



# Equinor ASA

## General Terms and Conditions

for Sales of  
Crude Oil, Condensate and Petroleum Products  
including Liquefied Petroleum Gas

2022 Edition

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(e.g. CIF/DAP)

# SECTION I

## **INTRODUCTION**

## ARTICLE 1 APPLICABILITY, INCORPORATION AND INTERPRETATION, DEFINITIONS

### 1.1. Applicability

All of the Articles in Section I (Introduction) and Section III (General Terms) shall apply to every transaction governed by these GT&Cs. In respect of the Articles listed under Section II ("Delivery Terms"), the applicable Article is that which corresponds to the agreed Delivery Term for the delivery as is set out in the Special Provisions. The Schedules under Section IV are applicable to the extent this is specified in the Agreement.

### 1.2. Incorporation and Interpretation

#### 1.2.1 Incorporation

Incorporation of these GT&Cs (including Article 19 "Governing law and litigation/arbitration") takes place by reference. Each Party acknowledges that it has received a copy of and/or viewed these GT&Cs at [www.equinor.com](http://www.equinor.com).

#### 1.2.2 Conflict

In the event of any conflict or inconsistency between the GT&Cs and the Special Provisions, the Special Provisions shall prevail.

#### 1.2.3 Incoterms

FOB, CIF, CFR, DAP, FCA, and DDP shall have the meaning described in Incoterms 2020 except as modified by the Agreement. Incorporation of any Incoterm(s) takes place by reference in the Special Provisions and shall only be applicable to the extent the Incoterm is not modified by the Agreement. Where there is any inconsistency or conflict between Incoterms and the Agreement, the Agreement shall prevail.

#### 1.2.4 Interpretation

- 1.2.4.1 Except where the context requires otherwise, words denoting the singular include the plural and vice versa; words denoting any gender include all genders; and words denoting persons include firms and corporations and vice versa.
- 1.2.4.2 The Section and Article headings and numbering are for convenience only and shall not affect the interpretation of the Agreement.
- 1.2.4.3 Any reference to any Act of Parliament or to legislation of any sovereign state or Governmental Authority shall be deemed to include any amendment, replacement or re-enactment thereof for the time being in force and to include any bylaws, licenses, statutory instruments, rules, regulations, orders, notices, directions, consents or permissions made there under and any condition attaching thereto.

### 1.3. Definitions

Affiliate(s):	In relation to a Party, a company or other legal entity that (i) is directly or indirectly controlled by such Party or (ii) directly or indirectly controls such Party, or (iii) is directly or indirectly controlled by a company or other legal entity that also directly or indirectly controls such Party. For the purposes of this definition, "control" means the right to exercise or cause the exercise of more than 50% of the voting rights of such company or other legal entity.
Agreement:	These GT&Cs (including the Schedules, where applicable) together with the Special Provisions.
Applicable Law:	Any applicable national, municipal or state statute, ordinance or other law (including any Tax law), regulation, by-law, code, order or decree, any form of delegated or secondary legislation, any treaty or international convention, any regulation or directive and, where the context so permits, any agreement, licence, concession or arrangement with any Governmental Authority [and, for the purposes of this definition, "regulation" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority (whether or not a Governmental Authority) or organisation and a provision of law is a reference to that provision as amended or re-enacted].
Arrival Range:	The indicative date range for the Vessel's arrival at the Port of Destination, as described in Articles 3 and 4. Where the Parties have agreed a certain date range for the discharge of the Cargo, this shall be deemed to be a reference to the Arrival Range.
Banking Day:	A Day other than a Saturday, Sunday or public holiday when banks are open for business in all regions necessary to make payments pursuant to the Agreement.
Barge:	A self propelled vessel or towed/pushed dumb craft employed in port areas and sheltered waterways, which is not classified as a sea-going vessel.
Barrel/BBL:	42 U.S. standard Gallons corrected to 60° Fahrenheit.
Berth:	The mooring, dock, anchorage, wharf, submarine line, single point or single buoy or single berth mooring facility, offshore location, offshore facility, alongside barges, lighters or any other mooring facility nominated by the relevant Party.
Binnenschiffahrtsgesetz:	The "Gesetz betreffend die privatrechtlichen Verhältnisse der Binnenschiffahrt" as published in the German Federal Law Gazette (Bundesgesetzblatt), and as amended from time to time.
Buyer:	The purchasing Party named in the Special Provisions.
Cargo:	The agreed quantity of the Product as described in the Special Provisions delivered to or to be delivered to the Buyer.
Certificate of Insurance:	A document issued by or on behalf of an insurer, evidencing the insurance of the Cargo and the beneficiary of such insurance.
CET:	Central European Time or Central European Summer Time, as appropriate.
CIF Outturn/CFR Outturn:	A CIF or CFR delivery where the quality and quantity of the Product is determined in accordance with Article 3.3.6.
Commencement of Discharge:	The time and date for commencement of discharge as recorded on the time sheet/statement(s) of facts issued by the Terminal or, in the absence of such document/statement, the time when the Product first passes the permanent manifold flange of the Means of Transport upon discharge of the Cargo.

Commencement of Loading:	The time and date for commencement of loading as recorded on the time sheet/statement(s) of facts issued by the Terminal or, in the absence of such a document/statement, the time when the Product first passes the permanent manifold flange of the Means of Transport upon loading of the Cargo.
Completion of Discharge:	The time and date for completion of discharge as recorded on the time sheet/statements of facts issued by the Terminal or, in the absence of such document/statement, the time of Disconnection of Hoses from the Means of Transport once the discharging operation has ended.
Completion of Loading:	The time and date for completion of loading as recorded on the time sheet/statements of facts issued by the Terminal or, in the absence of such a document/statement, the time of the Disconnection of Hoses from the Means of Transport once the loading operation has ended.
Consignment Note:	The document that is issued by the Seller or the Terminal or transporter or storage provider to the Buyer or endorsed to the order of the Buyer, evidencing the carriage and/or the change of ownership and/or the receipt of the Cargo, as the case may be. Such document may include, but is not limited to, a bill of lading, a railway bill, a way bill, a tank warrant, an original, relevant receipt or similar document or other contract document evidencing the carriage and/or the change of ownership of the Cargo.
Credit Support:	Any form of financial support as designated by Seller, including, but not limited to, an L/C or advance payment provided in accordance with the provisions of Article 11, as applicable.
Day:	A 24 hour period from 00.00 up to and including 23.59.
Deal Execution Date:	The date on which the Parties enter into the Agreement.
Disconnection of Hoses:	The final disconnection of the loading/discharging hose(s) or arm(s) from the Means of Transport once the loading/discharging operation has ended.
Documentary L/C:	The document described in Article 11.1 and Schedule 3.
Dollar or USD, or US\$, or US Dollars:	The currency of the United States of America.
Embargoed Country:	Shall have the meaning ascribed to it in Article 20.2.
Export Control Laws:	Shall have the meaning ascribed to it in Article 20.4.1.
Equinor:	Equinor ASA and its Affiliates.
Equinor Vetting:	The department within Equinor that is responsible for any and all matters and issues relating to vessel vetting activities and/or HSEQ (Health, Safety, Environment & Quality) acceptance for the use of such vessels by Equinor ASA and its Affiliate(s).
ETA:	The estimated time of arrival of the Means of Transport, which shall be given in good faith and on reasonable grounds but without guarantee.
Ex Pipe/EXP:	The terms for delivery described in Article 8.
Ex Tank:	The terms for delivery described in Article 7.
Excess Field Time:	The time spent by the Vessel at an offshore oilfield in excess of the Field Time, as described in Article 9.
Excess Time Rate:	The hourly rate to be paid by a Party for time used over and above the time allowed for loading or discharging the Cargo, as the case may be.
EU Qualified:	The Product is or will be in free circulation within the EU and not subject to any import duties; "non-EU qualified" means Product that does not fall within the meaning of EU Qualified.

FIP:	The terms for delivery described in Article 8.
Field Operator:	The operator of the offshore oilfield from which the Product is delivered, as described in Article 9.
Field Time:	Shall have the meaning ascribed to it in Article 9.7.1.
Force Majeure Event:	Shall have the meaning ascribed to it in Article 14.1.
Gallon:	A U.S. gallon of 231 cubic inches at 60° Fahrenheit and an absolute pressure of 29.92 inches of mercury.
Governmental Authority:	Any national, federal, state, provincial, regional, local or municipal governmental body, agency, instrumentality, authority or entity established or controlled by a government or subdivision thereof, including any legislative, administrative or judicial body, or any person or entity purporting to act therefore, including any port authority.
GT&Cs:	These Equinor ASA General Terms and Conditions for Sales of Crude Oil, Condensate and Petroleum Products including Liquefied Petroleum Gas 2022 Edition, including the Schedules attached hereto.
IMO:	The International Maritime Organisation.
Incoterms:	The terms, either individually described for a type of delivery or taken as a whole, as published by the International Chamber of Commerce ("ICC") in the "ICC Official Rules for the Interpretation of Trade Terms 2020" or as subsequently amended by the ICC.
Independent Inspector:	An entity that provides independent third party assessment of quantity and/or quality.
In Situ/ITT:	The terms for delivery described in Article 7.
Into Tank:	The terms for delivery described in Article 7.
Laytime:	The time allowed for the Seller to load the Cargo on the Vessel or the time allowed for the Buyer to discharge the Cargo from the Vessel.
L/C:	Shall have the meaning ascribed to it in Article 11.1.1 (a).
Lifting Agreement:	The agreement regulating the lifting of crude oil made between the licencees of the offshore oilfield from which the Product is delivered, as described in Article 9.
Loading Range:	The Day or range of Days, agreed either in the Special Provisions or pursuant to the procedure stated in the Special Provisions, in which the nominated Vessel must tender NOR at the Loading Terminal. Where the Parties have agreed a certain date range for the loading of the Cargo, this shall be deemed to be a reference to the Loading Range.
LPG:	Liquefied petroleum gas, including propane and/or butane.
MARPOL:	The International Convention for the Prevention of Pollution from Ships, as amended from time to time.
Means of Transport:	Any conveyance used for the transport of the Cargo such as, but not limited to, the Vessel, the Road Tanker, the Railcar or the Pipeline.
Metric Ton / MT:	A unit of weight equal to 1,000 kilograms.
NOR:	Notice of Readiness.
OCIMF:	The Oil Companies International Maritime Forum.
Offshore Loaded Crude:	Crude oil loaded at one or more offshore loading facilities.
Offshore Loading Facility:	The crude oil loading facilities at or adjacent to an offshore crude oil production platform.

Other Charges:	All fees, dues, levies and charges (including but not limited to fees and charges imposed or levied by a Governmental Authority) whatsoever arising in connection with the Cargo, its sale, transportation, removal, ownership, the delivery, export or use but shall not include any charge to tax falling within the definition of "Tax" and "Taxes".
Parent Company:	An entity which owns (directly or indirectly) more than 50% of the voting rights or otherwise controls (directly or indirectly) a Party.
Part Cargo:	A quantity of Product under the Agreement which is loaded and transported on a Vessel together with other product which is not bought or sold under such Agreement.
Party/Parties:	The Buyer and/or the Seller individually, or collectively, as the case may be, as named in the Special Provisions.
Pipeline:	The coherent system of pipelines for transportation of the Product.
Point of Destination:	The place at which the Cargo is intended to be discharged from the Road Tanker/Railcar or is actually discharged from the Road Tanker/Railcar or, where the context requires, the operator, authority or governing body of such place of destination.
Point of Loading:	The place at which the Cargo is intended to be loaded on the Road Tanker/Railcar or is actually loaded on the Road Tanker/Railcar or, where the context requires, the operator, authority or governing body of such place of loading.
Port of Destination:	The port or the Terminal at which the Cargo is intended to be discharged from the Vessel or is actually discharged from the Vessel or, where the context requires, the operator, authority or governing body of such port or the Terminal.
Port of Loading:	The port or the Terminal at which the Cargo is intended to be loaded on the Vessel or is actually loaded on the Vessel or, where the context requires, the operator, authority or governing body of such port or the Terminal.
Product:	The crude oil, condensate or petroleum product, including LPG, stated in the Special Provisions.
Railcar:	The rail tank car(s) used for the land transportation of the Cargo and all equipment on the rail tank car(s).
Railcar Requirements:	The requirements that the Railcar and locomotive must comply with at the Point of Loading and/or Point of Destination, as applicable and in force. Such requirements shall include but not be limited to those relating to i) health, safety, security and the environment; ii) personal protective equipment or technical requirements relating to the Railcar and locomotive; and iii) the required configuration(s) of the Railcar and locomotive.
REACH:	Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Regulation, Evaluation, Authorisation and Restriction of Chemical substances (REACH).
Regulations:	Shall have the meaning ascribed to it in Article 15.1.
Road Tanker:	The road tanker vehicle, used for the land transportation of the Cargo, any trailer attached to the vehicle, and all equipment on the vehicle including but not limited to hoses, pipes and pumps.
Road Tanker Requirements:	The requirements that the Road Tanker and the driver must comply with at the Loading Terminal and/or Discharge Terminal, as applicable and in force. Such requirements shall include but not be limited to those relating to i) health, safety, security and the environment; ii) personal protective equipment or technical requirements relating to the Road Tanker and its driver; and iii) the required configuration(s) of the Road Tanker.



Sanctions, Sanctions List and Sanctioned Entity:	Shall each have the meaning ascribed to it in Article 20.4.1
Seller:	The selling Party named in the Special Provisions.
Ship-owner:	The registered owner or the disponent owner of the Vessel, as applicable.
Special Provisions:	The agreed terms and conditions comprising of a written agreement between the Parties with respect to the specific transaction or, in the absence of any such written agreement, any oral and/or written communication evidencing such agreed terms and/or which these GT&Cs are incorporated by reference to form the Agreement.
Standby L/C:	The document described in Article 11.1 and Schedule 2
STS:	Ship to Ship.
Tank:	The structure used for storage and throughput of the Product.
Tax/Taxes:	Customs, taxes, royalties, excises, fees, duties (including, but not limited to, import duties), levies, sales and use taxes and value added taxes, charges and all other similar taxes or assessments, which may now or hereafter be enacted, levied or imposed, directly or indirectly, by a Governmental Authority but shall not include any taxes based on income, revenues, gross receipts or net worth and all state franchise, licence and similar taxes required for the maintenance of corporate existence that are assessed against a Party.
Terminal:	The loading, storage or discharging facility, whether onshore or offshore or, where the context requires, the operator, authority or governing body of such terminal.
TTB Rules:	Tankschiff Transport Bedingungen (latest edition), as issued by the Bundesverband der Deutschen Binnenschiffahrt e.V., Dammstraße 15 – 17, 47119 Duisburg.
Typical:	A quality or characteristic often attributable to the Product from a particular source without guarantee and not amounting to a representation or warranty that such typical quality, characteristic or attribute will be present in the Product supplied.
Vessel:	A ship, tank-ship or Barge (self-propelled or otherwise) used for the waterborne transport of the Cargo.
Worldscale:	The "New Worldwide Tanker Nominal Freight Scale" as current on the date of the Commencement of Loading of the Vessel.
Working Day:	A Day other than a Saturday, Sunday or public holiday in New York and/or Norway and/or the place of performance of the obligation in question and/or, where the obligation is to communicate something, the place of receipt of the communication.

## SECTION II

# **DELIVERY TERMS**

## ARTICLE 2 FREE ONBOARD (FOB)

### 2.1 Delivery

Subject to the provisions of the Agreement, the Cargo shall be delivered by the Seller to the Buyer, in bulk FOB at the Port of Loading.

### 2.2 Risk and title

Notwithstanding any right of the Seller to retain the documents referred to in Article 11.2.2 until payment, risk and title to the Product shall pass from the Seller to the Buyer as the Product passes the first permanent manifold flange of the Buyer's Vessel at the Port of Loading.

### 2.3 Determination of quantity and quality

2.3.1 Determination of the quantity and the quality of the Cargo shall be carried out by measurement, sampling and testing in accordance with the standard practice in use at the Port of Loading at the time of loading.

2.3.2 Provided that Article 2.3.1 is complied with, the quantity and quality of the Cargo as determined and recorded in the certificates of quantity and quality (or such other equivalent documents as may be issued at the Port of Loading in accordance with such standard practice) for the Cargo shall, save for fraud or manifest error, be final and binding on both Parties for invoicing purposes, but without prejudice to the rights of either Party to make any claim pursuant to Article 13.

2.3.3 Where the Special Provisions provide for the appointment of an Independent Inspector, the Seller shall appoint an Independent Inspector acceptable to both Parties subject to any necessary prior agreement of the Terminal having been obtained. The cost of the Independent Inspector's services shall be shared equally between the Parties.

2.3.4 Where the Parties are not able to agree on an Independent Inspector, either Party may nominate an Independent Inspector at its own expense at the Port of Loading, subject to any necessary prior agreement of the Terminal having been obtained.

### 2.4 Vessel requirements

#### 2.4.1 Local requirements

The Vessel shall comply with all applicable governmental, local, port authority, laws, and/or regulations and any other requirements of whatsoever nature in force at the Port of Loading, including but not limited to the Terminal regulations and requirements. In addition, the Vessel shall comply with Article 2.4 and Schedule 4.

#### 2.4.2 General requirements

2.4.2.1 The Vessel shall comply with all international laws, regulations and/or requirements including, but not limited to, International Convention for the Safety of Life at Sea 1974, as amended, MARPOL, all other IMO rules and regulations, and any United States Coast Guard regulations, as applicable.

2.4.2.2 Without prejudice to Article 2.4.2.1, the Vessel shall:

- (a) be owned by or demise chartered to a member of the International Tanker Owners Pollution Federation Ltd. (ITOPF), unless the Vessel is an LPG tanker;
- (b) when necessary, carry onboard certificate(s) required in accordance with the International Convention on Civil Liability for Oil Pollution Damage (CLC) 1969, as amended, the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 and a Certificate Of Financial Responsibility;
- (c) have the maximum protection and indemnity insurance coverage for pollution not less in scope than available at any time under the rules of the International Group of P&I Clubs;

- (d) have onboard a valid Safety Management Certificate, issued pursuant to the International Safety Management (ISM) Code 2002;
- (e) be manned, operated and maintained to comply with the standards stated in the most recent edition of the International Safety Guide for Oil Tankers and Terminals (ISGOTT) as may be amended from time to time, the appropriate IMO recommendations, the OCIMF Guidelines for the Control of Drugs and Alcohol Onboard Ship (1995), each as amended from time to time; and
- (f) only discharge dirty ballast, bilges, slops or other substances into water in accordance with MARPOL.

### **2.4.3 Loading capacity requirements**

The receiving capacity of the Vessel shall allow the Seller to load the Cargo within the Laytime allowed in accordance with Article 2.6.2.

### **2.4.4 Consequences of breach**

Where the Vessel does not meet the requirements stated in Article 2.4 or where any other reasonable grounds exist, the Terminal and/or the Seller and/or the Seller's supplier may refuse to berth, load or continue to load, the Vessel. Any failure to meet the requirements of Equinor Vetting shall always be considered as a reasonable ground for such refusal.

## **2.5 Nomination of the Vessel**

### **2.5.1 Notice of nomination**

The Buyer shall give written notice of nomination to the Seller of the Vessel which is to load the Cargo. The notice of nomination shall specify:

- (a) the Product and approximate quantity to be loaded;
- (b) the details of any other cargo already loaded or to be loaded on the Vessel before loading the Cargo from the Seller;
- (c) the name and capacity of the Vessel and such other information as may be required by the Port of Loading and/or Equinor Vetting; and
- (d) if required by the Seller, the ETA of the Vessel at the Port of Loading and details of the Vessel's current position and itinerary.

### **2.5.2 Documentary instructions**

No later than five Working Days prior to the first day of the Loading Range, the Buyer shall give written notice to the Seller with full written instructions regarding the particulars and the destination of the bills of lading and such other customary Terminal documentation which may be required. The Buyer shall be liable for all costs resulting from any delays in loading the Cargo due to failure by the Buyer to supply such full written instructions in a timely manner and any such delays shall not count as used Laytime or, where the Vessel is on demurrage, as time on demurrage.

### **2.5.3 Timing**

- 2.5.3.1 The nomination specified in Article 2.5.1. shall not be effective unless it is received by the Seller no later than seven Working Days prior to the first day of the Loading Range.
- 2.5.3.2 Where the nomination specified in Article 2.5.1 is received by the Seller less than seven Working Days prior to the first Day of the Loading Range and is accepted by the Seller, the Laytime allowed to the Seller shall not commence before the Vessel has actually commenced loading.
- 2.5.3.3 Where the Deal Execution Date is seven Working Days or less prior to the first day of the Loading Range then the nomination specified in Article 2.5.1 must be received by the Seller no less than three Days prior to the first day of the Loading Range.
- 2.5.3.4 Where the Deal Execution Date does not allow the dates for notification specified in Articles 2.5.3.2

- 2.5.3.3 to be complied with, then both Parties shall make best efforts to complete, within two Days of the Deal Execution Date, any outstanding time limited requirements, notifications, nominations and procedures.

#### **2.5.4 Substitution**

The Buyer may, by giving written notice to the Seller, request a substitution of the Vessel, subject to the Seller's acceptance and such acceptance shall not be unreasonably withheld. The applicable Loading Range agreed for the delivery of the Cargo shall not be subject to change or alteration as a consequence of any substitution of the Vessel.

#### **2.5.5 Rejection**

The Seller has the right to reject any nomination made by the Buyer or to refuse to accept the Vessel nominated for loading where the Vessel does not comply with Article 2.4 and/or where it has been involved in any incident after the Seller's acceptance and prior to the delivery of the Cargo that could, in the reasonable opinion of the Seller, be construed to have a negative impact on its performance and/or where more recent information regarding the Vessel becomes available to the Seller that would make it reasonable for the Seller to retract its previous acceptance.

#### **2.5.6 Changes in procedures**

The procedures described in Article 2.5 shall be subject to modification by written notice from the Seller to the Buyer, to take account of changes in the nomination and/or other procedures applicable from time to time at the Port of Loading.

#### **2.5.7 Liability**

The Seller shall not be liable for the consequences of rejection or delay (including but not limited to demurrage) of the Vessel or other restriction suffered in respect of the Vessel by virtue of the application of any regulations or other requirements of Articles 2.4 - 2.5, and the Buyer shall be liable for any costs or damages incurred by the Seller arising out of any such rejection of, delay to or restriction of the Vessel.

### **2.6 Loading**

#### **2.6.1 Requirements of the Port of Loading and arrival of the Vessel**

- 2.6.1.1 The Seller shall exercise due diligence to provide a safe Berth for the Vessel which the Vessel can proceed to, lie at, load the Cargo and depart from, always safely afloat.
- 2.6.1.2 The Berth provided for the Vessel shall always be free of wharfage fees for normal cargo transfer. All duties, fees, taxes, quay dues and other charges, whether similar to the foregoing or not and without limitation, due in respect of the Vessel as well as pilotage, mooring and towage expenses incurred at the Port of Loading shall be borne by the Buyer.
- 2.6.1.3 Where the dimensions and/or any other characteristics of the Vessel do not comply with the information provided when the Vessel was nominated and accepted, the Seller shall not be liable for any resulting loss or damage and the Seller shall not be obliged to commence or continue loading. Any loss of or damage to the Cargo during loading, where caused by the Vessel or its officers or crew, shall be for the account of the Buyer.
- 2.6.1.4 The Buyer shall indemnify the Seller for any claim made against the Seller in respect of damage to any facilities at the Terminal caused by the Vessel.
- 2.6.1.5 The Buyer shall arrange for its Vessel to report to the Terminal and the Seller each of 72, 48 and 24 hours prior to its arrival and as otherwise in accordance with the standard reporting procedure applicable from time to time at the Terminal in question. Where the Vessel fails, for any reason, to give at least 24 hours prior notice of arrival at the Terminal, the time allowed to the Seller for loading pursuant to Article 2.6.2 shall be extended by a period equal to the delay in giving such 24 hours notice, but in any case not exceeding an additional 24 hours.
- 2.6.1.6 The Buyer shall ensure that by no later than 23.59 (local time) on the last day of the Loading Range:

- (a) the Vessel nominated by the Buyer shall arrive at the Terminal (or the usual waiting place);
- (b) the Vessel shall have completed all formalities and in all respects be ready to commence loading the Cargo; and
- (c) a valid NOR has been tendered.

2.6.1.7 Provided that the Vessel arrives at the Terminal (or the usual waiting place), and tenders a valid NOR before or within the Loading Range pursuant to Article 2.6.1.6, the Seller, having regard to the requirements and procedures of the Terminal and the time when the Vessel has complied with the provisions of Article 2.6.2, shall commence loading and the Buyer shall be obliged to take delivery of the Cargo as soon as reasonably practicable, even where this means that loading is effected or completed outside the Loading Range or outside any other period specified in the Special Provisions.

## **2.6.2 Laytime**

2.6.2.1 The Laytime allowed to the Seller, for loading the Cargo shall be as agreed between the Parties in the Special Provisions.

2.6.2.2 Where no Laytime is agreed in the Special Provisions, the Laytime allowed to the Seller shall be either:

- (a) one half of the total laytime allowed to the Buyer under the relevant charterparty; or
- (b) where the charterparty makes no stipulations as to the laytime allowed, the Seller shall be entitled to such Laytime as would be customary for the Vessel, given its size, at the Port of Loading.

Notwithstanding Articles 2.6.2.2 (a) and (b), for deliveries of crude oil and condensate, the Laytime allowed for loading the Cargo shall be a minimum of 36 hours.

2.6.2.3 Until the Vessel is all fast at the Berth, it is a condition precedent for the Laytime to commence that the NOR is tendered by the Vessel's master or its agent to the Terminal, with a copy to the Seller, upon arrival of the Vessel at the customary anchorage or the place where the Vessel is ordered to wait for loading, whichever is applicable.

2.6.2.4 The Laytime shall be SHINC (Sundays and holidays included) unless loading on the Day in question is prohibited and/or restricted by the laws or regulations in force at the Port of Loading.

2.6.2.5 Where the Vessel tenders the NOR in accordance with Article 2.6.2.3 within the Loading Range, the Laytime shall commence either six hours after the NOR is tendered or the time when the Vessel is securely moored at the Berth, whichever is the earlier.

2.6.2.6 Where the Vessel tenders the NOR prior to the Loading Range, the Laytime shall commence at 06.00 hours on the first Day of the said date range, or on the Commencement of Loading whichever is the earlier. However, unless otherwise agreed by the Parties in writing, the Seller is not obliged to commence loading before 06.00.

2.6.2.7 Where the Vessel tenders the NOR after the Loading Range and provided that the Seller has elected to deliver the Cargo to the Buyer, then, without prejudice to any of the Seller's other rights, the Laytime shall commence when the Vessel is securely moored at the Berth. The Seller shall in such event make reasonable endeavours to berth the Vessel as soon as possible after arrival, subject to the Seller's and/or the Terminal's pre-existing commitments.

2.6.2.8 Time spent or lost by the Vessel shall not count as Laytime or as demurrage (where the Vessel is already on demurrage), if arising out of or in connection with any of the following situations:

- (a) on inward passage (as well as moving from anchorage) including awaiting pilot, tugs, daylight or tide, free pratique, until the Vessel is securely moored at the Berth;
- (b) adverse weather/or sea conditions including fog and/or ice;
- (c) handling or shifting ballast, bilges, slops or bunkering, cleaning and inspection of the Vessel's cargo tanks unless carried out concurrently with loading the Cargo sold under the Agreement and without any impact on the loading;
- (d) due to fault or failure or refusal for any cause whatsoever attributable to the Vessel or the Buyer or the Ship-owner or the Vessel operator or its master, officers, crew or agent(s);

- (e) any onboard strike, lockout, stoppage or restraint of labour;
- (f) due to breakdown, inefficiency (including temperature in the tanks) of the Vessel;
- (g) due to the inability of the Vessel to comply with the minimum loading or deballasting rate as laid down by the Terminal regulations and the inability of the Vessel to load the Cargo within the Laytime allowed; or
- (h) due to the Terminal or the port authority prohibiting or restricting loading due to weather conditions.

2.6.2.9 The provisions of Article 14 shall not apply to Articles 2.6.2 - 2.6.3.

2.6.2.10 The Laytime shall cease upon the Disconnection of Hoses.

### **2.6.3 Demurrage**

2.6.3.1 If the Cargo is not loaded within the time allowed as Laytime, the time so allowed shall be extended by the excess time but the Seller shall, subject to the provisions of Articles 2.6.2 - 2.6.3, have an independent obligation to pay demurrage to the Buyer in respect of the excess time at the appropriate rate per day (or pro rata for part of a day) as hereinafter specified.

2.6.3.2 The demurrage to be paid shall be calculated by multiplying the excess time by the demurrage rate agreed by the Parties in the Special Provisions per Day (and pro rata for part of a Day). Where the Special Provisions state that the demurrage rate is "as per charterparty", or words to that effect, and where, in the Seller's sole opinion, such charterparty rate is higher than the market demurrage rate, then the applicable demurrage rate shall be determined in accordance with Articles 2.6.3.3 - 2.6.3.4.

2.6.3.3 Where no demurrage rate is agreed in the Special Provisions, the demurrage rate shall be as follows:

- (a) where the Product is crude oil or condensate, the demurrage rate shall be based on the Average Freight Assessment Rate (AFRA) of Worldscale appropriate to the size of the Vessel as published by the London Tanker Brokers Panel and current on the date of the Completion of Loading; or
- (b) where the Product is LPG, the demurrage rate shall be as per the "Braefoot Bay Assessment" rate for size of the Vessel on the date of the Completion of Loading.

2.6.3.4 Where no demurrage rate can be established under Article 2.6.3.2 or Article 2.6.3.3, the demurrage rate shall be as per the market rate for the relevant/applicable size of vessel on the date of the Completion of Loading as shall be assessed by a mutually agreed independent and reputable broker. Where the Parties do not agree on the broker to be appointed, then each Party shall appoint a reputable independent broker and the two so appointed will appoint a third. The assessment that is furthest away from the median will be discounted and the demurrage rate will be the average of the two remaining assessments.

2.6.3.5 The Seller's obligation to pay demurrage shall be absolute and not be excused by operation of Article 14. However, where demurrage is incurred directly as a result of fire, explosion, strike, lockout, stoppage or restraint of labour or by the breakdown of machinery, plant or equipment at or around the Port of Loading ("an incident") the rate of demurrage shall be reduced by one-half per running hour or pro rata for part of an hour for the demurrage thus incurred. This reduction shall be applicable even if the Vessel was already on demurrage when the incident occurred.

2.6.3.6 In no event shall the Seller be liable for a demurrage claim where such claim, together with all supporting documents is not received in writing by the Seller and within 60 Days from the bill of lading date. For the purpose of Article 2.6.3.6, the bill of lading date shall count as Day one. Where the Buyer fails to present a claim, together with such documentation, within the aforesaid limit, then any liability of the Seller for demurrage shall be extinguished.

2.6.3.7 Where there is any delay in connection with the scheduling, berthing or loading of the Vessel or otherwise for any reason whatsoever (including negligence on the Seller's part), the rights of the Buyer against the Seller in respect of such delay shall be limited to a claim for demurrage, in accordance with the provisions of Article 2.6.3.

2.6.3.8 Where the Vessel is loaded at the Port of Loading by the Seller and by one or more other supplier(s), the Seller's liability for demurrage shall be limited to that attributable to the Seller's proportion of the total

cargo loaded on the Vessel at the Port of Loading. However, where the other supplier(s) is/are the cause of the demurrage, the Seller shall not be liable for any demurrage incurred.

2.6.3.9 Furthermore, the Buyer shall only be entitled to such amount of demurrage as follows:

- (a) where the Seller's supplier or another third party operates the Terminal, such demurrage as the Seller is able to recover and does recover under the usual terms for the supply of the Product at the Terminal;
- (b) where the Seller has contracted with a supplier that is not the operator of the Terminal, the lesser of such demurrage as the Seller is able to recover and does recover from that supplier and the amount of demurrage that would have been recovered under the Terminal's usual terms for the supply of the Product; or
- (c) where the Terminal has no laytime and demurrage terms that apply to the supply of the Product then the amount of demurrage the Seller shall pay to the Buyer shall be calculated pursuant to Articles 2.6.2 - 2.6.3, irrespective of any recovery the Seller may make from its supplier.

Where Article 2.6.3.9 (a) or Article 2.6.3.9 (b) is applicable, the Seller shall make reasonable efforts to recover from its supplier any demurrage for which the Buyer has submitted a claim in accordance with the provisions of this Article. In all cases the Buyer must comply with the time limit as stated in Article 2.6.3.6.

#### **2.6.4 Vacating the Berth**

2.6.4.1 The Vessel shall vacate the Berth without delay upon the Completion of Loading and following the Disconnection of Hoses and, where applicable, the Terminal's handover of the documents to the Vessel (unless such documents can be delivered to the Vessel at a suitable anchorage or "Early Departure Procedure" is applied).

2.6.4.2 Where the Vessel fails to promptly vacate the Berth in accordance with Article 2.6.4.1 and any loss or damage is incurred by the Seller or the Terminal as a consequence thereof, such loss shall be for the Buyer's account, unless such failure is due to a reason attributable to the Seller, its supplier or the Terminal.

#### **2.6.5 Excess Berth utilisation**

The Buyer shall always hold the Seller harmless in respect of any excess Berth utilisation charge in accordance with the Terminal regulations or contractually agreed or otherwise established scale for excess Berth utilisation imposed on the Seller in respect of the Buyer's Vessel.

### **2.7 Lightering and Shifting**

2.7.1 The Seller may require the Buyer to shift the Vessel at the Port of Loading from one Berth or anchorage to another Berth or anchorage. In such case, the Seller shall pay any additional expenses directly incurred in connection with shifting the Vessel, and time consumed on account of such shifting shall count as Laytime where such shifting is required by the Seller.

2.7.2 The Seller shall have the option to deliver the Cargo to the Vessel from lighters, floating storage facility or other vessel, subject always to the Buyer's rights under Article 2.6.1. Where the Seller exercises such option, then the cost of such lightering, together with any other additional expenses directly incurred by the Vessel in respect thereof, shall be for the Seller's account. The Seller shall be obliged to notify the Buyer of the place of lightering upon the Vessel's arrival and this place shall be deemed to be the "Berth" for the purposes of Articles 2.6 - 2.7. Should any lightering be carried out, the operation shall be conducted in accordance with the most recent edition of the Ship to Ship Transfer Guide as published by OCIMF and as may be amended from time to time.

2.7.3 Where the Vessel is required to vacate or shift berth for any reason attributable to the Vessel, then any and all loss, damage, charge or penalty incurred by the Seller shall be for the account of the Buyer and all time consumed as a result of such vacating or shifting Berth shall not count as used Laytime or time on demurrage.



## **ARTICLE 3 COST, INSURANCE AND FREIGHT (CIF), COST AND FREIGHT (CFR), CIF OUTTURN AND CFR OUTTURN**

### **3.1 Delivery**

Subject to the provisions of the Agreement, the Cargo shall be placed by the Seller on board the Vessel procured by the Seller for carriage CIF/CFR from the Port of Loading to the agreed Port of Destination.

### **3.2 Risk and title**

Notwithstanding any right of the Seller to retain the documents referred to in Article 11.2.2 until payment, risk and title to the Product shall pass from the Seller to the Buyer as the Product passes the first permanent manifold flange of the Seller's Vessel at the Port of Loading.

### **3.3 Determination of quantity and quality**

- 3.3.1 Determination of the quantity and the quality of the Cargo shall be carried out by measurement, sampling and testing in accordance with the standard practice in use at the Port of Loading at the time of loading. This principle shall be applicable both where the Cargo has already been loaded onto the Vessel at the time of the Agreement/nomination and/or where the Cargo is still to be loaded.
- 3.3.2 Provided that Article 3.3.1 is complied with, the quantity and quality of the Cargo as determined and recorded in the certificates of quantity and quality (or such other equivalent documents as may be issued at the Port of Loading in accordance with such standard practice) for the Cargo shall, save for fraud or manifest error, be final and binding on both Parties for invoicing purposes, but without prejudice to the rights of either Party to make any claim pursuant to Article 13.
- 3.3.3 Where the Special Provisions provide for the appointment of an Independent Inspector, the Seller shall appoint an Independent Inspector acceptable to both Parties subject to any necessary prior agreement of the Terminal at the Port of Loading having been obtained. The cost of the Independent Inspector's services shall be shared equally between the Parties.
- 3.3.4 Where the Parties are not able to agree on an Independent Inspector, either Party may nominate an Independent Inspector at its own expense at the Port of Loading, subject to any necessary prior agreement of the Terminal at the Port of Loading having been obtained.
- 3.3.5 Where the delivery is made as a Part Cargo that is part of an unsegregated cargo lot for delivery to the Buyer and a third party, the quantity determined in accordance with the foregoing shall be adjusted so that, following the Completion of Discharge of the relevant Part Cargo lots, including the Cargo, the Buyer and such third party shall each be allocated a percentage of the total loaded quantity equal to that percentage of the total outturn quantity (determined at each Port of Destination in accordance with the provisions of Article 4.3) that was discharged at its Port of Destination. The costs of the Independent Inspector shall be shared equally between the parties for their respective Ports of Destination and the Independent Inspector's report shall be made available to all parties.
- 3.3.6 For CIF Outturn and CFR Outturn deliveries, the following terms shall apply:
- (a) For the purpose of determining the compliance of the Product with the quantity and quality provisions of the Special Provisions, the quality shall be determined at the Port of Loading, in accordance with Articles 3.3.1 to Article 3.3.5, and the quantity measurement shall be carried out at the Port of Destination, in accordance with Article 4.3;
  - (b) In the event of a total loss of the Cargo or where the discharge quantity determined by the Independent Inspector in accordance with Article 4.3.4 is less than 99.5% of the loaded quantity determined in accordance with Article 3.3.2, then the quantity invoiced by the Seller shall be 99.5% of the quantity specified on the certificate(s) of quantity (or the equivalent document) issued at the Port of Loading.

## **3.4 Vessel requirements**

### **3.4.1 Local requirements**

The Vessel shall comply with all applicable governmental, local, port authority laws, Equinor requirements and/or regulations in force at the Port of Destination, including but not limited to, Terminal regulations and requirements. In addition, the Vessel shall comply with Article 3.4.2 and Schedule 5.

### **3.4.2 General requirements for all Vessels**

3.4.2.1 The Vessel shall comply with all international laws, regulations and/or requirements including, but not limited to, the International Convention for the Safety of Life at Sea, 1974, as amended, MARPOL, all IMO rules and regulations, and any United States Coast Guard regulations as applicable.

3.4.2.2 Without prejudice to Article 3.4.2.1, the Vessel shall:

- (a) be owned by or demise chartered to a member of the International Tanker Owners Pollution Federation Ltd. (ITOPF), unless the Vessel is an LPG tanker;
- (b) when necessary, carry onboard certificate(s) required in accordance with the International Convention on Civil Liability for Oil Pollution Damage (CLC) 1969, as amended, the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 and a Certificate Of Financial Responsibility;
- (c) have the maximum protection and indemnity insurance coverage for pollution not less in scope and amount than available at any time under the rules of the International Group of P&I Clubs;
- (d) have onboard a valid Safety Management Certificate, issued pursuant to the International Safety Management (ISM) Code 2002;
- (e) be manned, operated and maintained to comply with the standards stated in the most recent edition of the International Safety Guide for Oil Tankers and Terminals (ISGOTT) as may be amended from time to time, the appropriate IMO recommendations, the OCIMF Guidelines for the Control of Drugs and Alcohol Onboard Ship (1995), each as amended from time to time; and
- (f) only discharge dirty ballast, bilges, slops or other substances into water in accordance with MARPOL.

### **3.4.3 Consequences of breach**

Where the Vessel does not meet the requirements stated in Article 3.4, the Terminal and/or the Buyer may refuse to berth, discharge or continue to discharge the Vessel.

## **3.5 Nomination of the Vessel and the Port of Destination**

### **3.5.1 Notice of nomination of the Vessel**

The Seller shall give a written notice of nomination to the Buyer of the Vessel which is to load (or has loaded) the Cargo. The notice shall specify:

- (a) the grade and/or quality and the approximate quantity of the Cargo to be loaded for the account of the Buyer (or the bill of lading quantity where known);
- (b) the Loading Range at the Port of Loading (or bill of lading date where known);
- (c) the name of the Vessel and such other information as may reasonably be required by the Port of Destination; and
- (d) the description of any other cargo onboard.

### **3.5.2 Acceptance/rejection of nomination**

3.5.3.1 The nominated Vessel shall be subject to the Buyer's acceptance, which shall not be unreasonably withheld. The Buyer shall provide the Seller with a written notice of acceptance or rejection of the

nominated Vessel within one Working Day of the Buyer's receipt of the nomination, unless otherwise stated in the Special Provisions.

- 3.5.3.2 Any notice of rejection shall state the specific reason(s) for the Buyer's rejection so that the Seller may take reasonable corrective action(s), including making a further nomination without prejudice as to whether the Buyer's rejection is reasonable or not.

#### **3.5.4 Nomination of the Port of Destination**

- 3.5.4.1 Unless otherwise stated in the Special Provisions, the Buyer shall notify the Seller in writing within one Working Day of the Buyer's receipt of the Seller's nomination stated in Article 3.5.1, of:

- (a) the Port(s) of Destination, unless already specified in the Special Provisions;
- (b) all instructions regarding customary documentation which may be required at the Port of Destination; and
- (c) the identity of the Terminal(s) at the Port of Destination, with instructions to enable the Vessel to prepare and submit necessary information to the customs or border authorities.

- 3.5.4.2 Any delays in discharging the Cargo caused by the Buyer's failure to provide any necessary information at the Port of Destination will be for the Buyer's account. The Buyer shall indemnify the Seller for all costs, losses and damages, including, but not limited to, demurrage and/or detention incurred by the Seller as a result thereof.

- 3.5.4.3 The Buyer has the option to have the Cargo discharged at a place other than that agreed in the Special Provisions, subject to:

- (a) the terms, conditions and exceptions of the relevant charterparty; and
- (b) the Seller's prior approval;

always provided that the Buyer agrees to pay such compensation as the Seller requires for the alternative Port of Destination and indemnifies the Seller and holds it harmless in respect of any liability, loss, damage or expense of whatsoever nature which the Seller may incur (directly or indirectly) in relation to the Ship-owner in respect of the discharge of the Cargo at a port other than that stated in the bills of lading.

- 3.5.4.4 The provisions of Articles 3.5.4.2 – 3.5.4.3 shall not be included within the scope of Articles 18.1 and 18.3.

#### **3.5.5 Substitution of the Vessel**

The Seller may substitute the Vessel with another of similar size and characteristics, provided that the Seller fulfils its obligations under Article 3.5.1.

### **3.6 Discharge**

#### **3.6.1 Requirements of the Port of Destination**

The Buyer shall provide a safe port and Berth for the Vessel which the Vessel can, when fully laden, proceed to, lie at, discharge the Cargo at and depart from, always safely afloat and always free from possible air draft(s) or other physical or legal restrictions.

#### **3.6.2 Port costs**

All dues and other charges on the Seller's Vessel at the Port of Destination, other than those defined by Worldscale as being for the Ship-owner's account, shall be borne by the Buyer.

#### **3.6.3 Arrival at the Port of Destination**

- 3.6.3.1 Where the Agreement provides for a Loading Range, this shall be the Day or range of Days in which the Seller's nominated Vessel must tender NOR at the Loading Terminal and loading shall commence and complete as soon as reasonably practicable thereafter, even if this means loading is effected or completed outside the Loading Range.

- 3.6.3.2 Where the Agreement provides for an Arrival Range, this shall be indicative only (provided that the Seller has ensured that the Vessel has tendered NOR at the Port of Loading at a time consistent with arrival at the Port of Destination within the Arrival Range, given a reasonable assessment of the customary loading and voyage time). The Seller shall not assume any responsibility or guarantee for the delivery of the Product at the Port of Destination within the Arrival Range.
- 3.6.3.3 Any stipulations as to the time of loading, arrival or delivery shall not form part of the description of the Cargo and shall not be treated as any form of condition, guarantee or warranty, express or implied, save that this sub-clause shall not affect any applicable Laytime and demurrage provisions.
- 3.6.3.4 Where the delivery of the Cargo is being made as a Part Cargo lot, the Seller may tender the NOR after expiry of the Arrival Range as long as the Vessel arrives at the Port of Destination within the Arrival Range.

#### **3.6.4 Laytime**

- 3.6.4.1 The Laytime allowed to the Buyer for discharging the Cargo, SHINC (Sundays and holidays included), shall be as agreed between the Parties in the Special Provisions.
- 3.6.4.2 Where no Laytime is agreed in the Special Provisions, the Laytime allowed to the Buyer shall be either:
- (a) one half of the laytime allowed to the Seller under the charterparty; or
  - (b) where the charterparty makes no stipulations as to the amount of laytime allowed, the Buyer shall be entitled to one half of such laytime as would be customary in a voyage charterparty for such a vessel on this trade.

Notwithstanding Articles 3.6.4.2 (a) and (b), for deliveries of crude oil or condensate, the Laytime allowed for discharging the Cargo shall be a minimum of 36 hours.

- 3.6.4.3 Where the delivery of the Cargo is being made as a Part Cargo lot, then the Laytime for discharging the Cargo shall be prorated to the quantity of the Cargo compared with the full cargo capacity of the Vessel.
- 3.6.4.4 The Laytime shall commence, Berth or no Berth, six hours after the Vessel's master or its agent has tendered the NOR to the Terminal at the Port of Destination upon arrival of the Vessel at the customary anchorage or the place where the Vessel is ordered to await for discharging, whichever is applicable, or at the time when the Vessel is securely moored at the Berth, whichever is earlier.
- 3.6.4.5 Where the Agreement provides for an Arrival Range, and where the Vessel tenders its NOR prior to the first day of the Arrival Range, the Laytime shall commence six hours after the NOR but not prior to 00.00 on the first day of the agreed Arrival Range, unless the Buyer allows the Vessel to berth earlier, in which case the Laytime commences when the Vessel is securely moored.
- 3.6.4.6 Time spent by the Vessel on inward passage shall not count as Laytime or time on demurrage.
- 3.6.4.7 Where the Cargo is a refined petroleum product (excluding LPG), the Vessel, shall be able to maintain an average of 100 PSI at the Vessel's manifold during discharge (save when stripping), or discharge the Cargo within 24 hours provided that there are no interruption(s) and always provided shore facilities permit.
- 3.6.4.8 Where the Cargo is crude oil, the Vessel shall be able to either maintain an average of 100 PSI at the Vessel's manifold or discharge the Cargo within 32 hours (eight hours less where crude oil washing is not conducted) and always provided that shore facilities permit.
- 3.6.4.9 Where the Cargo is condensate, the Vessel shall be able to either maintain an average of 100 PSI at the Vessel's manifold or discharge the Cargo within 24 hours and always provided that shore facilities permit.
- 3.6.4.10 Where the Cargo is LPG, the Vessel shall be able to discharge the Cargo as agreed in the Special Provisions, but in the absence of such agreement at the rate consistent with the Vessel's actual capability and always provided that shore facilities and sea water temperature permits.
- 3.6.4.11 Time lost during discharge as a result of the Vessel being unable to perform as stated in Articles 3.6.4.7 - 3.6.4.10 shall not count as Laytime or time on demurrage.

- 3.6.4.12 The Laytime shall cease at the time of the Disconnection of Hoses. However, where the Vessel's departure from the Port of Destination is delayed solely for the Buyer's purposes for more than two hours after the Disconnection of Hoses, the Laytime or time on demurrage shall recommence until the Vessel is allowed to leave the Port of Destination.
- 3.6.4.13 Where the Vessel is ordered to shift Berth or to go to anchorage other than due to a reason attributable to the Seller or the Vessel, then the time taken to move shall count as Laytime or time on demurrage, as the case may be, and any additional costs shall be for the Buyer's account.
- 3.6.4.14 The provisions of Article 14 shall not apply to Articles 3.6.4 - 3.6.5.

### **3.6.5 Demurrage**

- 3.6.5.1 If the Cargo is not discharged within the time allowed as Laytime, the Buyer shall, subject to the provisions of Article 3.6.5, have an independent obligation to pay demurrage to the Seller in respect of the excess time at the appropriate rate per day (or pro rata for part of a day) as hereinafter specified.
- 3.6.5.2 The demurrage to be paid shall be calculated by multiplying the excess time by the demurrage rate agreed between the Parties in the Special Provisions per Day (and pro rata for part of a Day).
- 3.6.5.3 Where no demurrage rate is agreed in the Special Provisions, the demurrage rate shall be determined as follows:
- (a) where the Product is crude oil or condensate, the demurrage rate shall be based on the Average Freight Assessment Rate (AFRA) of Worldscale applicable to the size of the Vessel as published by the London Tanker Brokers Panel and current on the date of the Completion of Loading; or
  - (b) where the Product is LPG, the demurrage rate shall be as per the "Braefoot Bay Assessment" rate for the size of the performing Vessel on the date of the Completion of Loading.
- 3.6.5.4 Where no demurrage rate can be established under Article 3.6.5.2 or Article 3.6.5.3, the demurrage rate shall be as per the market rate for the relevant/applicable size of the Vessel on the date of the Completion of Loading as shall be assessed by a mutually agreed independent and reputable broker. In the event that the Parties do not agree on a mutually acceptable broker, then each Party will appoint a reputable independent broker and the two so appointed will appoint a third. The assessment that is furthest away from the median will be discounted and the applicable demurrage rate will be the average of the two remaining assessments.
- 3.6.5.5 Where the Vessel is discharging the Cargo and cargo(es) for other receiver(s) at the Port of Destination and the Seller is not able to identify which receiver is responsible for demurrage incurred, then any demurrage shall, in the Seller's sole discretion, be prorated between the Buyer and the other receiver(s) in proportion to the discharged quantity of the Buyer's and each receiver's cargo.
- 3.6.5.6 The Buyer's obligation to pay demurrage shall be absolute and shall not be excused by operation of Article 14. However where demurrage is incurred directly as result of adverse weather or sea state conditions or as a result of fire, explosion, strike, lockout, stoppage or restraint of labour or (where not resulting from want of due diligence by the Buyer or its Affiliates, servants, agents or counterparties) by breakdown of machinery, plant or equipment at the Terminal, and always provided the Vessel is not already on demurrage, then the rate of demurrage shall be reduced by one-half per running hour or pro rata for part of an hour for the demurrage thus incurred.
- 3.6.5.7 Demurrage shall be paid by the Buyer to the Seller not later than 30 Days from the date of the Seller's invoice. Where payment is not made within the due date, interest on overdue payment shall be payable in accordance with Article 11.2.6. However, where the Vessel is delayed at the Port of Destination for more than 14 Days, then the Seller may send provisional invoices for immediate payment, but without prejudice to the Buyer's right to dispute liability after the Completion of Discharge.

### **3.6.6 Discharge of the Vessel without production of bills of lading/change of destination/change of quantity**

- 3.6.6.1 Where, pursuant to a letter of indemnity issued by the Seller (or third party) to the Ship-owner,:
- (a) the Cargo is discharged without bills of lading being available for presentation to the Vessel's master at the Port of Destination; and/or

- (b) the Cargo is discharged at a Port of Destination other than that named in the bill of lading; and/or
  - (c) the Vessel discharges a quantity of the Cargo that is different from the bill of lading quantity
- then the Buyer shall indemnify and hold the Seller harmless in respect of any liability, loss, damage or expense of whatsoever nature which the Seller may incur, directly or indirectly, in relation to the Shipowner in respect of such letter of indemnity and/or by reason of delivering the Cargo as stated in Article 3.6.6.1.

3.6.6.2 The provisions of Article 3.6.6 shall not be included within the scope of Articles 18.1 and 18.3.1.

### **3.7 Deadfreight**

Any deadfreight incurred by the Seller as a direct result of meeting the requirements of the Port of Destination nominated by the Buyer shall be for the Buyer's account. Any deadfreight incurred solely for the Seller's purpose shall be for the Seller's account.

### **3.8 Lightering and shifting at the Port of Destination**

#### **3.8.1 Lightering and STS transfer**

- 3.8.1.1 The Buyer may request the Vessel to be lightered and/or to carry out STS transfer and the Seller shall not unreasonably deny such request. Any and all expenses incurred for lightering and/or STS operations shall be for the Buyer's account and all time expended in connection with such operations shall count as Laytime for the purposes of calculating the liability for demurrage under the provisions of Articles 3.6.4 - 3.6.5.
- 3.8.1.2 Except in relation to any lightering and/or STS operations carried out at the request of and for the purpose of the Seller, any such operations shall be at the Buyer's risk and expense, and:
  - (a) the Buyer shall be liable to the Seller in respect of any losses, costs, damages and proceedings arising there from and shall indemnify the Seller in respect thereof; and
  - (b) all time used for any lightering and/or STS operations, even where the Vessel is outside port limits shall be counted or included in calculating the time taken by the Buyer to discharge the Vessel or the time in respect of which the Buyer is liable for demurrage (excluding only any time consumed for the purposes stated in Article 3.6.4.5). Any additional steaming and/or waiting time used solely for the purpose of any lightering and/or STS operations shall count as Laytime or, where the Vessel is on demurrage, as demurrage. Where discharge takes place solely using lighters and/or by STS, then the Laytime shall cease upon separation of the last receiving vessel.
- 3.8.1.3 Any lightering and/or STS operations shall be conducted in accordance with the procedures stated in the latest edition of the Ship to Ship Transfer Guide as published by ICS/OCIMF. The lightering and/or receiving vessel shall be subject to the Seller's prior acceptance, which shall not be unreasonably withheld. Any failure to meet the requirements of Equinor Vetting shall always be considered as a reasonable ground for withholding acceptance.
- 3.8.1.4 The provisions of Article 3.8.1 shall not be included within the scope of Articles 18.1 and 18.3.1.

#### **3.8.2 Shifting**

The Buyer may require the Seller to shift the Vessel at the Port of Destination from one safe Berth or anchorage to another safe Berth or anchorage. The cost and time of shifting for the Buyer's purposes shall be for the Buyer's account.

### **3.9 Ice**

- 3.9.1 In case of ice at or en route to the Port of Destination the Vessel shall not force ice, but shall follow channels cut by icebreakers unless the master considers on reasonable grounds that such navigation will not be safe. The Buyer shall be obliged, at its own cost and risk, to place both icebreakers and an ice advisor at the Vessel's disposal where the master deems this necessary.

Where the Seller agrees to continue on such a voyage, then the Buyer undertakes to reimburse the Seller for:

- (a) any extra insurance applicable including any deductible; and
- (b) the costs of any ice damage incurred; and
- (c) any charter hire or damages paid by the Seller to the Ship-owner for the period of the repair due to such ice damage, including deviation to the repair yard.

3.9.2 Where the master deems the Vessel to be in danger of being frozen in at the Port of Destination, the Seller may, at its sole discretion, order the Vessel to cease discharging forthwith and leave the Port of Destination. In such circumstances the Buyer shall, on its own account, place necessary icebreakers and/or an ice advisor at the Vessel's disposal.

3.9.3 Where the Port of Destination is inaccessible due to ice, or in the event the master deems the Vessel in danger of being frozen in, the Vessel will proceed to the nearest safe ice-free position and at the same time the Seller will request revised orders. Immediately upon receipt of such request, the Buyer shall nominate an alternative ice-free and accessible port, where there is no danger of being frozen in and where there are facilities for receiving the Cargo in bulk. In this event, any extra freight, expenses, costs, demurrage and dues incurred as result of such change and damages payable to the Ship-owner shall be paid for by the Buyer. Where the Buyer fails to nominate an alternative port which is reasonably acceptable to the Seller, the Buyer shall cover all additional costs incurred by the Seller as a result of the Vessel not being able to complete its voyage as intended.

3.9.4 The provisions of Articles 3.9.1 and 3.9.3 shall not be included within the scope of Articles 18.1 and 18.3.1.

## **3.10 Insurance**

### **3.10.1 Cargo insurance**

Any cargo insurance to be procured under the Agreement shall be subject to the Norwegian Cargo Clauses (A), Institute Cargo Clauses (A), the Institute Bulk Oil Clauses or any other terms which provide the same or greater levels of coverage, which for the avoidance of doubt shall exclude war risks, strikes, riots and civil commotions risks in respect of the Cargo. The cargo insurance procured pursuant to Article 3.10.1 shall be underwritten by a first class insurer(s) to the full value of the Cargo plus 10% subject to a deductible of 0.5% of the full value of the Cargo. Such insurance shall operate from the time risk passes to the Buyer in accordance with Article 3.2 until the Product passes the Vessel's first permanent manifold flange at the Port of Destination. The insurance and the right to claim under it shall be fully assignable to, or by, the Seller or its order.

### **3.10.2 War risk insurance for the Cargo**

The Seller does not undertake to procure insurance against war risks, strikes, riots and civil commotions risks in respect of the Cargo. However, the Buyer may, by written notice, received by the Seller at least three Working Days prior to the Commencement of Loading, request Seller to procure such insurance, if obtainable. Where, upon request as aforesaid, the Seller procures such insurance, it shall be subject to Institute War Clauses (Cargo) and Institute Strikes Clauses (Cargo) current on the date of sailing of the Vessel. The premium advised by the Seller in respect of such insurance shall be charged to and be recoverable from the Buyer by the Seller as an addition to the purchase price and such addition shall then form part of such purchase price.

### **3.10.3 Additional war risk insurance for the Vessel and related expenses**

3.10.3.1 Where, on its voyage to the Port of Destination, the Vessel is required in performance of the Agreement to transit through or to an area or place as a result of which the Seller incurs, pursuant to the terms of the relevant charterparty, additional costs or charges including insurance or war risk insurance premiums for the Vessel's hull and machinery, protection and indemnity or cargo insurances; crew war bonuses and the provision of security services for the Vessel, the Seller shall be reimbursed by the Buyer in respect of:



- (a) any additional insurance and/or all additional premiums in excess of those prevailing on the Deal Execution Date including, but not limited to, war risk insurance premiums for Hull and Machinery and/or Protection and Indemnity risks; and/or
- (b) all other expenses, including crew war bonuses and the costs of security services for the Vessel; that the Seller is required to pay to the Ship-owner pursuant to the terms of the relevant charterparty.

3.10.3.2 The cost of such additional insurance, additional premiums and/or other expenses referred to in Article 3.10.3.1 shall be paid by the Buyer to the Seller in addition to the price payable pursuant to the Agreement.

#### **3.10.4 Certificate of Insurance**

If requested in writing by the Buyer in respect of a claim covered by such insurance, the Seller shall provide the Buyer with the original Certificate of Insurance or insurance company's cover note.

### **3.11 Seller's refusal to complete the voyage**

3.11.1 Notwithstanding Article 3.10.3, the Seller reserves the right to refuse at any time:

- (a) to direct the Vessel to undertake or to complete the voyage to the Port of Destination or to transit to/proceed to/remain in areas where this would mean the Vessel breaching any International Navigating Limits, similar insurance restrictions or contractual warranties or, in the Seller's opinion, to risk the safety of the Vessel, its cargo or crew or to risk ice damage;
- (b) to transit or proceed to or remain in areas where there is a war (de facto or de jure) or threat thereof;
- (c) prior to the Commencement of Loading, to direct any Vessel to undertake the voyage to the intended Port of Destination which, in the Seller's reasonably held opinion, would involve abnormal delay; or
- (d) to undertake any activity in furtherance of the voyage which in the opinion of the Vessel's master could place the Vessel, its cargo or crew at risk.

3.11.2 Following the Seller's Notice to the Buyer of its refusal to direct a Vessel to undertake or to complete the voyage as stated in Article 3.11.1, the Buyer shall nominate an alternative port reasonably acceptable to the Seller. In this event, any extra freight, expenses, demurrage and dues incurred as result of such change and damages payable to the Ship-owner as a result, shall be paid for by the Buyer. Where the Buyer fails to nominate an alternative port reasonably acceptable to the Seller, the Buyer shall cover all additional costs incurred by the Seller as a result of the Vessel not being able to complete its voyage as intended.

3.11.3 Where the Seller directs a Vessel to undertake or to complete the voyage as referred in Article 3.11.1, the Buyer undertakes to reimburse the Seller, in addition to the price of the Cargo, for all costs incurred by the Seller in respect of any additional costs in order to complete the voyage and facilitate the return voyage of the Vessel to the closest safe area after discharge of the Cargo, including any additional insurance premiums and any other sums that the Seller may be required to pay to the Ship-owner. This provision shall not be included within the scope of Articles 18.1 and 18.3.1.

### **3.12 Charterparty conditions**

3.12.1 The Seller may arrange shipment under bills of lading which incorporate charterparty conditions normally in use for vessels. Without prejudice to the generality of the foregoing, such conditions shall be deemed to include:

- (a) the provision that the shipment shall be pumped out of the Vessel at the Vessel's expense; and
- (b) the provision that where, at any time after loading but before the Commencement of Discharge;
  - (i) importation of the Product comprising the shipment at the Port of Destination is prohibited under the laws of the country in which such Product was produced, or by regulations, rules, directives or guidelines applied by the government of that country or any relevant agency thereof; and/or



(ii) the country, state, territory or region at which the Port of Destination becomes an Embargoed Country (as defined in Article 20.2),

the shipment shall be discharged at an alternative safe port nominated by the Buyer that is not subject to any such prohibition and that is acceptable to the Seller (which acceptance shall not be unreasonably withheld).

3.12.2 Where any prohibition referred to in Article 20 becomes applicable, such alternative port shall be deemed to be the Port of Destination stipulated under the Agreement for the shipment in question and all extra expenses (if any) involved in the Vessel's reaching such alternative Port of Destination and/or in the discharge of the shipment thereat shall be for the Buyer's account.

3.12.3 Where the Buyer, by written instruction to the Seller, requests that the Vessel:

- (a) co-mingle different grades of cargo belonging to the Buyer; and/or
- (b) otherwise breach the Vessel's natural segregation; and/or
- (c) dope the Cargo by introducing additives after loading; and/or
- (d) add dye to the Cargo after loading; and/or
- (e) perform onboard blending of the Cargo; and/or
- (f) carry additives/dye in drums on deck; and/or
- (g) carry out such other cargo operation as the Buyer may reasonably require and always providing that the Vessel is capable of performing such operations and that such operations are within the scope of the charterparty conditions or otherwise agreed by the Ship-owner;

then the Buyer shall indemnify and hold the Seller harmless against any liability, loss, damage, delay or expense that the Seller may sustain by reason of complying with the Buyer's request. The indemnity given by the Buyer to the Seller shall be no less in scope than the indemnity required by the Ship-owner to comply with the Buyer's request. This provision shall not be included within the scope of Articles 18.1 and 18.3.1.

### **3.13 Offshore Loaded Crude**

3.13.1 The provisions of Articles 3.13.2 – 3.13.6 shall apply and prevail where the Cargo is Offshore Loaded Crude and being shipped by a Vessel dedicated to or chartered for the transportation of Crude Oil from an Offshore Loading Facility.

3.13.2 The Seller will promptly notify the Buyer of any changes in any given nominations under the Agreement arising from production changes, weather, operational reasons or any matter beyond the Seller's reasonable influence. Any such modifications notified by the Seller in the quantity of the Cargo, date ranges or final Loading or Arrival Range, as the case may be, shall be deemed to be accepted by the Buyer and any modified quantity, date ranges or final Loading or Arrival Ranges shall replace the quantity and/or date ranges and/or final Loading or Arrival Ranges respectively as nominated.

3.13.3 The Seller may, by written Notice to the Buyer, require that the Vessel shall have priority to discharge at the Port of Destination ahead of other vessels whether or not they have commenced discharging. Where such requirement arises, the Buyer shall ensure that the Vessel can proceed without waiting directly to a Berth provided by the Buyer and commence discharging immediately on arrival at the Berth.

3.13.4 The Seller shall indemnify the Buyer against its liability for substantiated unavoidable extra port dues and demurrage incurred as a direct result of such priority being given to the Seller's Vessel by vessels that have tendered valid NOR to discharge, provided that the indemnity against liability for demurrage shall in each case be limited to the equivalent of the amount of time actually used by the Seller's Vessel to discharge the Cargo.

3.13.5 Where the time allowed to the Buyer for discharge has expired, whether the Cargo has been fully discharged or not, the Seller may, at its sole discretion, forthwith order the Vessel to cease discharging forthwith and leave the Terminal at the Port of Destination. Where the Seller exercises such option, the Seller's invoice shall be based on the net outturn quantity discharged ascertained either in accordance with good standard practice at such Port of Destination or, where such discharge was attended by an

Independent Inspector, as determined by such Independent Inspector, whose determinations shall, except in cases of fraud or manifest error, be conclusive and binding on both Parties for invoicing purposes but without prejudice to the rights of either Party to make any claim. In such event, notwithstanding any provisions of the Agreement regarding cost of determination of quantity and quality, all charges in respect of such independent inspection shall be shared equally between the Parties and the Independent Inspector's report shall be made available to both Parties. The risk and title to the crude oil remaining onboard shall pass to the Seller immediately upon the Completion of Discharge.

- 3.13.6 Notwithstanding any provisions contained elsewhere in the Agreement as to how the Laytime and/or demurrage is treated and/or calculated under various situations, any delay or interruption of any operation at the Port of Destination by reason of bad weather and/or sea conditions or as a result of fire, explosion, strike, lockout, stoppage or restraint of labour or (where not resulting from want of due diligence by the Buyer or its Affiliates, servants, agents or counterparties) by breakdown of machinery or equipment at the Terminal shall count in full as Laytime and/or as time on demurrage where the Vessel is on demurrage.

## ARTICLE 4 Delivered At Place (DAP)

### 4.1 Delivery

Subject to the provisions of the Agreement, the Cargo shall be delivered by the Seller to the Buyer, in bulk DAP at the agreed Port of Destination. Except as expressly modified by the Agreement or by the Special Provisions, references to DAP herein shall also refer to DES, as defined in the Incoterms® 2000.

### 4.2 Risk and title

Risk and title to the Cargo shall pass from the Seller to the Buyer as the Cargo passes the last permanent manifold flange of the Seller's Vessel upon discharge of the Cargo at the Port of Destination.

### 4.3 Determination of quantity and quality

4.3.1 Determination of the quantity and quality of the Cargo shall, unless otherwise agreed in the Special Provisions, be carried out in accordance with Article 4.3.

4.3.2 The outturn quantity and quality shall be determined at the Port of Destination by measurement, sampling and testing carried out by an Independent Inspector appointed by the Seller and reasonably acceptable to the Buyer. The findings of the Independent Inspector shall, save for fraud or manifest error, be final and binding on both Parties for all purposes.

4.3.3 For the purposes of determining the quality of the Cargo the Independent Inspector shall carry out or witness tests on a composite sample of the Cargo which shall be taken from the Vessel's tanks by or taken in the presence of the Independent Inspector at the Port of Destination immediately prior to the Commencement of Discharge and in accordance with the test method(s) referred to in the specification of the Product stated in the Special Provisions, or where no test method is stated, in accordance with the most current American Petroleum Institute ("API") and ASTM International measurement standards at the time of delivery.

4.3.4 Determination of the quantity of the Cargo by the Independent Inspector shall proceed as follows:

- (a) Where the Cargo is delivered from the Seller's Vessel directly into static shore tanks (that is shore tanks to or from which no Product is being pumped other than the Cargo), the quantity of the Cargo so delivered shall be determined by the Independent Inspector by reference to Port of Destination meter measurements taken or witnessed by the Independent Inspector in accordance with the API Manual of Petroleum Measurement Standards ("MPMS") Chapter 5. Meters shall be proved prior to discharge by or in the presence of the Independent Inspector in accordance with MPMS Chapter 4. Where metering facilities are not available, or where in the opinion of the Independent Inspector the meters did not perform in accordance with MPMS Chapter 5, or where the meters were not proven prior to discharge in accordance with MPMS Chapter 4, the gross quantity of the Cargo shall be determined by reference to shore tank gaugings taken or witnessed by the Independent Inspector in accordance with MPMS Chapter 3; or
- (b) Where the Cargo is delivered from the Seller's Vessel directly into active shore tanks (that is shore tanks where Product is being pumped out of the tank during the discharge of the Cargo) and where no correctly functioning or proven Port of Destination meters are available in accordance with Article 4.3.4 (a), the gross quantity of the Cargo shall be determined by the Independent Inspector by reference to the Vessel's discharged figures as adjusted by its Vessel Experience Factor ("VEF") in accordance with VEF Addendum to MPMS Chapter 17.1.

4.3.5 The Buyer shall ensure that the Independent Inspector shall have full access to the facilities at the Port of Destination and shall be entitled to have tests carried out that are necessary to enable the Independent Inspector to perform its duties.

4.3.6 Where (i) the Independent Inspector did not undertake or did not witness the measurement of quantity and/or (ii) the Buyer was in breach of Article 4.3.5 and/or (iii) the Independent Inspector failed to follow the procedures stated in Article 4.3, then the findings of the Independent Inspector in respect

of quantity will not be final and binding and the quality shall instead be determined from the Vessel's discharged figures as adjusted by the VEF in accordance with VEF Addendum to MPMS Chapter 17.1 shall apply.

4.3.7 The cost of the Independent Inspector's services shall be shared equally between the Parties.

## **4.4 Vessel requirements**

### **4.4.1 Local requirements**

The Vessel shall comply with all applicable governmental, local and port authority, laws, Equinor requirements and/or regulations in force at the Port of Destination, including but not limited to, the Terminal regulations and requirements. In addition, the Vessel shall comply with Article 4.4.2 and Schedule 4.

### **4.4.2 General requirements for all Vessels**

4.4.2.1 The Vessel shall also comply with all international laws, regulations and/or requirements including, but not limited to, the International Convention for the Safety of Life at Sea, 1974, as amended, MARPOL, all other IMO rules and regulations, and any United States Coast Guard regulations as applicable.

4.4.2.2 Without prejudice to Article 4.4.2.1, the Vessel shall:

- (a) be owned by or demise chartered to a member of the International Tanker Owners Pollution Federation Ltd. (ITOPF), unless the Vessel is an LPG tanker;
- (b) when necessary, carry onboard certificate(s) required in accordance with the International Convention on Civil Liability for Oil Pollution Damage (CLC), 1969, as amended, the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 and a Certificate Of Financial Responsibility;
- (c) have the maximum protection and indemnity insurance coverage for pollution not less in scope and amount than available at any time under the rules of the International Group of P&I Clubs;
- (d) have onboard a valid Safety Management Certificate, issued pursuant to the International Safety Management (ISM) Code 2002;
- (e) be manned, operated and maintained to comply with the standards stated in the most recent edition of the International Safety Guide for Oil Tankers and Terminals (ISGOTT) as may be amended from time to time, the appropriate IMO recommendations, the OCIMF Guidelines for the Control of Drugs and Alcohol Onboard Ship (1995), each as amended from time to time; and
- (f) only discharge dirty ballast, bilges, slops or other substances into water in accordance with MARPOL.

### **4.4.3 Consequences of breach**

Where the Vessel does not meet the requirements stated in Article 4.4, the Terminal and/or the Buyer may refuse to berth, discharge or continue to discharge the Vessel.

## **4.5 Nomination of the Vessel and the Port of Destination**

### **4.5.1 Notice of nomination of the Vessel**

The Seller shall give a written notice of nomination to the Buyer of the Vessel which is to deliver the Cargo. The notice shall specify:

- (a) the grade and/or quality and the approximate quantity of the Cargo to be delivered to the Buyer;
- (b) the name of the Vessel and such other information as may reasonably be required by the Port of Destination;
- (c) the description of any other cargo onboard;

#### **4.5.2 Acceptance/rejection of nomination and the Buyer's instructions**

- 4.5.2.1 The nominated Vessel shall be subject to the Buyer's acceptance which shall not to be unreasonably withheld. The Buyer shall provide the Seller with a written notice of acceptance or rejection of the nominated Vessel within one Working Day of receipt of the nomination.
- 4.5.2.2 Any notice of rejection shall state the specific reason(s) for the Buyer's rejection so that the Seller may take reasonable corrective action(s), including making a further nomination, without prejudice as to whether the Buyer's rejection is reasonable or not.

#### **4.5.3 Nomination of the Port of Destination**

- 4.5.3.1 Unless otherwise stated in the Special Provisions, the Buyer shall notify the Seller in writing within one Working Day of the Buyer's receipt of the Seller's nomination stated in Article 4.5.1, of:
- (a) the Port(s) of Destination, unless already specified in the Special Provisions; and
  - (b) all instructions regarding customary documentation which may be required at the Port of Destination; and
  - (c) the identity of the Terminal(s) at the Port of Destination, with instructions to enable the Vessel to prepare and submit necessary information to the customs or border authorities.
- 4.5.3.2 Any delays in discharging the Cargo caused by the Buyer's failure to provide any necessary information at the Port of Destination will be for the Buyer's account. The Buyer shall indemnify the Seller for all costs, losses and damages, including, but not limited to, demurrage and/or detention incurred by the Seller as a result thereof.
- 4.5.3.3 The Buyer has the option to take the delivery at a place other than that agreed in the Special Provisions subject to:
- (a) the terms, conditions and exceptions of the relevant charterparty; and
  - (b) the Seller's prior approval;
- always provided the Buyer accepts to pay such compensation as the Seller requests for the alternative Port of Destination and indemnifies the Seller and holds it harmless in respect of any liability, loss, damage or expense of whatsoever nature which the Seller may incur (directly or indirectly) to the Ship-owner for the delivery of the Cargo at a port other than that stated in the bills of lading.
- 4.5.3.4 The provisions of Articles 4.5.3.2 – 4.5.3.3 shall not be included within the scope of Articles 18.1 and 18.3.1.

#### **4.5.4 Substitution of the Vessel**

The Seller may substitute the Vessel with another of similar size and characteristics provided that the Seller fulfils its obligations under Article 4.5.1.

#### **4.5.5 Arrival Range**

- 4.5.5.1 Where the Agreement provides for an Arrival Range, the Seller shall ensure that by no later than 23.59 hours (local time) on the last Day of the Arrival Range and upon arrival of the Vessel at the Port of Destination, NOR has been tendered.
- 4.5.5.2 Any stipulations as to the time of loading, arrival or delivery shall not form part of the description of the Cargo and shall not be treated as any form of condition, guarantee or warranty, express or implied, save that this sub-clause shall not any affect any applicable Laytime and demurrage provisions.
- 4.5.5.3 In the event of the delivery being made as a Part Cargo lot, the Seller may tender the NOR after expiry of the Arrival Range as long as the Vessel arrives at the Port of Destination within the Arrival Range.

## **4.6 The Port of Destination**

### **4.6.1 Requirements of the Port of Destination**

The Buyer shall provide a safe port and Berth for the Vessel which the Vessel can, when fully laden, proceed to, lie at, deliver the Cargo at and depart from, always safely afloat and always free from possible air draft(s) or other physical or legal restrictions.

### **4.6.2 Port costs**

All dues and other charges on the Seller's Vessel at the Port of Destination, other than those defined by Worldscale as being for the Ship-owner's account, shall be borne by the Buyer.

### **4.6.3 Laytime**

4.6.3.1 The Laytime allowed to the Buyer for discharging the Cargo, SHINC (Sundays and holidays included), shall be as agreed between the Parties in the Special Provisions.

4.6.3.2 Where no Laytime is agreed in the Special Provisions, the Laytime allowed to the Buyer shall be either:

- (a) one half of the laytime allowed to the Seller under the charterparty; or
- (b) where the charterparty makes no stipulations as to the laytime allowed, the Buyer shall be entitled to one half of such laytime that would be customary in a voyage charterparty for such a vessel on this trade.

Notwithstanding Article 4.6.3.2, for deliveries of crude oil or condensate the Laytime allowed for discharging the Cargo shall be a minimum of 36 hours.

4.6.3.3 Where the delivery of the Cargo is being made as a Part Cargo lot, then the Laytime allowed to the Buyer for discharging the Cargo shall be prorated to the quantity of the Cargo compared with the full cargo capacity of the Vessel.

4.6.3.4 The Laytime shall commence, Berth or no Berth, six hours after the Vessel's master or its agent has tendered the NOR to the Terminal at the Port of Destination upon arrival of the Vessel at the customary anchorage or the place where the Vessel is ordered to await for discharging, whichever is applicable, or at the time when the Vessel is securely moored at the Berth, whichever is earlier.

4.6.3.5 Where the Vessel tenders the NOR at the Port of Destination prior to the Arrival Range, the Laytime shall commence six hours after the NOR but not prior to 00.00 on the first day of the Arrival Range, unless the Buyer allows the Vessel to berth earlier, in which case the Laytime commences when the Vessel is securely moored.

4.6.3.6 Where the Vessel tenders the NOR at the Port of Destination during the Arrival Range, then the Laytime shall start in accordance with the general provisions of Article 4.6.3.

4.6.3.7 Where the Vessel tenders the NOR at the Port of Destination after the Arrival Range, then the Laytime shall start when the Vessel is all fast or 36 hours after the NOR is given, whichever is earlier. Save as aforesaid, Articles 4.6.3 - 4.6.4 shall apply in full.

4.6.3.8 Time spent by the Vessel on inward passage shall not count as Laytime or time on demurrage.

4.6.3.9 Where the Cargo is a refined petroleum product (excluding LPG) the Vessel, shall be able to maintain an average of 100 PSI at the Vessel's manifold during discharge (save when stripping) or discharge the Cargo within 24 hours provided that there are no interruption(s) and always provided shore facilities permit.

4.6.3.10 Where the Cargo is crude oil, the Vessel shall be able to either maintain an average of 100 PSI at the Vessel's manifold or discharge the Cargo within 32 hours (eight hours less where crude oil washing is not conducted) and always provided that shore facilities permit.

4.6.3.11 Where the Cargo is condensate, the Vessel shall be able to either maintain an average of 100 PSI at the Vessel's manifold or discharge the Cargo within 24 hours and always provided that shore facilities permit.

- 4.6.3.12 Where the Cargo is LPG, the Vessel shall be able to discharge the Cargo as agreed in the Special Provisions, but in the absence of such agreement at the rate consistent with the Vessel's actual capability and always provided that shore facilities and sea water temperature permit.
- 4.6.3.13 Time lost during discharge as a result of the Vessel being unable to perform as stated in Articles 4.6.3.9 - 4.6.3.12 shall not count as Laytime or time on demurrage.
- 4.6.3.14 The Laytime shall cease at the time of the Disconnection of Hoses. However, where the Vessel's departure from the Port of Destination is delayed solely for the Buyer's purposes for more than two hours after the Disconnection of Hoses, the Laytime or time on demurrage shall recommence until the Vessel is allowed to leave the Port of Destination.
- 4.6.3.15 Where the Vessel is ordered to shift Berth or to go to anchorage other than due to a reason attributable to the Seller or the Vessel, then the time taken to move shall count as Laytime or time on demurrage, as the case may be, and any additional costs shall be for the Buyer's account.
- 4.6.3.16 The provisions of Article 14 shall not apply to Articles 4.6.3 - 4.6.4.

#### **4.6.4 Demurrage**

- 4.6.4.1 If the Cargo is not discharged within the time allowed as Laytime, the Buyer shall, subject to the provisions of Article 4.6.4, have an independent obligation to pay demurrage to the Seller in respect of the excess time at the appropriate rate per day (or pro rata for part of a day) as hereinafter specified.
- 4.6.4.2 The demurrage to be paid shall be calculated by multiplying the excess time by the demurrage rate agreed between the Parties in the Special Provisions per Day (and pro rata for part of a Day).
- 4.6.4.3 Where no demurrage rate is agreed in the Special Provisions, the demurrage rate shall be:
- (a) where the Product is crude oil or condensate the demurrage rate shall be based on the Average Freight Assessment Rate (AFRA) of Worldscale applicable to the size of the Vessel as published by the London Tanker Brokers Panel and current on the date of the Completion of Loading; or
  - (b) where the Product is LPG, the demurrage rate shall be as per the "Braefoot Bay Assessment" rate for the size of the performing vessel on the date of the Completion of Loading.
- 4.6.4.4 Where no demurrage rate can be established under Article 4.6.4.2 or Article 4.6.4.3, the demurrage rate shall be as per the market rate for the applicable size of vessel on the date of the Completion of Loading as shall be assessed by a mutually agreed independent and reputable broker. In the event that the Parties do not agree on a mutually acceptable broker, then each Party will appoint a reputable independent broker and the two so appointed will appoint a third. The assessment that is furthest away from the median will be discounted and the applicable demurrage rate will be the average of the two remaining assessments.
- 4.6.4.5 Where the Vessel is discharging the Cargo and cargo(es) for other receiver(s) at the Port of Destination and the Seller is not able to identify which receiver is responsible for demurrage incurred, then any demurrage shall, in the Seller's sole discretion, be prorated between the Buyer and the other receivers in proportion to the discharged quantity of the Buyer's and each receiver's cargo.
- 4.6.4.6 The Buyer's obligation to pay demurrage shall be absolute and not excused by operation of Article 14. However, where demurrage is directly incurred as result of adverse weather or sea state conditions or as a result of fire, explosion, strike, lockout, stoppage or restraint of labour or (where not resulting from want of due diligence by the Buyer or its Affiliates, servants, agents or counterparties) by breakdown of machinery, plant or equipment at the Terminal, and always provided the Vessel is not already on demurrage, then the rate of demurrage shall be reduced by one-half per running hour or pro rata for part of an hour for demurrage thus incurred.
- 4.6.4.7 Demurrage shall be paid by the Buyer to the Seller not later than 30 Days from the date of the Seller's invoice. Where payment is not made within the due date, interest on overdue payment shall be payable in accordance with Article 11.2.6. However, where the Vessel is delayed at the Port of Destination for more than 14 Days then the Seller may send provisional invoices and these are payable immediately, but without prejudice to the Buyer's right to dispute liability after discharge is completed and the Vessel has sailed.

## **4.7 Deadfreight**

Any deadfreight incurred by the Seller as a direct result of meeting the requirements of the Port of Destination nominated by the Buyer shall be for the Buyer's account. Any deadfreight incurred solely for the Seller's purpose shall be for the Seller's account.

## **4.8 Lightering and shifting at the Port of Destination**

### **4.8.1 Lightering and STS transfer**

- 4.8.1.1 The Buyer may request the Vessel to be lightered and/or to carry out STS transfer, and the Seller shall not unreasonably deny such request. Any and all expenses incurred for lightering and/or STS operations shall be for the Buyer's account and all time expended in connection with such operations shall count as Laytime for the purposes of calculating the liability for demurrage under the provisions of Articles 4.6.3 - 4.6.4.
- 4.8.1.2 Except in relation to any lightering and/or STS operations carried out at the request of and for the purpose of the Seller, any such operations shall be at the Buyer's risk and expense, and:
- (a) the Buyer shall be liable to the Seller in respect of any losses, costs, damages and proceedings arising therefrom and shall indemnify the Seller in respect thereof; and
  - (b) all time used for any lightering and/or STS operations, even where the Vessel is outside port limits shall be counted or included in calculating the time taken by the Buyer to discharge the Vessel or the time in respect of which the Buyer is liable for demurrage (excluding only any time consumed for the purposes stated in Article 4.6.3.5). Any additional steaming and/or waiting time used solely for the purpose of any lightering and/or STS operations shall count as Laytime or, where the Vessel is on demurrage, as demurrage. Where discharge takes place solely using lighters and/or by STS, then the Laytime shall cease upon separation of the last receiving vessel.
- 4.8.1.3 Any lightering and/or STS operations shall be conducted in accordance with the procedures stated in the latest edition of the Ship to Ship Transfer Guide as published by ICS/OCIMF. The lightering and/or receiving vessel shall be subject to the Seller's prior acceptance, which shall not be unreasonably withheld. Any failure to meet the requirements of Equinor Vetting shall always be considered as a reasonable ground for withholding acceptance.
- 4.8.1.4 The provisions of Article 4.8.1 shall not be included within the scope of Articles 18.1 and 18.3.1.

### **4.8.2 Shifting**

The Buyer may require the Seller to shift the Vessel at the Port of Destination from one safe Berth or anchorage to another safe Berth or anchorage. The cost and time of shifting for the Buyer's purposes shall be for the Buyer's account.

## **4.9 Ice**

- 4.9.1 In case of ice at or en route to the Port of Destination the Vessel shall not force ice, but shall follow channels cut by icebreakers unless the master considers, on reasonable grounds, that such navigation will not be safe. The Buyer shall be obliged, at its own cost and risk, to place both icebreakers and an ice advisor at the Vessel's disposal where the master deems this necessary. Where the Seller agrees to continue on such a voyage, then the Buyer undertakes to reimburse the Seller for:
- (a) any extra insurance applicable including the deductible;
  - (b) the costs of any ice damage incurred; and
  - (c) any charter hire or damages paid by the Seller to the Ship-owner for the period of the repair due to such ice damage, including deviation to the repair yard.
- 4.9.2 Where the master deems the Vessel to be in danger of being frozen in at the Port of Destination, the Seller may, at its sole discretion, order the Vessel to cease discharging forthwith and leave the Port of



Destination. In such circumstances the Buyer shall, on its own account, place necessary icebreakers and/or an ice advisor at the Vessel's disposal.

- 4.9.3 Where the Port of Destination is inaccessible due to ice, or in the event the master deems the Vessel in danger of being frozen in, the Vessel will proceed to the nearest safe ice-free position and at the same time the Seller will request revised orders from the Buyer. Immediately upon receipt of such request, the Buyer shall nominate an alternative ice-free and accessible Port of Destination, where there is no danger of being frozen in and where there are facilities for receiving the Cargo in bulk. In this event, any extra freight, expenses, demurrage and dues incurred as result of such change and damages payable to the Ship-owner shall be paid for by the Buyer. Where the Buyer fails to nominate an alternative port which is reasonably acceptable to the Seller, the Buyer shall cover all additional costs incurred by the Seller as a result of the Vessel not being able to complete its voyage as intended.

#### **4.10 War risk insurance and related expenses**

- 4.10.1 Where, on its voyage to the Port of Destination, the Vessel is required in performance of the Agreement to transit through or to an area or place as a result of which the Seller incurs, pursuant to the terms of the relevant charterparty, additional costs or charges including insurance or war risk insurance premiums for the Vessel's hull and machinery, protection and indemnity or cargo insurances; crew war bonuses and the provision of security services for the Vessel, the Seller shall be reimbursed by the Buyer in respect of:
- (a) any additional insurance and/or all additional premiums in respect of the Vessel in excess of those prevailing on the Deal Execution Date including, but not limited to, war risk insurance premiums for Hull and Machinery and/or Protection and Indemnity risks; and/or
  - (b) all other expenses, including crew war bonuses and the costs of security services for the Vessel;
- that the Seller is required to pay to the Ship-owner pursuant to the terms of the relevant charterparty. The Seller shall also be reimbursed by the Buyer in respect of any additional insurance and/or additional premiums for the Cargo payable to the cargo insurers.
- 4.10.2 The cost of such additional insurance, additional premiums and/or other expenses referred to in Article 4.10.1 shall be paid by the Buyer to the Seller in addition to the price payable pursuant to the Agreement.

#### **4.11 Seller's refusal to complete the voyage**

- 4.11.1 Notwithstanding Article 4.10, the Seller reserves the right to refuse at any time:
- (a) to direct any Vessel to undertake or to complete the voyage to the Port of Destination or to transit to/proceed to/remain in areas where this would mean the Vessel concerned breaching any International Navigating Limits, similar insurance restrictions or contractual warranties or, in the Seller's opinion, to risk the safety of the Vessel, its cargo or crew or to risk ice damage;
  - (b) to transit or proceed to or remain in areas where there is a war (de facto or de jure) or threat thereof;
  - (c) prior to the Commencement of Loading, to direct any Vessel to undertake the voyage to the intended Port of Destination which, in the Seller's reasonably held opinion, would involve abnormal delay; or
  - (d) to undertake any activity in furtherance of the voyage which in the opinion of the Vessel's master could place the Vessel, its cargo or crew at risk.
- 4.11.2 Following the Seller's Notice to the Buyer of its refusal to direct a Vessel to undertake or to complete the voyage as referred in Article 4.11.1, the Buyer shall nominate an alternative port reasonably acceptable to the Seller. In this event, any extra freight, expenses, demurrage and dues incurred as result of such change and damages payable to the Ship-owner as a result, shall be paid for by the Buyer. Where the Buyer fails to nominate an alternative port reasonably acceptable to the Seller, the Buyer shall cover all additional costs incurred by the Seller as a result of the Vessel not being able to complete its voyage as intended.

- 4.11.3 Where the Seller directs a Vessel to undertake or to complete the voyage as referred in Article 4.11.1, the Buyer undertakes to reimburse the Seller, in addition to the price of the Cargo, for all costs incurred by the Seller in respect of any additional costs in order to complete the voyage and facilitate the return voyage of the Vessel to the closest safe area after discharge of the Cargo, including any additional insurance premiums and any other sums that the Seller may be required to pay to the Ship-owner.
- 4.11.4 The provisions of Articles 4.11.2 – 4.11.3 shall not be included within the scope of Articles 18.1 and 18.3.1.

## **4.12 Offshore Loaded Crude**

- 4.12.1 The provisions of Articles 4.12.2 – 4.12.6 shall apply and prevail where the Cargo is Offshore Loaded Crude: and being shipped by a Vessel dedicated to or chartered for the transportation of Crude Oil from an Offshore Loading Facility.
- 4.12.2 The Seller will promptly notify the Buyer of any changes in any given nominations under the Agreement arising from production changes, weather, operational reasons or any matter beyond the Seller's reasonable influence. Any such modifications notified by the Seller in the quantity of the Cargo, date ranges or final Loading or Arrival Range, as the case may be, shall be deemed to be accepted by the Buyer and any modified quantity, date ranges or final Loading or Arrival Ranges shall replace the quantity and/or date ranges and/or final Loading or Arrival Ranges respectively as nominated.
- 4.12.3 The Seller may, by written Notice to the Buyer, require that the Vessel shall have priority to discharge at the Port of Destination port ahead of other vessels whether or not they have commenced discharging. Where such requirement arises, the Buyer shall procure that the Vessel may proceed without waiting directly to a Berth provided by the Buyer and commence discharging immediately on arrival at the Berth.
- 4.12.4 The Seller shall indemnify the Buyer against its liability for substantiated unavoidable extra port dues and demurrage incurred as a direct result of such priority being given to the Seller's Vessel by vessels that have tendered a valid NOR to discharge, provided that the indemnity against liability for demurrage shall in each case be limited to the equivalent of the amount of time actually used by the Seller's Vessel to discharge the Cargo.
- 4.12.5 Where the time allowed to the Buyer for discharge has expired, whether the Cargo has been fully discharged or not, the Seller may, at its sole discretion, forthwith order the Vessel to cease discharging forthwith and leave the discharge Terminal.
- 4.12.6 Notwithstanding any provisions contained elsewhere in the Agreement as to how the Laytime and/or demurrage is treated and/or calculated under various situations, any delay or interruption of any operation at the Port of Destination by reason of bad weather and/or sea conditions or as a result of fire, explosion, strike, lockout, stoppage or restraint of labour or (where not resulting from want of due diligence by the Buyer or its Affiliates, servants, agents or counterparties) by breakdown of machinery or equipment at the Terminal shall count in full as Laytime and/or as time on demurrage where the Vessel is on demurrage.

## ARTICLE 5 FREE CARRIER (FCA)

### 5.1 Delivery

Subject to the provisions of the Agreement, the Cargo shall be delivered when the Seller has placed the Cargo, cleared for export, into the charge of the Means of Transport named by the Buyer at the agreed Point of Loading.

### 5.2 Risk and title

Notwithstanding any right of the Seller to retain the documents referred to in Article 11.2.2 until payment, risk and title to the Product shall pass from the Seller to the Buyer at the agreed Point of Loading as the Product passes the inlet manifold of the Buyer's Road Tanker/Railcar in question or; where loading by gravity fed top loading, as the Product passes the outlet of the Terminal's loading hose.

### 5.3 Determination of quantity and quality

- 5.3.1 Determination of the quantity and the quality of the Cargo shall be carried out by measurement, sampling and testing in accordance with the standard practice in use at the Point of Loading at the time of loading.
- 5.3.2 The quantity of the Cargo determined pursuant to Article 5.3.1 (or, where applicable, the Special Provisions) shall be inserted in the certificate of quantity and/or the Consignment Note(s) for the Cargo in accordance with standard practice in use at the Point of Loading at the time of loading and that quantity shall be used to calculate the Seller's invoice.
- 5.3.3 Where the Special Provisions provide for the appointment of an Independent Inspector at the Point of Loading, the quantity and/or the quality of the Cargo as ascertained or witnessed by such Independent Inspector shall, except for fraud or manifest error, be final and binding on both Parties. The cost of the Independent Inspector's services shall be shared equally between the Parties.
- 5.3.4 Where determination of quantity and quality of the Cargo pursuant to Article 5.3.1 to Article 5.3.3 does not take place, the quantity and quality of the Cargo provided at the permanent hose connection of the Road Tanker/Railcar shall be that stated in the certificates of quantity and quality so issued.
- 5.3.5 Subject to Article 5.3.3, any documents issued stating the quantity and quality delivered in accordance with Article 5.3 shall be final and binding on both Parties for all purposes, save fraud or manifest error.

### 5.4 Requirements for the Road Tanker/Railcar

The Road Tanker/Railcar shall comply with Applicable Law and the Road Tanker/Railcar Requirements at the Point of Loading. Where the Road Tanker/Railcar does not comply with such requirements the Seller may refuse to load the Road Tanker/Railcar in question.

### 5.5 Nomination of the Road Tanker/Railcar

Nominations of the Road Tanker/Railcar shall be made in accordance with the standard operating procedures of the relevant Point of Loading.

### 5.6 The Point of Loading

#### 5.6.1 Requirements of the Point of Loading

- 5.6.1.1 Loading of the Road Tanker/Railcar must be carried out in a safe and compliant manner in accordance with Applicable Law and the Road Tanker/Railcar Requirements at the Point of Loading.
- 5.6.1.2 The Point of Loading provided for the Road Tanker/Railcar shall always be free of charges for normal cargo transfer.

## **5.6.2 Time allowed for loading**

- 5.6.2.1 The time allowed to the Seller for loading the Cargo shall be as agreed between the Parties in the Special Provisions.
- 5.6.2.2 The time allowed to the Seller shall commence when the Road Tanker/Railcar is made available to the Seller ready for loading and shall cease when the Road Tanker/Railcar is made available to the Buyer for collection or departure from the Terminal.
- 5.6.2.3 The Buyer warrants that the Road Tanker/Railcar is able to load the Cargo within the time allowed for loading, provided loading facilities permit. All time lost as a result of the Road Tanker/Railcar being unable to load the Cargo in accordance with this warranty shall not count against the time allowed for loading or, where the Road Tanker/Railcar is on excess time, as time on the Excess Time Rate.
- 5.6.2.4 The following activities shall not count towards the time allowed for loading:
- (a) cleaning, inspecting and/or inerting the tanks of the Road Tanker/Railcar;
  - (b) repairs or substitution of the Road Tanker/Railcar due to breakdown;
  - (c) delays due to the Buyer's failure to comply with any term of the Agreement including, but not limited to, any Road Tanker/Railcar Requirements; and/or
  - (d) any delay whatsoever attributable to the Road Tanker/Railcar.

## **5.6.3 Excess time**

- 5.6.3.1 Where the time allowed for loading under Article 5.6.2 is exceeded, then the Seller shall pay the Buyer in respect of the excess time at the rate specified in the Special Provisions.
- 5.6.3.2 Each excess time claim shall be submitted in writing, together with all supporting documents. In no event shall the Seller be liable for an excess time claim where such claim with all supporting documents is not received by the Seller in writing and within 21 Days of the date of the Completion of Loading. For the purpose of Article 5.6.3.2, the Completion of Loading date shall count as Day one. Where the Buyer fails to present a claim, together with supporting documentation, within the aforesaid limit, then any liability of the Seller for excess time shall be extinguished.

## ARTICLE 6 DELIVERED DUTY PAID (DDP)

### 6.1 Delivery

Subject to the provisions of the Agreement, the Cargo shall be delivered by the Seller to the Buyer, in bulk DDP at the agreed Port of Destination, cleared for import and with all applicable taxes and duties paid.

### 6.2 Risk and title

Notwithstanding any right of the Seller to retain the documents referred to in Article 11.2.2, the risk and title to the Cargo shall pass from the Seller to the Buyer:

- (a) where delivery is by Road Tanker, when the Road Tanker arrives at the Point of Destination; and
- (b) where delivery is by Railcar, when the locomotive is disconnected from the Railcar at the Point of Destination.

### 6.3 Determination of quantity and quality

- 6.3.1 Where delivery is by Road Tanker/Railcar, the determination of the quantity and quality shall be carried out by measurement, sampling and testing at such place and by such method as agreed between the Parties in the Special Provisions.
- 6.3.2 Where delivery is by Railcar, the binding quantity figure shall be the quantity stated in the railway bills.
- 6.3.3 Any documents issued stating the quantity and quality delivered in accordance with Article 6.3 shall be final and binding on both Parties for all purposes, save for fraud or manifest error.

### 6.4 Requirements for the Road Tanker/Railcar

The Road Tanker/Railcar shall comply with Applicable Law and the Road Tanker/Railcar Requirements at the Point of Destination. Where the Road Tanker/Railcar does not comply with such requirements the Buyer may refuse to unload the Road Tanker/Railcar in question.

### 6.5 Nomination of the Road Tanker/Railcar

#### 6.5.1 Notice of nomination

The Seller shall give a written notice of nomination to the Buyer of the Road Tanker/Railcar which is to deliver the Cargo. The notice shall specify:

- (a) the quality and approximate quantity to be delivered; and
- (b) such other information as may be required by the Point of Destination.

#### 6.5.2 Acceptance/rejection of nomination and the Buyer's instructions

- 6.5.2.1 The nominated Road Tanker/Railcar shall be subject to the Buyer's acceptance which shall not to be unreasonably withheld. The Buyer shall provide the Seller with a Notice of acceptance or rejection of the nominated Vessel within one Working Day of receipt of the nomination.
- 6.5.2.2 Any Notice of rejection shall state the specific reason(s) for the Buyer's rejection so that the Seller may take reasonable corrective action(s), including making a further nomination, without prejudice as to whether the Buyer's rejection is reasonable or not.

#### 6.5.3 Nomination of the Port of Destination

- 6.5.3.1 Unless otherwise stated in the Special Provisions, the Buyer shall notify the Seller within one Working Day of the Buyer's receipt of the Seller's nomination stated in Article 6.5.1, of:

- (a) all instructions regarding the customary documentation which may be required at the Point of Destination; and
  - (b) the Point of Destination(s), unless already specified in the Special Provisions, with instructions to enable the Road Tanker/Railcar to prepare and submit necessary information to the custom or border authorities of the Terminal(s) specified in a timely fashion so as to enable compliance with the regulatory requirements as may be applicable at the Point of Destination.
- 6.5.3.2 Any delays in unloading the Cargo caused by the Buyer's failure to nominate or provide any necessary documents for the importation of the Cargo at the Port of Destination will be for the Buyer's account. The Buyer shall indemnify the Seller for all costs, losses and damages, including, but not limited to, excess time and/or detention incurred by the Seller as a result thereof.

## **6.6 Point of Destination**

### **6.6.1 Requirements of the Point of Destination**

- 6.6.1.1 Discharge of the Road Tanker/Railcar must be carried out in a safe and compliant manner in accordance with Applicable Law and the Road Tanker/Railcar Requirements at the Point of Destination.
- 6.6.1.2 The Point of Destination provided for the Road Tanker/Railcar shall always be free of all charges for normal cargo transfer. Any additional costs that occur subsequent to the Deal Execution Date shall be for the account of the Buyer.

### **6.6.2 Time allowed for unloading**

- 6.6.2.1 The time allowed to the Buyer to unload the Cargo shall be as agreed between the Parties in the Special Provisions. The time allowed for the Buyer to unload the Cargo shall start when the Road Tanker/Railcar is made available to the Buyer at the agreed Point of Destination and shall cease when the Road Tanker/Railcar is made available to the Seller for collection at the same place.
- 6.6.2.2 The following activities shall not count towards the time allowed for unloading:
- (a) repairs or substitution of the Road Tanker/Railcar due to breakdown; and/or
  - (b) delays due to the Seller's failure to comply with any term of the Agreement including, but not limited to, the Road Tanker/Railcar Requirements at the Point of Destination.

### **6.6.3 Excess time (Railcar)**

- 6.6.3.1 Where the time allowed for unloading the Railcar is exceeded, the Buyer shall pay the Excess Time Rate to the Seller as specified in the Special Provisions. Where no such Excess Time Rate is specified, the Excess Time Rate shall be equivalent to the daily rate paid by the Seller for the respective Railcar.
- 6.6.3.2 Where no such Excess Time Rate is stated or a daily rate is not applicable, the Excess Time Rate shall be determined to reflect the market rates at the time of the delivery. When determining such market rate the following shall be taken into consideration to the extent applicable for the respective Railcar:
- (a) a railcar of similar size and type as the Railcar used for the transport or storage of the Cargo;
  - (b) the transport from the Point of Loading to the Point of Destination specified in the Special Provisions; and
  - (c) the quantity of the Cargo.

- 6.6.3.3 Each excess time claim shall be submitted in writing, together with all supporting documents.

### **6.6.4 Excess time (Road Tanker)**

- 6.6.4.1 Where an Excess Time Rate is specified in the Special Provisions and the time allowed for the Buyer to unload a Road Tanker is exceeded, then the Buyer shall pay the Seller in respect of the excess time.
- 6.6.4.2 Each excess time claim shall be submitted in writing, together with all supporting documents.
- 6.6.4.3 An excess time claim which is submitted as stated in Article 6.6.4.2 and not disputed by the Buyer shall

be paid by the Buyer to the Seller not later than 30 Days from the date of the Seller's invoice. Where payment has not been made within such due date, interest on overdue payment shall be payable in accordance with Article 11.2.6.

## **6.7 Duties**

The Seller shall procure custom clearance of the Cargo upon importation and the price agreed shall be deemed to include any duty payable upon importation at the Point of Destination.

## ARTICLE 7 DELIVERY EX TANK, INTO TANK, IN SITU (ITT)

### 7.1 Risk and title

Risk and title to the Product shall pass from the Seller to the Buyer at the Terminal:

- (a) In the case of delivery Ex Tank, as the Product passes the outlet flange of the Seller's storage Tank;
- (b) In the case of delivery Into Tank, as the Product passes the inlet flange of the Buyer's receiving storage Tank;
- (c) In the case of delivery In Situ, at the time and place of the delivery and in such Tank(s) as specified in the Special Provisions and, where applicable, as confirmed by the Terminal.

### 7.2 Nominations

Nominations shall be made in accordance with the standard operating procedures of the Terminal.

### 7.3 Determination of quantity and quality

- 7.3.1 Determination of the quantity and the taking of samples for the purpose of determining quality of the Cargo shall be carried out in accordance with the standard practice in use at the Terminal at the time of delivery.
- 7.3.2 The quantity of the Cargo determined pursuant to Article 7.3.1 (or where applicable, the Special Provisions) shall be inserted in the certificate of quantity for the Cargo in accordance with standard practice in use at the Terminal at the time of delivery and that quantity shall be used to calculate the Seller's invoice.
- 7.3.3 Where the Special Provisions provide for the appointment of an Independent Inspector at the Terminal, the quantity and /or the quality of the Cargo as ascertained or witnessed by such Independent Inspector shall, except for fraud or manifest error, be final and binding for all purposes on both Parties. The cost of the Independent Inspector's services shall be shared equally between the Parties.
- 7.3.4 Where determination of quantity and quality of the Cargo pursuant to Article 7.3.1 - 7.3.3 does not take place, any documents issued in connection with the delivery stating the quantity and quality of the Cargo shall be conclusive and binding on both Parties for invoicing purposes. The Buyer shall be obliged to make payment in full in accordance with Article 11.2 but without prejudice to the rights of either Party to make any claims pursuant to Article 13.



## ARTICLE 8 FREE INTO PIPE (FIP) OR EX-PIPE (EXP)

### 8.1 Risk and title

The risk and title to the Product shall pass from the Seller to the Buyer at the place of delivery as specified in the Special Provisions:

- (a) where the delivery is FIP, as the Product passes the inlet flange of the Buyer's receiving Pipeline;
- (b) where the delivery is EXP, as the Product passes the outlet flange of the Seller's delivering Pipeline.

### 8.2 Determination of quantity and quality

- 8.2.1 The determination of the quantity and quality shall be performed at the place of the delivery specified in the Special Provisions.
- 8.2.2 In the absence of such agreement as described in Article 8.2.1, the determination of the quantity and quality shall be performed at the place of the delivery specified in the Special Provisions in accordance with the standard practice in use at such place.
- 8.2.3 A mutually agreed Independent Inspector shall be appointed to ascertain or witness the determination of quantity and quality of the Cargo or the readings as the case may be. The cost of the Independent Inspector's services shall be shared equally between the Parties.
- 8.2.4 For the purpose of quality determination, the Independent Inspector will draw line or tank composite representative samples prior to commencement of the delivery from the Means of Transport.
- 8.2.5 Any documents issued stating the quantity and quality delivered in accordance with Article 8.2 shall be conclusive and binding on both Parties for all purposes, save fraud or manifest error.

### 8.3 Nominations of transportation

- 8.3.1 Nominations of transportation shall be made in accordance with the standard operating procedures at the relevant place of the delivery.
- 8.3.2 Any delays in the delivery of the Cargo caused by a Party's failure to provide the documents necessary for the delivery of the Cargo will be for such failing Party's account. The failing Party shall indemnify the other Party for all costs, losses and damages, including but not limited to penalties, fees and/or detention incurred as a result thereof.

## ARTICLE 9 FOB OFFSHORE

### 9.1 Applicability

Where the Agreement provides for the sale of Offshore Loaded Crude with FOB delivery at an Offshore Loading Facility, the provisions of this Article shall apply, with the provisions of Article 2 being excluded in full except as stated below.

### 9.2 Delivery

Subject to the provisions of the Agreement, the Cargo shall be delivered by the Seller to the Buyer, in bulk FOB at the Offshore Loading Facility

### 9.3 Risk and title

Risk and Title to the Product shall pass from Seller to Buyer at the FOB Delivery Point as defined in the Lifting Agreement for the offshore oilfield (the "Lifting Agreement").

### 9.4 Determination of quantity and quality

9.4.1 The quality of the Cargo shall be the quality specified in the Lifting Agreement.

9.4.2 The quantity of the Cargo shall be determined by the Field Operator in accordance with the terms of the Lifting Agreement.

9.4.3 Any claims by the Buyer in respect of the quantity or quality of the Cargo shall be subject to the relevant provisions of the Lifting Agreement. The Buyer shall be authorized by the Seller to submit and handle such claims to the Field Operator.

### 9.5 Vessel Requirements

9.5.1 The Vessel shall comply with the vessel requirements stated in the Lifting Agreement and shall be subject to approval by the Field Operator.

9.5.2 The Vessel shall also comply with the requirements set out in Article 2.4.2.1.

### 9.6 Nomination

9.6.1 The Parties shall comply with the nomination procedure contained in the Lifting Agreement. Unless otherwise agreed in the Special Provisions, the Buyer shall be entitled to the scheduling flexibility permitted by the Lifting Agreement.

9.6.2 The Seller shall authorize the Buyer to submit nomination notices in respect of the scheduling of liftings and for all operational purposes concerning the deliveries of the Product, including nominations, documentary instructions and the issue of the shipping documents. The Seller shall give written notice to the Field Operator of such authorization.

9.6.3 The Buyer shall copy the Seller on all relevant written correspondence with the Field Operator, including any changes made to lifting dates, loadable quantities and any other relevant information. The Buyer shall also ensure that the Seller is provided with copies of the shipping documents, including the Bills of Lading.

### 9.7 Field Time and Excess Field Time

9.7.1 The Field Time allowed for the loading of the Cargo shall be the standard field time as adjusted for the delivered quantity, in accordance with the terms of the Lifting Agreement.

9.7.2 In the event that the Field Time is exceeded, in accordance with the terms of the Lifting Agreement, the Buyer shall be entitled to make a claim for Excess Field Time in accordance with the Excess Field Time procedure of the Lifting Agreement.

9.7.3 Where the Excess Field Time procedure is applicable, the Buyer shall be authorized by the Seller to submit and handle claims for Excess Field Time payments on the Seller's behalf and to retain recoveries made in respect of such claims.

## ARTICLE 10 DELIVERIES BY BARGE (FOB/CIF/DAP)

### 10.1 Applicability

The provisions of Article 10 shall apply and prevail, as applicable, where delivery of the Cargo is to be made by Barge.

### 10.2 FOB deliveries

#### 10.2.1 Nomination

10.2.1.1 Each Barge which is to load the Product hereunder shall be nominated in writing by the Buyer to the Seller. The nomination shall be received by the Seller no later than three Working Days prior to the ETA at the Port of Loading such period to exclude any non-Working Day.

10.2.1.2 The nomination shall include:

- (a) the name of the Barge and its registration number;
- (b) the Barge's three previous cargoes;
- (c) the actual quantity, narrowed to within any applicable minimum/maximum tolerances;
- (d) the Product to be loaded;
- (e) destination(s) of the Barge, including full details necessary to comply with the requirements of EMCS, and must include (without limitation) full details (name, address and excise licence number) of the relevant excise licence holder (authorised warehousekeeper) and the tax warehouse itself;
- (f) where the Product is non-EU Qualified, the Buyer must provide sufficient information about the Product's destination as to enable the Seller to comply with the EU Community Transit Rules, including by the use of the New Computerised Transit System ("NCTS");
- (g) the ETA of the Barge at the Terminal at the Port of Loading;
- (h) the Barge owner's name;
- (i) the Buyer's VAT number and country of such VAT registration; and
- (j) full documentary instructions.

10.2.1.3 Subject to Article 10.2.1.4, nominations received:

- (a) after 1500 CET Monday to Thursday;
- (b) after 1400 CET on Fridays;
- (c) after 1400 CET on a day preceding a day which is not a Working Day; or
- (d) on a non-Working Day;

shall be deemed to have been received at 0900 CET on the following Working Day.

10.2.1.4 Where applicable, nominations will be deemed not to have been received until the time and date when the Credit Support required under the Agreement or by the Seller has been received and agreed by the Seller.

10.2.1.5 Any amendment received to any of the information stipulated under Article 10.2.1.2 will be treated as a new nomination.

10.2.1.6 Where the Buyer's nomination is made in accordance with Article 10, the Seller will confirm the Terminal at the Port of Loading in a timely manner and this shall act as confirmation of the nomination if not already provided.

10.2.1.7 Where the Buyer's nomination is made in accordance with Article 10, but no confirmation has been received from the Seller pursuant to Article 10.2.1.6, Laytime will commence from 0001 hours on the ETA specified in Article 10.2.1.2 (g) or expiry of the nomination notification period as specified in Article 10.2.1.1, whichever is later.

10.2.1.8 The provisions of Article 2.4.1-3 shall not apply to deliveries under Article 10.2.

## **10.2.2 Laytime**

10.2.2.1 The Laytime shall be one half of the total free hours for loading and discharging specified in the TTB Rules for the quantity of Product loaded for each delivery to the Buyer under the Agreement.

10.2.2.2 Laytime shall commence no earlier than expiry of the notice periods required for nominations set out in Article 10.2.1.1 above, or on commencement of loading whichever is earlier.

10.2.2.3 For the purpose of calculating demurrage due under this Agreement, Laytime allowed to the claiming party shall be treated as reversible and any Laytime unused in the discharging operation shall be added to the time allowed for loading in Article 10.2.2.1.

10.2.2.4 Laytime or demurrage (if on demurrage) shall end as soon as the loading documents have been received on board or if the departure of the Barge is delayed for the Seller's purposes, until the termination of such delay, provided that:

(a) If the receipt of documents on board is not recorded on the Terminal timesheet, then Laytime or demurrage (if on demurrage) shall end 2 full hours after loading is completed. If completion of loading is not recorded on the Terminal timesheet, it shall be deemed to be when hoses are disconnected (unless this is later than the NOR/reported ready time at the Barge's subsequent destination, in which case, Laytime or demurrage (if on demurrage) shall end at that NOR/reported ready time).

(b) Under no circumstances shall Laytime or demurrage end after the departure of the Barge as indicated on the Terminal timesheet.

10.2.2.5 For the purposes of calculating demurrage due under this Agreement, Laytime shall not commence earlier and/or end later than stated in the Barge owner's demurrage calculation.

## **10.2.3 Demurrage**

10.2.3.1 The demurrage rate that shall apply to the performing Barge shall be the Binnenschiffahrtsgesetz (latest edition) rate applicable to a Barge with the size and capacity equal to the quantity of the Product loaded for each delivery to the Buyer under the Agreement. Partial hours in the result of the sum calculation for the loading or discharging time shall be rounded up to full hours.

10.2.3.2 Demurrage will be payable in accordance with Article 10.2 provided always that:

(a) the Barge has validly tendered NOR or otherwise confirmed that she has arrived and is in all respects ready to load on or before 23:59 hours on the ETA set out in the nomination;

(b) if the Barge tenders NOR or otherwise confirms that she has arrived and is in all respects ready to load after 23:59 hours on the ETA and/or after the agreed Loading Range then, for the purposes of demurrage only, time shall not start until commencement of loading;

(c) if the Barge tenders NOR or otherwise confirms that she has arrived and is in all respects ready to load prior to commencement of the ETA then, for the purposes of demurrage only, time shall start at 0001 hours on the ETA or on commencement of loading, whichever is the earlier;

(d) if the Barge tenders NOR or otherwise confirms that she has arrived and is in all respects ready to load after the ETA, but within the Loading Range specified in the Agreement, the Seller will try to arrange to berth such Barge as soon as possible upon its arrival and Laytime shall not start until commencement of loading;

(e) the demurrage claim has been submitted in accordance with Article 10.4.

10.2.3.3 Where the Barge is loaded at the Port of Loading by the Seller and by one or more other supplier(s), the Seller's liability for demurrage shall be limited to that attributable to the Seller's proportion of the total cargo loaded on the Barge at the Port of Loading. However, where the other supplier(s) is/are the cause of the demurrage, the Seller shall not be liable for any demurrage incurred.

## 10.3 CFR, CIF and DAP deliveries

### 10.3.1 Nomination

- 10.3.1.1 Each Barge which is to load the Product hereunder shall be nominated in writing by the Seller to the Buyer. The nomination from the Seller shall be received by the Buyer no later than three Working Days prior to the ETA at the Terminal at the Port of Destination such period to exclude any non-Working Day.
- 10.3.1.2 The nomination shall include:
- (a) the name of the Barge and its registration number;
  - (b) the Barge's three previous cargoes;
  - (c) the actual quantity, narrowed to within any applicable minimum/maximum tolerances;
  - (d) the Product to be loaded;
  - (e) the Terminal at the Port of Loading;
  - (f) the ETA of the Barge at the Port of Loading;
  - (g) destination(s) of the Barge, if known;
  - (h) the Barge owner's name and address;
  - (i) the ETA of the Barge at the Port of Destination.
- 10.3.1.3 Nominations received:
- (a) after 1500 CET Monday to Thursday;
  - (b) after 1400 CET on Fridays;
  - (c) after 1400 CET on a day preceding a day which is not a Working Day; or
  - (d) on a non-Working Day;
- shall be deemed to have been received at 0900 CET on the following Working Day.
- 10.3.1.4 Any amended nomination received will be treated as a new nomination.
- 10.3.1.5 Following receipt of the Seller's nomination made pursuant to Article 10.3, the Buyer shall confirm the nomination and notify the Seller in writing of:
- (a) the Buyer's VAT number and country of such VAT registration;
  - (b) destination(s) of the Barge, including full details necessary to comply with the requirements of EMCS, and must include (without limitation) full details (name, address and excise licence number) of the relevant excise licence holder (authorised warehousekeeper) and the tax warehouse itself);
  - (c) where the Product is non-EU Qualified, the Buyer must provide sufficient information about the Product's destination as to enable the Seller to comply with the EU Community Transit rules, including by the use of the NCTS;
  - (d) the Terminal at the Port of Destination, if not already specified in the Special Provisions; and
  - (e) full documentary instructions.
- 10.3.1.6 Where the Seller's nomination has been made in accordance with Article 10.3.1, but no confirmation has been received from the Buyer pursuant to Article 10.3.1.5, Laytime will commence from 0001 hours on the ETA specified in 10.3.1.2 (f) or expiry of the nomination notification period as specified in Article 10.3.1.1, whichever is later. The Buyer shall be liable for all costs resulting in any delays in loading the Product hereunder due to failure by the Buyer to supply its confirmation pursuant to Article 10.3.1.5 in a timely manner, in addition to any claim for demurrage at the Port of Destination by the Seller.

- 10.3.1.7 No change to the Port of Destination nominated or specified pursuant to Article 10.3.1.5 above shall be effective without the Seller's prior written acceptance which shall not be unreasonably withheld and provided always that:
- (a) such alternative Port of Destination is allowable pursuant to the charterparty or Barge fixture;
  - (b) the Buyer shall be liable for any additional costs incurred by the Seller, including additional freight, deviation costs and costs in respect of any additional bunker consumption;
  - (c) the Buyer has provided full written instructions regarding the particulars and destination of any bills of lading (if applicable) and/or such other customary loading terminal documentation which may be required (and, for the avoidance of doubt, the Buyer shall be liable for all costs resulting from any delays in loading Product hereunder due to failure by the Buyer to supply such information in a timely manner); and
  - (d) the Seller shall have the right to issue its own instructions if such instructions are not so provided by the Buyer before completion of loading.

### **10.3.2 Laytime**

- 10.3.2.1 The Laytime shall be one half of the total free hours for loading and discharging specified in the TTB Rules for the quantity of Product loaded for each delivery to the Buyer under the Agreement.
- 10.3.2.2 Laytime shall commence no earlier than expiry of the notice period required for nominations set out in Article 10.3.1.1 above, or on commencement of discharge, whichever is earlier.
- 10.3.2.3 For the purpose of calculating demurrage due under this Agreement, Laytime allowed to the claiming party shall be treated as reversible and any Laytime unused in the loading operation shall be added to the time allowed for discharge in Article 10.3.2.1.
- 10.3.2.4 Laytime or demurrage (if on demurrage) shall end as soon as the discharging documents have been received on board or, if the departure of the Barge is delayed for Buyer's purposes, until the termination of such delay, provided that:
- (a) If the receipt of documents on board is not recorded on the Terminal timesheet, then Laytime or demurrage (if on demurrage) shall end 2 full hours after discharge is completed. If completion of discharge is not recorded on the Terminal timesheet, it shall be deemed to be when hoses are disconnected (unless this is later than the NOR/reported ready time at the Barge's subsequent destination, in which case, Laytime or demurrage (if on demurrage) shall end at that NOR/ reported ready time).
  - (b) Under no circumstances shall Laytime or demurrage end after the departure of the Barge as indicated on the Terminal timesheet.
- 10.3.2.5 For the purposes of calculating demurrage due under this Agreement, Laytime shall not commence earlier and/or end later than stated in the Barge owner's demurrage calculation.

### **10.3.3 Demurrage**

- 10.3.3.1 The demurrage rate that shall apply to the performing Barge shall be the Binnenschiffahrtsgesetz (latest edition) rate applicable to a Barge with the size and capacity equal to the quantity of the Product loaded for each delivery to the Buyer under the Agreement. Partial hours in the result of the sum calculation for the loading or discharging time shall be rounded up to full hours.
- 10.3.3.2 Demurrage will be payable in accordance with Article 10.3 provided always that:
- (a) the Barge has validly tendered NOR or otherwise confirmed that she has arrived and is in all respects ready to discharge on or before 2359 hours on the ETA set out in the nomination;
  - (b) if the Barge validly tenders NOR or otherwise confirms that she has arrived and is in all respects ready to discharge after 2359 hours on the ETA and/or after any agreed discharge date range specified in the Agreement then, for the purposes of demurrage only, time shall not start until the commencement of discharging;

- (c) if the Barge validly tenders NOR or otherwise confirms that she has arrived and is in all respects ready to discharge prior to commencement of the ETA then, for the purposes of demurrage, time shall start at 0001 hours on the ETA or on commencement of discharging, whichever is the earlier;
- (d) if the Barge validly tenders NOR or otherwise confirms that she has arrived and is in all respects ready to discharge after the ETA, but within the discharge date range specified in the Agreement, the Buyer will try to arrange to berth such Barge as soon as possible upon its arrival and Laytime shall not start until commencement of discharging.

#### **10.4 Submission of demurrage claims**

- 10.4.1 This provision applies to all claims for demurrage under Articles 10.2.3 and 10.3.3 above.
- 10.4.2 The demurrage claim must have been received by the receiving party in writing no later than 1400 CET on the 30th Day from the date of completion of loading (which shall count as Day one) except where the 30th Day from the date of completion of loading is a non-Working Day, in which case the claim must be received by the receiving party no later than 1400 CET on the previous Working Day.
- 10.4.3 The demurrage claim must be accompanied by the following documents in a legible format:
  - (a) the claiming party's demurrage calculation;
  - (b) copies of the Barge owner's demurrage invoice, laytime statement and demurrage calculation or, where the Barge is time-chartered, written confirmation from the Barge owner that the Barge was on time-charter and the Barge owner's running time computation;
  - (c) copy of the nomination including verifiable evidence of the relevant time and date of its transmission; and
  - (d) signed or stamped timesheets from the Terminal (or if not available, a timesheet signed or stamped by a terminal and Barge representative).
- 10.4.4 If the claiming party fails to give such notice or to provide such documentation as is required by Article 10.4 then any and all liability on the part of the receiving party in respect of the claiming party's demurrage claim shall be extinguished.



## SECTION III

# **GENERAL TERMS**

## ARTICLE 11 SETTLEMENT

### 11.1 Credit Support

- 11.1.1 Notwithstanding any provision regarding payment security in the Special Provisions, the Seller may, at any time by giving written notice, require the Buyer to provide Credit Support for the payment or further Credit Support in the form of:
- (a) an irrevocable letter of credit ("L/C"), which shall be, at the Seller's option, either a Standby L/C or a Documentary L/C, issued and advised or confirmed by a first class international bank or banks acceptable to the Seller, which shall:
    - (i) be in the format and terms as stated in Schedule 2, where the Seller has required a Standby L/C;
    - (ii) be in the format and terms as stated in Schedule 3, where the Seller has required a Documentary L/C;
    - (iii) be sufficient to cover the Seller's estimated value of the Cargo plus 10%; and
    - (iv) remain valid for at least 21 Days after the estimated payment due date; or
  - (b) pre-payment for the Cargo in whole or in part at the Seller's discretion at any time specified by the Seller. Such pre-payment shall be made upon presentation of the Seller's provisional invoice based on the Seller's estimated value of the Cargo plus 10%; or
  - (c) such other Credit Support which the Seller, in its sole and absolute discretion and at any time, finds acceptable.
- 11.1.2 Where the Special Provisions require or the Seller requests an irrevocable L/C be issued and/or confirmed in accordance with Article 11.1.1, such L/C shall be so advised or confirmed by no later than the date and time:
- (a) as specified in the Special Provisions; or
  - (b) if not specified in the Special Provisions, as specified in the Seller's notice pursuant to Article 11.1.1; or
  - (c) where the date and time is not specified in the Special Provisions or in the Seller's notice, by no later than:
    - (i) where the delivery is FOB, 12.00 GMT on the date falling five Banking Days prior to the first day of the Loading Range; or
    - (ii) where the Cargo is already loaded when the L/C is requested, one Banking Day after the Seller's request or before discharge commences, whichever is the earliest; or
    - (iii) where the delivery is CIF, CFR or DAP, 12.00 GMT on the date falling five Banking Days prior to the first day of either the date of loading of the Cargo or the Arrival Range, whichever is the earliest; or
    - (iv) where the delivery is FCA, EX Tank, INTO TANK, ITT, FIP or EXP, 12.00 GMT on the date falling five Banking Days prior to the expected date of the delivery of the Product.
    - (v) where the delivery is by Barge no later than 1600 hours CET five Banking Days before:
      - ETA at the Port of Loading for FOB/CIF/CFR deliveries; or
      - ETA at the Port of Destination for DAP deliveries.
- 11.1.3 It is a condition of the Agreement that the Buyer complies with all its obligations under Article 11. Any failure by the Buyer to comply with any of its obligations under Article 11 shall be a breach of a condition of the Agreement, and the Seller may, at its absolute discretion, and in addition to and without prejudice to any other rights it may have in law or under the Agreement, at any time:
- (a) cancel the delivery of the Cargo; and/or

- (b) withhold or suspend the delivery or loading, discharging or unloading of the Cargo; and/or
  - (c) withhold release of the Consignment Notes, shipping documents or letter(s) of indemnity; and/or
  - (d) declare or order by written notice to the Buyer that title (but not risk) in the Cargo shall be retained by, or re-vest in, the Seller. Where the Seller so declares or orders under Article 11.1.3, title in the Cargo shall not pass to the Buyer and, where already passed to the Buyer, shall re-vest in the Seller upon such notice being given by the Seller. The Cargo shall remain at the Buyer's risk in accordance with the Agreement until the Seller gives written notice to the Buyer that this is no longer the case; and/or
  - (e) insist on the Buyer discharging the Means of Transport exclusively to an entity notified to the Buyer by the Seller.
- 11.1.4 The Seller shall not be liable to the Buyer for any costs, losses and/or damages (including liabilities to third parties) incurred by the Buyer as a result of any such steps the Seller may take. The Seller may exercise the rights stated in Article 11.1.3 whether or not nominations have been made or accepted.
- 11.1.5 Where the Seller exercises any of the rights stipulated in Article 11.1.3, the Seller shall be entitled to dispose freely of any resulting quantity of the Product and the Buyer shall be liable for, and shall indemnify the Seller for any costs, losses and/or damages incurred by the Seller. The Buyer's liability includes, but is not limited to, any demurrage or excess time payable by the Seller in respect of the Means of Transport or other means of transport(s) waiting at the Terminal and/or any liability incurred by the Seller from third parties as a result thereof.
- 11.1.6 All bank charges relating to any L/C or other Credit Support and any other fees, commissions, costs and expenses incurred with respect to providing Credit Support are for the Buyer's account, save for those charges stated in Schedule 2 as being for the Seller's account.
- 11.1.7 Notwithstanding the provision of Credit Support for the transaction, the Buyer will remain responsible for payment in the event that payment is not made under the Credit Support for any reason whatsoever.

## **11.2 Payment**

### **11.2.1 General**

- 11.2.1.1 Payment for the Cargo shall be made by the Buyer to the Seller, without deduction, discount, set off or counterclaims, and unless otherwise specified in the Special Provisions, in immediately-available same day funds by telegraphic transfer to the Seller's bank account in the currency, and by the date of payment, specified in the Special Provisions.
- 11.2.1.2 Where any Applicable Law requires a deduction or withholding in respect of tax to be made, the Buyer shall inform the Seller of that requirement and will pay such additional amount to the Seller as will ensure that the net amount received by the Seller is equal to the full amount that the Seller would have received had the deduction or withholding not been required.
- 11.2.1.3 In the event that the calculation of the price differential and final price formula during the pricing period should result in a value for the price that is less than zero, the Buyer shall be required to receive the contracted quantity of Product but in no event shall the Seller be liable to pay the Buyer for receiving the Product. In all cases of a negative price there will be a price floor of zero, such that the Buyer will pay nothing for the Product and the Seller will not be required to pay the Buyer to receive the Product. Notwithstanding a negative price, the Agreement shall remain valid, and the mutual and respective rights and obligations of each Party will remain unaffected under the Agreement.

## **11.2.2 Payment documents**

11.2.2.1 Except as expressly provided elsewhere in the Agreement, payment shall be made by the Buyer against the presentation of the Seller's commercial invoice (provisional invoice is acceptable where the provisions of Article 11.2.4.3 apply) and the following documents:

- (a) Where deliveries are FOB, CIF, CFR, CIF Outturn and CFR Outturn:
  - (i) original certificates of quantity and quality or, where no such certificates are issued, reasonable equivalent documents issued at the Port of Loading;
  - (ii) a complete set of original bills of lading issued or endorsed to the order of the Buyer or, where a Documentary L/C has been issued, to the order of the issuing or confirming bank;
- (b) for CIF Outturn and CFR Outturn deliveries, any quantity measurement report issued at the Port of Destination pursuant to Article 4.3.
- (c) Where deliveries are DAP, a copy of the report issued by the Independent Inspector at the Port of Destination pursuant to Article 4.3.
- (d) Where deliveries are FCA or DDP:
  - (i) the original Consignment Note issued to the Buyer or endorsed to the order of the Buyer evidencing the carriage of the Cargo signed and stamped by relevant Governmental Authorities, all in accordance with standard practice for the relevant Means of Transport and the Delivery Term; or in the absence of such Consignment Note due to local laws, regulations or established procedures, other contract documents evidencing the carriage of the Cargo;
  - (ii) original certificates of quantity, quality or where no such certificates are issued, equivalent documents issued at the Point of Destination.
- (e) Where deliveries are Ex Tank, Into Tank, ITT, EXP and FIP:
  - (i) original certificates of quantity, quality or where no such certificates are issued, reasonable equivalent documents issued at the Point of Destination; and
  - (ii) the original Consignment Note, or the original relevant receipts or documents that are issued by the Point of Destination to the Buyer or endorsed to the order of the Buyer evidencing the carriage, the change of ownership or the receipt of the Cargo as the case may be.

## **11.2.3 Seller's Indemnity in place of unavailable documents**

Where any of the documents referred to in Article 11.2.2 are not available to the Seller for presentation to the Buyer on or before the payment due date, the Buyer agrees to pay the Seller upon presentation to the Buyer of:

- (a) the Seller's commercial invoice (a provisional invoice is acceptable where the provisions of Article 11.2.4.3 apply); and
- (b) the Seller's letter of indemnity in the form set out Schedule 1, which may be in a computer generated format bearing an electronic signature and submitted as a PDF file e-mail attachment.

## **11.2.4 Invoice**

11.2.4.1 The Seller's invoice shall be presented in the form of a hard copy, sent by post, mail or courier, or a fax or a PDF file e-mail attachment.

11.2.4.2 The Seller's invoice shall be based on the agreed pricing formula stipulated in the Special Provisions and the delivered quantity in accordance with the relevant documents issued pursuant to the Agreement.

11.2.4.3 Where it is not practical or possible to issue a final invoice prior to the due date for payment, the Seller may issue and the Buyer shall make payment against, a provisional invoice. Unless a provisional price is

agreed between the Parties, the Seller's provisional invoice shall be based on a provisional price reasonably assessed by the Seller, and where it is necessary to estimate a provisional volume, a provisional volume of 99.8% of the Seller's assessment of the volume delivered. Payment of any balance due by either Party shall be made immediately and latest within two Banking Days of the date of the Seller's final invoice. The final invoice shall be issued as soon as practicable after all relevant pricing and/or quantity information becomes available to the Seller.

- 11.2.4.4 In the event that Buyer shall have paid prior to the receipt of the final invoice, then Seller shall refund any overpayment and Buyer shall pay any deficiency in payment no later than two Banking Days after the final invoice has been sent to Buyer by Seller.
- 11.2.4.5 Unless otherwise agreed, the payment of any other costs, expenses or charges due under the Agreement shall be made against presentation of an invoice and shall be paid on or before the date specified therein or, where no date is specified, immediately.
- 11.2.4.6 Where any payment due date falls on a Sunday or a bank holiday Monday in any region necessary to effectuate subject payment, such payment shall be made on the first Banking Day following and where any payment falls due on a Saturday or any other bank holiday in any region necessary to effectuate subject payment, such payment shall be made on the last preceding Banking Day.
- 11.2.4.7 Payment(s) shall be made to the Seller's bank, account name and account number as specified in the Special Provisions or the invoice. If at any time either Party sends written notice of changed banking information or an invoice containing banking information different from that currently in the other Party's records, the paying Party may, prior to making any payment then due, require that the other party provide email or fax confirmation of the new banking information as well as the paying Party's usual account opening information. The other Party shall provide such information in a timely manner and payment shall not be due until one Banking Day after the paying Party has completed its account opening process (including any "know your customer" verification). The paying Party shall update its records in a timely manner upon receipt of the confirmation so as to avoid unnecessary further requests for confirmation.

#### **11.2.5 Netting of Invoices**

- 11.2.5.1 Subject to mutual agreement, the Parties may net invoices for amounts that are due to each other on the same date. In that case, prior to the due date the Parties shall confirm either orally (to be confirmed in writing) or in writing, the invoice amounts and the balance due, if any, after netting (being the excess of the larger aggregate amount owed over the smaller aggregate amount owed). When the balance due has been confirmed, each Party's obligation to make payments to the other will be automatically satisfied and discharged and replaced by an obligation upon the Party by whom the larger aggregate amount would have been payable to pay to the other Party on the date due the agreed balance.
- 11.2.5.2 Notwithstanding Article 11.2.5.1, payments for any demurrage, quantity, quality or other claims shall not be included in such netting of invoices.

#### **11.2.6 Interest**

- 11.2.6.1 Where any payments are not made in full by the due date, the Buyer shall pay to the Seller interest calculated at three point two five (3.25) percentage points above the Secured Overnight Financing Rate ("SOFR") as published by the Federal Reserve Bank of New York on its website, for each day from the due date until the date payment is received by the Seller's bank. The SOFR applicable for each overdue day, shall be the daily SOFR rate published on the night following said day. The SOFR applicable for each overdue day that is a non-Banking Day shall be the rate of the last preceding Banking Day, calculated as above, before the relevant non-Banking Day. If SOFR is less than zero, it shall be deemed to be zero.
- 11.2.6.2 Interest shall continue to accrue under Article 11.2.6 until payment is made in full, notwithstanding the termination of the Agreement for any cause whatsoever.
- 11.2.6.3 The Buyer shall pay such interest within five Banking Days following receipt of Seller's invoice for such interest.

11.2.6.4 The amount of interest payable to the Seller shall be grossed-up for withholding tax, if any, such that the net amount of interest received by the Seller shall be equal to the full amount of interest due as if no withholding tax were payable.

11.2.6.5 The provisions of Article 11.2.6 shall not be construed as any agreement or willingness by the Seller to extend credit to the Buyer and are without prejudice to any other rights or remedies of the Seller under the Agreement or in law. Any expenses incurred by the Seller, including reasonable legal fees, court costs and collection agency fees, caused by delayed or non-payment by the Buyer of the amount(s) due shall be for the account of the Buyer and payable upon demand with supporting documentation.

**11.2.7 Other costs, expenses and charges**

Unless otherwise agreed, the payment of any other costs, expenses or charges, including Other Charges, which arise under the terms of the Agreement shall be made against presentation of the invoice therefore and shall be for immediate settlement by the payer on or before the date specified therein.

**11.2.8 Electronic documents**

Any document to be provided under Article 11 may be submitted by email or other electronic means unless a hard copy document is specifically and reasonably requested in writing by Buyer.

## ARTICLE 12 TAXES AND OTHER CHARGES

### 12.1 Taxes

- 12.1.1 The price specified in the Agreement (whether fixed in the Agreement or fixed pursuant to a pricing mechanism referred to in the Agreement) is exclusive of any and all Taxes.
- 12.1.2 Where, and to the extent that Taxes are payable and the Seller is required in accordance with Applicable Law to pay the same, the Buyer shall pay an amount equal to the amount of such Taxes to the Seller in addition to the price so specified and shall indemnify and hold the Seller harmless in respect of any such amount and against any claim made against the Seller in respect thereof and against any loss, cost or expense arising in connection therewith or as a consequence thereof unless such loss, cost or expense arises as a result of the wilful default or gross negligence of the Seller.
- 12.1.3 The Buyer shall pay all sums payable by it under the Agreement free and clear of all deductions or withholdings in respect of Tax unless any Applicable Law requires such a deduction or withholding to be made. Where such a deduction or withholding is so required the Buyer shall promptly inform the Seller of that requirement and will pay such additional amount to the Seller as will ensure that the net amount received by the Seller is equal to the full amount that the Seller would have received had the deduction or withholding not been made.

### 12.2 Other Charges

- 12.2.1 Notwithstanding any provision of Applicable Law to the contrary, the Seller shall be responsible and indemnify the Buyer for the payment of any Other Charges arising at the Port of Loading or Point of Loading, as applicable, and that arise from the sale and the delivery to the Buyer of the Cargo until the stage when the title has passed to the Buyer.
- 12.2.2 All Other Charges imposed on the Cargo or the Means of Transport after the title has passed to the Buyer (when not included in the agreed freight rates) shall be for the Buyer's account.

### 12.3 Invoicing and payment

- 12.3.1 Without prejudice to the provisions of Article 12.2.1, payment of any Taxes and/or Other Charges shall be made to the Seller in addition to the price specified in the Special Provisions and in accordance with Article 12.1.3.
- 12.3.2 To the extent that there are Taxes and/or Other Charges due for payment that are determinable and have been determined on or immediately before the invoice date, the invoice provided by the Seller to the Buyer at the time of request for payment shall state the amount of those Taxes and/or Other Charges.
- 12.3.3 The invoice may be rendered in either the local currency of the country in which the Taxes and/or Other Charges are payable or, at the Seller's option, in the invoicing currency for the Cargo, converted at the appropriate exchange rate prevailing on the date of the tax point under the relevant Applicable Law.
- 12.3.4 In the event either Buyer or Seller becomes aware of a potential or actual liability to make any payment of Taxes which might give rise to a claim, it shall give notice of the circumstances to the other Party as soon as reasonably practicable, in order to allow both Parties reasonable opportunity to seek to minimize their liability for such Taxes, acting always in compliance with the laws of the relevant Governmental Authority. Each Party shall give the other Party such assistance as is reasonable in the circumstances in this regard, and Buyer or Seller (as appropriate) shall not make any payment of such Taxes until the due date on which such Taxes are due and payable in accordance with the relevant tax regulations unless an early payment could result in a reduction of the liability to such Taxes.

## **12.4 Provision of information and documentation**

- 12.4.1 The necessary information and documentary instructions required to comply with EU or any non-EU state of loading/discharge law and/or regulations or other Applicable Law on Taxes must be received by the Seller at least two Working Days prior to the Commencement of Loading or - in case of FIP, EXP, Into Tank, Ex Tank or ITT sales - prior to the delivery, unless otherwise agreed by the Seller in writing (such information will otherwise be deemed not to have been given for the purpose of Article 12.4.
- 12.4.2 Upon receipt of the Seller's request, the Buyer shall provide such documentation, for presentation to any relevant Governmental Authority that the Seller reasonably considers necessary in order to satisfy any enquiry made by that Governmental Authority in relation to the treatment of the sale of the Cargo for Tax purposes.
- 12.4.3 Upon receipt of the Seller's request, the Buyer will provide an official receipt from any such Governmental Authority confirming that the payment of any Taxes and/or Other Charges (as the case may be) have been paid.
- 12.4.4 Upon receipt of the Buyer's request, the Seller shall provide such documentation for presentation to any relevant Governmental Authority that the Buyer reasonably considers necessary in order to satisfy any enquiry made by that Governmental Authority in relation to the treatment of the sale of the Cargo for Tax purposes.

## **12.5 Indemnification**

- 12.5.1 Notwithstanding anything herein to the contrary, the Buyer shall be responsible for, indemnify and hold the Seller harmless from and against any and all direct or indirect losses, costs, expenses, penalties and interest incurred by the Seller as a result of the Buyer's failure to provide the Seller with the information and documentation referred to in Article 12 and/or as a result of the Buyer's failure to pay, or delay in paying, any Taxes and/or Other Charges in accordance with the Agreement.
- 12.5.2 Notwithstanding anything herein to the contrary, the Seller shall be responsible for, indemnify and hold the Buyer harmless from and against any, and all direct losses, costs, expenses, penalties and interest incurred by the Buyer as a result of the Seller's failure to provide the Buyer with the information and documentation referred to in Article 12.



## ARTICLE 13 QUANTITY AND QUALITY

### 13.1 Quality

- 13.1.1 The quality of the Cargo delivered shall not be inferior to the specification stated in the Special Provisions.
- 13.1.2 Unless otherwise stated in the Special Provisions, where the Product is crude oil or condensate, the quality of the Product delivered shall be of the quality of such crude oil or condensate as usually made available at the time and Port of Loading.
- 13.1.3 Where the Product is Offshore Loaded Crude, the Product shall be of the quality that is available at the offshore loading facility at the time of loading the Cargo.
- 13.1.4 Whether stated in these GT&Cs or in the Special Provisions, neither Typical nor any stipulation as to the time of the delivery shall form part of the Product's description, quality or fitness for purpose.
- 13.1.5 Article 13.1 constitutes the whole of the Seller's obligations with respect to the description, quality and fitness for purpose of the Product to be Delivered and (save to the extent that exclusion thereof is not permitted or is ineffective by operation of law) all statutory or other conditions or warranties, express or implied, with respect to the description or satisfactory quality of the Product or its fitness for any particular purpose or otherwise are hereby excluded.

### 13.2 Claims in respect of quantity or quality

- 13.2.1 For Deliveries by the Vessel: FOB, CIF, CFR, CIF Outturn, CFR Outturn and DAP:
- (a) Any claim as to shortage in quantity of the Cargo and/or defects in the quality of the Cargo shall be made by written notice to the Seller immediately after such apparent shortage and/or defects are discovered at the Port of Loading or Port of Destination, as the case may be.
- (b) Such notice shall be followed by a written claim to the Seller containing all the details necessary to evaluate the claim. Where a written claim together with all supporting documents is not received by the Seller within 50 Days after the Completion of Loading for FOB, CFR or CIF deliveries or within 30 Days after the Completion of Discharge for CIF Outturn, CFR outturn or DAP deliveries, then the claim shall be time-barred and any liability or alleged liability of the Seller under the Agreement shall be extinguished.
- (c) Notwithstanding the foregoing, no claim by Buyer shall be admitted in respect of any deficiency of quantity where the difference between the loaded (Bill of Lading) and discharged (shore outturn) quantity is 0.5% of the loaded quantity or less.
- (d) Where the Product delivered is crude oil, any claims in respect of deficiency of quantity or variation of grade of the crude oil shall only be recoverable in accordance with the usual terms applicable to the purchase of crude oil at the Port of Loading and the Buyer shall not be entitled to recover any costs, losses or damages arising out of any deficiency in quantity or defect in the quality of the crude oil from the Seller under the Agreement unless the Seller is able to recover and does recover such shortage or compensation for variation of grade from its supplier or other relevant third party, and then only to the extent of such recovery. The Seller shall, however, use all reasonable efforts to recover from its supplier or other relevant third party any costs, losses or damages for which the Buyer has submitted a claim in accordance with the provisions of Article 13.2.
- (e) Where the delivery is made CIF Outturn, CFR Outturn or DAP, notwithstanding the provisions of Article 4.3, the Seller shall have the right to submit a claim to the Buyer where there is a difference between the quantity loaded and discharged by the Vessel and where, in the Seller's reasonable opinion, the most likely cause of such difference is due to events at, or the nature of operations at the Port of Destination, during the discharge of the Product.

13.2.2 For land-based deliveries FCA, DDP, Ex Tank, Into Tank, ITT, FIP and EXP:

- (a) Without prejudice to the fact that the certificates of quality and quantity may be final and binding, any claim as to shortage in the quantity of the Cargo and/or defects in the quality of the Cargo shall be made by Notice to the Seller immediately after such apparent shortage and/or defects are discovered at the place of the delivery.
- (b) Such Notice shall be followed by a written claim to the Seller containing all the details necessary to evaluate the claim. Where a written claim together with all supporting documents is not received by the Seller within 30 Days after the delivery then the claim shall be time-barred and any liability or alleged liability of the Seller under the Agreement shall be extinguished.

## ARTICLE 14 FORCE MAJEURE

### 14.1 Force Majeure Event

For the purposes of Article 14, "Force Majeure Event" shall mean any cause or event beyond a Party's reasonable control, which prevents or impedes the due performance of the Agreement and which by the exercise of all reasonable diligence such Party is unable to avoid or overcome, including, but not limited to:

- (a) fires, earthquakes, lightning, floods, explosions, storms, adverse weather, landslides, pandemics and other acts of natural calamity or acts of God;
- (b) navigational accidents or maritime peril; piracy, Vessel damage or loss; breakdown of the Vessel;
- (c) strikes (including sympathy strikes), grievances, actions by or among workers or labour groups or lock-outs (whether or not such labour difficulties could be settled by acceding to any demands of any such labour group(s) or individuals);
- (d) accidents at, closing of, or restrictions upon the use of mooring facilities, docks, harbours, ports, Terminals, pipelines, or other navigational or transportation mechanisms;
- (e) explosions or accidents to wells, pipelines, storage plants, refineries, Terminals, machinery and other facilities;
- (f) acts of war or civil war (whether declared or undeclared), hostilities, civil commotion, embargoes, blockades, terrorism, sabotage, riots and revolution or acts of the public enemy;
- (g) any act or omission of any directive of any Governmental Authority; good faith compliance with any order, request or directive of any Governmental Authority;
- (h) failure, cessation, curtailment, reduction or interference with the Product supplies whether lawful or not from the Seller's or the Seller's suppliers' sources of the Product, including any refusal for any reason by the Seller's suppliers to supply the Product, provided in fact that the sources of supply are for the purpose of the Agreement;
- (i) or any other cause, whether similar or dissimilar to those above and whether foreseeable or unforeseeable.

### 14.2 No liability

14.2.1 Neither the Seller nor the Buyer shall be liable for a failure to perform any of its obligations under the Agreement (other than the obligation of payment of money or provision of Credit Support stated in Article 11) where such performance has been prevented, hindered, delayed or curtailed by a Force Majeure Event. For the avoidance of doubt, the Buyer's obligations as to Laytime and liability for demurrage shall not be subject to qualification by the operation of Article 14.

14.2.2 If a Force Majeure Event occurs, then, at any time thereafter and for so long as the effect of that event continues, the Seller shall be entitled to withhold, suspend, reduce or cancel delivery hereunder to such extent as the Seller shall in its absolute discretion determine.

14.2.3 Any additional quantity of Product deliverable hereunder that would, but for any withholding, reduction, suspension or cancellation pursuant to the foregoing provisions, have been delivered during the period thereof shall cease to be deliverable under the Agreement.

### 14.3 Substitute purchase

Notwithstanding Article 14.2, the Seller shall not be obliged to acquire the Product from other sources or suppliers or to purchase product to make good shortages or deficiencies or delays in the delivery resulting from a Force Majeure Event. For the avoidance of doubt the Seller shall be free to allocate its remaining availability as the Seller at its absolute discretion thinks fit and the Buyer shall be obliged

to accept and pay for any Product tendered for the delivery even if less than the full agreed quantity. Should the Seller thereafter acquire additional Product of the same grade and quality, the Seller shall not be required to allocate any such Product to the Buyer.

#### **14.4 Payment**

Nothing in Article 14 shall relieve the Buyer of any of its accrued obligations to make payment to the Seller under the Agreement by the due date for such payment.

#### **14.5 Notification**

- 14.5.1 The Party seeking relief under Article 14 shall issue a Notice to the other Party as soon as reasonably practicable upon becoming aware of the occurrence of a Force Majeure Event.
- 14.5.2 The Party seeking relief shall thereafter provide the other Party with information regarding (i) when it expects to be in a position to resume performance of the Agreement, (ii) the possible cessation of the circumstances relied upon on and (iii) when the Force Majeure Event is terminated.
- 14.5.3 Failure of a Party to comply with the requirements of Articles 14.5.1 - 14.5.2 shall make the failing Party responsible for loss and damages that could otherwise have reasonably been avoided had the requirements been complied with.

#### **14.6 Termination**

The Party seeking relief of its performance obligation under Article 14 shall resume such obligation as soon as reasonably possible after the circumstances relied upon have ceased.

Where the period of suspension of the delivery due to a Force Majeure Event shall continue for more than 30 consecutive Days from the date that Notice of such event is given, and so long as such event is continuing, either Party may terminate such affected delivery upon giving Notice to the other Party and neither Party shall have any further liability to the other Party in respect of such delivery except for the rights and remedies previously accrued.

Where, under the Agreement, the Buyer is to receive more than one Cargo, no withholding, suspension, delay, reduction or cancellation of such delivery shall operate to extend the duration of the Agreement; and any quantities of Product deliverable under the Agreement that would, but for any reduction or cancellation pursuant to Article 14, have been delivered during the period of the Agreement, shall cease to be deliverable by the Seller.

## ARTICLE 15 NEW OR CHANGED REGULATIONS

- 15.1 The Buyer acknowledges and agrees that the Seller is entering into the Agreement in reliance on the laws, rules, regulations, decrees, agreements, concessions and arrangements in effect on the date of the Agreement with governments, government agencies or instruments or public authorities ("Regulations"), affecting directly or indirectly the Product sold under the Agreement. Such Regulations include, but are not limited to, those relating to the production, acquisition, gathering, manufacturing, transportation, storage, trading or delivery of the Product to the extent such regulations affect the Seller or the Seller's supplier(s).
- 15.2 Furthermore, the Parties agree that where at any time during the currency of the Agreement any Regulations are changed or new Regulations have become or are due to become effective, whether by law, decree or regulation or by response to the insistence or request of any governmental or public authority or any person purporting to act for such entities, and the material effect of such changed or new Regulations is:
- (a) not covered by any other provision of the Agreement; and/or
  - (b) has or will have a material adverse economic effect on the Seller;
- the Seller shall have the option to re-negotiate in good faith with the Buyer the price(s) or other relevant terms of the Agreement, based on such changed or new Regulations.
- 15.3 The Seller may exercise the option stated in Article 15.2 at any time by issuing a notice to the Buyer of such changed or new Regulations. The notice shall contain the new price(s) or terms and conditions proposed by the Seller and the information explaining the material adverse economic effect that it imposes on the Seller.
- 15.4 Where the Parties do not agree on the new price(s) or terms and conditions within 15 Days after the date of the Seller's notice, the Seller shall have the right to terminate the Agreement immediately at the end of such 15 Day period. Any Cargo delivered during such 15 Day period shall be sold and purchased at the price(s) and on the terms and conditions specified under the Agreement without any adjustment in respect of the new or changed Regulations.

## ARTICLE 16 HEALTH, SAFETY AND ENVIRONMENT (“HSE”)

### 16.1 REACH

- 16.1.1 The provisions of Article 16.1 shall apply in respect of any delivery where either Port of Loading, Port of Destination, Point of Loading and Point of Destination is located within the European Union/European Economic Area (“EU/EEA”) unless:
- (a) the Product is crude oil or condensate; or
  - (b) an alternative exemption applies under REACH Article 2 (7) b.
- 16.1.2 The Parties shall comply with REACH as amended from time to time, and their respective obligations hereunder.
- 16.1.3 If the Product is sourced from inside the EU/EEA and delivered in the EU/EEA by the Seller, or if the Product is sourced from outside the EU/EEA and the Seller is defined as an importer by REACH, the Seller shall provide the Buyer with a copy of the current Safety Data Sheet (SDS) of the Product and any other health, safety and environmental information relating to it and needed by the Buyer and/or reasonably requested by the Buyer to comply with the requirements of REACH.
- 16.1.4 If the Product is sourced from outside the EU/EEA, and the Seller is not an importer as defined by REACH, the Seller shall make reasonable endeavours to provide the Buyer with the Chemical Abstract Service Index number (“CAS Number”) and/or European Inventory of Existing Commercial Chemical Substances number (“EINECS Number”) and/or any other health, safety and environmental information relating to the Product.
- 16.1.5 Notwithstanding any other provision to the contrary in the Agreement, in providing the Buyer with a CAS Number and/or EINECS Number and/or any other health, safety and environmental information relating to the Product pursuant to Article 16.1, regardless of their source, the Seller provides no warranty or representation as to the accuracy or completeness of such identification number(s) or information relating to it and needed by the Buyer and/or reasonably requested by the Buyer to comply with the requirements of REACH, hence the Seller accepts no liability for loss, damage, delay or expense incurred by the Buyer for whatever reason arising from its reliance on the accuracy of the identification numbers or other information hereunder provided and/or the existence of a valid (pre-) registration of the Product to be imported into the EU/EEA.

### 16.2 Safety Data Sheet (“SDS”)

The Seller shall provide to the Buyer a copy of the current SDS and any other information relating to health, safety and environmental data in connection with the Product delivered hereunder in compliance with the requirements of Applicable Law and Regulations, including but not limited to REACH.

### 16.3 Inherent hazards

To the extent permissible by Applicable Law, the Seller shall not be responsible in any respect whatsoever for any loss, damage or injury resulting from any hazards inherent in the nature of the Product delivered hereunder.

### 16.4 HSE, drug and alcohol policy

- 16.4.1 The Buyer warrants that it is fully conversant with Equinor’s HSE policy and the ethical standards and requirements as detailed at [www.equinor.com](http://www.equinor.com).
- 16.4.2 The Parties agree that all business will be conducted in the most responsible manner to ensure that the operations involve minimum risk to people, the environment and equipment. The shared targets for the operation of the trade are zero personnel injuries, zero spills/environmental damage and zero equipment damage.
- 16.4.3 Each Party shall notify the other of any incidents in connection with their performance under the Agreement related to HSE issues including any pollution incidents that require notification to any Governmental Authorities, further investigation or other response action under Applicable Law and/or Regulations.

## ARTICLE 17 SUSPENSION, TERMINATION AND RIGHT OF RE-SALE

### 17.1 Buyer's default

- 17.1.1 Without prejudice to any right of termination or any other right the Seller may have by equity or law, the Seller may, at its sole discretion and in addition to any other legal remedies it may have, forthwith upon giving written Notice to the Buyer suspend any or all deliveries under the Agreement and/or terminate the Agreement where:
- (a) the Buyer is in breach of any conditions of the Agreement, including but not limited to the payment for the Cargo and/or the provision of Credit Support;
  - (b) the Buyer fails to take delivery in accordance with the quantity or delivery provisions of the Agreement;
  - (c) a petition is filed with a court having jurisdiction or an order is made or an effective resolution is passed for the dissolution, liquidation or winding up of the Buyer or its Parent Company;
  - (d) there is a major change in the direct or indirect ownership of the Buyer or its Parent Company;
  - (e) the Buyer or its Parent Company becomes insolvent or is adjudged bankrupt or makes an assignment, arrangement or composition with or for the benefit of its creditors or does not pay or is in the Seller's reasonable opinion expected to be unable or unwilling to pay its debts as the same become due;
  - (f) the Buyer or its Parent Company ceases or threatens to cease to carry on its business or a major part thereof;
  - (g) a distress, execution, attachment, sequestration or other legal process is levied or enforced or sued on or against any significant part of the property and/or assets of the Buyer or its Parent Company and such process is not discharged within 14 Days thereafter; or
  - (h) a receiver is appointed or an encumbrancer takes possession of the whole or a significant part of the assets or undertaking of the Buyer or its Parent Company.
- 17.1.2 Notwithstanding anything elsewhere in the Agreement or in any other agreement to the contrary, if any event described in Article 17.1.1 occurs in respect of the Buyer, then the Seller shall have the right, exercisable in its sole discretion and at any time, to set-off any or all amounts which Buyer owes to Seller (whether under the Agreement or otherwise and whether or not then due), provided that any amount which is not then due but which is included in such set-off shall be discounted to present value at the time of set-off (to take account of the period between the date of the set-off and the date on which the such amount would have otherwise been due). For this purpose, any amounts may be converted by Seller into the currency in which the other is denominated at the rate of exchange at which the Seller would be able, acting in a reasonable manner and in good faith, to purchase the relevant amount of such currency. If an obligation is unascertained, the Seller may, in good faith, estimate that obligation and set off in respect of the estimate, subject to the relevant party accounting to the other when the obligation is ascertained. The Seller's rights under Article 17.1.2 are in addition to, and not in limitation of or exclusion of, any other rights which Seller may have (whether by agreement, operation of law, in equity or otherwise). Nothing in Article 17.1.2 shall be effective to create a charge or security interest.
- 17.1.3 Where the Seller suspends the delivery of the Cargo due to any of the events referred to under Article 17.1.1 the Seller may, so long as such event is continuing, at any time terminate the entire Agreement.
- 17.1.4 Where, pursuant to the provisions of Article 17.1, the Seller under an Agreement providing for multiple deliveries temporarily suspends the delivery of the Cargo and then decides to resume deliveries under the Agreement, the Seller may cancel the suspended delivery and shall be under no obligation to make up for any quantity of the Cargo that would have been delivered to the Buyer but for such suspension.
- 17.1.5 Where the Agreement provides for multiple deliveries, then the rights given to the Seller in Article 17.1 apply to all deliveries such that where the Seller is allowed to terminate in respect of one delivery, then it is entitled to terminate any or all of the remaining deliveries.

17.1.6 Any termination of the Agreement by the Seller shall be without prejudice to the rights and obligations of each Party as accrued on the date of termination.

## **17.2 Seller's default**

17.2.1 Without prejudice to any right of termination the Buyer may have in equity or in law, the Buyer may at its sole discretion, and in addition to any other legal remedies it may have, forthwith upon giving Notice to the Seller terminate the Agreement, where the Seller, for any reason whatsoever, is in material or repudiatory breach of any conditions of the Agreement. In relation to multiple deliveries under the Agreement, the Buyer's right to terminate under Article 17.2 or otherwise, only applies to the delivery in respect of which the Seller is in breach and not to future deliveries.

17.2.2 Any termination of the Agreement by the Buyer shall be without prejudice to the rights and obligations of each Party as accrued at the date of termination.

## **17.3 Right of resale**

17.3.1 Where the Buyer fails to take delivery of any of the Product under the terms of the Agreement, and such failure is not excused through any other provision of the Agreement, the Seller shall, in addition to any other legal remedies it may have, be entitled (but not obligated) to sell the Product comprised in such delivery for the Buyer's account, in a public or private sale after issuing seven Days' notice to the Buyer and the price so obtained shall be deemed conclusively to be the best price that the Seller could obtain.

17.3.2 The Buyer shall reimburse the Seller for any difference between the price(s) stated in the agreement and the price(s) obtained through public or private sale for the quantity of the Product that not taken for delivery by the Buyer, together with all expenses incurred by the Seller through the Buyer's failure to take delivery of any of the Product.

17.3.3 Payment shall be made by the Buyer to the Seller within 30 Days from the date of the Seller's invoice.



## ARTICLE 18 LIMITATION OF LIABILITY/INDEMNIFICATION

### 18.1 Consequential losses

Except as specifically provided for elsewhere in the Agreement, in no event, including a negligent act or omission on its part, shall either Party be liable to the other, whether under the Agreement or otherwise in connection with it, in contract, tort, breach of statutory duty or otherwise, in respect of any indirect or consequential losses or expenses including (without limitation) if and to the extent they might not otherwise constitute indirect or consequential losses or expenses, loss of anticipated profits, plant shut-down or reduced production, loss of power generation, blackouts or electrical shut-down or reduction, hedging or other derivative losses, punitive damages, goodwill, use, market reputation, business receipts or contracts or commercial opportunities, whether or not foreseeable.

### 18.2 Monetary limits

The Seller's liability, if any, even in the event of negligence on its part, shall always be limited to the difference between the contract price and the market price of the quantity of the Cargo at the time the loss or damage in question occurred and assessed at the place where the delivery took place or should have taken place or the nearest available market.

### 18.3 Time limits

- 18.3.1 Subject to 18.3.2 and without derogating from the specific time limits stated in the Agreement for the submission of demurrage claims and complaints of deficiency of quantity or quality and any other provisions requiring compliance within a given period, all of which shall remain in full force and effect, legal proceedings in respect of any claim arising under the Agreement shall be commenced within one year from the date on which the Cargo was delivered or, in the case of a total loss, the date on which the Cargo should have been delivered. Failing which the claim shall be time barred and any liability or alleged liability of the other party shall be finally extinguished.
- 18.3.2 The time limit for the commencement of legal proceedings under 18.3.1 shall not apply to claims in respect of Taxes and Other Charges or to claims for demurrage, or as otherwise expressly stated in Articles 3 and 4.

### 18.4 Indemnification

- 18.4.1 The Buyer agrees to indemnify and hold the Seller and its Affiliates harmless in respect of any liability, loss, damage or expense of whatsoever nature that the Seller may sustain by reason of a third party bringing a claim against the Seller for personal injury and/or death and/or loss caused by the Cargo (including, but not limited to, the handling of the Cargo) following the passing of risk or title to the Cargo.
- 18.4.2 The provisions of Article 18.4 shall continue to apply notwithstanding the termination or expiry of the Agreement for any reason whatsoever.

## ARTICLE 19 GOVERNING LAW AND LITIGATION/ARBITRATION

### 19.1 Governing law

#### 19.1.1 Default position and options

19.1.1.1 The governing law of the Agreement and any and all non-contractual obligations arising out of or in connection with the Agreement shall be as specified in the Special Provisions but limited to the choice between the laws of (i) England, (ii) Norway, (iii) the State of New York, United States of America or (iv) Singapore.

19.1.1.2 Where no governing law is specified in the Special Provisions, English law shall apply.

#### 19.1.2 Security for claims

Whatever law governs the Agreement and notwithstanding the forum that is chosen for the resolution of any disputes or claims, neither Party shall be precluded from pursuing arrest, attachment and/or other conservatory, interlocutory or interim actions in any court or exercising any contractual rights in relation to the Cargo or the Means of Transport provided for elsewhere in the Agreement.

#### 19.1.3 Vienna Convention

Notwithstanding anything to the contrary in the Agreement, the Parties hereby agree that the United Nations Convention on Contracts for the International Sale of Goods of Vienna (1980) shall not apply to the Agreement.

### 19.2 Litigation/Arbitration

#### 19.2.1 English law

Article 19.2.1 shall apply where the governing law is English law.

19.2.1.1 Except as provided for in Article 19.2.1.2 and Article 19.2.1.3, any dispute arising out of or in connection with the Agreement, including any and all non-contractual obligations and any question regarding its existence, validity or termination shall be referred to the exclusive jurisdiction of the High Court in London.

19.2.1.2 Notwithstanding Article 19.2.1.1, the Seller may refer any such dispute to be resolved by arbitration in London in accordance with the Arbitration Act 1996 as amended from time to time. Unless otherwise agreed, the arbitration tribunal shall consist of three arbitrators, one to be appointed by each of the Parties, and the third arbitrator who shall be the chairman of the tribunal shall be appointed by the two so appointed. Where the Seller elects to arbitrate it shall send a Notice in writing to the Buyer appointing its own arbitrator and requesting the Buyer to appoint its arbitrator within 14 Days of such Notice. Where the Buyer fails to appoint its arbitrator and give Notice of having done so within the said 14 Days, the Seller's appointed arbitrator shall be deemed the sole arbitrator, whose award shall be final and binding as if the arbitrator was appointed by agreement. Where the Buyer is the claiming party then the Seller must elect to arbitrate in writing within 14 Days of the Buyer's written request to accept service of High Court proceedings.

19.2.1.3 Notwithstanding Article 19.2.1.1 and Article 19.2.1.2, any such dispute where the principal amount in dispute does not exceed a sum of USD 100,000 (USD One Hundred Thousand) shall be settled by arbitration in London in accordance with the 1996 Arbitration Act. The London Maritime Arbitrators Association Small Claims Procedure shall apply in this case.

19.2.1.4 Each Party undertakes to appoint a law firm in England to accept service of proceedings within three Working Days of a written request from the other Party to do so.

## **19.2.2 Norwegian law**

Article 19.2.2 shall apply where the governing law is Norwegian law.

- 19.2.2.1 Except as provided for in Article 19.2.2.2, any dispute arising out of or in connection with the Agreement, including any question regarding its existence, validity or termination shall be referred to the exclusive jurisdiction of the Courts in Stavanger, Norway.
- 19.2.2.2 Notwithstanding Article 19.2.2.1, any such dispute where the principal amount in dispute does not exceed a sum of USD 100,000 (USD One Hundred Thousand) shall exclusively and finally be settled by way of arbitration in Stavanger, Norway, and be conducted in accordance with the rules for Alternative Dispute Resolution Section III Fast Track Arbitration of the Oslo Chamber of Commerce.
- 19.2.2.3 In the event of arbitration, the Parties shall agree upon a single arbitrator to whom the matter in dispute shall be referred for determination. Where the Parties have, within 10 Days from the date of the Notice of Arbitration, failed to agree upon an arbitrator, then the President of the Stavanger District Court, shall, on the application of either or both Parties, appoint the single arbitrator, within 14 Days.
- 19.2.2.4 The arbitration shall be conducted in the English language.

## **19.2.3 New York law**

Article 19.2.3 shall apply where the governing law is that of the State of New York, United States of America.

- 19.2.3.1 Except as provided below, the Parties hereto accept the State of New York, as the proper legal venue for the settlement of any controversy or dispute that may arise from or in connection with the Agreement. Furthermore, the existence, validity, interpretation and enforcement of the Agreement, and any controversy, claim or dispute hereunder, whether in contract, tort, equity or otherwise, shall be governed by, construed and enforced in accordance with the Laws of the State of New York, without giving effect to its conflict of laws principles, and the federal Laws of the United States applicable therein.
- 19.2.3.2 Except as provided for in Article 19.2.3.3 below, each Party irrevocably: (i) submits to the exclusive jurisdiction of the U.S. Federal District Court for the Southern District of New York located in the Borough of Manhattan or, if such court declines to exercise or does not have jurisdiction, in any New York state court in the Borough of Manhattan or any other Federal court in the State of New York, and to service of process as provided by New York Law, and (ii) waives any objection which it may have at any time to the laying of venue of any proceedings brought in any such court, waives any claim that such proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such proceedings, that such court does not have jurisdiction over such Party. Further, each Party waives, to the fullest extent permitted by Applicable Law, any right it may have to a trial by jury in respect of any proceedings relating to the Agreement. Nothing in the Agreement precludes either Party from bringing proceedings in any other jurisdiction in order to enforce any judgment obtained in any proceedings referred to in Article 19.2.3, nor will the bringing of such enforcement proceedings in any one or more jurisdictions preclude the bringing of enforcement proceedings in any other jurisdiction. Either Party may file a copy of Article 19.2.3 with any court as written evidence of the knowing, voluntary and bargained agreement between the Parties irrevocably to waive any objections to jurisdiction, venue or to convenience of forum.
- 19.2.3.3 Notwithstanding the above provisions of Article 19.2.3, all claims, disputes, and other matters arising from or in connection with the Agreement, where the amount in dispute does not exceed a sum of USD 500,000 (USD Five Hundred Thousand) which the Parties are unable to resolve by mutual agreement, shall exclusively and finally be settled by way of arbitration in New York as follows:
  - (a) Where a controversy or claim should arise, the representatives of the Parties who negotiated the Agreement, or their respective successors ("Principal Contacts"), will meet at least once and will attempt to resolve the matter. Either Principal Contact may request that the other meet within 14 Days, at a mutually agreed time. Where the matter has not been resolved within 20 Days of their first meeting, (which period may be extended by mutual agreement), the Parties will attempt in good faith to resolve the controversy or claim in accordance with the International Institute for Conflict Prevention and Resolution ("CPR") Model Procedure for Mediation of Business Disputes.

- (b) Where the matter has not been resolved pursuant to the aforesaid mediation procedure within 30 Days of the commencement of such procedure (which period may be extended by mutual agreement), the controversy shall be settled by arbitration in accordance with the CPR Rules for Non-Administered Arbitration then currently in effect, by a sole arbitrator. The arbitration shall be governed by the United States Arbitration Act, 9 U.S.C. 1-16, and judgment upon the award rendered by the arbitrator(s) may be entered by any court having jurisdiction thereof.

#### **19.2.4 Singapore law**

Article 19.2.4 shall apply where the governing law is Singapore law.

- 19.2.4.1 Except as provided for in Article 19.2.4.2, any dispute arising out of or in connection with the Agreement, including any question regarding its existence, validity or termination, shall be referred to the exclusive jurisdiction of the Courts of the Republic of Singapore.
- 19.2.4.2 Notwithstanding Article 19.2.4.1, the Parties may agree to refer any such dispute to arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which rules are deemed to be incorporated by reference in Article 19.2.4.
- 19.2.4.3 The Arbitration Tribunal shall consist of three arbitrators, one to be appointed by each Party and the third to be appointed by the Chairman of the Singapore International Arbitration Centre.
- 19.2.4.4 The arbitration shall be conducted in the English language.

## ARTICLE 20 COMPLIANCE

### 20.1 General Obligations

- 20.1.1 The specific obligations set out in Article 20 shall be without any prejudice to and shall not be construed to limit either Party's duty to comply with Applicable Law. Neither Party shall be obliged to perform any obligation otherwise required under the Agreement, if this would be in violation of, inconsistent with, or expose such Party to punitive measures under any laws, regulations, decrees, ordinances, orders, demands, requests, rules or requirements of the European Union, the United Nations, the United States, the United Kingdom or Norway applicable to either Party.
- 20.1.2 Each Party shall require:
- (a) that any subcontractor with whom such Party enters or has entered into an agreement for the supply of goods or services, in connection with performance of the Agreement, agrees to and complies with contractual provisions substantially identical to those contained in Article 20, and
  - (b) that such subcontractor ensures that its contractors and subcontractors, insofar as involved in performance of the Agreement, agree to and comply with contractual provisions consistent with those contained in Article 20.
- 20.1.3 The Parties shall implement adequate internal controls and effective measures designed to adhere to the obligations set out in Article 20, including but not limited to performing risk-based integrity due diligence (vetting) of any relevant subcontractor, and only enter into agreements with such subcontractors where identified risks can effectively be mitigated.

### 20.2 Destination restrictions

- 20.2.1 For the purposes of Article 20.2 "Embargoed Country" shall mean any country, state, territory or region that is subject to a trade embargo imposed on the relevant Product by any Governmental Authority and affecting either Party or its Affiliates and/or any third party to the extent the third party is involved in the execution of the Agreement on behalf of either the Buyer or the Seller.
- 20.2.2 The Buyer shall not knowingly sell, supply or deliver or request to be delivered, directly or indirectly, the Cargo to an Embargoed Country or in contravention of any applicable trade embargo requirements of the European Union, Norway, the United Kingdom, the United States of America or the United Nations, including but not limited to any guidance regarding trade restrictions issued by the Governmental Authority of the state of Norway from time to time. Where Equinor is the Seller, the Seller retains the right to refuse to effect delivery to any destination which is contrary to any applicable guidelines issued by the Governmental Authority of the state of Norway.
- 20.2.3 The Seller may at any time require the Buyer to provide any relevant documents for the purpose of verifying the final destination of the Cargo and the Buyer undertakes to advise the Seller, upon request, of the destination of the Cargo.
- 20.2.4 Where, at any time before the Commencement of Discharge of the shipment, importation of the Cargo at the designated Port of Destination is prohibited or otherwise restricted by order of the Governmental Authority of the country in which the Cargo has been produced or loaded or is to be imported, then the Seller may at any time suspend its obligations under the Agreement until the Buyer has arranged for discharge to be made at an acceptable alternative Port of Destination that is not subject to any such prohibition. Any resulting additional costs incurred by the Seller as a result of such alternative discharge shall be refunded promptly to the Seller by the Buyer.
- 20.2.5 In the event that the Cargo is disposed of by the Buyer to a third party in whole or part, the Buyer shall ensure that all end users of the Cargo abide by the provisions stated in Articles 20.1 - 20.2 and without delay provide the Seller with all relevant information as the Seller may require related to such alternative disposal including name of the end user, name of the refinery and any other relevant information the Seller may deem necessary.
- 20.2.6 The Buyer's failure to comply with any of the provisions of Article 20.2 (or where the Seller, at its sole discretion, has reasonable grounds for believing that such undertakings shall not be complied

with) shall entitle the Seller (without prejudice to any other rights and remedies it may have under the Agreement) to terminate the Agreement, suspend any or all deliveries of the Product under the Agreement or dispose of any undelivered Cargo as it deems fit.

### **20.3 Anti-corruption and facilitation payments**

- 20.3.1 The Parties will comply with, and will use reasonable endeavours to ensure that any third Parties used by them to fulfil the Parties' respective obligations under the Agreement will comply with, all laws, rules, regulations, decrees or official governmental orders relating to anti-corruption and/or anti-money laundering including but not limited to the UK Bribery Act, the U.S. Foreign Corrupt Practices Act, applicable to any of the Parties or their ultimate parent companies.
- 20.3.2 The Buyer and the Seller and its officers, directors, employees, agents, representatives and, to its knowledge, any subcontractors and their owners and subcontractors each represent, warrant and undertake to the other that they shall not, directly or indirectly:
- (a) make, offer, promise, pay, give, or authorise any financial or other advantage, or anything else of value, to any other person, entity or organisation, with the intent to exert improper influence over the recipient, induce the recipient to violate his or her duties, secure an improper advantage, or improperly reward the recipient for past conduct;
  - (b) offer, promise, pay, give, authorise, request or receive an improper advantage, or accept an offer thereof, in connection with a position, office or assignment;
  - (c) engage in other acts or transactions in each case if this is in violation of or inconsistent with applicable anti-corruption or anti-money laundering and proceeds of crime legislation.
- 20.3.3 In particular, the Seller represents and warrants to the Buyer that it has not made any payments or given anything of value to officials, officers or employees of the government of the country in which the Product originated or any agency, department or instrumentality of such government in connection with the Product which is the subject of the Agreement which would be inconsistent with or contravene any of the above-referenced legislation.
- 20.3.4 All financial settlements, invoices, billings and reports in connection with the Agreement shall be a true and proper reflection of the transactions. Such data may be relied upon as being complete and accurate for the purposes of any recordings and/or reporting made or to be made by either Party or any of their representatives, for whatever purpose.
- 20.3.5 The Buyer or the Seller may terminate the Agreement forthwith upon written notice to the other at any time, if the other is in breach of any of the above representations, warranties or undertakings in this Article.

### **20.4 Sanctions**

- 20.4.1 Terminology:

For the purpose of this Agreement the following additional definitions shall apply:

"Sanctions" means any applicable laws, regulations, orders, directives, designations, licenses, decisions or restrictive measures relating to economic or financial sanctions, Export Control Laws, or restrictions adopted, imposed, promulgated, administered or enforced from time to time by the United Nations Security Council, the United States of America (including but not limited to the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State, and the U.S. Department of Commerce's Bureau of Industry and Security), the European Union, the United Kingdom, or Norway, or over a Party of its Affiliates directed at prohibiting or restricting dealings, or imposing adverse consequences in connection with dealings, with certain countries, territories, governments, individuals, groups, companies, vessels or other entities.

"Sanctions List" means any list of governments, individuals, companies, vessels or other entities subject to Sanctions, including but not limited to lists published, maintained, enacted or enforced by the United Nations (including any lists of persons designated under United Nations Security Council resolutions), the Office of Foreign Assets Control of the United States Department of the Treasury (including the Specially Designated Nationals and Blocked Persons list), the United States Department of State, the

European Union (including but not limited to the consolidated list of persons, groups and entities subject to EU financial sanctions), Norway and the United Kingdom.

“Export Control Laws” means all applicable export control, import, and anti-boycott laws, regulations, orders, directives, designations, licenses, or decisions imposed by the United States or any other country with jurisdiction over any activities conducted pursuant to this Agreement.

“Sanctioned Entity” means any individual or entity, government, country, group, or territory (a) listed, or 50% or more owned or subject to direct or indirect control by any party listed, on a Sanctions List, or (b) a citizen, resident or incorporated in any country or territory which is subject to general or country wide Sanctions, and in respect of whom the performance of an obligation under this Agreement would be prohibited without necessary governmental authorization/license by the European Union, the United Nations, United Kingdom, Norway or the United States of America.

- 20.4.2 The Parties each represent and warrant that they are not listed on a Sanctions List, and that they are not owned 50% or more, controlled directly or indirectly by any Sanctioned Entity.
- 20.4.3 The Parties represent that they will comply with all applicable Sanctions and Export Control Laws in performing their contractual obligations.
- 20.4.4 Where any performance by a Party under the Agreement would expose such Party to be in violation of, acting contrary to and/or at risk of violation or at risk of being exposed to punitive measures, fines or a threat of sanctions themselves under any applicable Sanctions or Export Control Laws, such Party (the affected Party) shall, as soon as reasonably practicable give written notice to the other Party of its inability to perform. Once such notice has been given, the affected Party shall be entitled:
- (a) to immediately suspend the affected obligations under the Agreement until such time as the affected Party may lawfully discharge such obligation, and/or
  - (b) where the inability to discharge the obligation continues (or is reasonably expected to continue) until the end of the contractual time for discharge thereof, to a full release from the affected obligation, provided that where the relevant obligation relates to payment for Product which has already been delivered, the affected payment obligation shall remain suspended (without prejudice to the accrual of any interest on an outstanding payment amount) until such time as the affected Party may lawfully resume payment; and/or
  - (c) where the obligation affected is acceptance of the Vessel, to require the other Party to nominate an alternative Vessel;

in each case without any liability whatsoever (including but not limited to any damages for breach of contract, penalties, costs, fees and expenses).

- 20.4.5 In the event that:
- (a) a Party should become subject to Sanctions such that it would be in breach of those Sanctions to perform their obligations, and/or
  - (b) a Party, or any of its board of directors, or any of its officers, or any owner of more than 50% of the Party or who otherwise controls the Party, be listed as a Sanctioned Entity;

then that Party shall be a defaulting Party and shall immediately inform the non-defaulting Party of the default.

- 20.4.6 Where Article 20.4.5 applies, the non-defaulting Party retains the right to immediately terminate the Agreement upon either (a) or (b) occurring, and be released from all future obligations and liabilities under the Agreement without liability for damages and other contractual penalties. For the avoidance of doubt, this provision does not release the Parties from any liabilities and obligations incurred up to, and including the date of such termination.

## **20.5 Anti-money laundering and terrorist financing**

- 20.5.1 Both Parties represent and warrant that either Party and its owners, Affiliates, officers, directors, employees, agents, representatives, and, to its knowledge, any subcontractors and their contractors and subcontractors, insofar as involved in performance of the Agreement:



- (a) have conducted and will conduct all activities in compliance with anti-money laundering laws and regulations applicable;
- (b) have not and will not conceal or disguise the origin, source, location, disposition, movement or ownership of property knowing that such property is the proceeds of crime; and
- (c) have not and will not engage in transactions with, or provide resources or support to, individuals or organisations associated with terrorism.

20.5.2 Any act or omission in violation of Article 20.5 constitutes a material breach of the Agreement.

## **20.6 Human rights**

20.6.1 For the purpose of Article 20.6, the following definitions shall apply:

“Human Rights” means all internationally recognized human rights including those set out in the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1966) (collectively the International Bill of Human Rights), the United Nations Guiding Principles on Business and Human Rights (2011), the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work and the eight fundamental ILO conventions, and the Voluntary Principles on Security and Human Rights.

20.6.2 Each Party agrees and undertakes to the other Party in connection with this Agreement to respect and to act consistently with Human Rights, and in particular (i) avoid usage of or engagement in any form of forced, bonded or compulsory labour, illicit child labour and human trafficking, and (ii) avoid or seek to appropriately address adverse Human Rights impacts to local communities. In case that national legislation is less protective than Human Rights, the latter shall prevail to the extent possible and practicable.

20.6.3 If a breach of Article 20.6.2 is not cured by the responsible Party within a reasonable time or repeated breaches of these obligations occur, this shall be regarded as a material breach of the Agreement.

20.6.4 Equinor’s Human Rights policy is published on [www.equinor.com](http://www.equinor.com).

## **20.7 Data protection**

20.7.1 To the extent that either Party separately determines the purposes and means of processing of personal data, such Party shall each act as controller in respect of the personal data that they process, and shall each comply with applicable data protection laws and regulations.

20.7.2 Information about Privacy and Data Protection in Equinor is published on [www.equinor.com](http://www.equinor.com).

## **20.8 Workers’ conditions**

20.8.1 Where the Agreement provides for the Cargo to be shipped on a Vessel, the Party responsible for performing the transport of the Cargo shall undertake to ensure that the Vessel has a valid International Transport Worker’s Federation (“ITF”) Blue Card certificate or equivalent certificate evidencing that the minimum terms and conditions of employment of the crew of the Vessel are acceptable to the ITF.

20.8.2 The Party responsible for performing the transport of the Cargo (“the Responsible Party”) shall indemnify the other Party from and against any and all loss or damage (including but not limited to demurrage and/or detention of the Vessel), costs, legal fees and other expenses that the other Party may suffer as a result of strikes, boycotts or any other industrial or legal action at the loading and/or discharge Terminal (as the case may be) as a result of the Responsible Party’s breach of Article 20.8.1.

## **20.9 Code of Conduct**

20.9.1 Both Parties recognise the other Party’s compliance policies and codes of conduct as published on their respective websites.

20.9.2 Each Party commits to comply with its own compliance policies and code of conduct as published on such Party’s website.

20.9.3 Equinor’s policy on Ethics and Compliance, and Code of Conduct is published on [www.equinor.com](http://www.equinor.com).



## ARTICLE 21 MISCELLANEOUS

### 21.1 Entire Agreement

The Agreement shall constitute the entire agreement between the Parties and supersede all previous representations and prior agreements, whether oral, written or otherwise.

### 21.2 Severability

Where any term, provision or condition of the Agreement is declared to be illegal, invalid or otherwise unenforceable (in whole or in part) by a court or tribunal of competent jurisdiction or either Party's compliance with any ruling or resolution of the United Nations or the European Union has a like or similar effect, the remaining terms, provisions and conditions of the Agreement shall continue in full force and effect as if the Agreement had been executed with the invalid or enforceable portion eliminated.

### 21.3 Survivability

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

### 21.4 Modification

The Agreement may not be modified unless mutually agreed by the Parties and such agreement is evidenced in writing.

### 21.5 Waiver

The failure of the Seller or the Buyer at any time to require performance by the other Party of any provisions of the Agreement shall in no way affect the right of a Party to request any performance which may be due thereafter pursuant to such provision. Nor shall the waiver by the Seller or the Buyer of any breach of any provision of the Agreement be taken or held to be a waiver of any subsequent breach of such provision or any other term or condition.

### 21.6 Warranties

The Buyer and the Seller each warrant that it has not in connection with the Agreement relied upon any representations, whether written, oral or otherwise, made by or on behalf of the other Party, but has relied exclusively on its own knowledge, judgment and expertise.

### 21.7 Assignment

21.7.1 Neither Party shall assign any of its rights and obligations under the Agreement, in whole or in part, without the prior written consent of the other Party. The assigning Party shall remain jointly and severally liable for the full and proper performance of the Agreement. Any assignment not made in accordance with the terms of Article 21.7 shall be void.

21.7.2 Notwithstanding Article 21.7.1, where Equinor is the Seller:

- (a) the Seller can at any time assign its financial interest from the sale of the Cargo without the consent of the Buyer to any third party including but not limited to the Seller's bank or banks or to any other financial institutions which the Seller in its absolute discretion deems to be appropriate, and
- (b) the Seller may assign its rights and obligations under the Agreement without the consent of the Buyer, where the Seller is required to do so pursuant to a specific instruction from the relevant agency of the Norwegian State to this effect.

## **21.8 Consents and authorisations**

Each Party shall be responsible for obtaining all consents, authorisations, approvals and assurances of whatsoever nature necessary to enable it to comply with its obligations under the Agreement.

## **21.9 Third party rights**

No term of the Agreement is intended to, or does, confer a benefit or remedy on any third party. A person, company or other legal entity who is not a party to the Agreement shall not have nor acquire whether by virtue of the Contracts (Rights of Third Parties) Act 1999 under English law or any other law or otherwise any rights in relation to the Agreement. Furthermore, the Parties hereto may rescind or vary the Agreement, whether in whole or in part, without the consent of any third party.

## **21.10 Recording of conversations**

21.10.1 Each Party acknowledges and agrees that the other Party may from time to time and without further notice:

- (a) record and retain electronic transmissions (including telephone conversations, emails and instant messaging) between the Parties' respective representatives in connection with the negotiation and/or performance of the Agreement in central and local databases for their respective legitimate purposes; and
- (b) monitor electronic transmissions through their internal and external networks for purposes of security and compliance with applicable laws, regulations and internal policies for their other legitimate business purposes.

21.10.2 Each Party will obtain any necessary consent for and give notice of such recording to such personnel of it and its Affiliates and/or its agents as is necessary. The Parties agree that any such recordings may be retained and submitted in evidence to any court or in any other legal proceedings for the purpose of establishing any matters relating to the Agreement.

## **21.11 Confidentiality**

The contents of the Agreement and all other documents relating to the Agreement, and any information made available by one Party to the other Party with respect to the Agreement are confidential and shall not be disclosed to any third party (nor shall any public announcement relating to the Agreement be made by either Party), except for such information that:

- (a) was already known to the Party receiving the information from a non-confidential source prior to the date the information was made available by the other Party;
- (b) is or becomes generally available to the public other than as a result of a breach of the Agreement;
- (c) is required to be disclosed in response to any summons, subpoena, or otherwise in connection with any litigation or to comply with any Applicable Law, order, regulation, ruling or accounting disclosure rule or standard;
- (d) has been or may be obtained from a non-confidential source that discloses such information in a manner that does not violate its obligations to the other Party in making such disclosures;
- (e) is required to be furnished to the disclosing Party's Affiliates, auditors, attorneys, or advisors, in which case such Affiliates, auditors, attorneys and/or advisors shall be required to keep the information disclosed in confidence;
- (f) is required to be disclosed to any lending or other financial institution or any other party in connection with an assignment validly made in accordance with the Agreement, or
- (g) is agreed between the Parties not to be confidential.

## **21.12 Notices**

21.12.1 Any notice or other communication between the Parties can be given in any manner described in Article 21.12 to the address of the other Party specified for this purpose in the Agreement and will be deemed effective as follows:

- (a) where delivered in person or by courier, on the date it is delivered;
- (b) where sent by facsimile transmission, on the date of transmission (it being agreed that the burden of proving receipt will be on the sender and this will be met by a transmission report generated by the sender's facsimile machine); or
- (c) where sent by email on the date of transmission, if sent to the address of the other Party specified for this purpose in the Special Provisions or otherwise notified by the receiving Party. Notwithstanding the foregoing, e-mail messages are only valid if actually received and the burden of proving receipt will be on the sender. Such proof will be met by a delivery receipt generated automatically upon delivery at the recipient's domain.
- (d) where sent by certified or registered post, five Working Days after it is posted;

unless the date of that delivery (or attempted delivery), as applicable, is not a Working Day or that communication is delivered (or attempted) or received, as applicable, after 15.00 CET on a Working Day, in which case that communication will be deemed to be given and effective on the next Working Day.

21.12.2 Any alterations to the contacts or addresses specified in the Special Provisions shall be notified immediately by courier, or facsimile, email or registered or certified post to the other Party.

21.12.3 Notices may not be given by instant messaging.

## **21.13 Trademarks**

Nothing in the Agreement whether express or implied shall be deemed to confer any right upon the Buyer to apply any trademark owned by the Seller or any of its Affiliates to any Product supplied under the Agreement nor to use such trademark in relation to such Product nor vice versa in respect of any trademark owned by the Buyer.

## **21.14 Deliveries from the Norwegian Continental Shelf**

Where the Product is a crude oil, condensate or natural gas liquid from the Norwegian Continental Shelf, all or part of the Cargo delivered may have originated from the equity stocks of the State of Norway.

# SECTION IV

## **SCHEDULES**

## SCHEDULE 1

### Letter of Indemnity from the Seller

Quote

#### LETTER OF INDEMNITY

We refer to a cargo of ..... of ..... loaded onboard the vessel ..... at the port of ..... on ....., 20.... ("the Cargo")

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

In consideration of your paying to us USD ..... being the full purchase price of the Cargo, we hereby expressly warrant that we have marketable title to such Cargo and that we have full right and authority to transfer such title to you and to effect delivery of the said Cargo.

We agree to protect, indemnify and hold you harmless from and against any and all damages, costs, legal fees and other expenses which you may suffer from any breach of above warranties or from the fact that you are paying us the purchase price of the Cargo without having in hand such original bills of lading and other shipping documents, including but not limited to, any claims or demands which may be made by any holder or transferee of any of the original bills of lading and other shipping documents or by any other third party claiming an interest in or lien on the Cargo or proceeds thereof.

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

Our obligation to indemnify you is subject to the condition that you give us prompt notice of the assertion of any claims and full opportunity to conduct the defence thereof, and that you do not settle any such claim(s) without our approval.

This letter of indemnity shall be governed by and construed in accordance with the law governing the agreement between the Parties for the sale of the Cargo ("the Agreement"), and any disputes that cannot be settled by mutual agreement between the Parties shall be subject to the exclusive jurisdiction of the applicable forum specified in the Agreement.

Unquote

## SCHEDULE 2

### STANDBY LETTER OF CREDIT:

We [insert BANK].....hereby issue our irrevocable Standby Letter of Credit no:.....

By order and for account of applicant:

[insert BUYER].....

.....

.....

(Hereinafter referred to as the "Buyer")

In favour of beneficiary:

[insert SELLER].....

.....

.....

(Hereinafter referred to as the "Seller")

This Standby Letter of Credit is for an amount of: USD [insert amount in words and figures], subject to the special conditions as stated below.

Covering non-payment of the amount due for the purchase of approximately [insert quantity] of [insert product] according to the purchase/sale agreement between Buyer and Seller.

This Standby Letter of Credit is available with the issuing bank by payment at sight against presentation of the following documents.

A) Copy of Seller's commercial invoice;

B) Seller's signed statement stating that payment of the Seller's invoice(s) is due, and that payment has not been made by Buyer;

This Standby Letter of Credit expires at our counters at [insert place] on [insert date].

SPECIAL CONDITIONS:

- 1) The amount of the credit will automatically fluctuate in accordance with the loaded quantity and price formula in the purchase/sale agreement above and below the amount of this Standby Letter of Credit and without any further amendment.
- 2) All bank charges, commissions, costs, expenses and any other fees incurred with respect to providing the Standby Letter of Credit are for Buyer's account. All other bank charges, if any, are for Seller's account.
- 3) Documents presented via telefax/teletype or email are acceptable.
- 4) Partial and multiple drawings are permitted.
- 5) This Standby Letter of Credit shall be valid also in the event that the invoiced amount exceeds the amount stated herein.

Upon receipt of documents in full compliance with this Standby Letter of Credit terms and conditions, we shall effect payment according to your instructions, with value latest three Business Days after receipt of documents.

Where the Issuing Bank is a U.S. bank, the construction, validity and performance of this Standby Letter of Credit shall be governed by and construed in accordance with the law of the State of New York and any dispute shall be submitted to the exclusive jurisdiction of the United States District Court for the Southern District of New York located in the Borough of Manhattan, New York, or, where such court declines to exercise or does not have jurisdiction, in any New York State court in the Borough of Manhattan.

Where the Issuing Bank is a non-U.S. bank, the construction, validity and performance of this Standby Letter of Credit shall be governed by and construed in accordance with English law and any dispute shall be submitted to the exclusive jurisdiction of the High Court of Justice in London.

Except to the extent it is inconsistent with the express terms of this Standby Letter of Credit, this Standby Letter of Credit is subject to the International Standby Practices ISP 98, ICC Publication No. 590.

This telefax/teletype or email is the operative instrument and no mail confirmation will follow.

## SCHEDULE 3

### DOCUMENTARY LETTER OF CREDIT

ADVISING BANK :

ISSUING BANK :

WE, (APPLICANT) HEREBY ISSUE OUR IRREVOCABLE DOCUMENTARY LETTER OF CREDIT NO.. AS FOLLOWS:

APPLICANT : .....  
.....  
.....

BENEFICIARY : EQUINOR ASA  
FORUSBEEN 50  
N-4035 STAVANGER  
NORWAY

AMOUNT : USD .....  
UNITED STATES DOLLARS ....

QUANTITY : (PER CONTRACT)

EXPIRY DATE : (DATE, LOCATION)

PRICE : (PRICE CLAUSE PER CONTRACT)

THE PRICE SHALL BE CALCULATED TO THREE (03) DECIMAL PLACES WITH THE FOLLOWING ARITHMETIC RULES TO BE APPLIED:

- (1) IF THE FOURTH DECIMAL PLACE IS FIVE (05) OR GREATER THAN FIVE (05), THEN THE THIRD DECIMAL PLACE SHALL BE ROUNDED UP TO THE NEXT DIGIT.
- (2) IF THE FOURTH DECIMAL PLACE IS FOUR (04) OR LESS THAN FOUR (04), THEN THE THIRD DECIMAL PLACE WILL BE UNCHANGED.

IF THERE IS ANY PUBLISHED CORRECTION TO ANY OF THE RELEVANT QUOTATIONS, THESE SHALL BE TAKEN INTO ACCOUNT.

IF THE FINAL PRICE AND QUANTITY IS NOT KNOWN BEFORE THE PAYMENT DUE DATE, THEN PAYMENT WILL BE MADE BY THE DUE DATE BASED ON A PROVISIONAL PRICE AND QUANTITY.

THE PROVISIONAL UNIT PRICE SHALL BE ROUNDED TO THREE DECIMAL PLACES.

EVEN IF FINAL PRICE AND QUANTITY IS KNOWN AFTER THE PROVISIONAL INVOICE HAS BEEN ISSUED, SUCH PROVISIONAL INVOICE SHALL NEVERTHELESS BE PAID.

ONCE THE FINAL PRICE AND QUANTITY IS KNOWN, THE PROVISIONAL AMOUNT SHALL BE ADJUSTED AGAINST THE FINAL AMOUNT BY ISSUING A FINAL INVOICE.

IF THE FINAL INVOICE IS HIGHER THAN THE PROVISIONAL INVOICE, AND A PROVISIONAL INVOICE IS USED FOR PAYMENT, THE BALANCE IS PAYABLE AT SIGHT WITHIN THE VALIDITY OF THIS CREDIT.



THIS CREDIT AVAILABLE WITH ANY BANK IN (LOCATION) FOR NEGOTIATION AT (PAYMENT TERM) AGAINST PRESENTATION OF THE FOLLOWING DOCUMENTS TO BE ISSUED IN 1 ORIGINAL, UNLESS OTHERWISE STATED:

- 1) BENEFICIARY PROVISIONAL / COMMERCIAL / FINAL INVOICE
- 2) (DES DELIVERY) COPY OF NOTICE OF READINESS (NOR) TENDERED AT DISCHARGE
- PORT
- 3) (FOB/CFR/CIF DELIVERY) COPY OF FULL SETS OF 3/3 BILL OF LADING ISSUED OR ENDORSED TO THE ORDER OF...
- 3) (FOB/CFR/CIF DELIVERY) COPY OF CERTIFICATE OF QUANTITY
- 4) (FOB/CFR/CIF DELIVERY) COPY CERTIFICATE OF QUALITY

\*AMEND AS APPROPRIATE

IN CASE OF DOCUMENTS FROM 2) TO 4) ARE TEMPORARILY NOT AVAILABLE, PAYMENT WILL BE EFFECTED AGAINST PRESENTATION OF DOCUMENT 1) AND LETTER OF INDEMNITY/ WARRANTY OF TITLE (TEXT SHOWN IN CONTRACT).

**SPECIAL CONDITIONS:**

1. UNLESS OTHERWISE STATED, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (2007 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 600 AND/OR ANY UPDATED VERSION OF THE SAME.
2. ALL APPLICANT'S BANK CHARGES AND APPLICANT'S CORRESPONDENT BANK CHARGES ARE FOR APPLICANT'S ACCOUNT. ALL BENEFICIARY'S BANK CHARGES AND BENEFICIARY'S CORRESPONDENT BANK CHARGES ARE FOR BENEFICIARY'S ACCOUNT.
3. PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED.
4. WITH THE EXCEPTION OF VALUE AND/OR VOLUME AND OR/QUANTITY, TYPOGRAPHICAL AND SPELLING ERRORS, IF ANY ARE NOT TO BE CONSIDERED DISCREPANCIES WHICH INVALIDATE THIS LETTER OF CREDIT.
5. IF PAYMENT FALLS DUE ON A SUNDAY OR MONDAY BANK HOLIDAY IN NEW YORK, PAYMENT SHALL BE MADE ON THE FOLLOWING FIRST NEW YORK BANKING DAY. IF PAYMENT FALLS DUE ON A SATURDAY OR ANY NEW YORK BANK HOLIDAY OTHER THAN A MONDAY, THEN PAYMENT IS TO BE MADE ON THE IMMEDIATE PRECEDING NEW YORK BANKING DAY.
6. THE AMOUNT AVAILABLE UNDER THIS LETTER OF CREDIT SHALL AUTOMATICALLY BE ADJUSTED IN ACCORDANCE WITH THE ACTUAL QUANTITY AND IN ACCORDANCE WITH THE INVOICE VALUE BASED ON THE PRICE CLAUSE STATED IN THIS L/C, EVEN ABOVE OR BELOW THE STIPULATED LIMITS, WITHOUT ANY FURTHER AMENDMENT ON OUR PART.
7. PARTIAL SHIPMENTS ARE ALLOWED. TRANSHIPMENT IS ALLOWED.
8. DOCUMENTS PRESENTED LATER THAN 21 DAYS AFTER [BILL OF LADING/NOTICE OF [READINESS] DATE BUT WITHIN VALIDITY OF LETTER OF CREDIT ARE ACCEPTABLE.
9. SEPARATE/COMBINED OR THIRD-PARTY DOCUMENTS ARE ACCEPTABLE.
10. SHIPPING DOCUMENTS REQUIRED FOR PRESENTATION IS TO EVIDENCE SHIPMENT ONLY. NO DISCREPANCIES SHALL BE RAISED.

11. INVOICE NOT SHOWING PRICE CLAUSE AND CALCULATION IS ACCEPTABLE.
12. NAME OF THE DOCUMENTS EXCEPT PROVISIONAL / COMMERCIAL / FINAL INVOICE AND LETTER OF INDEMNITY / WARRANTY OF TITLE WHICH DIFFER FROM THOSE REQUIRED ABOVE BUT SERVING THE SAME PURPOSE ARE ACCEPTABLE.
13. DRAFT / BILLS OF EXCHANGE IS NOT REQUIRED TO BE PRESENTED IN THIS LC.
14. TT REIMBURSEMENT ALLOWED.
15. [FOB/CFR/CIF DELIVERY] CHARTER PARTY BILLS OF LADING AND / OR BILLS OF LADING ISSUED BY VESSEL'S MASTER OR AGENT, ARE ACCEPTABLE.

## SCHEDULE 4

### ISPS Code/MTSA for FOB deliveries:

- A. The Buyer shall procure that the Vessel shall comply with the requirements of the International Code for the Security of Ships and of Port Facilities and the relevant amendments to Section XI of SOLAS ("ISPS Code") and where the Port of Loading is within the United States of America and/or U.S. territories or waters, with the U.S. Maritime Transportation Security Act 2002 ("MTSA").
- B. The Vessel shall when required submit a Declaration of Security (DoS) to the appropriate authorities prior to arrival at the Port of Loading.
- C. Notwithstanding any prior acceptance of the Vessel by the Seller, if at any time prior to the passing of risk and title to the Cargo the Vessel ceases to comply with the requirements of the ISPS Code or MTSA:
  - 1. the Seller shall have the right not to Berth the Vessel and any demurrage and/or any other costs resulting shall not be for the account of the Seller; and
  - 2. the Buyer shall be obliged to substitute the Vessel with a vessel complying with the requirements of the ISPS Code and MTSA.
- D. The Seller shall procure that the Port of Loading shall comply with the requirements of the ISPS Code and if located within the U.S.A. and/or U.S. territories, with the MTSA.
- E. Subject always to (H), any costs or expenses in respect of the Vessel including demurrage or any additional charge, fee or duty levied on the Vessel at the Port of Loading and actually incurred by the Buyer resulting directly from the failure of the Port of Loading to comply with the ISPS Code and if located within the U.S.A. and/or U.S. territories, with the MTSA, shall be for the account of the Seller, including but not limited to the time required or costs incurred by the Vessel in taking any action or any special or additional security measures required by the ISPS Code or MTSA.
- F. Subject always to (H), save where the Vessel has failed to comply with the requirements of the ISPS Code and within the U.S.A. and/or U.S. territories or waters, with the MTSA and save where caused by the Vessel's previous ports of call, the Seller shall be responsible for any demurrage actually incurred by the Buyer arising from delay to the Vessel at the Port of Loading resulting directly from the Vessel being required by the Port of Loading or any relevant authority to take any action or any special or additional security measures or undergo additional inspections. This is the limit of the Seller's liability in this situation.
- G. The Seller's liability to the Buyer generally under this Schedule for any costs, losses or expenses incurred by the Vessel, the charterer or the Ship-owner arising out of the ISPS Code or MTSA (and including negligence on the Seller's part) shall be limited to the payment of demurrage and costs actually incurred by the Buyer to allow the Vessel to load in accordance with the provisions of this Schedule.
- H. If the Terminal at the Port of Loading is not operated by the Seller (or an Affiliate), then the Seller's liability under this Schedule is conditional on the Seller (having used reasonable efforts) being able to recover and actually recovering from the supplier or other relevant third party, and then only to the extent of such recovery.

## SCHEDULE 5

### ISPS Code/MTSA for Article 3 or Article 4 Deliveries (e.g. CIF/DAP):

- A. The Seller shall procure that the Vessel shall comply with the requirements of the International Code for the Security of Ships and of Port Facilities and the relevant amendments to Section XI of SOLAS ("ISPS Code") and where the Port of Destination is within the U.S.A. and/or U.S. territories or waters, with the U.S. Maritime Transportation Security Act 2002 ("MTSA").
- B. The Vessel shall when required submit a Declaration of Security (DoS) to the appropriate authorities prior to arrival at the Port of Destination.
- C. Notwithstanding any prior acceptance of the Vessel by the Buyer, if at any time prior to the passing of risk and title to the Cargo the Vessel ceases to comply with the requirements of the ISPS Code or MTSA, then:
  - 1. the Seller shall be obliged to substitute the Vessel with a vessel complying with the requirements of the ISPS Code and MTSA; and
  - 2. the Buyer shall have the right not to Berth the Vessel at the Port of Destination and any demurrage resulting shall not be for the account of the Buyer.
- D. The Buyer shall procure that the Port of Destination shall comply with the requirements of the ISPS Code and if located within the U.S.A. and/or U.S. territories, with the MTSA.
- E. Any cost or expenses in respect of the Vessel including demurrage or any additional charge, fee or duty levied on the Vessel at the Port of Destination and actually incurred by the Seller resulting directly from the failure of the Port of Destination to comply with the ISPS Code and if located within the U.S.A. and/or U.S. territories, with the MTSA shall be for the account of the Buyer, including but not limited to the time required or costs incurred by the Vessel in taking any action or any special or additional security measures required by the ISPS Code or MTSA.
- F. Save where the Vessel has failed to comply with the requirements of the ISPS Code and within the U.S.A. and/or U.S. territories or waters, with the MTSA, the Buyer shall be responsible for any demurrage actually incurred by the Seller arising from delay to the Vessel at the Port of Destination resulting directly from the Vessel being required by the Port of Destination to take any special or additional security measures or undergo additional inspections, including (but not limited to) by virtue of the Vessel's previous ports of call.
- G. The Buyer's liability to the Seller under the Agreement for any costs, losses or expenses incurred by the Vessel, the charterers or the Ship-owner resulting from the failure of the Port of Destination to comply with the ISPS Code or MTSA shall be limited to the payment of demurrage and costs actually incurred by the Seller in accordance with the provisions of this Schedule.