



## BP Global Oil Americas Marine Provisions



2020 Edition version 1.1

# **BP Global Oil Americas Marine Provisions**

## **2020 Edition**

### **Version 1.1**

This version cancels and supersedes the first edition BP Global Oil Americas Marine Provisions 2020 Edition (the “First Edition Marine Provisions”). Please disregard the First Edition Marine Provisions. Any reference in the Special Provisions to BP Marine Provisions 2020 Edition shall be a reference to this Version 1.1.

## INDEX

Section 1	-	Definitions and Interpretation	Page 1
Section 2	-	Measurement and Sampling; Independent Inspection	Page 2
Section 3	-	Title and Risk of Loss	Page 5
Section 4	-	Laydays and Indicative Discharge Dates	Page 5
Section 5	-	Nomination of Vessels, Rejection, Substitution, etc.	Page 5
Section 6	-	Arrival of Vessel, Berth, etc.	Page 9
Section 7	-	Delays, Time Allowed and Demurrage	Page 11
Section 8	-	Insurance	Page 16
Section 9	-	Charter Party Conditions (Applicable for C-Term Deliveries)	Page 17
Section 10	-	Requirements for Vessels at the Terminal and During Voyage	Page 17
Section 11	-	Payment Documents	Page 20
Appendix A	-	Seller's Letter of Indemnity Format	Page 21

## BP Global Oil Americas Marine Provisions

### Section 1. Definitions and Interpretation

1.1 The following terms shall have the meanings specified below when capitalized throughout the Agreement:

**“Agreement”** means the Special Provisions, any applicable Appendices, the GTCs, and these BP Global Oil Americas Marine Provisions (2020 Edition) (“Marine Provisions”).

**“All Fast”** means that the Vessel is safely secured to the berth and the vessel gangway is in place, if it is to be used.

**“BS&W”** means basic sediment and water.

**“C-Term”** shall, where the terms CFR or CIF (where relevant, and as defined in the GTCs) are used in the Special Provisions, be the generic term used in these Marine Provisions for these delivery modes.

**“D-Term”** shall, where the terms DAP, DDP or DES (where relevant, and as defined in the GTCs) are used in the Special Provisions, be the generic term used in these Marine Provisions for these delivery modes.

**“ETA”** means the estimated time of arrival of a Vessel at a Terminal by the party responsible for the Vessel.

**“Free Pratique”** means clearance granted to a Vessel to proceed into a port after compliance with all relevant health regulations.

**“GTCs”** means the BP Global Oil Americas General Terms and Conditions for Purchases and Sales of Crude Oil, Refined Petroleum, and Related Products (2020 Edition).

**“ICS”** means the International Chamber of Shipping.

**“IMO”** International Maritime Organization.

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

**“Institute Strikes Clauses (Cargo)”** means the most recent publication of the terms and conditions known as Institute Strikes Clauses (Cargo) issued by the Lloyd's Market Association and International Underwriting Association of London.

**“Institute War Clauses (Cargo)”** means the most recent publication of the terms and conditions known as Institute War Clauses (Cargo) issued by the Lloyd's Market Association and International Underwriting Association of London.

**“ISGOTT”** means the most recent edition of the International Safety Guide for Oil Tankers and Terminals.

**“ISPS”** means the International Code for the Security of Ships and of Port Facilities and the relevant amendments to Chapter XI of SOLAS.

**“Laydays”** shall have the meaning given to it in Section 4 of these Marine Provisions (2020 Edition).

**“Laytime”** means: (i) for FOB deliveries, the time allowed to the Seller for loading or, (ii) for D-Term or C-Term deliveries, the time allowed to the Buyer for discharge.

“**Lightering**” means the use of lightering Vessels to discharge from or load cargo to a mother Vessel for further transportation.

“**MTSA**” means the US Maritime Transportation Security Act 2002.

“**Nomination**” means written notice of a proposed Vessel containing all the information required in Section 5.2 herein.

“**NSV**” means net standard volume.

“**OBQ**” means on board quantity.

“**OCIMF**” means Oil Companies International Marine Forum.

“**Q88**” means Intertanko’s Standard Chartering Questionnaire 88.

“**ROB**” means remaining on board.

“**Terminal Party**” shall mean (i) in the case of D-Term or C-Term, the Buyer, or (ii) in the case of FOB, the Seller.

“**VEF**” means vessel experience factor calculated in accordance with standard industry practice.

“**Vessel Party**” shall mean (i) in the case of D-Term or C-Term, the Seller, or (ii) in the case of FOB, the Buyer.

All other capitalized terms used herein but not defined above or within a Section below shall have the meanings given to them in the GTCs. In the event of an inconsistency between the GTCs and these Marine Provisions, these provisions shall prevail for all Vessel deliveries.

## **Section 2. Measurement and Sampling; Independent Inspection**

### 2.1 Performance of Measurement and Sampling Obligation

2.1.1 The Parties shall jointly agree on an independent inspector to perform all Measurements. The Terminal Party shall arrange for access by such inspector to the load/discharge Terminal. All costs associated with a Measurement shall be shared equally between the Parties.

2.1.2 Subject to Sections 2.1.3 and 2.1.4 below, and unless otherwise mutually agreed by the Parties in writing, Measurements shall be carried out in accordance with Approved Industry Practice. The Parties each agree to instruct the inspector to provide Inspector’s Reports to both Parties. In the event the inspector fails to send the Inspector’s Reports to both Parties, the Party receiving the report shall delivery a copy of the report to the other Party on its request.

2.1.3 Quantity shall be measured using, in order of precedence:

(a) In the case of FOB or C-Term deliveries:

(i) proven or U.S. customs approved shore custody meters in the immediate vicinity of the Vessel; or if none;

(ii) shore tank measurements taken immediately before and immediately after loading from shore tanks that are static and which at all times have liquid level above or below the critical zone by a minimum of six (6) inches (except for gasoline or gasoline components stored in tanks at KMI Pasadena, Galena Park or Carteret Terminals, in which case the floating roofs shall be afloat above the critical zone

- by a minimum of two (2) inches) and minimum of one-eighth (1/8) inch above the datum plate; or failing that,
- (iii) the Vessel measurement for the NSV on board at the completion of loading, less any OBO of the Goods present at the time loading commences, corrected by the Vessel's valid load VEF.
- (b) In the case of D-Term deliveries:
- (i) proven or U.S. customs approved shore custody meters in the immediate vicinity of the Vessel; or if none;
  - (ii) shore tank measurements taken immediately before and immediately after discharging to shore tanks that are static and which at all times have liquid level above or below the critical zone by a minimum of six (6) inches (except for gasoline or gasoline components stored in tanks at KMI Pasadena, Galena Park or Carteret Terminals, in which case the floating roofs shall be afloat above the critical zone by a minimum of two (2) inches) and minimum of one-eighth (1/8) inch above the datum plate; or failing that,
  - (iii) the Vessel measurement for the NSV taken immediately before and immediately after delivery less any ROB adjusted by its valid discharge VEF, and if not available, valid load VEF.
- (c) If the difference between the quantity of the Goods loaded or discharged as ascertained in accordance with shore tank measurements and Vessel measurements is greater than zero point three percent (0.3%) then the Seller shall be entitled to apply the quantity as determined by Vessel measurements in accordance with Sections 2.1.3(a)(iii) or 2.1.3(b)(iii) (as applicable) of these Marine Provisions for the purposes of preparing the invoice but without prejudice to the rights of either party to make any claim pursuant to Section 3.2 of the GTCs.
- (d) In the event that the quantity is to be based on static shore tank measurements, or if proven meters are to be used but not located in the immediate vicinity of the Vessel, a full line displacement shall be made under the Inspector's supervision. If the shore and Vessel measured quantity differ more than (i) the tolerance agreed upon by the Parties, or if no agreement, (ii) the tolerance customarily accepted in the industry, a second line displacement shall be ordered to verify that the line is now in full condition following the prior line displacement. Each time a line displacement is performed and the shore line is proved to be "not full", the independent inspector shall include the "not full" quantity as measured to be applied to the overall move in the final report; otherwise, vessel figures with valid load/discharge VEF applied shall be used as determination of the loaded/discharged quantity.

If the performance of the initial line displacement or one of the subsequent line displacements needed to prove the shoreline is full is not permitted by the Terminal, then Vessel figures with valid load VEF applied shall be used as determination of the loaded/discharged quantity.

In case a Party's designated facility does not have the capability to perform a line displacement but has the capability to offer verifiable evidence of line fullness via one of the other API Chapter 17 methods, it is agreed that such alternate method shall be permitted in lieu of line displacement. For good order, it is requested that the alternative method requesting Party's scheduling personnel advise the other's scheduler and the independent inspector that this alternative method for determining line fullness will be used.

2.1.4 Quality shall be measured as follows:

- (a) In the case of FOB or C-Term deliveries, quality shall be determined by (a) the Terminal Party's static shore tank or, if active, (b) inline sampling at the Vessel's manifold at the time of the loading of the Vessel at the load Terminal, or, if not available, then (c) by volumetrically correct composite sampling of the Vessel's tanks at the time of loading.
- (b) In the case of D-Term deliveries by Vessel, quality shall be determined by (a) inline sampling at the Vessel's manifold at the time of the discharging of the Vessel at the discharge Terminal, or, if not available, then (b) by a weighted, volumetric composite of representative samples taken manually from the Vessel's tanks prior to discharge at the discharge Terminal, provided that, where the Buyer is to receive the Goods at more than one (1) Terminal, the samples taken from the Vessel's tanks prior to discharge at the first discharge Terminal shall apply to the Goods discharged at the second and subsequent discharge Terminals, unless Applicable Law requires a sample to be taken from the Vessel's tanks prior to discharge at each discharge Terminal.

2.1.5 The Vessel Party may at its own expense, upon prior reasonable notice to the Terminal Party, require the Terminal Party to use reasonable efforts to allow the Vessel Party's representative to witness any Measurements. However, any delay that results in demurrage due to the Vessel Party's representative presence shall be for the Vessel Party's account.

2.2 Inspector's Reports:

The Inspector's Reports shall be used to prepare invoices hereunder. For invoicing purposes, all volumes shall be net volumes with full deduction for all sediment and water, and free water content shall be made according to Approved Industry Practice and API Standards, and the quantity shall be adjusted to sixty (60) Fahrenheit (or fifteen point six (15.6) degrees Centigrade) using the appropriate table.

2.3 Blending, Dyeing and Addition of Additives:

Without prejudice to Section 3 of the GTCs and unless expressly stated to the contrary in the Special Provisions, when selling FOB or C-Term (and subject always to Section 9.1.5 of these Marine Provisions for C-Term deals), the Seller may: (a) blend Goods; (b) add or inject dye; and/or (c) add additives to the Goods on board the Vessel during and/or after loading but always prior to sailing (each, an "On-Board Operation"), provided always that any delay arising solely out of or in connection with such activity shall be for the Seller's account. In particular, where agreed in the Special Provisions that the specification for the Goods shall be the Vessel composite, the FOB Buyer shall confirm in its Nomination pursuant to Section 5 of these Marine Provisions that the Vessel is fully capable of blending evenly during loading operations. The Seller shall provide, at its own cost, a representative to supervise the On-Board Operation. The FOB Buyer or C-Term Seller, as the charterer of the Vessel, shall direct the Vessel to comply with the FOB Seller or C-Term Buyer's reasonable instructions for the On-Board Operations, and shall otherwise assist the Seller in ensuring the On-Board Operation is done properly. Quality shall be measured by sampling of the Vessel composite after completion of the On-Board Operation.

2.4 Part Cargo Delivered C-Term:

Where delivery is made as an un-segregated part cargo lot to the Buyer and a third party, the quantity determined in accordance with the foregoing shall be adjusted so that, following completion of discharge of the relevant part cargo lots, the Buyer and such third party shall each be allocated a percentage of the total loaded quantity equal to that percentage of the total quantity (determined at each discharge Terminal in the same manner as set out in Section 2.1 of these Marine Provisions) which was discharged at its discharge

Terminal. The costs of such independent inspection shall be shared equally between the parties for their respective discharge Terminals and the Inspector's Report shall be made available to all parties.

**Section 3. Title and Risk of Loss**

- 3.1 In the case of FOB and C-Term deliveries, title to and risk of loss or damage to any Goods delivered shall be transferred from the Seller to the Buyer as the Goods pass the Vessel's permanent manifold connection at the load terminal. For C-Term deliveries, such title and risk of loss transfer shall be notwithstanding the Seller's right to retain the Payment Documents referred in Section 11 of these Marine Provisions until payment.
- 3.2 For D-Term deliveries, title to and risk of loss or damage to any Goods delivered shall be transferred from the Seller to the Buyer as the Goods pass the Vessel's permanent manifold connection at the discharge Terminal.

**Section 4. Laydays and Indicative Discharge Dates**

- 4.1 In the case of FOB or D-Term, the "**Laydays**" are the day or range of days in which the Vessel Party's Vessel must tender NOR at the Terminal pursuant to Section 6.1.2 of these Marine Provisions. The Laydays shall be either specified in the Special Provisions or determined in accordance with the procedure specified in the Special Provisions.
- 4.2 In the case of C-Term, the Seller may expressly or by implication, whether in the Special Provisions or otherwise, provide the Buyer with a date or range of dates for the arrival of the Vessel at the discharge Terminal and/or its performance of discharge operations. The Seller shall provide any such dates in good faith and shall not assume any responsibility for the delivery of the Goods at the discharge Terminal, but unless otherwise expressly stated in writing as a definitive commitment to ensure delivery or arrange for delivery on the specified dates, they are estimates only, not binding commitments, and are also subject to any Force Majeure Event and Section 5.8.1 of these Marine Provisions.

**Section 5. Nominations of Vessels, Rejection, Substitution, etc.**

5.1 Full Cargo and Part Cargo

The Vessel Party may elect to deliver or take delivery (as the case may be) of the Goods as either a full cargo or part cargo, provided that, where there will be a part cargo delivery by more than one (1) Vessel or from more than one (1) Terminal, it shall be subject to the prior agreement of the Terminal Party and the Terminal operator.

5.2 Nomination of Vessels:

5.2.1 The Vessel Party shall nominate in writing to the Terminal Party each Vessel that will load/discharge Goods pursuant to any transaction hereunder. Subject to Section 2.3 of these Marine Provisions, the Vessel Party's Nomination shall include:

- (a) a completed and accurate Q88 or the information that would be required in a completed Q88;
- (b) the grade and approximate quantity to be loaded/discharged;
- (c) the ETA of the Vessel at the load/discharge Terminal;
- (d) the destination of the Vessel prior to its arrival at the load/discharge Terminal;
- (e) full written instructions regarding the particulars and destination of the bills of lading and such other customary load/discharge Terminal documentation which may be required;



- (f) full details of any cargo on board or to be loaded/discharged if part cargo;
- (g) confirmation that the Vessel complies with the applicable requirements of Section 10 of these Marine Provisions; and
- (h) for C-Term deliveries, in the case of any sales afloat, whereby the Goods have been or will be laden onboard (which shall include storage, and any intervening transshipment as well as by way of carriage) more than one Vessel, the name of each such Vessel, date built and flag.

5.2.2 In the case of FOB or D-Term deliveries, the Vessel Party shall deliver its Nomination to the Terminal Party no later than the fifth (5<sup>th</sup>) day prior to the first day of the Laydays. In the case of C-Term deliveries, the Vessel Party shall deliver its Nomination to the Terminal Party no later than the fifth (5<sup>th</sup>) day prior to the first day of the load window.

Notwithstanding the foregoing, if the Terminal Party receives the Vessel Party's Nomination after such fifth (5<sup>th</sup>) day and the Terminal Party accepts such Nomination pursuant to Section 5.4 of these Marine Provisions, such Nomination shall be deemed effective. In the event the Agreement is entered into five (5) or fewer days prior to the first day of the Laydays, the Vessel Party's Nomination must be received by the Terminal Party no fewer than two (2) days prior to the first day of the Laydays or as soon as practically possible.

### 5.3 Vessel Substitution:

The Vessel Party may nominate a substitute Vessel for any Vessel previously nominated pursuant to Section 5.2 of these Marine Provisions and must nominate a substitute Vessel for any Vessel rejected by the Terminal Party pursuant to Section 5.4 of these Marine Provisions. With respect to any such substitution:

- 5.3.1 the size of the substitute Vessel and the quantity of Goods to be loaded shall not, without the Terminal Party's prior written consent, materially differ from the size of the Vessel previously nominated and the quantity of Goods specified in such prior Nomination;
- 5.3.2 the Laydays which would have applied in respect of the Vessel Party's originally nominated Vessel shall apply to the substitute Vessel; and
- 5.3.3 the Vessel Party shall provide the Terminal Party with written notice of the substitution containing all information pursuant to Section 5.2 of these Marine Provisions by the earlier of: (a) one (1) Business Day following the Buyer's fixing of such Vessel "sub-details"; or (b) the ETA of the substitute Vessel.

### 5.4 Acceptance or Rejection of Vessels and Consequences of Rejection:

- 5.4.1 The Terminal Party shall deliver written notice to the Vessel Party accepting or rejecting any Vessel nominated by the Vessel Party within one (1) Business Day of the Terminal Party's receipt of the Vessel Party's Nomination.

In the event of D-Term deliveries, the Terminal Party shall also notify the Vessel Party of the final discharge Terminal, if not already specified in the Special Provisions. The Vessel Party must accept or reject the final discharge Terminal within one (1) Business Day after receiving the Terminal Party's notice, such acceptance not to be unreasonably withheld. No change to the final discharge Terminal so nominated or specified shall be made without the Vessel Party's prior written acceptance which shall not be unreasonably withheld and subject always to the provisions of Sections 5.8.1 and 5.8.2 of these Marine Provisions. If the Special Provisions provide a range within which a discharge Terminal or ports may be nominated by the Terminal Party, the Vessel Party's acceptance of each discharge Terminal or port shall be required in writing within one (1) Business Day after any valid nomination, such acceptance not to be unreasonably withheld.

All costs (including demurrage) arising out of any failure by the Terminal Party to comply with this

Section shall be for the Terminal Party's account.

5.4.2 Notwithstanding anything to the contrary, the Terminal Party shall have the right:

- (a) to reject, on any reasonable ground, any Nomination made by the Vessel Party, including where the Terminal Party determines that the Vessel is unacceptable under the Terminal Party's documented vessel assurance requirements;
- (b) to refuse, on any reasonable ground, to load or accept for discharge any Vessel named in a Nomination;
- (c) to reject a Vessel, notwithstanding any prior acceptance of such Vessel (whether named in the Special Provisions or nominated or substituted pursuant to Sections 5.2 or 5.3 of these Marine Provisions), if, at any time after such prior acceptance, more recent information becomes available to the Terminal Party that reasonably indicates that the Vessel and/or its crew is unsafe for the performance of the voyage in question.

5.4.3 In the event a rejection, delay, or other restriction of the Vessel occurs as a direct result of the application of any Applicable Law, the requirements of this Section 5, or the applicable requirements of Section 10 of these Marine Provisions:

- (a) the Terminal Party shall not be liable for the consequences of such rejection, delay or restriction, and any time consumed as a result thereof shall not count as used Laytime or, if the Vessel is on demurrage, as time on demurrage;
- (b) the Terminal Party shall be liable for any direct costs or damages incurred by the Vessel Party: (i) arising out of any such rejection, delay or restriction; and/or (ii) resulting from any delays in loading/discharging the Goods hereunder due to the failure by the Terminal Party to comply with the requirements of this Section 5 in a timely manner; and
- (c) the Vessel Party's obligations under the Agreement to nominate a suitable Vessel in accordance with Section 5.2 of these Marine Provisions and to ensure that it tenders NOR at the load/discharge Terminal in accordance with Section 6.1.2 of these Marine Provisions shall be unaffected.

5.5 Vessel Requirements:

5.5.1 The Vessel shall comply with:

- (a) Applicable Law; and
- (b) the applicable requirements set out in Section 10 of these Marine Provisions.

5.5.2 The Terminal Party shall provide all information regarding restrictions at the Terminal and such other Terminal regulations or requirements that are readily available to it, upon the Vessel Party's request.

5.6 Changes in Procedures:

Without prejudice to the Vessel Party's rights and obligations as set out in Section 6.2 of these Marine Provisions, and upon prior written notice from the Terminal Party to the Vessel Party, the Terminal Party may modify terms agreed to between the Parties pursuant to this Section 5 to take account of changes in the Nomination and/or other procedures applicable from time to time at the Terminal.

5.7 Prompt Delivery:

If the date of the Agreement is later than any of the dates for notifications, Nominations, procedures and/or any other obligations specified in the Special Provisions or these Marine Provisions, then both Parties shall use best efforts to complete, within two (2) Business Days of the date of the Agreement, any outstanding time limited requirements, notifications, Nominations, procedures and/or any other obligations which would have preceded the date of the Agreement.

5.8 Discharge Terminal/Alternative Discharge Terminal:

5.8.1 The Vessel Party reserves the right to refuse at any time:

- (a) to direct any Vessel to undertake or to complete the voyage to the discharge Terminal or to transit, proceed to, or remain in, areas where this would mean the Vessel concerned would breach any International Navigating Limits (as set by the Institute of Chartered Underwriters, London), similar insurance restrictions or contractual warranties or, in the Vessel master's opinion, risk the safety of the Vessel, its cargo or crew or to risk ice damage;
- (b) to transit, or proceed to, or remain in, areas where there is a war (de facto or de jure) or there thereof; or
- (c) to undertake any activity in furtherance of the voyage which in the opinion of the Vessel's master could place the Vessel, its cargo or crew at risk.

Following the Vessel Party's notice to the Terminal Party of its refusal to direct a Vessel to undertake or to complete the voyage as referred in this Section 5.8, the Terminal Party shall nominate an alternative Terminal reasonably acceptable to the Vessel Party. In this event, any extra freight, expenses, demurrage and dues incurred as a result of such change and damages payable to the Vessel owner as a result, shall be paid for by the Terminal Party. Where the Terminal Party fails to nominate an alternative discharge Terminal reasonably acceptable to the Vessel Party, the Terminal Party shall cover all additional costs incurred by the Vessel Party as a result of the Vessel not being able to complete the voyage as intended.

5.8.2 In the case of D-Term or C-Term deliveries, unless otherwise negotiated by the Parties, where the Terminal Party exercises any discharge Terminal options in accordance with the Special Provisions that are available to the Vessel Party under the terms of the relevant charterparty:

- (a) The price stated in the Special Provisions shall be adjusted by the freight differential calculated in accordance with such charterparty terms or, if the Vessel has not been voyage chartered, such rate as shall be mutually agreed between the Parties in respect of such discharge Terminal. Any delays arising out of the failure of the Parties to agree shall be for the Terminal Party's account.
- (b) The Terminal Party shall be liable for any reasonable additional costs incurred by the Vessel Party, including but not limited to, deviation costs and costs in respect of any additional bunker consumption.

5.9 Loaded Details for C-Term deliveries:

As soon as possible after loading has been completed, the Seller shall notify the Buyer of the actual quantity loaded and, if requested by the Buyer, the latest ETA of the Vessel at the discharge Terminal.

**Section 6. Arrival of Vessel, Berth, etc.**

6.1 Arrival of Vessel:

- 6.1.1 The Vessel Party shall notify the Terminal Party and the Terminal of the Vessel's ETA on request of the Terminal Party, and otherwise in accordance with the standard reporting procedure applicable from time to time at the Terminal. If the Vessel Party fails, for any reason, to give at least twenty-four (24) hours' prior notice of arrival at the Terminal, the time allowed to the Terminal Party for load or discharge shall be extended by a period equal to the delay in giving such twenty-four (24) hours' notice, but in any case, not exceeding an additional twenty-four (24) hours.
- 6.1.2 In the case of FOB or D-Term deliveries, the Vessel Party shall ensure that NOR has been tendered by no later than 2400 hours (local time) on the last day of the Laydays. If the Vessel Party fails to tender NOR by such time, the Terminal Party shall be entitled to recover from the Vessel Party any damages available to the Terminal Party under the Agreement or at law as a result of such failure and, in addition to such damages, where:
- (a) subject to Section 6.1.2 (b) of these Marine Provisions, NOR has not been tendered within five (5) days of the last day of the Laydays, the Terminal Party shall be entitled to terminate this Agreement upon notice to the Vessel Party; or
  - (b) the Goods are crude oil and NOR has not been tendered within ten (10) days of the last day of the Laydays, the Terminal Party shall be entitled to terminate this Agreement immediately upon written notice to the Vessel Party.
- 6.1.3 After receipt of NOR, and subject to the requirements and procedures of the Terminal, both Parties shall perform their obligations to commence and complete loading or discharge in a commercially reasonable manner.

6.2 Vessel Berths:

- 6.2.1 Subject to compliance by the Vessel Party and its nominated Vessel with all other requirements of the Terminal at the time in question, the Terminal Party shall use due diligence to provide a safe berth, free of wharfage for a normal cargo transfer.
- 6.2.2 The Terminal Party shall at all material times and at no expense to the Vessel Party cause to be provided and maintained, in good working order, all necessary flexible hoses, connections, pipelines and tankage facilities necessary for the loading or discharge of the Vessel Party's Vessel.
- 6.2.3 In the case of FOB deliveries, the Terminal Party shall not be deemed to warrant the safety of any channel, fairway, anchorage, or other waterway used in approaching or departing from the berth and shall not be liable for:
- (a) any loss, damage, injury, or delay to the Vessel resulting from the use of such waterways; or
  - (b) any damage to the Vessel caused by other vessels passing in the waterway either while in transit or while at the berth.

If, while the Vessel nominated by the Vessel Party is approaching, entering or departing from or is present in the berth, the length, draft or other dimensions of such Vessel shall exceed the length, draft or other dimensions so ascertained for the berth in question for whatever reason, the Terminal Party shall not be liable for any loss or damage caused as a result thereof and the Terminal Party shall not be obligated to commence or continue loading.

6.2.4 In the case of D-Term or C-Term deliveries, notwithstanding the Terminal Party's obligations under Sections 6.2.1 and 6.2.2 of these Marine Provisions, where the Terminal Party has purchased the Goods on board a named Vessel, the Vessel Party represents to the Terminal Party and warrants that the named Vessel can safely berth and discharge the contractual quantity of Goods at the Terminal regardless of whether the contractual quantity is a full cargo or part cargo and irrespective of the port scheduling the Vessel. Failure to comply with this term shall entitle the Terminal Party to refuse to berth the named Vessel. Any costs, including demurrage, incurred by the Vessel Party in providing a substitute Vessel, or any Lightering and/or transshipping the Goods at the Terminal (which shall be done in accordance with Section 6.4 of these Marine Provisions), shall be for the Vessel Party's account.

6.2.5 Vacation of berth for FOB deliveries:

- (a) The Vessel Party shall ensure that the Vessel vacates the berth as soon as loading hoses have been disconnected, provided that such Vessel's departure is not delayed awaiting production of load Terminal documents, unless such documents can be delivered to the Vessel at a suitable anchorage or an early departure procedure can be applied.
- (b) If the Vessel fails to vacate the berth, other than reasons attributable to the Terminal Party, its supplier or the Terminal operator:
  - (i) any loss or damage suffered by the Terminal Party, its supplier or receiver, as applicable, or the Terminal operator resulting from such failure shall be paid by the Vessel Party to the Terminal Party; and
  - (ii) any excess berth utilization charge imposed on the Terminal Party in respect of the Vessel Party's Vessel at the Terminal in accordance with either Applicable Law or a contractually agreed or other established scale, shall be for the account of the Vessel Party who shall reimburse and indemnify the Terminal Party for such charges.

6.3 Vessel Shifting:

The Terminal Party shall have the right to request the Vessel to shift from one berth to another. All costs, including damages for delay, shall be paid by and the sole responsibility of the Vessel Party if such shifting is due to reasons within the Vessel Party's control and/or the Vessel's fault and otherwise shall be paid by and the sole responsibility of the Terminal Party. If the Vessel's master determines that a stand-by-tug is required for assistance, and tug assistance is not required by the Terminal, all resulting delays or charges for tug assistance shall be for the Vessel Party's account.

6.4 Lightering, Vessel-to-Vessel and Transshipment Transfer Operations:

6.4.1 Either Party may, upon prior written notice to the other Party, request that the Vessel nominated pursuant to Section 5 of these Marine Provisions be loaded or discharged by Lightering, Vessel-to-Vessel, or transshipment transfer operations, provided always that the requesting Party shall be responsible for the risk thereof and shall pay and indemnify the other Party for any costs, damage and liabilities resulting from such operations (together with any additional expenses reasonably incurred by the non-requesting Party in respect thereof). The non-requesting Party may reject any Vessel proposed by the requesting Party to perform these operations on any basis as may be set out in Section 5.4.2 of these Marine Provisions which shall be equally applicable to this Section 6.4.1, save that references in that Section 5.4.2 of these Marine Provisions to "Vessel Party" shall refer to "requesting Party", "Terminal Party" shall refer to "non-requesting Party" and "Nomination" shall refer to a request for Lightering, Vessel-to-Vessel, or transshipment transfer operations.

6.4.2 Any Lightering, Vessel-to-Vessel transfer operations, or transshipment shall be carried out in accordance with the procedures set out in the ICS/OCIMF ship-to-ship transfer guide and MARPOL

Annex I as amended by Resolution MEPC.186 (59), Chapter 8: Prevention of Pollution during Transfer of Oil Cargo between Oil Tankers at Sea, Regulations 40, 41, 42 for the transfer of Crude Oil and Petroleum Products or any modifications thereto. Any Lightering, Vessel-to-Vessel, or transshipment transfer operations, whether at sea or inside the load/discharge Terminal limits, shall always be performed at a location considered safe and acceptable to both the owner of the Vessel nominated pursuant to Section 5 of these Marine Provisions and the non-requesting Party, and the requesting Party must notify the place of Lightering, Vessel-to-Vessel or transshipment transfer operation to the Vessel nominated pursuant to Section 5 and the non-requesting Party when NOR is tendered. The place of Lightering, Vessel-to-Vessel or transshipment transfer operation so notified shall be deemed to be the berth for purposes of both this Section 6 and Section 7 of these Marine Provisions, and all references therein to the berth shall be construed according.

- 6.4.3 To the extent the Terminal Party elects to discharge the Vessel by Lightering, Vessel-to-Vessel or transshipment transfer operations pursuant to this Section 6.4, all time used for any such operations, weather and/or sea conditions permitting or not (excluding any time consumed for the purposes set out in Section 7.4 of these Marine Provisions), and any additional steaming and/or waiting time used solely for the purposes of any such operations shall be for the Terminal Party's account. Lightering Laytime shall end when the Vessels have separated and the fenders have been removed.
  - 6.4.4 In relation to any dispute as to quantity when Lightering, Vessel-to-Vessel or transshipment operations have been undertaken, the figures of the Vessel nominated pursuant to Section 5 of these Marine Provisions shall prevail.
  - 6.4.5 Notwithstanding any language in the GTCs incorporated into this Agreement, any language limiting liability shall not be applicable to this Section 6.
- 6.5 Fees and Other Charges at the Terminal:
- 6.5.1 The Vessel Party shall be liable for all dockage and service fees on the Vessel incurred at the Terminal, including those for mooring, tugs, pilots, port costs (including fleeting and quay), fresh water, steam, and oily slops receipts, but excluding, for the avoidance of doubt, any taxes, imposts and dues on the Vessel at the Terminal which are more fully referred to in, and recoverable under, tax section in the GTCs.  
  
However, if dockage or other service fees are specified by Worldscale as being reimbursable by the charterer to the Vessel owner, then such costs shall be for the Terminal Party's account.
  - 6.5.2 Any claims by a Party for reimbursement hereof by the other Party must be made by written notice delivered to the Vessel Party within one hundred and eighty (180) days of the date of discharge and shall be accompanied supporting documentation and reasonable details of the facts on which the claim is based. Any claim submitted after the relevant notice period is deemed waived.

## **Section 7. Delays, Time Allowed and Demurrage**

### **7.1 Delays and Demurrage:**

If the shipment is not loaded/discharged within the time allowed in accordance with Section 7.2 of these Marine Provisions, the Terminal Party shall pay to the Vessel Party demurrage, in the same currency as is prescribed for payment of the Goods delivered under the Agreement, in respect of the excess time at the appropriate rate per day (or pro rata for part of a day) as specified in this Section, subject to Sections 5.4.3, 7.2, 7.3, 7.4 and the following conditions:

- 7.1.1 The Terminal Party shall pay demurrage at the rate specified below for each running hour and pro rata for each part of an hour, for all time that running Laytime (as calculated pursuant to Section 7.3 of these Marine Provisions) exceeds the allowed Laytime. Should the Vessel be loaded/discharged for the account of two (2) or more parties at a single Terminal, the Terminal Party shall be liable

only for its pro rata share of demurrage incurred at the Terminal based on the part cargo loaded or discharged for the Terminal Party's account at a Terminal as a percentage of total gross volume of cargo loaded or discharged at that Terminal. However, if the supporting documentation such as bill of lading, time sheets, or inspections reports allows the parties to identify each and every counterparty's parcel, the Terminal Party shall not be liable for any portion of Laytime used, or any demurrage incurred, solely attributable to the other party. Conversely, any used Laytime from commencement of loading/discharge to completion of loading/discharge solely attributable to the Terminal Party, the used Laytime, or any demurrage incurred, shall be charged to the Terminal Party exclusively. It is understood that used Laytime is continuous from start to end. All used Laytime not specifically attributable to one (1) Party is to be prorated to each counterparty. Furthermore, any time used prior to the commencement of loading/discharge or after completion of loading/discharge that can be clearly determined to be the fault of a specific party shall be for the account of the responsible party.

7.1.2 The demurrage rate shall be, in order of precedence:

- (a) the rate, if any, specified in the Special Provisions;
- (b) the demurrage rate or overtime rate, if applicable, specified in the voyage charterparty; or if neither (a) nor (b) apply, then
  - (i) for Inland Barges, the daily hire rate of the Inland Barge on the date the Laytime commences;
  - (ii) for Tanker or Ocean-Going Barge, the market rate current on the date the Laytime commences for a Vessel of the size and type appropriate to the Vessel's cargo for a single voyage charter from the load Terminal to the Buyer's discharge Terminal. In determining the market rate:
    - (1) each Party shall refer to an independent broker;
    - (2) each independent broker shall give a written opinion about the spot market level on the day such Vessel berthed, and the rate used shall be based on the arithmetic mean of the two (2) levels, provided the two (2) levels do not differ by more than twenty (20) percent;
    - (3) in the event the two (2) levels specified by the independent brokers differ by more than twenty (20) percent, each Party shall refer the matter to another broker who shall each give a written opinion on the spot market level, using a rate based on the arithmetic mean of the two (2) new levels, provided these levels do not differ more than twenty (20) percent; and
    - (4) in the event the levels in (3) differ more than twenty (20) percent, the arithmetic mean of the middle two (2) of the four (4) specified shall be used.

7.1.3 Any demurrage claim must be delivered in writing (a) by the Vessel Party to the Terminal Party within ninety (90) days of the date of disconnection of hoses, and (b) must include a statement of claim setting out the demurrage calculation and all supporting documentation substantiating each constituent part of the calculation in respect of the demurrage claim. For transactions conducted by Inland Barges, the time of NOR is deemed to be the time NOR tender is noted in the Vessel's statement of facts and/or time logs, and a signed and stamped NOR shall not be required for the review or issuance of demurrage claims. In the event the Vessel Party fails to comply with the requirements (a) and (b) above with respect to any demurrage claim, such claim shall be deemed to be waived and the Terminal Party shall be discharged and released from all liability in respect of

any demurrage claims which the Vessel Party may have against the Terminal Party under this Section with respect to such occurrence.

7.2 Allowed Laytime:

7.2.1 Laytime shall be:

- (a) In the case of a Tanker:
  - (i) thirty-six (36) running hours for full cargo;
  - (ii) in the event of a partial loading/discharging of the Goods under the Agreement, thirty-six (36) hours allocated pro rata by dividing the actual quantity of the Goods delivered to the Buyer by the Tanker's full cargo volume for the voyage as determined either: (1) by the bills of lading for such voyage or, if not available; (2) the total NSV loaded/discharged, provided that, in either cases, Laytime shall never be less than twelve (12) hours; and
  - (iii) if for any reason, other than safety, the Tanker is required to discharge the Goods separately, the Party requiring separate discharge shall be responsible for Laytime, or demurrage, if on demurrage.
- (b) In the case of Ocean-Going Barge, where the total cargo volume is:
  - (i) 24,999 barrels or fewer: twelve (12) hours;
  - (ii) between 25,000 to and including 49,999 barrels: fourteen (14) hours;
  - (iii) between 50,000 to and including 74,999 barrels: sixteen (16) hours;
  - (iv) between 75,000 to and including 99,999 barrels: eighteen (18) hours;
  - (v) between 100,000 to and including 124,999 barrels: twenty (20) hours;
  - (vi) between 125,000 to and including 149,999 barrels: twenty-two (22) hours;
  - (vii) 150,000 barrels or greater: twenty-four (24) hours; and
  - (viii) in the event an Ocean-Going Barge is loaded/discharged for the account of two (2) or more parties at the same berth, the Laytime allowed shall be based on this subsection (b) and allocated pro rata by dividing the actual quantity of the Goods delivered to the Buyer by the Ocean-Going Barge's full cargo volume for the voyage as determined either: (1) by the bills of lading for such voyage or, if not available; (2) the total NSV loaded/discharged, provided that, in either case and in any event, Laytime allowance shall never be less than twelve (12) hours.
- (c) In the case of Inland Barges, where the Goods comprise a cargo of 25,000 barrels or greater, Laytime shall be three (3) hours plus such an amount based either: (i) on the applicable charter party terms, or, in the absence thereof; (ii) one hour for each 3,000 barrels loaded and 2,500 barrels discharged, provided that, in either case, Laytime shall never be less than twelve (12) hours.

7.2.2 All days, including all holidays, shall be included in such allowed Laytime unless loading/discharging on the day or holiday in question is prohibited by Applicable Law.



## 7.3 Running Laytime Hours:

- 7.3.1 In the case of C-Term deliveries, running Laytime shall commence (berth or no berth) six (6) hours after a valid NOR is tendered at the discharge Terminal or when the Vessel is All Fast, whichever is the earlier. Notwithstanding the foregoing, in the event the cargo documents are not on board the Vessel within three (3) hours of the commencement of the running Laytime, the running Laytime shall be suspended and the running Laytime will not resume until the cargo documents are on board the Vessel.
- 7.3.2 In the case of FOB and D-Term deliveries, subject to Sections 7.3.4 and 7.3.8 of these Marine Provisions, when a Tanker or Ocean-Going Barge tenders a valid NOR:
- (a) within the Laydays, running Laytime shall commence (berth or no berth) as of the earlier of: (i) six (6) hours after the Terminal Party's receipt of NOR; or when such Tanker or Ocean-Going Barge is All Fast;
  - (b) earlier than the Laydays, running Laytime shall commence as of the earlier of: (i) 0600 hours local time on the first day of the specified Laydays; or (ii) when such Tanker or Ocean-Going Barge is All Fast; or
  - (c) after the last day of the Laydays and is accepted for loading or discharge by the Terminal Party in its sole and absolute discretion, then, without prejudice to any of the Terminal Party's other rights, running Laytime shall commence when such Tanker or Ocean-Going Barge is All Fast.
- 7.3.3 In the case of FOB and D-Term deliveries, subject to Sections 7.3.4 and 7.3.8 of these Marine Provisions, when an Inland Barge tenders NOR:
- (a) within the Laydays, running Laytime shall commence upon tendering of NOR;
  - (b) earlier than the Laydays, running Laytime shall commence as of the earlier of: (i) 0001 hours on the first day of the Laydays; or (ii) when the Inland Barge is All Fast; or
  - (c) after the last day of the Laydays and is accepted for loading or discharge the Terminal Party in its sole and absolute discretion, then, without prejudice to any of the Terminal Party's other rights, running Laytime shall commence only when the Inland Barge is all fast.
- 7.3.4 When a Vessel is loaded or discharged at a Public Dock, any delay caused solely by berth congestion shall not count as used Laytime. **"Public Dock"** for the purposes of this Section means any marine terminal facility for handling cargo to or from Vessels requiring a wharf, dock, quay or buoy, that is (i) not operated by the Terminal Party or any of its Affiliates, and (ii) which berths Vessels on a first come, first served basis, subject to dock availability. Any modification to this Section in the Special Provisions shall be subject Section 7.3.2(c) and 7.3.3(c) of these Marine Provisions.
- 7.3.5 For purposes of calculating running Laytime, running Laytime shall end when the Vessel's cargo hoses are disconnected. However, if the Vessel is detained at the load Terminal for more than three (3) hours after the final disconnection of cargo hoses solely for the purposes of awaiting cargo documents, Laytime, or demurrage, if the Vessel is on demurrage, shall recommence after such period of three (3) hours and terminate when cargo documents are on board the Vessel.
- 7.3.6 After NOR has been tendered and Laytime has commenced, any delay arising from a Force Majeure Event, subject to Section 7.4 of these Marine Provisions, shall count as one half running Laytime or, if the Vessel is on demurrage, as one half the time on demurrage, provided that:
- (a) neither Section 8.4 of the GTCs with regard to the giving of notices only, nor Section 8.5 of the GTCs in its entirety shall apply to this Section 7.3.6.

- (b) if the Force Majeure Event continues for a period of fifteen (15) days or more, any such delay beyond fifteen (15) days shall count as full running Laytime or, if the Vessel is on demurrage, as full time on demurrage.

7.3.7 Running Laytime or time on demurrage shall be reduced by one-half if the delay is caused by any action, inaction, additional inspections, or special or additional security measures required by a relevant authority, pilots (excluding those described in Section 7.4.3 of these Marine Provisions), coast guard or other security agency over which neither Party has control.

7.3.8 All time used for extra sampling and analysis to determine the quality of the Goods will be for the account of the Party requesting the extra tests, provided however that, if the Goods prove to be off specification, the Seller shall be liable for all costs, including running Laytime or demurrage, related to the extra sampling and analysis.

7.3.9 Mississippi River Ports: A Vessel arriving from sea or the inland waterway and destined for Mississippi ports shall tender its NOR upon arrival at the Terminal or nearest customary anchorage or waiting place for the Terminal. The customary anchorages for selected ports are as follows:

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

7.4 Laytime Exceptions:

In addition to any deductions from running Laytime noted elsewhere in these provisions, any time consumed due to, but not limited to, any of the following situations shall not count as Laytime or as time on demurrage, if Vessel is on demurrage:

7.4.1 on inward passage, from the time the Vessel passes the customary point of entry into the Terminal until it is All Fast at berth, or from the time the Vessel passes the customary point of entry into the Terminal until the Vessel is secure at anchorage and from the time the Vessel weighs anchor until it is All Fast at berth;

7.4.2 time awaiting Free Pratique, except if concurrent with cargo-related operations or customarily given after All Fast;

7.4.3 time awaiting pilots, tugs, tides or daylight (if daylight berthing only restriction is in place), provided however that the Terminal Party shall only be entitled to deduct time awaiting one tide and/or one wait for daylight immediately preceding berthing. If during this waiting period the dock or berth is not available, the exclusions for waiting pilots, tugs, tide or daylight shall not apply;

7.4.4 restrictions imposed by the owner, charterer, or master of the Vessel;

7.4.5 discharging slops; internal stripping or crude oil washing; cleaning and inspection of the Vessel's tanks, pumps, pipelines (but excluding any time spent on inspection of the Goods themselves pursuant to Section 2 of these Marine Provisions); ballasting or de-ballasting; bunkering; or for these and any other purposes of the Vessel unless such operations are performed concurrent with cargo operations and do not delay cargo operations;

- 7.4.6 overflow, breakdown, inefficiency, repairs or other conditions whatsoever attributable to the Vessel, master, officers, crew, owners, the Vessel Party or their representatives, employees or agents, including any inability to load or discharge the Goods expeditiously;
- 7.4.7 the Vessel's failure to comply with the requirements of the Terminal in respect to equipment aboard or any other matter causing delay or restriction of cargo operations;
- 7.4.8 the Vessel's failure to have the required certificate of financial responsibility, or failure to be in compliance with Applicable Law (or hold the necessary waiver if not in compliance), or failure to have any other required documentation;
- 7.4.9 delay or suspension of cargo operations by the Terminal Party because of the Vessel or Vessel Party's failure to comply with the requirements of the Agreement relating to payment;
- 7.4.10 escape or discharge of Goods or the threat of an escape or discharge of Goods on or from the Vessel;
- 7.4.11 fire or explosion on the Vessel, labor dispute, strike, go slow, work to rule, lockout, stoppage or restraint of labor involving the master, officers or crew of the Vessel or tugboats or pilots; and
- 7.4.12 any other delay solely for the Vessel Party or the Vessel's purpose.

**Section 8. Insurance**

- 8.1 For CIF deliveries, the Seller shall procure and pay for insurance against marine risks to the full value of the Goods plus ten percent (10%). Such insurance, which shall operate from the time the Goods pass the Vessel's permanent hose connection at the load Terminal until the time the Goods pass the Vessel's permanent hose connection at the discharge Terminal, shall be in accordance with the provisions of a Marine Cargo Insurance Policy subject to Institute Bulk Oil Clauses 1/1983, or at the Seller's option, Institute Cargo Clauses (A), and the benefit thereof shall accrue to the Buyer upon the passing of risk in the Cargo as provided for in the Agreement.

The Seller is not obligated to procure insurance against war, strikes, riots, or civil commotions in respect of the delivery of the Goods hereunder, save where the Seller shall, by written notice actually received by it at least two (2) Business Days prior to the commencement of loading, have been requested by the Buyer to procure such insurance. Where, upon request as aforesaid, the Seller procures such insurance, it shall be subject to the Institute War Clauses (Cargo) and Institute Strikes Clauses (Cargo) current on the date of sailing of the Vessel and the actual premium payable at the current New York Market rate for the voyage to be performed shall be charged to, and be recoverable from, the Buyer by the Seller as an addition to the purchase price in the Agreement under the Special Provisions and such addition shall then form part of such purchase price. If requested by the Buyer, the Seller shall provide the Buyer with the original certificate of insurance or broker's cover note.

- 8.2 Additional Vessel Insurance, etc.:

- 8.2.1 If the CIF Seller determines that additional insurance or war risk insurance premiums are necessary in excess of those in place as at the date of the Agreement for the Vessel's P&I, hull and machinery, and/or Goods during the voyage to the discharge Terminal or while on any seas through which the Vessel has to travel in performance of the Agreement, the Seller will obtain quotes for such additional insurance or premiums and provide the Buyer with the Seller's recommendation to obtain such additional insurance or pay such additional premiums and the quotes obtained by the Seller for same. The Buyer shall then determine, at its sole discretion, whether the Seller should obtain such additional insurance or pay such additional premiums. If the Seller, at the Buyer's instruction, incurs such additional insurance or pays such additional premiums, the cost of such additional insurance and/or additional premiums shall be paid by the Buyer to the Seller in addition to the price payable

pursuant to the Agreement. The Buyer and the Seller shall mutually agree on the invoicing procedures for amounts payable pursuant to this paragraph.

- 8.2.2 If the CIF Seller in its sole discretion agrees to direct a Vessel to undertake or complete the voyage under any circumstances listed in Section 5.8.1 of these Marine Provisions, the Buyer shall reimburse the Seller, in addition to the price payable under the Agreement, for costs incurred by the Seller in respect of any additional insurance premium and any other sums that the Seller may be required to pay to the Vessel's owner, including any sums in respect of any amounts deductible under such owner's insurance and any other costs and/or expenses incurred by the Seller.

**Section 9. Charterparty Conditions (Applicable for C-Term Deliveries)**

- 9.1 The contract of carriage shall contain the following conditions:
- 9.1.1 the amounts due under the charterparty or other contract of carriage shall be directly paid by the Seller;
  - 9.1.2 that Vessel pumping off expenses shall be included in freight, or if not, at no additional cost to the Buyer;
  - 9.1.3 that the charterparty shall include an alternative discharge port should the nominated discharge port become illegal for any involved party due to trade sanctions, legislation, or executive pronouncement; or if not included, another safe port may be nominated by the Buyer, always subject to the Seller's reasonable acceptance and in that instance, all expenses including additional freight and deviation for such shall be for the Buyer's account;
  - 9.1.4 that discharge (i) without presentation of the bill of lading, (ii) of different quantity to that stipulated in the bill of lading, and/or (iii) at a different place or to a party other set out in the bill of lading (as relevant) is allowed under a letter of indemnity from the Seller to the Vessel owner in the event that the Buyer, by written instruction, specifically requests such discharge, and where the Seller procures the discharge of the Goods in accordance with the Buyer's written instructions, then the Buyer shall indemnify and hold the Seller harmless against any liability, loss, damage or expense (including legal costs as between attorney and client as associated expenses) which the Seller may sustain by reason of delivery or procuring the delivery of the Goods in accordance with the Buyer's instructions. The Buyer shall issue a letter of indemnity to the Seller countersigned by a first-class international bank if so required by the Seller; and
  - 9.1.5 that the following operations after completion of loading are allowed in the charterparty, or otherwise agreed to: blending, breach of natural segregation, the addition of additives (other than dye), on board blending, the carriage of additives or dye on deck, or other reasonable and similar requests. The above operations are always subject to vessel design, safe circumstances, and the master's discretion; and only will be attempted after the receipt of a letter of indemnity in the Vessel owner's wording issued from the Buyer to the Seller. Additional costs caused, if any, are for the Buyer's account.
- 9.2 Any indemnity given by the Buyer to the Seller pursuant to this Section shall not be subject to the provisions of Section 9 of the GTCs.
- 9.3 Save as otherwise set forth herein, and without limiting the Buyer's obligations under this Section, the Seller shall be responsible for paying any freight and/or demurrage due to the Vessel owner.

**Section 10. Requirements for Vessels at the Terminal and, Where Applicable, During the Vessel's Voyage**

- 10.1 Requirements in respect of Vessels at the Terminal:

10.1.1 If any Vessel does not meet any of the requirements of this Section 10, the Terminal Party may refuse to berth, load or discharge, or continue loading or discharging such vessel.

10.2 Vessel Responsibility:

10.2.1 For Tankers, Vessel Party shall ensure that the Vessel has full and valid Protection and Indemnity (“P&I”) insurance coverage and valid pollution liability insurance with a P&I Club that is a member of the International Group of P&I Clubs. The P&I insurance coverage shall be at no additional cost to the Terminal Party and must include coverage against liability for loss and damage to the Goods, pollution and wreck removal.

10.2.2 For Inland Barges, the Vessel Party shall ensure that the Inland Barge has insurance coverage for liability for loss and damage to the Goods and pollution coverage with a limit not less than \$200,000,000 USD. Nothing contained herein shall limit or waive the Vessel owner’s legal or contractual responsibility to the charterer.

10.3 ISPS Code:

10.3.1 The Vessel Party shall procure that the Vessel shall comply with the requirements of the ISPS Code and if located within the USA and U.S. territories or waters, with the MTSA.

10.3.2 The Vessel shall, when required, submit a Declaration of Security to the Terminal when requested to do so.

10.3.3 Notwithstanding any prior acceptance of the Vessel by the Terminal Party, if at any time prior to the arrival of the Vessel at the Terminal the Vessel ceases to comply with the requirements of the ISPS Code or MTSA (where applicable):

- (a) the Terminal Party shall have the right not to berth such nominated Vessel at the Terminal and any demurrage resulting shall not be for the account of the Terminal Party; and
- (b) the Vessel Party shall be obligated to substitute such nominated Vessel with a Vessel complying with the requirements of the ISPS Code and MTSA and with Sections 5.3 and 5.5 of these Marine Provisions.

10.3.4 The Terminal Party shall procure that the Terminal/installation shall comply with the requirements of the ISPS code and if located within the USA and U.S. territories, with the MTSA. Subject always to Section 10.3.5 below, any costs or expenses in respect of the Vessel, including demurrage or any additional charge, fee or duty, levied on the Vessel at the Terminal and actually incurred by the Vessel Party resulting directly from the failure of the Terminal to comply with the ISPS Code and if located within the USA and U.S. territories, with the MTSA, shall be for the account of the Terminal Party, including the time required or costs incurred by the Vessel in taking any action or any special or additional security measures required by the ISPS code or MTSA.

10.3.5 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, the Terminal Party shall be responsible for any demurrage actually incurred by the Vessel Party arising from the delay to the Vessel at the Terminal resulting directly from the Vessel being required by the Terminal facility or any relevant authority to take any action or any special or additional security measures or undergo additional inspections.

10.4 Vessel Management:

The Vessel shall be manned, operated and maintained to fully comply with: (i) guidance provided within the latest edition of the ISGOTT; (ii) the Vessel’s flag state requirements; and (iii) the latest edition of OCIMF Guidelines for the Control of Drugs and Alcohol On-board Ship, each as amended from time to time.

10.5 Close loading and/or discharge:

Vessels which are loading/discharging a cargo must operate at all times in the Closed Operations mode. "Closed Operations" refers to the procedures whereby Vessels conduct cargo transfer and ballasting operations into cargo tanks, with tank apertures closed and with vapors being emitted only by means of the dedicated venting system which is designed to disperse vapor clear of working areas and possible ignition sources. For the purposes of this sub-clause: (i) "volatile" shall mean a liquid from which gas evaporates rapidly and shall be taken to include any naturally volatile Goods or any Goods being carried at a temperature which is higher than the flash point of the Goods minus ten (10) degrees Celsius; (ii) "toxic" shall mean a poison which can affect personnel following inhalation, absorption or ingestion and shall be taken to include all Goods which give off vapors containing substances for which exposure limits are recommended as they may be hazardous to the health of personnel exposed to them; and (iii) "noxious" shall mean harmful to personnel or the environment.

10.6 IGS:

In relation to any cargo, if it is required by Applicable Law for the Vessel to be fitted with an inert gas system ("IGS") and for such IGS to be operative and the cargo tanks inerted in order to lawfully load or discharge the Goods, the Vessel will not be permitted to berth or to load or discharge the Goods unless the IGS is in good order, operative and the cargo tanks inerted at all times. In the event that:

10.6.1 such Vessel arrives with the IGS inoperative, the Vessel will not be berthed until the IGS is operative and the cargo tanks inerted and until that time NOR shall not be given, or if given shall not be effective, and Laytime shall not commence until commencement of loading or discharge, as the case may be; or

10.6.2 the IGS fails after the Vessel has berthed, transfer operations shall be terminated immediately, and the Vessel may be ordered to clear the berth until the IGS is fully operational and tanks are inerted to the pre-arrival condition. Costs and time associated with Vessel movement for IGS repair shall be for the account of the Vessel Party. The use of temporary or substitute equipment or procedures to correct IGS malfunctions must be accepted by the other Party prior to re-admittance to the relevant Terminal, or for continuation of Vessel loading/discharging at the Terminal. Any Vessel time lost as a result of the Vessel not complying with all of the provisions in this section shall not count as used laytime or as time on demurrage.

10.7 Overboard Discharges:

The Vessel must comply with all applicable Ballast Water Management System (BWMS) regulations in effect for its flag and the ports called. The overboard discharge of bilges, slops or sewage within the confines of the relevant Terminal is forbidden.

10.8 Port Regulations:

The Vessel shall always remain compliant with all local laws and government regulations in effect at the point of operation.

10.9 Automated Manifest System:

When the Terminal is located within the USA or US Territories, the Vessel Party shall exercise reasonable efforts to ensure that the Vessel is aware of the requirements of the U.S. Bureau of Customs and Border Protection ruling issued on December 5, 2003 under Federal Register Part II Department of Homeland Security 19 CFR Parts 4 and 103, and will comply fully with these requirements for entering US Terminals (including the requirements of the Automated Manifest System).

If the Terminal is changed at the Terminal Party's request, such that, despite the Vessel Party exercising commercially reasonable efforts, the Vessel Party's nominated Vessel is unable to comply with the

notification period required by the US Bureau of Customs and Border Protection ruling issued on December 5, 2003 under Federal Register Part II Department of Homeland Security 19 CFR Parts 4 and 103, (including the requirements of the Automated Manifest System), then any delay directly resulting from such non-compliance shall be for the Terminal Party's account and the Vessel Party shall not be liable for failure of performance directly resulting from such non-compliance.

10.10 Non-Cargo Shipments:

Under all delivery terms, and with priority over any rule of tariff, no Vessel will be required to load, ship or transport slops, waste, non-cargo line fills, produced water, drill fluids, or any other non-cargo material; even for purposes of admixture, line return, or recycling. Any cost, expense, lost time, or other financial exposure due to such a terminal demand shall be for the account of the Terminal Party.

10.11 BP Casualty Procedure:

In the event of any incident relating to a Vessel carrying Goods, the risk in which has passed from the Seller to a member of the BP Group of Companies, the Seller shall use its best efforts to ensure that the master of the Vessel implements the BP casualty emergency instructions as stated on the document instructions issued by the BP operator.

**Section 11. Payment Documents**

11.1 Payment for Goods shall be made against presentation of Seller's Invoice referred to in Section 6.3 of the GTCs and the below documents:

11.1.1 for FOB and C-Term deliveries:

- (a) US Coastwise Tankers, Ocean-Going Barges and Inland Barges, a copy of the certificates of quantity and quality or Inspector's Report as issued in accordance with the Agreement showing the quantity and quality of the Goods loaded.
- (b) Non-US Tankers, 3/3 original bills of lading properly issued or endorsed to the order of Buyer, a copy of the valid certificate of origin, and a copy of the certificates of quantity and quality or Inspector's Report as issued in accordance with this Agreement showing the quantity and quality of the Goods loaded.

11.1.2 for D-Term deliveries, a copy of the certificates of quantity and quality as issued in accordance with the Agreement showing the quantity and quality of the Goods discharged and, for foreign Goods, a copy of a valid certificate of origin.

11.2 The Seller's Indemnity In Lieu of Shipping Documents:

In the event the bills of lading referred to in Section 11.1.1(b) above are temporarily unavailable on the date payment is due, the Buyer shall pay for the Goods against the Seller's invoice and a letter of indemnity in the format set out in in Appendix A, counter-signed by a first-class international bank if so requested by the Buyer.

**APPENDIX A – Seller’s letter of indemnity format**

The Letter of Indemnity referred to in 11.2 of these Marine Provisions shall be in the following format:

Quote

We refer to our Agreement dated [DATE] (the “Agreement”) in respect of your purchase from us of [QUANTITY] tons of [GRADE] Product (the “Goods”) FOB/CFR/CIF on Vessel “[VESSEL NAME]”, bill of lading date [B/L DATE].

In consideration of your making payment of US dollars [US DOLLAR AMOUNT] for the Product in accordance with the Agreement and having agreed to accept delivery of the cargo without having been provided with [HERE INSERT THE RELEVANT DOCUMENTS AS SET OUT IN THE AGREEMENT] (the “Documents”), we hereby represent and warrant all of the following:

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

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

- (a) our failure to present the Documents to you in accordance with the Agreement; and/or
- (b) any action or proceeding brought or threatened against you by reason of our said failure and any breach of our above express representations and warranties in connection with questions of title to or the right to possession of the Documents or the Goods or the proceeds of either; or any liens, charges or encumbrances asserted on the documents or the Goods or any other claims arising out of or in connection with the Documents.

Our liability hereunder shall remain in full force and effect unless and until we provide you with the Documents, which we irrevocably agree to provide to you promptly after the same have come into our possession.

No term of this indemnity is intended to, or does, confer a benefit or remedy on any party other than the named Buyer under the Agreement.

This indemnity shall be governed by and construed in accordance with the laws of the State of New York and shall cease to have effect upon the Documents being provided to you.

Signed by: ..... Title: .....

of: [COMPANY NAME]

Unquote

[THE BELOW SECTION TO BE COMPLETED AND SIGNED WHERE THE SELLER EXERCISES ITS RIGHT TO REQUIRE A BANK TO COUNTER-SIGN THE LETTER OF INDEMNITY]



Quote

In consideration of your agreeing as aforesaid we the undersigned [BANK NAME] whose customer is [FULL NAME OF SELLER] hereby jointly and severally agree to be bound by the terms of the above letter of indemnity

By: .....

Bank Authorised Signatory

Unquote