



GENERAL CONDITIONS FOR SALE AND PURCHASE

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The English version is the legally binding \ language that will be enforced by laws and all jurisdictions will refer to it regarding all translations.

These General Conditions shall constitute the standard and general terms and conditions applicable to the sale of Nigerian BLCO / LPFO / LNG / LPG by the Part I and together with **Canaf Petro-Chemicals Refinery™** (hereinafter **CPCR**) (Part II) from the Contract for Sale and Purchase of Nigerian BLCO / LPFO / LNG / LPG.

A. QUANTITY MEASUREMENT

1. The quantity of BLCO / LPFO / LNG / LPG to be delivered by the SELLER under this Contract shall be determined by manual measurements of the shore tanks immediately before LOADING / DISPATCH by the Terminal Operator and/or by mechanical gauging devices. The certificate (s) of quantity and quality of the BLCO / LPFO / LNG / LPG comprising the shipment issued shall, except in cases of manifest error or fraud, be conclusive and binding on both SELLER and BUYER for invoicing purposes but without prejudice to the rights of either party to make claims pursuant to **Article B.4**. In the event of the absence or failure of the mechanical devices, manual measurement shall suffice and shall be the final measurement.
2. The BUYER or its appointed agent and/or Master of the Nominated Vessel as notified to SELLER in writing shall have the right to participate in the volumetric and temperature measurements of BLCO / LPFO / LNG / LPG sampling with the Terminal Operator or SELLER's representative at the LOADING / DISPATCH Terminal. The signature of the Master of the Nominated Vessel on the bill of lading shall be conclusive evidence of the quantity of BLCO / LPFO / LNG / LPG LOADED / DISPATCH into the Nominated Vessel unless the Master prior to the departure of the said vessel from the LOADING / DISPATCH Terminal shall have registered a written protest with regard to the quantity. And/or temperature of the BLCO / LPFO / LNG / LPG DISPATCH into the said vessel. BUYER shall furnish the detailed particulars relating to such protest to SELLER within thirty (30) Days after LOADED / DISPATCH. SELLER shall thereafter instruct the Terminal Operator to retain the sample for retest.
3. Only basic sediments and water (BS&W) ascertained at the loading Terminal shall be deducted in computing the net quantity of the BLCO / LPFO / LNG / LPG loaded and certified in the bill of lading.
4. Unless otherwise agreed, the measurements, sampling and testing of each delivery of BLCO / LPFO / LNG / LPG shall be carried out at the DISPATCH Terminal at the time of shipment. Moreover, in accordance with the methods from time to time prescribed, approved or accepted by the American Society for Testing and Materials (ASTM). Alternatively, the Institute of Petroleum (IP) or the American Petroleum Institute (API). The ASTM or the IP Petroleum Measurement Tables, 1980 edition or the latest revised edition thereof, shall be used for the

correction and calculation of volumes of BLCO / LPFO / LNG / LPG at 60 °F.

5. Temperature Correction

5.1. All quantities of delivered Products shall be corrected for temperature to sixty degrees Fahrenheit (60 °F).

6. BUYER shall in respect of every delivery of BLCO / LPFO / LNG / LPG, submit to the SELLER the report of the out-turn figure at the port of discharge not later than forty-five (45) days after the discharge of the BLCO / LPFO / LNG / LPG. The report of the out-turn figure shall be duly signed by an independent inspector retained and paid for by the BUYER.

7. Natural Gas Liquids ("NGL's")

7.1 Odorization

7.1.1 Unless otherwise provided, to the extent required by Law, Seller shall odorize all shipments of NGL's. Seller shall have no further responsibility to monitor the NGL's or take any other action after delivery thereof to Buyer to ensure that said NGL's remain properly odorized after delivery to Buyer. Buyer will either monitor and maintain the odorant at or above proper levels as required by law, or notify its buyer(s) of the odorant fade risk. If un-odorized NGL's are to be delivered hereunder, then Buyer will not use such NGL's for fuel or knowingly resell it for fuel without adding an odorizing agent in accordance with standard industry practice or as required by governmental agencies having proper jurisdiction.

7.2 Wet Deliveries

7.2.1 For NGL Transactions, delivery shall occur on the last day of the month, except where delivery is specified in a Confirmation as "wet" in which case delivery shall occur on a day mutually agreed by both parties.

B. QUALITY

- 1.1. The grade or quality of the BLCO / LPFO / LNG / LPG to be delivered under this Contract and which SELLER is obligated to deliver to the BUYER at the designated loading Terminal in Nigeria or tank farms jurisdictions shall be Nigerian BLCO / LPFO / LNG / LPG conforming to the normal export quality as generally made available at the time and place of loading.
- 1.2. This sub-section constitutes the whole of the SELLER's obligations with respect to the description, quality and fitness for purpose of the BLCO / LPFO / LNG / LPG to be delivered. Moreover, (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 BLCO / LPFO / LNG / LPG or its fitness for any particular purpose or otherwise are hereby excluded.
2. BUYER shall have the right to receive one gallon sealed representative sample of the BLCO / LPFO / LNG / LPG quality



to be placed aboard the tanker concerned if so requested. SELLER shall retain representative sealed sample at the loading Terminal for a maximum period of sixty (60) Days after loading of each cargo of BLCO / LPFO / LNG / LPG.

3. The Terminal Operator shall test for basic sediments and water (BS&W), specific gravity and temperature of all BLCO / LPFO / LNG / LPG before shipment at the loading Terminal. The result of the test shall be binding upon BUYER and SELLER, and either party concerning the quality of the BLCO / LPFO / LNG / LPG after the SELLER except in the circumstances stated in Paragraph 4 has made delivery shall make no claim below.

4. **Claims in Respect of Quality and/or Quantity**

4.1. Any complaint of difference in quantity or deficiency of quality or of variation of BLCO / LPFO / LNG / LPG grade made by the BUYER after laboratory test of undischarged cargo of BLCO / LPFO / LNG / LPG delivered at the loading Terminal in Nigeria. Shall be admissible only if notified in writing to the SELLER within forty-five (45) Days of the date of loading at the relevant loading Terminal and accompanied by evidence fully supporting the complaint. Both the SELLER and the BUYER shall appoint their respective independent inspectors who shall jointly certify the quality and/or quantity of the BLCO / LPFO / LNG / LPG (as the case may be) from samples taken at the LOADING / DISPATCH Terminal and their findings shall be conclusive and binding on both the SELLER and the BUYER. The costs and expenses of the independent inspectors including costs associated with the laboratory test(s) of the samples shall be born solely by the BUYER.

4.2. In the event that the report as duly certified by the independent inspectors show that there is a difference in quantity or deficiency in the quality or grade of the BLCO / LPFO / LNG / LPG. The SELLER shall only pay the amount equivalent to the differential in the quantity or quality of the delivered BLCO / LPFO / LNG / LPG resulting from a retest carried out on a retained sample that exceeds the industry tolerance of 0.5% BS & W.

C. DELIVERY

1. Delivery by SELLER to BUYER shall be based on C.I.F. immediately after dip test (Q & Q) Nigerian deep water Terminals or F.O.B. tank farms jurisdictions immediately after dip test (Q & Q).
2. Lifting's by BUYER pursuant to this Contract shall commence not later than sixty (60) days from the Effective Date of this Contract, failing which SELLER shall be entitled to terminate this Contract.

D. MONTHLY LIFTING SCHEDULES / PROGRAMMES

1. The quantities of BLCO / LPFO / LNG / LPG to be delivered to the BUYER under this Contract shall be evenly spread through the calendar months (see **ANNEX C**).
2. **Lifting Schedule**
 - 2.1. Not later than thirty (30) days before the commencement of the relevant Month that the BUYER is programmed to

lift BLCO / LPFO / LNG / LPG, the SELLER shall notify BUYER of the estimated quantities the BUYER shall have the right and obligation to lift during the relevant Month indicating the grades by BLCO / LPFO / LNG / LPG names and the loading Terminals. Such notification of quantities, grades and/or estimated decades of the Month are subject to change depending on the availability of BLCO / LPFO / LNG / LPG at the relevant time.

3. The SELLER may propose changes to the Lifting Schedule for any relevant Month. The proposal must be delivered to the BUYER within twenty-one (21) days prior to the date the lifting shall be made by the BUYER.

4. Not later than two (2) days, Saturday, Sundays and public holidays inclusive, from the date a lifting advice is given pursuant to **Article D.3** above, BUYER shall give SELLER notice in writing of its acceptance to lift the cargo of BLCO / LPFO / LNG / LPG. Failure by BUYER to give such notice shall result in BUYER being deemed to be a Defaulting Buyer and the provisions of **Article G. 5** shall apply.

5. The SELLER shall not later than twenty (20) days before the beginning of the decade of the Month in which the BUYER is programmed to lift, advise the BUYER of the acceptance date, implying a date-range as defined in **Article E.1** below.

6. In the event that BUYER has not received written notification of the acceptance date as provided in **Article D.4** above, BUYER shall notify SELLER in writing and by phone calls contact failing which such acceptance date shall be deemed to have been received by the SELLER.

E. MONTHLY VESSEL SCHEDULE

1. A date-range appearing on the agreed monthly lifting programmer under **Article D.3** above shall mean a 2-day period in all the Terminals commencing from 00:01 hours on the first day of date-range and terminating at 23:59 hours on the last day of such date-range.

2. **Vessel Vetting / Clearance**

2.1. Each vessel which is to load BLCO / LPFO / LNG / LPG pursuant to this Contract shall be nominated in writing by the BUYER to the SELLER not later than thirty (30) Days before the first day of the date-range in which the BUYER wishes to lift BLCO / LPFO / LNG / LPG. Such notices ("the nomination") shall specify the following:

2.1.1. The name of vessel, date built and flag.

2.1.2. The vessel's dimensions and other specifications, which shall be within the maximum and/or minimum limits specified by the SELLER from time to time and shall satisfy the standards and regulations of the Terminal Operator at the relevant time.

2.1.3. The quantity and grade(s) of BLCO / LPFO / LNG / LPG to be delivered, the co-loading date and crude stream of co-loads if any. There shall be at least Twenty-four (24) hours' time allowable between co-loads of different crude streams.

2.2.1. With regards to any Nominated Vessel, the BUYER warrants to SELLER that the vessel shall:



- a) be capable of receiving BLCO / LPFO / LNG / LPG at hourly bulk loading rates of not less than 10% of the summer deadweight of the vessel or a maximum of 15,000 tonnes whichever is lower;
- b) have hose handling derricks with a minimum lifting capacity as required by SELLER's Terminal Regulations;
- c) be safe and have adequate mooring arrangements which comply with accepted international standards;
- d) be maintained and operated to accepted international standards and shall comply with all Terminal and international safety precautions and regulations;
- e) comply with the requirement of the International Code for Security of Ships and Port Facilities (ISPS CODE) and the relevant amendments thereof;
- f) be capable of receiving BLCO / LPFO / LNG / LPG at the minimum rate specified for each Terminal;
- g) conform to the Terminal Regulations and any applicable local laws and regulations with respect to safety, size, vessel movement, navigation and operating standards, documentation on board, discharge of ballast and the like;
- h) have characteristics which shall comply in all material respects with the limits imposed by the Terminal Regulations;
- i) comply with applicable regulations concerning oil spill emergency prevention and response;
- j) comply with the applicable requirements of those international conventions regarding the control of oil pollution to which the flag state of the vessel is a party;
- k) be a vessel entered in a P&I Club, which is a member of the International Group of P&I Clubs;
- l) have in place insurance coverage for oil pollution in an amount not less than the highest standard oil pollution coverage available under the rules of the International Group of P&I Clubs;
- m) have the owners as member of the International Tanker Owners Pollution Federation Limited (ITOPF) and the vessel has on board a valid certificate issued pursuant to the Civil Liability Convention (CLC) 1969, or to the 1992 Protocol, as amended; and
- n) comply with the International Safety Management Code which became effective 1st July 1998, and shall, upon request, provide a copy of the relevant valid safety management certificate and document of compliance as required under the SOLAS Convention 1974, as amended.

2.2.2. The BUYER further warrants to the SELLER as additional warranty that BUYER shall give preference to vessels owned by Nigerian companies for the transportation of BLCO / LPFO / LNG / LPG under this Contract whenever such vessels are available and are offered at competitive rates. The BUYER shall arrange its vessels nomination to ensure that Nigerian companies shall transport a minimum of fifty per cent (50%) of BLCO / LPFO / LNG / LPG lifting to be made by it during the term of this Contract.

The SELLER shall have the right upon reasonable notice of not less than ninety (90) days to convert up to fifty percent (50%) of the Contract volume to C.I.F. or C&F sales provided it could offer reasonable competitive freight rates and other terms are mutually agreed upon.

In the event that BUYER fails to comply with this vessel nomination requirement, BUYER shall be liable to suspension of two consecutive BLCO / LPFO / LNG / LPG lifting's. SELLER shall have the option to suspend further BLCO / LPFO / LNG / LPG Lifting's by BUYER until the BUYER demonstrates its readiness to comply with the provisions of this **Article E.2.2.1.-2.**

3. BUYER shall not, except during the occurrence of Force Majeure, postpone or cancel without immediate substitution, any accepted vessel nomination less than four (4) days before the first day of the agreed date-range. Any production loss and/or consequential damages and expenses resulting from any such cancellation or postponement shall be for BUYER'S account.

4. **Documentation Instructions / Commercial Clearance**

4.1. BUYER shall submit in writing to the SELLER documentation instructions not later than Ten (10) Days before the Day of the date – range in which the BUYER wishes to lift BLCO / LPFO / LNG / LPG. Such documentation instructions (Notices) shall specify the following:

- 4.1.1. Quantity to be loaded
- 4.1.2. BLCO / LPFO / LNG / LPG Grade/Stream
- 4.1.3. Vessel name
- 4.1.4. Summer Dead weight of Vessel (SDWT)
- 4.1.5. Draft
- 4.1.6. Length Over-all (LOA)
- 4.1.7. Beam
- 4.1.8. Flag of Vessel
- 4.1.9. Year Built

4.1.10. The expected time of arrival (ETA) of the vessel. Any deviation exceeding six (6) hours from the original ETA or where vessel's delayed arrival would prevent her from being berthed moored the same day due to any night-time navigational or any other applicable restrictions shall immediately be advised by BUYER to SELLER and Terminal operator together with reasons for such deviation or delay.

- 4.1.11. Agent
- 4.1.12. Inspector
- 4.1.13. Destination
- 4.1.14. Consignor
- 4.1.15. Consignee
- 4.1.16. Co-loading Date and BLCO / LPFO / LNG / LPG Stream

5. **Documentary Requirements**

5.1. Information required as documentary instructions shall include but not limited to the following:

- 5.1.1. Bill of lading (copies marked non-negotiable) Certificate of Quantity
- 5.1.2. Certificate of Quality
- 5.1.3. Certificate of Origin and Authenticity



- 5.1.4. Terminal Time Sheets signed by the Master and Terminal Cargo Manifest Master's Receipt for Samples
- 5.1.5. Master's Ullage Report
- 5.1.6. Master's Document Enclosure and/or Receipt Form.
- 5.1.7. BUYER shall submit in writing to the SELLER separate request for split bills of lading's Upward/Downward Tolerance, Additional Volumes etc. at least Ten (10) days before the first day of the loading date-range.

6. **Acceptance of Vessel**

- 6.1. As soon as practical after receipt of the vessel nomination but in no event more than forty-eight (48) hours after receipt of the vessel nomination, the SELLER shall advise the BUYER in writing if the vessel is accepted as a Nominated Vessel, or is rejected. In the absence of a timely reply, the vessel shall be deemed to be rejected. The SELLER may reject the Nominated Vessel for reasons such as the following:
 - 6.1.1. the vessel does not comply with the specifications of this Contract, or the Terminal Regulations and/or applicable laws and regulations, including without limitation health, safety and/or environmental laws, regulations, or industry standards; or
 - 6.1.2. the vessel in the reasonable belief of the SELLER or the Terminal Operator would endanger the Terminal, Terminal operations, the environment, or the health or safety of individuals; or
 - 6.1.3. legal restrictions including, but not limited to, international or national sanctions, to which the vessel is subject.
 - 6.1.4. If the vessel nominated by the BUYER is rejected pursuant to this **Article**, for whatever reason, then the reason or reasons for such rejection will be disclosed to the BUYER.

7. **Duty to Nominate Substitute Vessel**

- 7.1. If a vessel nominated by the BUYER is rejected, the BUYER shall nominate an alternate or substitute vessel. Such alternate or substitute vessel nominated shall be made in writing to the SELLER and the Terminal Operator not later than three (3) days after the date of disclosure by the SELLER of the rejection of vessel under **Article E.4.1.2**.

8. **Acceptance of Alternate or Substitute Vessel**

- 8.1. As soon as practical after receipt of the alternate or substitute vessel nomination but in no event more than twenty-four (24) hours after receipt of such nomination, the SELLER shall advise the BUYER in writing if the alternate or substitute vessel is accepted as a Nominated Vessel or is rejected in accordance with the principles set out in **Article E.4**.
- 9. Subject to SELLER being given not less than three (3) days' notice prior to the first day of the agreed date-range, the BUYER may substitute another vessel provided the vessel substituted is acceptable to SELLER and conforms with existing BLCO / LPFO / LNG / LPG transportation regulations and policies of the Federal Government of Nigeria or tank farms jurisdictions.

- 10. BUYER shall cause any Nominated Vessel to report by radio/telex/fax to the Terminal Operator each tanker's scheduled arrival date and hour as follows:

- 10.1. Seven (7) days before Nominated Vessel's Expected Time of Arrival (ETA) or immediately upon leaving last port (if the Nominated Vessel becomes available less than seven (7) days steaming time before ETA).
- 10.2. Seventy-two (72) hours before Nominated Vessel's ETA.
- 10.3. Forty-eight (48) hours before Nominated Vessel's ETA
- 10.4. Twenty-four (24) hours before Nominated Vessel's ETA.

- 11. The SELLER shall not be liable under this Contract for any costs, losses or expenses incurred by the Nominated Vessel, the charterers or the Nominated Vessels' owners resulting from the failure of any loading Terminal/installation to comply with the ISPS Code.

- 12. Notwithstanding any prior acceptance of Nominated Vessel by SELLER, if at any relevant time prior to the passing of risk and title the Nominated Vessel ceases to comply or is found to be non-compliant with the requirement of the ISPS Code, SELLER shall have the right not to berth such Nominated Vessel. In addition, any Demurrage resulting there from shall be for BUYER's account and the SELLER hereby disclaims any liability arising there from.

F. **LOADING CONDITIONS AND DEMURRAGE**

- 1. The BUYER shall ensure that Nominated Vessels shall have all the usual facilities for mooring on arrival and departure at the loading Terminal.

2. **Lay-time**

- 2.1. Total Lay time allowed for loading BLCO / LPFO / LNG / LPG at the loading Terminal shall be thirty-six (36) consecutive hours for cargoes up to the base cargo as specified by SELLER. In respect of loading Terminal as listed below, where the cargo to be loaded exceeds the relevant base cargo size of the designated loading Terminal, the SELLER shall be allowed to pro-rate Lay-time, and Lay-time of thirty-six (36) consecutive hours shall be increased in direct proportion to the actual size.

- 2.2. For each loading Terminal below, the base cargo sizes shall, unless otherwise changed by the SELLER at any relevant time with appropriate notice to the BUYER, be as follows:

2.2.1.	Bonny light	135,501	Metric Tonnes
2.2.2.	Forcados Blend	131,579	Metric Tonnes
2.2.3.	Escravos	129,437	Metric Tonnes
2.2.4.	Qua Iboe	127,300	Metric Tonnes
2.2.5.	Oso Condensate	119,562	Metric Tonnes
2.2.6.	Pennington	128,024	Metric Tonnes
2.2.7.	Brass	126,804	Metric Tonnes
2.2.8.	Erha	142,500	Metric Tonnes
2.2.9.	Yoho	127,346	Metric Tonnes
2.2.10.	Bonga	135,163	Metric Tonnes
2.2.11.	E.A.	127,963	Metric Tonnes
2.2.12.	Amenam	135,163	Metric Tonnes
2.2.13.	Akpo Condensate	126,689	Metric Tonnes
2.2.14.	Agbami	124,456	Metric Tonnes



2.2.15. Abo	93,789	Metric Tonnes
2.2.16. Okono	116,994	Metric Tonnes
2.2.17. Okwori	127,457	Metric Tonnes
2.2.18. Antan	132,415	Metric Tonnes
2.2.19. Natural Gas	136,801	Metric Tonnes

2.3. Lay-time allowed for loading at any loading Terminal shall include Saturdays, Sundays and public holidays unless loading during such days is prohibited by applicable laws and/or regulations including the Terminal Regulations.

2.4. Lay-time shall begin to run from six (6) hours after Notice of Readiness (NOR) has been tendered by the Nominated Vessel Master to the Terminal Operator of the Nominated Vessel's readiness to load, berth or no berth. Loading of BLCO / LPFO / LNG / LPG at the loading Terminal shall be deemed to be completed upon disconnection of loading hoses.

2.5. Lay time shall run continuously from commencement until cessation and shall cease on the disconnection of the cargo loading hose(s) after completion of loading at the loading Terminal.

3. Notwithstanding the provisions of **Article F.2** above, if the Nominated Vessel arrives and Notice of Readiness (NOR) to load at the loading Terminal has been tendered before its agreed date-range. Lay-time shall not commence before 06:00 hours on the first day of such date-range unless the Nominated Vessel actually commences loading prior to such time in which event Lay-time shall begin to run from commencement of loading at the loading Terminal.

4. If the Nominated Vessel arrives later than 16:00 hour on the last day of the agreed date-range, Lay-time shall commence on commencement of loading at the loading Terminal and there shall be no demurrage claim by the BUYER whatsoever. If NOR is given for the Nominated Vessel after the last day of the Lay-time and is accepted by SELLER in its sole and absolute discretion, then, without prejudice to any of the SELLER's other rights, Lay-time shall commence only on commencement of loading. For purposes of calculating running hours, loading shall be deemed to be completed upon disconnection of loading hoses.

5. Buyer or the master of the Nominated Vessel shall deliver to the Terminal Operator with the advance notice of expected time of arrival at loading Terminal as follows: seven (7) Days, three (3) Days, forty-eight (48) hours and twenty-four (24) hours. In addition, any changes made to the expected time of arrival by more than four (4) hours from the last notification given. Failure to give due notice twenty-four (24) hours prior to the expected time of arrival shall increase lay time allowed to SELLER by the difference between twenty-four (24) hours. Moreover, the actual number of hours prior to the expected time of arrival that the Terminal Operator and such increase receive notice in lay time shall not exceed twenty-four (24) hours. Upon arrival at the anchorage at the loading Terminal, the master of the Nominated Vessel shall give to the Terminal Operator notice of readiness (NOR) of the Nominated Vessel to load. Notice of readiness (NOR) may be tendered only between the hours of 06:00 and 16:00 local time. Notice of

readiness (NOR) may not be tendered during any period when the loading Terminal is closed.

5.1. Demurrage

5.1.1. Except as stated in **Article F.5.2** below, Demurrage shall be paid to the BUYER in conformity with **Article F.5.3** for Lay-time in excess of the allowable Lay time specified in **Article F.2** above. In no event shall SELLER be liable for Demurrage hereunder unless BUYER has submitted the Demurrage claim to SELLER in writing within forty-five (45) Days of the date of disconnection of loading hoses. Stating in reasonable detail the specific facts upon which the claim is based, provided that any supporting documentation which is not at that time available to BUYER shall be submitted to SELLER within ninety (90) Days of the date of disconnection of loading hoses. If BUYER fails to submit such notice together with such documentation within the said period, then any liability of SELLER for Demurrage shall be extinguished.

The payment of Demurrage shall be in accordance with the principles set out below:

- An average rate calculated by applying the London Tanker Brokers Panel's Monthly Average Freight Rate Assessment (A.F.R.A.) as published for the period of loading applicable to vessels of similar size; and
- The average rate applicable to any relevant vessel size shall be determined in accordance with the current edition of the World-wide Tanker Nominal Freight Scale (World scale) as amended from time to time, or such other freight scale as may be issued in replacement thereof.
- Vessel size classification shall be in accordance with London Tanker Brokers Panel's A.F.R.A. publications.
- Where different buyers, then the Lay time and Demurrage load more than one cargo of BLCO / LPFO / LNG / LPG on the same Nominated Vessel at the loading Terminal shall be allocated between cargoes of BLCO / LPFO / LNG / LPG pro-rata to the quantities loaded.

No Demurrage shall be paid if a Nominated Vessel is VLCC or larger vessel classification in accordance with London Tanker Brokers Panel's A.F.R.A. Publication.

5.1.2. Exclusion from Lay-time and Demurrage

Any delay arising out of or in connection with or any time used for any of the under- listed events shall not be counted or included in calculating the time taking by SELLER to load the shipment. Alternatively, the time in respect of which SELLER is liable for Demurrage (whether or not the Nominated Vessel is already on Demurrage) and BUYER shall not be entitled to make any claim whatsoever:

- Delay of the Nominated Vessel in reaching its berth caused by conditions not reasonably within the control of SELLER or SELLER's agent;
- Breakdown or inability of the Nominated Vessel's facilities to receive the cargo of BLCO / LPFO / LNG



/ LPG within the time allowed;

- c) Tank cleaning aboard the Nominated Vessel;
- d) Prohibition of loading by the BUYER, Nominated Vessel owners, Nominated Vessel operators or the Nigerian port authorities or agents of the Federal Government of Nigeria at any time or tank farms jurisdictions;
- e) Delay or interruptions of loading at the loading Terminal due to bad weather condition, discharge of ballast or slop, awaiting clearance by Nigerian port authorities or any other reason beyond SELLER's control or tank farms jurisdictions;
- f) Any Force Majeure occurrence as stipulated in **Article U** herein;
- g) Any delay to Nominated Vessel caused by SELLER's failure to load BLCO / LPFO / LNG / LPG at the loading Terminal as a result of BUYER's non-fulfilment of a material term of the Contract;
- h) Non-compliance of the Nominated Vessel with safety regulations;
- i) Slow loading as requested by Nominated Vessel Master;
- j) Suspension of loading at the loading Terminal due to electrical storms (Safety);
- k) Ullaging and sampling;
- l) Fault or failure of the Nominated Vessel which results in loading being suspended for Nominated Vessel's purposes;
- m) In the event that more than one grade of BLCO / LPFO / LNG / LPG is co-loaded on a Nominated Vessel;
- n) Grade switching (Sandwich loading);
- o) If Nominated Vessel is VLCC or larger vessels whose classification shall be in accordance with London Tanker Brokers Panel's A.F.R.A. publication;
- p) Inward passage to berth;
- q) Discharge of slops or ballast when not concurrent with loading at the required rate;
- r) Awaiting customs clearance, immigration clearance, free pratique, pilot, tugs, daylight or local administrative requirements; and
- s) Time loss caused by fire or explosion in or about the loading facilities.

5.1.3. If the total Lay-time is exceeded as a result of breakdown of machinery provided by SELLER, the rate of Demurrage shall be one-half of the stipulated rate for the period of delay directly attributable to such breakdown.

5.1.4. Notwithstanding anything contained elsewhere in this Contract, if SELLER is, by any cause whatsoever reasonably beyond its control, prevented, delayed or hindered from or bringing to the loading Terminal the BLCO / LPFO / LNG / LPG required for the shipment hereunder or any part thereof. Alternatively, from or in loading the same, any time lost whether in the commencement, carrying out or completion of the loading shall not be counted or included in calculating the time taken by SELLER to load such shipment. In addition, any time so lost after the Lay-time shall have

expired shall not be counted or included in calculating the time for which SELLER is liable for Demurrage. For purposes of the foregoing, the Force Majeure events referred to in **Article U** shall, without limitation to the generality of the foregoing, each be deemed a cause reasonably beyond the control of SELLER.

5.2. Claims for Failure of Nominated Vessel to Vacate Berth

5.2.1. If the Nominated Vessel fails to vacate berth within three (3) hours after disconnection of the loading hose(s) and the SELLER incurs losses, damages and/or other costs as a result of such failure to vacate, including Demurrage payable as a result of the consequential delay in berthing. Alternatively, mooring the next vessel awaiting its turn to load at such berth (but no other vessel), then the BUYER shall be liable for all the losses, damages and other cost.

5.2.2. Where SELLER becomes liable to third parties as a result of:

- a) Failure of Nominated Vessel to vacate the berth promptly; or
- b) Damage caused to terminal facilities by BUYER's Nominated Vessel, the BUYER shall reimburse the SELLER for all monies paid by SELLER in settlement of such liability.

5.3. Claims for Demurrage

5.3.1. To make a claim for Demurrage the BUYER shall promptly give notice to the SELLER within [forty-five (45)] days of the bill of lading date stating in reasonable detail the specific facts upon which the claim is based. Provided that any supporting documentation which is not at that time available to BUYER shall be submitted to SELLER within [ninety (90)] days of the bill of lading date, such documentation shall include but not limited to the following:

From Customer:

Original invoice/Assessment Letters of Protest Notice of Readiness (NOR) Statement of Facts from Agent, Master Customer Copy of Ship owners claim upon which demurrage claim is based Charter Party or Braefoot Bay and Sullom Voe.

From Terminal Operator:

Operators Assessment Tanker Time Sheet Mooring Master's Berthing Logbook.

From NNPC / NLNG:

Laycan Advice Bill of Lading Marketing Assessment S & T Assessment Force Majeure.

If the BUYER fails to give such notice or documentation within the time specified, then claim will be deemed automatically and irrevocably waived by the BUYER. The SELLER shall subject to the submission of the documents and verification, pay the BUYER such properly due Demurrage in United States dollars after determination of Demurrage in accordance with the calculation method set out in **Article 6.5.1**.



5.4.If the SELLER shall become liable to BUYER for Demurrage in respect of any delivery made, SELLER shall not be liable for any other damages or loss arising from Demurrage claim whether direct or indirect also applicable to each of **Parts A, B, C** and **D Sections** below.

G. BUYER'S LIFTING OBLIGATION AND REMEDIES FOR FAILURE TO LIFT OR NOMINATE VESSEL

1. The lifting obligations of the BUYER under this Contract shall be determined with reference to the total quantity of BLCO / LPFO / LNG / LPG that the BUYER is obligated to lift in the notified monthly lifting programmer pursuant to the provisions of **Article C.** of the General Conditions. Except with the prior written consent of SELLER, BUYER shall during each Month lift the total volume of BLCO / LPFO / LNG / LPG stipulated in the said notified monthly lifting programmers subject to the tolerance of plus or minus five per cent (5%).

2. Failure to Nominate a Vessel

2.1.If the BUYER fails to nominate a vessel in a timely manner in accordance with **Articles E.2.** and **E.5.**, then the BUYER shall be in default of this Contract with respect to its Lifting Entitlements ("Defaulting Buyer"). If the default continues for more than three (3) days from the period required for the vessel nomination to be notified to the SELLER, then the Defaulting Buyer's cargo of BLCO / LPFO / LNG / LPG shall be treated in accordance with the provisions of **Article G.5.**

3. Failure to Tender Notice of Readiness (Nor)

3.1.If the BUYER fails to cause a NOR to be tendered by a Nominated Vessel within the specified period, the BUYER shall be in default of this Contract with respect to such lifting ("Defaulting Buyer"). BUYER and the BUYER's cargo of BLCO / LPFO / LNG / LPG shall be treated in accordance with the provisions of **Article G.5.**

4. Refusal to Lift

4.1.If after the relevant date for vessel nominations pursuant to **Articles E.2.** and **E.5.** above, the BUYER or the Terminal Operator notifies the SELLER that the BUYER has failed or refused to lift its cargo of BLCO / LPFO / LNG / LPG, the BUYER shall be in default of this Contract with respect to such lifting ("Defaulting Buyer").

5. Authority to Act in Default

5.1.In the event of a default under **Articles D.4., G.2., G.3.** or **G.4.**, the SELLER shall have authority to take all actions concerning the Defaulting Buyer's cargo, which are reasonably necessary to avoid having to direct the Terminal Operator or any other responsible entity to shut down or reduce production from the area, including without limitation:

5.1.1.prohibiting the Defaulting Buyer from lifting such cargo of BLCO / LPFO / LNG / LPG until the Defaulting Buyer provides a Nominated Vessel and/or provides assurances of willingness and ability to lift;

5.1.2.chartering a Nominated Vessel in order to place the Defaulting Buyer's cargo in storage for the account of

the Defaulting Buyer;

5.1.3.selling the Defaulting Buyer's cargo of BLCO / LPFO / LNG / LPG for the account of the Defaulting Buyer. Any such sale shall be treated for the purpose of obligations in respect of taxes, duties, levies and charges as if the Defaulting Buyer made such sale. In making any such sale the SELLER:

- a) shall be obligated to obtain only such price and conditions for the sale as are reasonable under the circumstances; and
- b) may make any such sale to its affiliate provided that such cargo is first offered to the other third party

5.2.For the purpose of this Contract and the provisions of this **Article G.5.**, the BUYER hereby:

5.2.1.grants to the SELLER a special power of attorney, and

5.2.2.authorizes the SELLER under this Contract in each instance where BUYER is a Defaulting Buyer to charter a vessel or vessels to store the Defaulting Buyer's cargo of BLCO / LPFO / LNG / LPG. To hold the Defaulting Buyer's cargo of BLCO / LPFO / LNG / LPG as security for the payment of the costs, fees and losses attributable to the Defaulting Buyer under **Article G.5.**, and/or to effect a sale of the Defaulting Buyer's cargo of BLCO / LPFO / LNG / LPG.

5.3.The SELLER may in the exercise of its discretion exercise the powers and/or authorizations set out in **Article G.5.2.**, individually or in concert, in accordance with applicable laws and regulations in order to effect the actions specified in **Articles G.5.1.2.** and/or **G.5.1.3.**

5.4.The SELLER shall inform the BUYER as soon as possible after any such action is taken.

6. Liability and Indemnity of Defaulting Lifter

6.1.In the event of default, the Defaulting Buyer shall be responsible for, and shall indemnify and defend the SELLER and any person who purchases the Defaulting Buyer's cargo of BLCO / LPFO / LNG / LPG pursuant to **Article G.5.** from, any and all costs of whatever nature arising from, or related to, such default and action taken under **Article G.5.1.**, including without limitation:

6.1.1.any costs incurred or associated with the chartering of a Nominated Vessel to store the Defaulting Buyer's cargo of BLCO / LPFO / LNG / LPG, plus any administration fee by the SELLER for selling such cargo of BLCO / LPFO / LNG / LPG;

6.1.2.any costs levied incurred or associated with the sale or disposition of the Defaulting Buyer's cargo of BLCO / LPFO / LNG / LPG, plus 10% of the sales proceed as marketing fee;

6.1.3.any costs arising directly or indirectly from the reduction, shutdown and start-up of the BLCO / LPFO / LNG / LPG production but not including costs arising from foregone or lost production;

6.1.4.any costs incurred by any buyer lifting subsequent to such default which arise directly or indirectly from such default;

6.1.5.interest on any such costs, fees or losses at the agreed interest rate from the day such payments were made until the day they are reimbursed.



H. DAMAGES FOR UNDERLIFTING

1. Without prejudice to the provisions of **Articles G.2., G.3., G.4., G.5. and G.6.**, if the BUYER defaults in complying with its lifting obligations in accordance with **Article G.** above (except in cases of Force Majeure) either by a total failure to lift. Alternatively, by lifting a quantity less than the BUYER is obligated to lift in that Month, BUYER shall be liable to pay to SELLER agreed liquidated damages being an amount equal to five percent (5%) of the value of the un-lifted BLCO / LPFO / LNG / LPG less five per cent (5%) tolerance stated in **Article G.** Where BUYER lifts less than it is obligated to lift twice in any one quarter or three times in any calendar year during the period of this Contract, the liquidated damages payable to SELLER for any subsequent under-lifting shall be ten percent (10%) of the value of the un-lifted BLCO / LPFO / LNG / LPG less five per cent (5%) tolerance stated in **Article G.**
2. In determining the proper value for purpose of ascertaining the amount of liquidated damages under this provision the applicable price shall be the relevant Month's official selling price issued by SELLER with the pricing option chosen by BUYER for the particular grade of BLCO / LPFO / LNG / LPG for which the BUYER under lifted its contractual volume. With the last day of the issued lay can being the deemed bill of lading date.
3. Where the BUYER selects no pricing option within the applicable period allowed, the Prompt Option shall apply.

I. DISPOSITION OF UNLIFTED/UNDERLIFTED CRUDE/LNG/ LPFO

1. BUYER shall not have a right to lift any volume of BLCO / LPFO / LNG / LPG un-lifted or under-lifted within any calendar quarter in subsequent Months.
2. Without prejudice to provisions of **Articles G.** and **H.1.** in respect of un-lifted/under-lifted BLCO / LPFO / LNG / LPG by BUYER and provided that the SELLER has not exercised its right under **Article G.5.** to dispose of the un-lifted cargo of BLCO / LPFO / LNG / LPG, SELLER may allow BUYER to lift the quarter's un-lifted or under-lifted BLCO / LPFO / LNG / LPG subject to the payment of liquidated damages less the five per cent (5%) tolerance not later than fifteen (15) days after the end of the relevant quarter. The price applicable to such late lifting's shall be the price derived from the prevailing or pricing option chosen by BUYER as at the time of bill of lading date in accordance with **Article O.** hereof.

J. OVER-LIFTING OF BLCO / LPFO / LNG / LPG

1. Subject to availability of excess BLCO / LPFO / LNG / LPG and the satisfaction of all contractual commitments to other buyers" lifting, the SELLER may notify the BUYER at any relevant time of any additional BLCO / LPFO / LNG / LPG quantity in excess of the BUYER's BLCO / LPFO / LNG / LPG Lifting Entitlements. Moreover, the BUYER shall have the right to lift such excess BLCO / LPFO / LNG / LPG in respect of that Month in the notified monthly lifting programmer. Inclusive of the five per cent (5%) tolerance provided that the price

applicable to such over-lifting shall be as stated in the SELLER's written notice duly signed by the SELLER and shall not be less than the price usually offered by SELLER for BLCO / LPFO / LNG / LPG delivered under this Contract.

K. FIRST LIFTING UNDERTAKING

1. At its absolute discretion SELLER may, at the time of signing this Contract require BUYER to present as a commitment to commence lifting, a certified bank SWIFT confirming payment by telegraphic transfer a sum of Two Million Five hundred thousand United States Dollars (US\$2,500,000.00). This sum shall be treated as advance payment for the first lifting and shall be automatically forfeited by BUYER if BUYER fails to commence lifting in accordance with the terms of this Contract. Upon such forfeiture, SELLER may at its discretion promptly terminate this Contract notwithstanding any other provisions to the contrary expressed or implied under this Contract, and the BUYER hereby agrees to waive any right to damages or other form of remedy against the SELLER for the Contract termination pursuant to this **Article K.**

L. PRICE

1. Subject to the provisions hereof, the BUYER shall pay to the SELLER the applicable price for the total quantity of each shipment as stated in the bill of lading as Dated Brent BLCO / LPFO / LNG / LPG related basis. In addition, certificates of quantity and quality issued pursuant to the provisions of this Contract and such price shall be expressed in United States Dollars per barrels / cubic meter / metric tonnes C.I.F. LOADING / DISPATCH Terminal or F.O.B at tank farms jurisdictions LOADING / DISPATCH Terminals. The applicable price shall be the official selling price derived from the pricing formula advised by the SELLER and notified by the SELLER to the BUYER as being the C.I.F./ F.O.B. price per barrel / cubic meter at which BLCO / LPFO / LNG / LPG shall be sold to buyers generally.
2. The official selling price set out in any invoice or in any document delivered pursuant to this Contract shall refer only to a barrel / cubic meter / metric tonne of BLCO / LPFO / LNG / LPG of the grade to be delivered by the SELLER at the relevant MONTH.
3. The official selling price for each relevant MONTH shall be subject to change at any time and shall be communicated to the BUYER prior to any delivery being made under this Contract.
4. Prior to the beginning of each relevant Month, the SELLER shall inform the BUYER of the pricing formula for that relevant Month. In fixing the pricing formula at any relevant time, the SELLER shall be guided by prevailing prices in the international oil/gas market and other relevant factors. Any written notification on pricing formula as communicated by SELLER to the BUYER shall be the pricing basis for the relevant Month unless otherwise revised by the SELLER at its sole discretion.
5. **Phase-Out and Applicable Prices**
5.1. If the BUYER fails to accept the pricing formula notified by



the SELLER for the relevant Month, the Contract shall immediately terminate after a "phase-out" period of ninety (90) days from the date of SELLER's notification of the applicable pricing formula to BUYER. The price applicable during the phase-out period shall be the official selling price derived from the pricing formula notified by SELLER generally to the buyers of the specified grade(s) of Nigerian BLCO / LPFO / LNG / LPG during the period.

5.2. If, during the phase-out period and prior to the termination of this Contract on the expiration of the phase-out period, the BUYER submits a written demand to the SELLER to lift the BUYER's BLCO / LPFO / LNG / LPG Lifting Entitlements. The BUYER's BLCO / LPFO / LNG / LPG Lifting Entitlements during such phase-out period shall be limited to fifty per cent (50%) of the Contract quantity. Where the BUYER notifies the SELLER of its acceptance of the applicable pricing formula as notified by SELLER under **Article L.5.1.** before the expiration of the phase-out period, the SELLER, may, at its sole discretion, allow the BUYER to lift its hundred per cent (100%) Contract quantity as if no phase-out period had occurred.

6. **Market Review Meetings**

6.1. The SELLER and BUYER hereby agree to meet quarterly to review developments in the global oil and gas markets that impact on the pricing and performance of Nigerian BLCO / LPFO / LNG / LPG grades. The BUYER hereby agrees to prepare and present up-to-date detailed reports to these meetings, and further agrees that its authorized representative(s) to the meetings shall be fully empowered to take decisions and grant relevant approval(s) that will be binding on the BUYER. The SELLER shall host all such meetings and at no charge to BUYER, provided that attendance at such meetings by the BUYER's representatives shall be at BUYER's cost.

M. PAYMENT

1. Payment shall be made in U.S. Dollars by electronic funds transfer, in full, without discount, withholding, setoff or counterclaim (except as otherwise provided herein).

2. Payment shall be made on presentation of and in accordance with Seller's commercial invoice and the following documents:

2.1. **FOB, CFR and CIF Marine deliveries:**

2.1.1. **U.S. domestic deliveries:** The certificates of quantity and quality as issued in accordance with this Agreement showing the quantity and quality of Product loaded.

2.1.2. **International deliveries:** A full set of clean original bills of lading properly issued or endorsed to the order of Buyer and other shipping documents. If any or all of the required documents are not available at the time payment is due, Buyer shall pay against Seller's commercial invoice and Letter of Indemnity in Seller's standard format (See **Appendix 1** or **Annex F**) in lieu of the missing documents (facsimile or email copy acceptable).

2.2. **Delivered Marine deliveries:** The certificates of quantity and quality as issued in accordance with this Agreement

showing the quantity and quality of Product discharged.

2.3. **Ex-Tank, Into Tank, In Situ (Book), Free into pipe, or ex-pipe deliveries:** The certificates of quantity and quality, pipeline meter ticket(s), terminal operator's records for the transfer, or other supporting documents as applicable. In the case of a book transfer, Seller's written notification to Buyer (e-mail acceptable) stating book transfer volume and date, and on Buyer's acceptance of book transfer, quantity shall be exact barrels per Agreement quantity (without quantity tolerance, if any) specified in a Confirmation. Payment for book transfers (except LPG book transfers) shall be made on the effective date of the book transfer, provided that the invoice is received in Buyer's office by 4pm Buyer's local time on the day prior to the effective date of the book transfer. Invoices received after 4pm Buyer's local time shall be deemed received at 9am Buyer's local time on the next Banking Day.

2.4. **FCA into and delivered from tank truck and railcar deliveries:** Bills of lading, weight ticket or meter ticket (as applicable).

3. Where the due date for payment falls on a Saturday or on a weekday other than Monday, which is not a Banking Day, then any such payment shall be made on the preceding Banking Day. Where the last day for payment falls on a Sunday or a Monday, which is not a Banking Day, then any such payment shall be made on the following Banking Day.

4. Except as otherwise provided herein, the payment of any other costs, expenses or charges, which arise and are due under the terms of this Agreement from one party to the other, shall be made against presentation of one party's invoice by the party from whom payment is due on or by the date specified on the invoice.

5. If, less than five (5) Banking Days prior to the due date, Seller requests payment to be made to a bank account which is different than that which has previously been used for settlement. Then Buyer has the right to delay payment without incurring interest for up to five (5) Banking Days immediately following the date of notice of such change if and to the extent such delay is necessary to establish the validity and legal effect of the requested change.

6. If for any reason payment terms are not specified in a Confirmation, the parties agree that the payment due date shall be as per Seller's invoice.

7. All U.S. Dollar amounts shall be rounded to the nearest cent (whereby half cents shall be rounded upward).

8. If the invoiced party, in good faith, disputes the amount of any such invoice or any part thereof, such invoiced party will pay such amount as it concedes to be correct; provided, however, if the invoiced party disputes the amount due it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed. In the event the parties are unable to resolve such dispute, either party may pursue any remedy available at law or in equity to enforce its rights



pursuant to this Agreement.

9. Notwithstanding anything to the contrary in this Agreement, if required by Seller, pursuant to **Section LL. below**, or as a result of an Event of Default, Buyer shall make advance payment in U.S. Dollars by electronic funds transfer to Seller for Products purchased by Buyer pursuant to one or more Transactions under this Agreement ("Prepayment"). Specifically, for each Transaction pursuant to which Seller is obligated to deliver Products to Buyer and for which Seller requires Buyer to make a Prepayment, Seller shall issue an invoice to Buyer and Buyer shall make the Prepayment to Seller by the date specified on Seller's invoice ("Prepayment Due Date"). All Prepayments shall be in an amount equal to the price (or estimated price if the price is based on an index and is not known at the time the invoice is issued). Multiplied by the total quantity (or estimated quantity if the actual quantity is not known at the time the invoice is issued) of Products to be purchased for each outstanding Transaction for which Prepayment is required (each a "Prepayment Amount"). Each Prepayment Amount shall be paid by electronic funds transfer, in same day funds (without setoff, counterclaim or deduction), to the account specified by Seller. If, pursuant to a Transaction, the actual quantity of Products delivered differs from the contract quantity or the price differs from the estimated price upon which Prepayment was made. Alternatively, other amounts are owing by or to Buyer (including, without limitation, other charges related to the Transaction(s) or amounts arising from any overpayments or underpayments for prior periods), the party owing such amounts shall pay such amounts owing by it within two (2) Banking Days of receipt of request by the party to whom the payment is owed. In the event Buyer fails to timely make the Prepayment, Seller shall have the right to immediately withhold or suspend delivery of Products until such time as the required payment is received. Such suspension of delivery of Products shall not relieve Buyer of its obligation to purchase Products pursuant to any Transaction and shall be in addition to, and not in replacement of, any other right or remedy available to Seller under this Agreement.

10. **By MT103 Wire Transfer within 24 Hours, Immediately After Dip Test (Q & Q).**

- 10.1. Transfer of Title 24-72 Hours thereafter.
- 10.2. Irrevocable, Automatically Revolving Sight Credit Payment SWIFT and Payable 100% at Sight upon Q&Q with the release of title/documents upon full payment and shall be automatically revolving to the next shipment until completion of the contracted quantity. The RSCP must be issued from one of the prime world bank.
- 10.3. All wire transfers shall incorporate below text message and a copy of bank wire transfer slip shall be emailed to info@canafpcr.ca for legal verification and documentation pursuant to patriot act/banking regulations with one original contract/agreement copy to be filed with bank. The S.W.I.F.T., RMA or clear stream text message covering all remittances shall clearly state the following: "We know remitter, this is done with full banking responsibility, we are satisfied as to the source of the funds sent, funds are clean and clear, lien free and unencumbered funds of non-criminal origin. For same day transfer and immediate credit - we know the remitter

and we are satisfied as to the source of the funds sent to us - this is done with full banking responsibility.

Or

11. **Payment by Letter of Credit (Only in case of default C.I.F. shall be indorsed)**

11.1. The SELLER shall impose that BUYER for his legal and financial obligations failed to at hear to C.I.F. terms shall then pay for all BLCO / LPFO / LNG / LPG delivered by SELLER. In addition, any liquidated damages as stipulated under the terms of the Contract by Letter of Credit, which shall be substantially in the form stated in **Appendices 2 or 3A and 3B**. The BUYER shall procure that such Letter of Credit shall be opened with and confirmed by a reputable first class bank approved by the SELLER or a first class international bank acceptable to the SELLER. The provisions stated herein for payment by Letter of Credit shall not be construed as excluding the BUYER's basic responsibility for paying within the payment due date stated in the Part I and Part II of the Contract for Sale and Purchase of BLCO / LPFO / LNG / LPG.

11.2. The Letter of Credit shall be sufficient to cover the contractual mean value of BLCO / LPFO / LNG / LPG deliveries at the price specified in writing by the SELLER. In addition, shall take effect in accordance with its terms (including any agreed amendments thereto) but such terms (including any agreed amendment(s) thereto) shall not alter, add to, or in any way affect the provisions stipulated in this Contract.

11.3. Failure by the BUYER to comply with the requirements of this **Article M.** shall be a fundamental breach of this Contract and the SELLER shall have the right to immediately terminate this Contract and shall be entitled to claim damages from BUYER for breach of the Contract.

11.4. The value of the Letter of Credit shall be as follows:

11.4.1. Letter of Credit as per **Appendix 2:**

The value of sixty (60) days BLCO / LPFO / LNG / LPG lifting's based on the initial price as advised by the SELLER and the off-take rate (inclusive of Contract tolerance limit) applicable under this Contract plus any amount of claims that may arise under **Articles E., H. And N.3.** of the General Conditions. BUYER shall thereafter adjust the said value in conformity with changes in price and off-take rate during the period of the Contract; or

11.4.2. Letter of Credit as per **Appendix 3A:**

SELLER may advise the amount of anticipated claims as under the terms of this Contract.

11.4.3. Letter of Credit as per **Appendix 3B:**

The total value of the cargo of BLCO / LPFO / LNG / LPG to which the Letter of Credit relates plus the tolerance limit and at the prevailing price confirmed by the SELLER.

11.5. The Letters of Credit as per **Appendices 2 or 3A and 3B** shall be opened with SELLER's approved reputable



first class bank or first class international bank. In addition, advised through a reputable first class bank in a form (text and format) acceptable to SELLER not later than twenty-one (21) days after the date of signing of the Contract or five (5) Business Days before the accepted date range for the first lifting under the Contract whichever is earlier.

Subsequent Letters of Credit as per **Appendix 3B** shall be acceptable to SELLER and shall be opened not later than five (5) Business Days before the accepted date range for each lifting of BLCO / LPFO / LNG / LPG under this Contract.

Letters of Credit as per **Appendices 2** and **3A** shall be irrevocable and automatically revolving with each drawing therefrom and in such manner that amounts withdrawn are immediately replaced to bring the total value back to its previous level.

The SELLER shall have the right to confirm any Letter of Credit by bankers of its choice at any time and shall also have the right to demand any amendment of any Letter of Credit as it deems appropriate subject to the provisions of **Article M.2.1., M.2.2., and M.2.3.**

The BUYER agrees to pay a penalty of US\$100,000 (One Hundred Thousand United States Dollars) for each time the BUYER fails to present an acceptable Letter of Credit to the SELLER within the time limit specified in this **Article M.2.5.**

11.6. The letters of Credit referred to in **Appendices 2** or **3A** shall initially be valid for a period of fourteen (14) months and shall thereafter be renewed for further period of twelve (12) months in such manner that it shall remain valid and in full force and effect throughout the duration of the Contract. The Letter of Credit in **Appendix 3B** shall be valid for a period of ninety (90) days.

11.7. Each applicable Letter of Credit shall be issued in accordance with the Rules of the International Chamber of Commerce relating to documentary credits for the time being in force.

11.8. The payment through the Letters of Credit in **Appendices 2** or **3B** shall be made by the BUYER to the SELLER upon presentation by SELLER of the following documents:

- 11.8.1. Commercial Invoice
- 11.8.2. Bill of Lading
- 11.8.3. Certificate of Quantity
- 11.8.4. Certificate of Quality
- 11.8.5. Certificate of Origin
- 11.8.6. Tanker's Ullage Report
- 11.8.7. Tanker's Time Sheet
- 11.8.8. Any other document to be advised by SELLER from time to time.

12.9.1. The BUYER shall bear all expenses and bank charges in connection with the Letter of Credit opening, confirmation, extensions, agreed

alterations and all commissions including those related to SELLER's banks.

12.9.2. BUYER shall also bear full liability for costs and expenses arising out of, or in connection with any of the Letters of Credit not reaching SELLER in time in an acceptable form for lifting's to commence on schedule.

12.9.3. BUYER shall have the responsibility of ensuring that SELLER receives all Letters of Credit in an acceptable form in time for lifting's to commence on schedule. SELLER hereby reserves the right to refuse any lifting's by the BUYER until the appropriate Letters of Credit are delivered and acceptable to SELLER.

12.9. The BUYER agrees that Banks will open not less than 25% of the Letters of Credit for lifting the relevant BLCO / LPFO / LNG / LPG quantity under this Contract directly to SELLER. The SELLER reserves the right to suspend lifting by the BUYER if the BUYER fails to comply with the provisions of these **Articles M.2.9. and M.2.10.**

N. TIME OF PAYMENT

1. All BLCO / LPFO / LNG / LPG delivered to the BUYER shall be paid for at the price applicable as at the date on the bill of lading and upon presentation by SELLER of the documents stated in **Article M.2.8.** above. Any payment falling due on a Saturday or New York Bank Holiday other than Monday shall be made immediately on the preceding Business Day. Payment falling due on a Sunday or Monday New York Bank Holiday shall be made immediately on the next succeeding Business Day.

2. BUYER shall pay for all BLCO / LPFO / LNG / LPG delivered under this Contract not later than thirty (30) days after the bill of lading date. Any period of credit permitted by the SELLER shall be the standard period of credit applying generally to buyers of Nigerian BLCO / LPFO / LNG / LPG, which shall be notified in writing by SELLER to BUYER if the SELLER has specifically granted any credit to apply to the BUYER under this Contract.

3.1. BUYER or its bankers shall directly advise the SELLER by bank SWIFT, letter or email immediately upon the payment of each invoice amount not later than two (2) Business Days after due date of such payments. If the BUYER does not pay for any cargo of BLCO / LPFO / LNG / LPG delivered by SELLER. Within the prescribed period applicable to such lifting the delayed payment shall attract interest from the first day after the due date of payment at the rate of two percent (2%) per annum above the rate at which U.S. Dollar deposits for six months are bid in the London Interbank Deposit market (LIBOR) on the first day of default. Alternatively, if no LIBOR rate is quoted on that date, the first preceding rate so quoted, such rate to be certified by the National Westminster Bank, London as the rate at which such deposits are bid by it. Interest shall be payable for each day of default and the calculation shall be made on the amount of unpaid principal and interest outstanding.



3.2. Except in cases falling within the provisions of **Article U.** (Force Majeure), if the BUYER fails to pay in full on payment due date to the SELLER, the SELLER shall have the right to immediately suspend any further deliveries of BLCO / LPFO / LNG / LPG to the BUYER until full payment is received by the SELLER.

4. If the BUYER is unable to pay for the BLCO / LPFO / LNG / LPG delivered because it has not received the shipping documents, it shall notify the SELLER of such occurrence not later than the 30th day after the bill of lading date of its inability to receive the shipping documents. In addition, SELLER shall immediately issue to BUYER a letter of indemnity, which shall substantially be in the form attached hereto as **Appendix 1** or **Annex F** against which payment shall be made to SELLER with a value date of 30th day after bill of lading date.

O. CURRENCY AND PLACE OF PAYMENT

1. BUYER shall pay SELLER for all BLCO / LPFO / LNG / LPG delivered under this Contract in such currency and at such place or places as shall be specified in the Contract or as SELLER may from time to time designate to the BUYER in writing.
2. The date of currency conversion (where applicable), which shall not be more than three (3) Business Days before the due-date of payment, shall be specified in the relevant invoice. On conversion date, BUYER shall purchase for value on the due date of the applicable invoice, that amount of the preferred currency which shall be purchased at the rate quoted to BUYER by the nominated bank with an amount of Dollars equal to the U.S. Dollar amount of the relevant invoice.

P. PAYMENT DURING CIVIL UNREST

1. In the event of civil unrest or war in any part of Nigeria all payments due for BLCO / LPFO / LNG / LPG delivered to the BUYER under this Contract shall be validly made if paid to the SELLER to the designated account stated in this Contract and to no other person whatsoever. Notwithstanding any demands, threats and other pressures from any other claimants, whether claiming through, under or on behalf of SELLER, in no event shall the BUYER be required to make any payment(s) due to the SELLER under this Contract to any third party whatsoever.

Q. TAXES, DUTIES, FEES AND CHARGES

1. The BUYER shall be responsible for the payment of all amounts in respect of taxes, duties, imposts, fees, charges and dues of every description imposed. Alternatively, levied by any governmental, local or port authority on the BLCO / LPFO / LNG / LPG delivered hereunder, or on its export, delivery, transportation, ownership, sale or use, in respect of any stage after risk in such BLCO / LPFO / LNG / LPG has passed to the BUYER. All taxes, duties, imposts, fees, charges (including, without limitation, pilotage limitation, quay dues) in respect of the Nominated Vessel incurred at the loading Terminal shall be solely for the BUYER's account.

R. COMPLIANCE WITH LAWS, REGULATIONS AND FURTHER

ASSURANCE

1. Each party hereby agrees to comply and to procure its personnel, directors, agents, contractors, representatives and permitted assigns to comply with all laws, rules, regulations, valid directives and policies and by laws applicable and necessary for the performance by each party of its obligations under this Contract.
2. The BUYER shall at its sole cost take necessary steps for complying with all Nigerian or tank farms jurisdictions statutory requirements pertaining to completion and perfection of single goods declaration (SGD) documentations and any other requirement as may be directed by the Nigerian Customs Services or tank farms jurisdictions from time to time.
3. So far as it is legally able under any applicable law, each party agrees to do all things required to give effect to this Contract including executing all required documents. Moreover, exercising all rights and powers (direct or indirect) available to it in relation to any person to ensure that the terms of this Contract are completely and punctually fulfilled, observed and performed and generally that full effect is given to the terms and conditions of this Contract.
4. The liability of any party under this **Article R.** shall not be discharged or impaired by any release of, or granting of time. Alternatively, other indulgence to any person acting on its behalf or any third party or any other act, event or omission which but for this **Article R.** would operate to impair or discharge the liability of such party under this **Article.**

S. TRANSFER OF RISK AND PROPERTY

1. Notwithstanding any right of the SELLER to retain any document pursuant to the provisions of this Contract until payment, the risk and property in the BLCO / LPFO / LNG / LPG delivered under this Contract shall pass to the BUYER as the BLCO / LPFO / LNG / LPG passes the Nominated Vessels permanent hose connection at the LOADING / DISPATCH Terminal. If the BLCO / LPFO / LNG / LPG delivered hereunder forms an unascertained part of a larger bulk, risk and property for the BLCO / LPFO / LNG / LPG delivered hereunder shall, for the purpose of enabling property in such BLCO / LPFO / LNG / LPG pass to the BUYER, as such BLCO / LPFO / LNG / LPG passes the Nominated Vessel's permanent hose connection at the loading Terminal.
2. Any loss of or damage to the BLCO / LPFO / LNG / LPG during loading, if caused by the Nominated Vessel or its officers or crew, shall be for the account of the BUYER. Any claim made against the SELLER in respect of damage to any facilities at the LOADING / DISPATCH Terminal (excluding facilities operated by the SELLER or an associate company of the SELLER) caused by the BUYER's Nominated Vessel shall be borne by the BUYER.

T. PROHIBITED DESTINATIONS

1. It is a condition of sale of BLCO / LPFO / LNG / LPG by the SELLER to the BUYER that the BUYER shall not export the BLCO / LPFO / LNG / LPG. Alternatively, its agents, either



directly or indirectly and irrespective of means, to any destination which is at the time of such export either prohibited under the Nigerian laws or is contrary to any regulation, rule, directive or guideline applied by the Federal Government of Nigeria. Alternatively, any relevant Government agency. The BUYER shall keep itself informed as to such laws, regulations, rules, directive or guidelines and shall ensure that they are strictly complied with. Without limiting the obligations of the BUYER herein, the SELLER will notify the BUYER of any changes made from time to time.

2. The BUYER hereby undertakes that the BLCO / LPFO / LNG / LPG delivered hereunder shall not:
 - 2.1. be exported to any prohibited jurisdiction;
 - 2.2. be sold or supplied to any natural or legal person in any prohibited jurisdiction; or
 - 2.3. be sold or supplied to any natural or legal person for the purposes of any commercial activity carried out in or from any such prohibited jurisdiction.
3. The BUYER shall, if the SELLER so requires, provide the SELLER with appropriate documentation for the purposes of verifying the final destination of any delivery hereunder. Such documentation shall be so provided within ninety (90) days of the date of discharge of the shipment or within such lesser period as will enable the SELLER to comply with any requirement or request of the government. Alternatively, authority in question and shall include the name of the port(s) of discharge, the date(s) of discharge and the grade and quantity discharged. The obligations of the BUYER to comply with such requirement shall not be affected by any sale or disposal of the BLCO / LPFO / LNG / LPG in question by the BUYER.
4. Without prejudice to the foregoing provisions of this **Section T.**, in the event of any failure to comply with such undertakings or if the SELLER has reasonable grounds for believing that such undertakings will not be complied with the SELLER may (without prejudice to its other rights) at its sole discretion terminate this Contract forthwith. Alternatively, suspend delivery under this Contract until further notice or decline to commence or complete loading hereunder on notifying the BUYER either in writing or orally (with written confirmation to follow).

U. FORCE MAJEURE

1. Neither the SELLER nor BUYER shall be held liable for failure or delay in the performance of its obligations under this Contract, including without limitation to SELLER's obligations to deliver the agreed quantities and grade of BLCO / LPFO / LNG / LPG under this Contract if such performance is delayed or hindered by the occurrence of an unforeseeable act. Alternatively, event which is beyond the reasonable control of the affected party ("Force Majeure"). No party shall be entitled to claim any costs, expenses, including demurrage or any form of compensation whatsoever arising from the effect of Force Majeure. Force Majeure shall not affect any payments due to the SELLER under this Contract.
2. The Act or event constituting Force Majeure shall include, but not limited to:

- 2.1. Act of God
- 2.2. Act of Government intervention, directive, or policy (whether war Federal or State Government)
- 2.3. War (whether war is declared or not), act of public enemy;
- 2.4. Act of disorder, riot, civil unrest, rebellion, (except where it is solely restricted to the employees of the BUYER;
- 2.5. Act of sabotage, terrorism, or foreign invasion;
- 2.6. Explosion, fire, flood, earthquake, lightning, haze, storm, or other severe weather condition or other natural disaster.
- 2.7. Strike, boycott, labour unrest (whether direct or indirect, lawful or unlawful) excluding those limited to the employees of the BUYER.

3. Immediately on the occurrence of Force Majeure, the party claiming to be affected by the Force Majeure shall promptly notify the other party in writing stating the details of the event or act constituting Force Majeure. In addition, stating also the measure being adopted by it to minimize or to remedy the consequences of the Force Majeure on the performance of this Contract. The affected party shall use all reasonable diligence to remove or overcome the Force Majeure situation as quickly as possible in an economic manner.
4. Where the Force Majeure continues for a consecutive period of thirty (30) days, either party shall have the right to terminate this Contract by serving the other party fourteen (14) days written notice of termination.
5. On the cessation of the Force Majeure before the expiration of the said period stated in **Article U.3.** above, the party claiming to be so affected by the Force Majeure shall also notify the other party in writing of such cessation, and shall thereafter commence the performance of its obligations under this Contract.

V. ARBITRATION

1. SELLER and the BUYER shall first resolve any dispute, conflict, difference, claims, that may arise out of or in connection with the performance of this Contract including any dispute as to the construction, validity, interpretation, enforceability or breach of this Contract amicably. Where there is failure to reach an amicable resolution either party shall have the right to refer the matter to arbitration under the provisions of the Arbitration and regardless of where the fuel is delivered to the vessel, Federal Maritime Law of the United States of America shall be paramount in governing the rights and duties of the parties hereto. To the extent Federal Maritime Law does not pre-empt or is not applicable to the subject matter, this Contract shall otherwise be governed and construed in accordance with the laws of the State of Texas without reference to its choice of law rules and any amendment made thereto.
2. Within thirty (30) days of the matter being referred to arbitration, either party shall appoint an arbitrator and the two arbitrators thus appointed shall within fifteen (15) days appoint a third arbitrator. If the arbitrators do not agree on the appointment of such third arbitrator, or if either party fails to appoint the arbitrator to be appointed by it, such arbitrator shall be appointed by the Federal High Court, on the application of either party to the Chief Judge of the Federal High Court.



- The notice of the intention to apply to the Court shall be duly given in writing by the applicant party and when appointed (in the case of a third arbitrator) the third arbitrator shall convene meetings and acts as the chairman.
3. The award of the arbitrators shall, except where there is manifest error in law or fact or miscarriage of justice, be conclusive and binding on all the parties and may be entered as an award or judgment of a court of competent jurisdiction. The costs of arbitration shall be borne equally by both parties and each party shall solely bear its own cost of attendance at the proceedings including its attorney fees and cost of procuring its own witnesses. The arbitral award shall not include any indirect consequential, punitive, exemplary, incidental, multiple or any similar damages other than direct damages.
 4. Except for disputes relating to sales of Marine Fuels by **Canaf Petro - Chemicals Refinery™ Inc.**, any dispute arising under, out of, or in connection with this Contract including any question regarding its existence, validity or termination, shall be referred to. Finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore Chamber of Maritime Arbitration ("SCMA Rules") for the time being in force, which rules are deemed to be incorporated by reference in this clause. The Tribunal shall consist of 2 arbitrators, one each to be appointed by each party to the arbitration. If a party fails to appoint an arbitrator within 14 days of receipt of the notice of appointment of an arbitrator by the other party, the appointed arbitrator shall act as the sole arbitrator and deemed to be jointly appointed by both parties, and the arbitration shall proceed with a Tribunal of one arbitrator.
 5. If 2 arbitrators are appointed by the parties, then the 2 appointed arbitrators may appoint a 3rd arbitrator if and when they consider the same necessary.
 6. For the purposes of the applicability of the small claims procedure under Rule 44 of the SCMA Rules, the parties agree that the expedited procedure shall apply if the aggregate amount of any claim and/or counterclaim is less than. Alternatively, is unlikely to exceed than US\$1 million (excluding interest and costs) equivalent to the Local Authoritarianism State in the currency wherever **CPCR** resides.
 7. For sales by **CPCR** (Canada), Inc., any dispute arising out of or related to the sale of Marine Fuels under this Contract shall be referred to a sole arbitrator in Houston, Texas, U.S.A., under the then current rules of the Houston Maritime Arbitration Association.
 8. For sales by **CPCR** (Holland) B.V., any dispute arising out of or related to the sale of Marine Fuels under this Contract shall be referred to a sole arbitrator in Rotterdam, Netherlands under the then current rules of TAMARA.
 9. For sales by **CPCR** registered to the Local Authoritarianism State in the country wherever **CPCR** resides, any dispute arising out of or related to the sale of Marine Fuels under this Contract shall be referred to a sole arbitrator in Local Authoritarianism State of that country.

10. All proceedings, wherever held, shall be conducted in the English language.
11. The United Nation Convention on Contracts for the International Sale of Goods (Vienna Sales connection) signed in Vienna on 11 April 1980 shall not apply to and shall be expressly excluded from the contract and these Terms of Sale.
12. Nothing in this **Article V.** shall be construed as preventing any party from seeking conservatory or similar interim relief from any court of competent jurisdiction.

W. NOTICES

1. Except as otherwise specifically provided, all notices, reports and other forms of communications authorized or required between the parties by any of the provisions of this Contract, shall be in writing, in the English language, and delivered in person or by courier service or registered mail delivery, or by any electronic means of transmitting written communications which provides written confirmation of complete transmission, and addressed to such parties as designated below:

FOR SELLER:

Canaf Petro-Chemicals Refinery™ Inc.

5935 Airport Road, Airways Centre,
Mississauga, Ontario, L4V 1W5
Canada

Tel No: +1 647 787 8288

Fax. No: +1 908 325 1181

E-Mail: info@canafpcr.ca

FOR BUYER:

BUYER's address for notices and other communication shall be as stated in first paragraph **Section** of the Contract Part I.

2. Oral communication does not constitute notice for purposes of this Contract and telephone numbers for the parties are listed as a matter of convenience only.
3. The originating notice given under any provision of this Contract shall be deemed delivered only when received by the party to whom such notice is directed, and the time for such party to deliver any notice in response to such originating notice shall run from the time and date the originating notice is received.
4. The second or any responsive notice shall be deemed delivered when received. For purposes of this **Article W.** "received" shall mean actual delivery of the notice to the address of the party to be notified and specified in accordance with this **Article W.**
5. Each party shall have the right to change its address at any time and/or designate that copies of all such notices be directed to another person at another address, by giving notice thereof to the other party.

X. NON-ASSIGNMENT

1. The performance of this Contract shall not be assigned in



whole or in part by the BUYER to any person, company, firm, institution or others without the prior written consent of the SELLER. Provided that the BUYER's obligations to make payments in accordance with the terms of this Contract shall not be assigned to any third party. In case of an assignment of the BUYER's rights and obligations in accordance with this provision the BUYER. Moreover, the assignee shall remain jointly and severally liable to the SELLER for the discharge or performance of the BUYER's obligations under this Contract and it is hereby agreed that the giving of consent by SELLER shall not relieve the BUYER from any liabilities whatsoever arising under this Contract including third party liability.

Y. AFFIRMATION

1. The BUYER hereby declares and affirms that it has not paid, offered to pay or promised to pay directly or indirectly, any bribe, pay-off, kick-back or unlawful commission and that it has not in any other way or manner paid any sums, whether in Nigerian currency or foreign currency. Moreover, whether in Nigeria or outside Nigeria, or in any other manner given or offered to give any gifts, presents or other items of value in Nigeria or outside Nigeria to any official, person or company to process the entry into and/or execution of this Contract. In addition, the BUYER further undertakes not to engage in any of the said or similar acts during the term of and relative to this Contract.
2. In recognition of the principles of the OECD Convention on Combating of Bribery of Foreign Public officials in International Business transaction, the BUYER hereby warrants that it or any other person acting on its behalf has not and covenants that it. Moreover, any such person will not, directly or indirectly in connection with this Contract and the matter resulting there from, offer, pay, offer to pay, promise to pay or authorize the giving of money or anything of value to any official. Alternatively, to any other person while knowing or being aware of a high probability that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly to an official, in order that the official act. Alternatively, refrain from acting in relation to the performance of official duties, in order to obtain or retain business for, or to direct business to, any person, or to obtain any other improper advantage or benefit.
3. For purposes of this **Article Y**, the word, "official" shall mean any officer or representative engaged or holding a position in any office of the Federal Government of Nigeria or State or Local government or any official or representative of any foreign government.

Z. TERMINATION

1. Notwithstanding anything to the contrary expressed or implied elsewhere in this Contract or in these General Conditions, SELLER (without prejudice to any other rights available to it hereunder) shall have the right to terminate this Contract immediately if BUYER's financial credibility is not satisfactory to the SELLER or the BUYER's commitment in making due payments under this Contract becomes delinquent.
2. SELLER shall have the right to terminate this Contract in

accordance with the terms stipulated in this Contract if the BUYER is in breach of any material term of this Contract.

3. SELLER shall have the right to terminate this Contract immediately if BUYER becomes insolvent, or goes into liquidation or bankruptcy or has a proceeding commenced against it for insolvency, liquidation or bankruptcy or a receiver, or receiver. Moreover, manager or trustee in bankruptcy is appointed in respect of the BUYER's assets and/or undertaking, or the BUYER enters into an arrangement or composition with its creditors or any similar appointment, arrangement or composition is made under any applicable law.
4. Notwithstanding anything to the contrary stated elsewhere in this Contract, either party may terminate this Contract by giving the other not less than ninety (90) days' notice in writing.

AA.GOVERNING LAW

1. This Contract and the General Conditions shall be governed by and construed in accordance with the laws of the Federal, State laws where registered within the Local Authoritarianism State in the country wherever **CPCR** resides, excluding any choice of law provision which will require the application of the law of another jurisdiction.

BB.CONFIDENTIAL INFORMATION

1. Subject to the provisions of this Contract and the General Conditions, the parties agree that all information and data acquired or obtained by any party in respect of any lifting by any party shall be considered confidential and shall be kept confidential and not be disclosed during the term of this Contract to any person not a party to this Contract, except to:
 - 1.1.an affiliate, provided such affiliate maintains confidentiality as provided herein;
 - 1.2.its employees who have a need to know, subject to each party taking customary precautions to ensure such data and information is kept confidential;
 - 1.3.prospective or actual contractors, consultants and attorneys employed by any party where disclosure of such data or information is essential to such contractor's, consultant's or attorney's work;
 - 1.4.a direct or indirect bona fide purchaser(s) of a party's cargo of BLCO / LPFO / LNG / LPG to the extent appropriate to a party arranging a sale;
 - 1.5.a bona fide prospective transferee of all or part of a party's participating interest (including an entity with whom a party or its affiliates are conducting bona fide negotiations directed toward a merger, consolidation or the sale of a majority of its or an affiliate's shares);
 - 1.6.a bank or other financial institution to the extent appropriate to a party arranging for funding;
 - 1.7.a governmental agency or other entity when required by applicable law;
 - 1.8.the extent such data and information is required to be furnished in compliance with any applicable laws or regulations, or pursuant to any dispute resolution proceedings or because of any order of any court or arbitration panel binding upon a party. Alternatively, the extent such data and information must be disclosed pursuant to any rules or requirements of any government



or stock exchange having jurisdiction over such party, or its affiliates; provided that if any party or its affiliate desires to disclose information in an annual or periodic report to its or its affiliates' shareholders and to the public and such disclosure is not required pursuant to any rules or requirements of any government or stock exchange, then such party shall comply with the provisions of this **Article**. The terms of this **Article** shall not apply to any data or information, which, through no fault of a party, becomes a part of the public domain.

2. Disclosure pursuant to **Articles BB.1.3., BB.1.4., BB.1.5., BB.1.6.**, shall not be made unless prior to such disclosure the disclosing party has obtained a written undertaking from the recipient party to keep the data and information strictly confidential for the duration of this Contract. In addition, not to use or disclose any such data and information except for the express purpose for which disclosure is to be made.

3. **Continuing Obligations**

Upon the termination or expiration of the duration of this Contract, each party shall nonetheless remain bound by the obligations of confidentiality in **Article BB.1.** and any disputes shall be resolved in accordance with the provisions of **Article V.**

4. **Non-Disclosure of Marketing Information**

Nothing in this Agreement shall require a party to divulge quantity nominations, vessel nominations, transferees, sales price or other market related information to any person who is not a party to this Contract.

CC.SEVERABILITY

1. If any provision of this Contract or any part of such a term or provision of this Contract shall be held by any court of competent jurisdiction, or any competent authority in any jurisdiction, or State to be illegal, invalid or unenforceable under any enactment. Alternatively, rule of law, neither the validity, legality nor enforceability of the remaining provisions under that jurisdiction or State, nor the validity, legality or enforceability of the entire provisions in any other jurisdiction or State shall be affected or impaired.

DD.REPRESENTATIONS AND WARRANTIES

1. **Seller's Warranties as to Authority and Title**

1.1. **SELLER represents and warrants to BUYER, that as of the Effective Date:**

- 1.1.1. SELLER is a corporation validly existing under the laws of Canada;
- 1.1.2. SELLER has power, authority, and legal title to the BLCO / LPFO / LNG / LPG to be delivered and has taken all necessary action to sign and deliver this Contract and perform its obligations under this Contract; and
- 1.1.3. this Contract has been duly signed and delivered by SELLER and forms a valid and binding obligation of SELLER, enforceable against SELLER in accordance with its terms.

2. **Buyer's Warranties as to Authority and Creditworthiness**

2.1. **BUYER represents and warrants to SELLER that as of the Effective Date:**

- 2.1.1. BUYER is a duly registered company/corporation and validly existing under the laws of its jurisdiction;
- 2.1.2. BUYER is duly qualified and in good standing in all jurisdictions where required for performance of its obligations under this Contract;
- 2.1.3. BUYER has power, authority and legal rights to own assets and conduct its business and has taken all necessary corporate actions to sign and deliver this Contract and perform its obligations under this Contract;
- 2.1.4. this Contract has been duly signed and delivered by BUYER and forms a valid and binding obligation of BUYER, enforceable against BUYER in accordance with the terms stipulated herein;
- 2.1.5. the signing and delivery of this Contract by the BUYER and the performance of this Contract will not:
 - a) violate any provision of its governing documents or any laws presently in effect applicable to it or its properties or assets;
 - b) result in a breach of or constitute a default under any credit agreement or other agreement or instrument to or by which it or its properties or asset may be presently bound or affected; or
 - c) result in or require the creation or imposition of any encumbrance upon or of any of its properties or assets under any credit agreement, or other agreement or instrument.

2.2. **BUYER further represents and warrants to SELLER that:**

- 2.2.1. BUYER has furnished to SELLER certified resolutions, authenticated power-of-attorney, or other corporate instruments necessary to authorize its signing, delivery and performance of this Contract;
- 2.2.2. there are no suits, judicial or administrative actions, proceedings or investigations (including bankruptcy, reorganization, insolvency or similar actions, proceedings or investigations) pending, or to its knowledge, threatened against it before any court or by or before any governmental authority (whether in Canada or elsewhere) that if decided adversely to its interest could materially adversely affect its ability to perform its obligations under this Contract; and
- 2.2.3. all necessary approvals and all other consents permits or permissions of, and notifications or filings with, any person necessary for the BUYER's valid signing, delivery and performance of this Contract have been obtained, are in full force and effect and are final and not subject to any condition(s).

2.3. **Duration of The Representations and Warranties**

- 2.3.1. Each representation and warranty made herein by the SELLER or the BUYER shall be true and accurate in all material respects when made and shall remain actionable for the duration of this Contract.

EE. ENTIRE AGREEMENT

1. This Contract including the General Conditions and the **Appendices** to this Contract constitute the whole and entire



agreement between the SELLER and BUYER relating to the subject matter of this Contract and supersede any other agreement, correspondence or pre-contractual statement relating to the same subject matter.

- Each party hereby acknowledges that it has not relied upon and has not been influenced by any pre-contractual statement in agreeing to enter into this Contract.
- Except in the case of fraud, no party shall have any right of action against any other party arising out of or in connection with any pre-contractual statement except to the extent that it is repeated in this Contract.
- For the purposes of this **Article**, "pre-contractual statement" includes but is not limited to any agreement, (written or oral), undertaking, representation, warranty, promise, assurance, arrangement made at any time before the signing of this Contract (whether or not in writing) relating to the subject matter of this Contract and which is not repeated in this Contract.

FF. DISCLAIMER OF AGENCY, TRUSTEE OR OTHER SIMILAR RELATIONSHIP

- Nothing in this Contract shall be deemed to constitute an association, joint venture, trustee, agency or any form of partnership between the SELLER and the BUYER or to impose any partnership obligation or liability upon either party. Neither party shall have any right, power, authority to enter into any form of agreement, undertaking for, or to act on behalf of, or to act as, or be an agent or representative of, or to otherwise bind or commit the other party in any manner whatsoever and howsoever arising.

GG. CESSATION OF SELLER'S LIABILITY

- Any existing claims, costs, expenses, fees or demands arising in connection with this Contract which have not been notified in writing to SELLER with supporting documents shall not be accepted by SELLER. Moreover, SELLER hereby expressly disclaims any liability for such claims, costs, expenses, fees or demands unless notice in writing which is substantiated with valid supporting documents has been delivered to SELLER in respect of such claims, costs, expenses, fees or demands prior to. Alternatively, within fourteen (14) days of the expiration of the Contract period or the early termination of this Contract. Upon failure of the BUYER to deliver such notice within the period stated herein, BUYER shall be deemed to have waived its rights to such claims, costs, expenses, fees or demands.

HH. NO THIRD PARTY RIGHTS

- Except as expressly stipulated under the provisions of this Contract, no term of this Contract shall be enforceable by any person who is not a party to this Contract, nor shall any such person have any rights under this Contract. This Contract may be amended or modified without the consent of any person having any third party rights as may be expressly permitted under this Contract.

II. WAIVER

- Waiver of any breach or the non-enforcement of any obligation by either party shall not be deemed as waiver of any antecedent or subsequent or continuing breach of such provision or of the breach of any other provision of this Contract.

JJ. NEW AND CHANGED REGULATIONS

- The parties that each party is entering into this Agreement in reliance on the laws, rules, regulations, decrees, agreements, and concessions understand it. In addition, arrangements (hereinafter called "Regulations") in effect on the date hereof with governments, government instrumentalities. Alternatively, public authorities affecting the Product sold/purchased hereunder including, but without limitation to the generality of the foregoing, those relating to the production, acquisition, gathering, manufacturing, transportation, storage, trading or delivery thereof, insofar as such Regulations affect the parties.
- In the event that at any time and from time to time during the term of this Agreement any Regulations are changed or new Regulations become effective, whether by law, decree or regulation or by response to the insistence or request of any governmental or public authority. Alternatively, any person purporting to act therefore, and the material effect of such changed or new Regulations (i) is not covered by any other provision of this Agreement. In addition, (ii) has a material adverse economic effect upon either party, the affected party shall have the option to request renegotiation of the prices or other pertinent terms provided for in this Agreement. The affected party may exercise the said option at any time after such changed or new Regulation is promulgated, by written notice of desire to renegotiate, such notice to contain the new prices or terms desired by the affected party. If the parties do not agree upon new prices or terms within thirty (30) days after affected party gives such notice, affected party shall have the right to terminate this Agreement at the end of the said thirty (30) day period. Any Product lifted during such thirty (30) day period shall be sold and purchased at the price and on the terms applying hereunder without any adjustment in respect of the new or changed Regulations concerned. A termination pursuant to this **Section** shall not be treated as an Event of Default.

KK. ASSIGNMENT

- This Agreement shall extend to and be binding upon the successors and assigns of the parties, but neither this Agreement nor any part, including any rights, interests. Alternatively, obligations hereunder (except (i) the right of the Non-Defaulting Party to receive payment pursuant to **Section G.** above hereof, which may be assigned without the Defaulting Party's consent. In addition, (ii) as provided in **Section KK.2.** below), shall be assigned or transferred by either party or by operation of law, merger or otherwise without the prior written consent of the other party, which shall not be unreasonably withheld. Any assignment or transfer made by either party without the other party's written consent need not be recognized by and shall not be binding upon the other party. Upon the making of any such assignment, unless otherwise



agreed by the parties, the assignor shall remain bound to perform or procure performance of the said obligations (as so accepted) by the assignee. For the purpose of this Agreement, a merger constitutes an assignment subject to this provision.

2. Notwithstanding **Section KK.1.** above, Seller may without Buyer's consent assign all or a portion of its rights to receive and obtain payment under the Agreement in connection with any finance, securitization or bank funding arrangements, always providing such assignment does not contravene any applicable law, regulation or decree binding upon Buyer. Any payment made by Buyer to the payee specified in Seller's invoice in respect of Product delivered under the Agreement shall be in full discharge of Buyer's payment obligations to Seller under the Agreement. Any such assignment will not detract from Seller's obligations under the Agreement.

LL. Financial Responsibility

1. Notwithstanding anything to the contrary in this Agreement, if in the reasonable opinion of a party (the "Secured Party") at any time the reliability or the financial responsibility of the other party ("Posting Party") (or of any guarantor or other person furnishing security in support of Posting Party) is or becomes impaired. Alternatively, unsatisfactory, Adequate Assurance of Performance shall be given by Posting Party to Secured Party on demand by Secured Party in respect of each or any cargo or any portion thereof and/or Seller may require Prepayments under **Article K.**; provided. However, that if Seller requests both Adequate Assurance of Performance and Prepayments, then Seller's request for Adequate Assurance of Performance shall be limited to assurances for amounts in excess of the Prepayment Amount then due. In any event, any amounts of Adequate Assurance of Performance specified in such demand shall thereby become immediately due and payable. After such demand, and in the event that title has not already been transferred, Secured Party may withhold performance until such Adequate Assurance of Performance shall have been received by it. Any cost, expense, or charges associated with any letter of credit procured pursuant to this Section shall be for the account of the party providing the letter of credit.

MM. DEFINITIONS

1. As used in this Contract and in the General Conditions the following words and expressions shall unless otherwise stated, shall have the following meanings:
 - **Business Day:** means a Day on which the banks in Canada, Hong Kong, Singapore, Malta, London, New York, Paris, and Geneva are customarily open for business. Excluding Saturdays, Sundays, and national or public holidays.
 - **Barrel:** means Forty-two (42) U.S Gallons at 60 °F
 - **Cubic Meter (m³):** A measure of the total volume of the cube with edges of 1 metre of length.
 - **Contract:** means this Contract document identified as Part I of the Contract for Sale and Purchase of Nigerian BLCO / LPFO / LNG / LPG and the General Conditions identified as Part II of this Contract together with the **Annex F or Appendices 1, 2, 3A and 3B** attached thereto.
 - **BLCO / LPFO / LNG / LPG:** means BLCO / LPFO / LNG / LPG and condensate of the grade and quality stipulated in

this Contract.

- **Dated Brent:** means Platt's Quotations representing the price of physical or wet Brent-Forties-Oseberg loading not less than 10 days forward.
- **Day or Days:** means a calendar day or days (as the case may be) unless otherwise specifically provided.
- **Delivery Point:** means the point at which quantities of BLCO / LPFO / LNG / LPG to be delivered to BUYER under this Contract pass from the Terminal's loading hose into the inlet flange of the Nominated Vessel's intake pipe at the designated Terminal in Nigeria.
- **Demurrage:** means the sum payable pursuant to **Article F.5.**
- **Effective Date:** means date of signature by the parties.
- **ETA:** means the estimated date and time of arrival (local time) of a Nominated Vessel at the designated Terminal.
- **Force Majeure:** means those acts and events set in **Article U.**
- **Lay-time:** means as to each BUYER for each lifting the amount of time used by the Terminal to complete the loading of the relevant Nominated Vessel determined pursuant to **Article F.2.**
- **Letter of Credit:** means the relevant Letter of Credit to be issued by a bank nominated by the BUYER in accordance with the terms stated in **Article M.** of the General Conditions and shall be substantially in the form shown in **Appendices 2, 3A and 3B** attached to the General Conditions.
- **LIBOR:** means London Interbank offered Rate for one Month Eurodollars as published on Reuters page "LIBOR" (or any successor thereto).
- **Lifting Entitlement (or LE):** means, as to the BUYER for a particular Month, the total quantity of BLCO / LPFO / LNG / LPG, which the BUYER has the right to lift pursuant to the agreed Lifting Schedule for such Month.
- **Lifting Schedule:** the SELLER for the purpose of this Contract prepares means, in respect of a designated Terminal for a particular Month, the program of lifting.
- **MBD:** means Million barrels per day.
- **Month:** means calendar month according to Gregorian calendar.
- **NOR:** means the notice of readiness tendered by a Nominated Vessel, which has arrived at the designated Terminal and is ready and able in all respect to commence berthing and loading.
- **Nominated Vessel:** means a vessel nominated by a BUYER and approved pursuant to **Article E.**
- **Over lift:** means, in respect of the BUYER, the quantity by which such BUYER's actual Lifting's for any Month exceed such BUYER's Lifting Entitlement for such Month.
- **Prompt Option:** means the pricing period shall be five consecutive published quotations after the bill of lading date with the bill of lading date as day zero.
- **Quarter:** means calendar quarter.
- **Standard Cargo:** means as to a designated Terminal, the range of cargo sizes which is specified in **Article F.2.1.**
- **Terminal:** means each and any (and if the context requires, all) of the transportation, storage, handling and/or loading facilities designated which the parties intend to use for the lifting of BLCO / LPFO / LNG / LPG under this Contract. The SELLER will for each lifting designate a



particular Terminal for the delivery of any cargo of BLCO / LPFO / LNG / LPG under this Contract.

- **Terminal Operator:** means as to each Terminal the entity that operates the Terminal.
- **Terminal Regulations:** means as to each Terminal the rules and procedures concerning operation of the Terminal and berthing and loading from the Terminal, as amended from time to time by the Terminal Operator and communicated to the parties.
- **Ton:** means metric ton of one thousand (1000) Kilogram's according to metric system of measurement
- **Under-lift:** means as to a BUYER the quantity by which such BUYER's Lifting Entitlement for any Month exceeds such BUYER's actual Lifting's for such Month.
- **VLCC:** means very large Crude-Oil carriers.

Interpretation:

1. The term "Contract" includes Part I of the Contract and the General Conditions Part II and **Appendices 1, 2, 3A, and 3B** attached to the General Conditions and any amendments to this Contract.
2. Except as otherwise stated, any reference to the **Articles** or **Appendices** shall be deemed a reference to the **Articles** of or Attachments to this Contract
3. Headings used in this Contract are inserted for convenience only and shall be ignored in construing this Contract.
4. Reference to person shall be deemed to include any natural person, corporation, company, partnership (general and limited), limited liability company, joint stock company (open or closed), joint venture, trust, governmental authority, or other incorporated or unincorporated entity or association.
5. Unless the context otherwise requires, the singular shall be deemed to include the plural and vice versa.
6. Except where expressly provided to the contrary or where the context otherwise requires, references in this Contract to:
 - 6.1. any law, decree or statutory provision shall be deemed to include references to any regulations and orders made thereunder; and
 - 6.2. any law, decree, statutory provision, regulation or order shall be deemed to include references to that law, decree, statutory provision, regulation or order, as amended, modified, re-enacted or replaced from time to time whether before or after the date of this Contract.
7. Where any representation or warranty is qualified by any reference to the knowledge or awareness of any party, that party shall be deemed to have made reasonable inquiries concerning the subject matter of that representation or warranty.

PART A - IN RESPECT OF FOB LOCAL AUTHORITARIANISM TANK FARMS JURISDICTIONS MARINE DELIVERIES

A. SAFE BERTH

1. Seller shall provide or shall cause to be provided, free of charge, a berth which the nominated Vessel accepted by Seller can safely reach and leave, and at which she can lie and load always safely afloat. All duties and other charges, including, without limitation, those incurred for tugs, pilots, mooring masters, and other port costs, due in respect of the Vessel at the Load Port, shall be paid by Buyer, except for those specified in **Section 3.** below.
2. Seller shall not be deemed to warrant the safety of any channel, fairway, anchorage, or other waterway used in approaching or departing from the Load Port designated by Seller. Seller shall not be liable for:
 - 1.1. Any loss, damage, injury, or delay to the Vessel resulting from the use of such waterways; or
 - 1.2. Any damage to Vessels caused by other Vessels passing in the waterway.
2. **Berth Shifting:** When berth shifting is required for the convenience of Seller, Seller will pay all pilot, tug, and port expenses incurred in shifting the Vessel and time consumed therefor shall count as used Lay-time. When shifting is required due to Buyer, the Vessel or its equipment, Buyer will pay all expenses incurred in shifting the Vessel.

B. QUANTITY AND QUALITY

1. Quantity measurement and quality sampling and testing shall be conducted in accordance with the most current API or ASTM standards, as applicable.
2. The quantity shall be based on proven meters (if available) at the Load Port. If proven meters are unavailable, shore-tank(s) down-gauge measurements at the Load Port shall be used except when shore-tank(s) (i) are active, or (ii) are in the critical zone, or (iii) are unable to be measured manually, or (iv) reference height and observed height vary by more than one-fourth (1/4) inch, or (v) the observed height changes by more than one-fourth (1/4) inch between the open and close measurement, or (vi) liquid level is not greater than one-eighth (1/8) inch above the datum plate, in which case measurement shall be conducted according to the following procedures:
 - 4.1. **Tankers and Ocean-Going Barges:** Quantity shall be based on the Vessel's loaded figure, adjusted for OBQ, with a valid load VEF (if available) applied.
 - 4.2. **Inland Barges:** Quantity shall be based on proven meters (if available) at the Discharge Port. If proven meters are unavailable, static shore-tank(s) up-gauge measurements at the Discharge Port, adjusted for OBQ and ROB shall be used. If static shore-tank up-gauge measurement is unavailable at the Discharge Port, then quantity shall be based on an average of the barge(s) loaded and discharged figures, adjusted for OBQ and ROB, with a valid load VEF (if available) applied.
5. Quality determination shall be in accordance with the test results run on a volumetrically correct composite of samples drawn from inline sampler at the Load Port. If inline sampler is not available, shore-tank(s) at the Load Port shall be used. If shore-tank(s) is not available, a volumetrically correct Vessel compartment composite sample obtained at the Load Port shall be used.



6. With respect to quantity and quality at the Load Port, an independent inspection shall be carried out at the Load Port by an independent inspector who is mutually acceptable to both Seller and Buyer. Seller and Buyer shall jointly appoint the independent inspector, and both parties shall share all inspection charges equally. The independent inspector's report shall be made available to both parties.
7. Results of the measurements set forth in this **Section** shall be issued in the form of the certificates of quantity and quality with respect to the Product loaded.
8. Except in cases of manifest error or fraud, the certificates of quantity and quality issued pursuant to this **Section** shall be conclusive. In addition, binding on both parties for invoicing purposes, and Buyer shall be obliged to make payment in full in accordance with **Article M.** above, but shall be without prejudice to the rights of either party to file a claim for quantity and/or quality.
9. In addition to the independent inspector appointed pursuant to this **Section**, either party may, at its own expense, appoint a representative, acceptable to the Load Port, to witness the loading of each cargo. Any delays resulting in demurrage at the Load Port due to either party's appointed representative shall be for the account of the party appointing said representative causing the delay. (see also [Independent Inspection Requirements](#) policy)

C. NOMINATION

- 1 Buyer shall nominate every Vessel used in cargo operations (including loading, discharging, or lightering), as well as, when known, the primary towing vessel engaged in the transport by directly towing astern, alongside, or pushing ahead of an associated barge which is acceptable to Seller, and such acceptance shall not be unreasonably withheld. For the avoidance of doubt, Seller shall be entitled to reject Buyer's nominated Vessel if it does not pass Seller's internal safety vetting procedure or that of any of Seller's Suppliers.
- 2 Where practicable under a Confirmation, Buyer shall nominate a Vessel pursuant to the following requirements:
 - 2.1. **Tanker Nominations:** At least five (5) days before the first day of the agreed Loading Date Range.
 - 2.2. **Ocean-Going Barge and Inland Barge Nominations:** At least three (3) days before the first day of the agreed Loading Date Range.
3. If the parties enter into a Transaction later than any of the applicable dates for notification, then Buyer shall nominate a Vessel as soon as practicable following the Agreement date.
4. All nominations shall be in writing (e-mail acceptable) and Buyer shall include, to the extent known (except with respect to the primary towing vessel engaged in the transport by directly towing astern, alongside, or pushing ahead of an associated barge, in which case the information identified in **Sections C.4.4., 4.5. and 4.8.** are not required for such vessel?):
 - 4.1. Contract Reference

- 4.2. Vessel Name
- 4.3. Load Port
- 4.4. Product Grade
- 4.5. Quantity
- 4.6. Agreed Loading Date Range
- 4.7. Vessel ETA at the Load Port
- 4.8. Independent inspector
- 4.9. Comments / Instructions (as applicable)

5. Seller shall communicate its acceptance or rejection of any Vessel nomination within one (1) Banking Day after receipt of such nomination.
6. **Vessel Substitution.** Buyer may, or if necessary to perform its obligations hereunder must, with Seller's prior agreement, substitute, in accordance with the nomination procedures in this **Section**, any Vessel, with another Vessel acceptable to Seller, which is similar in all material respects to the Vessel so replaced. Said nomination shall not alter any existing terms under this Agreement beyond the Vessel used to fulfil the obligations of this Agreement.
7. Despite any prior acceptance, Seller shall have the right to revoke its acceptance of Buyer's Vessel nomination at any time after Seller's initial acceptance (but prior to passing of risk. Moreover, title hereunder) on any reasonable ground, including but not limited to, if such Vessel is involved in any incident, or if more recent information regarding such Vessel becomes available to Seller at any time after such prior acceptance.
8. In case of rejection, Buyer shall promptly nominate a Vessel acceptable to Seller and Buyer shall not, unless otherwise provided in **Article U.** above, be relieved of its responsibility to perform the agreed loading.
9. Buyer shall narrow (wholly within the original Loading Date Range) the agreed Loading Date Range to a three (3) day Loading Date Range by providing Seller written notice (e-mail acceptable) five (5) days before the first day of the narrowed Loading Date Range.
10. **Regulations at the Load Port.** All applicable governmental, local and port authority rules and regulations, and terminal rules and regulations in force at the Load Port shall apply to Buyer's Vessel. Notwithstanding anything to the contrary contained in this **Section**, if any Vessel nominated by Buyer does not comply with the foregoing provisions or any of them, Seller or Seller's Supplier(s) may refuse to berth, load, or continue to load the Vessel in question.

D. RISK AND TITLE

1. Title to and risk of loss or damage to any Product delivered under this Agreement shall be transferred from Seller to Buyer at the Load Port as the Product passes the Vessel's permanent hose connection.

E. ETA NOTICE

1. Buyer shall arrange for its Vessel to notify the Load Port via telex, letter, telegram, e-mail, or telecopy/fax of the Vessel's



ETA pursuant to the following schedule:

1.1. Tankers and Ocean-Going Barges:

- 1.1.1. Where practicable, no later than seventy-two (72) hours prior to the Vessel's arrival at the Load Port. The Load Port shall be further notified forty-eight (48), twenty-four (24), and six (6) hours in advance of the Vessel's arrival at the Load Port.

1.2. Inland Barges:

- 1.2.1. Where practicable, no later than 48 hours prior to the Vessel's arrival at the Load Port. The Load Port shall be further notified twenty-four (24) and six (6) hours in advance of the Vessel's arrival at the Load Port. After the six (6) hour notice is given, when a scheduled arrival time changes by more than two (2) hours, all reasonable efforts shall be made to notify the Load Port of such change.

2. Any delays arising from the failure to adhere to these ETA notices shall not count as used Lay-time or demurrage if the Vessel is on demurrage.

F. NOTICE OF READINESS

1. By no later than 23:59 hours local time on the last day of the agreed Loading Date Range, the Vessel nominated by Buyer hereunder shall arrive at the Load Port (or the usual waiting place), complete all formalities, in all respects be ready to commence loading the Product deliverable hereunder, and NOR shall be tendered.

G. LAY-TIME

1. Lay-time Allowance:

- 1.1. Unless otherwise specified in a Confirmation, the Lay-time allowance shall be:

- 1.1.1. **Tankers:** Thirty-six (36) hours, pro rata for part cargo.

- 1.1.2. **Ocean-Going Barges and Inland Barges:**

- a) Voyage Chartered: Where the single voyage charter party specifies a Lay-time allowance per hour or a specific Lay-time allowance for load, then such Lay-time allowance shall apply, pro rata for part cargo, otherwise the Lay-time allowance shall be one-half (1/2) of the total Lay-time allowance as provided in the single voyage charter party, pro rata for part cargo.

- b) **Time Chartered, Demise Chartered, or Buyer Owned:**

Vessel Type	Barrel Volume	Lay-time Allowance
Inland Barges (Lube Oil)	n/a	24 hours
Inland Barges (Other)	n/a	3,000 barrels per hour + 3 free hours
Ocean- Going Barges	Up to 39,999	12 hours
	40,000 - 49,999	13 hours
	50,000 - 59,999	15 hours
	60,000 - 67,999	16 hours
	68,000 - 74,999	17 hours
	75,000 - 95,999	19 hours
	96,000 - 118,999	20 hours
	119,000 - 144,999	21 hours
	145,000 - 154,999	23 hours
	155,000 - 164,999	25 hours
	165,000 - 174,999	27 hours
	175,000 - 184,999	30 hours
	185,000 - 199,999	32 hours
	200,000 and above	36 hours

- 1.2. If the Vessel is loading or discharging any part cargo for other parties at the same berth, then any time used by the Vessel waiting at, or for, such berth, and in loading, which would otherwise count as used Lay-time. Alternatively, demurrage if the Vessel is on demurrage shall be pro-rated in the proportion that Seller's cargo bears to the total cargo worked by the Vessel at such berth. If, however, used Lay-time or demurrage, if the Vessel is on demurrage, is solely attributable to the other parties' cargo operations, then such time shall not count in calculating used Lay-time or demurrage if the Vessel is on demurrage.
- 1.3. Lay-time allowance shall be no less than a minimum of twelve (12) hours.

2. Lay-time Commencement:

2.1. Tankers and Ocean-Going Barges:

- 2.1.1. If the Vessel arrives before the agreed Loading Date Range and tenders NOR, Lay-time shall not commence until 06:01 hours on the first day of the agreed Loading Date Range, unless Seller elects to accept the Vessel earlier, in which case Lay-time shall begin when the Vessel is All Fast.

- 2.1.2. If the Vessel arrives within the agreed Loading Date Range and tenders NOR, Lay-time shall commence six (6) hours after the Vessel's NOR being tendered or when the Vessel is All Fast, whichever occurs first.

- 2.1.3. If the Vessel arrives after the last day of the agreed Loading Date Range and tenders NOR, and is accepted by Seller in its sole and absolute discretion, then, without prejudice to any of Seller's other rights, Lay-time shall commence when the Vessel is All Fast.

2.2. Inland Barges:

- 2.2.1. If the Vessel arrives before the agreed Loading Date Range and tenders NOR, Lay-time shall not commence until 00:01 hours on the first day of the agreed Loading Date Range, unless Seller elects to accept the Vessel earlier, in which case Lay-time shall begin when the Vessel is All Fast.

- 2.2.2. If the Vessel arrives within the agreed Loading Date Range and tenders NOR, Lay-time shall commence upon the Vessel's NOR being tendered, berth or no berth, or when the Vessel is All Fast, whichever occurs first.

- 2.2.3. If the Vessel arrives after the last day of the agreed Loading Date Range, tenders NOR, and is accepted by Seller in its sole and absolute discretion, then, without prejudice to any of Seller's other rights, Lay-time shall commence when the Vessel is All Fast.

3. Time consumed due to any of the following shall not count as used Lay-time, or if the Vessel is on demurrage, for demurrage:

- 3.1. On an inward passage including, but not limited to, awaiting daylight, tide, tugs, or pilot, and moving from an anchorage or other waiting place until the Vessel is All Fast;
- 3.2. Any delay due to the Vessel's condition, breakdown, or any other causes attributable to the Vessel;
- 3.3. Any delay due to prohibition of loading at any time by the owner or operator of the Vessel or by the port authorities,



unless the prohibition is caused by Seller or Seller's Supplier's facility's failure to comply with applicable laws, rules, and regulations;

- 3.4. Any delay due to the Vessel bunkering, provisioning, discharging or shifting of slops, ballast, or contaminated cargo, unless this is carried out concurrent with loading or other normal cargo operations such that no loss of time is involved;
- 3.5. Any delay due to the Vessel's incompatibility with the configuration of the berthing or other port facilities, including time consumed in making up connections to remedy any incompatibility;
- 3.6. Any delay due to pollution or threat thereof caused by any defect in the Vessel or any act or omission to act by the master or crew of the Vessel;
- 3.7. Any delay due to the Vessel's violation of the operating or safety rules and/or regulations of the Load Port, and/or noncompliance with: (i) federal or state laws, (ii) Local Authoritarianism Coast Guard regulations, (iii) any other applicable regulations, (iv) or failure to obtain or maintain required certification;
- 3.8. Any delays caused by strike, lockout, stoppage or restraint of labour of master, officers or crew of the Vessel, or of tugboats or pilots;
- 3.9. Any delay awaiting customs or immigration clearance, other required governmental or port clearance, or free pratique, if applicable.
- 3.10. Any delay, not first caused by the negligence of Seller or Seller's Supplier(s), that is the result of fire, explosion, civil unrest, act of war, riot, strike, lockout, stoppage or restraint of labour, breakdown of machinery or equipment in. Alternatively, about the facilities of Seller or Seller's Supplier, adverse weather and/or sea conditions or Act of God, or other delays not reasonably within the control of either party (and except as otherwise provided in this Agreement), shall be paid for at one-half (1/2) the rate otherwise provided for demurrage.
- 3.11. Lay-time shall cease after all Product has been loaded and:
 - 3.11.1. Tankers and Ocean-Going Barges: When the hoses have been disconnected from the Vessel. However, Lay-time will recommence two (2) hours after disconnection of hoses if the Vessel is delayed in its departure due to Seller's or Seller's Supplier's not providing any and/or all of the necessary documents and/or clearances to allow the Vessel to depart. Used Lay-time shall continue until such documents and/or Seller or Seller's Supplier have provided clearances to the Vessel.
 - 3.11.2. Inland Barges: When the hoses have been disconnected from the Vessel and Seller or Seller's Supplier have released the Vessel.
- 3.12. Where the parties agree in a Confirmation that the location for loading is a public dock, then any delay caused solely by berth congestion shall not count as used Lay-time, and Lay-time shall not commence until Vessel is All Fast at the dock.

H. DEMURRAGE

1. **Demurrage Rate:** For all time that used Lay-time exceeds the

Lay-time allowance, Seller shall pay demurrage, at the rate specified in a Confirmation, or where no rate is specified in a Confirmation, as follows:

- 1.1. for single voyage chartered Vessels, the demurrage rate shall be based on the demurrage rate specified in the single voyage charter party for the Vessel performing the voyage in question.
- 1.2. for Buyer owned, time chartered, or demise chartered Vessels, or where Buyer is unable to substantiate the single voyage demurrage rate per this **Section**, the parties shall mutually agree upon the applicable rate. If a dispute arises between the parties as to the applicable rate, then the rate shall be established as follows:
 - 1.2.1. **Tankers:** The single voyage market level current in London, on the date loading commenced for the voyage concerned, for a Vessel of similar type and summer deadweight and service to that of the Vessel actually involved. Such single voyage market level shall be expressed in percentage points of World-scale (as amended from time to time), or such other freight scale as may be issued in replacement of World-scale, and applied to the demurrage rate appropriate to the size of the Vessel concerned provided for in the aforementioned freight scale. In absence of agreement between Buyer and Seller, the market level is to be determined by the London Tanker Brokers' Panel as being representative of a current market rate for a similar Vessel performing a similar voyage, with costs for obtaining such demurrage rate split between the parties.
 - 1.2.2. **Ocean-Going Barges and Inland Barges:** The parties shall appoint a mutually agreed upon ship broker who shall establish the applicable demurrage rate with costs for obtaining such demurrage rate split between the parties.
2. For demurrage purposes, all Inland Barges or tows operating as a unit shall be considered collectively as one unit.
 - 2.1. In respect of tows, Seller will not be liable for tug demurrage during delays of berthing or loading where the Load Port has notified the Vessel's master that the tug would not be required at the Load Port for that time period.
3. **Demurrage Claims:** Demurrage claims must be submitted in writing (e-mail acceptable) with full supporting documentation no later than ninety (90) calendar days after the completion of loading date. IF A DEMURRAGE CLAIM AND ITS SUPPORTING DOCUMENTATION IS PROVIDED LATER THAN NINETY (90) CALENDAR DAYS AFTER THE COMPLETION OF LOADING DATE, THE CLAIM WILL BE DEEMED TO HAVE BEEN WAIVED. For the avoidance of doubt, the Vessel is not required to have completed loading for demurrage to become due and payable.

I. POLLUTION COVER

1. Where delivery is to a Tanker:
 - 1.1. Except in the case of delivery of LPG's, each Tanker shall be owned by, or demise chartered by, a member of the International Tanker Owners Pollution Federation Limited ("ITOPF").
 - 1.2. The Tanker shall carry on board certificate(s) as required



pursuant to the 1992 Civil Liability Convention for Oil Pollution Damage or any Protocols thereto ("CLC") and the Oil Pollution Act 1990, as applicable; and

- 1.3. The Tanker shall have in place insurance cover for oil pollution no less in scope and amounts than the highest available under the rules of P. & I. Clubs entered into the International Group of P. & I. Clubs.
2. Where delivery is to an Ocean-Going Barge or Inland Barge, Buyer shall exercise reasonable efforts to ensure that the barge owner has marine insurance in place for such barge, in an amount that meets or exceeds the minimum insurance requirements as required by applicable law or regulation for a barge of that size, transporting that Product.
3. If Buyer's Vessel does not meet any of the above requirements, Seller or Seller's Supplier(s) may refuse to berth or load or continue loading such Vessel.

J. INTERNATIONAL SHIP AND PORT FACILITY SECURITY CODE

1. This **Section** shall apply:
 - 1.1. to all Load Ports not located within the United States of America ("USA" or "U.S.") or a U.S. territory, and
 - 1.2. any other Load Port and/or Vessel used that is subject to the International Ship and Port Facility Security Code or the U.S. Maritime Transportation Security Act 2002 ("MTSA").
2. Buyer shall procure that the Vessel shall comply with the requirements of the International Ship and Port Facility Security Code and the relevant amendments to Chapter XI of SOLAS ("ISPS Code") and where the Load Port is within the USA and U.S. territories or waters, with the MTSA.
3. The Vessel shall, when required, submit a Declaration of Security to the appropriate authorities prior to its arrival at the Load Port.
4. Notwithstanding any prior acceptance of the Vessel by Seller, if, at any time prior to the passing of risk and title the Vessel ceases to comply with the requirements of the ISPS Code or MTSA, then:
 - 4.1. Seller shall have the right not to berth such nominated Vessel at the Load Port and any demurrage resulting shall not be for the account of Seller, and
 - 4.2. Buyer shall be obliged to substitute such nominated Vessel with a Vessel complying with the requirements of the ISPS Code and MTSA.
5. Seller shall procure that the Load Port/terminal/installation shall comply with the requirements of the ISPS Code and if located within the USA and U.S. territories or waters, with the MTSA.
6. Any costs or expenses in respect of the Vessel, including demurrage or any additional charge, fee or duty levied on the Vessel at the Load Port and actually incurred by Buyer resulting directly from the failure of the Load Port/terminal/installation to comply with the ISPS Code. In addition, if located within the USA and U.S. territories or

waters, with the MTSA, shall be for the account of 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.

7. Save where the Vessel has failed to comply with the requirements of the ISPS Code and within the USA and U.S. territories or waters, with the MTSA. Seller shall be responsible for any demurrage actually incurred by Buyer arising from delay to the Vessel at the Load Port resulting directly from the Vessel being required by the port facility, or any relevant authority, to take any action, any special or additional security measures, or to undergo additional inspections.
8. If the Load Port/terminal/installation is not operated by Seller or one of its Affiliates, Seller's liability to Buyer under this Agreement for any demurrage, costs, losses or expenses incurred by the Vessel, the charterers. Alternatively, the Vessel owners resulting from the failure of the Load Port/terminal/installation to comply with the ISPS Code, or if located within the USA and U.S. territories or waters, with the MTSA, shall be limited to the payment of demurrage and costs actually incurred by Buyer in accordance with the provisions of this **Section**.

K. SPECIFIC PORTS, ANCHORAGES, AND LOCATIONS

1. **Mississippi River Ports:**

4.1. **Via Southwest Pass:** Any Vessel, which must make passage to any port along the Mississippi River, shall announce to the Load Port the Vessel's arrival at Southwest Pass. The NOR given upon arrival at the Load Port's berth or, the nearest customary anchorage or waiting place for the Load Port to which it is destined if the berth is not available upon its arrival shall be used for Lay-time and demurrage purposes.

4.2. **Via other than Southwest Pass:** The NOR or notice of arrival, as applicable, given upon arrival at the Load Port's berth or, the nearest customary anchorage or waiting place for the Load Port to which it is destined if the berth is not available upon its arrival shall be used for Lay-time and demurrage purposes.

4.3. For clarity, the following locations in and along the Mississippi River are considered the customary anchorage for Vessels destined to the following ports:

Location	Anchorage
Convent, LA	Burnside Anchorage
Geismar, LA	Burnside Anchorage
Gretna, LA	Nine Mile Anchorage
Norco, LA	AMA Anchorage
St. James, LA	Grandview Anchorage
St. Rose, LA	AMA Anchorage

PART B - IN RESPECT OF CFR, CIF AND DELIVERED MARINE DELIVERIES

A. SAFE BERTH

1. Buyer shall provide or shall cause to be provided, free of charge, a berth which the nominated Vessel accepted by Buyer can safely reach and leave and at which she can lie and discharge always safely afloat. All duties and other charges, including, without limitation, those incurred for tugs,



pilots, mooring masters, and other port costs, due in respect of the Vessel at the Discharge Port, shall be paid by Buyer, except for those specified in World-scale as being for owners' account and which are not specified in World-scale as being reimbursable by charterer to owner.

2. Buyer shall not be deemed to warrant the safety of any channel, fairway, anchorage, or other waterway used in approaching or departing from the Discharge Port designated by Buyer. Buyer shall not be liable for:
 - 2.1. Any loss, damage, injury, or delay to the Vessel resulting from the use of such waterways; or
 - 2.2. Any damage to Vessels caused by other Vessels passing in the waterway.
2. **Berth Shifting:** When berth shifting is required for the convenience of Buyer, Buyer will pay all pilot, tug, and port expenses incurred in shifting the Vessel and time consumed therefor shall count as used Lay-time. When shifting is required due to Seller, the Vessel or its equipment, Seller will pay all expenses incurred in shifting the Vessel.

B. QUANTITY AND QUALITY

1. Quantity measurement and quality sampling and testing shall be conducted in accordance with the most current API or ASTM standards, as applicable.
2. **CFR / CIF:**
 - 2.1. The quantity shall be based on proven meters (if available) at the Load Port. If proven meters are unavailable, shore-tank(s) down-gauge measurements at the Load Port shall be used except when shore-tank(s) (i) are active, or (ii) are in the critical zone, or (iii) are unable to be measured manually, or (iv) reference height and observed height vary by more than one-fourth (1/4) inch, or (v) the observed height changes by more than one-fourth (1/4) inch between the open and close measurement, or (vi) liquid level is not greater than one-eighth (1/8) inch above the datum plate, in which case measurement shall be conducted according to the following procedures:
 - 2.1.1. **Tankers and Ocean-Going Barges:** Quantity shall be based on the Vessel's loaded figure, adjusted for OBQ, with a valid load VEF (if available) applied.
 - 2.1.2. **Inland Barges:** Quantity shall be based on proven meters (if available) at the Discharge Port. If proven meters are unavailable, static shore-tank(s) up-gauge measurements at the Discharge Port, adjusted for OBQ and ROB shall be used. If static shore-tank up-gauge measurement is unavailable at the Discharge Port, then quantity shall be based on an average of the barge(s) loaded and discharged figures, adjusted for OBQ and ROB, with a valid load VEF (if available) applied.
3. Quality determination shall be in accordance with the test results run on a volumetrically correct composite of samples drawn from inline sampler at the Load Port. If inline sampler is not available, shore-tank(s) at the Load Port shall be used. If shore-tank(s) is not available, a volumetrically correct Vessel compartment composite sample obtained at the Load Port shall be used.

4. With respect to quantity and quality at the Load Port, an independent inspection shall be carried out at the Load Port by an independent inspector who is mutually acceptable to both Seller and Buyer. Seller and Buyer shall jointly appoint the independent inspector, and both parties shall share all inspection charges equally. The independent inspector's report shall be made available to both parties.
5. Results of the measurements set forth in this **Section** shall be issued in the form of the certificates of quantity and quality with respect to the Product loaded. Where this Agreement is entered into after loading has completed and/or the Vessel has sailed, the certificates of quantity and quality issued at the Load Port shall apply.
6. Except in cases of manifest error or fraud, the certificates of quantity and quality issued pursuant to this **Section** shall be conclusive. In addition, binding on both parties for invoicing purposes, and Buyer shall be obliged to make payment in full in accordance with **Article M.** above, but shall be without prejudice to the rights of either party to file a claim for quantity and/or quality.
7. In addition to the independent inspector appointed pursuant to this **Section**, either party may, at its own expense, appoint a representative, acceptable to the Load Port, to witness the loading of each cargo. Any delays resulting in demurrage at the Load Port due to either party's appointed representative shall be for the account of the party appointing said representative causing the delay.
8. **Delivered:**
 - 8.1. The quantity shall be based on proven meters (if available) at the Discharge Port. If proven meters are unavailable, shore-tank(s) up-gauge measurements at the Discharge Port shall be used except when shore-tank(s) (i) are active, or (ii) are in the critical zone, or (iii) are unable to be measured manually, or (iv) reference height and observed height vary by more than one-fourth (1/4) inch, or (v) the observed height changes by more than one-fourth (1/4) inch between the open and close measurement, or (vi) liquid level is not greater than one-eighth (1/8) inch above the datum plate, in which case measurement shall be conducted according to the following procedures:
 - 8.1.1. **Tankers and Ocean-Going Barges:** Quantity shall be based on the Vessel's delivered figure, adjusted for ROB, with a valid discharge VEF (if available) applied.
 - 8.1.2. **Inland Barges:** Quantity shall be based on proven meter (if available) at the Load Port. If proven meters are unavailable, static shore-tank(s) down-gauge measurements at the Load Port, adjusted for OBQ and ROB shall be used. If static shore-tank measurement is unavailable at the Load Port, then quantity shall be based on an average of the barge(s) loaded and discharged figures, adjusted for OBQ and ROB, with a valid load VEF (if available) applied.
 - 8.2. Quality determination shall be in accordance with the test results run on a volumetrically correct composite of samples drawn from the Vessel's tanks at the Discharge Port.



- 8.3. Quantity and quality determination(s) shall be made by independent inspection at the Discharge Port by an independent inspector who is mutually acceptable to both Seller and Buyer. Seller and Buyer shall jointly appoint the independent inspector, and both parties shall share all inspection charges equally. The independent inspector's report shall be made available to both parties.
- 8.4. Results of the measurements set forth in this **Section** shall be issued in the form of the certificates of quantity and quality with respect to the Product discharged and shall be issued by the independent inspector.
- 8.5. Except in cases of manifest error or fraud, the certificates of quantity and quality issued pursuant to this **Section** shall be conclusive and binding on both parties for invoicing purposes. In addition, Buyer shall be obliged to make payment in full in accordance with **Article M.** above, but shall be without prejudice to the rights of either party to file a claim for quantity and/or quality.
- 8.6. In addition to the independent inspector appointed pursuant to this **Section**, either party may, at its own expense, appoint a representative, acceptable to the Discharge Port, to witness the discharging of each cargo. Any delays resulting in demurrage at the Discharge Port due to either party's appointed representative shall be for the account of the party appointing said representative causing the delay.

C. NOMINATION

1. Seller shall nominate every Vessel used in cargo operations (including loading, discharging, or lightering), as well as, when known, the primary towing vessel engaged in the transport by directly towing astern, alongside, or pushing ahead of an associated barge which is acceptable to Buyer, and such acceptance shall not be unreasonably withheld. For the avoidance of doubt, Buyer shall be entitled to reject Seller's nominated Vessel if it does not pass Buyer's internal safety vetting procedure or that of any of Buyer's Receivers.
2. Where practicable under a Confirmation, Seller shall nominate a Vessel pursuant to the following requirements:
 - 2.1. **Tanker Nominations:**
 - 2.1.1. **CFR / CIF:** At least five (5) days before the first day of the agreed Loading Date Range.
 - 2.1.2. **Delivered:** At least five (5) days before the first day of the agreed Arrival Date Range.
 - 2.2. **Ocean-Going Barge and Inland Barge Nominations:**
 - 2.2.1. **CFR / CIF:** At least three (3) days before the first day of the agreed Loading Date Range.
 - 2.2.2. **Delivered:** At least three (3) days before the first day of the agreed Arrival Date Range.
3. If the parties enter into a Transaction later than any of the applicable dates for notification, then Seller shall nominate a Vessel as soon as practicable following the Agreement date.
4. All nominations shall be in writing (e-mail acceptable) and Seller shall include, to the extent known (except with respect to the primary towing vessel engaged in the transport by directly towing astern, alongside, or pushing ahead of an associated barge, in which case the information identified in **Sections C. 4.4., 4.5., 4.8. and 4.9.** below are not required for

such vessel):

- 4.1. Contract Reference
 - 4.2. Vessel Name
 - 4.3. Load Port or Discharge Port (as applicable)
 - 4.4. Product Grade
 - 4.5. Quantity
 - 4.6. Agreed Loading Date Range or Arrival Date Range (as applicable)
 - 4.7. Vessel ETA at Load Port or Discharge Port (as applicable)
 - 4.8. Independent inspector
 - 4.9. Product specifications (as applicable)
 - 4.10. Comments and/or Instructions (as applicable)
5. Buyer shall communicate its acceptance or rejection of any Vessel nomination within one (1) Banking Day after receipt of such nomination.
 6. **Vessel Substitution:** Seller may, or if necessary to perform its obligations hereunder must, with Buyer's prior agreement, substitute, in accordance with the nomination procedures in this **Section**, any Vessel, with another Vessel acceptable to Buyer, which is similar in all material respects to the Vessel so replaced. Said nomination shall not alter any existing terms under this Agreement beyond the Vessel used to fulfil the obligations of this Agreement.
 7. Despite any prior acceptance, Buyer shall have the right to revoke its acceptance of Seller's Vessel nomination at any time after Buyer's initial acceptance (but prior to passing of risk and title hereunder) on any reasonable ground. Including but not limited to, if such Vessel is involved in any incident or if more recent information regarding such Vessel becomes available to Buyer at any time after such prior acceptance.
 8. In case of rejection, Seller shall promptly nominate a Vessel acceptable to Buyer and Seller shall not, unless otherwise provided in **Article U.** above, be relieved of its responsibility to perform the agreed loading or discharging (as applicable).
 9. Seller shall narrow (wholly within the original Loading Date Range or Arrival Date Range, as applicable):
 - 9.1. **For CFR / CIF:**
 - 9.1.1. The agreed Loading Date Range to a three (3) day Loading Date Range or Arrival Date Range (as applicable) by providing Buyer written notice (e-mail acceptable) five (5) days before the first day of the narrowed Loading Date Range or Arrival Date Range (as applicable).
 - 9.2. **For Delivered:**
 - 9.2.1. The agreed Arrival Date Range to a three (3) day Arrival Date Range by providing Buyer written notice (e-mail acceptable) five (5) days before the first day of the narrowed Arrival Date Range.
 10. **Regulations at the Discharge Port:** All applicable governmental, local and port authority rules and regulations, and terminal rules and regulations in force at the Discharge Port shall apply to Seller's Vessel. Notwithstanding anything to the contrary contained in this **Section**, if any Vessel nominated by Seller does not comply with the foregoing provisions or any of them, Buyer or Buyer's Receiver(s) may



refuse to berth, discharge, or continue to discharge the Vessel in question.

D. INSURANCE

1. **CFR:** In respect of any CFR sale, the responsibility for procuring insurance shall rest with Buyer.
2. **CIF:** In respect of any CIF sale, Seller shall procure insurance for the benefit of Buyer, which shall cover the period from the time when the risk passes in accordance with the terms of this Agreement. Until the Product passes the Vessel's permanent hose connection at the Discharge Port, and shall be covered by the same terms and conditions as a standard marine insurance policy MAR with Institute Cargo Clauses (A), Institute War Clauses (Cargo) and Institute Strikes Clauses (Cargo) attached. Claims for leakage and/or shortage shall be subject to a deductible of one-half of one percent (0.5%), which figure shall be deemed to include ordinary loss.
3. **Delivered:** In respect of any Delivered sale, the responsibility for procuring insurance shall rest with Seller.
4. **War Risk Insurance:**
 - 4.1. If, and so long as, voyages to any of the Load Ports or Discharge Ports for this Agreement, or any sea areas through which the Vessel has to travel in performance of this Agreement, incur any additional insurance or war risk insurance premiums for:
 - 4.1.1. **CFR:** The Vessel's hull and machinery, then any and all costs of such additional insurance and/or additional premiums, as well as crew war bonuses or any other bonuses relating to the shipment of Product(s) will be paid by Buyer to Seller in addition to the price stipulated in this Agreement.
 - 4.1.2. **CIF / Delivered:** either the Vessel's hull and machinery or cargo or both, then any and all costs of such additional insurance and/or additional premiums, as well as crew war bonuses or any other bonuses relating to the shipment of Product(s) will be paid by Buyer to Seller in addition to the price stipulated in this Agreement.
 - 4.2. Seller reserves the right to refuse at any time to direct any Vessel to undertake or to complete such a voyage to the intended Discharge Port if such Vessel is required in performance of this Agreement:
 - 4.2.1. To transit or to proceed to or to remain in waters so that the Vessel concerned would be involved in a breach of Institute Warranties or, in Seller's opinion, risk to its safety or risk of ice damage; or
 - 4.2.2. To transit or to proceed to or to remain in waters where there is war (de facto or de jure) or threat thereof; or
 - 4.2.3. Prior to the commencement of loading to direct any Vessel to undertake a voyage to the intended destination if such Vessel is required in performance of the terms of this Agreement to transit waters which, in Seller's reasonably held opinion, would involve abnormal delay.
 - 4.3. If Seller agrees to direct a Vessel to undertake or to complete a voyage as referred to in this **Section**, then Buyer undertakes to reimburse Seller in addition to the price for each supply of Product as provided in this

Agreement. For the costs to Seller of any additional insurance premiums (including those under this **Section**) and any other sums that Seller is required to pay to the Vessel owners, including but not limited to, any sums in respect of any amounts deductible under the Vessel owner's insurance and any other costs and/or expenses incurred by Seller.

E. RISK AND TITLE

1. **CFR / CIF:** Title to and risk of loss or damage to any Product delivered under this Agreement shall be transferred from Seller to Buyer at the Load Port as the Product passes the Vessel's permanent hose connection.
2. **Delivered:** Title to and risk of loss or damage to any Product delivered under this Agreement shall be transferred from Seller to Buyer at the Discharge Port as the Product passes the Vessel's permanent hose connection.

F. ETA NOTICE

1. Seller shall arrange for its Vessel to notify the Discharge Port via telex, letter, telegram, e-mail, or telecopy/fax of the Vessel's ETA pursuant to the following schedule:
 - 1.1. **Tankers and Ocean-Going Barges:**
 - 1.1.1. Where practicable, no later than seventy-two (72) hours prior to the Vessel's arrival at the Discharge Port. The Discharge Port shall be further notified forty-eight (48), twenty-four (24), and six (6) hours in advance of the Vessel's arrival at the Discharge Port.
 - 1.2. **Inland Barges:**
 - 1.2.1. Where practicable, no later than forty-eight (48) hours prior to the Vessel's arrival at the Discharge Port. The Discharge Port shall be further notified twenty-four (24) and six (6) hours in advance of the Vessel's arrival at the Discharge Port. After the six (6) hour notice, when a scheduled arrival time changes by more than two (2) hours, all reasonable efforts shall be made to notify the Discharge Port of such change.
2. Any delays arising from the failure to adhere to these ETA notices shall not count as used Lay-time or demurrage if the Vessel is on demurrage.
3. **CFR / CIF:** As soon as practicable after loading has been completed, Seller shall notify Buyer of the actual quantity loaded and the latest ETA of the Vessel at the Discharge Port.

G. NOTICE OF READINESS

1. Except for CFR/CIF deliveries where an agreed Loading Date Range is provided, or where an agreed Arrival Date Range is given for demurrage purposes only. By no later than 23:59 hours local time on the last day of the agreed Arrival Date Range, the Vessel nominated by Seller hereunder shall arrive at the Discharge Port (or the usual waiting place), complete all formalities, in all respects be ready to commence discharging the Product deliverable hereunder, and NOR shall be tendered.

H. LAY-TIME



1. Lay-time Allowance:

1.1. Unless specified otherwise in a Confirmation, the Lay-time allowance shall be:

1.1.1. **Tankers:** Thirty-six (36) hours, pro rata for part cargo.

1.2. Ocean-Going Barges and Inland Barges:

1.2.1. Voyage Chartered: Where the single voyage charter party specifies a Lay-time allowance per hour or a specific Lay-time allowance for discharge, then such Lay-time allowance shall apply, pro rata for part cargo, otherwise the Lay-time allowance shall be one-half (1/2) of the total Lay-time allowance as provided in the single voyage charter party, pro rata for part cargo.

1.2.2. Time Chartered, Demise Chartered, or Seller owned:

Vessel Type	Barrel Volume	Lay-time Allowance
Inland Barges (Lube Oil)	n/a	24 hours
Inland Barges (Other)	n/a	2,500 barrels per hour + 3 free hours
Ocean- Going Barges	Up to 39,999	12 hours
	40,000 - 49,999	13 hours
	50,000 - 59,999	15 hours
	60,000 - 67,999	16 hours
	68,000 - 74,999	17 hours
	75,000 - 95,999	19 hours
	96,000 - 118,999	20 hours
	119,000 - 144,999	21 hours
	145,000 - 154,999	23 hours
	155,000 - 164,999	25 hours
	165,000 - 174,999	27 hours
	175,000 - 184,999	30 hours
	185,000 - 199,999	32 hours
	200,000 and above	36 hours

1.3. If the Vessel is loading or discharging any part cargo for other parties at the same berth, then any time used by the Vessel waiting at or for such berth. In addition, in discharging which would otherwise count as used Lay-time or demurrage if the Vessel is on demurrage, shall be pro-rated in the proportion that Buyer's cargo bears to the total cargo worked by the Vessel at such berth. If, however, used Lay-time or demurrage, if the Vessel is on demurrage, is solely attributable to the other parties' cargo operations, then such time shall not count in calculating used Lay-time or demurrage if the Vessel is on demurrage.

1.4. Lay-time allowance shall be no less than a minimum of twelve (12) hours.

2. Lay-time Commencement:

2.1. Tankers and Ocean-Going Barges:

2.1.1. If the Vessel arrives before the agreed Arrival Date Range and tenders NOR, Lay-time shall not commence until 06:01 hours on the first day of the agreed Arrival Date Range, unless Buyer elects to accept the Vessel earlier, in which case Lay-time shall begin when the Vessel is All Fast.

2.1.2. If the Vessel arrives within the agreed Arrival Date Range and tenders NOR, Lay-time shall commence six (6) hours after the Vessel's NOR being tendered or when the Vessel is All Fast, whichever occurs first.

2.1.3. If the Vessel arrives after the last day of the agreed Arrival Date Range and tenders NOR, and is accepted by Buyer in its sole and absolute discretion, then, without prejudice to any of Buyer's other rights, Lay-time shall commence when the Vessel is All Fast.

2.2. Inland Barges:

2.2.1. If the Vessel arrives before the agreed Arrival Date Range and tenders NOR, Lay-time shall not commence until 00:01 hours on the first day of the agreed Arrival Date Range, unless Buyer elects to accept the Vessel earlier, in which case Lay-time shall begin when the Vessel is All Fast.

2.2.2. If the Vessel arrives within the agreed Arrival Date Range and tenders NOR, Lay-time shall commence upon the Vessel's NOR being tendered, berth or no berth, or when the Vessel is All Fast, whichever occurs first.

2.2.3. If the Vessel arrives after the last day of the agreed Arrival Date Range, tenders NOR, and is accepted by Buyer in its sole and absolute discretion, then, without prejudice to any of Buyer's other rights, Lay-time shall commence when the Vessel is All Fast.

3. Time consumed due to any of the following shall not count as used Lay-time or if the Vessel is on demurrage, for demurrage:

3.1. On an inward passage including, but not limited to, awaiting daylight, tide, tugs, or pilot, and moving from an anchorage or other waiting place until the Vessel is All Fast;

3.2. Any delay due to the Vessel's condition, breakdown, or any other causes attributable to the Vessel;

3.3. Any delay due to prohibition of discharging at any time by the owner or operator of the Vessel or by the port authorities, unless the prohibition is caused by Buyer or Buyer's Receiver's facility's failure to comply with applicable laws, rules, and regulations;

3.4. Any delay due to the Vessel bunkering, provisioning, discharging or shifting of slops, ballast, or contaminated cargo, unless this is carried out concurrent with discharging or other normal cargo operations such that no loss of time is involved;

3.5. Any delay due to the Vessel's incompatibility with the configuration of the berthing or other port facilities, including time consumed in making up connections to remedy any incompatibility;

3.6. Any delay due to pollution or threat thereof caused by any defect in the Vessel or any act or omission to act by the master or crew of the Vessel;

3.7. Any delay due to the Vessel's violation of the operating or safety rules and/or regulations of the Discharge Port, noncompliance with: (i) federal or state laws, (ii) Local Authoritarianism Coast Guard regulations, (iii) any other applicable regulations, (iv) or failure to obtain or maintain required certification;

3.8. Any delays caused by strike, lockout, stoppage or restraint of labour of master, officers or crew of the Vessel or of tugboats or pilots;

3.9. Any delay awaiting customs or immigration clearance, other required governmental or port clearances, or free pratique, if applicable.

4. Any delay, not first caused by the negligence of Buyer or Buyer's Receiver(s), that is the result of fire, explosion, civil unrest, act of war, riot, strike, lockout, stoppage or restraint of labour, breakdown of machinery or equipment in. Alternatively, about the facilities of Buyer or Buyer's Receiver, adverse weather and/or sea conditions Act of God, or other delays not reasonably within the control of either party (and except



as otherwise provided in this Agreement) shall be paid for at one-half (1/2) the rate otherwise provided for demurrage.

5. Lay-time shall cease after all Product has been discharged and:

5.1. **Tankers and Ocean-Going Barges:** When the hoses have been disconnected from the Vessel. However, Lay-time will recommence two (2) hours after disconnection of hoses if the Vessel is delayed in its departure due to Buyer's or Buyer's Receiver's not providing any and/or all of the necessary documents and/or clearances to allow the Vessel to depart. Used Lay-time shall continue until such documents and/or Buyer or Buyer's Receiver have provided clearances to the Vessel.

5.2. **Inland Barges:** When the hoses have been disconnected from the Vessel and Buyer or Buyer's Receiver have released the Vessel.

6. Where the parties agree in a Confirmation that the location for discharging is a public dock, then any delay caused solely by berth congestion shall not count as used Lay-time, and Lay-time shall not commence until Vessel is All Fast at the dock.

I. DEMURRAGE

1. **Demurrage Rate:** For all time that used Lay-time exceeds the Lay-time allowance, Buyer shall pay demurrage, at the rate specified in a Confirmation, or where no rate is specified in a Confirmation as follows:

1.1. for single voyage chartered Vessels, the demurrage rate shall be based on the demurrage rate specified in the single voyage charter party for the Vessel performing the voyage in question.

1.2. for Seller owned, time chartered, or demise chartered Vessels, or where Seller is unable to substantiate the single voyage demurrage rate per this **Section**, the parties shall mutually agree upon the applicable rate. If a dispute arises between the parties as to the applicable rate, then the rate shall be established as follows:

1.2.1. **Tankers:** The single voyage market level current in London on the date of loading commenced for the voyage concerned for a Vessel of similar type and summer deadweight and service to that actually involved. Such single voyage market level shall be expressed in percentage points of World-scale (as amended from time to time), or such other freight scale as may be issued in replacement of World-scale and applied to the demurrage rate appropriate to the size of the Vessel concerned provided for in the aforementioned freight scale. In absence of agreement between Buyer and Seller, the market level is to be determined by the London Tanker Brokers' Panel as being representative of a current market rate for a similar Vessel performing a similar voyage with costs for obtaining such demurrage rate split between the parties.

1.2.2. **Ocean-Going Barges and Inland Barges:** The parties shall appoint a mutually agreed upon ship broker who shall establish the applicable demurrage rate with costs for obtaining such demurrage rate split between the parties.

2. For demurrage purposes, all Inland Barges or tows operating as a unit shall be considered collectively as one unit.

2.1. In respect of tows, Buyer will not be liable for tug demurrage during delays of berthing or discharging where the Discharge Port has notified the Vessel's master that the tug would not be required at the Discharge Port for that time period.

3. **Demurrage Claims:** Demurrage claims must be submitted in writing (e-mail acceptable) with full supporting documentation no later than ninety (90) calendar days after the completion of discharging date. IF A DEMURRAGE CLAIM AND ITS SUPPORTING DOCUMENTATION IS PROVIDED LATER THAN NINETY (90) CALENDAR DAYS AFTER THE COMPLETION OF DISCHARGING DATE, THE CLAIM WILL BE DEEMED TO HAVE BEEN WAIVED. For the avoidance of doubt, the Vessel is not required to have completed discharge for demurrage to become due and payable.

J. POLLUTION COVER

1. Where delivery is by a Tanker:
 - 1.1. Except in the case of delivery of LPG's, each Tanker shall be owned by or demise chartered by a member of the ITOFF.
 - 1.2. The Tanker shall carry on board certificate(s) as required pursuant to the CLC and the Oil Pollution Act 1990, as applicable; and;
 - 1.3. The Tanker shall have in place insurance cover for oil pollution no less in scope and amounts than the highest available under the rules of P. & I. Clubs entered into the International Group of P. & I. Clubs.
2. Where delivery is by an Ocean-Going Barge or Inland Barge, Seller shall exercise reasonable efforts to ensure that the barge owner has in place for the applicable barge, marine insurance in an amount that meets or exceeds the minimum insurance requirements as required by applicable law or regulation for a barge of that size, transporting that Product.
3. If Seller's Vessel does not meet any of the above requirements Buyer or Buyer's Receiver(s) may refuse to berth or discharge or continue discharging such Vessel.

K. AUTOMATED MANIFEST SYSTEM

1. Where the Discharge Port is located within the USA or U.S. Territories, Seller shall exercise reasonable efforts to ensure that the Vessel is aware of the requirements of the CBP ruling issued on December 5th 2003 under Federal Register Part II Department of Homeland Security, 19 CFR Parts 4 and 103. In addition, will comply fully with these requirements for entering U.S. ports (including for avoidance of doubt, the requirements of the Automated Manifest System).
2. In the event the Discharge Port is changed at Buyer's request such that, despite Seller exercising all reasonable efforts pursuant to **Section K.1.** above, Seller's nominated Vessel is unable to comply with the notification period required by the CBP ruling issued on December 5th 2003 under Federal Register Part II Department of Homeland Security 19 CFR Parts 4 and 103, (including for avoidance of doubt the requirements of the Automated Manifest System):



- 2.1. Any delay directly resulting from such non-compliance shall be for Buyer's account.
- 2.2. Seller shall not be liable for failure of performance directly resulting from such non-compliance.

L. TRANSHIPMENT AND LIGHTERING

1. Seller shall not Tranship Product (excluding Lightering operations in U.S. waters) prior to delivering the Product into the U.S. without prior disclosure to Buyer; and
2. Should Seller decide to Tranship the Product prior to delivering it into the U.S., Seller shall disclose its intent to Tranship to Buyer at the time of this Agreement and must provide Buyer all documents as requested by the CBP to support the validation to Seller's certificate of origin. Failure to disclose this information or to provide the required documents in a timely manner for importation purposes shall constitute a material breach of this Agreement entitling Buyer to immediately cancel this Agreement. In such event, Seller agrees to compensate Buyer for all costs associated with the cancellation of this Agreement including but not limited to replacement costs for a substituted cargo from another seller.
3. Any Lightering, Vessel-to-Vessel ("Transshipment") or barging operations at sea or inside port limits shall always be performed at a location considered safe and acceptable to the Vessel's owners and/or master. In addition, the Vessel procured by the Lightering party shall be subject to the other party's acceptance, which shall not be unreasonably withheld and the Vessel owner's prior acceptance. All Lightering/Transshipment shall conform to standards not less than those set out in the latest edition of the International Chamber of Shipping/Oil Companies International Marine Forum ship-to-ship transfer guide (Petroleum).

M. INTERNATIONAL SHIP AND PORT FACILITY SECURITY CODE

1. This **Section** shall apply:
 - 1.1. to all Discharge Ports not located within the USA or a U.S. territory, and
 - 1.2. any other Discharge Port and/or Vessel used that is subject to the International Ship and Port Facility Security Code or the MTSA.
2. Seller shall procure that the Vessel shall comply with the requirements of the ISPS Code, and where the Discharge Port is within the USA and U.S. territories or waters, with the MTSA.
3. The Vessel shall when required submit a Declaration of Security to the appropriate authorities prior to its arrival at the Discharge Port.
4. Notwithstanding any prior acceptance of the Vessel by Buyer, if, at any time prior to the arrival of the Vessel at the Discharge Port the Vessel ceases to comply with the requirements of the ISPS Code or MTSA, then:
 - 4.1. Buyer shall have the right not to berth such nominated Vessel at the Discharge Port and any demurrage resulting shall not be for the account of Buyer; and Seller shall be obliged to substitute such nominated Vessel with a Vessel

complying with the requirements of the ISPS Code and MTSA. If title and risk to the cargo on board the Vessel subsequently substituted has already passed to Buyer, such title and risk shall be deemed to have reverted to Seller.

10. Buyer shall procure that the Discharge Port/terminal/installation shall comply with the requirements of the ISPS Code and if located within the USA and U.S. territories or waters, with the MTSA.
11. Any costs or expenses in respect of the Vessel including demurrage or any additional charge, fee or duty levied on the Vessel at the Discharge Port and actually incurred by Seller resulting directly from the failure of the Discharge Port/terminal/installation to comply with the ISPS Code. In addition, if located within the USA and U.S. territories, with the MTSA shall be for the account of 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.
12. Save where the Vessel has failed to comply with the requirements of the ISPS Code and within the USA and U.S. territories or waters, with the MTSA. Buyer shall be responsible for any demurrage actually incurred by Seller arising from delay to the Vessel at the Discharge Port resulting directly from the Vessel being required by the port facility or any relevant authority to take any action or any special or additional security measures or undergo additional inspections.
13. If the Discharge Port/terminal/installation is not operated by Buyer or an Affiliate of Buyer, Buyer's liability to Seller under this Agreement for any costs, losses or expenses incurred by the Vessel, the charterers or the Vessel owners resulting from the failure of the Discharge Port/terminal/installation to comply with the ISPS Code or if located within the USA and U.S. territories or waters, with the MTSA. Shall be limited to the payment of demurrage and costs actually incurred by Seller in accordance with the provisions of this **Section**.

N. SPECIFIC PORTS, ANCHORAGES, AND LOCATIONS

1. **Mississippi River Ports:**
 - 1.1. **Via Southwest Pass:** Any Vessel which must make passage to any port along the Mississippi River shall announce to the Discharge Port the Vessel's arrival at Southwest Pass. The NOR given upon arrival at the Discharge Port's berth or, the nearest customary anchorage or waiting place for the Discharge Port to which it is destined if the berth is not available upon its arrival shall be used for Lay-time and demurrage purposes.
 - 1.2. **Via other than Southwest Pass:** The NOR or notice of arrival, as applicable, given upon arrival at the Discharge Port's berth or, the nearest customary anchorage or waiting place for the Discharge Port to which it is destined if the berth is not available upon its arrival shall be used for Lay-time and demurrage purposes.
 - 1.3. For clarity, the following locations in and along the Mississippi River are considered the customary anchorage for Vessels destined to the following ports:



Location	Anchorage
Convent, LA	Burnside Anchorage
Geismar, LA	Burnside Anchorage
Gretna, LA	Nine Mile Anchorage
Norco, LA	AMA Anchorage
St. James, LA	Grandview Anchorage
St. Rose, LA	AMA Anchorage

PART C - IN RESPECT OF EX-TANK, INTO TANK, FREE INTO PIPE, EX-PIPE, AND IN SITU DELIVERIES

A. QUANTITY AND QUALITY

- Quantity measurement and quality sampling and testing shall be conducted in accordance with the most current API or ASTM standards, as applicable.
- Quantity and quality shall be determined in accordance with the following procedures:
 - Ex-tank:** Quantity shall be as per Seller's proven meters (if available). If proven meters are unavailable, Seller's tank down-gauge measurement shall be used, except when shore-tank(s) (i) are active, or (ii) are in the critical zone. Alternatively, (iii) are unable to be measured manually, or (iv) the reference height and observed height vary by more than one-fourth (1/4) inch. Alternatively, (v) the observed height changes by more than one-fourth (1/4) inch between the open and close measurement. Alternatively, (vi) liquid level is not greater than one-eighth (1/8) inch above the datum plate, in which case Buyer's shore-tank up-gauge measurement shall be used. Quality shall be as per the volumetrically correct composite of samples drawn from Seller's tank(s).
 - Into tank:** Quantity shall be as per Buyer's proven meters (if available). If proven meters are unavailable, Buyer's tank up-gauge measurement shall be used, except when Buyer's shore-tank(s) (i) are active, or (ii) are in the critical zone, or (iii) are unable to be measured manually. Alternatively, (iv) the reference height and observed height vary by more than one-fourth (1/4) inch, or (v) the observed height changes by more than one-fourth (1/4) inch between the open and close measurement. Alternatively, (vi) liquid level is not greater than one-eighth (1/8) inch above the datum plate, in which case Seller's shore-tank down-gauge measurement shall be used. Quality shall be as per the volumetrically correct composite of samples drawn from Seller's tank(s).
 - Free into pipe and ex-pipe:** Quantity shall be as per the pipeline company's meters and quality shall be as per the pipeline specifications.
 - In Situ (by way of book transfer):** Quantity shall be as mutually agreed per the book transfer letter. Quality shall be as per the independent inspection report of the applicable transfer tank.
- Where a party requires an independent inspection, the inspection shall be made by an independent inspector who is mutually acceptable to both Seller and Buyer, and the party or parties (as applicable) requiring an independent inspection shall appoint the independent inspector with the inspection charges for the account of the party requiring such independent inspection. In the case where both parties require an independent inspection, the parties shall share all

inspection charges equally. The independent inspector's report shall be made available to both parties.

3.1. Where an independent inspection takes place, excluding inspections where the independent inspector only witnesses the measurement, results of the measurements set forth in this **Section** shall be issued in the form of the certificates of quantity and/or quality and issued by the independent inspector.

3.2. Where no independent inspection takes place, or where the independent inspector only witnesses the measurement, quantity and quality determination(s) shall be made by the terminal/pipeline company and measurement shall be by terminal/pipeline (as applicable) meter tickets or other applicable documents.

4. Except in cases of manifest error or fraud, the certificates of quantity and quality or meter tickets (as applicable) issued pursuant to this **Section** shall be conclusive and binding on both parties for invoicing purposes. In addition, Buyer shall be obliged to make payment in full in accordance with **Article M.** above, but shall be without prejudice to the rights of either party to file a claim for quantity and/or quality.

B. NOMINATION

- Nominations shall be made in accordance with the standard operating procedures of the relevant pipeline/storage company(ies).
- Additionally, where it is agreed between the parties that Buyer has the option for delivery via Buckeye pipeline, Buyer shall provide seven (7) days' notice (e-mail acceptable) to Seller that it requires delivery by Buckeye pipeline.

C. RISK AND TITLE

- Title to and risk of loss or damage to any Product delivered under this Agreement shall be transferred from Seller to Buyer as follows, where delivery is:
 - Ex-tank:** As the Product passes the outlet flange of Seller's storage tank from which the Product is being delivered; or
 - Into tank:** As the Product passes the inlet flange of Buyer's storage tank to which the Product is being delivered; or
 - Free into pipe:** As the Product passes the inlet flange of Buyer's receiving pipeline system; or
 - Ex-pipe:** As the Product passes the outlet flange of Seller's delivering pipeline system; or
 - In situ (by way of book transfer):** At such time and day and in such tank(s) as shall either be specified in a Confirmation or as agreed between the parties prior to such transfer being effected and, where applicable, confirmed by the owner/operator of such tank(s).

D. PIPELINE ALLOCATION

- Where delivery is free into pipe or ex-pipe and if the pipeline company allocates line space and Seller fails to deliver the agreed volume, or Seller delivers a volume outside the pipeline company's permitted tolerance. Then the damages recoverable by Buyer shall include any penalties or fees



assessed by the pipeline company and actually paid by Buyer as a direct result of Seller's failure to deliver the agreed volume. In accordance with the pipeline company's rules and regulations for the shortfall in volume shipped and shall be without prejudice to any of Buyer's other rights under this Agreement.

PART D - IN RESPECT OF DELIVERIES FCA INTO AND DELIVERED FROM TANK TRUCKS AND RAILCARS

A. QUANTITY AND QUALITY

1. Quantity measurement and quality sampling and testing shall be conducted in accordance with the most current API or ASTM standards, as applicable.
2. Quantity shall be determined in accordance with the following procedures: Certified meter ticket at the loading terminal. If certified meter ticket at the loading terminal is not available, then quantity measurement shall be by certified weight scale at the loading terminal.
3. Quality shall be determined in accordance with the following procedures:
 - 3.1. Test results run on a volumetrically correct composite of samples from in line sampler shall be used. If inline sampler is not available, then samples drawn from Seller's tank(s) at the loading terminal shall be used.
 - 3.2. Where a party requires an independent inspection to determine quality, the inspection shall be made by an independent inspector who is mutually acceptable to both Seller and Buyer, and the party or parties (as applicable) requiring an independent inspection shall appoint the independent inspector with the inspection charges for the account of the party requiring such independent inspection. In the case where both parties require an independent inspection, the parties shall share all inspection charges equally. The independent inspector's report shall be made available to both parties.
 - 3.3. Where no independent inspection takes place, or where the independent inspector only witnesses the quantity measurement, quality determination(s) shall be made by the loading terminal.
4. Results of the measurements set forth in this **Section** shall be issued in the form of the certificates of quantity and/or quality, meter tickets or weight tickets (as applicable) with respect to the Product delivered, and shall be issued by the independent inspector. Where no independent inspection occurs, measurement shall be by terminal meter tickets or weight tickets (as applicable).
5. Except in cases of manifest error or fraud, the certificates of quantity and quality, meter tickets or weight tickets (as applicable) issued pursuant to this **Section** shall be conclusive and binding on both parties for invoicing purposes. In addition, Buyer shall be obliged to make payment in full in accordance with **Article M.** above, but shall be without prejudice to the rights of either party to file a claim for quantity and/or quality.

B. NOMINATION

1. Nominations shall be made in accordance with the standard operating procedures at the loading terminal.
2. **FCA into tank truck or railcar:** Tank trucks or railcars presented by Buyer for loading shall be fit, clean, and in all respects ready to load the Product.
3. **Delivered from tank truck or railcar:** Tank trucks or railcars presented by Seller for discharge shall be fit and in all respects ready to discharge the Product.

C. RISK AND TITLE

1. Title to and risk of loss or damage to any Product delivered under this Agreement shall be transferred from Seller to Buyer as follows, where delivery is:
 - 1.1. **FCA into tank truck or railcar:** At the loading terminal as the Product passes the inlet flange of the tank truck or railcar.
 - 1.2. **Delivered from tank truck:** At the receiving terminal as the Product passes the outlet flange of the tank truck.
 - 1.3. **Delivered from railcar:** At the moment that the locomotive used to transfer the railcars from the loading terminal to the agreed delivery point/frontier is uncoupled from such railcars at the agreed delivery point/frontier sidings.

D. LAY-TIME, DEMURRAGE AND DETENTION

1. Lay-time, demurrage and detention for tank trucks shall be determined as follows:
 - 1.1. Unless specified in a Confirmation, the Lay-time allowance shall be one (1) hour. Lay-time shall begin when the tank truck is constructively placed at load or discharge (as applicable) and shall cease when the final release of the tank truck has been granted at load or discharge (as applicable). For all time that used Lay-time exceeds the Lay-time allowance, the party causing the delay shall pay all demurrage and detention charges at the applicable tariff and/or lease rate.
2. Demurrage and detention for railcars shall be determined as follows:
 - 2.1. **FCA into railcar:** For the purpose of detention, time shall start when the railcars are constructively placed at the disposal of Seller. Seller shall be responsible for demurrage and detention charges (as applicable) to the extent it delays the railcars loading. For the purpose of detention, time shall end when all loaded railcars are made available at the loading terminal for collection by, or on behalf of, Buyer.
 - 2.2. **Delivered from railcar:** For the purpose of detention, time shall start when the railcars are constructively placed at the disposal of Buyer. Buyer shall be responsible for demurrage and detention charges (as applicable) to the extent it delays the railcars discharge. For the purpose of detention, time shall end when all empty railcars are made available at the receiving terminal for collection by, or on behalf of, Seller.
3. The demurrage charges shall be as per the applicable



railroad tariff and the detention charges shall be as per the railcar lease rate. Detention charges shall not apply to the first seven (7) days of delay.

4. Demurrage claims must be submitted in writing (e-mail acceptable) with such supporting documentation, as may reasonably be requested, including, without limitation, the commercial invoice, no later than ninety (90) calendar days after the completion of delivery of the Product. IF A DEMURRAGE CLAIM AND ITS SUPPORTING DOCUMENTATION IS PROVIDED LATER THAN NINETY (90) CALENDAR DAYS AFTER THE COMPLETION OF DELIVERY OF THE PRODUCT, THE CLAIM WILL BE DEEMED TO HAVE BEEN WAIVED.

E. DEVIATION

1. Buyer will not divert Seller's railcars or consign them to any other routing or to any other destination than that set out in the bill of lading instructions without obtaining prior written consent of Seller (e-mail acceptable). All diversion charges, additional freight charges and any other costs or expenses incurred, sustained or paid by Seller resulting from such diversion shall be for the account of Buyer.

Changes of General Conditions For Sale And Purchase

CPCR reserves the right to make changes to the Delivery defined in this General Conditions For Sale And Purchase from time to time. In case of in congruence between the different versions of these regulations, the English version shall overrule.

Client will be informed of any such changes. The respective changes shall be considered binding and agreed to unless the Client notifies CPCR of the contrary no later than 30 business days after the date on the announcement.

Concluding Provisions

APPENDIX 1

SELLER'S INDEMNITY FORMAT

The indemnity referred to in **Article N.4.** of the General Conditions shall be in the following format:

We refer to our contract dated the Friday, 04 January 2019 in respect of your purchase from us of barrels / cubic meter / metric tonnes of BLCO / LPFO / LNG / LPG CIF / FOB ("the Contract") on Nominated Vessel, bill of lading dated

In consideration of your making payment of US Dollars for barrels / cubic meter / metric tonnes of the said BLCO / LPFO / LNG / LPG in accordance with the Contract and having agreed to accept delivery of the cargo without having been provided with the required documents. We hereby represent and warrant the existence and validity of the documents; that we are entitled to possession of the documents. We were entitled to possession of the BLCO / LPFO / LNG / LPG; we had good title to such BLCO / LPFO / LNG / LPG. In addition, that title in the BLCO / LPFO / LNG / LPG has been passed as provided in the Contract to you free of all liens, charges or encumbrances of whatever kind and you will have the benefit of the warranty as to enjoyment of quiet possession implied by law in the

All other aspects of the legal relations between CPCR and the Client shall be governed by the [General Conditions For Sale And Purchase](#) and by the applicable Swiss law.

The [General Terms and Conditions / Scope](#) and [General Terms And Conditions For Sales And Supply Of Marine Fuels with Independent Inspection Requirements](#) shall complement the [General Terms and Conditions / Scope](#) and [General Terms And Conditions For Sales And Supply Of Marine Fuels with Independent Inspection Requirements](#). However, in case of discrepancies or conflicts, the [General Terms and Conditions / Scope](#) and [General Terms And Conditions For Sales And Supply Of Marine Fuels with Independent Inspection Requirements](#) shall prevail and supersede the [General Terms and Conditions / Scope](#) and [General Terms And Conditions For Sales And Supply Of Marine Fuels with Independent Inspection Requirements](#).

Legal Intellectual Property Notices

This confidential business information is provided to sophisticated and accredited individuals, FOR INFORMATIONAL PURPOSES ONLY, in response to a request for information, for their own interests and purposes, and not for distribution. Any person or entity resident in any jurisdiction or country where such distribution or use would be contrary to law or regulation or which would subject the publisher to any registration requirement does not intend the information for distribution to, or use. Neither the information nor any opinion contained herein constitutes a solicitation or an offer to buy or sell securities or other regulated products or provide any investment advice or service. Any enterprise contemplated hereunder is strictly one of private placement and, in no way relies upon, nor is related to, current Securities laws and regulations, and does not involve the sale of registered securities. While certain elements were received from the client that contributes to this [GENERAL CONDITIONS FOR SALE AND PURCHASE](#) this proprietary packaging and certain wording of this information created by CPCR and subject to copyright laws is the sole property of CPCR until satisfactorily compensated otherwise?

Contract but without prejudice to any other warranty so implied.

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

- (a) Failure on our part to present to you in accordance with the Contract the documents;
- (b) Any action or proceedings brought or threatened against you in connection with questions of title to or the right to possession of the documents or the cargo or the proceeds of either; or any liens, charges or encumbrances asserted on the documents, the cargo, or any other claims arising out of or in connection with the documents.

This indemnity shall terminate on delivery by us of the aforesaid document(s) and their acceptance by you.

This indemnity shall be governed by and construed in accordance with Federal, State laws where registered within the Local Authoritarianism

State in the country wherever CPCR resides, shall be subject to the exclusive jurisdiction of that country courts and shall cease to have effect upon the documents being provided to you.



Signed for and on behalf of **Canaf Petro-Chemicals Refinery™ Inc.**

By: Designation: Date:

In the presence of:

Name:

Signature:

Address

APPENDIX 2

(SPECIMEN LETTER OF CREDIT UNDER ARTICLE M.2. OF GENERAL CONDITIONS)

..... BANK

Date of Issue:

To: **Canaf Petro-Chemicals Refinery™ Inc.**

Irrevocable Letter of Credit No:

In reference to the Contract made between CPCR (the "SELLER") and (the "BUYER"), on the Friday, 04 January 2019 for sale and purchase of barrels / cubic meter / metric tonnes of Nigerian BLCO / LPFO / LNG / LPG and by order and for the account of the said BUYER we hereby establish our clean, irrevocable and revolving Letter of Credit No: in your favour for an amount not exceeding in the aggregate U.S. \$..... (in words:).

The funds in this Letter of Credit are available for payment to you, thirty (30) days after the "On Board" date of the Bill of Lading, of all invoices upon the BUYER in respect of crude lifting's under your above mentioned Contract, and upon demand in respect of any monies claimed by you under the terms of the said Contract.

Payment as stipulated in each invoice shall be effected against presentation of the under listed documents detailed below at the Counter of this Bank situate at the Bank premises at

1. Original signed commercial invoice covering the value of each BLCO / LPFO / LNG / LPG lifting at the current Contract Price in accordance with (insert pricing basis);
2. Full set of three (3) original clean on board ocean bills of lading issued or endorsed to the order of; evidencing shipment of BLCO / LPFO / LNG / LPG from any of the Nigerian BLCO / LPFO / LNG / LPG Terminals;
3. Certificate of Quantity-one original +..... Copies
4. Certificate of Quality-one original +..... Copies
5. Tanker Haulage Report-one original +..... Copies
6. Tanker's Time Sheet one original +..... Copies
7. Certificate of Origin-one original +..... Copies

SPECIAL CONDITIONS:

1. This Letter of Credit shall take effect in accordance with its terms but such term shall not alter, add to or in any way effect the provisions of the Agreement between SELLER and BUYER to which this Letter of Credit relates.
2. Charter party bills of lading/Vessels bill of lading and stale documents are acceptable.
3. Should the final price to be invoiced increase above the reference Base Price, the amount of this Letter of Credit shall automatically increase by the same proportion without necessity for further specific amendment.
4. Payment falling due on a Saturday or bank holiday other than

Monday shall be made on the preceding business day. Payment due on a Sunday or Monday New York Bank Holiday shall be made on the next succeeding business day.

5. All bank charges and commissions are for account of the BUYER. This Letter of Credit is valid for period of one year and sixty (60) days from provided that in the event of the Contract being terminated within one year of the opening of this Letter of Credit, it shall remain valid for a period of 60 days after the effective day of such termination.
6. Funds under this Letter of Credit shall be available to the SELLER against a copy of the SELLER's unpaid invoice to the BUYER accompanied by the SELLER's written statement stating the number of this Letter of Credit duly signed. By SELLER's authorized representative certifying that the BUYER has failed to make any payment due to the SELLER and under the terms of this Letter of Credit. This shall constitute sufficient proof of such non-payments and shall be a demand upon us to pay under the terms of this Letter of Credit.
7. This Letter of Credit shall be subject to the Uniform Customs and Practice for Documentary Credit (2007 Revision) of the International Chamber of Commerce (Publication No. 600) and the parties hereby acknowledge and agree to be bound by the provisions contained therein.

.....
Authorised Signatories of Bank Date:
BANK:

APPENDIX 3A

(SPECIMEN LETTER OF CREDIT FOR UNDERLIFTING, CANCELLATION/POSTPONEMENT, UNDER- PAYMENT AND INTEREST CHARGES TO BE ISSUED AT THE SAME TIME WITH THE FIRST L/C IN APPENDIX 3B)

..... BANK

Date of Issue:

To: **Canaf Petro-Chemicals Refinery™ Inc.**

IRREVOCABLE REVOLVING LETTER OF CREDIT NO:

In reference to the Contract made between CPCR (the "SELLER") and (the "BUYER"), on Friday, 04 January 2019 for the sale and purchase of barrels / cubic meter / metric tonnes of Nigerian BLCO / LPFO / LNG / LPG per day and by order and for the account of the BUYER we hereby establish our clean and irrevocable Letter of Credit No: in your favour for an amount not exceeding in the aggregate US\$..... + 5% (in words: plus, five percent). The purpose of this Letter of Credit is to indemnify you in the event that the BUYER fails to pay for any BLCO / LPFO / LNG / LPG lifted under the terms of the Contract or fails to pay any of the liquidated damages provided for under the terms of the said Contract. We hereby undertake to pay you on demand the said damages and/or the unpaid price of such BLCO / LPFO / LNG / LPG and/or interest for late payment, as the case may be provided however that the extent of our liability to you under this Letter of Credit shall not exceed the sum of US\$ or such other sum as may be mutually agreed and duly specified in any amendment to this Letter of Credit and notified to you in writing by us. The funds in this Letter of Credit are available for payment to you against presentation of the under listed documents detailed below at our Bank's Office at subject to the presentation of the



following documents:

1. Your invoice for the amount claimed under the terms of the Contract
2. Your written statement signed by your authorized representative certifying that our client has committed any of the breaches above mentioned.

This Letter of Credit shall be valid for a period of one year and 60 days from provided however that in the event of the Contract being terminated within one year of its opening, this Letter of Credit shall remain valid for a period of sixty (60) days after date of such termination becoming effective.

We hereby irrevocably undertake and guarantee that payment will be duly made as stipulated above against documents presented in conformity with the terms of this Credit. This Letter of Credit shall be subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision) of the International Chamber of Commerce (Publication No. 600) and the parties hereby acknowledge and agree to be bound by the provisions contained therein.

.....
Authorised Signature

..... BANK

Date:

APPENDIX 3B

SPECIMEN OF SHIPMENT-BY-SHIPMENT LETTER OF CREDIT

In reference to the Contract between and **Canaf Petro-Chemicals Refinery™ Inc.** for the sale and purchase of Nigerian BLCO / LPFO / LNG / LPG dated 04 January 2019 for MBD, we hereby open our Irrevocable Documentary Letter of Credit No: in favour of **Canaf Petro-Chemicals Refinery™ Inc.**, by order and for account of available 30 days after Bill of Lading Date for an amount of US\$ (.....) plus/minus five per cent (5%) U.S. Dollars subject to the presentation of the following documents:

1. **Canaf Petro-Chemicals Refinery™ Inc.'s** signed Commercial Invoice covering U.S. barrels / cubic meter / metric tonnes +/- 5 per cent of BLCO / LPFO / LNG / LPG.
2. Full set (three negotiables plus three non-negotiable Bills of Lading to be prepared and presented) clean "on board" Ocean Bill of Lading issued or endorsed to order of evidencing a shipment of BLCO / LPFO / LNG / LPG from Terminal not later than
3. Certificate of Quantity-one original + Copies
4. Certificate of Quality-one original + Copies
5. Tanker Haulage Report-one original + Copies
6. Tanker's Time Sheet-one original + Copies
7. Certificate of Origin-one original + Copies

Others.....

SPECIAL CONDITIONS:

1. We shall effect payment for the BLCO / LPFO / LNG / LPG on the 30th day after Bill of Lading Date against **Canaf Petro-Chemicals Refinery™ Inc.'s** final Commercial Invoice. In the event that CPCR's Commercial Invoice does not reach us by the 30th day

after Bill of Lading Date, we shall effect provisional payment based on calculation ascertained as per the BLCO / LPFO / LNG / LPG Contract dated and any agreed amendments made thereon. Any excess or short payment outside the CPCR's Invoice shall be settled by means of Credit or Debit Notes or supplementary Invoice as the case may be. In the case of Credit Note, CPCR will either reduce the value of the next available invoice by the amount overpaid or advise the bank to utilize the credit note against the next available invoice. In the case of Debit Note or a Supplementary Invoice, the total amount shall be drawn against this Letter of Credit.

2. The making of any relevant payment to you shall be conditioned upon the submission of the document listed under **Article M.2.8.** above.
3. If payment is not made on due date that is, thirty (30) days after Bill of Lading Date, after presentation of the said document CPCR shall be entitled to payment of interest on the unpaid amount at the rate of two per cent (2%) per annum above the rate at which U.S Dollar deposits. For six months are bid in the Inter-Bank Deposit Market from the first day of default in accordance with the terms of the contract for sale and purchase of Nigerian BLCO / LPFO / LNG / LPG, and the amount shall be charged and drawn against this Letter of Credit.
4. The base price for calculation of Letter of Credit opening amount only is for BLCO / LPFO / LNG / LPG USD U.S. Barrel.

However, should the final price to be invoiced increase above the reference base Price, the amount of this Credit will automatically increase by same proportion without necessity for further specific amendment.

Covering plus/minus five per cent (5%) net U.S. barrels / cubic meter / metric tonnes of BLCO / LPFO / LNG / LPG, FOB at a unit price as per BLCO / LPFO / LNG / LPG Purchase Contract dated and the amendments thereon:

- Charter Party Bills of lading acceptable
 - Documents presented later than twenty-one (21) days after Bills of Lading, provided they are within the validity of this Letter of Credit shall be acceptable for payment.
 - Partial shipments are
 - Transshipments are
 - Any payment falling due on a Saturday or New York Bank Holiday other than Monday shall be made on the preceding business day. Any payment falling due on a Sunday or Monday New York Bank Holiday shall be made on the next succeeding business day.
 - Please advise beneficiary without adding your confirmation.
 - All bank's charges are for client's account.
5. Where the net Bill of Lading volume is greater or less than the five percent (5%) contractual tolerance, payment shall nevertheless be made hereunder based on the actual net Bill of Lading volume. Documents must be presented at the counters of the Bank at: quoting our Ref. not later than Validity of Letter of Credit.....
 6. This Letter of Credit shall take effect in accordance with its terms but such term shall not alter, add to or in any way effect the provisions of the Agreement between CPCR and BUYER to which this Letter of Credit relates.
 7. 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 the parties hereby acknowledge and agree to be bound by the provisions contained therein.

We hereby undertake and guarantee that the original shipping documents as specified under the terms of this credit shall be duly honoured upon presentation. This telex is the operative instrument

and shall not be followed by a written confirmation.

..... BANK

..... Authorised

Signature Date:

CANAF PETRO-CHEMICALS REFINERY™