. DEFINITIONS

The following terms and abbreviations used in these GTCs and the Specific Agreement shall mean:

"**Accepted Date Range**" or "**ADR**" means the two (2) day range (or any other period of time as agreed by the Parties in the Specific Agreement), from 00:00 on the first date to 23:59 on the last date, in local time, during which the Accepted Vessel must tender NOR for loading a cargo of Products at the Loading Terminal;

"**Accepted Quantity**" means the quantity of Product to be loaded against a specific nomination;

"**Accepted Vessel**" means a Vessel nominated by the Buyer and accepted by the Seller pursuant to Clause 6 of these GTCs;

"**Affected Transaction**" has the meaning given in Clause 14.8(a);

"**Affiliate**" means, in relation to either Party, a company or entity that directly or indirectly controls, or is controlled by, or is under common control with the Seller, or the Buyer, as the case may be. For the purposes of this definition, "control" shall mean (except for nominal shares held by directors which may be required by the law of the jurisdiction of such corporation or legal entity): (a) ownership or control (whether directly or otherwise) of fifty percent (50%) or more of the equity share capital, voting capital or the like of the controlled entity; (b) ownership of equity share capital, voting capital, or the like by contract or otherwise, conferring control of, power to control the composition of, or power to appoint, fifty percent (50%) or more of the members of the board of directors, board of management, or other equivalent or analogous body of the controlled entity; or (c) entitlement to receive fifty percent (50%) or more of any, but not necessarily every, income or capital distribution made by the controlled entity, either on the liquidation, winding up, dissolution, or otherwise;

"**Agreement**" means these GTCs (including Appendices) together with the applicable Specific Agreement;

"**Anti-Corruption Laws**" means, in respect of each Party: (a) the principles described in the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, signed in Paris on 17 December 1997, which entered into force on 15 February 1999, and the Convention's Commentaries; and (b) the applicable laws relating to combating bribery and corruption of the country or countries of: (i) such Party's place of incorporation, principal place of business, and/or place of registration as an issuer of securities; and/or (ii) the place of incorporation, principal place of business, and/or place of registration as an issuer of securities, of the Ultimate Parent Company of such Party.

"**Appendices**" means any of Appendix 1(A), Appendix 1(B) and Appendix 2 to these GTCs;

"**Applicable Currency**" means the currency of the Specific Agreement, provided that in case no currency is set out in the Specific Agreement, the Applicable Currency shall be the US Dollar;

"**Banking Day**" means any day that the banks are open for normal business in New York City, United States of America, unless the Buyer is formally notified in writing otherwise by the Seller;

"**Berth**" means a jetty, dock, anchorage, submarine line, single point or single berth mooring facility, offshore location, floating storage and offloading facility, alongside Vessels or lighters or any other loading place as may be agreed by the Parties from time to time;

"**Bill of Lading**" or "**BL**" means the customary document of title;

"**BL Date**" means the date of the Bill of Lading;

"**Buyer**" shall have the meaning set out in the applicable Specific Agreement;

"**CP**" means the charter party or contract of carriage concluded by the Buyer for the Accepted Vessel;

"**Delegate**" means QatarEnergy (or any other entity that the Seller may from time to time appoint to act for and on its behalf as its marketing agent);

"**Delivery Point**" means (i) in the case of a solid Product, the point where the Product crosses the Accepted Vessel's rail at the Load Port, or (ii) in the case of a gas or liquid Product, the point at the Load Port at which: (a) the last permanently installed flange coupling of the Seller's loading line joins the flange coupling of the Product intake manifold onboard the Accepted Vessel, or (b) if Seller installs or causes to be installed temporary connections to perform the loading, where the flange coupling of the Seller's temporary connection joins the intake manifold onboard the Accepted Vessel;

"**Discharge Port**" means any Berth at which Product is to be, or was, discharged;

"**Dispute**" has the meaning as per Clause 16.2;

"**DoS**" means the Declaration of Security which has the meaning as per Clause 7.2(b);

"**Due Date**" and "**Adjusted Due Date**" means the date by which payment shall be made in accordance with this Agreement;

"**EDP**" means the Early Departure Procedure which is described in Clause 7.3(m);

"**Effective Date**" means the effective date of the Agreement as specified in the Specific Agreement;

"**ETA**" means the estimated time of arrival for an Accepted Vessel at the Load Port;

"**Expert**" means an expert appointed pursuant to Clause 16.3(a);

"**FOB**" means Free On Board, as defined in the latest edition of Incoterms, except as expressly modified by the Agreement. In case of conflict or inconsistency between Incoterms and the Agreement, the express terms of the Agreement shall prevail;

"**Force Majeure**" has the meaning given in Clause 15;

"**GTCs**" or "**General Terms and Conditions**" means these Seller's General Terms and Conditions For Free On Board ("FOB") Sales and Purchases of Products dated 1 January 2023;

"**Government**" means the State of Qatar, including any ministry, agency, instrumentality governmental institutions, public entity, organization, department, office, bureau and/or political subdivision thereof;

"**Governmental Authority**" means, in respect of any country, any: (a) national, regional, state, municipal, local or other government of such country; (b) ministry, department, political subdivision, regulatory board, judicial body or administrative agency, commission or authority

under the direct or indirect control of any government thereof, including any port authority; or (c) quasi-governmental organisation, in each case, acting within its legal authority; *provided, however, that* any Person identified in this definition may be a Governmental Authority for the purposes of Clause 23 whether or not such Person is acting within its legal authority;

"**HSSE**" has the meaning given in Clause 22.4;

"**ICS**" means the International Chamber of Shipping;

"**IGS**" has the meaning given in Clause 7.2(d);

"**IMO**" means the International Maritime Organization;

"**Incoterms**" means the latest edition effective at the relevant time of delivery of Product, of the International Rules for the Interpretation of Trade Terms (as published by ICC Publishing SA, 38 Cours Albert, 1er, 75008 Paris, France or any successor publishing organization);

"**Insolvent Party**" has the meaning given in Clause 17.1;

"**Independent Inspector**" means the independent, recognized, person or firm, of first class and good international reputation, that is qualified to sample and test the quality and quantity of Product;

"**ISGOTT**" means the International Safety Guide for Oil Tankers and Terminals;

"**ISM**" means International Safety Management;

"**ISPS**" means International Ship and Port Security;

"**ITOPF**" means the International Tanker Owners Pollution Federation;

"**Law**" means those laws, statutes, rules and regulations in the State of Qatar including Decree Law (11) of 2012 of the State of Qatar, and as may be further amended from time to time;

"**Laytime**" means the time allowed for loading the Product as specified in Clause 7.4;

"**Lifting Schedule**" means the schedule specifying when cargoes and amounts are to be delivered as set out in the Specific Agreement, or as set forth in Clause 7.1(b);

"**Load Port**" means any port within which any Berth is situated at which Product is to be, or was, loaded for shipment, as determined by the Load Port Authority;

"**Load Port Authority**" means such entity having authority and jurisdiction over the Load Port from time to time;

"**Load Port Authority Regulations**" means the port regulations, procedures and guidelines issued by the Load Port Authority in relation to the Load Port from time to time;

"**Loading Equipment**" means the hoses or arms (as applicable) used for loading the Product;

"**Loading Terminal**" means the storage and delivery facilities for Product at a Load Port, as may be specified in the Specific Agreement;

"**MARPOL**" means the International Convention for the Prevention of Pollution from Ships;

"**Master**" means the licensed master mariner in ultimate command of the Accepted Vessel;

"**NOR**" means a valid written notice of readiness confirming that the Vessel has arrived to the customary anchorage or pilot boarding position for the Loading Terminal and is in every respect ready and having received all necessary port clearances and being able to load, as given by the Master (or representative) to the Seller (or representative) at the Load Port or Loading Terminal,

as appropriate. NOR tendered by radio shall qualify as written notice provided it is confirmed in writing as soon as is reasonably possible;

"**Notifying Party**" has the meaning given in Clause 14.8(a);

"**OCIMF**" means the Oil Companies International Marine Forum;

"**Party**" means either the Buyer or the Seller, and jointly they may be referred to as the "**Parties**";

"**Price**" has the meaning given in Clause 9;

"**Product**" means the relevant product, in liquid, gaseous or solid form, as specified in the Specific Agreement. Unless otherwise specified, reference to a liquid form includes a gaseous form;

"**Public Official**" means (a) any officer or employee of any government or any department, agency or instrumentality thereof, or any person acting in an official capacity on behalf of any such government, department, agency or instrumentality; (b) any political party; (c) any official of a political party; (d) any candidate for political office; or (e) any officer or employee of a public international organisation such as the United Nations;

"**P&I Club**" means the applicable Protection and Indemnity Club being a member of the International Group of P&I Clubs;

"**Restricted Party**" means any person or entity that is the target of Sanctions, including (a) any person, entity or vessel identified in any list of designated parties maintained by any government entity under its Sanctions, including but not limited to, the U.S. Treasury Department's Office of Foreign Assets Control; (b) any person or entity resident or organised in any country or territory that is the target of comprehensive Sanctions; or (c) any person fifty percent (50%) or more owned (individually or in the aggregate) or controlled by a Restricted Party or someone acting on behalf of a Restricted Party;

"**Rules**" has the meaning given in Clause 16.4(a);

"**Sanctions**" means any economic or financial sanctions, trade embargoes or other similar prohibitions or restrictions on activity pursuant to any laws, regulations, orders or licenses imposed, administered or enforced from time to time by a Sanctions Authority;

"**Sanctions Authority**" means any authority responsible for the imposition, administration or enforcement of sanctions of (a) the United Nations Security Council; (b) the United States (including the US Department of Treasury Office of Foreign Assets Control and the US State Department); (c) the United Kingdom (including HM Treasury Office of Financial Sanctions Implementation); (d) the European Union; or (e) the State of Qatar;

"**Sanctions List**" means any of the lists of specifically designated nationals or designated persons or entities (or equivalent) maintained by (a) the United States government and administered by the Office of Foreign Assets Control of the United States Department of Treasury or any other United States governmental authority or department; (b) Her Majesty's Treasury in the United Kingdom or any other United Kingdom governmental authority or department; (c) the United Nations Security Council; (d) the European Union; (e) the State of Qatar; or (f) any similar list or replacement maintained by, or public announcement of Sanctions designation made by any Sanction Authority;

"**Sanctions Target**" means any entity or person: (a) listed in any Sanctions List maintained by any Sanctions Authority; (b) located, organized or resident in a country or territory that is the subject or target of comprehensive Sanctions; or (c) which otherwise is the target of any Sanctions, including, without limitation, any entity or person controlled (howsoever such control or any equivalent concept is determined in accordance with the relevant Sanctions) or fifty percent

(50%) or more owned in the aggregate, directly or indirectly, by any target or targets of Sanctions (irrespective of whether or not any such entity is an Affiliate of the target of such Sanctions);

"**Seller**" has the meaning given in Clause 0;

"**SIGTTO**" means the Society of International Gas Tanker and Terminal Operators;

"**Specific Agreement**" means the specific contract which these GTCs supplement and which together form the Agreement;

"**Specified Rate**" means, for any period in respect of which an interest rate is to be determined under this Agreement: (a) until the day on which a Transition Announcement is made, the London interbank offered rate administered by ICE Benchmark Administration Limited (or a successor administrator of such rate) ("**LIBOR Administrator**") for one (1) month US Dollar deposits as displayed on pages LIBOR01 or LIBOR02 of the Thomson Reuters Screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters ("**LIBOR**"), at or about 11:00 a.m. London time on the Banking Day immediately before the first day of such period; and (b) from the day after a Transition Announcement is made, the secured overnight financing rate as published by the Federal Reserve Bank of New York (or a successor administrator of such rate) on its website ("**SOFR**") on the Banking Day immediately before the first day of such period. Notwithstanding the foregoing, the Parties may at any time agree that "Specified Rate" means, for the purpose of this Agreement, an alternate rate of interest giving due consideration to the then prevailing market convention for determining a reference interest rate for one (1) month US Dollar deposits, in which case the Parties shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable. In all cases, whenever the Specified Rate as defined above is a number less than zero, it shall be deemed to be zero for the purposes of this Agreement;

"**Terminal Regulations and Procedures**" means all regulations and procedures established or customarily practiced by the operator of a Loading Terminal with respect to notifications, nominations, berthing, scheduling, Vessel acceptance, documentation, loading, departure, measurement, and other health, safety, environmental and operational matters;

"**Tonne**" or "**MT**" means a metric tonne or dry metric tonne or quantity with a mass of one thousand (1,000) kilograms;

"**Transition Announcement**" means a public statement or announcement made by or on behalf of: (a) the LIBOR Administrator, stating that it has ceased or will cease to publish LIBOR (and at the time of such statement or announcement, there is no successor administrator of LIBOR); (b) the regulatory supervisor for the LIBOR Administrator, stating that the LIBOR Administrator has ceased, or will cease, to publish LIBOR (and at the time of such statement or announcement, there is no successor administrator of LIBOR); or (c) the regulatory supervisor for the LIBOR Administrator, stating that LIBOR is no longer representative. "**Ultimate Parent Company**" means, in respect of a given Party, a person that: (i) controls such Party; and (ii) is not controlled by any other person, and for this purpose, "control" shall have the meaning given in the definition of Affiliate in this Clause 2;

"**US Dollar**" or "**USD**" means the lawful currency of the United States of America;

"**Vessel**" means an ocean going ship capable of meeting the requirements of Clause 6 of these GTCs, which, in respect of delivery of Products, shall be identified in the applicable Specific Agreement (or shall be subsequently nominated and agreed in writing between the Parties in accordance with the Agreement) and be used for such delivery; which is suitable for the carriage of the Product;

**"Working Day"** means a day other than Friday, Saturday or a public holiday in Qatar.

### **3. METHOD OF DELIVERY**

- 3.1 The Product shall be delivered on a FOB basis by the Seller to the Buyer at the Delivery Point to the Accepted Vessel. Unless otherwise provided in the Specific Agreement, delivery shall be given and taken in full or part cargo lots.
- 3.2 If there is any inconsistency or conflict between Incoterms and the Agreement, the terms of the Agreement shall prevail.

### **4. RISK AND TITLE**

- 4.1 The Seller expressly warrants that it has marketable title, free and clear of any liens or encumbrances to the Product sold and delivered hereunder, and that the Seller has full right and authority to transfer such title and effect delivery of such Product to the Buyer.
- 4.2 Risk in (including without limitation risk of loss, deterioration or evaporation of, or damage to, the Product) and title to the Product delivered by the Seller shall pass from the Seller to the Buyer as soon as the Product passes the Delivery Point at the Loading Terminal. Notwithstanding the above, where the Buyer is located in United Kingdom or Germany and the Product is shipped to the United Kingdom or Germany, the Seller shall retain exclusive title to the Product until receipt of full payment from the Buyer.
- 4.3 The transfer of risk in and title to the Product is not conditional upon delivery of the Bills of Lading or any other documentation.
- 4.4 Any loss of or damage to the Product during loading if caused by the Accepted Vessel, her Master, or her officers or her crew, shall be for the account of the Buyer.

### **5. QUANTITY, QUALITY, MEASUREMENT AND SAMPLING**

#### **5.1 Quantity**

- (a) The quantity at the Delivery Point shall be the amount of Product stated in the Specific Agreement.
- (b) The Specific Agreement shall state any tolerance applicable to the quantity at the Delivery Point; in the event the Specific Agreement does not state any tolerance, the Seller has the option to deliver the Product at the Delivery Point per cargo plus or minus up to five percent (5%) for gaseous and liquid Products; or plus or minus up to ten percent (10%) of the quantity for solid Products.
- (c) The commercial invoice shall be based on the actual quantity loaded as per the BL.
- (d) The Seller shall have the right, at its own discretion, to issue one or more BLs to the Buyer for the Product loaded under the Specific Agreement.

#### **5.2 Quality**

- (a) The quality of the Product shall be as made available by the Seller to the Buyer at the time and place of loading and the Seller gives no warranties, express or implied, with respect to its quality or specifications, unless specifications are described in the Specific Agreement, in which case the quality of the Product shall comply with such specifications. Such specifications represent the only quality characteristics which the Product is required to meet and any other warranty or guarantees on other quality related specifications, whether express or implied, are excluded. Buyer warrants that it shall exclude all implied warranties concerning the



Product in all contracts with its customers or any third parties and shall indemnify the Seller of the adverse consequences arising to the Seller should the Buyer fail to do so.

- (b) All statutory or other conditions or warranties, express or implied, with respect to the description or satisfactory quality of the Product or its fitness or suitability for any particular purpose or otherwise are hereby excluded, except to the extent that exclusion thereof is not permitted or enforceable by operation of law.
- (c) Unless otherwise agreed in the Specific Agreement, in case of any defect in quality, the Buyer's exclusive remedy shall be a quality adjustment payment due by the Seller and shall be determined as follows:
  - (i) by mutual agreement between the Parties by reference to the prevailing market value for Product of the same quality as that sold under the Specific Agreement; or,  
failing mutual agreement,
  - (ii) by the Expert appointed pursuant to Clause 16.3 below by reference to the prevailing market value for Product of the same quality as that sold under the Specific Agreement.
- (d) In the event that the Product is Sulphur, the Buyer agrees to waive, discharge and release the Seller against any claim in the event that the Product has a moisture content of less than 0.5% as determined by the Independent Inspector.
- (e) In the event the Product is Sulphur and such Product has a moisture content in excess of 0.5%, as determined by the Independent Inspector, a claim for excess of moisture may be raised by the Buyer pursuant to this Agreement. Buyer agrees that they will have no right to make any claim relating to the quality of the Product, in the event that the Buyer has requested that the Product consist of moisture in excess of 0.5%.

### 5.3 Measurement, Sampling and Testing

- (a) The Seller shall supply, operate and maintain, or cause to be supplied, operated and maintained, all devices required for collecting samples and for determining the quantity, quality and composition of the Product and all other measurement or testing devices that are necessary to perform the measurement and testing required under the Specific Agreement at the Loading Terminal.
- (b) Measurement of the quantities and the taking of samples for the purposes of determining the compliance of the Product with the quality and quantity provisions of the Specific Agreement (if any) shall be carried out by the Seller or caused by the Seller to be carried out in accordance with good standard practice customary at the Loading Terminal at the time of loading save as otherwise provided for in the Specific Agreement. The certificate of quality (or such other equivalent documents as may be issued at the Loading Terminal) and the BL of the Product comprising the shipment shall be based on the measurements of the Seller shall be issued by the Loading Terminal operator or its representative in accordance with such standard practice, and shall be conclusive and binding on both Parties for invoicing purposes, but shall be without prejudice to the rights of either Party to make any claim pursuant to Clause 5.5 or initiate a Dispute under Clause 16.2.
- (c) The quantity of the Product shall be determined at the Loading Terminal based upon the Seller's measurements or measurements caused by the Seller to be

taken in accordance with Clauses 5.3(a) and 5.3(b) in the following order of precedence:

- (i) the Loading Terminal meter reading(s); or, if not available;
  - (ii) Manual or automatic (if verifiable) shore tank measurements; or if not available;
  - (iii) Vessel figures adjusted for the Accepted Vessel's experience factor (VEF); or, if not available;
  - (iv) Independent surveyor findings.
- (d) For the determination of quality of the Product, representative samples shall be collected from the appropriate shore tanks or warehouse (as applicable) prior to loading, in accordance with Terminal Regulations and Procedures (as applicable).
- (e) The Seller shall use reasonable endeavours to arrange for the samples of the Product to be retained in a sealed condition by the Loading Terminal operator or other authorized representative, for at least seventy-five (75) days from the BL Date or, if there is a Dispute, for as long as the Dispute is pending. The Buyer shall have the right to receive a representative sample of the Product loaded, and such sample shall be placed on-board the Accepted Vessel if so requested by the Buyer at the time of Vessel nomination. The Buyer has the right to witness the sampling and validate the seals.
- (f) Notwithstanding Clause 5.3(e), samples of gaseous and NAO Product irrespective of whether liquified or not, shall not be retained. In the event of notification of a Dispute of the findings of the Loading Terminal inspection, either Party may instruct the Independent Inspector to take and retain (to the extent possible) for seventy-five (75) days samples of gaseous Product and all reasonable charges for this will be shared equally between the Parties.

#### 5.4 Independent Inspection

- (a) The Seller shall appoint an Independent Inspector and shall notify the Buyer.
- (b) The Independent Inspector shall measure and/or witness the measurement of the quality and quantity of the Product loaded at the Delivery Point, subject to any necessary prior agreement of the Loading Terminal operator having been obtained.
- (c) The Independent Inspector shall be entitled to take representative samples from the Accepted Vessel's nominated tanks or holds. The Seller shall use reasonable endeavours to arrange for such samples to be retained in a sealed condition for at least seventy-five (75) days from the BL Date or, if there is a Dispute, for as long as the Dispute is pending. Both the Buyer and the Seller or their respective representative shall have the right to receive such samples and to witness the sampling and validate the seals. Such samples shall not take precedence in relation to any measurements taken and certificates issued by the Seller or the Loading Terminal operator respectively, pursuant to Clause 5.3 but may be used by either Party to support a claim pursuant to Clause 5.5 and/or a Dispute under Clause 16.
- (d) Upon completion of loading, the Independent Inspector shall be required to prepare a report and signed certificates advising the quality and quantity of the Product loaded and provide these to the Seller and Buyer as soon as practicable.

The Independent Inspector shall advise the Seller and Buyer by either e-mail or facsimile the determined quality and quantity as soon as possible after completion of loading of the cargo.

- (e) Should there be a difference between any of the findings of the Independent Inspector and the Seller, then the Independent Inspector must highlight this to the Parties as soon as possible. The Parties agree that any certificates of quality and quantity issued by the Independent Inspector to the Buyer regarding the loading of the Product at the Delivery Point are for information purposes only and shall not take precedence over any measurements taken or certificates issued by the Seller or the Loading Terminal operator respectively, pursuant to Clauses 5.3(a) and 5.3(b), but may be used by either Party to support a claim pursuant to Clause 5.5 and/or a Dispute under Clause 16.
- (f) If an Independent Inspector is not or cannot be appointed, fails to appear, is unable to attend or is unable to properly perform the desired duties, then, without prejudice to Clause 5.5, the loading of the Accepted Vessel shall proceed and the Seller shall request the Loading Terminal operator to perform the duties that the Independent Inspector would have performed. In this case, the Loading Terminal operator will be deemed to be the Independent Inspector for purposes of this Clause 5.4.
- (g) All reasonable charges of the Independent Inspector at the Load Port shall be shared equally between the Parties and the Independent Inspector shall provide a report to the Parties.

#### 5.5 Claims

- (a) Any claim as to any defect or deficiency (shortage) in loaded quantity or quality, in the case of the Buyer, or any excess in the loaded quantity, in the case of the Seller, with respect to the Product shall be made in writing to the Seller or the Buyer, as the case may be, immediately after the defect or excess is discovered and, in any case, within thirty (30) days from loading of the Product, and be accompanied by written evidence supporting the said claim. If the Seller or the Buyer, as the case may be, receives no formal notification as to the claim within the said thirty (30) day period, the claim shall be deemed irrevocably waived.
- (b) No claim for any loss or deficiency in quantity, including but not limited to shortage due to evaporation, incondensable matters or from vapour remaining on board after discharge, or discharge terminal restrictions on the discharge whilst Product remains onboard in a form that can be discharged, shall be admitted in respect of any loss, shortage or deficiency of quantity where the difference between the BL quantity and the Vessel's outturned quantity is zero point five percent (0.5%) of the BL quantity or less. For the purposes of this Clause, loss, shortage or deficiency shall be calculated on the basis of the BL intake and Vessel's outturn figures as verified by the Independent Inspector.
- (c) In case of a claim relating to quality of the Product delivered at the Delivery Point, the Parties will appoint an independent third-party laboratory to carry out analysis. The result of the analysis shall be final and the cost thereof shall be shared equally between the Parties. No claim submitted by the Buyer for one cargo or parcel of Product shall be regarded as a reason for rejecting any other cargo of Product to be delivered under the Agreement.

- (d) Subject to Clause 5.5(a), in the event a claim between the Parties over the quantity or quality of the Product cannot be mutually resolved within thirty (30) days, either Party may refer the matter for determination by an Expert pursuant to Clause 16.3.

## **6. VESSEL NOMINATION PROCEDURES**

- 6.1 The Accepted Date Range shall be as determined in accordance with Clause 7.1. The Accepted Vessel shall arrive and tender NOR to load the Product at the Delivery Point within such Accepted Date Range.
- 6.2 The Buyer shall nominate to the Seller in writing no later than fourteen (14) days prior to the first day of the Accepted Date Range for loading, a Vessel which complies with the applicable Load Port Authority Regulations and Loading Terminal Regulations. The above-mentioned nomination shall specify as a minimum the following information:
  - (a) Vessel name, IMO Number, date built, flag, full crew list, class survey status report (CSSR) and the agent at the Loading Terminal;
  - (b) Vessel details as required including size, summer deadweight, overall length, beam, draught and capacity (or TBN), Hydrocarbon Form or Tanker Suitability Form or Gas Form C(as applicable) and Q88 and any further specifications required by the Loading Terminal operator or Load Port Authority;
  - (c) the ETA at the Load Port of the Vessel; the Buyer or its representative shall thereafter notify the Seller or its representative of any change or changes in the ETA in accordance with Clause 7.2(a), but the Accepted Date Range shall be revised only with the Seller's written agreement. The giving or withholding of such agreement shall be at the Seller's sole discretion;
  - (d) the grade and approximate quantity of Product to be loaded and tolerance;
  - (e) details of any cargo currently on board if loading a part-cargo;
  - (f) the three (3) previous cargoes, load ports and Discharge Ports plus any other previous destinations of the Vessel during this period;
  - (g) the intended destination of the Product to be loaded plus any other destinations of the Vessel prior to its complete discharge;
  - (h) laytime and demurrage rate;
  - (i) whether the Vessel was in dry dock at the last port that the Vessel visited; and
  - (j) any such other data and information as the Seller or the Load Port Authority or Loading Terminal operator may reasonably require.
- 6.3 Notwithstanding the above, the Buyer shall provide full written documentary instructions not less than seven (7) calendar days prior to the commencement of the Accepted Date Range regarding the particular and destination of the Bills of Lading and such other documentation which may be required. The Seller shall use reasonable endeavours to arrange for the instructions to be carried out, but the Seller shall not be required to follow any instruction which is inconsistent with the Load Port Authority Regulations and/or the Terminal Regulations and/or Procedures in force from time to time or any provision, express or implied, in the Agreement.
- 6.4 The Buyer's Vessel nomination shall not be effective (and the Seller has no obligation to deliver Product in respect thereof) unless it is received by the Seller no later than fourteen (14) days prior to the first day of the Accepted Date Range. Notwithstanding the foregoing, if the nomination is received by the Seller after such fourteenth (14<sup>th</sup>) day and the Seller

- (acting in its absolute discretion) accepts such nomination, it shall be effective but, subject to the provisions of Clauses 7.3(a), 7.4(h) and 7.4(i), Laytime shall not commence until such time as the Accepted Vessel has actually commenced loading.
- 6.5 Notwithstanding anything to the contrary expressed or implied elsewhere in the Agreement, the Seller shall have the right to:
- (a) accept any nomination made by the Buyer pursuant to Clause 6.2 and the Vessel named by the Buyer in such nomination accepted by the Seller shall be the **"Accepted Vessel"**;
  - (b) reject any nomination made by the Buyer pursuant to Clauses 6.2 and 6.6 on any reasonable grounds;
  - (c) reject an Accepted Vessel in question prior to arrival at the Load Port, notwithstanding any prior acceptance of such Vessel (whether named in the Specific Agreement or nominated pursuant to Clause 6.2 or 6.3 or substituted pursuant to Clause 6.8), on any reasonable grounds if such Vessel is involved in any incident or more recent information regarding such Vessel becomes available to the Seller at any time after such prior acceptance. In such event, the Buyer shall nominate another Vessel to the Seller within two (2) days of the Seller's rejection of the originally nominated Vessel.
- 6.6 The Seller shall give notice of acceptance or rejection of any nomination made by the Buyer in accordance with Clause 6.2 or 6.3, within two (2) Working Days of receipt of the nomination (including but not limited to all the required documents for vessel screening). In case of rejection, the Buyer shall promptly nominate an alternative Vessel or alternate date range for the Seller's acceptance or rejection. In the case of the second nomination being rejected, the Buyer and Seller shall agree an alternative solution, but this in no way reduces the Buyer's obligation to lift the Accepted Quantity during the Accepted Date Range.
- 6.7 If the Specific Agreement is concluded on a date later than any of the dates for nomination and/or notification, then the Parties shall endeavour to complete all procedures which should have been accomplished within twenty-four (24) hours of concluding the Specific Agreement.
- 6.8 The Buyer may, if necessary to perform its obligations under the Agreement, and with the Seller's written agreement, substitute the Accepted Vessel with another Vessel, provided that:
- (a) the size of the substitute Vessel, its carrying capacity and the quantity and quality of Product to be loaded shall not, without the prior written consent of the Seller at its sole discretion, differ materially from the size and carrying capacity of the previously Accepted Vessel previously named and the quantity and quality of Product specified in the previous nomination;
  - (b) the Buyer shall give to the Seller written notice of such substitution (together with the information specified in Clause 6.2 in respect of the substitute Vessel) no later than five (5) days prior to the first day of the Accepted Date Range of the previously Accepted Vessel; and
  - (c) the substituted Vessel is accepted by the Seller and the Load Port Authority pursuant to the provisions of this Clause 6.8.
- 6.9 The Buyer shall be liable for all costs associated with any delays to the Accepted Vessel or in loading Product under the Agreement due to the information required to be provided

by the Buyer pursuant to this Clause 6 not being provided by the specified time or date or due to failure to comply with the nomination procedures herein, and any delays caused by lack or deficiency of information or due to failure to comply with the nomination procedures herein shall not count against Laytime or, if the Accepted Vessel is on demurrage, as time on demurrage. The Buyer undertakes to pay for and settle such Disputes pursuant to Clause 10.4 and irrespective of whether the matter is referred to arbitration or not.

- 6.10 Notwithstanding any prior acceptance of a Vessel by the Seller, if at any time prior to the passing of title and risk in the Product, the Accepted Vessel ceases to be in every way fit, ready to load, handle, carry, discharge or be suitable for operations at the Load Port:
- (a) the Seller shall have the right not to berth the Accepted Vessel and any demurrage resulting shall not be for the account of the Seller; and
  - (b) the Buyer shall be obliged to replace such Accepted Vessel with another Vessel that is in every way fit, ready to load, handle, carry, discharge and suitable for operations at the Load Port and which complies with the other requirements of this Clause 6.
- 6.11 The Buyer shall make itself familiar with the Vessel size limitations and restrictions at the Delivery Point and its approaches, such as restrictions in deadweight and displacement tonnage, length overall, loaded draught, tides, under keel clearance and other limitations currently in effect. The Buyer shall keep itself informed of any changes in the mentioned restrictions which may occur from time to time, and shall not nominate Vessels with specifications exceeding such limitations.
- 6.12 The Buyer must be fully familiar with and shall comply with the Terminal Regulations and Procedures and Load Port Authority Regulations at the Delivery Point, as then currently in effect, and the Seller shall provide to the Buyer all relevant and readily available information, if requested.
- 6.13 The Buyer represents, warrants and undertakes that:
- (a) it will nominate a Vessel that does comply with the Terminal Regulations and Procedures and Load Port Authority Regulations, including but not limited to Vessel draught, overall length, beam, deadweight and age;
  - (b) the Accepted Vessel shall be owned or demise chartered to a member of the ITOFF;
  - (c) at the time of loading, the Accepted Vessel shall have a full and competent professional crew, officers and Master, and be operated and maintained to fully comply with the latest ISGOTT, IMO recommendations, and OCIMF "Guidelines for the Control of Drugs and Alcohol On-board Ship";
  - (d) the Accepted Vessel shall be fully compliant with the ISM Code and the ISPS Code and the Buyer shall provide any necessary documentation to the Seller if so requested;
  - (e) it is familiar with, and shall cause the Accepted Vessel and her Master to comply with, the Terminal Regulations and/or Procedures and the Load Port Authority Regulations, including but not limited to any security regulations and safety and emergency procedures;
  - (f) carry on board a valid certificate of insurance as described in the International Convention on Civil Liability for Product Pollution Damage (CLC) 1992 (or equivalent for the carriage or cargoes hereunder not covered by the CLC) and has

in place insurance cover for Product pollution no less in scope and amounts than is available under the rules of Protection and Indemnity (P&I) Clubs entered into among the International Group of P&I Clubs. The P&I Insurance will include full coverage against liability for cargo loss/damage and coverage against liability for pollution for an amount not less than US Dollars One Billion (USD 1,000,000,000) per incident (or higher if the P&I Club minimum rises). If requested by the Seller, the Buyer shall promptly furnish to the Seller proper evidence of such P&I Insurance upon nominating the Vessel or at any time during the term of the Agreement; and

- (g) without prejudice to any of the foregoing, the Buyer shall procure that each Accepted Vessel shall, at the time of loading:
    - (i) comply with all applicable regulations, legislation and directions of governmental, local and port authorities (including the Loading Terminal) regarding health, safety, security, environmental and operational matters, and shall conform in all respects to all relevant international regulations and agreements; and
    - (ii) have hull, machinery, boilers, tanks, equipment and facilities, which are relevant for the Product specified in the Specific Agreement, in good order and condition, in every way fit for the service required and fit to load and carry the relevant Product.
- 6.14 Should the Buyer or the Accepted Vessel not comply with the provisions of this Clause 6 or be unable to perform properly or fail to load the Accepted Quantity, the Seller (or representative) may refuse to berth or load or continue to load the Accepted Vessel and shall be under no obligation to supply the Product which would otherwise have been deliverable to the Buyer on such Accepted Vessel, and the Seller may sell or otherwise dispose of any such Product as the Seller may in its absolute discretion determine and pursue its remedies under the Agreement.
- 6.15 For first vessel nomination for each lifting, the Seller is liable for applicable SERDAL screening cost. All subsequent screening costs as applicable should the first vessel nominated be rejected or re-screened is for the Buyer's account. In the event of substitution of the initially nominated Vessel in accordance with Clause 6.8, the cost for SERDAL screening of the substituted Vessel, or any subsequently substituted Vessels thereafter, are for the account of the Buyer.

## **7. LOADING CONDITIONS, ARRIVAL, LAYTIME AND VESSEL SHIFTING**

### **7.1 Accepted Date Range and Accepted Quantity**

- (a) The Buyer and Seller shall set out in the Specific Agreement the Accepted Date Range for commencing the lifting of a corresponding quality and quantity of Product, which shall both also be set out in the Specific Agreement. If the Accepted Date Range and/or Accepted Quantity are not set out in the Specific Agreement, the Accepted Date Range and/or Accepted Quantity shall be as agreed between the Parties or, in the absence of any agreement, determined as follows:
- (b) On or before the first (1<sup>st</sup>) day of each month M-1 the Seller shall issue to the Buyer the lifting schedule for month M specifying the Accepted Quantity and corresponding Accepted Date Range of all cargoes to be lifted during month M (such lifting schedule being the "**Lifting Schedule**"), which Buyer shall accept.

## 7.2 Notices

- (a) The Buyer shall notify the Seller and the Loading Terminal operator and/or Load Port Authority (as applicable) of the estimated time of arrival (ETA) for the Accepted Vessel at the Load Port at seven (7) days, seventy-two (72) hours, forty eight (48) hours, twenty four (24) hours and twelve (12) hours in advance of arrival, with notification of variations in excess of four (4) hours within the last twenty four (24) hours, plus any intervals as required by the Seller, the Seller's representatives or the Loading Terminal operator and/or the Load Port Authority. On arrival, the Buyer shall confirm the exact time that the Accepted Vessel arrived.
- (b) The Buyer shall cause the Accepted Vessel to submit a Declaration of Security ("**DoS**") to the appropriate authorities prior to arrival at the Load Port when required.
- (c) Upon arrival of the Accepted Vessel at the customary anchorage or pilot boarding position for the Loading Terminal and the Delivery Point, the Master or his representative shall give the Seller or the Seller's representative at the Loading Terminal a NOR. Such NOR shall not be given until after the Accepted Vessel has received all clearance required by the customs and other local Government authorities and is in all respects ready to load.
- (d) Any Accepted Vessel fitted with an inert gas system ("**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 a Vessel arrives with the IGS inoperative, the Accepted Vessel will not be berthed until the IGS is operative and the cargo tanks inerted and until that time NOR shall not be given, or if given shall not be effective, and Laytime shall not commence until commencement of loading.
- (e) The Buyer shall ensure that prior to midnight (local time at the Loading Terminal) on the last day of the Accepted Date Range, the Accepted Vessel is ready to load the Accepted Quantity of Product, provided that it has arrived at the Loading Terminal (or customary waiting place) and completed all formalities and requirements of the Agreement including the tendering of the NOR.
- (f) The tendering of the NOR by the Accepted Vessel obliges the Buyer to receive the Product as soon as is practicable for the Seller, even if this means that loading is outside of the Accepted Date Range.

## 7.3 Loading Conditions

- (a) The Seller has no obligation to commence loading the Accepted Vessel prior to 06:00 hours (local time at the Loading Terminal) on the first day of the Accepted Date Range unless otherwise agreed in writing between the Parties.
- (b) The Seller shall provide, or cause to be provided, a safe berth for the Accepted Vessel which the Accepted Vessel can safely reach and leave and where it can always lie and load whilst always safely afloat. The Seller shall maintain in good working order all necessary flexible Loading Equipment, connections, pipelines, storage and accommodation for loading of the Accepted Vessel.
- (c) All charges attributed to the Accepted Vessel, including but not limited to wharfage, dockage and quay dues, are for Buyer's account.
- (d) The Seller or Loading Terminal has the right to instruct the Accepted Vessel to shift Berths, with all costs, including but not limited to towage, pilotage, additional agency fees and demurrage for the Seller's account if such shifting is for the



Seller's purposes. Without limitation, shifts made for the following reasons shall be deemed not to be "for the Seller's purposes":

- (i) if the Specific Agreement states that a Berth shift is required;
  - (ii) if it is customary for the Loading Terminal and/or Load Port (as applicable) or customary for the particular quantity and/or combination of Product that is to be loaded;
  - (iii) as a result of Force Majeure;
  - (iv) for safety reasons attributable to the Accepted Vessel;
  - (v) due to a problem with the Accepted Vessel; or
  - (vi) for the Accepted Vessel taking on bunkers.
- (e) The Buyer is responsible for all costs related to shifting or berthing other than any shift that is specifically for the Seller's purposes.
- (f) The Buyer shall be responsible for any losses or damages to the Loading Terminal for the Accepted Vessel's specification or movement and the Seller shall not be liable for any such loss or damage, nor be obliged to commence or continue loading should the Accepted Vessel exceed the length, draught or other dimensions as previously advised by the Buyer and so ascertained for the Loading Terminal or approach.
- (g) The Buyer shall be responsible for ensuring that the Accepted Vessel's cargo tanks are at the acceptable temperature to receive the Product and that the Accepted Vessel can, where required, heat/chill the Product within the acceptable temperature range (as set out in the Specific Agreement or in accordance with standard industry practice if not stated.)
- (h) The Seller shall be responsible for ensuring that the Product is within the acceptable temperature range (as set out in the Specific Agreement or in accordance with standard industry practice if not stated). Where the temperature of the Product is outside of the acceptable range the Buyer shall use reasonable endeavours to receive the Product as intended and mitigate any incremental costs. Prior to the commencement of loading, the Buyer must notify the Seller of any anticipated reasonable costs that may be incurred as a result of the Seller's failure to ensure that the temperature of the Product is within the acceptable temperature range (e.g., the cost of bunkers and the time used to raise or lower the temperature), and subject to Clause 7.3(i) the Seller agrees to reimburse the Buyer for such reasonable costs; provided that, in respect of any such claim, the Buyer shall provide the Seller with reasonable evidence of such costs which have been incurred.
- (i) Notwithstanding the above, the Seller shall only be obliged to pay the Buyer pursuant to Clause 7.3(h) provided that:
- (i) the Accepted Vessel arrived during the Accepted Date Range with its cargo tanks at the acceptable temperature;
  - (ii) the unacceptable temperature range of the Product is not related to any fault or failure or operation of the Accepted Vessel or the Buyer; and
  - (iii) the Seller elects to load the Product onto the Accepted Vessel despite the temperature of the acceptable temperature range.

- (j) The Buyer shall be responsible for ensuring the Accepted Vessel has clean cargo holds, tanks, lines and pumps to the Independent Inspector's satisfaction and the Buyer warrants:
- (i) that the Accepted Vessel's cargo holds, lines, tanks and pumps shall be in all respect suitable to load the nominated Product and particularly her tanks, pumps and lines shall be cleaned, dried and odour free, entirely without any water and/or residues nor any trace of moisture;
  - (ii) there shall be no commingling of cargoes with any other cargoes from other ports. The cargo shall be stowed strictly separate from other cargo(es) onboard and to remain separate during loading, transit, and discharge. The Buyer shall provide separate tanks, lines, valves, and pumps at all times which are to be properly cleaned, deodorized, and in every respect suitable for the handling/carriage of the product(s) under this Agreement. The Buyer shall arrange for and to provide any additional cleaning and preloading preparation of tanks/lines/valves/pumps as is the custom of the trade for the Product to be loaded under this Agreement;
  - (iii) if the Accepted Vessel is found unsuitably clean, she will be cleaned until approval is obtained from independent inspector;
  - (iv) any delays and costs (including but not limited to any cleaning time and costs) as a result of the Accepted Vessel arriving at loading port and not being suitable for loading to Independent Inspector's satisfaction shall be for the Buyers' account;
  - (v) if further cleaning is necessary, the Accepted Vessel to continue cleaning at berth if permitted by authorities or at anchorage as advised by the Seller, in which case all cost, time and expense shall be for the Buyers' account.
  - (vi) in the event the Accepted Vessel fails during the tanks inspection or sample testing, as the case may be, then all time lost until approval is obtained from Independent Inspector to proceed to load shall be on the Buyers' account.
  - (vii) in case of failure of inspection and the Accepted Vessel is directed to depart the berth to anchorage for additional cleaning, then all time, cost, including but not limited to inspection cost for the second call at the terminal or anchorage as the case may be shall be on the Buyers' account.
- (k) Should the circumstances above which are due to the Buyer's or the Accepted Vessel's fault result in delay to the next vessel(s) at the Load Port, the Buyer shall indemnify the Seller for all direct costs and expenses including demurrage incurred by the Seller on the next vessel(s). The Seller shall invoice the Buyer for any such costs and expenses pursuant to this Clause, and the Buyer shall pay such amounts to the Seller accordingly. The Seller shall, however, without prejudice take all reasonable commercial steps to mitigate any such expenses incurred by it. The Buyer shall reimburse these costs to the Seller pursuant to Clause 10.4.
- (l) The Buyer shall be responsible for any excess Berth utilization costs related to the Accepted Vessel in the event that the Seller incurs any such costs due to any delay or failure of equipment or crew of the Buyer or the Accepted Vessel which are not charged directly to the Buyer or the Accepted Vessel by the Loading Terminal,

providing written evidence of such costs. The Buyer shall reimburse these costs to the Seller pursuant to Clause 10.4.

- (m) As soon as the Loading Equipment have been disconnected the Accepted Vessel shall vacate the Berth, subject to safety considerations and documentation. The EDP, as provided in the Load Port's procedures, shall apply in all cases, at Seller's option, where possible, as follows:
  - (i) the Seller shall cause the shipping agent to provide a draft non-negotiable copy of the Bill of Lading complete in every respect, with the exception of quantities loaded, prior to the Accepted Vessel's departure;
  - (ii) the Seller shall cause the shipping agent, within one (1) Working Day from the BL Date, to advise the Master by facsimile or telex or email, the outstanding information, inclusive of quantities for the Master to complete the draft non-negotiable copy of the Bill of Lading previously placed on board by the shipping agent;
  - (iii) once the Accepted Vessel has adopted EDP and left the berth and immediately after the Bill of Lading figures are known, the shipping agent, using the Master's authority, shall sign the first original(s) of the Bill of Lading, subsequent Bill of Lading and any other cargo documents, promptly providing such documents to the Buyer upon written request; and
- (n) The Buyer shall indemnify the Seller in respect of any direct costs, losses, damages and expenses that the Seller incurs due to the Accepted Vessel not vacating the Berth promptly following disconnection of the Loading Equipment, including, without limitation, wharfage and demurrage of the next Vessel awaiting to berth, provided the delay in vacating the Berth is due to the Buyer or the Accepted Vessel. The Seller shall provide the Buyer with reasonable evidence of such costs which have been incurred. The Buyer shall reimburse these costs to the Seller pursuant to Clause 10.4.
- (o) The Buyer shall not be obliged to pay to the Seller the amounts described in Clauses 7.3(k), 7.3(l) and 7.3(n) if and to the extent that any such excess Berth utilization costs or delay in the Accepted Vessel vacating the Berth is due solely to any circumstances for which the Seller is or will be liable to pay (and for which the Seller will not be relieved from paying) demurrage to the Buyer pursuant to the Agreement.
- (p) The Accepted Vessel should carry all adaptors and reducers/cross connections necessary to match the Loading Terminal connections. The Loading Terminal operator, Load Port Authority, Seller and/or the Seller's representatives may refuse to berth or load the Accepted Vessel in the event of non-compliance with the foregoing and all delays and expenses of the Seller and Buyer due to such non-compliance shall be for the Buyer's account.
- (q) Accepted Vessels which have toxic, noxious or volatile cargoes must load, discharge and operate at all times in closed operations mode, i.e. have all tank apertures closed for cargo transfer and ballasting, with vapours emitted only through a dedicated and safe venting system. Where appropriate the Seller shall provide vapour return lines capable of receiving all vapours and the Buyer shall return the Accepted Vessel's displaced vapour to the shore system of the Seller.

- (r) The Buyer shall indemnify the Seller against any direct costs, losses, damages and expenses incurred as a result of Disputes made against the Seller in connection with or arising from, delay in loading and delivery of Product. The Seller shall, however, use reasonable endeavours to mitigate such Disputes.
- (s) Buyer will not claim any deadfreight, if the BL quantity as per the Independent Inspector report is less than 1% of the NOR or nominated quantity.

#### 7.4 Laytime

- (a) Subject to the provisions of the Agreement, Laytime shall commence as set out in this Clause 7.4.
- (b) If the Accepted Vessel arrives at the Delivery Point, is in all respects ready to load and tenders a proper and valid NOR within the Accepted Date Range allocated to such Accepted Vessel pursuant to Clause 7, Laytime shall commence six (6) hours after the NOR is tendered or when the Accepted Vessel is all fast at the Berth, whichever occurs first.
- (c) If NOR is tendered for the Accepted Vessel before the first day of the Accepted Date Range, Laytime shall begin to run at the earlier of either:
  - (i) 06:00 hours local time on the first day of the Accepted Date Range; or
  - (ii) commencement of loading.
- (d) If NOR is tendered for the Accepted Vessel after the last day of the Accepted Date Range, the Seller shall use reasonable endeavours to commence loading the Vessel as soon as practically possible, subject to other Vessel commitments and Loading Terminal constraints, and Laytime shall commence only upon commencement of loading.
- (e) Laytime allowed for loading shall be set out in the any Specific Agreement. If the Laytime is not set out in the Specific Agreement, the Laytime for the Accepted Quantity shall be sixty (60) running hours, subject to Clauses 7.4(f), 7.4(g) and 7.4(h). The Accepted Quantity shall, for the purposes of calculating Laytime and demurrage, constitute a full cargo. Should two or more cargoes be simultaneously loaded (co-loaded) or loaded continuously (one after the other) on a single Vessel, only one NOR will be tendered and all the Laytimes for each cargo will be added up.
- (f) Should the Accepted Vessel not give at least twenty-four (24) hour notice prior to arriving at the Loading Terminal and tendering NOR, Laytime shall be extended by the period of the delay in giving such notice, subject to such extension of time being a maximum of twenty four (24) hours.
- (g) Loading shall be completed and Laytime, if on demurrage as demurrage, shall cease upon disconnection of the Loading Equipment which shall be effected promptly upon completion of loading. Should the disconnection of Loading Equipment be delayed for any reason not attributable to the Seller, the time taken to disconnect shall not count against Laytime, or if on demurrage as demurrage. Should the Seller delay the Accepted Vessel for more than three (3) hours after the Loading Equipment has been disconnected, Laytime, or if on demurrage as demurrage, shall resume after the said three (3) hours and shall continue from that point until the delay is terminated.

- (h) Time shall not count against Laytime or, if the Accepted Vessel is on demurrage, as demurrage, if the Accepted Vessel is:
- (i) on an inward passage moving from the waiting place to the loading place until the Accepted Vessel is securely moored at the Berth with its gangway (or equivalent) in place;
  - (ii) prevented from loading or continuing to load by the Load Port Authority or the Loading Terminal operator, or the Accepted Vessel refuses to load or to continue loading;
  - (iii) delayed as a result of the Buyer or the Accepted Vessel or her Master, crew, owner or operator or agents of the Accepted Vessel preventing, obstructing or delaying loading, including (but not limited to) as a result of their failure to comply with the Terminal Regulations and/or Procedures or the Load Port Authority Regulations, fully or partly;
  - (iv) delayed at the Load Port resulting directly from the Accepted Vessel being required by the Load Port Authority or any other relevant authority to take any action or any special or additional security measures or to undergo additional inspections by virtue of the Accepted Vessel's previous ports of call;
  - (v) preparing to handle, or is handling ballast, draining pumps and pipes or bunkering, discharging slops or Vessel generated waste, unless concurrent with normal operations such that no time is lost;
  - (vi) inerting, gassing-up, cooling or purging and blanketing;
  - (vii) cleaning or inspecting the cargo tanks (for liquid Products) or holds (for solid Products);
  - (viii) inefficient or has any fault or failure including breakdown or overflow, repairs and maintenance;
  - (ix) unable to receive Product at a rate which would complete delivery of a full cargo within the allowed laytime;
  - (x) delayed in berthing and using more than six (6) hours for that purpose after having given a valid NOR, and the reason for such delay is beyond the control of the Seller, or after disconnection of the Loading Equipment or release of the Accepted Vessel, caused by conditions not reasonably within the Loading Terminal operator's or Load Port Authority's control, including but not limited to awaiting tide, tugs, pilot, acceptable weather or sea conditions, daylight, action or inaction by the Load Port Authority (including but not limited to police, coast guard, naval, immigration, customs or health authorities) or pratique and/or channel blockage – unless any or all of these delays are directly caused by the Seller's requirement to shift Berth for the Seller's purposes;
  - (xi) delayed due to a labour dispute, strike, lock-out, picketing, go-slow, work to rule, stoppage or restraint of labour attributed to the crew of the Accepted Vessel or delayed due to vandalism, piracy, or mutiny;
  - (xii) delayed due to an escape or risk of escape of Product on or from the Accepted Vessel that could create serious danger and/or pollution damage;

- (xiii) complying with the Law of the jurisdiction of the Load Port and/or published or posted Terminal Regulations and Procedures or Load Port Authority Regulations and/or the regulations, guides, recommendations, guidelines and/or codes referred to in Clause 6.13, any of which causes an interruption or delay of operations;
- (xiv) subject to delay in or suspension of loading ordered by the Seller, the Load Port Authority or the Loading Terminal operator, because of the Buyer's failure to comply with the requirements of the Agreement in respect of payment, health and safety, and/or any other terms and conditions of a material nature;
- (xv) subject to any other delay reasonably allocated to the Accepted Vessel, the Buyer or representatives of the Buyer (including as set out in this Clause 7.4):
  - (A) delayed at the Load Port resulting directly from the Accepted Vessel being required by the Load Port Authority or any other relevant authority to take any action or any special or additional ballast water measures, to undergo additional inspections or sampling by virtue of the Accepted Vessel's failure to exchange ballast prior to arrival in the Gulf Area or to treat existing ballast water in line with the IMO Ballast Water Convention or the Load Port Authority Regulations or the Terminal Regulations and Procedures; and/or
  - (B) in accordance with Clause 6.3, Clause 6.4 and the first two sentences of Clause 7.4(g).
- (i) Time shall not count against Laytime, or if on demurrage as demurrage, if the Seller is prevented, delayed or hindered in bringing the Product to the Delivery Point or timely loading Product as a result of Force Majeure.
- (j) If any part cargo for the other charterers, shippers or consignees (as the case may be) is to be loaded or discharged at the same berth on the same Vessel, then any time used by the Vessel, either; (a) waiting for such berth and/or; (b) loading or discharging at such berth and/or; (c) simultaneously loading and/or discharging at such berth; which would otherwise count as laytime or if the vessel is on demurrage for demurrage, shall be pro-rated. If, however, the running of laytime or demurrage, if on demurrage, is solely attributable to other parties' cargo operations then such time shall not count in calculating laytime or demurrage, if on demurrage, against the Seller.

## 7.5 Compliance with Regulations

- (a) The Seller shall use reasonable endeavours to ensure that the Load Port and Loading Terminal complies with the requirements of the International Code for the Security of Ships and of Port Facilities and the relevant amendments to Chapter XI of SOLAS (ISPS Code).
- (b) The Buyer shall ensure that the Accepted Vessel complies with the requirements of the International Code for the Security of Ships and of Port Facilities and the relevant amendments to Chapter XI of SOLAS (ISPS Code).
- (c) The Buyer shall procure that the Master of the Accepted Vessels will observe and act in conformity with: (i) the rules and conditions for the use of the Load Port and the Loading Terminal; (ii) safety rules and other Government's regulations; and (iii)

anti-pollution regulations within recognized international standards as published by the International Chamber of Commerce and Inter Governmental Consultative Organization. Any costs or expenses of non-compliance applicable under this Clause 7.5 shall be for the account of the Buyer.

- (d) Any costs or expenses in respect of the Accepted Vessel including demurrage or any additional charge, fee or duty levied on the Accepted Vessel at the Load Port and actually incurred by the Buyer resulting directly from the failure of the Load Port or Loading Terminal to comply with the ISPS Code, shall be for the account of the Seller, including but not limited to the time required or costs incurred by the Accepted Vessel in taking any action or any special or additional security measures required by the ISPS Code.
- (e) The Seller's liability to the Buyer under the Agreement for any costs, losses or expenses incurred by the Accepted Vessel, the charterers or the Accepted Vessel owners resulting from the failure of the Load Port or Loading Terminal to comply with the ISPS Code shall be limited to the payment of demurrage and direct costs actually incurred by the Buyer. The Seller shall reimburse these costs to the Buyer pursuant to Clause 10.4, providing written evidence of such costs.
- (f) The Buyer shall procure that disposal of dirty ballast, bilges, slops or other substances by the Accepted Vessel shall be in accordance with MARPOL 73/78, including updates, and in any event prohibited within the Loading Terminal and the Load Port.
- (g) The Seller shall have the right to refuse to berth, reduce or prohibit ballast discharging operations, without liability, should the Buyer or Accepted Vessel not meet the minimum standards as defined by the Load Port Authority ballast water treatment or exchange requirements for the prevention of alien or evasive species being introduced to Qatari waters.

## **8. DEMURRAGE**

- 8.1 Subject to the provisions of the Agreement (including Clauses 7.4(h) and 7.4(i)), if the time taken to load the Accepted Vessel exceeds the Laytime allowance due to no fault of the Buyer, the Seller shall pay the Buyer demurrage in the same currency as is prescribed for payment of the Product delivered under the Agreement for the time used for loading in excess of the allowed Laytime. The Buyer shall not be entitled to claim any demurrages if the Vessel arrives after the Accepted Date Range or if the Buyer does not comply with nominations procedures as laid out above.
- 8.2 The Buyer shall be deemed to have waived any claim relating to demurrage and the Seller shall be discharged and released from all liability for payment of demurrage if the Buyer's fully documented Dispute for demurrage has not been received by the Seller within sixty (60) days from the BL Date from which the Dispute for demurrage arises. Full supporting documentation shall include, but not be limited to:
  - (a) clear calculation of any claim;
  - (b) the demurrage rate as specified in the Vessel Nomination;
  - (c) the Accepted Vessel's port and pumping logs, signed by the Master;
  - (d) NOR documents;
  - (e) the loading/Laytime statement;
  - (f) the Buyer's invoice; and

- (g) details of the Buyer's bank account into which any demurrage payment should be made.
- 8.3 The appropriate demurrage rate per day, or pro rata for part of a day, shall be determined as the rate specified in the Vessel Nomination and agreed by Seller in writing in accordance with these GTCs.
- 8.4 Should all or part of the demurrage payable by the Seller be due to the occurrence of any of the following events, then provided that neither Party has given notice pursuant to Clause 15 that such event constitutes Force Majeure, the rate of demurrage payable shall be reduced to fifty percent (50%) of the full rate, for the affected period:
  - (a) explosion or fire in the Loading Terminal or Load Port;
  - (b) breakdown of machinery or equipment affecting the supply of Product;
  - (c) revolution, war, riot, civil unrest, arrest or restraint of rulers;
  - (d) adverse weather or sea state conditions including sandstorms, fog, mist, heavy rain, storm, wind and waves.
- 8.5 Following the Seller's acceptance and confirmation of the Buyer's claim, all payments in respect of demurrage shall be paid by the Seller to the Buyer within thirty (30) days from the date of Seller's acceptance of such claim and payment shall comply with the provisions in Clause 10.
- 8.6 The Buyer's claim for demurrage, as described in this Clause 8, shall be the Buyer's sole remedy for the time used to load the Product in excess of the allowed Laytime.

## 9. PRICE

The price is set out in the Specific Agreement ("**Price**").

## 10. PAYMENT

- 10.1 The Buyer shall pay the Price to the Seller for the Product by the "**Due Date**" which is as follows:
  - (a) if a date or timeline is set out in the Specific Agreement, by such date or timeline;  
or
  - (b) if no date or timeline is set out in the Specific Agreement, within thirty (30) days from each BL Date,against presentation of the Seller's invoice which shall be based on the type and quantity set out in the BL.
- 10.2 Unit prices shall be calculated to three (3) decimal places and shall be rounded up where the fourth (4th) digit after the decimal point is a five (5) or higher. Interim prices used in calculations shall not be rounded. Invoices shall be rounded to two (2) decimal places and shall be rounded up where the third (3rd) digit after the decimal point is a five (5) or higher.
- 10.3 At least seven (7) days before the Due Date, the Seller shall provide the Buyer with the invoice and supporting documentation along with written notice of the bank details into which payment must be made quoting the Buyer's name and the invoice number. The Seller may provide the invoice and supporting documentation electronically. Should the Seller provide the invoice less than seven (7) days before the Due Date, or make changes by late notice of less than seven (7) days before the Due Date, then payment shall be



made within seven (7) days after receipt by the Buyer of the invoice or within seven (7) days of such late notice (the "**Adjusted Due Date**").

- 10.4 Unless otherwise agreed, any other payment including losses, damages, costs, expenses or charges due pursuant to the Agreement shall be made against presentation of an invoice and shall be for settlement by the other Party within thirty (30) days from the invoice date.
- 10.5 Should the final price for the Product not be known at the time of invoicing, the Seller shall prepare a provisional invoice based upon the BL quantity and quality of the Product and the pricing information available at the time and the Buyer shall make payment against this provisional invoice by the Due Date. The Seller shall prepare a final invoice as soon as practicable after the final price is known by the Seller and the Due Date for payment of the balance due by either Party shall be ten (10) days after the Buyer receives the final invoice. In case the provisional price is the same as the final price, no final invoice will be issued by the Seller but an email notification from the Seller to the Buyer confirming the provisional invoice will be treated as the final invoice.
- 10.6 Where any payment under the Agreement falls due on a non-Banking Day then the Buyer shall pay the Seller on or before the last preceding Banking Day to comply with the Due Date or Adjusted Due Date.
- 10.7 Where the Applicable Currency of the Specific Agreement is the US Dollar, the Seller shall have the option, by giving at least seven (7) day notice to the Buyer before the Due Date, or the Adjusted Due Date, to invoice and/or demand payment in a currency other than US Dollars provided that:
- (a) Where the option to invoice or demand payment in a currency other than US Dollars is exercised by the Seller, the rate of exchange from US Dollars to the chosen currency shall be the mid-rate of exchange quoted at 15:00 hours on Tokyo Fix (Reuters code: TKFE) (or if no rate is quoted at such time, the first rate quoted immediately thereafter) published on Reuters on the second Banking Day before the Due Date or Adjusted Due Date. Should Reuters not publish such rate of exchange for such day, then the rate of exchange shall be the last rate of exchange published by Reuters immediately before such second Banking Day;
  - (b) Should Reuters either not quote or cease to quote for the currency in question, then the published rate of JP Morgan Chase Bank for the FOREX shall be used. In the event that this rate is also not available, Seller and the Buyer shall consult and agree an appropriate exchange rate prior to any payment in a currency other than US Dollars.
- 10.8 Should the Accepted Vessel fail to tender a valid NOR before the end of the Accepted Date Range (except when the failure or delay to tender NOR has been wholly and directly caused by an act or omission of Seller), or the completion of loading is delayed considerably more than the prescribed ADR by the Buyer or the Accepted Vessel, the Seller shall have the right, for invoicing purposes, to deem the date of delivery to be the last day of the Accepted Date Range, and the applicable pricing terms and Due Date shall reflect the deemed date of delivery rather than that shown on the Bill of Lading specially for situations where a change of month of loading will result in a big change in pricing.
- 10.9 Payment for the Product shall be made by the Buyer in full and free of all charges without deduction, withholding, set-off, condition or counterclaim in immediately available funds, unless otherwise as specified in the Specific Agreement. In case payment for the Product

shall be made by the Buyer by telegraphic transfer the Buyer shall be liable for all bank charges whether paid in the State of Qatar or otherwise

- 10.10 Should any payment for the Product not be received by the Due Date or Adjusted Due Date or any other monies due to the Seller for any reason whatsoever not be received by the dates specified in the Agreement, the Seller shall have the right to charge the Buyer interest on the amount overdue from time to time at a rate equal to the Specified Rate (as quoted on the due date) plus four percent (+4%). The interest shall be calculated daily based upon a three hundred and sixty (360) day year.
- 10.11 The charging of interest by the Seller does not signify an acceptance of late payment and shall not be construed as an indication of any willingness on the part of the Seller to provide extended credit as a matter of course and shall be without prejudice to any rights and remedies which the Seller may have for late or delayed payment under the Agreement or otherwise. The Buyer shall defend, indemnify and hold the Seller harmless for any direct costs incurred by the Seller related to the late or non-payment by the Buyer. Such costs may include but not be limited to legal fees and debt collection agency fees.
- 10.12 In the event of a disagreement concerning any invoice or statement, the Buyer shall make provisional payment of the total amount stated in such invoice or statement on or before the Due Date or Adjusted Due Date, and shall notify the Seller within thirty (30) days of the date of the relevant invoice of the reason for such disagreement (or where the reason for disagreement concerns a deficiency in quantity or quality, within the period specified in Clause 5.5(a) and the amount that is in claim.
- 10.13 Any disagreement referred to in Clause 10.12 shall be resolved through the procedures set forth in Clause 16 as applicable. Following resolution, a Party to whom an amount is owed shall be paid such amount by the other Party together with interest accrued thereon at an annual rate equal to the Specified Rate as quoted on the Due Date (calculated on the basis of a 360-day year) in respect of each day from and including the Due Date or Adjusted Due Date for such invoice or statement until and including the date upon which the amount so due is actually received by the relevant Party in immediately available funds.
- 10.14 An invoice or statement may be modified by the Seller upon notification to the Buyer of the justification for such modification.
- 10.15 The Seller may assign, transfer or otherwise dispose of, either partially or totally, its right to receive payment of the Price of the Product sold under the Agreement or of any other monies owed by the Buyer to the Seller under the Agreement, and such assignment, transfer or disposal shall be effective upon the Seller giving the Buyer written notice thereof.

## **11. TAXES, DUTIES, OTHER CHARGES AND COSTS**

- 11.1 The Seller shall obtain all necessary approvals, licenses and permits necessary for export, and be recorded as the exporter.
- 11.2 The Seller shall be liable for all costs imposed or levied on the Product prior to risk and title to the Product passing to the Buyer, including but not limited to all taxes, duties, imposts, charges, fees and dues.
- 11.3 The Buyer shall be liable for all costs imposed or levied on the Product (whether paid in Qatar or elsewhere), after taking risk and title, including but not limited to all taxes, duties, imposts, charges, fees and dues, and, in the case of taxes only, even if the tax laws are

amended and such changes are applied retroactively, after the passing of risk and title to the Product to the Buyer has taken place.

- 11.4 The Buyer shall be liable for all costs imposed or levied on the Accepted Vessel whether paid in Qatar or elsewhere, including but not limited to all taxes, duties, imposts, charges, pilotage, mooring fees, port dues, quay dues, agency fees and tonnage expenses except for those incurred specifically relating to shifting Berth for the Seller's purposes.
- 11.5 Should Value Added Tax (VAT), Excise Duty (ED) or other tax or duty be applicable from the sale of the Product or the transfer of risk and title therein (which, without limitation, may be levied depending on the destination of, use of and/or documentation of the Product), the Seller shall invoice the Buyer for these unless the Buyer can prove to the Seller that the purchase of the Product is exempted, in which case the Buyer shall provide proof of such exemption (including but not limited to the destination and use of the Product) satisfactory to the Seller.
- 11.6 The Buyer shall defend, indemnify and hold harmless the Seller against all costs, penalties and interest associated with the payment or recovery of any taxes and/or duties where the documentation provided by the Buyer relating to the tax or duty fails to comply with the necessary requirements, including but not limited to timelines, and any circumstance of fraud or misrepresentation.
- 11.7 The Seller shall use its reasonable endeavours to ensure that the correct tax or duty is payable on the sale of the Product and mitigate unnecessary costs and charges to the Buyer.
- 11.8 Should taxes and/or duties which are payable by or on behalf of the Buyer be subsequently recoverable by the Seller, the Seller shall inform the Buyer and then the Seller shall use its reasonable endeavours, at the Buyer's expense and cost, to obtain a credit or repayment in respect of such taxes and/or duties. If the Seller succeeds at recovering any repayment, the Seller shall pay it to the Buyer within seven (7) days of receiving the credit or repayment, after first deducting any costs, charges and taxes incurred by Seller associated with such credit or repayment.
- 11.9 The Buyer shall pay the Seller for any other expenses, costs or charges that the Seller incurs or is subject to, arising directly as a result of a transfer of Product made under the Agreement, provided that such expenses, costs or charges are not expressly stated to be for the Seller's account, pursuant to the Agreement.

## **12. WITHHOLDING**

- 12.1 All payments under or in connection with this Agreement shall be made without any deduction or set off and free and clear of and without deduction for or on account of any taxes and withholdings of any nature now or hereafter imposed by any governmental authority save as required by applicable Law.
- 12.2 If a Party is compelled by applicable law to make any deduction or withhold any sums, it will pay to the receiving Party such additional amounts as are necessary to ensure receipt by the receiving Party of the full amount which that Party would have received but for the deduction or withholding.

## **13. FINANCIAL SECURITY**

- 13.1 Unless provided otherwise in the Specific Agreement, the Buyer shall establish an irrevocable bank letter of credit in favour of the Seller in a format acceptable to the Seller (substantially in the form of Appendix 1(B) and as advised by the Seller from time to time), and shall cover the value of the entire cargo plus tolerance of ten percent (+10%) in order

to ensure the due, timely, full and complete performance by the Buyer of all its obligations, including without limitation, payments, sums, due interests, demurrages, fines, penalties and damages, thereby due to the Seller under the Agreement.

- 13.2 The letter of credit shall be received by the Seller at least ten (10) Working Days before the first day of the Accepted Date Range and shall be in the Applicable Currency, be valid for sixty (60) days, and contain price and payment terms as stipulated in the Specific Agreement. The letter of credit shall also contain provisions allowing the value to be automatically adjusted for market price fluctuations. The letter of credit shall be confirmed by a local bank in Qatar acceptable to the Seller.
- 13.3 The letter of credit shall be payable to the Seller promptly on or before the Due Date. If the Due Date falls on a non-Banking Day, the payment shall be effected on the preceding Banking Day.
- 13.4 The Buyer shall bear all and any expenses and bank charges outside the State of Qatar (including without limitation reimbursing bank and correspondent bank charges) for establishing the letters of credit including all costs and expenses for their confirmation, extension and agreed alterations thereto.
- 13.5 The Seller shall have the right to request the Buyer to submit in English audited financial statements of the Buyer and/or its parent company for the past three (3) years.
- 13.6 The Seller shall have the right in its sole discretion at any time to require the Buyer to provide financial security for the anticipated value of the Product and/or costs associated with the purchase of the Product in such amount as may be reasonably determined by the Seller (acting in its sole discretion). Such security may include, but not be limited to:
  - (a) payment for the Product in advance of loading;
  - (b) making a cash deposit against potential non-Product liabilities;
  - (c) provision of a bank performance bond in a format and from a bank operating in the State of Qatar and acceptable to the Seller;
  - (d) provision of a parent company guarantee in favour of the Seller in a format acceptable to the Seller (substantially in the format of Appendix 2 and as advised by Seller from time to time).
- 13.7 Should loading be delayed and if the Seller so requests, the Buyer shall provide either an extension of the validity of the existing financial security or new financial security, in case with any additional cover that the Seller may require.
- 13.8 The Buyer's failure or delay to provide any financial security within the time prescribed by the Seller shall be a breach of condition by the Buyer, which shall give the Seller the absolute right to either terminate the Agreement, or without prejudice to the right to terminate, suspend in whole or in part the delivery or loading of Product under the Specific Agreement, in either case with immediate effect and without any liability of the Seller.
- 13.9 The Buyer shall be liable for all losses, delays, costs, and damages whatsoever, including but not limited to demurrage and or detention of any Accepted Vessel, suffered by the

Seller as a result of the Buyer's breach of / or delay in performance of its obligation to open and/or confirm the Financial Security pursuant to this Clause 13.

- 13.10 The Seller's right to suspend, or terminate the Agreement for Buyer's breach pursuant to this Clause 13 shall be without prejudice to any other right or remedy of the Seller.
- 13.11 In no event shall the Seller be obliged to commence or complete loading of the Product until the required Financial Security is provided by the Buyer and accepted by the Seller.

#### **14. DESTINATION AND SANCTIONS**

- 14.1 Upon written request from the Seller, the Buyer shall disclose any change to the intended destination of the Product previously advised in the Specific Agreement or at the time of nomination in accordance with Clause 6.2(g).
- 14.2 The Seller shall have the right to appoint a representative to verify and/or witness the discharge of the Product sold under the Agreement for up to three (3) years after the BL Date. This shall include verification of any relevant documentation and the investigation of the discharge by an independent expert and all costs in this regard shall be for the Seller's account.
- 14.3 The Buyer shall provide to the Seller a certificate of discharge for each delivery of the Product, within two (2) Working Days of discharge of the Product. The certificate of discharge shall clearly state the Accepted Vessel's name and agent, Discharge Port, date of discharge, quality and quantity of discharge, consignee, plus the Load Port, the date of loading and quality and quantity loaded as well as the Discharge Port and terminal for each cargo or part cargo. Should there be any trans-shipment, lightering or ship-to-ship transfer then the documentation must reflect the final destination and details of the operations, logistics and facilities used. Furthermore, the Buyer shall notify the Seller upon completion of discharge particulars for each cargo if more than one (1) Discharge Port is used.
- 14.4 The Seller shall provide blank certificates of discharge that shall be completed and signed by the Master (or its appointed agent or the receivers of the cargo) and attested by an official seal and signature of the Customs Authorities or local chamber of commerce responsible for the Discharge Port. Should the Seller's certificate of discharge not be available at the time of loading then the Seller shall accept a certificate of discharge prepared on headed paper by the Accepted Vessel's agents and attested by an official seal and signature of the customs authorities or local chamber of commerce responsible for the Discharge Port. If the customs authorities or local chamber of commerce responsible for the Discharge Port refuses to attest the certificate of discharge, the certificate of discharge shall be signed only by the Buyer, who shall certify such refusal took place.
- 14.5 The Buyer shall ensure that the Seller receives the completed certificate of discharge within two (2) months of the BL Date, and should any detail not be available then the Buyer must formally advise the missing information to the Seller in writing.
- 14.6 The Seller may, in its sole discretion, reject any transaction, or cancel or suspend in whole or in part the supply of Product under the Agreement or any other agreement between the Buyer and the Seller as a result of Buyer's violation of this Clause 14 without any liability of the Seller to the Buyer.
- 14.7 Representation and Warranty as to Sanctions Targets

Each Party represents and warrants to the other Party on the date of this Agreement that:

- (a) neither it nor any director, officer, agent, employee, or any person acting on behalf of it is a Sanctions Target;
- (b) it is entering into this Agreement not on behalf of any other person or entity that is a Sanctions Target;
- (c) it shall not directly or indirectly (i) use (or agree to use) any Agreement or any cash, securities or other deliveries received by it pursuant to any Agreement, or (ii) lend, contribute or otherwise make available such cash, securities or other deliveries received by it pursuant to any Agreement to or for the benefit of any Sanctions Target or any other person or entity, to finance or facilitate activities or business of or with any Sanctions Target or in any other manner which would violate Sanctions; and
- (d) this Agreement is not connected to the issuance or incurrence of, or performance of any obligations under, any debt or equity obligation which is the target of any restrictions on dealings by any Sanctions Authority.

Each Party shall indemnify the other Party for any damages, losses, penalties, costs (including reasonable legal costs and legal advisors' fees), and liabilities arising from, or related to the breach of the aforementioned representations and warranties.

#### 14.8 No Obligation to Breach Sanctions

- (a) If at any time during the term of this Agreement, either Party becomes aware that any performance by it under an Agreement would be in violation of or inconsistent with the Sanctions applicable to it or expose it or any of its Affiliates to punitive measures under the Sanctions (an "**Affected Transaction**"), such Party (the "**Notifying Party**") shall inform the other Party by written notice to the other Party.
- (b) The Notifying Party may, if an Agreement becomes an Affected Transaction as a result of:
  - (i) the nomination of a vessel, as appropriate: (A) substitute; or (B) require the other Party to use reasonable endeavours to substitute, such vessel, with another vessel that is not restricted or otherwise affected by such Sanctions; and/or
  - (ii) the nomination of the Load Port, as appropriate: (A) substitute; or (B) require the other Party to use reasonable endeavours to substitute, such Load Port with another loading port that is not restricted or otherwise affected by such Sanctions, subject to: (1) the Product from such loading port meeting the Quality Specifications; (2) ship-shore compatibility between such loading port and the applicable vessel; and (3) acceptance of the applicable vessel by such substitute loading port; and/or
  - (iii) the nomination of the Discharge Port, as appropriate: (A) substitute; or (B) require the other Party to use reasonable endeavours to substitute, such Discharge Port with another discharge port that is not restricted or otherwise affected by such Sanctions, subject to: (1) ship-shore compatibility between such discharge port and the applicable vessel; and (2) acceptance of the applicable vessel by such substitute discharge port,

and if the Vessel, the Load Port and/or the Discharge Port is substituted in accordance with this Clause 14.8 such that the performance by the relevant Party of its obligations would not be in violation of, or inconsistent with, any Sanctions applicable to such Party and would not expose such Party or any of its Affiliates

to punitive measures under any such Sanctions, then such Affected Transaction shall cease to be an Affected Transaction for the purposes of the Agreement.

- (c) The Notifying Party may immediately suspend performance of all its obligations under an Affected Transaction until such time as it may lawfully and without exposure of such Party or any of its Affiliates to punitive measures under any Sanctions, perform the relevant Agreement.
- (d) Notwithstanding anything in this Clause 14 to the contrary, neither Party shall be required to do anything which constitutes a violation of, or would be in contravention of, or would expose it or any of its Affiliates to punitive measures under any Sanctions.

#### 14.9 Termination due to Sanctions

If suspension under Clause 14.8(c) continues for a consecutive period of at least thirty (30) days, either Party may, by written notice to the other Party, terminate the Affected Transaction with immediate effect, and:

- (a) upon termination there shall be no further liability on either Party save for any accrued rights or remedies which would not be in violation of or otherwise prohibited by Sanctions applicable to a Party, provided that any payment obligations arising prior to termination of the Agreement and any Affected Transaction which have been incurred but not yet paid shall continue to be suspended until such time as the relevant Party may lawfully, and without exposure of the Notifying Party or any of its Affiliates to punitive measures, resume payment and discharge such payment liability to the other Party payment would no longer violate or be prohibited by such Sanctions and not be affected by such termination; and
- (b) in the event that a payment arising pursuant to this Agreement cannot be made in United States Dollars due to Sanctions or applicable laws, the Parties shall review and mutually agree in writing the applicable payment settlement currency and the relative rate of exchange provided such does not contravene any Sanctions or applicable law, regulation or decree binding upon a Party and shall amend, or procure the amendment of Agreement accordingly. The rate of exchange is to be fixed using an internationally recognized and tradable daily fixation, the date of which shall be mutually agreed by the Parties.

14.10 Notwithstanding the provisions of this Clause 14, it is the express responsibility of the Buyer to keep itself informed of any sale and/or delivery restrictions and ensure compliance. Should the Buyer have, or could have, difficulty in complying with the above due to any conflicting law, policy, demand or request from another government or agency thereof, then the Buyer shall advise the Seller immediately and the Parties shall jointly review the implications.

#### 15. **FORCE MAJEURE**

15.1 No failure, delay or omission by either Party to fulfil any of its obligations under the Agreement, in whole or in part, shall give rise to any claim against such Party or be deemed to be a breach of the Agreement by such Party if and to the extent such failure, delay or omission arises from events that are beyond the reasonable control of the affected Party to avoid, prevent or overcome, (each an event of "**Force Majeure**"), except in relation to each Party's respective obligations concerning payment and the provision of

security and documentation. Subject to the foregoing, such events shall include, but not be limited to:

- (a) the refusal of the Government to sell or allow the sale of Product to the Seller or the Seller's supplier;
  - (b) compliance by the Seller or the Seller's supplier with contractual obligations to the producing country's government (or any agency thereof);
  - (c) compliance with laws, regulations, orders, guidelines, requests, or the like of any government (or agency thereof) or international organizations;
  - (d) the restriction on production of Product by reason of the imposition by the Government or person purporting to act under governmental authority of conditions or requirements which in the reasonable judgment of the Seller or the Seller's supplier make it necessary to cease or reduce the production of said Product;
  - (e) expropriation, nationalization, confiscation, allocation, or requisitioning of Product by an act of a government (or any agency thereof);
  - (f) war (declared or undeclared), embargoes, blockades, acts of the public enemy, pirates, assailing thieves or other belligerents, civil unrest, riots or disorders, terrorism, sabotage, revolutions or insurrections;
  - (g) fires, explosions, lightning, maritime peril, collisions, strandings, storms, sea state, landslides, earthquakes, floods, epidemic, disease, pestilence, and other actions of the elements;
  - (h) strikes, lockouts or other labour difficulties;
  - (i) disruption or breakdown of Product production, storage, transportation or loading facilities, equipment, labour or materials (in each case either at the Seller's supplier or at the Seller's storage facilities or warehouse(s));
  - (j) closing or restrictions on the use of harbours, pipelines or any applicable Load Port;
  - (k) any interruption in Seller's source of supply or loss or damage to, or failure or depletion of Seller's source of supply that reduces the quantity of Product that can be supplied by the Seller; or
  - (l) Seller's inability to acquire from its usual supply source(s) Product, materials or services.
- 15.2 Notwithstanding the above, where a delay occurs or is anticipated to occur due to Force Majeure, the affected Party shall give prompt notice to the other Party in writing thereof and give details of the cause and an estimate of the impact and duration of the delay. Upon cessation of the event of Force Majeure, the affected Party shall promptly resume performance of its obligations and keep the other Party updated on the progress made in such efforts.
- 15.3 Notwithstanding Clause 15.2, if a Force Majeure event takes place before loading with an impact on the Accepted Date Range, the Seller has the right to postpone delivery of the Product until such time when loading can take place without delaying or interfering with



the loading of other vessels, which at the time the Force Majeure occurred were scheduled to load after the Accepted Vessel.

- 15.4 During any period that the Seller is unable to obtain sufficient Product to meet its obligations under the Agreement due to Force Majeure, the Parties shall jointly review and negotiate an acceptable outcome to mitigate the consequences, however:
- (a) subject to Clause 15.6, neither Party may unilaterally cancel or terminate the Agreement, nor extend the Agreement to make up for time or Product lost;
  - (b) the Seller shall be entitled to allocate its available supplies of Product from any source at its sole and absolute discretion;
  - (c) the Seller shall not be obliged to purchase Product to supply the shortfall;
  - (d) the Buyer shall be free to purchase any Product from other parties at its own risk and cost; and
  - (e) the shortfall quantity of Product not supplied by the Seller to the Buyer shall be deducted from the quantity required to be delivered under the Specific Agreement.
- 15.5 The Parties' performance under the Agreement shall be resumed as soon as is practicable after the Force Majeure event and its effects have ceased.
- 15.6 If by reason of Force Majeure the fulfilment by either Party of any terms and conditions of the Agreement is delayed for a period exceeding ninety (90) days, either Party shall have the right to terminate the Agreement by giving not less than thirty (30) days' written notice thereof.
- 15.7 Nothing contained in the Agreement shall relieve the Buyer of its obligations to pay in full for all Product sold hereunder or to make any other payment (including under any indemnity) which has become due and payable under the Agreement prior to, during or after the occurrence of any Force Majeure.
- 15.8 The Party affected by the Force Majeure shall use its reasonable endeavours to mitigate, rectify and overcome the effects of any Force Majeure Event and to minimize the effect on the other Party.
- 15.9 No Party shall be excused as a result of Force Majeure with respect to such Party from making timely payment of any monies due and payable under this Agreement.
- 15.10 Any period during which performance of any obligation, other than a payment obligation, is prevented or hindered due to the occurrence of an event or circumstance of Force Majeure shall be added to the period or periods set out in this Agreement for the performance of such obligation. Notwithstanding the foregoing, the term of the Agreement as set out in the Specific Agreement shall not be extended in any circumstances.

## **16. GOVERNING LAW AND SETTLEMENT OF DISPUTES**

### **16.1 Governing Law**

The Agreement shall be governed by and construed in accordance with the laws of England and Wales, save for the application of its provisions on conflict of laws which, if applied, would result in the application of the laws of another jurisdiction. Notwithstanding the above, where the Buyer is located in, and Product is shipped to, Germany, Clause 4.2 shall be governed by the laws of Germany.

## 16.2 Mutual Agreement

The Parties shall act in good faith to try to settle any claim, dispute or difference of whatever nature arising under, out of or in connection with the Agreement, including an unresolved claim, dispute or difference regarding the existence, termination or validity of the Agreement (a "**Dispute**") amicably through negotiations and other constructive discussions within sixty (60) days of notification of such Dispute by either Party as follows:

- (a) the claimant shall communicate to the other Party the nature of the Dispute;
- (b) within fourteen (14) days of such communication, the Party to which the Dispute has been submitted shall accept or refuse such Dispute or agree or refuse to settle such Dispute;
- (c) should the Dispute be refused or not settled, then representatives from each Party shall meet within twenty eight (28) days of the initial communication of the Dispute and try to settle it;
- (d) the Parties shall advise each other in writing of the outcome of the meeting within the following fourteen (14) days; and
- (e) further meetings shall be conducted as soon as practicable after the initial meeting in order to expedite the amicable resolution of the Dispute within the sixty (60) days referenced in the first paragraph of this Clause 16.2.

## 16.3 Expert

- (a) Should any matter related to the Agreement require the assistance of an expert (the "**Expert**"), the Party requesting the appointment of the Expert shall give notice to the other Party giving details of the question proposed to be determined by the Expert. The Parties shall jointly appoint the Expert and determine his terms of engagement.
- (b) The Expert appointed pursuant to these provisions shall be qualified by education, training, and experience to determine the question in Dispute. No Expert shall be appointed who is or at any time has been an employee or agent of the Seller or the Buyer, or who has an interest (financial or otherwise) which conflicts or may conflict with the Expert's impartiality versus the Parties.
- (c) If, within fourteen (14) days from the service of the notice under Clause 16.3(a) , the Parties have failed to appoint the Expert, then the Expert shall be appointed by the International Centre for Expertise in accordance with the provisions for the appointment of experts under the Rules of Expertise of the International Chamber of Commerce.
- (d) The Expert shall be instructed, as soon as possible after his appointment, to fix a reasonable time and place (or method) for receiving submissions and information from the Parties, and the Expert may make such other inquiries and require such other evidence as may be necessary for determining the issue in question. The Expert shall be instructed to render his decision within one month of his appointment, with a possible extension of fourteen (14) days if justified by specific circumstances, such as delays in the Parties' provision of pertinent information.
- (e) Each Party shall provide all necessary information and evidence for the Expert to perform his required function.

- (f) The Expert shall not act as an arbitrator, and shall render his decision only as an expert. No law relating to arbitration shall apply to such Expert, his determination, or the procedure by which he reaches his decision.
- (g) The Expert's decision shall be made in writing, contain the reasons for such decision, and shall be final and binding on the Parties, except in the case of fraud, manifest error, conflict of interest, or corruption.
- (h) Each Party shall bear its own costs related to the Expert decision; however, the Parties shall share the costs of the Expert equally between them.

#### 16.4 Arbitration

Any Dispute that the Parties are unable to resolve by mutual agreement pursuant to Clause 16.2 shall be exclusively and finally settled as follows:

- (a) If a Party considers that a Dispute exists which it has not been possible to settle by mutual agreement, it may give notice to the other Party and such Dispute shall be resolved by arbitration. Arbitration shall be conducted in accordance with the Rules of Arbitration of the International Chamber of Commerce (the "**Rules**") as in force on the date that one Party notifies the other Party that it wishes to commence arbitration proceedings, except as modified by the provisions of this Clause 16. The administering body shall be the International Chamber of Commerce.
- (b) Any arbitration initiated under this Clause 16 shall be conducted by a tribunal of three (3) arbitrators. Each Party will nominate an arbitrator. The third arbitrator (who will be the chairman of the arbitration tribunal) shall be appointed by the two (2) arbitrators nominated by the Parties.
- (c) The place of arbitration shall be London, England.
- (d) The arbitration shall be conducted in English, and all arbitrators shall be fluent in English.
- (e) The arbitration tribunal shall decide all questions strictly in accordance with the terms of the Agreement and shall give effect to the same. The arbitration tribunal's decision shall be in writing and shall be confidential. The arbitration tribunal shall make such order for costs as it sees fit in its sole discretion.
- (f) Without prejudice to the arbitration provisions herein, either Party may apply to judicial authorities for interim or conservatory relief and protection against actual or threatened breach of this Agreement, or use of confidential information including the remedies of injunction, specific performance, and other equitable remedies. The arbitrators' mandate shall continue until registration of the award.
- (g) The Parties agree that the arbitrators' award shall be final and binding upon the Parties, and that the Parties shall give effect to and comply with any such award. The Parties agree to exclude and waive any appeal right to any court which would otherwise have jurisdiction over the Dispute or out of the award. Any Party may, however, make an application to any court having jurisdiction for registration of the award, for the arbitral award to be recognized and enforced, including enforcement of any award granting interlocutory relief, against any Party and for the obtaining of any evidence (whether by discovery of documents, interrogatories, affidavits, or testimony of witnesses, or whatever) which the arbitrators direct shall be admitted in the arbitral proceedings.

- (h) Notwithstanding the other provisions of this Clause 16, any Dispute may be referred for settlement to an alternative dispute resolution mechanism, if all the parties to the Dispute agree that such alternative is more appropriate to the circumstances.
- (i) The arbitrators may, upon the request of a Party, add a third party to the arbitration at any time.
- (j) The Parties agree that if a Dispute which is or is to be referred to arbitration hereunder:
  - (i) raises issues which are substantially the same as, or are connected with, issues raised in a claim or dispute arising out of any other agreement between the Seller and the Buyer and which has already been referred to arbitration; or
  - (ii) arises out of substantially the same facts as are the subject of a related claim or dispute as described above,

then the arbitrators appointed in respect of the related claim or dispute shall also become the tribunal in respect of the Dispute under the Agreement. Such arbitrators shall have the power to make all necessary directions also as to the determination of the Dispute as they may consider appropriate.

#### 16.5 Miscellaneous

- (a) Should any term within the Agreement be determined to be inconsistent or in conflict with the laws of England and Wales, then such term shall be deemed omitted or amended to conform with the laws of England and Wales without affecting any other term or the validity of the Agreement.
- (b) Neither the Seller nor the Buyer shall waive any of their rights whatsoever under the Agreement should they delay or not insist on the strict performance of any of the terms and conditions of the Agreement, which shall remain in full force and effect. All rights, benefits and remedies are cumulative to those provided for by the applicable law.
- (c) Each Party hereby consents, in respect of any legal action or proceedings arising out of or in connection with the Agreement, to the giving of any relief or the issue of any process in connection with such action or proceedings in respect of the making, enforcement or execution of any order, judgement or award which may be made or given in such action or proceedings against its assets as may be invested in financial, commercial or industrial activities, or deposited in banks (except any assets or properties of the Government which may be necessary for its proper functioning as a sovereign power).
- (d) Each Party in relation to the Agreement (i) hereby represents and warrants that it has entered into the Agreement and it is acting in a commercial capacity and (ii) hereby irrevocably consents for the benefit of the other Party not to claim and hereby irrevocably waives immunity from suit for itself and from execution or attachment in respect of its assets as may be invested in financial, commercial or industrial activities, or deposited in banks, except for any assets or properties of the Government which may be necessary for its proper functioning as a sovereign power.
- (e) The United Nations Convention on Contracts for the International Sale of Goods of Vienna, 11th April 1980, as amended, shall not apply to the Agreement.

- (f) The Buyer understands that the Agreement is subject to any and all applicable laws of England and Wales, and shall not knowingly take any action that would violate or cause the Seller or the Government to be in violation of or penalized under any applicable law of any jurisdiction.
- (g) Nothing in this Agreement shall be considered or construed as conferring any rights or benefits on a person not a Party to this Agreement and the Parties do not intend that any term of this Agreement should be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999, by any person who is not a Party to this Agreement.

## 17. TERMINATION AND SUSPENSION

- 17.1 If a Party enters into an arrangement with its creditors or goes into bankruptcy or liquidation of any kind (for the purpose of this Clause 17.1, the "**Insolvent Party**"), whether compulsory or voluntary, or is subject to any other analogous proceedings, then the other Party may forthwith terminate the Agreement upon written notice to this effect to the Insolvent Party or its representatives. Such termination shall not affect the rights of either Party against the other insofar as these rights were accrued prior to such termination, but neither shall such termination create any liability of the other Party towards the Insolvent Party.
- 17.2 The Agreement may be terminated or suspended upon thirty (30) days' written notice, without prejudice to any right of action or Dispute accrued to that date, by the Party not in default in the event of a material breach by the other Party unless the failure is remedied by the defaulting Party within thirty (30) days of receipt of the aforementioned written notice. Such material breach shall include the following events:
  - (a) Buyer's failure to nominate a Vessel in accordance with the Agreement; or
  - (b) Seller's failure to make delivery of the Product at the Delivery Point in accordance with the Agreement, save as to the extent the Seller's failure is due to Force Majeure.
- 17.3 Notwithstanding Clause 17.2, the Agreement may be terminated or suspended with immediate effect upon written notice, without prejudice to any right of action or Dispute accrued to that date, by the Party not in default in the event of any of the following material breaches:
  - (a) either Party's failure to comply with the Ethical Standards requirements as per Clause 23;
  - (b) Buyer's failure to comply with Clause 14;
  - (c) Buyer's failure to make payments by the Due Date (or Adjusted Due Date as applicable) or to provide financial security if required by the Seller as per Clause 13;
  - (d) Buyer's failure to take delivery of the Product at the Delivery Point in accordance with the Agreement;
  - (e) either Party goes into liquidation or enters into an arrangement of composition with its creditors or suffers a like insolvency event.
- 17.4 The Agreement may also be terminated by:
  - (a) either Party, in the event of Force Majeure lasting for more than ninety (90) days, as per Clause 15.6; or

(b) the Seller, due to a change in laws, pursuant to Clause 18.

## **18. NEW AND CHANGED LAWS**

The Buyer acknowledges that the Seller is entering into the Agreement in reliance of the legislation in force at the date of execution in relation to the Product sold hereunder, including that relating to its production, manufacturing, transportation, marketing and delivery. If at any time during the validity of the Agreement, any such legislation is changed or any new legislation becomes effective with a consequent material negative economic impact on the Seller, the Seller shall have the right to request a renegotiation of the relevant terms and conditions of the Agreement in order to restore the original economic balance. Such right may be exercised by the Seller at any time by written notice to the Buyer, such notice to set out the desired changes to be agreed. If the Parties do not agree on the changed required to restore the original economic balance within thirty (30) days after the date of Seller's notice, the Seller shall have the right to terminate the Agreement with effect at the end of such thirty (30) day period.

## **19. LIABILITY**

- 19.1 Unless expressed otherwise herein, neither the Buyer nor the Seller shall be liable under any circumstances for indirect, special, punitive, or consequential damages in relation to the performance (or non-performance) of the Agreement, including the following heads of loss howsoever arising, whether directly or indirectly: (i) loss of production, (ii) loss of use, (iii) loss from business interruption, (iv) loss of profit, (v) loss of business, (vi) loss of goodwill or reputation, or (vii) wasted expenditure. For the avoidance of doubt, the foregoing principles shall also apply to any indemnity given pursuant to the Agreement (including any Letter of Indemnity).
- 19.2 Unless Seller's liability is excluded or more strictly limited pursuant to the Agreement, in which event such an exclusion or stricter limitation should prevail over this Clause 19, should there be any claim against the Seller and/or any of Seller's Affiliate's, including with respect to the quality and/or quantity of the Product supplied, and/or any delay and/or failure in the supply of the Product), then the Seller and any of Seller's Affiliate's total liability for any claim arising out of or in connection with the Agreement including without limitation for breach of contract, breach of warranty, breach of statutory duty, or tort (including Seller's or its Affiliate's negligence), whether by virtue of strict liability or otherwise, shall not exceed (i) the Price of the relevant quantity of Product delivered or, (ii) if liability arises from a failure to deliver and only if Buyer purchases the same Product from a third party, the difference between sale price of the relevant quantity of Product had it been delivered and the market price of the Product (as published in an international publication for the same destination, or in the same region if the same destination is not available) on the date it would have been delivered if such market price exceeds the sale price whether or not Buyer purchases product from such third party at a price that exceeds the market price.
- 19.3 In any event, or combination of events, the Seller's liability shall be limited to the value of the BL quantity (or Accepted Quantity if there is no BL) of the Product specified for the specific delivery in the Agreement.
- 19.4 Any claim or Dispute by the Buyer shall be deemed time barred unless the Buyer notifies its claim or Dispute to the Seller in writing within the period(s) defined as applicable in the Agreement or, in the absence of any such express period, within thirty (30) days of the receipt of the Product and provides within the aforementioned timeframe as much

supporting documentation and detail as is available, including an estimate of the total claim.

- 19.5 Without prejudice to any other right or remedy that may be available to the Seller and without limiting Buyer's liability, if the Buyer fails or is prevented to accept delivery of the Product (including a failure to nominate under Clause 6.6 or failure to comply with Clause 6.14) in accordance with the terms of the Agreement without Seller's consent, the Seller is irrevocably authorized, without the need for any judgement, arbitral award or order, subject to having provided the Buyer with two days' prior written notice, to sell at Buyer's cost the Product to any third party at those terms and conditions of sale that the Seller will deem opportune in its sole discretion, collect the consideration of such a sale, set the said consideration off any amount due by the Buyer to the Seller under the Agreement, including for the price of the Product, marketing costs and all extra freight costs arising out of Buyer's failure, and remit the balance, if any, to the Buyer. Should the actual consideration of such a sale received by the Seller be less than the amounts due by the Buyer under the Specific Agreement, the Seller shall have the right to charge to the Buyer (and the Buyer has the obligation to pay to the Seller) the difference between the amounts due from the Buyer and the actual consideration of such a sale as actually received by the Seller
- 19.6 Notwithstanding anything stated herein, the Buyer shall defend, indemnify, and hold the Seller harmless against any liability (whether strict, absolute or otherwise) for any claim, loss, damage or cost and expense including, but not limited to, reasonable legal fees, attorneys' fees and other costs of dispute resolution, on account of any injury, disease or death of persons, or damage to property or the environment arising out of or in connection with (i) Buyer's purchase, unloading, storage, handling, use, sale or disposal of Product, and/or (ii) any failure by Buyer to disseminate safety and health information pursuant to the Agreement.
- 19.7 Notwithstanding any contrary provision in the Agreement, neither Party limits or excludes its liability in respect of any costs, losses, damages, expenses or liability caused by its gross negligence, willful misconduct, any fraud or any statutory or other liability which cannot be excluded under applicable law.
- 19.8 The Buyer acknowledges that the Seller has appointed a Delegate. Subject to Clauses 19.1 and 19.7 and in addition to the indemnity under Clause 19.6, the Buyer agrees to be responsible towards the Delegate for any costs, losses damages, expenses and liabilities suffered by the Delegate as a result of any breach of the Agreement by the Buyer and further agrees to defend, indemnify, and hold harmless the Delegate in respect of any such costs, losses, damages, expenses and liabilities.
- 19.9 Notwithstanding any contrary provision in the Agreement, except for claims or Disputes related to the payment for the Product or interests for late payment thereof, neither Party shall be liable to the other Party for Disputes which are equal to or less than an amount of

Applicable Currency equivalent to USD One Thousand (USD 1,000); each Party hereby waives any right to recover any amounts for such Disputes.

19.10 Each Party shall use all reasonable endeavours to mitigate any and all costs, losses, damages and expenses that could be claimed against the other Party.

19.11 This Clause 19 shall remain effective after the expiry and/or termination of the Agreement.

## **20. THIRD PARTY RIGHTS**

20.1 The Agreement has been entered into for the sole benefit of the Seller, including the Delegate of the Seller, and the Buyer.

20.2 Nothing in the Agreement, express or implied, is intended to create or confer upon any person (other than the Seller, including the Delegate of the Seller and the Buyer and their respective successors and permitted assignees) any rights, remedies, third party status or obligations, beneficiary status or liabilities under or by reason of the Agreement.

## **21. ASSIGNMENT**

21.1 Without prejudice to Clauses 10.15 and 21.2, neither Party has the right to assign, transfer or otherwise dispose of its rights and obligations under the Agreement, in whole or in part, without the prior consent in writing of the other Party, which consent shall not be unreasonably withheld or delayed. Upon such consent the assignee shall assume all rights and obligations and shall be subject to all terms and conditions of the Agreement as if such assignee were a Party to the Agreement initially. However, whenever an assignment, transfer or other disposal is made, the assigning Party shall remain jointly and severally responsible with the assignee for the full performance of their obligations under the Agreement.

21.2 Notwithstanding Clause 21.1 above, the Seller may, in its absolute discretion, assign, transfer or otherwise dispose of its interests in the Agreement to any entity that is either (directly or indirectly) wholly owned or controlled by the Government provided that such entity undertakes in writing to succeed to and assume all of the rights and obligations of the Seller. The Seller shall not be obliged to remain jointly and severally responsible for the performance of such entity's obligations following any such assignment, transfer or disposal, which will become effective upon Seller's written notice to the Buyer.

## **22. HEALTH, SAFETY AND ENVIRONMENT**

22.1 The Buyer shall ensure that it, its agents, contractors and its respective employees take care and attention for the proper and safe handling, storage, transportation, use and/or disposal of the Product sold under the Agreement, including, but not limited to, the provision of appropriate equipment, information and training to staff, contractors and agents.

22.2 Each Party shall comply with all legislation, permits and consents applicable at and in the Load Port, as well as all international treaties and regulations signed by the country supplying the Product, the Terminal Regulations and/or Procedures and the Load Port Authority Regulations.

22.3 The Seller shall be responsible for procuring and maintaining all permits and consents necessary for the performance of its obligations under the Agreement and the Buyer shall be responsible for procuring and maintaining all permits and consents necessary for the performance of its obligations under the Agreement.

22.4 The Seller may furnish Buyer with material safety data sheets on Product, which include health, safety, security and environment ("**HSSE**") information consistent with regulatory



requirement. Buyer acknowledges and is aware that Seller shall provide on its website material safety data sheets on Product.

- 22.5 The Buyer shall be responsible for, and provide all necessary HSSE information, documentation, guidance and advice to its agents, contractors, employees, customers, end users and any entity that receives the Product, as required by law, or which Buyer foresees may be exposed to Product regarding the handling and use of the Product. The Buyer represents and warrants that it has in place a health, safety and environment management system and a crisis response plan.
- 22.6 The Buyer shall not and shall require its customers and end users not to use the Product for any other purpose other than for the intended normal use and in accordance with applicable laws and regulations. The Buyer irrevocably agrees that Seller shall not be liable (howsoever) for the Buyer's purchase, use, misuse, unloading, storage, handling, transportation, sale or disposal of the Product or for the violation of any applicable law related to the Product or the Agreement. The Buyer represents having substantial expertise in the Product and being familiar with the Seller's Product. The Buyer assumes all risks and liabilities for the use or disposal of the Product, whether used singly or in combination with other material.

### **23. ETHICAL STANDARDS**

- 23.1 Each Party in connection with this Agreement represents and warrants that such Party and its Affiliates and its and their respective officers, directors, employees, representatives or agents or any other person acting on behalf of them, have not made, given, offered, received, promised or authorized any payment, gift, advantage or other things of value, whether directly or indirectly, to or for the use or benefit of any Public Official, any political party or any other individual or entity, to improperly influence actions or decisions of any third party (including any Public Official), to secure any improper advantage or to improperly obtain or retain business or procure the consummation of the transactions contemplated by any Agreement, or with the intent of causing the recipient or another person to violate his or her duty of loyalty to another company or organization or as a reward for having done so, which would violate or be inconsistent with the Anti-Corruption Laws.
- 23.2 Each Party in connection with this Agreement covenants that such Party and its Affiliates and its and their respective directors, officers, employees, personnel, representatives and agents have not and will not make, offer, authorize, request, receive or accept any payment, gift, promise, entertainment, or other advantage, whether directly or through any other person or entity, to or for the use or benefit of any Public Official, or any other individual or entity, which would violate or be inconsistent with the Anti-Corruption Laws.
- 23.3 Each Party, in connection with this Agreement, shall establish and maintain in effect appropriate business standards, procedures and controls in order to comply with the requirements of this Clause 23 and applicable Anti-Corruption Laws.
- 23.4 Each Party shall as soon as practicable notify the other Party of any investigation or proceeding formally initiated by a Governmental Authority relating to an alleged violation of applicable Anti-Corruption Laws by such Party, or its Affiliates, or any of its or their directors, officers, employees, representatives, agents and personnel of any tier, or any service providers of such Party or its Affiliates, in connection with this Agreement.
- 23.5 Such Party shall use reasonable efforts to keep the other Party informed as to the progress and disposition of such investigation or proceeding, and shall promptly respond in reasonable detail to any reasonable request from any other Party concerning a notice sent

by such Party and shall furnish applicable documentary support for such Party's response, except that such Party shall not be obligated to disclose to the other Party any information that would be considered legally privileged.

- 23.6 Each Party shall indemnify the other Party for any damages, losses, penalties, costs (including reasonable legal costs and legal advisors' fees), and liabilities arising from, or related to the events underlying:
- (a) such Party's admission or other resolution (with or without any admission of guilt or responsibility) of allegations made by a Governmental Authority, including through deferred prosecution or non-prosecution agreements, in connection with this Agreement, that such Party or its Affiliates, or its or their directors, officers, employees, or personnel have violated the Anti-Corruption Laws applicable to such Party; or
  - (b) the final adjudication in connection with this Agreement, that such Party or its Affiliates, or its or their directors, officers, employees, and personnel have violated the Anti-Corruption Laws applicable to such Party.
- 23.7 The indemnity under Clause 23.6 shall not apply for the benefit of any Party having materially breached its warranty and/or covenants set out in this Clause 23. This indemnity obligation shall survive termination or expiration of this Agreement.
- 23.8 It is agreed and understood that each Party's warranties and covenants in Clause 23 extend to include any type of facilitation payment, whether or not in violation of any Anti-Corruption Laws.

## **24. CONFIDENTIALITY**

- 24.1 All information contained in, and relating to the Agreement, is confidential as between the Seller and the Buyer for the duration of the Agreement and for three (3) years thereafter. Neither Party shall disclose information or documents about the Agreement to any third party without the other Party's prior consent in writing, and, if required by the disclosing Party, subject to a written undertaking of confidentiality by such third party. These GTCs standing alone are not Seller's confidential information.
- 24.2 The obligations of non-disclosure and of confidentiality shall not apply to the Agreement or information or documents of the disclosing Party to the extent that they:
- (a) are or become known to the receiving Party independently of any disclosure by the disclosing Party or any agent or Affiliate or shareholder of the disclosing Party, which has not been wrongly disclosed to or obtained by such receiving Party and in respect of which there is no bar against disclosure;
  - (b) are, or have become, public knowledge otherwise than through a wrongful act or default of the receiving Party or a person to whom the receiving Party is permitted to disclose such confidential information hereunder.
- 24.3 If a receiving Party is required to furnish the Agreement or any other confidential information of the disclosing Party in any arbitration or legal proceedings (other than arbitration or legal proceedings between the Parties themselves), the receiving Party shall be entitled to make such disclosure provided that prior to any such disclosure the receiving Party shall, to the extent permitted by law, immediately notify the disclosing Party of such fact, and shall make every reasonable effort to contest such requirement and/or obtain protective orders limiting the disclosure of the Agreement or other confidential information of the disclosing Party, and secure for the disclosing Party the opportunity to seek relief

from the requirement of disclosure from the arbitrator or authority conducting the legal proceeding.

- 24.4 To the extent required, a receiving Party may disclose the Agreement or other confidential information of the disclosing Party to the following persons who require such disclosure for the proper performance of their duties related to the Agreement:
- (a) directors, officers, employees of the receiving Party or its Affiliates, banks or other financial institutions and communicated in accordance with the regulations of a recognized stock exchange;
  - (b) any consultant, auditor, accountant, legal counsel or agent retained by the receiving Party, or
  - (c) any relevant governmental authority having jurisdiction over the receiving Party, provided that, in case of Clauses 24.4(a) and 24.4(b), any such receiving person undertakes in writing, or is under a duty to the disclosing Party, to maintain the confidentiality of such information.
- 24.5 The receiving Party will use Confidential Information of the other Party solely for purposes of performing its obligations under this Agreement.
- 24.6 Without prejudice to Clause 24.4, the Seller may disclose to the Delegate this Agreement and any other confidential information disclosed by or received from the Buyer hereunder.

## **25. NOTICES**

- 25.1 All notices, nominations, confirmations, and other communications for the purposes of the Agreement shall be in English and must be made to the other Party in writing and delivered in person, sent by personal delivery, courier, facsimile or email. Such notice shall be deemed to have been received as follows:
- (a) in relation to notices given in person or by courier: if delivered on a Working Day, at the time of delivery, or if delivery did not take place on a Working Day then on the first Working Day following the day of delivery in person,
  - (b) in relation to notices given by facsimile where an answerback is provided and can be certified, if the recipient's answerback is received on a Working Day before 15:00 hours, then on that day; in any other case, on the first Working Day following the day on which the recipient's answerback is received, and
  - (c) in relation to notices given by email: if dispatched on a Working Day, on the day of delivery, or if delivery did not take place on a Working Day, then on the first Working Day following the day of delivery, in all cases provided that the sender does not receive back any failure of transmission communication from the server.
- 25.2 The address for notices for each Party shall be as set out in the Specific Agreement
- 25.3 The Seller and the Buyer may modify their respective addresses for notices at any time upon at least fifteen (15) days advance written notice to the other Party.

## **26. MISCELLANEOUS**

### **26.1 Amendments**

All changes, updates and modifications of the Agreement shall only be effective once formally detailed and confirmed in writing by the Parties as having been agreed.

## 26.2 Brand, trademarks, partnerships and agencies

Nothing in these GTCs:

- (a) shall give the right for either Party to use any brand or trademark or other intellectual property right used and/or owned by the other Party; or
- (b) is intended to or shall operate to create a partnership, agency, unincorporated association or other co-operative entity between the Seller and the Buyer.

## 26.3 No Waiver

- (a) Neither Party shall be deemed to have waived, released or otherwise modified any of its rights hereunder unless such Party has expressly stated its intention to do so in a written instrument duly executed by such Party, provided further that any such instrument shall relate only to such matter to which it expressly refers, and therefore shall not apply to any other matter or to any prior, concurrent, or subsequent matter. For avoidance of doubt, no failure or delay by a Party to exercise any right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- (b) If any provision of the Agreement is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such finding shall not affect, impair or invalidate the other provisions of the Agreement, unless the exclusion of the invalid or unenforceable provision results in a material change which causes the transactions contemplated herein to be unreasonable, and all remaining provisions not affected by such finding shall remain in full force and effect. The Parties agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves, to the greatest extent possible, the economic, legal, and commercial objectives of the invalid or enforceable provision.

## 26.4 Operator, Agent, Delegate and Representative

Any references within the Agreement to the Seller or the Buyer performing an obligation or exercising a right shall not be interpreted as personal to the Seller or the Buyer so as to prevent an operator, agent, delegate or representative from performing such obligation or exercising such right on behalf of the Seller or the Buyer; provided always that each Party shall remain liable to the other under the Agreement for procuring the performance of such obligations and for the actions of any operator, agent, delegate or representative, as the case may be.

## 26.5 Recording of Conversations

Both Parties have the unconditional right to record any and all negotiations and conversations and such recordings may be used for its' own purposes and in evidence in any proceedings relating to this Agreement and for the purposes of other commercial matters between the Parties.

## 26.6 References

All references to documents, codes, publications, standards, conventions, laws, rules, guidelines, regulations and decrees, include all updates, amendments, supplements and replacements thereof.

## 26.7 Further assurances

Each Party shall, at its own expense, execute and deliver all such documents and instruments and do all such acts as the other Party may reasonably require in order to

give full effect to the intent and meaning of this Agreement and the transactions contemplated by it.

**26.8 Time of the essence**

The Agreement has been entered into by the Parties on the specific understanding that, where a time period is stated, time is of the essence in the performance of the Agreement.

**26.9 Entire Agreement**

The Agreement constitutes the entire understanding and agreement between the Buyer and the Seller for the transactions described therein. For all matters covered in the Agreement it supersedes any prior understanding, agreement and/or statement of intent in the negotiations, both written and oral, that relate to the Agreement

**27. REACH**

**27.1 Imports in a country outside the European Union or the European Economic Area.**

The Party that imports the Product into any country or jurisdiction outside the European Union or the European Economic Area warrants and agrees that in connection with importation of the Product it will take all steps to ensure that

- (a) any transportation, handling, delivery, presentation, importation, distribution, and disposal of such Product, and
- (b) its label, packaging, and any accompanying information,

meet the requirements of the applicable laws and regulations, including, but not limited to, requirements with respect to registration, notification, reporting, supply of information, such as safety data sheets and labelling, uses made of the Product, packaging, protective and safety measures, and any restrictions, authorizations, and approvals that may apply to the Product or specific constituents thereof.

**27.2 Imports in a country within the European Union or Europe Economic Area**

The Party which imports the Product into the European Union or the Europe Economic Area shall be solely responsible (and shall assume liability) for meeting any and all obligations imposed by the EU CLP Regulation (Regulation 1272/2008 of 16 December 2008, as amended) and the EU REACH Regulation (Regulation 1907/2006 of 18 December 2006, as amended), including, but not limited to, submitting, filing, making available and distributing any and all registrations, information, and applications in relation to the Product or any constituent thereof. For purposes of this section only, 'Product' means Product, and any other chemical substance or mixture incorporated into, included in, or mixed into the Product.

**27.3 Indemnity**

The Buyer shall indemnify, defend and hold harmless the Seller, its Affiliates, directors, officers and employees against any claim, damage, loss, cost and expense resulting from or relating to the Buyer's failure to comply with:

- (a) any jurisdictional import requirements and/or regulations in relation to the Product, and/or
- (b) any applicable REACH regulations (i.e. UK REACH, Korea REACH, Turkey (KKDIK) REACH etc.).

## 28. INTERPRETATION

The following rules of construction and interpretation apply to the Agreement unless a contrary indication appears:

- (a) References to Clauses and Appendices are references to the clauses and appendices of the Agreement.
- (b) The order of Clauses, sections and sub-sections, and their headings are for convenience only and do not affect interpretation of the Agreement.
- (c) The words "in the Agreement" and words of similar import are references to the Agreement as a whole and not any particular section or other provision of the Agreement.
- (d) Words denoting or implying any gender include all genders.
- (e) Words such as "including" and "include(s)" are to be interpreted as, respectively, "including without limitation" and "include(s) without limitation".
- (f) A reference to "in writing" or "written" includes facsimile and email.
- (g) The Gregorian calendar shall apply to the Agreement and any references to days, months, quarters and years in the Agreement are to days, months, quarters and years of the Gregorian Calendar. Unless expressly stated otherwise, all references to a time of day shall be a reference to the time of day in Doha, State of Qatar.
- (h) Where the Agreement specifies "... day notice", this shall always mean that the notification day equals day one (1), e.g. fifteen (15) day notice means that a notice given on the 1st day of the month shall be effective on the fifteenth (15<sup>th</sup>) day of the month. For the avoidance of doubt, where the last day for any notice to be given under the Agreement falls on a day which is not a Working Day, such notice shall be given on or before the first following Working Day.
- (i) The expression "person" includes any individual, firm, body corporate, unincorporated association, limited liability partnership, partnership, government, state or agency of state (whether or not having separate legal personality).
- (j) References in the singular shall include references in the plural and vice-versa.
- (k) Any term or expression not defined or clarified in these GTCs or in the Specific Agreement shall be interpreted in accordance with its usual meaning in the petroleum industry in the State of Qatar.
- (l) The Appendices to the Agreement form an integral part of this Agreement and references to this Agreement shall include the Appendices. The contents of the Appendices shall have effect as if expressly set out in the main body of the Agreement.
- (m) In the event of an inconsistency or conflict between the provisions of the Specific Agreement and the contents of any of the Appendices, the provisions of the main body of the Specific Agreement shall prevail.

\*

**APPENDIX 1(A) - DOCUMENTARY IRREVOCABLE LETTER OF CREDIT (FORMAT)**

**QUOTE:**

- 01- CONFIRMED DOCUMENTARY IRREVOCABLE LETTER OF CREDIT (L/C).  
L/C SHALL COVER THE VALUE OF THE SHIPMENT PLUS OR MINUS TEN PER CENT. (+/- 10%).  
L/C SHALL BE UNCONDITIONAL, IRREVOCABLE, AND VALID FOR SIXTY (60) DAYS FROM THE ACCEPTED DATE RANGE; AND SHALL BE ESTABLISHED AT LEAST TEN (10) WORKING DAYS BEFORE THE FIRST DAY OF THE ACCEPTED DATE RANGE.
- 02- THE LETTER OF CREDIT SHALL BE RECEIVED BY SELLER AT LEAST TEN (10) WORKING DAYS BEFORE THE FIRST DAY OF THE ACCEPTED DATE RANGE AND SHALL BE IRREVOCABLE, UNCONDITIONAL, IN THE APPLICABLE CURRENCY, BE VALID FOR SIXTY (60) DAYS, AND CONTAIN PRICE AND PAYMENT TERMS AS STIPULATED IN THE SPECIFIC AGREEMENT. THE LETTER OF CREDIT SHALL ALSO CONTAIN PROVISIONS ALLOWING THE VALUE TO BE AUTOMATICALLY ADJUSTED FOR MARKET PRICE FLUCTUATIONS. THE LETTER OF CREDIT SHALL BE CONFIRMED BY A LOCAL BANK IN QATAR ACCEPTABLE TO THE SELLER.
- 03- COVERING: ..... PRODUCT (PLEASE INSERT TYPE OF PRODUCT)  
VESSEL NAME: "....." OR SUBSTITUTE (PLEASE INSERT THE VESSEL INFORMATION)  
QUANTITY: ..... MT (+/- 5 %) (PLEASE INSERT THE AGREED QUANTITY)  
LIFTING DATE RANGE: (PLEASE INSERT THE ACCEPTED DATE RANGE)  
DELIVERY: [CFR/CIF] ..... TERMINAL, QATAR (PLEASE INSERT THE LOADING TERMINAL)
- 04- DESTINATION: (.....) PLEASE INSERT THE DESTINATION AND IT IS MANDATORY TO BE STIPULATED
- 05- BENEFICIARY: QATAR CHEMICAL AND PETROCHEMICAL MARKETING AND DISTRIBUTION COMPANY (MUNTAJAT) Q.P.J.S.C., P.O. BOX 3212DOHA, QATAR
- 06- BUYER: ..... (PLEASE INSERT FULL COMPANY NAME AND ADDRESS)
- 07- PRICE: AS PER THE SPECIFIC AGREEMENT (PLEASE INSERT THE PRICE FORMULA AS PER THE SPECIFIC AGREEMENT)  
IF THE FINAL PRICE IS NOT AVAILABLE BEFORE THE PAYMENT DUE DATE, THE SELLER SHALL INVOICE THE BUYER ON A 'PROVISIONAL BASIS' PAYABLE AS PER THE DUE DATE OR ADJUSTED DUE DATE COVERING THE SHIPMENT.  
ANY RESULTANT ADJUSTMENTS BETWEEN THE FINAL PRICE AND THE PROVISIONAL PRICE SHALL BE SETTLED AGAINST PRESENTATION OF SELLER'S DEBIT NOTE OR CREDIT NOTE THAT WILL BE PAID BY BUYER IN CASE OF DEBIT NOTE UNDER THIS L/C OR BY THE SELLER IN CASE OF

CREDIT NOTE TEN (10) DAYS FROM THE DATE OF DEBIT NOTE OR CREDIT NOTE (INVOICE DATE INCLUSIVE).

08- PAYMENT: DUE DATE SHALL BE THIRTY (30) DAYS FROM BILL OF LADING DATE (B/L DATE COUNTS AS DAY 1) IN US DOLLAR CURRENCY BY ESTABLISHED BANK LETTER OF CREDIT IN FAVOUR OF THE BENEFICIARY.

IF DUE DATE FALLS ON A NON BANKING DAY THE BUYER SHALL PAY THE SELLER ON OR BEFORE THE LAST PRECEDING BANKING DAY TO COMPLY WITH THE DUE DATE OR ADJUSTED DUE DATE.

09- THE REQUIRED SHIPPING DOCUMENTS (ORIGINAL PLUS ..... COPIES)

COMMERCIAL INVOICE (ORIGINAL PLUS ..... COPIES) INDICATING INVOICE AS FINAL OR PROVISIONAL (INVOICE NOT SHOWING PRICE CALCULATION / FORMULA IS ACCEPTABLE).

FULL SET OF (3/3) ORIGINAL PLUS (.....) NON-NEGOTIABLE COPIES OF CLEAN ON BOARD BILL OF LADING ISSUED OR ENDORSED TO THE ORDER OF (.....) MARKED FREIGHT PAYABLE AS (.....)

**N.B:** PLEASE STIPULATE IN THE L/C TO ORDER OF ..... B/L(S) TO BE ISSUED, FREIGHT PAYABLE I.E. AS AGREED, AS ARRANGED, OR AS PER CHARTER PARTY.

CERTIFICATE OF QUANTITY AND QUALITY (ONE DOCUMENT OR TWO SEPARATE DOCUMENTS)

CERTIFICATE OF ORIGIN ISSUED BY BENEFICIARY, CERTIFYING THAT THE GOODS ARE OF QATAR ORIGIN IN ONE ORIGINAL AND ONE COPY.

PORT TIME SHEET

MASTER'S RECEIPT FOR SAMPLE

MASTER'S RECEIPT FOR COPIES OF SHIPPING DOCUMENTS

10- OTHER TERMS AND CONDITIONS:

L/C AMOUNT IS AUTOMATICALLY ADJUSTED FOR ANY INCREASE/DECREASE AS PER PRICE CLAUSE IN THE SPECIFIC AGREEMENT WITHOUT ANY FURTHER AMENDMENT TO THIS LETTER OF CREDIT.

INSURANCE: TO BE COVERED BY APPLICANT.

TRANSHIPMENT: NOT ALLOWED

CHARTER/TANKER PARTY B/L(S) ACCEPTABLE.

PARTIAL SHIPMENT: ALLOWED.

MULTIPLE SETS OF DOCUMENTS AND BILLS OF LADING ARE ACCEPTABLE.

ALL BANKING CHARGES INSIDE QATAR ONLY ARE FOR BENEFICIARY ACCOUNT, AND ALL BANKING CHARGES OUTSIDE QATAR INCLUDING REIMBURSING BANK CHARGES AND CORRESPONDENT BANK CHARGES ARE FOR APPLICANT ACCOUNT.

DOCUMENTS PRESENTED LATER THAN TWENTY ONE (21) DAYS AFTER B/L DATE PROVIDED THEY ARE PRESENTED WITHIN L/C VALIDITY ARE ACCEPTABLE.



THIS LETTER OF CREDIT IS SUBJECT TO ICC UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS 2007 REVISION (UCP 600).

PROVISIONAL INVOICE AND DRAFT(S) PAYABLE THIRTY DAYS (30) FROM B/L DATE BASED ON PROVISIONAL PRICE AS INVOICED BY SELLER ARE ACCEPTABLE.

FINAL PRICE INVOICE DRAFT(S) AS INVOICED BY SELLER ARE ACCEPTABLE.

DOCUMENTS ISSUED BY THIRD PARTY EXCEPT COMMERCIAL INVOICE ARE ACCEPTABLE.

TYPOGRAPHICAL AND SPELLING ERROR, IF ANY, ARE NOT TO BE CONSIDERED

INVOICE AND THE SHIPPING DOCUMENTS SHOWING QUANTITY IN BARRELS OR MT ARE ACCEPTABLE.

"MASTER'S RECEIPT FOR COPIES OF SHIPPING DOCUMENTS" NOT SHOWING RECEIPT OF ALL THE SHIPPING DOCUMENTS IS ACCEPTABLE.

DOCUMENTS & INVOICES ISSUED BY QATAR CHEMICAL AND PETROCHEMICAL MARKETING AND DISTRIBUTION COMPANY (MUNTAJAT) Q.P.J.S.C., ARE ACCEPTABLE.

**UNQUOTE**

PLEASE URGE OPENING / CONFIRMING THE REQUIRED L/C VIA EMAIL/FAX ADVICE TO US

(ATTN: TRADE FINANCE DEPARTMENT) ENABLING US TO RELEASE OUR FINANCIAL LOADING INSTRUCTION TO THE TERMINAL IN DUE TIME.

\*

## APPENDIX 1(B) - STANDBY LETTER OF CREDIT (FORMAT)

### QUOTE

Irrevocable Standby Letter of Credit No. [●]

Beneficiary Applicant

[*name and address*] [*name and address*]

At the request of the above applicant, and for its account, we [*name and address of Bank*] hereby open in your favour our Irrevocable Standby Letter of Credit No [●].

This Stand-by Letter of Credit is for an amount of [*amount in figures/words*] and is available for payment at our counters at sight against the following documents:

- (a) Copy of unpaid invoice;
- (b) Beneficiary's certificate purporting to be signed by an official of the Beneficiary certifying that "*the amount demanded represents a payment which has not been made to [name of Beneficiary] by [name of Applicant] within the terms of the contract in respect of invoice number [●] which is legally and properly past due*".

Covering: [Details of the Agreement].

Multiple drawings are permitted.

The expiration of this Letter of Credit is [●].

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

### Special Conditions:

1. All bank charges inside Qatar only are for beneficiary account, and all banking charges outside Qatar including reimbursing bank charges and correspondent bank charges are for Applicant account.
2. Above documents presented in telex form acceptable.
3. This Letter of Credit shall take effect in accordance with its terms but such terms shall not alter, add to or in any way affect the Agreement between [Seller] and [Buyer] to which this Letter of Credit relates.
4. The construction, validity and performance of this Letter of Credit shall be governed by and construed in accordance with the laws of England and Wales and any dispute with respect to this Letter of Credit shall be submitted to and finally settled by the courts of England.
5. Except as otherwise expressly provided herein, this Standby Letter of Credit is subject to the Uniform Customs and Practices for Documentary Credits Revision 2007 (ICC Publication No. 600) or ISP98 (latest version)
6. For floating price Agreements, add to the Special Conditions:
7. The value of this Letter of Credit may escalate/de-escalate in accordance with the above Price Clause without any further amendment on our part.
8. The Standby letter of credit Issuing Bank and/or Confirming Bank wherever applicable has to be investment grade bank (i.e. "A- & above") rated by the global rating agencies i.e. Moody's, S&P and Fitch, otherwise to be confirmed by a local bank in Qatar acceptable to the Seller.

### UNQUOTE

## APPENDIX 2 - FORM OF PARENT COMPANY GUARANTEE (FORMAT)

### QUOTE

[Place], [date].

#### PCG – Deed of Guarantee

Dear Sirs,

1. This parent company guarantee ("**PCG**") is executed, made and delivered as a deed on the date first written above ("**PCG Effective Date**") in consideration of **Qatar Chemical and Petrochemical Marketing and Distribution Company (Muntajat) Q.P.J.S.C.** a company organized and existing under the laws of the State of Qatar ("**Seller**") and [*name of Buyer*], a corporation organized under the laws of [*country*] ("**Buyer**") entering into one or more Product sale and purchase agreements with a performance duration between the [*insert start date of the first Agreement*] and [*insert end date of the last Agreement*] (each and all the "**Agreement**").
2. We, the undersigned [*name of the Parent Company*], a company incorporated under the laws of [*country*] with registered office at [*full address*] ("**Parent Company**"), by this PCG represent and warrant to Seller that we are the Parent Company of [*name of Buyer*] under the Agreement, of which we, the Parent Company, own or control all or the majority of the issued and outstanding equity share capital.
3. In our capacity as the parent company of the Buyer, we the Parent Company, by this PCG hereby irrevocably and unconditionally:
  - (a) guarantee to the Seller, as a separate and principal obligor and not merely as surety, (i) the solvency of the Buyer and (ii) the due, timely prompt, full and complete performance by the Buyer of all obligations under the Agreement, including payment of all sums, due interests, demurrages, fines, penalties and damages due to the Seller, full performance of all Buyer's obligations and fulfilment of all Buyer's liabilities under the Agreement.
  - (b) subject to (c) below with respect to any obligation to make payment under the Agreement, agree that, at first demand upon receiving written notification from the Seller of Buyer's failure to fulfil any of its obligations under the Agreement, the Parent Company will immediately perform Buyer's unfulfilled obligations as notified by the Seller, free of offsets, without restrictions or conditions and disregarding any contestation or objection in case raised by the Buyer; and
  - (c) agree that if, and to the extent that the Seller notifies in writing the Parent Company that the Buyer has failed to perform any of its payments due under the Agreement, the Parent Company will, within five (5) Business Days of receiving the said notification from the Seller, make all the notified payments, together with interest thereon at the rate set out in the Agreement, from the date such payments have become due until the date they are made in full.

A "**Business Day**" herein is any calendar day on which the banks in the primary office location of the Parent Company are open for business.

4. The Parent Company waives any right it may have of first requiring the Seller to proceed against or enforce any other rights or other guarantee or security with respect to or claim payment from the Buyer before making a demand against or claiming from this PCG.
5. This PCG shall extend to any amount that constitutes part of the obligations owed by the Buyer pursuant to the Agreement. If the obligations are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving any of the Buyer or the Parent Company (including, without limitation, the dissolution of the Buyer or the Parent Company), the obligations of the Parent Company under this PCG shall continue

in full force and effect and shall continue to legally bind the Parent Company as if there had been no such unenforceability against or refusal or inability or lack of capacity on the part of the Buyer to allow payment of any amount that constitutes part of the obligations. This PCG shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the obligations is rescinded or must otherwise be returned by the Seller upon the insolvency, bankruptcy, reorganization or liquidation of, or similar proceeding with respect to the Buyer or the Parent Company (including, without limitation, the dissolution of the Buyer or the Parent Company) or otherwise, all as though such payment had not been made.

6. Notwithstanding any payment or payments made by the Parent Company under this PCG, the Parent Company shall not have any right of subrogation in respect of the Agreement, and the Parent Company waives, until the Buyer's obligations under the Agreement have been discharged in full:
  - (a) any right to enforce any remedy that the Parent Company may have against the Buyer; and
  - (b) the benefit of, and any right to participate in, any security with respect to the obligations now or hereafter held by the Seller.
7. If, notwithstanding the foregoing, any amount shall be paid to the Parent Company on account of such subrogation rights prior to the time when all of the obligations under the Agreement shall have been paid in full, such amount shall be held by the Parent Company in trust for the Seller and shall forthwith upon receipt by the Parent Company, be turned over to the Seller in the exact form received by the Parent Company, to be applied against the obligations in such order as the Seller may determine.
8. As separate and primary obligations, the Parent Company shall defend, indemnify and hold the Seller harmless against all costs, liabilities, losses and damages resulting from or arising out of Buyer's insolvency or breach of its obligations or the Parent Company's failure to perform with respect to or breach of this PCG or the unenforceability of the Parent Company's obligations hereunder.
9. All payments by the Parent Company hereunder shall be made free and clear of, and without deduction for or on account of any taxes, except to the extent that the Parent Company is required to make any such payment subject to the deduction or withholding of any tax. If any tax or amount in respect of a tax must be deducted or withheld from any amounts payable or paid by the Parent Company, on account of or by reference to any payment by or obligation of the Parent Company hereunder, the Parent Company shall pay such additional amounts as may be necessary to ensure that the Seller receives a net amount equal to the full amount which it would have received from the Parent Company had payment not been made subject to such deduction or withholding.
10. All taxes required to be deducted or withheld by the Parent Company from any amounts paid or payable hereunder shall be paid by the Parent Company prior to the date on which penalties attach thereto and the Parent Company shall, within thirty (30) days of such payment being made, deliver to the Seller such evidence as is reasonably available to the Parent Company that payment has been duly remitted to the appropriate taxing authority.
11. The Parent Company represents and warrants to the Seller:
  - (a) the Parent Company is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation and has all requisite power and authority to conduct its business as now being conducted and to execute, deliver and perform its obligations under this PCG;
  - (b) the execution, delivery and performance by the Parent Company of this PCG has been duly authorized by all necessary corporate action on the part of the

- Parent Company and this PCG has been validly executed and delivered by the Parent Company;
- (c) this PCG constitutes a legal, valid and binding obligation of the Parent Company;
  - (d) No authorizations, approvals or consents of any governmental or regulatory authority or agency or any other person and no filings or registrations with any governmental authority or agency are necessary for the execution, delivery or performance by the Parent Company of this PCG or for the validity or enforceability thereof;
  - (e) the obligations of the Parent Company under this PCG rank at least *pari passu* with all of its other unsecured and unsubordinated liabilities (contingent or otherwise) and its unsecured and unsubordinated obligations, except obligations that are mandatorily preferred by law;
  - (f) neither the execution and delivery by the Parent Company of this PCG, nor its compliance with, or performance of the terms and conditions of this PCG will contravene the organizational documents of the Parent Company or any legal obligation or any order, writ, injunction, or decree of any court or governmental authority or will conflict with or result in any breach of any of the terms, covenants, conditions or provisions of, or constitute a default under, any agreement, contract or instrument to which the Parent Company is a party, except for any such conflict, breach or default that would not reasonably be expected to have a material adverse effect on the Parent Company's ability to perform its obligations under this PCG;
  - (g) there is no action, suit or proceeding at law or in equity by or before any court or arbitral tribunal now pending or, to the best of the knowledge of the Parent Company, threatened against the Parent Company which would reasonably be expected to have a material adverse effect on the Parent Company's ability to perform its obligations under this PCG; and
  - (h) there is no action, suit or proceeding at law or in equity by or before any court or arbitral tribunal now pending or, to the best of the knowledge of the Parent Company, threatened against the Buyer which would reasonably be expected to affect Buyer's solvency.
12. This PCG shall inure to the benefit of the Seller and its respective successors and assigns. The Seller may at any time assign or otherwise transfer any or all of its rights hereunder to an Affiliate of the Seller. The Parent Company shall not assign or transfer any or all of its obligations hereunder, but may cause others to perform its obligations hereunder.
13. This PCG is a continuing guarantee and shall be effective as of the PCG Effective Date and remain in full force so long as the Buyer has obligations to be performed by it in accordance with the Agreement and the Parent Company has obligations pursuant to or arising out of this PCG.
14. The Parent Company's obligations hereunder shall not be exonerated, discharged or released by any of the following described actions, circumstance, matter or things which, but for this provision, might operate to discharge, release or otherwise exonerate the Parent Company from its obligations under this PCG in whole or in part or otherwise affect such obligations, and whether or not known to the Parent Company or the Seller:
- (a) any amendment, modification, extension, indulgence, time, waiver, or concession granted to the Buyer, whether as to payment, time, performance, or otherwise;

- (b) the taking, variation, renewal, or refusal or neglect to perfect or enforce the Agreement or any rights or remedies against or securities granted by the Buyer;
  - (c) any legal limitation, disability, incapacity or other similar circumstances relating to the Buyer;
  - (d) any unenforceability, invalidity, or frustration of any obligations of the Buyer to be performed by it in accordance with the Agreement, with the intent that the Parent Company's obligations hereunder shall remain in full force and this PCG shall be construed accordingly as if there were no such unenforceability, invalidity, or frustration;
  - (e) any notice (including notice of the acceptance of this PCG), promptness, diligence, presentment, protest and demand with respect to any of the Obligations; and/or
  - (f) the bankruptcy or insolvency of the Buyer.
15. No failure to exercise, and no delay in exercising on the part of the Seller, any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise thereof, or the exercise of any other right, power, or privilege. No waiver by the Seller shall be effective unless it is expressly granted and in writing.
16. The rights and remedies of the Seller herein provided are cumulative, and not exclusive of any rights or remedies provided by law. This PCG shall not be reduced or defeated by any other compensation, which the Seller receives on account of any breach, claim, liability or loss by the Buyer.
17. If any provision of this PCG is prohibited or unenforceable in any jurisdiction, such prohibition or unenforceability shall not invalidate the remaining provisions hereof, or affect the validity or enforceability of such provision in any other jurisdiction.
18. Capitalised terms not otherwise defined herein and interpretation rules of the Agreement shall *mutatis mutandis* apply to this PCG.
19. All notices, requests, demands and other communications that are required or may be given under this PCG shall be in writing and shall be deemed to have been duly given:
- (a) when received, if personally delivered or delivered by express courier service; or
  - (b) when transmitted, if transmitted by facsimile, subject to sender's facsimile machine receiving the correct answerback report or the recipient confirming by telephone to the sender that the recipient has received the facsimile message.
20. A notice given in accordance with this clause but received on a day other than a Business Day or after business hours in the place of receipt will be deemed to have been received on the next Business Day in that place. In each case, notices shall be sent to:
- [Name and address of the Parent Company]*
- Attention: *[name of person]*
- Telephone number: *[telephone number]*
- Facsimile number *[facsimile number]*
- E-mail: *[email]*
- 1 or such other place as the Parent Company may designate by written notice to the Seller (at the notice address for the Seller provided in the Agreement or otherwise advised to the Parent Company in writing by the Seller).
21. Any notice given under or in connection with this PCG shall be in English.

- 22. This PCG is governed by, subject to, and construed and interpreted in accordance with, the laws of England and Wales.
- 23. Any dispute between the Seller and the Parent Company regarding this PCG that cannot be settled amicably between them within three (3) months, shall be submitted to and finally settled by the courts of England and Wales.
- 24. This PCG is executed, made and delivered as a deed on the date first written above.

**SIGNED, SEALED AND DELIVERED BY THE PARENT COMPANY IN THE PRESENCE OF THE WITNESS WHOSE NAME APPEARS BELOW:**

***[FULL NAME OF PARENT COMPANY]***

By  
Name  
Title  
Seal

Witness

***[FULL NAME AND CONTACT DETAILS OF WITNESS]***

By  
Name  
Title  
Address and  
contact number

**UNQUOTE**

\* \* \*