

Department of Maritime Studies
MSc in Maritime Studies

PASSING THROUGH THE SHIPPING COST

Demurrage & Non Demurrage Cost - A trade related oil
industry analysis

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Διπλωματική Εργασία που υποβλήθηκε στο τμήμα Ναυτιλιακών Σπουδών του
Πανεπιστημίου Πειραιώς ως μέρος των απαιτήσεων για την απόκτηση του
Μεταπτυχιακού Διπλώματος Ειδίκευσης στη Ναυτιλία

3.6 LOADING PORTS: BONAIRE AND/OR FREEPORT, BAHAMAS, AMUAY OR ANY
NOMINATED BY SELLER AND ACCEPTED BY PURCHASER.

4. DESTINATION:
IFO-380: SINGAPORE AND/OR CHINA.
VENEZUELAN CRUDE OIL: CNPC REFINERY SYSTEM.
OTHER CRUDE OIL: MUTUAL AGREEMENT.

FUEL OIL AMUAY: DISCUSSION CASE BY CASE BY MUTUAL AGREEMENT.

SELLER AGREES TO ENTER INTO THIS CONTRACT BASED ON PURCHASER'S
UNDERTAKING TO DESTINE THE IFO-380 TO: CHINA AND/OR SINGAPORE

PURCHASER WILL DECLARE THE INTENDED SPECIFIC DISCHARGE PORT(S) IN CHINA
SINGAPORE WHEN SENDING VESSEL INSTRUCTIONS TO SELLER AT LEAST TEN
BEFORE THE FIRST DAY OF THE AGREED LOADING RANGE IN ACCORDANCE TO



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*“Whosoever commands the sea commands the trade;
whosoever commands the trade of the world commands the riches of the world
and consequently the world itself”*

Judicious and Select Essays and Observations by the Renowned and Learned Knight Sir
Walter Raleigh upon the first invention of shipping, 1650

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Chapter 1. The Shipping Cost

1.1 Introduction

Shipping is a service business which is driven and based in a global mechanism, fuelled by the demand of the service and the volume of the trade; the product price, the vessel's speed, the costs included, the reliability and the security are necessary factors for its growth.

The emerging industrial economies of China and India and the massive total growth of the trade world, led to an increasing need of energy and raw materials in great volumes and in low transport cost from distanced areas. It is commonly known that the higher is the value per unit of weight, the less significant is the cost of transportation. Same is depicted by the sea transport unit cost function which is defined as the sum of the capital cost of the ship (LC), the cost of operating the ship (OPEX) and the cost of handling the cargo (CH) divided by the parcel size (PS) or the tonnage of cargo capacity (DWT):

$$\text{Unit Cost} = \frac{\text{LC} + \text{OPEX} + \text{CH}}{\text{PS or DWT}}^1$$

Whereas the final oil price is exclusively formed by and forming the demand for the product and the shipping cost itself, there have been several developments in diminishing the OPEX; lowering the speed average of the vessel, improving the marine propulsion system (invention of the screw propeller, 'the double propeller'), increasing the average size of the vessel. Larger vessels mean lesser shipping cost per load unit regarding the crew, the fuel consumption, the demurrage, the insurance and the maintenance factors. As a physical consequence of the rising demand, the transportation costs fell even more. Economies of scale were exploited since the unit cost does not increase proportionally with the cargo capacity. Finally, there have been major technological advances and organizational evolution in the field of port and cargo management².

Nowadays, there is an awareness level that the GDP is a leading driving factor of the oil consumption around the globe,³ however it is also crucial to weight the transportation cost, the shipping cost implied and its portion to the oil price formation.

¹ Martin Stopford, *Maritime Economics 3rd edition*, 2009, p. 76

² <http://worldoceanreview.com/en/wor-1/transport/global-shipping/>

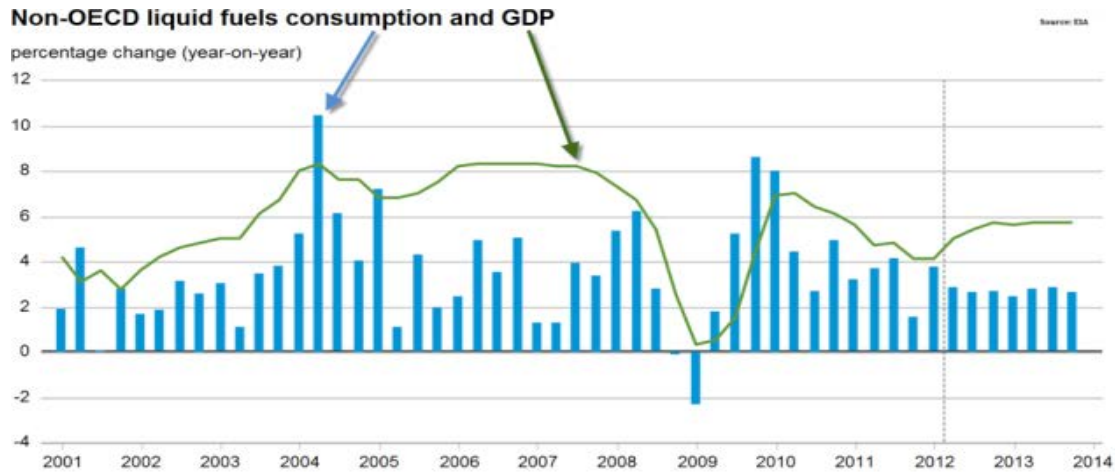


Figure 1. Non OECD liquid fuels consumption and GDP ³

Objective of the thesis is to determine what the shipping cost in a trade related industry is combined from and how same is passed on from Owners to Charterers and to the trading chain, forming to some extent the final oil prices. An analytical description is given on how the oil industry works and what are the fundamentals of calculating and processing the demurrage and the non demurrage costs. Several legal cases and a theoretical case computation are given for a better comprehension of the parameters in force.

In First chapter is discussed the shipping cost origins and the requirements for retrieving same in an Owner - Charterer basis or in a trading chain basis.

Second chapter analyses which are the demurrage and the non demurrage costs analytically, comprising at some level the shipping costs created through a spot oil voyage.

Third chapter determines what a charter party is and the variable forms it can be met, attempting a clauses translation through a comparative study of the existent voyage tanker charter parties and published legal cases.

In Fourth chapter is described the contract binding two parties in an oil trading chain and its usual wording interpretation; the General Terms and Conditions applying for covering any extra clauses are introduced and some published legal cases creating the frame of the oil industry trading behaviour.

The Fifth chapter is dealing with the dispute resolution levels as well as with some precaution measures should be taken into consideration and ease any dispute arisen.

³ "Oil consumption in developing countries that are not part of the Organization of Economic Cooperation and Development (OECD) has risen sharply in recent years. While oil consumption in the OECD countries declined between 2000 and 2010, non-OECD oil consumption has increased more than 40 percent. China, India, and Saudi Arabia have had the largest growth in oil consumption among non-OECD countries during this period".

Source: <http://c1wsolutions.wordpress.com/2012/04/30/factors-affect-price-of-oil/>

Six chapter refers to a practical computation of the demurrage costs created in a spot voyage where a sample vessel case is used to explicit the different approach under an owner's and a party's perspective.

Last chapter endows the oil Market's role in forming the prices in correlation to the trading initiative and consensus. In this chapter is also described the financial coverage of a trade and the steps that have to be followed for making a trading deal.

1.2 Tracing the costs

All expenses are costs, but not all costs (such as those incurred in acquisition of an income-generating asset) are expenses.⁴

In production, research, retail and accounting, a cost is the value of money that has been used with the intention to produce something, and therefore is not available for use anymore.

*"In business, the cost may be one of acquisition, in which case the amount of money expended to acquire it is counted as cost. In this case, money is the input that is gone in order to acquire the thing. This acquisition cost may be the sum of the cost of production as incurred by the original producer, and further costs of transaction as incurred by the acquirer over and above the price paid to the producer. Usually, the price also includes a mark-up for profit over the cost of production".*⁵

As in general economic interpretation, the cost is considered to be the measure of a process's or a decision's results. However, there is also a new economic model introduced, arguing under a business ethics basis, that the 'true economic cost' shall also include the cost of any negative externalities into the pricing of goods and services. Supporters of this philosophy believe that the potential harmful consequences to the environment should be accordingly incorporated in product/services price covering the hidden costs⁶.

Accounting vs opportunity costs

Accounting cost is the monetary value of the economic resources utilization when used by an accounting entity under the scope of producing/servicing. It is also most commonly being described as the displayed price amount on an invoice that is further to be recorded in the cash flow as an expense, cost of asset or cost of product.

On the other hand, the opportunity cost which is also referred as 'economic cost', is the lost benefit that an accounting entity should have by taking a certain decision to pursue the specific venture and not its alternative⁷.

⁴ <http://www.businessdictionary.com/definition/cost.html#ixzz1xWV4ehgL>

⁵ <http://en.wikipedia.org/wiki/Cost>

⁶ <http://www.investopedia.com/terms/t/truecosteconomics.asp>

⁷ G. Venieris, S. Koen, M. Koletsi, *Cost Accounting (2nd edition)*, 2005, p. 31

Shipping cost definition

What is specifically the “shipping cost” and where does it derive from?

That depends on the angle of examination. For a ship owner, that includes all capital, operating, and voyage costs. As it concerned for Charterers’ side who will pass the shipping cost to the end chain and the final consumer, these costs sum up to the related agreement made, the charter party.⁸ In both cases, the shipping cost is deriving from the need of transportation of a product by sea.

The shipping cost of a product forms its final price to the end consumer and is of weighting importance since it can double or even triple this price. The main factors that affect and entail the shipping cost while it is passed on through the trading chain are defined to be:

- Freight rate
- Demurrage and rest non demurrage costs

Many costs are also defined by the operations to take place. In oil industry, in order to go along with the specifications required, i.e. for crude oil, heat up procedure is always applicable prior to the loading/discharge operation. That prerequisite extra bunker cost for the Owner which escalates in accordance to the size of the vessel and the time of the heating procedure and last to the price of the bunker being in use.

1.3 Retrieving the costs

According to the coverage of the charter party terms agreed and the voyage costs implicated in a charter, some of these costs can be actually retrieved and lower down Owners’, as well as a party’s exposure for a voyage. Such examples might be the freight cost and rest of the non demurrage expenses i.e. heating, deviation, speed up, purging, shifting and last but not least, the demurrage costs.

The reimbursement size is dependant on the nature of the cost and the reason for incurring and the liability for reimbursement is expressed, if any, at the applicable terms. In plain words, it is crucial to determine under whose orders a cost incurred, showing clearly this way at whose liability the cost shall be. All costs which are due to sudden/force majeure actions, are usually to be held by the Owner (always refer to the c/p applicable).

The requirements that must be in force for retrieving the cost are:

1. must be referred to the brokers agreement/ c/p terms in an explicit way
2. must be properly substantiated as per recap provision with fully documentation and calculations included
3. must comply with Charterers’ orders if no relative contractual term is in force
4. should be according to the “best ethics” philosophy and not be overrated
5. must be claimed timely and upon completion of operation

⁸ Martin Stopford, *Maritime Economics (3rd edition)*, 2009, p. 225

In general, if the above requirements are fulfilled, the owner can claim the accrued cost as an economic amount, as a compensation for any delays/time lost/bunkers consumed.

Further to the above, in the 'charter party' agreements between owners and charterers, shall be analytically explained and included the way and the proportion that owners can and must be compensated. In most of the cases, the time of the compensation is even included, for avoidance of bad practices.

1.4 Owners and Charterers

Owners own the assets, Charterers use them. A ship owner needs the Charterer and likewise, a Charterer is in need of the Owner, bounded in a both-way relationship. Both and each of them are seeking for a modus not only to cover their costs, but also to save money or even to create money from the opportunity cost that arises.

The different perspectives that they have, are explained below in each case. Owners loss is automatically potential gain to the charterer; the owner seek to hire his asset at the best/highest price of the market for the shortest route whereas the charterer, seek the cheapest, yet safest, way to transfer his cargo to his buyer. The main difference lies in the mean that each part expects to create money; Owner is based on the freight and demurrage while Charterer is expecting to create money from the sale of the cargo and the demurrage discrepancies.

1.5 Charterers and Counterparties (Suppliers or Receivers in the trading chain)

Apart from the Charterers, other counterparties might be supplying or receiving the same cargo and actually some times this chain is very long. At some cases, the same cargo can be sold over and over again in the same chain of recipients. That entails accumulating cost which ends to the final receiver and forms the final price of the product delivered.

A trading chain is a consecutive number of transactions, of sale and purchase of the same product. For instance, if three companies a,b and c sell the same parcel to each other the chain will be look like this: $a > b > c > a$.

Taking into consideration that each time such a transaction is made, costs are passed on along with the trading party's proportion of expected profit (margin). Finally, the chain shall be depicted in the form of: $a > a+1 > b+2 > c+3$

For a ton maybe the cost would rise so acute, but when shipping enable trading companies to transport thousand of tons, the price difference is not caught be the eye. Economies of scale explain this phenomenon quite simply. Trading companies are fully taking advantage of this, which actually is the main core of their profit.

Πανεπιστήμιο Πειραιώς

Chapter 2. Demurrage and Non Demurrage Cost

2.1 Explaining the concept of demurrage

Laytime and Demurrage are two concepts that comprise one aspect of the Maritime Law, in particular the law relating to the voyage charters.

‘Laytime’ means the period of time agreed between the parties during which the Owners will make and keep the vessel available for loading/discharging without payment additional to the freight.

‘Demurrage’ means the agreed amount payable to the Owner or the party in respect of any delay to the vessel beyond laytime, for which the Owner or the party is not responsible.

If loading or discharging operation is not completed within the agreed laytime, then the ship owner is entitled to compensation of the extra time taken (charter party in breach). The demurrage rate fixed in a recap, is intended to cover the vessel’s ‘liquidated damages’ i.e. the daily running costs plus the profit the owner would normally have been able to earn, had his vessel been released timeously.

Similarly to the above, laytime and demurrage terms apply in the purchase and sales contracts between counterparties. Same terminology applies to both charter parties and contracts⁹.

2.2 Non demurrage costs

The non demurrage costs are comprised of the elements of freight/freight differential, heating, purging and crude oil washing, shifting, speed up, deviation/detention costs and war risk premiums that derive from the additional operations of the vessel while under the Charterers’ instructions. Specifically:

2.2.1 Freight and Freight differential

The price paid for the transportation of a product by a vessel, is called freight. It is Charterer’s prime engagement to Owners and shall be fulfilled immediately upon vessel’s completion of discharge at the designated port of destination¹⁰.

Most of the freight agreements in tanker charter parties are dealt on the basis of World Scale Association rules and rates¹¹. This is a widely used method of calculating the

⁹ Annex BP Voy4, clause 7, *Laytime/ Demurrage*, page 9

¹⁰ Annex BP Voy4, clause 31.4, *Freight Rate*, page 24

¹¹ “All rate calculations, which are made in USD, are per tonne for a full cargo for the standard vessel based upon a round voyage from loading port or ports to discharging port or ports and return to first loading port using the under-mentioned factors”

Source: <http://www.worldscale.co.uk/>

freight of a voyage basis published WS rates from the WSHTC. The market levels of freight are being expressed in terms of a percentage of the nominal freight rate of a standard vessel (being described in the preamble Part A). In that aspect, WS 100 reflects the rate for the voyage in question as calculated and issued by the WSHTC¹², while a WS 175 shall be translated as 175 per cent of that rate. Flat rate is also a necessary element of the freight equation, as well as the transferred quantity (the bl quantity), i.e. WS freight = quantity carried (in metric tonnes) x WS rate x flat rate.

With respect to the previous method, there is also an alternate way of calculating the freight and that is under a lump sum agreed basis. When a ship is fixed, there are given options for calling specific ports of loading and discharging and each one option is reflecting a stated limit freight equivalent, irrespective of the quantity of the transferred cargo, i.e. lump sum freight = fixed amount.

Furthermore, the responsibility of the payment of freight shall be also one of the terms of a sales contract between the buyer and the seller of the cargo to be shipped. Some contracts depending on their buying/selling provisions automatically abide the liability to the buyer for paying the cost of the freight¹³. This provision is called as 'freight differential clause' and grants the flexibility to the trading chain of altering a designated port to another (from the ones stated in the options given in a recap) or even ordering the vessel to call at more than one port. Same goes without saying that any additional freight cost to be incurred, will be for buyer's account.

2.2.2 Heating/Cooling

The existence of heavy fractions within the cargo, such as fuel oil become very thick and sluggish when cold, and in order that the product shall be loaded and discharged without delay, creates the necessary of keeping it heated to its maintenance point throughout the voyage.

Usually, the steam is used to heat the oil in a ship's tank by piping it from the boilers along the length of the vessel's deck. When it becomes necessary to heat the cargo, the steam is turned on the individual tanks and the coils in the bottom of the tanks become hot, heating the oil in the immediate guaranteed vicinity. The warm oil rises slowly and is replaced by the colder oil, thus setting up a gradual circulation system in each tank.

Heavy fuel oils are generally required to be kept at a temperature ranging between 120 °F (48.9 °C) and 135 °F (57.2 °C). The optimum temperature to which the cargo should be heated is largely dependent upon the pour point, cloud point, total wax content and the viscosity of the cargo. The ambient weather and sea conditions also influence the heating requirements¹⁴.

¹² World Scale, Hours, Terms and Conditions (abb)

¹³ <http://legal-dictionary.thefreedictionary.com/freight>

¹⁴ <http://www.nasmaritime.com/DOCUMENTS/GUIDE%20for%20COW.pdf>

Heating/cooling process requires extra bunkers consumed which is actually dependent to the vessel size and the horsepower¹⁵ of the main engine and is applicable for bitumen, crude and fuel oil cargoes.

If a heating/cooling procedure will take place or not it is solely instructed by the Charterer of the vessel in regards to the specifications agreed of the cargo Buyer and only in the case of a blending/reloading or a discharging operation. In that aspect, Charterer is liable for any cost that derives from such an operation. In a charter party agreement, usually there is a specific clause clarifying that loading temperature has to be maintained with no extra cost of the Charterers side¹⁶.

2.2.3 Crude oil washing (COW)

Crude oil washing is the process of a high-pressure stream of crude oil cargo to dislodge or dissolve clingage and sediments from the bulkheads, bottom and internal tank structures of a vessel during the discharge operation.

Stripping is a similar method that is used in order to strip any remaining cargo from the vessel tanks. Its deriving costs mainly include the extra bunkers consumption and must be in line each and every time with Charterers instructions¹⁷.

Both COW and stripping operations bear a time allowance of few hours, correspondent to the recap or the sales agreement provisions.

2.2.4 Shifting

Shifting maybe required from anchorage to berth and from one berth to another. The cost of proceeding from anchorage to berth is traditionally to be part of the carrying voyage and practically is part of the sea passage to reach destination. Same is reimbursed to owners through the freight.

It is common for a charter to include a provision allowing loading or discharging at more than one berth. Laytime will continue to run during shifting in the absence of a provision to the contrary. The cost of shifting from anchorage to berth or even between berths is at the expense of the Charterer. It can be included in freight or charged as an extra cost deriving from Charterers' orders.

If not infrequently, also happens that a vessel is forced to shift at the behest of neither the ship owner nor the charterer. This may happen either because of the weather condition and/or on the orders of the port or other local authorities' decision. Who bears the costs is to be declared by the recap agreement once again. With regard to the

¹⁵ "Horsepower (hp) is the name of electrical power, is 1 hp = 746 watts. The term was adopted in the late 18th century by Scottish engineer James Watt to compare the output of steam engines with the power of draft horses. It was later expanded to include the output power of other types of piston engines, as well as turbines, electric motors and other machinery".

Source: <http://en.wikipedia.org/wiki/Horsepower>

¹⁶ Annex BP Voy4, clause 24&25, *Maintenance of cargo Temperature/Cargo heating*, page 21

¹⁷ Annex BP Voy4, clause 19, *Crude Oil washing and stripping*, page 18

involuntary shifts, one argument frequently advanced is that, if vessel is enforced to leave berth for the safety of the own vessel and its crew/cargo, whether because of weather or other constrains, costs is to be held by the ship owner, notwithstanding that laytime will continue to run accordingly¹⁸.

2.2.5 Speed up/ Slow steaming

Ship owners undertake that the vessel will maintain an average agreed speed throughout the voyage. On the other hand, Charterers have the right to adjust this speed any time during the voyage if they consider same necessary, up to vessel's maximum speed stated in the charter party agreement.

If the vessel is required to proceed in excess of the maximum speed, always according to the charterers' orders, any liability/ costs will be for charterers' account. Charterers shall pay owners for additional bunkers consumed for steaming the additional distance at the price paid by the owners, net of all discounts or rebates, for the last bunkers lifted. In the contrary, shall the Owners fail to maintain the agreed charter speed or comply with Charterers orders, Owners shall be liable for all loss, damage, cost and expenses arising as a direct consequence thereof save to the extent that Owners can prove that such failure was attributable either to adverse weather conditions and sea state or to the requirements for the safe navigation of the Vessel¹⁹.

Speed up may be also ordered due to economic reasons, i.e. comply with the cargo delivery window arrival (due to demurrage risk), issuing the bill of lading in specific dates (due to cargo price requirements). Slow steaming of a vessel may be required for cost saving due to high bunker prices or in regards to the SECA areas i.e. Mid-Atlantic Seasonal Management Areas are declared as mandatory speed reduction zones and due to the IMO Policies.

Vessel's speed up or slow steaming has a direct effect on the voyage cost and is usually settled along with the freight. Whether Charterers' orders are to increase the speed, the freight rate shall be increased as per the below type:

Example: The Vessel proceeds at Charter Speed of 10 knots²⁰, the rate for which is World scale 40. After 10 days the Master is instructed to complete the voyage at 12 knots. The remainder of the voyage takes 20 days. The increased speed option provides for a premium of 0.5 of a World scale point per knot of increased speed over the Charter Speed. The freight rate for the above voyage would be calculated as follows:

$$\text{Voyage freight rate} = \frac{(\text{W40} \times 10 \text{ days}) + (\text{W41}^* \times 20 \text{ days})}{30 \text{ (total voyage days)}} = \text{W40.67}$$

**1 point premium for 12 knots Maximum Speed*

¹⁸ Annex BP Voy4, clause 5, *Loading and discharge port/ Shifting*, page 8

¹⁹ Annex BP Voy4, clause 3.5, *Loading/ Compliance with Charterers voyage orders*, page 7

²⁰ 1 knot = 1 nautical mile per hour

Whether Charterers' orders fail to be followed and vessel fails to maintain the speed ordered, the freight rate shall be calculated basis the average speed actually achieved²¹.

2.2.6 Deviation/Detention

The doctrine of deviation is a departure from a planned contractual course or design. When a ship alters her course or remains in port without a just cause, the ship's new course or delay is called a deviation. Unless the contract permitted otherwise, in either case there is a breach of contract.

The liability and the consequent cost arising from such a breach, depends on the causa proxima of the deviation and whether same is along with Charterers' orders or upon Master's diligence to decide due to extraordinary facts (adverse sea weather conditions, piracy etc).

As it is provided in the 'Article IV Rule 4' of the Hague – Visby rules "*Any deviation in saving or attempting to save life or property at sea or any reasonable deviation shall not be deemed to be an infringement or breach of these Rules or of the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom*"²². Although that the Hague-Visby rules do not define deviation, are based on the common law definitions which are in force, also including below cases as such:

1. avoiding adverse weather
2. joining a convoy
3. avoiding capture or detention
4. taking crew for medical attention
5. performing necessary repairs
6. mutiny of the crew²³

Whether a deviation is ordered by the Charterers or is deemed to be called 'justified' and 'reasonable', has a certain cost effect liability due to the extra time lost and the extra bunkers that were consumed. In that case, Charterers shall cover any cost deriving in excess of the already paid freight to the Owners²⁴.

For a voyage under a lump sum freight agreement, Charterers have compensated Owners for certain number of load and discharge ports. Any additional port call apart from the agreed number of calls shall be charged as deviation basis the 'Interim port' clause, which is expressly unfolded in most of the additional illustrative terms between Owners and Charterers. This term, usually covers the costs of the extra steaming distance (from the designated load port A to the deviation point C and from point C to the final port B), any time spent at the deviation/interim port and the excessive bunkers consumed for steaming along with any extra ports costs imposed to the vessel at the interim port.

²¹ Annex BP Voy4, clause 31.2, *Freight Rate*, page 23-24

²² <http://www.jus.uio.no/lm/sea.carriage.hague.visby.rules.1968/doc.html#31>

²³ [http://en.wikipedia.org/wiki/Deviation_\(law\)](http://en.wikipedia.org/wiki/Deviation_(law))

²⁴ Annex BP Voy4, clause 31.3, *Freight Rate*, page 24

For example, the aforementioned is clearly depicted in the Term interim port clause: *“Charterers to pay for additional interim load/discharge port at cost with additional steaming time to be incurred for such deviation which exceeds direct passage from first load port to final disport. time to count from arrival pilot station interim load/discharge port until dropping last outward pilot interim load/discharge port i.e. no allowance for notice time, nor deduction for shifting even from anchorage to 1st berth and no deduction for time lost due to weather conditions.*

*Deviation and time used to be calculated at demurrage rate per day pro rata plus costs for additional bunkers consumed as per master’s invoice presented by owners. deviation, time used, bunkers consumed and port costs as per agents proforma d/a to be paid together with freight as per owners telexed invoice, which later to be supported by hard copy documentation.”*²⁵

For a voyage under a WS freight agreement, Charterers have compensated Owners for the designated load and discharge ports basis the rates that are annually given by the World Scale Association. That rates, are calculated in USD, *“are per tonne for a full cargo for the standard vessel based upon a round voyage from loading port or ports to discharging port or ports and return to first loading port using purely nominal and for rate calculation purposes only factors”*²⁶. When Charterers deviate from the charter party WS rate coverage calling an additional port non indemnified; are liable to compensate Owners via freight.

Detention, similarly, reflects the unliquidated damages deriving from a breach of charter party when delays to vessel’s reaching destination are caused and laytime/demurrage is not running. Some reasons enabling a detention claim, are the below:

1. failure of the nomination procedure and waiting orders
2. using the vessel as a floating storage without explicit permission
3. undue delay of the vessel upon completion of operations
4. slow steaming of the vessel²⁷

Whereas, most of the oil sales contracts are treating detention as a part of the demurrage calculation, under ExxonMobil and Shell’s charter parties same is calculated separately by using the daily demurrage rate for the delays plus the replacement cost of any consumed bunkers in addition.

2.2.7 War risk (AWRP) and Crew war bonus

Deemed to be very prominent provisions of nowadays, especially due to the high levels of piracy cases around the globe, both war risk premium and crew war bonus are the milestone of the non demurrage claims covered in a recap or a contract and are highly rising the vessel’s and the cargo’s insurance coverage.

²⁵ <http://shippingforum.wordpress.com/clauses/>

²⁶ <http://www.worldscale.co.uk/>, Basis of Calculation, Preamble Part A

²⁷ Oil Industry laytime and demurrage seminar, Asdem 2007 v.3

There are certain areas in the world that the Joint War Committee after an agreement with the leading Hull War Risks Underwriters, considers as extra war risk areas²⁸.

When a vessel is expected to call or sail through one of the marked areas, the underwriters shall be informed in order to decide whether an extra premium will be charged. Consequently, the ship owner is only liable for such a cost according to the recap terms or the additional provisions incorporated in the charter party agreement²⁹.

The crew war bonus lies to the necessity for extra security while a vessel transit war risk areas and reflects the total payrolls of the crew who shall be entitled to compensation amounting to 100% of the basic wage and a doubled compensation payable in case of death and disability³⁰.

The deriving costs are usually to be held by the Owners when the vessel has been fixed for the specific route, or ports situated in the High Risk area under the ground that the variable has been already taken into account in the freight rate computation. Nonetheless, if charterers decide for their own reasons to alter the ship's route or destination port to a High Risk area, it is of common sense that shall also bear the liability of the extra insurance costs.

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http://www.lmalloyds.com/LMA/Underwriting/Marine/Joint_War_Committee/Web/market_places/marine/JWC/Joint_War.aspx

²⁹ Annex BP Voy4, clause 39, *War Risks*, page 27

³⁰ http://books.google.gr/books?id=FYkWUK-UIBsC&pg=PA21&lpg=PA21&dq=crew+bonus+premium+for+war+risk+areas&source=bl&ots=A30YPpQZ0c&sig=XTH5AB2S-Ix9UrXrVdni8uYQh6M&hl=en&sa=X&ei=2c5HU4TYKYLbywOXt4K4CQ&redir_esc=y#v=onepage&q=crew%20bonus%20premium%20for%20war%20risk%20areas&f=false

Πανεπιστήμιο Πειραιώς

Chapter 3. Owners Passing On the Shipping Cost to the Charterers

3.1 Charter Party

As commonly is described nowadays, 'a charter party' is the contract between the owner of a vessel and the charterer that uses the vessel. *"The charterer takes over the vessel for either a certain amount of time (a time charter) or for a certain point-to-point voyage (a voyage charter), giving rise to these two main types of charter agreement. There is a subtype of time charter called the demise or bareboat charter"*³¹.

In a voyage charter party, the charterer hires the whole vessel or a part of her for a single voyage, in consideration of payment of freight. The ship owner (or the disponent owner) provides the master, the crew, the bunkers and any further supplies or machinery parts needed for the completion and the safety of the voyage³². The vessel is hired for a specific time limit, in the excess of which, the charterer is called to remunerate the owner in terms of compensation charges called as 'demurrage'. The time limit that it is mutually agreed for both loading and discharging operations, as aforementioned, is called 'laytime'. Any subsidiary additional charges depending on the ship's moves and performing operations are also to be handled by the charterer if the last is responsible according to the recap³³.

The basic elements of the voyage charter party were examined in detail in the House of Lords case of 'The Johanna Oldendorff' (1973)³⁴. Those have been defined by Lord Diplock being as: the voyage to the loading port; the loading operation; the loaded voyage and the discharge operation.

The voyage charters can be either 'port' or 'dock' or even 'berth' charters and are defined as such on the basis of when laytime begins. The most widely used in the oil industry, are the port charters and laytime commences upon vessel's arrival at the designated port. Regarding the oil industry voyage charter party or 'recap' as it also called, the most usual forms used include the Asbatankvoy, the BP Voy3 and BP Voy4, the Shellvoy5 and Shellvoy6, the Exxonvoy90 and the ExxonMobil Voy2005. All the charter parties usually also include additional clauses agreed between the Charterer and the Owner, several of which have a profound effect on the demurrage calculation i.e. the interim port clause aforementioned.

There can be several reasons for choosing a charter party however the potential exposure to the demurrage liability is the one with the greatest cost implication for both ends; charterer and owner. Each charter party, have clauses of more or less

³¹ <http://en.wikipedia.org/wiki/Charter-party>

³² <http://legal-dictionary.thefreedictionary.com/Charter-party>

³³ <http://www.marineinsight.com/misc/maritime-law/different-types-of-charter-parties-in-the-shipping-industry/>

³⁴

http://www.lawandsea.net/List_of_Cases/E/ELOldendorff_v_Tradox_Johanna_Oldendorff_1974_AC479.html

benefit to the Charterers and some of which, even exclude charterers from certain costs or entitle them to pay at one half of the demurrage rate – for certain periods of time lost due to specific events.³⁵ The objectives for choosing a charter party form surely depend on which side of the game the player is. On Owner's perspective, Asbatankvoy is the most attractive form of a recap whereas on Charterers' perspective, most favourable seems to be BP Voy4. Both of them will be further examined due course.

Address commission

Every occurring transaction between Owners and charterers is charged with an address commission percentage, usually of 1.5 or 2.5 (%) which shall be deducted in favor of the Charterers. Such a commission is payable by the ship owner to the charterer, expressed as a percentage of the freight or hire serving a reimbursement to the charterer for any costs incurred in regards to the chartering expenses of the vessel either to third party brokers or to Charterers in-house brokerage³⁶.

3.2 The wording matters – Comparative study of voyage tanker charter parties

The shipping cost, as have been described, includes the demurrage and the non demurrage costs which can be retrieved at first stage from the Charterers for a particular voyage. Charterers will reimburse same to Owners to that extend it is priority agreed in the recap being applicable.

Some of the main points that are dealt differently within the variety of c/p in existence and where the demurrage is affected, are the following:

- Laydays
- Time allowance (laytime)
- Notice of readiness
- Custom clearance (free pratique)
- Safe berth warranty
- Exceptions and interruptions to laytime and demurrage
- Pumping
- Crude oil washing/Stripping

Laydays are often also called 'laycan' and are the days specified in a charter party during which a vessel shall present itself at the designated load port, ready to load.

In Asbatankvoy, clause 5 is stated: "*Laytime shall not commence before the date stipulated in Part 1, except with the Charterer's sanction*"³⁷. In the case that a vessel arrives earlier tendering NOR before the laycan, shall be explicitly specified when the laytime gets triggered.

³⁵ Annex 1 BP Voy4, clause 17&18, *Half Laytime and Suspension of Laytime/Demurrage*, page 15

³⁶ <http://www.danaos.com/glossary.php>

³⁷ Annex 2 Asbatankvoy, clause 5, *Laydays*, page 4

The majority of the oil voyage charter parties are expressly clarifying that laytime shall not commence before 0600 hrs on the first day of Laydays, unless specified otherwise; a controversial point in regards to the Asbatankvoy, where no time is being mentioned. Therefore, laytime shall commence six hours later of the arrival or at 0000 hrs on the first day of Laydays, whichever is later. This conclusion has been supported by a number of LMAA arbitration decisions up to nowadays³⁸.

Time allowance (laytime) is the fixed period of free time for both loading and discharging operations and commonly it varies per c/p for 48, 72, 84 or even 96hrs depending on the agreement. The free time has been compensated to the owners via freight payment and it usually covers the combined operations of loading and discharging and in which case is called 'reversible'. There is also the case where laytime is a fixed number dependent on the quantity to be delivered i.e. 1 hour per 150 metric tonnes.

Laytime continues to run until operation performance has been completed; a point which is usually represented in all charter party forms, as the vessel's hose disconnection. However, most of the charter parties also allow a fixed time for the necessary documents to be placed on board (including the bill of lading). In regards to the above statement, 2hrs are provided in BP Voy3, ExxonMobil Voy2005 and Shellvoy6 whereas 3hrs are provided in the BP Voy4 after which laytime/demurrage shall continue counting as per relevant clauses and the general principal 'once on demurrage always on demurrage'.

Notice of readiness (NOR) is a "notice to the Charterer, shipper, receiver or other person as required by the charter that the ship has arrived at the port or berth as the case may be and is ready to load/discharge"³⁹. The NOR is to trigger the commencement of laytime and laytime usually starts upon the expiry of six hours after receipt of a valid NOR, to all the involved parties or upon vessel's arrival on berth, whichever is earlier.

In order for a NOR to be valid, certain parameters shall be in force:

- a. The vessel is an arrived vessel
- b. The vessel is ready to receive or discharge the cargo
- c. The notice of readiness is tendered to and received by the proper person according to the charter party
- d. The notice of readiness is tendered in a contractual way
- e. The notice of readiness is tendered at a time that is allowed by the charter party⁴⁰

a) 'Arrived ship'

A notice of readiness cannot be tendered validly prior to the vessel's qualification as an 'arrived ship'. In order the vessel to be considered as 'arrived', prerequisites that she will have reached the agreed destination area (the port limits or the usual anchorage where notice of readiness may be served). The exact area where the NOR

³⁸ London Maritime Arbitrators Association

Source:<http://www.asdem.co.uk/products.asp?partno=September%202000>

³⁹ http://www.lawandsea.net/CP_Voy/Charterparty_Voyage_Laytime_Definitions.html

⁴⁰ http://www.steamshipmutual.com/publications/Articles/Articles/Notice_Readiness_1.asp

can be tendered validly is always expressly stipulated or yet implied, in the charter party agreement. Since there are port and berth charter parties, when a berth charter is in force, then the vessel must reach the nominated berth prior tendering the NOR.

b) 'Ready in all respects'

Furthermore, in the case that the vessel has even reached the charter party agreed port or berth area, notice of readiness cannot be tendered unless she is also physically and legally ready in all respects to load or discharge the full cargo. If a break down of the vessel has incurred, then she cannot be considered to be 'ready' for serving a valid NOR at any case.

c), d) and e) Nevertheless, the vessel shall tender notice of readiness to the proper persons and the parties or the Agents involved in a contractual way (by fax, telex, phone or email) and always in accordance with the hours indicated in the relevant applicable charter party clauses or with the port limitations.

Taking into consideration the most used parties, each charter party defines the place and the exact way a valid NOR shall be tendered and how laytime is to be treated. The Asbatankvoy states in clause 6: *"Upon arrival at customary anchorage at each port of loading or discharge the Master or his Agent shall give the Charterer or his Agent notice by letter, telegraph, wireless or telephone that the vessel is ready to load or discharge cargo berth or no berth, and laytime, as hereinafter provided, shall commence upon the expiration of six (6) hours after receipt of such notice, or upon the Vessel's arrival in berth ... whichever first occur"*⁴¹.

In ExxonMobil Voy2005, the relevant clause is very similar to the Asbatankvoy (due to its mutual origins from Exxonvoy69) as per clause 11 that NOR shall be tendered upon arrival at customary anchorage or a waiting place and laytime clause is exactly as per Asbatankvoy clause.

Under a BP Voy3 recap clause 19(a), place is not specified for NOR to be tendered, apart from the general acceptance that the vessel shall be at port ready to load/discharge. Laytime shall not start prior of the expiry of the six (6) hours after NOR has been tendered or upon vessel's commencement of the performing operations, whichever is earlier.

BP Voy4 under the clause 6.3 states that NOR shall be tendered only *"when the vessel is ready in all respects to carry out Charterers orders.. and has completed anchoring.. or she has reach the area within the port.. or she is securely moored and her gangway ..is in place and free pratique is granted within six hours of the Master tendering NOR"*. Laytime commences upon the expiry of six (6) hours after NOR has been tendered or upon vessel's commencement of the performing operations, whichever is earlier.

As far as it concerns the Shellvoy5/6, the clause 13 (1) (a) stipulates that NOR takes full effect only when *"vessel is lying in the area where she ordered to wait, or in the absence of any such specific order, in a usual waiting area"*, a clause which is certainly reminds of the BP Voy4 one; this is not to be treated likewise though since

⁴¹ Annex 2 Asbatankvoy, clause 6, *Notice of Readiness*, page 5

Shellvoy is a berth charter party and this always translate to the berth shall be 'accessible'. Therefore, laytime commences, upon the expiry of the six (6) hours after berth has become accessible to the vessel or upon vessel's commencement of the performing operations, whichever is earlier and only upon receipt of all clearance documentation and free pratique got issued⁴².

Custom Clearance or else 'free/sanitary pratique' is a term describing the clearance certificate being granted by the port health Authorities for the crew of a ship arriving from a foreign port. In some European ports, this documentation is provided automatically (for a ship arriving from another European port) and it does bear great impact on the demurrage calculation, affecting laytime.

Charterers are often revising the charter or even adding a special clause, covering that if free pratique is not granted within six (6) hours from when NOR has been tendered, Master shall issue a Letter of Protest. BP Voy4 already stipulates same as in clause 6.3.3 stating: "*If free pratique is not granted within six (6) hours of the Master tendering NOR, through no fault of Owners, Agents, or those on board the Vessel, the Master shall issue a protest in writing ('NOP') to the port authority and the facility at the port ('Terminal') failing which laytime or, if the Vessel is on demurrage, demurrage shall only commence when free pratique has been granted*"⁴³. Similar reference is also made in the Shellvoy6 as per clause 13 (1) (a) and additions to it, expressly stating that any failure to obtain customs clearance and free pratique until vessel's all fast, NOR is deemed to be invalid⁴⁴.

Safe berth warranty term, introduces the principal of the berth being reachable on vessel's arrival to a port. By 'reachable' it is meant that the Charterer has made the necessary arrangements for the load/discharge ready ship to reach a vacant berth during the agreed laycan. As it derives from the clauses throughout the existent oil voy charters, safe berth is not guaranteed; but only agreed to be exercised due diligence. Charterers are only liable to provide a safe and reachable berth and any delays caused by non handling obstacles shall be treated as per recap agreement i.e. adverse sea weather conditions.

Asbatankvoy is the only charter stating in clause 9 that vessel shall be able to reach berth on arrival even if same is well prior to the laydays agreed: "*The Vessel shall load and discharge at any safe place or wharf, or alongside vessels or lighters reachable on her arrival, which shall be designated and procured by the Charterer, provided the Vessel can proceed thereto, lie at, and depart therefrom always safely afloat, any lighthouse being at the expense, risk and peril of the Charterer*"⁴⁵.

Exceptions and interruptions to laytime and demurrage comprise all the excepted periods granted in a charter party by definition, which can exclude the Charterer either from being liable partially or completely, whereas interruptions to laytime are used to cover those periods when laytime ceases because they are outside of definition of laytime as expressed in the laytime clause. Same phenomenon may be either an

⁴² Annex 3 Shellvoy6, clause 13 (1) (a), *Notice of Readiness/Running Time*, page 56

⁴³ Annex 1 BP Voy4, clause 6.3.3, *Notice of Readiness*, page 9

⁴⁴ Annex 3 Shellvoy6, clause 13 (1) (a), *Notice of Readiness/Running Time*, page 56

⁴⁵ Annex 2 Asbatankvoy, clause 9, *Safe berthing - Shifting*, page 5

interruption or an exception to laytime, depending on the terms of the concerned chapter.

Such exceptions are expressly stated in a recap, or even at the additional clauses agreed between Charterers and Owners. It is generally industry accepted that ‘if there is none relevant wording describing the specific cost, same shall be for Owners’ account’.

As one of the most known exceptions, is the vessel’s shifting from anchorage to berth and normally is considered to be a part of the voyage; therefore usually, does not count as used laytime and the cost shall be borne by the owner. Solely in the Asbatankvoy however, such a deduction is only enforceable in the case that laytime has not been used up otherwise same shall count as demurrage, as per the relevant clause: *“Time consumed by the vessel in moving from loading or discharge port anchorage to her loading or discharging berth, discharging ballast water or slops, will not count as used laytime”*⁴⁶.

Another popular exception is the adverse weather, where is meant the period of adverse weather conditions prohibiting the vessel to perform loading or discharging operations and any other operation such as shifting into berth. This exception is usually forced through the ‘Conoco Weather’ clause, often in conjunction with the Asbatankvoy charter, describing any delays in berthing for loading or discharging and any delays after berthing which are due to weather conditions and shall count as one half laytime or, if on demurrage, at one half demurrage rate: *“Delays in berthing for loading or discharging and any delays after berthing which are due to weather conditions shall count as one half laytime or as time on demurrage at one half demurrage rate”*⁴⁷. The particular exception clause can reduce the laytime and/or the demurrage to one half only when it can be proved that delays were solely due to weather conditions (also meaning that berth was available during that period and the cargo was ready to be loaded/discharged).

When in the recap laytime clause there is a specific wording for ‘weather permitting’, adverse weather is to be considered as an interruption rather than an exception. In that case and under such a descriptive clause, although there is no need to be a causative connection with the delay, it is mandatory that a causative link exists between the weather and the possibility of loading or discharging operation. Unless it is proved that bad weather is the causa proxima of the delay and constitutes an interruption, this period of time cannot be deducted.

Indicatively, Asbatankvoy has a limited scope and states in clause 8: *“If, however, demurrage shall be incurred at ports of loading and / or discharge by reason of fire, explosion, storm or by a strike, lockout, stoppage or restraint of labor or by breakdown of machinery or equipment in or about the plant of the Charterer, supplier, shipper or consignee of the cargo, the rate of demurrage shall be reduced one-half of the amount stated in Part I per running hour or pro rata for part of an*

⁴⁶ Annex 2 Asbatankvoy, clause 7, *Hours for loading and discharging*, page 5

⁴⁷ <http://www.intertanko.com/News-Desk/Weekly-News/Year-2000/No-352000/SHIFTING-OFF-A-BERTH-DUE-TO-WEATHERSEA-CONDITIONS---CHARTERPARTY-PROVISIONS-COMPARED/>

*hour for demurrage so incurred*⁴⁸. In regards to Shellvoy5/6, the Conoco weather clause does not have a full effect sine as per clause 13 (1) (a): “A loading or discharging berth shall be deemed inaccessible only for so long as the vessel is or would be prevented from proceeding to it by bad weather, tidal conditions, ice... (except those requirements resulting from the unavailability of such berth or of the cargo)”⁴⁹.

The weather provisions of BPVoy3 and 4 are similar, with an addition of unexpected tidal conditions being in force for BP Voy4, stating that: “Any delay arising from adverse tidal conditions which could not reasonably have been predicted, adverse weather, adverse sea state conditions, ... shall count as one half laytime or, if the Vessel is on demurrage, at one half of the demurrage rate provided always that the cause of the delay was not within the reasonable control of Charterers or Owners, as the case may be, or their respective servants or agents”⁵⁰. In ExxonMobil Voy2005, the relevant clause refers to a half demurrage rate due to weather and/or sea conditions including but not limited to lightning, restricted visibility (fog, snow, rainstorm, sandstorm and any other similar cause), waves and/or swells. At the same clause, it is explicit that these deductions shall also apply when the berth is congested or there is unavailability of the cargo or any other delay from Charterer’s or terminal’s side.

Pumping is referring to the relative clause of most charter parties, warranting that the vessel can discharge her entire cargo in a 24-hour period of time or that will maintain 100 psi back pressure at her manifold, terminal permitting. When such a clause is not introduced within a recap, theoretically, pumping can take as much time as needed to and all the demurrage incurred to be for Charterers’ account.

In most charter party cases, pumping allowance and discharge requirements are expressly stated along with a wording for providing Letters of Protest whether terminal restricts by any means vessel’s discharge capability, in cost of the Charterer.

The actual pumping time is the period of the time used from the commencement of the discharge operation to the completion of such an operation, ensuring that all the stoppages in between, whether due to ship or shore, are deducted accordingly. The conversion factor is: 100 psi (pounds per inch) = 6.9 bar (~7bars) = 7.0306 kg/cm². In order to authenticate vessel’s pumping pressure and the actual pumping time, there is an hourly pumping log document issued by the ship, signed by a responsible officer of the vessel and terminal’s or Charterers’ representative, showing the pressure maintained at the manifold throughout discharge⁵¹.

The usual pumping clauses are excluding Charterer from a cost deriving an excessive pumping, unless slow pumping was ordered from the terminal due to safety restrictions. In the BP Voy4 clause 19, the following is stated: “Any additional time used as a result of the inability of the Vessel to discharge the full cargo within twenty-four (24) hours, or pro rata in the case of a part cargo, or to maintain a minimum discharge pressure of seven (7) bar at the Vessel’s manifold throughout the discharge

⁴⁸ Annex 2 Asbatankvoy, clause 8, *Demurrage*, page 5

⁴⁹ Annex 3 Shellvoy6, clause 13 (1) (a), *Notice of Readiness/Running Time*, page 56

⁵⁰ Annex 1 BP Voy4, clause 17, *Half laytime/Half demurrage/Force majeure*, page 15

⁵¹ Refer to chapter 6: *Cost analysis and assessment of a sample case*, pages 59-60

or failure by the Vessel to meet any lesser performance required pursuant to a restriction imposed by the Terminal, shall be for Owners' account and shall not count as laytime or, if the Vessel is on demurrage, as demurrage"⁵². Under Shellvoy6 is warranted that vessel "can discharge a full cargo.. either within 24 hours, or can maintain a back pressure of 100 psi at the vessel's manifold and the Owners warrant such minimum performance provided receiving facilities permit.. The discharge warranty shall only be applicable provided the kinematic viscosity does not exceed 600 centistokes on part of the cargo.." ⁵³.

In order to calculate the time used for pumping or the quantity that was pumped into a given time, the following pumping performance formula can be of great use:

$$Q_2 = Q_1 \times \sqrt{(H_2/H_1)}$$

Q₁: the average discharge rate achieved by the vessel

Q₂: the discharge rate that would be achieved at the pressing pressure H₂

H₁: the average pumping pressure achieved by the vessel (manifold pressure)

H₂: the pumping pressure warranted in the charter party or the lower maximum pressure required by the terminal⁵⁴.

Crude oil washing/Stripping, as has been described in the second chapter, is in simple words the additional period granted to the vessel for pumping the remaining cargo by stripping, or 'washing' her tanks targeting to maximise the outturn quantity. Under this procedure, pumping allowance is increased by Bp Voy3 from 24 hours to thirty (30) and in Shellvoy5 same is increased by 0.75 hours per cargo tank washed whereas on its latest form, Shellvoy6 limit the allowance to 0.6 hours per tank with a maximum of 8 hours additional free time in Charterers favour.

On the other hand, BP Voy4, subsequent to the MARPOL rules⁵⁵ for clean seas, does not grant any additional allowance unless same is instructed by the Charterers, in which case, allowance is increased by 25%: "When the Vessel carries out crude oil washing to the MARPOL minimum standard, in the absence of instructions from Charterers to carry out additional crude oil washing, there shall be no increase in the time allowed for discharge of the cargo. If Charterers instruct Owners to carry out additional crude oil washing then the period referred to in Clauses 19.3.2 or 19.5, as the case may be, shall be increased by twenty-five per cent (25%)"⁵⁶. Under the Asbatankvoy, there is no pumping or crude oil washing clause at all.

When dealing with a non-demurrage claim, each time the recap agreement and any additional terms shall be examined thoroughly in order to be ensured that Owners are acting in accordance with Charterers' orders and that the deriving costs are also in line with the contractual provisions. For example, when a ship is ordered to deviate from A to B port through a C destination, the extra steaming, the extra bunkers and any additional port costs to be incurred are for Charterers' account. The way same will be

⁵² Annex 1 BP Voy4, clause 19.4, Part A. Loading and discharge of cargo, page 17

⁵³ Annex 3 Shellvoy6, clause 1 (a) (vii), Description of vessel, page 1

⁵⁴ Oil Industry laytime and demurrage seminar, Asdem 2007 v.3

⁵⁵ <http://www.imo.org/OurWork/Environment/PollutionPrevention/OilPollution/Pages/Crude-Oil-Washing.aspx>

⁵⁶ Annex 1 BP Voy4, clause 19.8, Part B. Crude oil washing and stripping, page 18

paid, it depends on the freight agreed to be a lump sum or basis WS (pls refer to ch. 2.6 Deviation).

As per Asbatankvoy clauses 4 (a), (b) and (c), there are certain locations where Charterer can send the vessel and that the additional time and expense will count as used laytime/demurrage. BpVoy3 cl. 24 also states that the time used in deviation shall count as used laytime/demurrage plus the bunkers' cost. On the other hand, Shellvoy5/6 and ExxonMobil Voy2000 cl. 19 (b) state that any deviation and its resulting delays shall be paid at the demurrage rate plus the replacement cost for the bunkers consumed, excluding the deviation calculation from the laytime calculation.

At any case, a non-demurrage claim shall be submitted within the time frame which the charter party dictates and with all the supporting documentation enabling the Charterer to calculate his side, his liability's size.

3.3 Legal Cases/ Articles

Case 1

Tribunal rules on liability between Owners and Charterers where cargo was contaminated with fuel oil

BY [ALEXANDRA ALLAN](#) ON MAY 30TH, 2013 POSTED IN [CARGO ISSUES](#), [CASE LAW](#)

London Arbitration 8/13

Charterers faced cargo claims arising from the contamination of containerised cargo with fuel oil. Charterers settled these claims and claimed an indemnity from Owners under the time charter between them. Charterers also claimed for survey fees, off-hire and bunkers during the period of off-hire.

Facts

During the first voyage under the charter, cargo shifted due to Owners' removal of container guide plates to allow the vessel to load wide containers. This caused a crack in the tanktop plating. A couple of months later, Owners noticed further damage, and it later became apparent that there were yet more defects in the tank top plating. It was not clear whether these had existed prior to delivery under the charter.

Owners elected not to repair this damage immediately, but to defer repairs until the vessel's next drydock, which was due to take place in around a month's time. Owners decided that, in the interim, the bunker tank in way of the crack in the tanktop plating would not be used, in order to avoid fuel leaking into the cargo hold.

However, Owners did use this bunker tank, which was half full prior to the incident in question. When fuel oil was transferred from various tanks during the voyage, the valve in one of the suction lines was left open which caused fuel to flow into the bunker tank. As a result of the crack in the tanktop plating, fuel leaked into one of the cargo holds.

Tribunal's findings

The Tribunal held that Owners were in breach in several respects. They had failed to maintain the vessel "in a thoroughly efficient state", on top of which the vessel was found to be unseaworthy. Owners failed to exercise due diligence before and at the beginning of the voyage to make her seaworthy. Owners also breached their obligation to carry, keep and care for the cargo.

Charterers' claim succeeded in full.

Comment

This case reiterates Charterers' right to an indemnity, as well as reimbursement of fees incurred, where Owners have breached these obligations. It also confirms that time lost as a result of these breaches can fall within the charter off-hire regime.

Owners must ensure they understand the nature of their obligations in respect of maintenance and seaworthiness. The former is generally a continuing obligation, which will apply equally during the course of the charter and on delivery. The courts have considered seaworthiness, and the associated obligation of due diligence, in detail. Although each case will turn on its own facts, the requirements for compliance are clear.

Source: <http://www.shiplawlog.com/2013/05/30/tribunal-rules-on-liability-between-owners-and-charterers-where-cargo-was-contaminated-with-fuel-oil/>

Case 2

Trafigura Beheer BV v Ravennavi SpA (The "Port Russel") [2013] EWHC 490 (Comm) 1 March 2013

This matter came before the Commercial Court on appeal under s.69 Arbitration Act 1996 from an arbitration award in favour of the owners. Somewhat unusually, the owners consented to the charterers having permission to appeal, but elected not to participate in the appeal.

By a voyage charter on an amended BPVOY 3 form with additional clauses, the owners chartered the vessel "Port Russel" to the charterers. Disputes arose in relation to demurrage and were referred to arbitration.

A preliminary issue was posed by the parties: "Was email a contractually permissible method of serving notices of readiness under this charterparty?" In its award the tribunal held by a

majority that email was a contractually permissible method of serving notices of readiness under the charterparty.

The charterparty provided as follows:

Clause 19:

"... (a) laytime or, if the Vessel is on demurrage, demurrage shall at each loading and each discharge port or place commence at the expiry of 6 hours after Notice of Readiness to load or discharge has been received from the Master or his agents by Charterers or their agents, berth or no berth, or when the Vessel commences to load or discharge at the berth or other loading or discharging place, whichever first occurs. Such Notice of Readiness may be given either by letter, facsimile transmission, telegram, telex, radio or telephone (and if given by radio or telephone shall subsequently be confirmed in writing and if given by facsimile transmission confirmed by telex) but Notice of Readiness shall not be given without Charterers' sanction, before the commencement of laydays ... "

The tribunal held that the original authors of Clause 19 intended that NoRs might be tendered in a wide variety of ways and did not accept that the authors intended their list to be exhaustive or exclusive.

The court was referred to a number of authorities citing that the use of the word "may" can denote a clause which is permissive or a clause which is obligatory. As such, each clause will fall to be construed within its own particular factual and commercial context.

In this instance, Mr Justice Popplewell found that the language of clause 19(a) was prescriptive and defined the form in which a valid Notice of Readiness must be given. It was obligatory, not permissive. The word "may" prescribed what was permissible. This was supported by the use of the words "either" and "or". These naturally denoted alternatives which made an exclusive group. There would be scant reason in denoting six specific alternative methods of giving notice if any method of giving notice were permissible.

In the Judge's view, the giving of an NoR had important consequences. It starts the running of laytime and those involved both in the giving and receiving of such notices are assisted by certainty as to whether the notice had been validly given. If clause 19(a) was prescriptive, it conferred certainty. If it was permissive, it left uncertainty over whether an NoR which was given by a method not listed had been validly given. There was an imperative for treating the listed methods as the exclusive list of permitted methods.

He further considered that there was a common feature in the listed methods, which was missing in the case of service of an NoR by email. The listed methods allowed for a hard copy document to be received. That allowed the document to be signed for receipt or marked by the recipient as rejected or claused. It gave an opportunity for the recipient to comment upon the NoR. Such comments might be of significance when a dispute arose as to the validity of the NoR. In contrast an email will only exist in soft copy form unless printed out by the recipient. Whilst a recipient may print the email and sign for receipt or clause it with comments, if so desired, he was not bound to do so.

This was not, Popplewell J held, one of those cases where the plain language of the clause led to such an absurd result that it must yield to some unnatural meaning. Ultimately the Judge's view was that what mattered was not what would have been in the minds of those drafting the clause in the 1990s; what mattered was the intention to be derived from the words used by these parties, at a time when these parties were well aware of the existence of email as a common method of communication and chose not to refer to it in clause 19(a).

Source: <http://www.steamshipmutual.com/publications/Articles/PortRussel0613.htm>

Case 3

Claims and Legal Volume 3: Number 1: March 2011

DEMURRAGE - FIRST CLAIM SUBMISSION INVALID, SECOND SUBMISSION TIME BARRED

The case of *The Eagle Valencia* [2010] 2 Lloyd's Rep. 257 ('*The Eagle Valencia*') illustrates the importance of complying with clauses in the charterparty which provide that a 'fully and correctly documented' claim be presented within a certain time frame when claiming demurrage.

In '*The Eagle Valencia*' the owners sought to claim demurrage which had arisen under an amended ShellVoy 5 form with Shell Additional Clauses. In order to claim demurrage, the charterparty provided that '...any demurrage claim shall be fully and correctly documented, and received by the charterers within 90 days after the completion of discharge...' The clause continued that the claim was to be extinguished where such a provision had not been met.

The ship arrived at the load port and tendered Notice of Readiness ('NOR'). However, at the time of tendering NOR, the ship had not received free pratique from the local port health authority. Free pratique was not obtained until nearly two days later.

The purpose of a NOR is to notify the charterers that the ship has arrived at the load/discharge port and 'is ready in all respects' to load/discharge. The NOR also provides the starting point for the calculation of laytime. English law has been reluctant to validate an invalid NOR when the ship becomes ready to load/discharge at a later point in time. For that reason, when the Master might have concerns over the validity of an NOR, it was commented that,

'...it is a good working practice in such situations to give notice of readiness and to go on giving such notices in order that, when later the lawyers are brought in, no one shall be able to say 'If only the master had given notice of readiness, laytime would have begun and the owners would now be able to claim demurrage...' per Donaldson J in *The Timna* [1970] 2 Lloyd's Rep. 409 at p. 411.

In '*The Eagle Valencia*,' as the Master had concerns over the validity of the NOR tendered prior to free pratique being granted, a second NOR was tendered without prejudice to the first, in case the first NOR was invalid.

Demurrage accrued and the owners put forward their claim based upon the first NOR. A 'correctly and fully documented claim' was presented to the charterers within 90 days of the completion of discharge in respect of the first NOR. However, once this claim had been brought to the charterers' attention, the charterers questioned the validity of the first NOR. Consequently, shortly before the trial, the owners put forward an alternative claim based upon the second NOR.

By the time the owners had submitted their alternative claim based on the second NOR more than 90 days had passed since the completion of discharge. The second NOR and a revised laytime statement were not submitted within this time.

The Court held that at the very least, the second NOR should have been submitted when putting forward owners' alternative claim, and that, in order for the claim to be considered, the time provisions in the charterparty should have been complied with. The owners' claim was thereby rejected as a 'correctly and fully documented claim' had not been submitted within 90 days from the completion of discharge.

Source: http://www.britanniapandi.com/en/news_and_publications/claims-and-legal/claims-and-legal-archive/claims-and-legal-2011/claims-and-legal-vol-3-no-1-mar-2011/index.cfm#b

3.4 Conclusions

The shipping cost is not a fixed cost when it comes to the demurrage since there are multiple charter party forms to embrace the voyage agreement between Owners and Charterers. Each of the charter parties in existence so far, is negotiating the terms to be agreed and provides for specific circumstances and under a specific way of calculating any cost deriving from that circumstances.

The cases given are indicated cases of how the interpretation of the agreed terms diverse from charter to charter and what legitimate direction can be followed. In every case, there is an additional cost deriving either from Charterers orders, Owners initiative or even act of God situations. The general principle is that 'the most favourable the recap, the lesser the costs for Charterers' and under this basis, recap gets amended and additional clauses are getting agreed in an effort to limit the exposure of a voyage.

Nevertheless, the wording indeed matters and is the basic parameter for deciding which way the balance tilts in regards to the shipping costs. With regards to the comparative study of the various charter parties in the oil industry, Annex 4 is reflecting an analytical comparison of the applicable exceptions to laytime⁵⁷.

⁵⁷ Annex 4 Comparison of laytime exceptions

Πανεπιστήμιο Πειραιώς

Chapter 4. Charterers Passing On the Shipping Cost in the Chain

4.1 Contract

A trading contract is an agreement between two parties in which a certain quantity of oil is purchased/ sold under fixed specifications and at a certain price and location.

Commodities can be traded either physically or financially; under a physical transaction, the delivery and the receipt of the cargo is required for the party at a short time period after the transaction date (spot) whereas at a financial transaction, the party is obligated to deliver/receive the cargo at some time in the future (futures).

A trade contract can be yet a sales or a purchase one, depending on if the party intends to sale a cargo or buy one. The cargo delivery is based on the incoterms ruling for each sale transaction, analytically referred as below:

- i. **FAS contract** - FAS stands for 'Free Alongside Ship'. Under FAS contracts, the seller is required to deliver the cargo alongside the ship named and the port designated in the contract and to notify the buyer that the cargo has been delivered under the specifications stipulated (quality, quantity and density agreed). The property of the cargo passes to the buyer when the seller delivers the cargo alongside the ship. Thereafter, it is the buyer's duty to arrange for the contract of affreightment and insurance of the product while in transit.
- ii. **FOB Contract** - FOB stands for 'Free on Board'. In a FOB contract, the seller is required to deliver the cargo on board as named in the contract and at the port designated, for the quantity, quality and the density agreed. Thus, the seller has to bear all expenses up to and including shipment of the cargo on behalf of the buyer, who is responsible for their freight, insurance and any subsequent expenses. As soon as the cargo is on board of the ship, the property passes to the buyer. The buyer is liable to pay the price even if the cargo is lost in transit.
- iii. **CIF Contract** - The words CIF stand for 'Cost, Insurance and Freight'. A CIF contract is a type of contract where the price includes any cost, insurance and freight charges imposed for the cargo to be delivered in the destination location. Under a CIF contract the seller is required to insure the cargo, deliver same to the buyer, arrange for the affreightment and for the financial details of the sale (the bill of lading and the insurance policy shall be forwarded along with the sales invoice and a certificate of origin to the seller's bank). *"The buyer should note that under CIF the seller is required to obtain insurance only on minimum cover. Should the buyer wish to have more insurance protection, it will need either to agree as much expressly with the seller or to make its own extra insurance arrangements"*⁵⁸. The property of the cargo passes to the buyer on the delivery of the b/l documents from the bank

⁵⁸ <http://www.iccwbo.org/products-and-services/trade-facilitation/incoterms-2010/the-incoterms-rules/>

involved. The buyer is equally protected as he is called upon to pay only against the documents are received which enables him to get delivery of the cargo safely. If in the meantime the cargo is lost, the buyer or the seller will bear such a loss and depends on whoever is the owner at the time of the loss incurred, that can recover refund from the insurer.

- iv. **CFR Contract** – The words CFR stand for ‘Cost and Freight’. Under a CFR contract, the price already includes the freight and the cost charges accrued up to the port of destination. The risk of loss and the property of the cargo passes to the buyer only when the goods are on board of the vessel.
- v. **DES (ex-ship) and DAP Contracts** – ‘DES’ stands for ‘Delivery Ex-Ship’ and ‘DAP’ for ‘Delivery at Place’. Under both cases, the seller has to deliver the cargo to the buyer at the port of destination. In such contracts the property of the cargo does not pass until the actual delivery is occurred. The cargo is at the seller's risk during the whole voyage. It is therefore, for the seller to insure the cargo in order to protect his interest. The seller is also to pay the freight, or release the ship owner's lien.

For good order's sake, Incoterms are “..trade terms used worldwide to specify seller and buyer obligations in shipments against international sales contracts. These terms are adopted by the International Chamber of Commerce (ICC) for international movement of merchandise. Since they in themselves are not law, they must be specified if desired in quotations, sales contracts, purchase orders and commercial invoices”⁵⁹. Incoterms were introduced and published in Paris, in 1936, for the first time and were reviewed several times thereafter to their last update form of 2010, being in force.

4.2 The wording matters - General Terms & Conditions

Contracts, unlike recaps, are reflecting only half the voyage of the vessel; subsequently, this fact has as an impact that the contract should also be reflecting half the laytime of a recap in approximate numbers. Laytime or time allowance is one of the most critical parts of a trade sale/purchase contract and is expressly stipulated in.

Oil cargo agreement is reflecting a trade between two parties of the oil industry such as trading houses, refineries and oil companies or even brokerage houses acting on behalf of them, under a proper commission. There are also many trading platforms specialized in this field, as Platts itself, which is providing day-to-day market information and prices, yet a trading guideline of the Market⁶⁰.

Each one of the parties is subject to the terms agreed within the contract, which are binding and absolute. However, in many cases a contract does not cover all the potential situations and costs to be incurred thus it is crucial that additional terms are in force in order to cover same. Usually, the majority of oil companies has its own terms which are called ‘General Terms and Conditions’ and are easily described by

⁵⁹ www.nasdaq.com/investing/glossary/i/incoterms#ixzz2xdkX1UaS

⁶⁰ <https://www.platts.com/IM.Platts.Content/aboutplatts/mediacenter/PDF/intromocoil.pdf>

the acronym 'GT&C's'. Such terms shall be included in the contract whenever is possible but are only enforceable where there is no specific wording in the main agreement between the parties and as per the industry practice, Seller's GT&C's shall supersede any other terms unless otherwise has been agreed in written. Cost wise, GT&C's ensure that the demurrage amount deriving to be paid, will be slim, in favour of the FOB Seller. Annex 6 provides an example of the General terms and conditions that are often used in the oil industry⁶¹.

The diversification in contracts can vary depending on the type of the contract and the incoterms to apply in; contracts are distinguished in Sales FOB, Sales CIF/CFR/DES, Purchase FOB, Purchase CIF/CFR/DES provided which party is drafting same, the seller or the receiver and if the delivery takes place in the load port or at the discharge port. A product to be sold at load port A under FOB incoterms shall require a Sales FOB contract if to be drafted by Seller's side. In case that the sale is under a CIF/CFR or even DES incoterms, the product will be shipped and delivered at the designated port of destination B, incurring extra costs due to the shipment⁶².

The main points that are dealt within the contracts and the GT&C's, where the demurrage is affected, are the following:

- Laydays/ Delivery dates
- Time allowance (laytime)
- Exceptions and interruptions to laytime and demurrage
- Nominations
- Demurrage rate
- Time bar and supporting documentation

Laydays or *delivery dates* are the days specified in the contract during which the cargo shall be ready to be lifted/discharged at the designated port. The delivery period usually constitutes a five (5) day window which shall be narrowed down to a three (3) day window according to the Platts rules⁶³. Although the commencement of laytime gets triggered on dependence to the vessel's valid NOR has been tendered, when vessel arrives at port within the contractual delivery period laytime may commences upon vessel's all fast at dock, if same is earlier.

The majority of oil companies contracts, similar to a recap terms, are expressly clarifying that laytime shall not commence before 0600 hrs on the first day of Laydays or upon vessel's all fast/ commencement of operations, in case of ship's early arrival prior the dates. In case of vessel's arriving within dates, laytime shall commence six hours later of the NOR is given or at all fast/commencement of operations, whichever is earlier. At last, when vessel's arrival is consequent to the delivery period agreed, laytime get triggered on NOR+6hrs or upon all fast /commencement of operations or even 36hrs after a valid NOR has been tendered, depending on the agreement and the GT&C's provided.

⁶¹ Annex 6 Example of GT&C's

⁶² Annex 5A Sample oil contract, CIF and Annex 5B Sample crude contract, FOB

⁶³ <http://www.datawatch.ze.com/fossil-fuels/platts-to-change-jet-cif-nwe-cargo-assessment/>

Time allowance (laytime) is the fixed period of free time for loading or discharging operations and is usually reflecting half the c/p allowance for 24, 36 even 72 hours or shall be calculated basis the quantity shipped for the party (in a prorated basis when concurrent deliveries apply) and certainly will be expressly stipulated in the contractual agreement. The free time has been compensated to the sellers via the cargo invoice and is always included in the cargo price.

Laytime continues to run until operation performance has been completed to the vessel's hose disconnection. However, alike to the most of the charter parties, contracts also allow a fixed time for the necessary documents to be placed on board, being 2 or 3 hours top.

Exceptions and interruptions to laytime and demurrage comprise all the excepted periods and those periods that laytime ceases, as stated in a contract or the GT&C's, excluding the involved parties either from being liable partially or completely.

Some popular exceptions/interruptions are the vessel's shifting from the anchorage to the berth, the adverse weather state, delays for pilots/tugs/tide/daylight restriction and free pratique to be granted, vessel's bunkering/ballasting operation and any vessel's breakdown to be incurred. The aforementioned operations and delays reduce the laytime and/or the demurrage to one half, only when same were not consistent with any loading or discharging operation and provided that the berth was available during that period and the cargo was ready to be loaded /discharged.

Nominations are notices to be given by the Seller/Buyer within 14 to 3 days prior the delivery dates and in accordance with the contractual terms, compulsory specifying: vessel's name and capacity, quantity to be loaded/discharged for the party and the delivery date range of the product. In some cases and when the nomination procedure is not properly followed, any demurrage costs deriving for such a delay are to be born by the party caused them and laytime is deemed to commence at vessel's all fast or upon commencement of operations.

Demurrage rate is the agreed rate under which the vessel has been hired for a spot voyage. Mainly, is expressly stated in the contract and either shall be the recap rate or can be a special agreed proportion of it (particularly when concurrent deliveries are in force for several counterparties). When no demurrage rate shall be established, market rate for the applicable size of the vessel is in force or same to be calculated basis Afra rates⁶⁴.

Time bar is the deadline that a party has to submit a written claim for demurrage, and any such claim is deemed waived and absolutely barred when same is overreached. Same as in recap clauses, provisions in the sale contracts also require submission of

⁶⁴ "Commissioned originally by one of the oil majors as a sophisticated indicator of freighting values for its affiliated companies, AFRA results have been published by the London Tanker Brokers' Panel continuously since 1954. There are unique in being the only assessments of their kind to be recognized by taxation authorities as an acceptable method of charging freight between affiliated companies of multinational groups. Afra is used... to access the freight element in various types of oil sale agreements". Source:http://wiki.answers.com/Q/What_are_average_freight_rates_assessment?#slide=9

the demurrage claims within specified periods of time however it is not always as obvious to find. Sometimes a time bar reference can be lying inside the contract or in the GT&C's prevailing or even not to be stated at all; time bar will be expressly stipulated as for 45, 60, 90 or 180 days. Sometimes, there is a wording incorporated in the contract for "demurrage as per charter party terms and conditions" which is misconceived to be referring to the time bar clause, however it only links to the demurrage and laytime calculation and shall not be confounded at any circumstance.

Supporting documentation includes all the necessary copies of documents that substantiate each and every part of the demurrage incurred for the party being liable for demurrage. The main documents comprising a demurrage claim are: the certificate of Notice of Readiness (NOR), the statement of facts (SOF) showing exact timings for the loading/discharging operation, any letters of protest (LOP's), ship's pumping logs showing average psi pumping pressure, the demurrage calculation sheet, a copy of the recap and the bill(s) of lading showing exact quantities lifted in a part-cargo delivery. Provided who the claimed party is, additional supporting documents may be required i.e. ship's ETA's and Owners invoice (in cases that it is clearly stated that the demurrage amount shall be not exceeding the one payable to the Owner). As a proof of validation of ship's documents (NOR, LOP, SOF and pumping logs), it is necessary to be stamped and signed by the Master, the terminal and the Agents appointed at each voyage.

Examining the non-demurrage costs under a delivery chain between the parties, it is not obligatory that each party bears the same liability down the chain. This is to be defined solely based on the contractual agreement between the parties and any additional terms being in force each time. For example, when a ship is ordered to deviate from A to B port through a C destination, the extra steaming, the extra bunkers and any additional port costs to be incurred are for Charterers' account (which in a chain case are the Sellers) but almost rare, are for Buyers' account who are buying basis delivered cargo under a CIF/CFR or DES contract with a subsequent sale date of the date that the deviation incurred.

At any case and if a deviation liability derives for the Buyer (due to buyer's alteration of the port of destination), a non-demurrage claim shall be submitted within the time frame which the contract or the implied GT&C's dictate and with all the supporting documentation enabling the party to calculate his side.

4.3 Legal Cases/ Articles

Case 1

Use of the Term 'Laycan' in an FOB Contract Delivery Clause

Stuart Shepherd, November 08 2006

Following the *Azur Gas Case* (for further details please see "[Commercial Court Rules on Validity of ETA](#)"), the Commercial Court has again considered the meaning of the word 'laycan' in a free on board (FOB) contract delivery clause.

Facts

In the present case ERG contracted to sell to Chevron FOB ISAB refinery Northside Priolo Terminal 30,000 metric tons of gasoline (plus or minus 10% at Chevron's option). Clause 7 of the delivery provision stated as follows:

"FOB ISAB Refinery Northside (Priolo Terminal - Augusta Bay) in a single lot by M/T TBN/subs to be nominated by buyer and to be acceptable to seller in the period from May 27 2004 to May 30 2004. Buyer will narrow such period to a two-day laycan latest by May 21 2004 by close of business Italian time."

Chevron subsequently nominated a vessel, the Luxmar, and narrowed the laycan to May 29 or 30. The ship arrived at Priolo at 10:00am on May 28 and gave notice of readiness. However, the cargo was not ready because of problems at the plant and was not ready by the end of the laycan period. By June 3 loading had still not commenced, but cargo in two of the three shore tanks had been tested and found to meet specification. Chevron was informed on June 3 that the vessel would probably berth on June 4. However, after a failed attempt to renegotiate the contract price, Chevron informed ERG that it accepted ERG's alleged failure to commence loading as a repudiatory breach of the sale contract, which it declared to be terminated.

ERG commenced proceedings against Chevron for damages on the basis of its alleged wrongful termination of the contract. ERG's case was simply stated. It said that Clause 7 obliged Chevron to present a vessel at Priolo within the narrowed laycan range of May 29 to 30, in which event ERG was obliged to load the vessel within the laytime specified in the contract (36 plus six hours) or pay demurrage, if any, in accordance with the demurrage clause in the contract. ERG claimed that it had no other delivery obligation; Chevron had had no right to terminate the contract as it had purported to do on June 3.

Chevron's case was more complex. In essence, it claimed that Clause 7 imposed a period within which ERG was bound to deliver the cargo - the clause was a delivery clause and was headed as such. However, Chevron recognized that the precise effect of the clause was susceptible to debate; it was open to question whether the clause meant that:

- the cargo had to be loaded - in the sense that loading had to be completed - within the delivery period (ie, by midnight on May 30);
- delivery had to commence within such time as would ordinarily permit delivery to be completed no later than May 30;
- delivery had to commence no later than May 30; or
- delivery had to be completed within the laytime period.

Chevron's counsel acknowledged that 'delivery' would normally mean completed delivery; his primary submission therefore favoured either the first or the second interpretation. However, he also acknowledged that reading the clause together with the laytime clause might be more consistent with the third and fourth possibilities, which might "make more sense given the general commercial background". Further, it

appeared that Chevron's own witnesses had difficulty with the first two constructions and favoured the third.

Decision

The judge referred to and quoted from Justice Christopher Clark's judgment in the *Azur Gas Case*, making particular reference to his comments on the meaning of the term 'laycan'. It appears that Chevron did not take issue with the normal meaning; rather, it contended that, having regard to the heading of the clause and the reference to the period from May 27 to May 30 in the first paragraph, the clause provided for a delivery period. Further, despite the use of the word 'laycan' in it, the second paragraph was intended to narrow the delivery period provided for in the first paragraph. Chevron also contended that it would be most unusual for the contract to contain no delivery stipulation. The judge agreed that this might be the case, but considered that such a stipulation could not be created if it did not exist as a matter of construction - the judge found that it did not. In his view, the words 'narrow such period' plainly referred to the period in the first paragraph, which was described as a laycan. "A delivery period cannot be narrowed to a laycan any more than a pea can be narrowed to a bean," he said.

The judge accepted ERG's construction of the clause, despite the fact that this meant that the contract contained no delivery period within which ERG was obliged to deliver the cargo. He considered that, in the circumstances of the case, Chevron would have been entitled to walk away from the contract only in the event of a 'frustrating' period of delay (ie, a delay sufficient to amount to frustration of the contract). Therefore, Chevron was in repudiatory breach by virtue of its wrongful termination of the contract and ERG was entitled to damages.

Comment

It is unclear whether the parties in this case recognized that the use of the word 'laycan' in the delivery clause meant that there were no time constraints on the seller in terms of making the cargo available at the load port. Further, although it was not a point at issue in this case, it may be difficult to proscribe an FOB buyer's obligation to put in a ship to load a cargo in terms of a laycan. For example, is the buyer in breach if its nominated ship fails to meet the laycan? If the position were to be considered with regard to owners meeting laycan under charters, the answer would be no - at least, not automatically no.

Source: <http://www.internationallawoffice.com/newsletters/detail.aspx?g=a2a041f5-626b-db11-a275-001143e35d55>

Case 2

Thai Maparn Trading Co Ltd v. Louis Dreyfus Commodities Asia Pte Ltd [2011] EWHC 2494

The background facts

This was an appeal by the Sellers (Thai Maparn Trading) under S. 69 Arbitration Act 1996 (error of law) against two arbitration awards issued by the GAFTA Board of Appeal.

The dispute arose out of two FOB contracts for the sale of rice based on GAFTA Form 120. In both cases, the GAFTA Board had upheld the first tier GAFTA awards that the Sellers (Claimants in the appeal) had repudiated the contracts by making it clear to the Buyers (Louis Dreyfus, Defendants in the appeal) that they did not and would not have cargo available to meet the vessel nominated in each case by the Buyers. The GAFTA Board held that these repudiations amounted to a default under Clause 23 of GAFTA 120 and that the Buyers were, therefore, entitled to damages assessed as at the date of the Sellers' default. In both cases, the Sellers had tried (and failed) to argue that the Buyers had given short notice of the arrival of the vessel, which was non-contractual, thus entitling the Sellers to reject the nominations.

The contractual provisions

Both contracts stipulated loading terms that required the Buyers to give a minimum of 7 working days written pre-advance of the vessel's ETA and for NOR to be tendered in writing during normal business hours. The relevant terms of GAFTA 120, as incorporated into each of the two contracts, provided as follows:

- The Buyers were to serve not less than a certain number of consecutive days notice of the name and probable readiness date of the vessel and the estimated tonnage required. Provided that the vessel was presented at the loading port in readiness to load within the delivery period, the Sellers should, if necessary, complete loading after the delivery period. Any notice received after 16.00 hours on a business day would be deemed to have been received on the business day following (Clause 6 - Nomination of vessel).
- Notification of the vessel's readiness to load at the port of loading was to be served on the Sellers at their office at the port between certain specified hours (Clause 10 - Loading).
- If either party defaulted in fulfilling the contract, the damages payable were to be based on, but not limited to, the difference between the contract price and either (a) the default price obtained by the innocent party by selling to or purchasing from an alternative supplier; or (b) the actual or estimated value of the goods on the default date (Clause 23(c) - Default).

The findings of the GAFTA Boards of Appeal

In each case, the Buyers nominated the vessels under the contracts, at the same time giving their written pre-advance of the vessels' ETAs, but then called on the Sellers to bring the cargo alongside the vessels on dates

that were before the requisite 7 working days notice periods would expire. However, the nominations of the vessels were valid in all other material respects.

In response to the nominations, the Sellers responded with messages that stated, in respect of the first cargo, "we are not ready with cargo and printed bags, and hence, we cannot accept your above nomination" and, in respect of the second cargo, "we regret, with due respect, due to unavailability of goods and printed bags, we cannot accept [your nomination]". In neither case did the Sellers state that their rejection of the nomination was because they regarded the nomination itself as invalid.

The Boards of Appeal held that the short notice in both cases was insufficient to entitle the Sellers to reject the nominations, since they could instead have simply accepted the vessels when the 7 working day periods expired.

Against this background, the GAFTA Boards held that the Sellers' responses to the Buyers' nominations and pre-advice of ETAs were in anticipatory repudiatory breach of contract, entitling the Buyers to accept the repudiation and bring the contracts to an end. The arbitrators took the day after the date of the Sellers' message that constituted repudiation in the case of each contract as the default date for the purposes of calculating damages.

The Sellers appealed to the Court.

The Commercial Court decision

Mr Justice Beatson disagreed with the Sellers' counsel that the contractual requirement of "minimum 7 working days written" prior notice of the nominated vessels' ETA was a condition precedent to the Sellers' obligation to provide and load the cargo. He also rejected the contention that the short notices were invalid and of no effect, because this would wrongly assume that the obligation in the contracts to provide the cargo after the tender of valid NOR depended on 7 days notice of the vessels' ETA. In fact, the notice of ETA was only an estimated time of arrival and the vessel might well arrive before the expiry of the period stated even if at the time it was given it was anticipated that she would arrive more than 7 days later.

So far as triggering the obligation to load the cargo - and for the purposes of laytime and demurrage - time would, prima facie, start to run when the NOR was given because it was the NOR that triggered the obligation to load and the running of laytime. However, as the Boards found, on a proper construction of the contract the obligation to load and the running of laytime would not commence on the date of the NOR if the NOR was tendered before the expiry of 7 days from the nomination, because the Sellers were entitled to be given 7 days notice to have the cargo available for loading. In such case, time would begin to run from expiry of 7 days after the notice.

The judge distinguished this matter from *Bunge v. Tradax* [1981] UKHL 11 because there the breach consisted not of giving less than the requisite number of days' notice, but of giving notice after the last date on which it could legitimately be given, because the required 15 days notice in that case would have ended after the last contractual date of shipment.

The judge saw no reason to criticise the GAFTA Board's findings that the Sellers' messages were repudiatory, based on the evidence before them. Regarding the date of default, the judge referred to *Toprak v. Finagrain*[1979] 2 Lloyd's Rep 98, where it was held that the date of default in an equivalent GAFTA default clause was the date of the breach and not the date on which the breach was accepted as repudiatory by the other party. He rejected the argument that, as long as the contracts remained open for performance because the Buyers had not stated they were treating the contracts as repudiated, then only nominal damages were claimable.

Comment

This case illustrates that the courts will look at the substantive purpose of the obligations to give notice of nominations and will not permit technical points to be used to invalidate otherwise valid nominations. It also offers a lesson that when responding to such notices, whether valid or not, the receiving party needs to choose its words extremely carefully so as not to appear to be itself refusing to perform the contract – and thereby risk putting itself in default.

Source: <http://incelaw.com/ourknowledge/publications/does-short-notice-of-nominated-vessels-eta-invalidate-the-notice>

Case 3

Court rules on issues of contract interpretation and measures of damages in contract for the sale of fuel oil **BY ALEXANDRA ALLAN ON JANUARY 8TH, 2014 POSTED IN CASE LAW, CONTRACTUAL ISSUES**

Galaxy Energy International Ltd v Murco Petroleum Ltd (M/V "Seacrown") [2013] EWHC 3720 (Comm).

The Claimant buyer claimed against the Defendant seller for alleged late delivery of a cargo of fuel oil. The contract stated that the cargo was to "*be delivered ... in one lot ... during period 15/17 January 2012*". It was common ground that the cargo was not delivered by 17 January 2012. However, the Defendant argued that the contract contained a term extending delivery, and alternatively contested the construction of the contract. The Defendant also, if found liable, disputed the damages claimed.

The terms of the contract

On 4 January 2012, representatives from the Claimant and Defendant spoke and agreed terms for the sale. Subsequently, the Defendant sent a confirmation email containing slightly different terms, including at the end of the delivery provision the words "*plus such extension to that period as is required by the seller to effect or complete delivery*". The Claimant said it would revert "*in due time*". A week later, the Claimant sent a message deleting some of the terms, including the additional delivery wording. They required the Defendant to confirm their agreement, with silence to be taken as agreement. The Defendant recorded its agreement

internally, but did not communicate anything to the Claimant, and proceeded with the deal.

The Claimant fixed a vessel, which tendered NOR at the loadport on 13 January. The vessel was delayed in berthing, and did not do so until 20 January. The Claimant claimed damages for late delivery of the cargo. In response, the Defendant argued that the Claimant had accepted delivery, so its rights were limited to a claim for demurrage, not damages for late delivery.

Issues

The Court considered the following issues:

1. whether the term as to extended delivery was incorporated into the contract;
2. whether the provision for delivery “during period 15/17 January 2012” was concerned only with the arrival of the nominated vessel, and so was a laytime provision, rather than providing the latest date for delivery; and
3. the correct measure of damages.

Judgment

The Court held as follows:

1. There was an “agreement if not a final concluded contract” made during the 4 January conversation. The extended delivery provision was not subsequently incorporated into the agreement between the parties. The Defendant knew that this had not been accepted, and at no point did the Claimant act in a way which could amount to acceptance by conduct.
2. On an interpretation of the contract as a whole, the provision for delivery was not a laytime provision. The position may have been different if the contract had provided for an extended delivery period in which a specific shorter laycan period needed to be mutually agreed.
3. Damages were to be assessed on the basis of market value, and the Court was required to determine the market value at the date of the seller’s breach. The best approach to take was to base this determination on a spread of Platt’s figures, rather than the quoted figure for the relevant day. Platt’s is the best measure currently available of daily prices, and trades in the market are more likely to be based on a spread of Platt’s figures than on the quoted figure for a particular day.

Comment

This case first highlights the potential issues where a contract is agreed in a combination of telephone calls and correspondence, as is often the case with shipping and trade contracts. Depending on when certain messages are sent, and when steps are taken to perform the contract, this can lead to disputes as to the precise terms.

The Court’s approach to interpretation of the contract makes clear that clauses will not be interpreted in isolation. Rather, they will be considered in the context of the contract as a whole.

As regards the measure of damages, the Court took a commercial approach. It based the assessment on the values which would be used by the market, rather than a figure which although it may have been quoted on the day of the breach, may not in fact reflect the value of a trade agreed on that day.

Source: <http://www.shiplawlog.com/2014/01/08/court-rules-on-issues-of-contract-interpretation-and-measures-of-damages-in-contract-for-the-sale-of-fuel-oil/>

4.4 Conclusions

The obligation of paying demurrage and non demurrage liabilities is absolute and grounded basis the sale contract terms agreed. Demurrage is not to be treated as an indemnity and shall cover the amount payable to the Owner for such a loss but no higher.

Controversially, if the contract allows it, a profit is easily made on claimant's end. At this point, everything lies on the terms agreed once again which might favour against a charter party or another contract as the cost is going forward on a trading chain. In the instance that the Charterer paid demurrage to Owners under a laytime of 36 hrs for only the disport operation, when selling the cargo to his Buyer for a laytime of 24 hrs (having all other provisions as per charter party terms), has an eight (8) hour pure demurrage profit out of it.

The cases given are indicative of the core module than an oil industry is driven on and reflects the clauses interpretation variety in existence.

The shipping cost is passed on the chain to the final receiver, through the demurrage and the non demurrage cost implemented in each instance, forming the product prices to its distribution ones. Contract samples for oil and crude shipment are included in Annex 5, for a CFR and an FOB trade respectively⁶⁵.

⁶⁵ Annex 5 Sample Oil contract/ Crude contract

Chapter 5. Charter party and Contractual Disputes Resolution

5.1 Lost in the translation; “The dos and the don’t’s list

Taking into consideration that there is a great variety of charter parties and contracts forms - also including the additional terms agreed between Owner and Charterer, Seller and Buyer – it is almost unavoidable that misperceptions accrue often. While ‘searching in the rabbit hole’ under a disputable case, should always have in mind the following dos and don’ts that are serving as a precaution measure:

- *Do choose partners carefully.*

As well as in every part of the business world, Owners or trading partners shall have credibility. Even if it refers up on a well-known Owner or a brand oil company, any interaction shall always be based on the security that the vessel/cargo will be at port within the agreed dates and that any demurrage/non demurrage expense will be well and authorized submitted (if owner) or recovered (if trading party).

- *Do not process any payments prior reviewing and analyzing each cost.*

It is up to own calculating method and analysis of an expense received to determine whether such an expense is applicable, well substantiated and accurate basis the contractual circumstances. Freight or a demurrage/non demurrage cost cannot be reimbursed prior to vessel’s completion of voyage or prior the occurring cost is properly billed.

- *Do make sure unequivocal clauses are incorporated.*

Explicit wording in the recap/contract saves up time from potential disputes and losses. There so many variations of clauses which are unfortunately open to various and different interpretations thus it is crucial that any agreement made shall be reflected accordingly in written in order to be exercised diligently.

- *Do not take as granted any arguments to be used against claims from the Owner or the party.*

In the majority of the industry, the most arguments in a dispute are not well-founded or at a closer look of the relevant provisions are revised or just being superseded by a divergent wording. There is still the special case where a verbal agreement has been made on Chartering’s or Trader’s level and yet it is not reflected in the recap/contract, however is fully enforceable due to commercial reasons.

- *Do have awareness of the additional terms or GT&C’s agreed and of any potential addendums.*

Whether the recap or the contract shall have any revisions, it is the last version of it that is in force; shall be very careful that any calculations or arguments are based in the correct document reference. Nevertheless, when dealing with a trading party, it is wise examining which GT&C’s are incorporated in the contract and of which year and grade; it is not a given fact that the party shall have its own GT&C’s agreed, i.e. a sales contract of Murco Petroleum might implies the BP GT&C’s 2007 and not the Murco ones.

- *Do not ignore claims or responses received.*

The consequences of letting outstanding cases unreplied are numerous, besides the fact that it is unprofessional and creates a bad image for the company and oneself; claims are piling up, Owners/brokers/parties are chasing for their claim's resolution, facing the risk of deteriorating the commercial relationship between the parties, facing the risk of legal action to be taken from Owners/party's side, facing the risk of a demurrage loss (some charter parties may incorporate an explicit time bar clause of Charterer's reply for negotiating the claim amount).

- *Do make sure that nomination and voyage orders are properly sent out and on time.*

Operators must nominate a vessel/cargo and deliver the voyage orders within a specific notice period which is always stated in the agreement being in force. Unless this provision is fulfilled, major demurrage loss is to be faced due to unnecessary vessel delays. At any case however, it would be cost-wise to bear awareness of a nomination procedure failure, estimating the exact exposure incurred.

- *Do not use controversial language and pointless arguments.*

The more simple the language used is when a thesis is grounded towards a case, the easier a claim shall be resolved. Avoidance of unsubstantiated arguments is highly recommended whereas it is crucial to get into the point and do not fluctuate in ones statements. In cases of doubt or unwillingness from the other side to reach a resolution, it is preferable to address to a legal advisor or an arbitrator.

- *Do keep the provisions identical when buying and selling the same cargo.*

Provisions of a sales FOB contract can be easily transferred into a purchase FOB one by incorporating the extra clauses from the first to the last (same can apply for a charter and a subcharter). The same GT&C's shall be also binding both of the contracts under which a back-to-back deal is traded. However, it is rather impossible to have the same provisions of a back-to-back contract with a charter party even if the wording 'demurrage as per charter party terms and conditions' is stated, since at a sales contract there is always deductions imposed according to the GT&C's that do not apply in a recap.

5.2 The 'b2b' philosophy

In the shipping industry, there are back-to-back contracts and back-to back charters. The key of a 'b2b' trade or charter is to keep the terms of two contracts/recaps identical by incorporating the favourable provisions to both of the documents unchanged.

The main issue being compromised in this philosophy is to eliminate any potential losses and risks. Specifically, the act of keeping terms and provisions identical between the contracts or the charters usually refers to the kind of clauses that are dealing with costs such as laytime and demurrage, non demurrage and freight issues.

Analytically:

“Back-to-back contracts are two documents with matching terms and conditions. Their purpose is to enable one of the parties to a contract, to contract with a third party on the same terms, and hence without any loss of protection”.

Likewise:

“Back-to-back charter is a contract between a charterer and a sub-charterer whose terms and conditions are identical to the contract, known as the head charter, between the charterer and the ship owner. The purpose of agreeing identical terms is to ensure that any money for which the charterer may be liable to the sub-charterer... is recoverable for the ship owner”⁶⁶.

In fact, adopting this way of treating with the contracts or the charters seems more ideal than it actually is. Too much reliance on the trade or the voyage under the certainty that no risks are involved in, might be proved to be a severe mistake. Additionally, must be further ensured that any additional terms or GT&C's are also applying in all the cases and that any theoretical cost possibility has a clear wording impact.

5.3 Commerciality & Leverage

Since some of the principal methods of avoidance or even prevention of the potential loss have been described so far, it is fruitful that some strategic methods on dealing with it are also underlined; such strategies are the trading commerciality and the leverage.

Trading commerciality or the art of ‘making trading commercial decisions’ is *“the technique of reducing the forgoing one or more desirable outcomes in exchange for increasing or obtaining other desirable outcomes in order to maximize the total return or the effectiveness under given circumstances”⁶⁷.*

In simple words, in the oil industry and more specifically in the trading business field, sometimes a cost is diminished or even not recharged at all due to a higher level's decision (administrative decision) in order to negotiate commercially another higher cost which may lack validity or just for preserving a good relationship -between the parties or the Charterers and the Owners. Similarly, when a dispute arises between the parties or the Charterer and the Owner, an amicable way of resolution can be established by splitting the cost in half. This is a very widely used method nowadays and is always worth to try with.

Leverage, on the other hand, is a party's positional advantage towards its liabilities to other parties within the trading business. It can be also described as

⁶⁶ http://books.google.gr/books?id=sRqk-NfgEY0C&pg=PT15&lpg=PT15&dq=back+to+back+shipping+contracts&source=bl&ots=cQ0iDtfIHt&sig=zQGnwZpyc5-Y9gEfFU2jqMWPzfQ&hl=en&sa=X&ei=7zNFU5P0AYjf4QT03IDAAG&redir_esc=y#v=onepage&q=back%20to%20back%20shipping%20contracts&f=false

Source: *Dictionary of Shipping Terms*, 6th Edition

⁶⁷ <http://www.businessdictionary.com/definition/tradeoff.html#ixzz2yYyKF3kY>

“the ability to influence a system, or an environment, in a way that multiplies the outcome of one's efforts without a corresponding increase in the consumption of resources. In other words, leverage is the advantageous condition of having a relatively small amount of cost yield a relatively high level of returns”⁶⁸.

Let us assume now that company's Y liabilities towards a company X are summing up to \$ 50,000, for claims outstanding of the same year. Company X has unpaid claims towards the Y company which stand for \$ 30,000 and remain unsettled for 5 years. Company Y, although that owes more, can use the leverage that her claims stand unpaid for more years and until they get settled no payments will be made her end. That seems to be an extensively used and persuasive method of resolving old disputes by putting an extra pressure to the party you interact with.

5.4 Arbitration/Meditation and Court proceedings

Having not achieved the wanted result by exploiting the aforementioned methods, a dispute can always be resolved by taking the necessary legal steps. It is the least favourable and the last preferable option, given the fact that is highly cost and time consuming, however occasionally it seems unavoidable. There are also introduced the Alternative Dispute Resolution (ADR) procedures, the Arbitration and the Meditation methods.

Arbitration is the friendliest out of the three ways described here and prerequisites that a relative provision lays within the recap or the sales contract. Under this method, a dispute shall be resolved outside courts but with the interference of the parties' respective lawyers. *“The arbitral tribunal's decision can be final and binding or non-binding, depending on the rules of the arbitration, which are usually set in advance by the parties themselves, by the court, or by law or contract”⁶⁹.* It is quite possible though that an oral hearing arbitration should cost more than the equivalent High court proceedings. Usually arbitrations are done as per LMAA rules (when London arbitration applies) and the set of conditions that the Act provides⁷⁰.

In Meditation, a decision is not imposed on the parties but this method rather refers to a voluntary process where both sides agree to use a neutral mediator who shall facilitate an acceptable settlement based on a middle ground to take place. Mediations can be either formal, represented by the involved parties and their lawyers at a fixed meeting place or can be informal, arranged from the mediator by the use of an email account while each party stays in its own premises without the obligation of any physical meeting. When all the arguments are examined, the mediator indites his

⁶⁸ <http://www.businessdictionary.com/definition/leverage.html#ixzz2yrA1MbYP>

⁶⁹ <http://maanigeria.org/wp-content/uploads/2013/09/Emerging-Trends-in-Enforcement-of-Maritime-Arbitration-Awards-and-ADR-Settlements.pdf>

⁷⁰ *“Arbitrations in London are conducted under the Arbitration Act 1996. The LMAA Terms are the terms on which LMAA members usually accept arbitration appointments in maritime cases. Where the members of the tribunal accept the appointment on such terms they therefore apply to and govern the procedure adopted in the arbitration reference. The Terms have been altered from time to time and the current version is the LMAA Terms (2012)”.*

Source: <http://www.lmaa.org.uk/about-us-Introduction.aspx>

evaluation. *“A mediator's evaluation is simply that and nothing more; it is not binding upon the parties unless the parties agree to the contrary”*⁷¹.

Court proceeding is the most expensive and time consumable way of following and its results are binding and automatically published from the Court, serving as an example case for similar disputes. This method also requires a recap or a contractual provision to be in force, in order to apply as an option.

The results of arbitration or a meditation's may not immediately end the dispute between the parties, especially when it comes to collecting payment from the losing party. Unlike High Court binding decisions, the majority of arbitral awards and meditation results are implemented without recourse to any enforcement procedure. Whilst they can easily be confirmed as a court judgment, then can be used for collecting any payment imposed on the losing party through a judicial enforcement and in lieu of the contract on which the mediation and award were based.

5.5 Conclusions

Due to the numerous charter parties yet the contractual clauses being in existence in the oil industry as well as due to the 'big money' lying in the table, arguments and disputes are expected and are arising very often. Some methods to eliminate any potential disputes are the continuous negotiations even if it has to be done on a higher level scale (from the management board or the chartering/ trading desk) and the grounded arguments, sometimes substantiated by a published legal decision which shall fit the case.

Sine 'time is money'⁷², any intention of meditation/ arbitration or court proceeding the issue is usually lowered down to that extend that a workable solution to be found is still a better way to handle same internally.

⁷¹ <http://www.jamsadr.com/mediation-guide/>

⁷² Benjamin Franklin, *Advice to a Young Tradesman*, Written by an Old One

Source: http://en.wikipedia.org/wiki/Time_Is_Money

Πανεπιστήμιο Πειραιώς

Chapter 6. Cost Analysis and Assessment of a Sample Case

The sample Asdem case of a vessel's demurrage cost incurred whilst in a spot voyage from Tarragona, Spain to Garyville/New Orleans, USA will be calculated and evaluated in this chapter from a Charterer's perspective and on a later stage it will be examined in correlation with the trading chain.

6.1 The Owners' demurrage claim

The vessel was chartered under BPVoy3 with laydays being 9-10 December and a demurrage rate per day of USD 14,000.00. She loaded a total of 52,458.209 mts of VGO in Tarragona at different berths and discharged at two separate ports in the US, 31,509.416 mts at Garyville and 20,948.793 mts at New Orleans. Ship owners submitted their claim for USD 58,479.17 basis charter party laytime allowance of 72hrs and within the applicable time bar frame. Freight was paid basis lump sum 1:2 and no extra cost to be charged to Charterers' account.

When summing up the facts, it is known:

Vessel: General Tyulenev
Grade: Biofuel (VGO)
B/L figure: 52,458.209 mts
Spot voyage: Tarragona – Garyville/New Orleans
Laycan: 9-10/12
Laytime: 72 hrs
Demurrage rate: USD 14,000 pdpr

The necessary documents for Charterers' calculation and for the validation of Owners claim are:

- Notice of Readiness at all ports (were not included)
- Statement of facts at all berths and ports (included)
- Pumping logs at both discharge ports (only New Orleans' were included)
- Copy of the charter party
- Any Letters of protest (if applicable)

Owners had not had included all the required documentation to ensure that each and every part of their demurrage claim addressed to Charterers is substantiated, however due to commercial reasons, Charterers kindly informed Owners accordingly to provide timely the missing documents without any further issue.

In the meanwhile, Charterers have in their disposal enough evidence to review the claim and reach their own decision on the amount that should be rightfully paid to the Owners as a demurrage refund.

The method to be followed is:

1. Shall check the information given from Owners calculation with the recap applicable (sheet 1)

2. Shall check if the recap clauses agreed are transferred correctly in the demurrage calculation and whether any deductible elements are accordingly deducted from time (BP Voy3, clauses 19,20 & 21)
3. Shall calculate the pumping time not exceeding the 24hrs given in the charter party (BP Voy3, clause 4)

Sheet1

SHIP OWNERS CLAIM

<u>DEMURRAGE CALCULATIONS</u>					
M/V:	GENERAL TYULENEV	VOYAGE	95.15		
LOAD PORT: TARRAGONA					
N.O.R.	TENDERED	08.12.95	1550		HOURS
TIME COUNTED		08.12.95	2150		
		08.12.95			3.10
		09.12.95			24.00
		10.12.95			24.00
		11.12.95			24.00
		12.12.95			9.30
		TOTAL			84.40
LESS DEBALLASTING					
					5.25
		TOTAL			79.15
DISCHARGING PORT GARYVILLE					
N.O.R.	TENDERED	01.1.95	9.30		
TIME COUNTED		01.01.95	15.30		
		01.01.95			8.30
		02.01.95			24.00
		03.01.95			24.00
		04.01.95			24.00
		05.01.95			12.30
					92.60
TOTAL LOAD/DISCHARGE = 172.15					
LESS TIME ALLOWED = 72.00					
TOTAL DEMURRAGE = 100.15					
DEMURRAGE	14,000.00	100.25	=	USD	58,479.17
	24				



refinería
de tarragona

Teléfono: 34-77 54 01 73
Fax: 34-77 54 06 06

ASESA TERMINAL STATEMENT OF FACTS

VESSEL	GENERAL TYULENEV	CARGO	V.G.O.
AGENT	JUAN CORREA	DATE	DEC. 11th.1.995

	DATE	HRS	HRS
Arrival to Tarragona Roads.	08.12.95		at 15:50
Pilot on board.	08.12.95		at 16:30
All fast, with gangway in place, Platform 50.	08.12.95		at 18:45
N.O.R. Tendered.	08.12.95		at 15:50
N.O.R. Accepted by Asesta Terminal as per relevant C/P			
Connected hard arm. 1 x 12 ". Cargo, V.G.O.	08.12.95	from 18:45	to 19:00
Samples taken on board & tasted, for discharging to shore Dirty Ballast.	08.12.95	from 18:45	to 22:15
Connected hard arm . 1 x 12". Dirty ballast.	08.12.95	from 22:15	to 23:30
Ship 's linning up.	08.12.95	from 23:30	to 23:35
Unballasting Time.	08.12.95	from 23:35	to 24:00
Unballasting Time	09.12.95	from 00:00	to 01:45
Cargo tanks inspection on board and by Caleb-Brett.	09.12.95	from 01:45	to 02:10
Disconnected hard arm . 1 x 12 " . Dirty ballast.	09.12.95	from 02:10	to 02:45
Samples taken for analysis.	09.12.95	from 02:45	to 03:00
Ship 's linning up & internal stripping .	09.12.95	from 03:00	to 04:00
Loading V.G.O.	09.12.95	from 04:00	to 24:00
Loading V.G.O.	10.12.95	from 00:00	to 22:00
Shore cargo tanks measurement & figures .	10.12.95	from 22:00	to 23:00
Ship cargo tanks measurements & figures .	10.12.95	from 23:00	to 04:00
Taking samples on board .	10.12.95		at 23:30
Disconnected Cargo Arms . 1 x 12 " .	10.12.95		at 23:35
Document on board.	11.12.95		at 02:00
Left Berth.			at
Eta destination.			at

SHIP FIGURES : 20.872.879 Kg SHORE FIGURES: 20.948.793 Kg
CARGO TIME: 42 hrs 00 min CARGO RATE : 498,8 mt/hr

REMARKS: At the request of vessel's master, firstly performed unballasting operations.

loading was stopped by shore

ASESA

Loading Master
"José V. Perez"



AGENT

"Juan Correa"
Gregorio De La Fuente"

SURVEYOR

"Caleb-Brett"
"Javier Huici"



PORT OF TARRAGONA
M/V "GENERAL TYULENEV"

COMPANY
Address: 1, Ul. Svobody,
Novorossiysk, 353900, USSR
Cable: morflot novorossiysk
Telex: 279113, 279133, 279153 MORFLOT SU

STATEMENT OF FACTS

	1995	TIME	DATE	REMARKS
END OF SEA PASSAGE				
NOTICE OF READINESS TENDERED		0200	11.12	
PILOTAGE, MANUEVRING			11.12	1005 - 1120 = 01.15
ANCHOR AWEIGH				
PILOT ON BOARD		1005	11.12	
FIRST LINE ASHORE		1120	11.12	
GANGWAY DOWN				
ALL FAST		1220	11.12	
NOTICE OF READINESS ACCEPTED		As Per	C/P	
COMMENCED OPENING ULLAGE		1220	11.12	
COMPLETED OPENING ULLAGE		1250	11.12	
CARGO CALCULATIONS COMPLETE		1300	11.12	
CARGO HOSES/ARMS CONNECTED 1 x 12"		1240	11.12	
COMMENCED LOADING/DISCHARGING		1350	11.12	
COMMENCED CRUDE OIL WASHING				
COMPLETED CRUDE OIL WASHING				
COMPLETED LOADING/DISCHARGING		0820	12.12	by shore's order
COMMENCED CLOSING ULLAGE		0820	12.12	
COMPLETED CLOSING ULLAGE		0935	12.12	
CARGO HOSES/ARMS DISCONNECTED		0930	12.12	
CARGO CALCULATION COMPLETE		1000	12.12	
CARGO DOCUMENTS ON BOARD		1105	12.12	
PILOT ON BOARD		1100	12.12	
LAST LINE ASHORE				
VESSEL SAILED				

ARRIVAL CONDITION
=====

FUEL OIL : 260 mt
DIESEL OIL : 49 mt
FRESH WATER: 150 mt
DRAFT : FWD 8,45m AFT 8,60 m

DEPARTURE CONDITION
=====

FUEL OIL : 1486 mt
DIESEL OIL : 74 mt
FRESH WATER : 145 mt
DRAFT : FWD 11,4 AFT 11,94 m

DELEAY

1/ Prepare Line by shore 11.12 1300-1350 = 00.50

2/ AWAITING CARGO DOCUMENTS 12.12 1000-1105 = 01.05

MASTER [Signature] AGENT [Signature] Shipper [Signature] RECEIVER [Signature]

JUAN CORREA





(PAGE 1)

PORT LOG/STATEMENT OF FACTS

M/T: GENERAL TYULENEV
 C/P DTD 12.6.95
 MASTER: H. SHUNIN
 FROM: TARRAGONA, SPAIN

CHARTERER:

BERTH #1: MARATHON, GARYVILLE #1
 CARGO: 31,509.416 MT VACUUM GAS OIL 'REPSOL PARCEL'
 STOWAGE: 2P/S 3P/S 6P/S 7P/S 8P/S
 SHORE OUT TURN FIGURE: 221,277.89 NBBLS / 31,435.31 GMT

BERTH #2: SHELL, NORCO #2 - NEW ORLEANS
 CARGO: 20,948.793 MT VACUUM GAS OIL 'CEPSA PARCEL'
 STOWAGE: 1P/S 4P/S 5P/S
 SHORE OUT TURN FIGURE:

MONDAY JANUARY 01, 1996

0930 END OF SEA PASSAGE. PILOT ON BOARD. NOTICE OF READINESS TENDERED
 0955 ENTERED SOUTHWEST PASS
 1145 CHANGED PILOTS, PILOTTOWN
 1300 RIVER ABOVE NEW ORLEANS CLOSED DUE FOG
 1750 ANCHORED LaGRANGE ANCHORAGE DUE FOG

TUESDAY / JANUARY 02, 1996

0600 RIVER ABOVE NEW ORLEANS OPENED; PILOT ORDERED (3 HOUR NOTICE)
 0850 PILOT ON BOARD
 0925 WEIGHED ANCHORS, SHIFTED
 1230 CHANGED PILOTS, NEW ORLEANS
 1710 FIRST LINE ASHORE MARATHON, GARYVILLE #1
 1810 ALL FAST. 2 TUGS
 1830 GANGWAY DOWN, SURVEYORS ON BOARD; COMMENCED ULLAGING & SAMPLING
 1900 1x12" CARGO ARM CONNECTED
 2220 COMPLETED GAUGING, SAMPLING, & CARGO CALCULATIONS
 2225 COMMENCED DISCHARGE
 23320-2345 TEMPORARY SHORE STOP

WEDNESDAY / JANUARY 03, 1996

1730 COMPLETED DISCHARGE
 1730-1830 ULLAGING
 1850 CARGO ARM DISCONNECTED
 1930 CALCULATIONS COMPLETED
 2020 PILOT ON BOARD. NOTICE OF READINESS TENDERED
 2100 LAST LINE ASHORE, SHIFTED TO SHELL, NORCO. 2 TUGS
 2300 FIRST LINE ASHORE SHELL, NORCO #2
 2400 ALL FAST. 2 TUGS

THURSDAY / JANUARY 04, 1996

0020 1x12" CARGO ARM CONNECTED
 0300 COMPLETED ULLAGING & CALCULATIONS
 0320 COMMENCED DISCHARGE
 0340-0355 TEMPORARY SHORE STOP

-CONTINUED-



(PAGE 2)

PORT LOG/STATEMENT OF FACTS

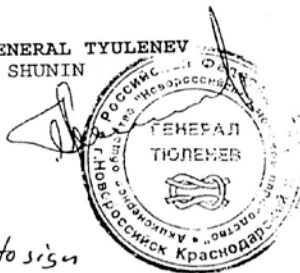
M/T:

GENERAL TYULENEV
C/P DTD 12.6.95

FRIDAY / JANUARY 05, 1995

1045	COMPLETED DISCHARGE
1145	COMPLETED TANK INSPECTION
1225	COMPLETED R.O.B. CALCUALTIONS
1245	CARGO ARM DISCONNECTED
1300	PILOT ON BOARD
1400	LAST LINE ASHORE, SAILED. 2 TUGS

MASTER GENERAL TYULENEV
CAPT. A. SHUNIN

*Refused to sign*

MARATHON GARYVILLE

Tim Garber
SOUTHPORT AGENCIES, INC.
TIM GARBER

Refused to sign
SHELL, NORCO

NOVOROSSISK SHIPPING COMPANY
m/t "GENERAL TYULENEV"

DISCHARGE LOG

PORT: NEW ORLEANS

NR. HOSES/ARMS: 1

DATE: 02 JAN 1996

PRODUCT: VACUUM RESIN

Date	Hour	Cargo pumps No.		Rate CUB.M/HR	Date	Hour	Cargo pumps No.		Rate CUB.M/HR
		Pressure MAN. KG.	MAN.				Pressure MAN.	MAN.	
02/01/96	24.00	5.5	-	1918					
01.00	01.00	5.5	-	2174.8					
	02.00	5.5	-	2300.1					
	03.00	5.5	-	2355.2					
	04.00	5.5	-	2253.0					
	05.00	5.5	-	2383.8					
	06.00	5.5	-	2258.2					
	07.00	5.5	-	2352.3					
	08.00	5.5	-	2122.9					
	09.00	5.5	-	2180.0					
	10.00	5.5	-	2178.8					
	11.00	5.5	-	2161.1					
	12.00	5.5	-	2125.8					
	13.00	5.5	-	2138.0					
	14.00	5.5	-	2126.0					
	15.00	5.5	-	2101.0					
	16.00	1.5	-	410.0					
	17.00	1.5	-	405.0					

Master
Release to Sea

1 - Capt / Southport Agencies, A, B, C
RECEIVERS

CH. OFFICER *[Signature]*

NOVOROSSLYSK SHIPPING COMPANY
m/t "GENERAL TYULENEV"

DISCHARGE LOG

PORT: NEW ORLEANS
DATE: 04 JAN 1996

NR. HOSES/ARMS: 1x8"
PRODUCT: VACUUM GAS OIL

Date	Hour	Cargo pumps No.		Rate CUB.M/HR	Date	Hour	Cargo pumps No.		Rate CUB.M/HR
		Pressure MAN.	MAN.				Pressure MAN.	MAN.	
4.86	04.00	5.5	-	-					
"	05.00	6.5	-	1242.6					
"	06.00	6.5	-	948.3					
"	07.00	6.5	-	1287.8					
"	08.00	6.5	-	839.6					
"	09.00	6.5	-	882.5					
"	10.00	6.5	-	774.0					
"	11.00	6.5	-	819.4					
"	12.00	6.5	-	805.3					
"	13.00	6.5	-	820.3					
"	14.00	6.5	-	802.1					
"	15.00	6.5	-	634.0					
"	16.00	6.5	-	665.0					
"	17.00	6.5	-	820.0					
"	18.00	6.5	-	823.0					
"	19.00	6.5	-	882.1					
"	20.00	6.5	-	729.6					
"	21.00	6.5	-	653.1					
"	22.00	6.5	-	752.3					
"	23.00	6.5	-	724.7					
"	24.00	6.5	-	722.8					
5.01.96	01.00	5.5	-	686.1					
"	02.00	6.5	-	683.0					
"	03.00	6.5	-	689.0					
"	04.00	6.5	-	686.0					
"	05.00	5.5	-	676.1					
"	06.00	5.5	-	668.8					
"	07.00	6.5	-	598.3					
"	08.00	6.5	-	711.3					
"	09.00	5.5	-	580.0					
"	10.00	5.0	-	543.6					
	1045	3.0	-	348.0					



CH. OFFICER

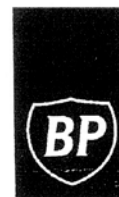
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RECEIVERS

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ORIGINAL

A. C. M. SHIPPING LIMITED
LONDON



BP SHIPPING LTD.
Brittanic Tower
Moor Lane
LONDON EC2Y 9BU

Code word for this Charterparty
"BEEPEVOY 3"

Voyage Charterparty

	LONDON 6TH DECEMBER.....	1995	1
	<i>It is this day agreed between NOVOSHIP SA</i>		2
	of <i>MONROVIA</i>		3
	.....		4
	Owners (hereinafter referred to as 'Owners') of the good motor/steam tank vessel called		5
	" <i>GENERAL TYULENEV</i> ".....		6
	(hereinafter referred to as 'the Vessel') now <i>prompt Port Torres free of cargo</i>		7
	..... and expected ready to load about <i>ETA Tarragona 7th December 1995</i>		8
	and <i>BP Shipping Limited</i> of London as agents for.....		9
	.....		10
	(hereinafter referred to as 'Charterers')		11
Classification of Vessel	1. Owners undertake that:		12
	(a) the Vessel is classed		13
Description of Vessel	(b) the Vessel has a summer deadweight of <i>67,890</i> tonnes		14
	on a saltwater draught of <i>13.6</i> metres, with a total cargo capacity (98%		15
	full) of cubic metres;		16
	(c) the Vessel is fully fitted with heating coils fabricated from		17
	in all cargo tanks, capable of heating the cargo to, and maintaining it at all times at a temperature of,		18
	<i>57deg C (135deg F)</i> ;		19
	(d) the Vessel is equipped with derricks capable of lifting to, and supporting at, the Vessel's port and		20
	starboard manifolds submarine hoses of up to tonnes in weight.		21
Condition of Vessel	2. Owners shall before, at the commencement of, and throughout the voyage exercise due diligence to		22
	make and maintain the Vessel, her tanks, pumps, valves and pipelines tight, staunch, strong, in good order		23
	and condition, in every way fit for the voyage and fit to carry the cargo provided for in Clause 3, with the		24
	Vessel's machinery, boilers and hull in a fully efficient state, and with a full and efficient complement of		25
	Master, officers and crew.		26
Loading and Discharge Ports Range	3. Subject to the provisions of Clause 24, the Vessel shall proceed to <i>One/two safe ports</i>		27
	<i>Spanish Mediterranean Sea</i>		28

Cargo	or so near thereunto as she may safely reach, and there load a cargo of <i>part cargo minimum</i>	31
	<i>55,000 metric tons Charterers' option up to full cargo no deadfreight Charterers'</i>	32
	<i>account provided minimum quantity supplied. Maximum 2 grades within vessel's natural</i>	33
	<i>segregation. Vacuum gas oil. Vessel to maintain loaded temperature up to maximum 135 degrees</i>	34
	<i>Fahrenheit. Maximum load temperature 165 degrees Fahrenheit.</i>	35
	.....	36
	..... in bulk,	37
	not exceeding what she can reasonably stow and carry over and above the tackle, provisions and furniture,	38
	and in any case not in excess of the quantity permitted by the International Load Line Convention, 1966, or	39
	any modification or amendment thereof as may be applicable to the voyage to be performed under this	40
	Charter. Thereupon the Vessel shall proceed with such cargo at a speed which Owners undertake shall be	41
	..... knots ("Base Speed"), as ordered on signing Bills of Lading or as provided in Clauses	42
	24 and/or 26 to <i>One/two safe ports United States Atlantic Coast if New York not North of</i>	43
	<i>George Washington Bridge, or in Charterers' option; One/two safe ports United States Gulf</i>	44
	<i>or in Charterers' option; One/two safe ports Caribbean Sea excluding Cuba, Orinoco River,</i>	45
	<i>Haiti or in Charterers' option; One/two safe ports East Coast Canada within Institute</i>	46
	<i>Warranty Limits.</i>	47
	.....	48
	..... or so near thereunto as she may safely reach,	49
	and deliver the same in consideration of the payment of freight as provided in Clauses 6 and 7.	50
	Charterers shall have the right at any time during the voyage to order the Vessel to increase speed in order	51
	to arrive at a port or place on a certain date. Charterers shall not instruct the Vessel to increase speed such	52
	as to require the Vessel to proceed at a maximum speed in excess of that set out in the BP Shipping	53
	Questionnaire. If Charterers require any increase of speed to be made, any increase in the freight rate	54
	consequent thereon shall be calculated in accordance with the provisions of Clause 6.	55
	If the Vessel fails to maintain Base Speed, or fails to comply with instructions as to the increase of speed	56
	given by Charterers pursuant to this Clause, Owners shall, subject to Clause 46, be liable for all costs,	57
	losses, damages and expenses arising as a direct consequence thereof save to the extent that Owners can	58
	prove to the satisfaction of Charterers that such failure was attributable to a reduction in speed necessi-	59
	tated by either adverse weather and sea state conditions or the safe navigation of the Vessel and Charterers	60
	shall be entitled to deduct any such costs, losses, damages and expenses from any demurrage due to Owners	61
	hereunder without prejudice to any other rights available to Charterers under this Charter or otherwise	62
	under English Law.	63
Loading/ Discharge Place	4. The Vessel shall be loaded and discharged at any port, berth, dock, anchorage, submarine line,	64
	single point or single berth mooring facility, offshore location, alongside vessels or lighters, or any other	65
	place whatsoever as ordered by Charterers. Charterers shall exercise due diligence before directing the	66
	Vessel to any such places to ascertain that the Vessel can always lie safely afloat, but Charterers do not	67
	warrant the safety of any of the aforementioned places and shall be under no liability in respect thereof	68
	except for loss or damage caused by the failure to exercise due diligence as aforesaid.	69
Lightening at Sea	If a port is nominated which cannot accommodate the Vessel with the quantity of cargo carried, Charterers	70
	undertake to discharge sufficient cargo at a previous port or place, or into vessels or lighters, to enable the	71
	Vessel to enter and lie at such nominated port or place. Freight shall be paid in accordance with Clause 6	72
	and lighterage shall be at the expense of Charterers.	73

	Any additional time used owing to the inability of the Vessel to discharge the cargo within 24 hours or 30 hours, as the case may be, or such shorter period as may be applicable in the case of a part cargo, or to maintain a minimum discharge pressure of 100 psig at the Vessel's manifold throughout the discharge shall be for Owners' account and shall not count as laytime or, if the Vessel is on demurrage, as demurrage. If the shore receiving terminal facilities are unable to accept discharge of the cargo within the aforementioned time or at the aforementioned discharge pressure the Master shall present the shore receiving terminal with a Note of Protest forthwith, and in any event prior to the Vessel's departure from the berth, and shall use all reasonable endeavours to have such Note of Protest countersigned on behalf of the shore receiving terminal in the absence of which countersignature the Master shall present a further Note of Protest to the shore receiving terminal.	224 225 226 227 228 229 230 231 232 233
	For the purpose of this Clause a full cargo shall mean the quantity referred to in Clause 3 or the Bill of Lading quantity, whichever is the greater.	234 235
	Charterers will not consider any claim by Owners for additional time used in the foregoing circumstances in the absence of the provision by Owners of the following documentation:-	236 237
	(a) an hourly pumping log, signed by a responsible officer of the Vessel and a terminal or Charterers' representative, showing the pressure maintained at the manifold throughout discharge and, in the absence of a signature from a terminal or Charterers' representative, a Note of Protest;	238 239 240
	(b) copies of all Notes of Protest issued or received by the Vessel in relation to the discharge in question; and	241
	(c) copies of any other documentation generated by the Vessel or by the shore receiving terminal relevant to the discharge in question.	242 243
Laydays/ Cancelling	17. Laydays for the purpose of this Charter shall be from 9th December, 1995 ("the Commencement Date") to 10th December 1995 ("the Cancelling Date"). Laytime for the purposes of loading shall not commence before 0600 hours local time on the Commencement Date unless with Charterers' sanction in which event laytime shall commence when the Vessel commenced loading and should the Vessel not be ready to load by 1600 hours local time on the Cancelling Date Charterers shall have the option of cancelling this Charter. Should the Vessel, with Charterers' sanction, have commenced loading prior to the commencement of laytime, as provided above, then the time from such commencement of loading to the commencement of laytime shall constitute additional laytime for the purpose of loading and discharging and in respect of the period(s) referred to in Clause 18.	244 245 246 247 248 249 250 251 252
	If it appears to Charterers that the Vessel will be delayed beyond the Cancelling Date Charterers may require Owners to notify Charterers of the date on which they expect the Vessel to be ready to load whereupon Charterers shall have the option to cancel this Charter and such option shall then be declared by Charterers within 96 48 hours, Sundays and holidays excepted, of the receipt of the said notification from Owners. In the event of Owners giving such notification and Charterers not exercising their option to cancel within the stated period, the third day after the readiness date stated in Owners' notification, or such other date as may be mutually agreed, shall be the new Cancelling Date for the purpose of this Clause. If Owners fail to give such notification when requested by Charterers, Charterers shall have the option to cancel this Charter at any time prior to the arrival of the Vessel.	253 254 255 256 257 258 259 260 261
	Cancellation or failure to cancel shall be entirely without prejudice to any claim for damages Charterers may have for the Vessel not being ready to load by the original Cancelling Date stated in this Clause.	262 263
Amount of, and Definition of, Laytime	18. Charterers shall be allowed 72 hours, together with any period of additional laytime arising under the provisions of Clause 17 if Charterers sanction loading of the Vessel before the commencement of laydays, as laytime for loading and discharging and in respect of any period(s) when the Vessel, in accordance with Charterers' instructions, is proceeding or operating as referred to in Clauses 4, 5, 12, 21, 24, 25, 26, 29, 30 and 31. Sundays and holidays shall be included in respect of laytime for loading or discharging unless loading or discharging on the Sunday or holiday in question is prohibited by law or regulation at the port or place of loading or discharge and Charterers shall have the right of loading and discharging during the night.	264 265 266 267 268 269 270 271
Commencement and Termination of Laytime/ Demurrage for Loading and Discharge	19. Subject only to Clauses 17, 20 and 21:- (a) laytime or, if the Vessel is on demurrage, demurrage shall at each loading and each discharge port or place commence at the expiry of 6 hours after Notice of Readiness to load or discharge has been received from the Master or his agents by Charterers or their agents, berth or no berth, or when the Vessel commences to load or discharge at the berth or other loading or discharging place, whichever first occurs.	272 273 274 275 276

	Such Notice of Readiness may be given either by letter, facsimile transmission, telegram, telex, radio or telephone (and if given by radio or telephone shall subsequently be confirmed in writing and if given by facsimile transmission confirmed by telex) but Notice of Readiness shall not be given, without Charterers' sanction, before the commencement of laydays; and	277 278 279 280
	(b) laytime or, if the Vessel is on demurrage, demurrage shall run until the cargo hoses have been finally disconnected upon termination of loading or discharging, such disconnection to be effected promptly; provided always that if the Vessel is detained for more than 2 hours beyond the final disconnection of hoses by the shore terminal solely for the completion of cargo documentation and the presentation of such documents on board the vessel, laytime or, if the Vessel is on demurrage, demurrage shall re-commence after such period of 2 hours and terminate upon the completion of cargo documentation.	281 282 283 284 285 286
Suspension of Laytime/ Demurrage for Loading and Discharge	20. Time shall not count against laytime or, if the Vessel is on demurrage, for demurrage when spent or lost: -	287 288
	(a) on an inward passage, including awaiting daylight, tide, opening of locks, pilot, or tugs and moving from anchorage, even if lightening has taken place at the anchorage, until the Vessel is securely moored at the berth or other loading or discharging place specified by Charterers;	289 290 291
	(b) due, whether directly or indirectly, to breakdown, inefficiency or other cause attributable to the Vessel and/or Owners, including inability of the Vessel to pump out the cargo at the rate indicated in Clause 16 after taking account of any variations in back pressure;	292 293 294
	(c) as a result of a labour dispute, or strike, involving Master, officers or crew of the Vessel or tugs or pilot;	295
	(d) in, or in connection with, the handling of ballast unless this is carried out concurrently with loading or discharging such that no loss of time is involved; and	296 297
	(e) in cleaning tanks, pumps and pipelines.	298
	Nothing herein contained shall be affected by the provisions of Clause 46.	299
Laytime/ Demurrage/ Force Majeure	21. Any delay(s) arising from adverse weather or sea state conditions, fire, explosion, breakdown or failure of equipment, plant or machinery in or about ports or places of loading and/or discharge, Act of God, act of war, labour dispute, strike, riot, civil commotion, or arrest or restraint of princes, rulers or peoples shall, provided always that the cause of the delay(s) was not within the reasonable control of Charterers or Owners or their respective servants or agents, count as one half laytime or, if the Vessel is on demurrage, at one half of the demurrage rate.	300 301 302 303 304 305
Demurrage	22. Charterers shall pay demurrage at the rate of US\$ 14,000 per running day and pro rata for part of a running day for all time that loading and discharging and any other time counting as laytime exceeds the laytime specified in Clause 18.	306 307 308
Demurrage	23. Charterers shall be discharged and released from all liability in respect of any claims/ invoices for demurrage	309 309
Time Bar	which Owners may have under this Charter unless a claim in writing has been presented to Charterers together with supporting documentation substantiating each and every constituent part of the claim within 90 days of the completion of discharge of the cargo carried hereunder.	310 311 312
Orders for Discharge Ports or Places	24. If, at any time after the Vessel has completed loading the cargo or part cargo, as the case may be, Charterers instruct the Vessel to await their orders at one or more locations, then all time spent by the Vessel awaiting orders as aforesaid shall count as laytime or, if the Vessel is on demurrage, as demurrage.	313 314 315
Revised Orders	If after any loading or discharge port or place has been nominated Charterers desire to vary such port or place, Owners shall issue such revised instructions as are necessary at any time to give effect to Charterers' revised orders and any period by which the steaming time taken to reach the alternative port or place exceeds the time which should have been taken had the Vessel proceeded thither directly shall count as laytime or, if the Vessel is on demurrage, as demurrage. Charterers shall pay Owners for additional bunkers consumed during such excess time at the replacement price as paid by Owners substantiated by copies of such documents as Charterers may require.	316 317 318 319 320 321 322
Vessel/Cargo Inspections/ Bunker Surveys	25. Charterers shall be entitled to cause their representative(s) to carry out inspections of the Vessel and/or observe cargo operations and/or ascertain the quantity and quality of the cargo, water and residues on board at any loading and/or discharge port or place.	323 324 325

Source: *Oil Industry laytime and demurrage seminar, Asdem 2007 v.3 (Sample case No 5).*

6.2 The Charterers' approach and calculation

Based on the submitted documentation from Owners, the demurrage payable is calculated as per below minus whichever address commission should be deducted.

Load port - Tarragona

NOR tendered	8/12	15:50
NOR counts from	9/12	0:00
Laytime commences	9/12	4:00
Hoses off	12/12	9:03
Total time at load port		77-30

Disport - Garyville

NOR tendered (SW pass)	1/1	9:30
NOR counts from	Shifting passage is deductible	
Laytime commences	2/1	22:25
Hoses off	3/1	18:50
Total time at 1st disport		20-25

Disport - New Orleans

NOR tendered (SW pass)	1/1	9:30
NOR counts from	Under WS this is a different port and a separate NOR should have been given	
Laytime commences	4/1	3:20
Hoses off	5/1	12:45
Total time at 2nd disport		33-25

Total time at all ports	131-20
Less excess pumping*	3-14
Laytime allowance	72-0
Additional laytime allowance ⁷³	2-0
Total net	54-06

i.e. 54.1 hrs /24 = 2.254167days x USD 14,000 per day

Demurrage due USD 31,558.33

6.2.1 Pumping performance formula application

The excess pumping is calculated proportionally to the actual quantities that were discharged in both of the disports (applying the pumping performance formula, chapter 3.2, p.20):

⁷³ As per BPVoy3, clause 17 "Laytime for purposes of loading shall not commence before 0600 hours local time on the Commencement Date... Should the vessel, with Charterers' sanction, have commenced loading prior to the commencement of laytime shall constitute additional laytime for the purpose of loading and discharging..."

- Total pumping time at 1st disport: 18hrs 40mins
- Quantity discharged at 1st disport: 31,509.416 mts
- Average discharge rate (31,509.416 mts / 18hrs 40mins): 1688 mt/hr
- Average back pressure achieved: 5.5 bars
- Warranted back pressure (min): 7 bars
- Average discharge at 7 bars: $1688 \times \sqrt{(7/5)} = 1904$ mt/hr
- Time to discharge at 7 bars: $31,509.416 \text{ mts} / 1904 \text{ mt/hr} = 16\text{hrs } 33\text{mins}$

Excess pumping time for 1st disport is: 18hrs 40mins – 16hrs 33mins = 2hrs 7mins and,

- Total pumping time at 2nd disport: 31hrs 10mins
- Quantity discharged at 2nd disport: 20,948.793 mts
- Average discharge rate (20,948.793 mts / 31hrs 10mins): 672 mt/hr
- Average back pressure achieved: 6.5 bars
- Warranted back pressure (min): 7 bars
- Average discharge at 7 bars: $672 \times \sqrt{(7/6.5)} = 697$ mt/hr
- Time to discharge at 7 bars: $20,948.793 \text{ mts} / 697 \text{ mt/hr} = 30\text{hrs } 03\text{mins}$

Excess pumping time for 2nd disport: 31hrs 10mins – 30hrs 03mins = 01hr 07mins

Thus, the total excess pumping time is **03hrs** and **14mins** that should be deducted from the demurrage calculation.

6.3 The counterparty's approach and calculation

Given the fact that all the provisions are the same for an FOB trade, except laytime that was agreed as per charter party for load port i.e.36hrs, the demurrage cost deriving for our Seller is calculated similarly to the above:

Seller: Repsol
 Grade: Biofuel (VGO)
 Loaded quantity: 52,458.209 mts
 Load port: Tarragona
 Delivery range: 9-10/12
 Laytime: 36 hrs
 Demurrage rate: USD 14,000 pdpr

Load port - Tarragona

NOR tendered	8/12	15:50
NOR counts from	9/12	0:00
Laytime commences	9/12	4:00
Hoses off	12/12	9:03
Total time at load port		77-30

Less excess pumping		3-14
Less inspections		0-25
Laytime allowance		36
Total net		38-09

i.e. 38.15 hrs /24 = 1.5896days x USD 14,000 per day

Demurrage due USD 22,254.17

At a first glance, Charterers which are also the Buyers in this trading chain, have already been reimbursed more than half of the demurrage expenses for the whole voyage incurred. Laytime was agreed for half the recap laytime even if used for two berths, since the contract with Repsol was basis one port (both berths are in Tarragona port). Nevertheless, in the case that the cargo is not to be loaded from just one berth, it is on Supplier’s to decide so and any costs for shifting shall also be for their account.

6.4 Conclusions

Whereas in the previous chapters the differences of a charter party and a contract were examined, the given example is surely underlying the real impact that the clauses interpretation bears; Each recap/ contract is expressly stating the obligations and the liabilities of the parties which are always translated in money and it is up to the own negotiation skills and ones insight to use whichever tools available to shape the final refund.

The demurrage cost for the Owners, in this practical case, stands for \$ 31,558.33 in accordance always to the terms agreed for the specific voyage. Likewise, for Repsol this amount reaches the \$ 22,254.17 also comparable to the contractual frame and the usage of the applicable deductions that were entitled to for the specific lifting operation at one port only. In addition, it is clear that Owners are reimbursed for the actual cost accrued while Charterers have already been refunded for almost the full cost of the voyage in a percentage of 70.52%. In other words, Charterers in order to make a profit from this voyage, have just to get a reimbursement from the discharge port receivers of at least \$ 9,304.16, which seems almost certain.

However, at no circumstance such deductions are to be made without a prior written argument and an accompanying receipt of proof. Both Owners and Charterers are eager to maximize their potential profit and do surely lay upon any counterparty’s hesitations or missing documentation/ wording in order to take such an advantage.

Πανεπιστήμιο Πειραιώς

Chapter 7. Trade Related Issues and Financial Potential

7.1 Trading consensus and procedures

The commodity trading consensus lies in the need of an intermediary who can handle the demand and the supply for a commodity and make a margin from it. Oil trading is deemed to incorporate the exchange of oil cargoes and the trade of paper instruments such as 'derivatives', not necessarily resulting in a physical oil delivery.

As there was crucial that some trading standards should apply, in 1998 a set of guiding rules were developed acting as a security frame of the involved trading parties. The specific rules were founded on the doctrine of English Law, International trade rules of UCP 600 and incorporated in the ICC rules set for Incoterms. These rules and regulations are composing the following trading procedures:

(a) The buyer/seller shall request for an offer quote (RFQ) from the supplier for his consideration.

(b) In case that the supplier accepts the RFQ, shall send his offer of sale with a quote of price, specification requirements and a validity date.

(c) Upon buyer's acceptance of the offer, the supplier sends a signed contract with his payment request and procedures. If the payment request and procedures are not workable for the buyer, the terms are to be further negotiated until both parties reach an agreement.

(d) After receiving the final contract from the supplier, whether there is a b2b trade, the buyer shall rewrite this contract using the same agreed terms of the supplier altering the buying price to the selling price and shall send his contract to end buyer for his approval/further negotiations⁷⁴.

7.2 The 'Market'

It is estimated on average terms that more than 87 million barrels of crude oil and natural gas liquids are traded every day⁷⁵. However, since numbers are highly dependent on the demand growth, mainly in the developing countries, and due to the fact oil is regarded as a limited resource, there is a certainty that the price will continue to rise. Oil products, as already aforementioned, are bought and sold through a variety of contract types, either 'spot' or 'derivative' transactions. Undoubtedly, contracts shall either serve as purpose:

- To transfer the title of the physical product from the producer/seller to the buyer, and
- To manage the financial risks involved subjected to the daily price fluctuations

⁷⁴ <http://www.tradercommodityb2b.com/procedures.html>

⁷⁵ <http://www.petroleumonline.com/content/overview.asp?mod=6>

Whether the purpose is the delivery/receipt of the physical oil under certain price, there are physical oil markets to trade in. Contracts are normally not standardized and the title and risk in the oil is transferred from one party to the other at a specified time and location. Prices are affected by the global refiners and producers, creating a truly competitive marketplace.

The need to manage the financial risks and the price volatility, led to the financial market as it is now known developed in the late of '80s. New York Mercantile Exchange is one bright example. Hedging is the basic tool to protect against the risk of falling or sharply rising commodity prices, and oil companies and investors developed a set of contracts that fulfilled the need for hedging. Furthermore, nowadays there is a huge range of contract forms available for price management and any speculative functions including futures, forwards, swaps and options.

Markets are designed to efficiently allocate the resources between supply and demand for a particular product. There are specific factors driving the global energy markets and subsequently the oil prices, which will be highlighted due course but as long as it refers to the demand for an oil product GDP is not the only equivalent; the marginal unit and the elasticity metrics have a share.

“Let’s say a company is currently producing 100 barrels of oil. As the company decides whether to pump out more oil from its stores, it will weigh whether each additional unit of production will be profitable. Each unit that is additional to current production is a marginal unit; the cost of producing this unit is known as the marginal cost, and the price at which it can be sold is the marginal price. What happens at the margins is important because it largely determines the behavior of producers and consumers, thus shaping the market. This principle holds true for all tradable commodities, including oil”⁷⁶.

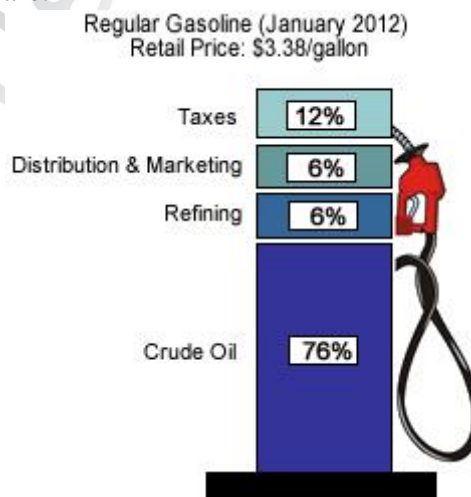


Figure 2. Price of a Gallon photo⁷⁷

As the world runs in a globalized module, the demand for energy and the supply may not be in the same sea area or country and the marginal unit of production might come from anywhere in the world. Globalization ‘flattened’ the world, in the extent that the actions of minor oil exporters such as Nigeria, Sudan and Iraq can affect the price paid for a gallon of gasoline by consumers in every oil-importing nation⁷⁸. Because of the influence of the marginal unit, sovereign nations do not have much control over the oil prices, since *“conglomerates such as OPEC often artificially constrain the supply of oil in order to increase their profits”⁷⁹*. *“Today’s exceptionally tight market gives marginal producers unprecedented power and greater geopolitical importance”⁸⁰*.

⁷⁶ <http://www.globalization101.org/oil-markets/>

⁷⁷ Source: U.S. Department of Energy: <http://www.eia.gov/todayinenergy/detail.cfm?id=470>

⁷⁸ Thomas L. Friedman, *The World is Flat*, 2005

⁷⁹ <http://www.commoditytrading.net/>

⁸⁰ <http://www.nytimes.com/2006/04/23/business/worldbusiness/23iht-oil.html>

Elasticity is the means of the economic science to measure the correlation of supply and demand to the price fluctuations. The supply/ demand of a product is considered to have an inelastic relation to the price when a minimum effect is created on production or consumption, respectively and an elastic when is affected significantly. Is calculated as follows⁸¹:

$$\text{Elasticity} = \frac{\text{change in quantity \%}}{\text{change in price \%}}$$

Elasticity is usually determined by the availability of substitutes for the main product. Subsequently, demand for oil is to be generally inelastic due to the alternative energy sources not being yet much reliable and high producing.

7.3 Forming the prices & which factors drive the expectations

The energy market is driven in a high complexity level where the biggest industrial nations as the United States, the European Union, China, and India are seeking for opportunities to secure their oil supply whereas on the other hand, the financial market seeking for prospects of oil trading and locking the profit created from the delivery needs to those distant areas. In a microeconomic model, the players that are forming the oil prices are:

The Producers

- private oil companies (the 'Big Oil')
- national oil companies

The Consumers

- individuals
- transportation (trucking, shipping, air)
- industrialization (manufacturers and power generation)

The Intermediates

- ship owners
- financial market (traders, hedgers, speculators, and investors)

The Policymakers

- demand-side (subsidies)
- supply-side (OPEC quotas)
- market regulation (position limits, taxes)⁸²

In addition to the above, there are several factors that are affecting the oil price formation and are determined to be the supply/demand for the product, the inventories and the market itself. It has been determined so far how the market works yet the crucial role of the oil supply/demand and it shall also be enlightened the importance

⁸¹ <http://www.investopedia.com/terms/e/elasticity.asp>

⁸² http://www.eia.gov/pressroom/presentations/newell_05052011.pdf

and the long term influence that the shipping cost has on the oil prices formation as a part of the demand process.

The demand for a product is highly correlated to the demand for seaborne trade since commodities are derived from many different locations in the world at a particular transportation cost. Whereas “*transport costs may not appear to have such a dramatic influence upon seaborne trade as the world economy, their long-term effect on trade development should not be underrated*”⁸³.

As stipulated so far and practically evidenced in chapter 6, charterers and their trading parties involved in a supply chain seek to pass on the shipping cost and at the same time maximize their margin. While the shipping cost is passed on the chain based on the contractual terms, the margin can be achieved in two ways; either by favourable terms imposed in the contract providing for more refund than the actual cost was, or by a successful sale of the same product under a more favourable price in exploiting the spread between WTI and Brent indices in the Market (arbitrage)⁸⁴.

As a new era trend, the mechanism of the energy price calculation is based on the speculation of forward, futures contracts, swaps and options. Furthermore, the technological evolution gives the opportunity for traders all over the world, becoming an active part of the sale and purchase procedure for the oil products. The market is self-regulated providing the opportunity to hedge against any risks of transportation and ensure protecting investors from any price fluctuations. According to market fundamentals, the energy price fluctuates on dependence to the supply and demand for oil, the cost of production, the transportation and the refining process. Given the fact that the intermediaries (such as financial institutes and traders) are also involved in the ‘Market’, oil price is also driven by the volume of the purchases/sales contracts i.e. futures, options, etc. It is widely accepted that the ninety five (95) per cent of oil related trading activities take place apart from the actual physical market.

“The externalities and problems of such chaotic trading activity became apparent in the beginning of 1990s. In the system when every receiver of the cargo is passing it to the next party and the fact that last purchaser (in most of the cases they are traders) must lift cargo created catastrophic situation when small traders standing in the last part of the chain could not handle physical delivery of the cargoes. In the result of these events, new market regulations came into place requiring companies participating in trading activities to have enough financial back up, guarantying that physical cargo shall be lifted and delivered to the port of destination.”

The popularity of new system paved the way for trading of cargoes by organizations that financially strong enough. As the outcome of this process International Petroleum Exchange (IPE) was established in 1988 where market players may trade contracts backed at the end with physical market in terms of supply and delivery... The price of the commodity at trading floors is much higher than production cost of crude. The technological development as well as connection of trading to global internet network system allowed establishment of ICE platform in IPE in 2000. Many

⁸³ Martin Stopford, *Maritime Economics (3rd edition)*, 2009, p. 149

⁸⁴ <http://www.businessweek.com/articles/2012-09-27/the-oil-hub-where-traders-are-making-millions#p1>

producers have adopted the price settlement principle referring to the price established in ICE platform rather than calculating cost of production and delivery of oil. The differences of intentions of relevant parties (producers, refiners, suppliers, etc.) trying to secure profit from risks exposures has led to introduction of different derivative instruments of trading such as options, swaps, futures, etc”⁸⁵.

The ‘Big Oil’ companies ruling the world’s trade

In the last year alone, the top 10 global commodity trading firms brought in \$1.3 trillion in revenues, according to the *Financial Times*.

“It is unlikely that a large loss suffered by a single global commodity firm...poses a systemic threat to the broader financial system,” and that “the nature of commodity trading, and the structure and capital structures of commodity trading firms makes them substantially more robust to [a financial crisis] than systematically important financial institutions”⁸⁶. The major oil companies comprising the ‘Big Oil’ are:

No 10: BUNGE

2012 revenues: \$60.9 billion

CEO: Soren Schroder

Executive Chairman: Alberto Weisser

Founded: 1818 by Johann Peter Gottlieb Bunge in Amsterdam

Headquarters: White Plains, N.Y.

Focus: Oilseeds and grains, produces sugar and ethanol, mills wheat and corn to make ingredients used by food companies and sells fertilizer in North and South America. Clearing member of the Chicago Board of Trade (CME Group).

No 9: ARCHER DANIELS MIDLAND CO.

2012 revenues: \$ 89.03 billion

CEO: Patricia Woertz

Founded: 1902 in Minneapolis, Minn., by John Daniels and George Archer

Headquarters: Decatur, Ill., listed on the NYSE

Focus: Oilseeds, corn processing, agricultural services, storage and transportation, wheat milling, cocoa processing and food ingredients business. Recently finalized a takeover of Australia-based GrainCorp for \$3.1 billion. ADM Investor Services is a clearing member of the CME Group exchanges.

No 8: GUNVOR GROUP

2012 revenues: \$93 billion

CEO: Torbjörn Törnqvist

Founded: 2000 by Swedish oil trader Torbjörn Törnqvist and Russian businessman Gennady Timchenko

Headquarters: Registered in Cyprus. Trading offices in Geneva, Switzerland, Singapore, Dubai and the Bahamas

Focus: The principal commodities traded are refined petroleum products (fuel oil, gasoil, gasoline, naphtha, and LPG), crude oil, coal, natural gas, LNG, biofuels, carbon emissions and grains. Gunvor also opened a metals desk in 2012.

⁸⁵ <http://www.wbiconpro.com/241-Magsud.pdf>

⁸⁶ <http://m.futuresmag.com/2013/07/25/10-top-global-commodity-trading-firms-smart-money>

No 7: NOBLE GROUP**2012 revenues:** \$94 billion**Chairman:** Richard Elman**Founded:** 1986 by Elman**Headquarters:** Hong Kong, China. Listed in Singapore**Focus:** Noble Group markets, transports and processes energy, minerals and ores and agricultural products including softs, grains and oilseeds. Recently the firm forged into the United States to enter the natural gas pipeline and storage business. Its second largest shareholder after the Elman family is China Investment Corp. with a 15% stake.**No 6: MERCURIA ENERGY GROUP****2012 revenues:** \$98 billion**President and CEO:** Marco Dunand**Founded:** 2004 by former Phibro executives Marco Dunand and Daniel Jaeggi**Headquarters:** Geneva, Switzerland**Focus:** Mercuria is largely a physical trader of energy such as crude oil and its products like fuel oil, middle distillates, naphtha and gasoline, as well as electricity, natural gas, coal and biodiesel. It has set up base metals trading desks in Shanghai and London, as well as added softs to its trading portfolio.**No 5: KOCH INDUSTRIES****2011 revenues:** \$115 billion (Forbes) privately held**Chairman and CEO:** David Koch**President:** Charles Koch**Founded:** Winkler-Koch Engineering co-founded by Fred Koch in 1925.**Headquarters:** Wichita, Kansas **Focus:** Koch is largely into coal and oil refining and transportation, petrochemicals, forestry (Georgia-Pacific) and paper as well as ranching.**No 4: TRAFIGURA****2012 revenues:** \$120.4 billion**Chairman and CEO:** Claude Dauphin**Founded:** 1993 by Claude Dauphin, Eric de Turkheim and Graham Sharp. It split off from a group of companies run by Marc Rich.**Headquarters:** Geneva, Switzerland**Focus:** Largely energy-based, the company also focuses on non-ferrous metals trading and shipping.**No 3: CARGILL****2012 revenues:** \$133.9 billion**CEO:** Greg Page**Founded:** 1865 by William Wallace with one grain storage silo in Iowa.**Headquarters:** Minneapolis, Minn.**Focus:** Privately held Cargill is famous for its agribusiness, but also is big in energy, foodstuffs and biofuels production, as well as products such as steel and salt.**No 2: GLENCORE INTERNATIONAL****2012 revenues:** \$236 billion

CEO: Ivan Glasenberg

Founded: 1974 by Marc Rich as Marc Rich & Co.

Headquarters: Baar, Switzerland.

Focus: Despite having significant coal, metal and oil assets, Glencore revenues are dominated by trading activities as the company had total revenues of \$186 billion in 2011, of which trading brought in around \$172 billion, including \$115 billion in energy trading, \$43 billion in metals and minerals trading and \$13.7 billion in agriculture trading. It is both a producer and marketer, and in May 2013 finalized its merger, or more accurately, takeover of Xstrata, the multi-billion dollar mining company. From *Foreign Policy* magazine, when Glencore went public last year, its IPO revealed: “*The company controlled more than half the international tradable market in zinc and copper and about a third of the world's seaborne coal; was one of the world's largest grain exporters, with about 9 percent of the global market; and handled 3 percent of daily global oil consumption for customers ranging from state-owned energy companies in Brazil and India to American multinationals like ExxonMobil and Chevron*”⁸⁷.

No 1: VITOL GROUP

2012 revenues: \$303 billion

President and CEO: Ian Taylor

Founded: 1966 by Ian Taylor

Headquarters: Geneva, Switzerland; Rotterdam, the Netherlands

Focus: Privately held Vitol is the world's largest physical oil and gas trader. According to the firm, crude oil is the largest part of its energy portfolio, stating that in 2013 sold 125 million tonnes of crude oil, which amounts to around 2.5 million barrels per day. In April 2013 was announced the formation of a new group trading grain and other agricultural commodities based in Singapore and Geneva.

7.4 LC's and Financial coverage of the trade

As long as the trade is done, the impending risk of transaction of the funds shall be thoroughly considered by the parties involved. The most favorable way of doing business, is the letter of credit (LC). Letter of credit is actually a promise of payment from the buyer to the seller in order for the cargo to be physically delivered. It serves as a very wide used method of financing the trade, based on banks to issue the letter of credit as a way to ensure both parties that the payment will be fulfilled according to the contract and always on the contractual time. The bank has the role of an interested intermediary between buyer and seller guarantying the financial coverage of the trade upon the completion of the agreed delivery and if all requirements are met.

The trusted bank promises to pay on behalf of the customer, only in case that is confident that the customer has enough funds to cover the amount guaranteed. Since the amount required for such transactions is rather high, buyers have to deposit enough money for the coverage of the letter of credit, whereas some others are obligated to run for a line of credit with the bank, serving as a loan. It is of vital importance that the bank issuing the LC is legitimate and that will pay as agreed.

⁸⁷ http://www.foreignpolicy.com/articles/2012/04/23/a_giant_among_giants

The beneficiary party does only receive payment for the cargo after the fulfillment of the requirements spelled out in the letter of credit. In order for the payment to take place, the seller has to present the bank with the necessary shipping documents (bill of lading) confirming the shipment of the cargo occurred, within a given time frame. LC *“...is often used in international trade to eliminate risks such as unfamiliarity with the foreign country, customs, or political instability”*⁸⁸.

In the trade contracts and the GT&C's there are always clauses incorporated in regards to the LC procedures, regulating when an LC shall be issued and how. In some cases and when the LC procedure is not properly followed, delays arise and any demurrage costs deriving for such a delay are to be born by the party caused them and laytime is deemed to commence at the time the LC becomes 'workable'⁸⁹ or upon commencement of operations, as the given example following:

“Where, under the Agreement or by virtue of the provisions of Section 35.10, the price is to be paid by means of an irrevocable documentary letter of credit or supported by a standby letter of credit in favour of the Seller (both herein referred to as an “L/C”), the Buyer shall cause such L/C to be opened with or confirmed by a first-class international bank acceptable to the Seller (the “Bank”) in terms specified in this Section 35.11. The provisions hereof for such payment by L/C are not to be construed as altering, varying or qualifying the Buyer's obligation to pay for the Product delivered hereunder by the payment due date. The L/C shall be sufficient to cover the contractual mean value of the Product at the price specified in the Special Provisions plus 15 percent and a further amount to cover escalation in duties including VAT if appropriate, and the Buyer shall cause it to be advised or confirmed in writing by the Bank to the Seller, in a form substantially as set out in Schedule B or C (whichever is applicable) and in all respects acceptable to the Seller. The L/C shall be so advised or confirmed by not later than the date/time:

(a) as specified in the Special Provisions; or

(b) as specified in the Seller's notice pursuant to Section 35.10; or

(c) where the date/time is not specified in the Special Provisions or in the Seller's notice, by not later than: (i) 1600 hours (London time) on the 10th day prior to the first day of the Laydays, or (ii) in the case of a DES delivery, 1600 hours (London time) 10 days before the first day of the ETA range, or such later date and/or time as the Seller may in writing require. If the date of the Agreement is later than any of the dates for opening and/or confirming the L/C specified in the Special Provisions or in this Section 35, then the Buyer shall make best efforts to open or confirm the L/C as soon as practicably possible but in any case never later than 1200 hours (London time) on the day immediately prior to the first day of the Laydays or the ETA range, as applicable.

If for any reason the loading or discharge, as the case may be, of the Vessel will not take place within the period for such loading or discharge referred to in the L/C, the

⁸⁸ http://www.investorwords.com/2774/letter_of_credit.html#ixzz30vnva4Os

⁸⁹ *“A workable letter of credit refers to a clean LC which is in full conformity with all terms and conditions of the contract. The date an LC is deemed received is the date that a workable LC is available at the counters of the Seller's nominated bank”.*

Source: <http://www.merzmerkur.li/Terms%20of%20Trading.pdf>

Buyer shall either obtain an extension of such period for loading or discharge or provide a new L/C in terms acceptable to the Seller”⁹⁰.

Apart from the letter of credit, there are several other cargo payment methods of which the open account between two parties and the cash in advance method are prevailing.

⁹⁰ Shell products GT&C’s 2010, clause 35.11, *Letter of Credit*, page 38

Πανεπιστήμιο Πειραιώς

ANNEX 1

BPVOY4

VOYAGE CHARTER PARTY

© BP SHIPPING LIMITED

1st Edition - June 1998

Registered in England and Wales: No. 140132

Registered Office:- Breakspear Park, Breakspear Way, Hemel Hempstead, Herts, HP2 4UL.

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Codeword for this Charterparty
"BPVOY4"

VOYAGE CHARTER PARTY

1 Date _____

2 ***It is this day agreed between*** _____

3 of _____

4 _____

5 ("Owners") being owners/disponent owners of the motor/steam tank vessel (delete as applicable)

6 called _____ ("Vessel")

7 and _____

8 of _____

9 _____

10 ("Charterers") that the service for which provision is herein made shall be subject to the terms and
11 conditions of this Charter which comprises PART 1 and PART 2 and the "BP Shipping
12 Questionnaire" (which term shall mean the document attached as Appendix 1 of this Charter or
13 such subsequent editions of the BP Shipping Questionnaire as may be correct as at the date of this
14 Charter).

15 ***Unless the context otherwise requires, words denoting the singular include the plural and vice***
16 ***versa.***

17 ***In the event of any conflict between the provisions of PART 1 and PART 2 of this Charter, the***
18 ***provisions of PART 1 shall prevail.***

19 ***In the event of any conflict between the provisions of PART 1 or PART 2 of this Charter and any***
20 ***provisions in the BP Shipping Questionnaire, the provisions of PART 1 or PART 2 of this Charter***
21 ***shall prevail.***

22

22

PART 1

23

A. Name of Vessel _____

24

B. Description of Vessel

25

Owners undertake that the Vessel conforms to the following description:-

26

(1) Summer Deadweight (SDWT) on assigned summer freeboard _____ Tonnes

27

(2) Salt Water draught (on SDWT) _____ Metres

28

(3) Flag _____

29

(4) Year Built _____

30

(5) Length Overall _____ Metres

31

(6) Beam _____ Metres

32

(7) Cargo tank capacity at 98% excluding slop tanks _____ Cu. Metres

33

(8) Capacity of slop tanks at 98% _____ Cu. Metres

34

(9) The Vessel is (delete as applicable) _____ Segregated Ballast Tanker (SBT)/Clean Ballast Tanker (CBT)

35

(10) Crude Oil Washing (COW) (delete as applicable) _____ YES/NO

36

(11) Inert Gas System (IGS) (delete as applicable) _____ YES/NO

37

(12) Closed Cargo Operations (delete as applicable) _____ YES/NO

38

(13) The Vessel has (delete as applicable) _____ Double Bottom/Double Sides

39

(14) Tonnes Per Centimetre Immersion (TPC) _____ Tonnes

40

(15) Bow to Centre of Manifold (BCM) _____ Metres

41

(16) Derricks/Cranes - Number and Capacity _____

42

43

44

(17) Tongue Type Bow Chain Stoppers:-

45

(a) Number _____

46

(b) Safe Working Load _____ Tonnes

47

(c) Nominal Diameter of Chain _____ Millimetres

48

(18) Keel to Top of Mast (KTM) _____ Metres

49

(19) Tank Coatings (Type) _____

50

(20) Heating Coils (Type) _____

51

(21) Classification Society and Class Notation _____

52

(22) Gross Tonnage (GT) _____ Tonnes

53

(23) Suez Canal Net Registered Tonnage (SCNRT) _____ Tonnes

54

(24) Panama Canal Net Registered Tonnage (PCNRT) _____ Tonnes

55

(25) Charter Speed (weather and safe navigation permitting) _____ Knots ("Charter Speed")

56

(26) Maximum Speed (weather and safe navigation permitting) _____ Knots ("Maximum Speed")

57

(27) Last Cargoes:- (a) Last _____

58

(b) Second Last _____

59

(c) Third Last _____

60

C. Cargo Quantity _____

61

- 62 **D. Cargo Description** _____
 63 _____
 64 _____
- 65 **E. Loading Port(s)/Range(s) at Charterers' option** _____
 66 _____
 67 _____
- 68 **F. Discharge Port(s)/Range(s) at Charterers' option** _____
 69 _____
 70 _____
 71 _____
 72 _____
- 73 **G. Laydays**
- 74 Commencing: 0001 hours local time on _____ ("Commencement Date")
 75 Cancelling: 1600 hours local time on _____ ("Cancelling Date")
 76 Vessel expected ready to load _____ hours local time on _____ based
 77 on following current itinerary _____
 78 _____
- 79 **H. Freight Rate** _____
 80 _____ ("Freight Rate")
- 81 Increase of Freight Rate applicable to increased speed per knot, or pro rata, between Charter
 82 Speed and Maximum Speed:-
 83 _____
- 84 **Overage (if any) at 50% of Freight Rate**
- 85 **I. Laytime** _____ running hours
- 86 **J. Demurrage** _____ US \$ per day or pro rata
- 87 **K. Owners' Payment Details** _____
 88 _____
 89 _____
 90 _____
 91 _____
- 92 **L. Additional Clauses** _____
 93 _____
 94 _____
 95 _____
 96 _____
- 97 **M. The "BP Shipping Questionnaire" was last completed and submitted to Charterers on** _____
 98 _____ and, where applicable, was confirmed as accurate on _____
 99 _____

99

PART 2100 **1. CONDITION OF VESSEL**

101 Owners shall, before, at the commencement of, and throughout the voyage carried out
102 hereunder, exercise due diligence to make and maintain the Vessel, her tanks, pumps, valves and
103 pipelines tight, staunch, strong, in good order and condition, in every way fit for the voyage and
104 fit to carry the cargo stated in Sections C and D of PART 1, with the Vessel's machinery, boilers
105 and hull in a fully efficient state, and with a full complement of Master, officers and crew who
106 are fully qualified (as evidenced by internationally recognised certification and, where applicable,
107 endorsements), and are experienced and competent to serve in the capacity for which they are
108 hired. Owners undertake that the Vessel shall be operated in accordance with the
109 recommendations set out in the 1996 Edition of ISGOTT, as amended from time to time.

110 **2. CHARTERING QUESTIONNAIRE**

111 2.1 Prior to agreement being reached between Owners and Charterers on the terms and
112 conditions of this Charter, Owners have either:-

113 2.1.1 completed and submitted, or have authorised their brokers to complete and
114 submit, the BP Shipping Questionnaire; or

115 2.1.2 confirmed, or have authorised their brokers to confirm, in writing to Charterers
116 that each and every response given by Owners in the BP Shipping Questionnaire
117 last completed and submitted to Charterers in respect of the Vessel remains
118 correct and accurate in every particular;

119 in each case on the date stated in Section M of PART 1.

120 2.2 Notwithstanding the date on which the BP Shipping Questionnaire was last completed by
121 Owners and submitted to Charterers in respect of the Vessel, it is a condition of this
122 Charter that the responses in the BP Shipping Questionnaire are correct as at the date
123 hereof. If any response proves to be incorrect, and as a consequence Charterers are likely
124 to, or do, suffer prejudice or are likely to, or do, incur loss, damage, cost or expense,
125 Charterers shall be entitled either:-

126 2.2.1 to cancel this Charter forthwith without prejudice to any other rights available to
127 them under this Charter or otherwise under English law; or

128 2.2.2 to recover, by deduction from freight or otherwise, the said loss, damage, cost and
129 expense.

130 **3. LOADING/COMPLIANCE WITH CHARTERERS' VOYAGE ORDERS**

131 3.1 Subject to the provisions of this Charter the Vessel shall proceed to the loading port (the
132 term "port" shall include any port, berth, dock, loading or discharging anchorage or
133 offshore location, submarine line, single point or single buoy mooring facility, alongside
134 vessels or lighters, or any other place whatsoever as the context requires) stated in Section
135 E of PART 1, or to such other port (always within the Ranges stated in Section E of
136 PART 1) as is separately or subsequently identified in Charterers' Voyage Orders (which
137 term shall mean any written instruction issued by Charterers in respect of the Vessel at
138 any time during the period of this Charter, including any amendments, corrections or
139 revisions thereto), or so near thereto as she may safely reach and there load the cargo
140 stated in Sections C and D of PART 1 subject to any clarification of cargo loading
141 instructions as may be provided in Charterers' Voyage Orders.

142 3.2 Owners undertake that the Vessel is able to load, carry and discharge the quantities,
143 grades and segregations of cargo stated in Sections C and D of PART 1, without loading
144 on top of tank washings ("slops"). Charterers shall not be liable for any loss, damage

- 145 (including deadfreight), cost or expense incurred by Owners by reason of the Vessel being
 146 unable to load in accordance with this undertaking. Loading on top of slops shall not be
 147 permitted without Charterers' prior agreement in writing.
- 148 The cargo loaded on board the Vessel shall not exceed the quantity which she can
 149 reasonably stow and carry over and above her equipment and provisions and shall in any
 150 case not exceed the quantity permitted by the International Load Line Convention, 1966,
 151 or any modification or amendment thereof as may be applicable to the voyage to be
 152 performed hereunder.
- 153 3.3 Owners undertake that the Vessel shall, upon completion of loading the cargo, proceed at
 154 the speed stated in Section B.25 of PART 1 ("Charter Speed"), or at such other speed,
 155 not exceeding the speed stated in Section B.26 of PART 1 ("Maximum Speed"), as may
 156 be stated in Charterers' Voyage Orders, to the discharge port stated in Section F of PART
 157 1, or to such other port or location permitted under this Charter, in accordance with
 158 Charterers' Voyage Orders, or so near thereto as she may safely reach, and deliver the
 159 cargo in consideration of the payment of freight as provided in Clause 31.
- 160 3.4 Charterers shall have the right at any time during the voyage to instruct Owners to adjust
 161 the Vessel's speed. Charterers shall not instruct Owners to increase the Vessel's speed
 162 such as to require the Vessel to proceed in excess of the Maximum Speed. If Owners
 163 increase the speed of the Vessel in accordance with Charterers' Voyage Orders, any
 164 increase in the freight rate consequent thereon shall be calculated in accordance with the
 165 Example set out in Clause 31.
- 166 3.5 If the Vessel fails to maintain Charter Speed, or Owners fail to comply with any
 167 instructions in Charterers' Voyage Orders requiring an increase of speed pursuant to this
 168 Clause 3, Owners shall, subject to Clause 38, be liable for all loss, damage, cost and
 169 expense arising as a direct consequence thereof save to the extent that Owners can prove
 170 that such failure was attributable either to adverse weather conditions and sea state or to
 171 the requirements for the safe navigation of the Vessel. Charterers shall be entitled to
 172 deduct any such loss, damage, cost and expense from any demurrage due to Owners
 173 hereunder without prejudice to any other rights available to Charterers under this Charter
 174 or otherwise under English law.
- 175 **4. ESTIMATED TIMES OF ARRIVAL**
- 176 4.1 If the Master fails to comply with any of the following provisions any delay resulting
 177 therefrom, either at the loading or discharge port, shall not count as laytime or, if the
 178 Vessel is on demurrage, as demurrage and Owners shall be responsible for any additional
 179 loss, damage, cost and expense incurred by Charterers arising from such non-compliance.
- 180 4.2 The Master shall send messages by telex to Charterers, the Agents (which term wherever
 181 used in this Charter shall mean the Vessel's agents under Clause 15) and to any other
 182 parties as required by Charterers (hereafter referred to collectively as the "ETA Notify
 183 Parties"), advising the date and estimated time of the Vessel's arrival ("ETA"). Such
 184 messages shall be sent upon the Vessel's sailing from the last discharge port and seven (7)
 185 days and seventy-two (72), forty-eight (48) and twenty-four (24) hours prior to the
 186 Vessel's ETA at each loading port. If the Vessel is at sea or elsewhere when ordered by
 187 Owners to proceed to a loading port the Master shall, if the Vessel is less than seven (7)
 188 days or seventy-two (72), forty-eight (48) or twenty-four (24) hours from that loading
 189 port, immediately notify the ETA Notify Parties of the Vessel's ETA at that loading port.
 190 Thereafter, the Master shall advise the ETA Notify Parties of the Vessel's ETA at such of
 191 the times as aforesaid as are applicable or immediately provide them with such other
 192 ETAs as Charterers may require.
- 193 4.3 The Master shall send messages by telex to the ETA Notify Parties advising the Vessel's
 194 ETA at each discharge port, together with information as to the Vessel's expected arrival
 195 draught on even keel, immediately upon the Vessel leaving the final loading port and
 196 thereafter, where applicable, seven (7) days, seventy-two (72), forty-eight (48) and twenty-

- 197 four (24) hours prior to the Vessel's ETA at each discharge port or immediately provide
198 the ETA Notify Parties with such other ETAs as Charterers may require.
- 199 4.4 The Master shall also advise the ETA Notify Parties by telex of any variation of more
200 than six (6) hours in estimated times of arrival at the loading and/or discharge ports.
- 201 4.5 Charterers may require Owners to provide them with copies of all telexes (showing
202 answerbacks) to be sent under this Clause 4 and Owners shall promptly comply with such
203 requirement.
- 204 **5. LOADING AND DISCHARGE PORT/SHIFTING**
- 205 5.1 The Vessel shall be loaded and discharged at any port in accordance with Charterers'
206 Voyage Orders. Before instructing Owners to direct the Vessel to any port, Charterers
207 shall exercise due diligence, to ascertain that the Vessel can always lie safely afloat at such
208 port, but Charterers do not warrant the safety of any port and shall be under no liability in
209 respect thereof except for loss or damage caused by Charterers' failure to exercise due
210 diligence.
- 211 5.2 Charterers shall have the option of instructing Owners to load the Vessel at more than
212 one berth at each loading port and to discharge at more than one berth at each discharge
213 port in which event Owners shall, in the first instance, pay expenses arising from any of
214 the following movements of the Vessel:-
- 215 5.2.1 unmooring at, and pilotage and towage off, the first loading or discharge berth;
- 216 5.2.2 mooring and unmooring at, and pilotage and towage on to and off, any
217 intermediate loading or discharge berth; and
- 218 5.2.3 mooring at, and pilotage and towage on to, the last loading or discharge berth.
- 219 Charterers shall reimburse Owners in respect of expenses properly incurred, arising from
220 any of the aforementioned movements, upon presentation by Owners of all supporting
221 invoices evidencing prior payment by Owners.
- 222 5.3 Charterers shall reimburse Owners in respect of any dues and/or other charges incurred
223 in excess of those which would have been incurred if all the cargo required to be loaded
224 or discharged at the particular port had been loaded or discharged at the first berth only.
225 Time used on account of shifting shall count as laytime or, if the Vessel is on demurrage,
226 as demurrage, except as otherwise provided in Clauses 17 and 18.2.
- 227 5.4 For the purpose of the payment of freight, the places grouped in the section "Port and
228 Terminal Combinations", in the "New Worldwide Tanker Nominal Freight Scale" as
229 amended from time to time ("Worldscale"), shall be considered as berths within a single
230 port and Charterers shall pay shifting expenses in accordance with the provisions of this
231 Clause 5.
- 232 **6. NOTICE OF READINESS ("NOR")**
- 233 6.1 Upon arrival of the Vessel at each loading or discharge port the Master or Agents shall
234 tender NOR to Charterers or to their order when the Vessel is ready in all respects to
235 carry out Charterers' orders in accordance with the provisions of this Charter. Such
236 NOR may be tendered either by letter, telex, facsimile or telephone (but if NOR is
237 tendered by facsimile or telephone it shall subsequently be confirmed promptly by telex).
238 Owners shall provide Charterers with an NOR Certificate signed by the Master and a
239 Terminal representative in respect of each port at which the Vessel loads or discharges.
- 240 6.2 NOR shall not be tendered, nor shall the Vessel proceed to berth, prior to the
241 Commencement Date stated in Section G of PART 1 without Charterers' prior
242 agreement in writing.

- 243 6.3 Notwithstanding tender of a valid NOR by the Vessel such NOR shall not be effective,
244 or become effective, for the purposes of calculating laytime, or if the Vessel is on
245 demurrage, demurrage unless and until the following conditions have been met:-
- 246 6.3.1 in the case of the Vessel proceeding directly to the loading or discharging place,
247 she is securely moored and her gangway, if it is to be used, is in place; or
- 248 6.3.2 in the case of the Vessel not berthing upon arrival and being instructed to anchor,
249 she has completed anchoring at an anchorage where vessels of her type customarily
250 anchor at the port or, if she has been instructed to wait, she has reached the area
251 within the port where vessels of her type customarily wait; and
- 252 6.3.3 free pratique has been granted or is granted within six (6) hours of the Master
253 tendering NOR. If free pratique is not granted within six (6) hours of the Master
254 tendering NOR, through no fault of Owners, Agents, or those on board the
255 Vessel, the Master shall issue a protest in writing ("NOP") to the port authority
256 and the facility at the port ("Terminal") failing which laytime or, if the Vessel is on
257 demurrage, demurrage shall only commence when free pratique has been granted;
258 and
- 259 6.3.4 in the case of calls at US ports, a US Coast Guard Tanker Vessel Examination
260 Letter ("TVEL") has been issued, or in the case of calls at non-US ports where any
261 similar certificate is required to be issued by a state authority at those ports prior to
262 loading or discharging of cargo, such certificate has been issued.
- 263 **7. LAYTIME/DEMURRAGE**
- 264 7.1 Charterers shall be allowed the number of hours stated in Section I of PART 1, together
265 with any period of additional laytime arising under Clause 7.3.1, as laytime for loading and
266 discharging and for any other purposes of Charterers in accordance with the provisions of
267 this Charter.
- 268 7.2 Sundays and holidays shall be included in respect of laytime for loading and discharging,
269 unless loading or discharging on the Sunday or holiday in question is prohibited by law or
270 regulation at the loading or discharge port. Charterers shall have the right to require the
271 Vessel to load and discharge during the night, unless loading or discharging at night is
272 prohibited by law or regulation at the loading or discharge port.
- 273 7.3 Subject as provided elsewhere in this Charter:-
- 274 7.3.1 laytime for the purposes of loading shall not commence before 0600 hours local
275 time on the Commencement Date stated in Section G of PART 1, unless with
276 Charterers' prior agreement in writing, in which event laytime shall commence
277 when the Vessel commences loading. If the Vessel, with Charterers' prior
278 agreement in writing, has commenced loading prior to 0600 hours local time on
279 the Commencement Date, then the time from the commencement of loading to
280 0600 hours local time on the Commencement Date shall constitute additional
281 laytime.
- 282 7.3.2 Laytime or, if the Vessel is on demurrage, demurrage shall commence, at each
283 loading and each discharge port, upon the expiry of six (6) hours after a valid
284 NOR has become effective as determined under Clause 6.3, berth or no berth, or
285 when the Vessel commences loading, or discharging, whichever first occurs.
- 286 7.3.3 Laytime or, if the Vessel is on demurrage, demurrage shall run until the cargo
287 hoses have been finally disconnected upon completion of loading or discharging,
288 and the Master shall procure that hose disconnection is effected promptly,
289 provided always that if the Vessel is detained solely for the purposes of awaiting
290 cargo documents at loadport for more than three (3) hours beyond the final

- 291 disconnection of cargo hoses, laytime or if the Vessel is on demurrage, demurrage
 292 shall recommence after such period of three (3) hours and terminate upon the
 293 completion of cargo documentation. If, after completion of loading or
 294 discharging, the Vessel is required to proceed to an anchorage for Charterers'
 295 purposes, then the time spent moving from the berth to the anchorage shall not
 296 count as part of the period of three (3) hours referred to above or as laytime or, if
 297 the Vessel is on demurrage, as demurrage.
- 298 7.4 Charterers shall pay demurrage at the rate stated in Section J of PART 1 per running day,
 299 and pro rata for part of a running day, for all time that loading and discharging and any
 300 other time counting as laytime exceeds laytime under this Clause 7. If, however,
 301 demurrage is incurred by reason of the causes specified in Clause 17, the rate of
 302 demurrage shall be reduced to one-half of the rate stated in Section J of PART 1 per
 303 running day, or pro rata for part of a running day, for demurrage so incurred.
- 304 **8. CARGO TRANSFERS**
- 305 8.1 Charterers shall have the option of transferring the whole or part of the cargo (which
 306 shall include topping-off and lightening) to or from any other vessel including, but not
 307 limited to, an ocean-going vessel, barge and/or lighter (the "Transfer Vessel"). Such
 308 transfers may take place at an In-port Transfer Position, an Additional Port Transfer
 309 Position and/or a Transshipment Area, which terms shall have the following meanings
 310 when used in this Charter:-
- 311 8.1.1 "In-port Transfer Position":-
 312 A position within a nominated loading or discharge port within the Ranges stated
 313 in Sections E and F of PART 1 where part of the cargo is transferred to or from a
 314 Transfer Vessel, provided that cargo operations other than transfers to or from
 315 Transfer Vessels also take place within this port.
- 316 8.1.2 "Additional Port Transfer Position":-
 317 A position at a port in the Ranges stated in Sections E and F of PART 1, or en
 318 route thereto, where part of the cargo is transferred to or from a Transfer Vessel,
 319 provided that the only cargo operations taking place at this port are transfers to or
 320 from Transfer Vessels, but the position is not the first or sole loading position or
 321 last or sole discharge position under this Charter.
- 322 8.1.3 "Transshipment Area":-
 323 A position at a port in the Ranges stated in Sections E and F of PART 1, where
 324 the whole or part of the cargo is transferred to or from a Transfer Vessel,
 325 provided that the only cargo operations taking place at this port are transfers to or
 326 from Transfer Vessels, and the position is the first or sole loading position or last
 327 or sole discharge position under this Charter.
- 328 All transfers of cargo to or from Transfer Vessels shall be carried out in accordance with
 329 the recommendations set out in the latest edition of the "ICS/OCIMF Ship to Ship
 330 Transfer Guide (Petroleum)". Owners undertake that the Vessel and her crew shall
 331 comply with such recommendations, and similarly Charterers undertake that the Transfer
 332 Vessel and her crew shall comply with such recommendations. Charterers shall provide
 333 and pay for all necessary equipment including suitable fenders and cargo hoses.
 334 Charterers shall have the right, at their expense, to appoint supervisory personnel to
 335 attend on board the Vessel, including a mooring master, to assist in such transfers of
 336 cargo.
- 337 8.2 In-port Transfer Position.
 338 An In-port Transfer Position shall not constitute an additional loading or discharge port
 339 for the purposes of calculating freight and the freight rate for the voyage shall be the
 340 same as if no cargo transfer at such In-port Transfer Position had taken place. If the
 341 Vessel moves from an In-port Transfer Position to berth, or vice versa, such movement

342 shall not be deemed to constitute shifting under Clause 5. Charterers shall reimburse
343 Owners for any additional port costs incurred by Owners in complying with Charterers'
344 instructions under this Clause 8.2.

345 Subject to the exceptions and exclusions of laytime and/or demurrage found elsewhere in
346 this Charter, including but not limited to those under Clauses 17 and 18, the time used at
347 an In-port Transfer Position shall count as laytime or, if the Vessel is on demurrage, as
348 demurrage. If an In-port Transfer Position is the first position at which loading or
349 discharge takes place within that port then laytime shall commence in accordance with
350 Clauses 7.3.1 and 7.3.2. If an In-port Transfer Position is the last position at which
351 loading or discharge takes place within that port then laytime shall end when unmooring
352 has been completed and fenders have been removed from the Vessel.

353 **8.3 Additional Port Transfer Position.**
354 Except for the purposes of calculating laytime and/or demurrage, the Additional Port
355 Transfer Position shall not constitute an additional loading or discharge port and the
356 freight rate for the voyage shall be the same as if no cargo transfer at such Additional
357 Port Transfer Position had taken place.

358 Subject to the exceptions and exclusions of laytime and/or demurrage found elsewhere in
359 this Charter (save that the provisions of Clause 18.1 shall not apply to this Clause 8.3), the
360 time used at an Additional Port Transfer Position shall count as laytime or, if the Vessel is
361 on demurrage, as demurrage. Laytime or, if the Vessel is on demurrage, demurrage, shall
362 commence when a valid NOR has been tendered at the Additional Port Transfer Position
363 and has become effective as determined under Clause 6.3, and shall end when unmooring
364 has been completed and fenders have been removed from the Vessel. For this purpose
365 Charterers shall not have the benefit of the period of six (6) hours provided in Clause
366 7.3.2.

367 Any additional period by which the steaming time taken to reach the next loading or
368 discharge port via an Additional Port Transfer Position exceeds the time that should have
369 been taken had the Vessel proceeded to the next port directly shall count as laytime or, if
370 the Vessel is on demurrage, as demurrage. Such additional period shall be the time
371 required for the Vessel to steam the additional distance at the average speed actually
372 achieved by the Vessel during the voyage or the Charter Speed as stated in Section B.25
373 of PART 1, whichever is the higher.

374 Charterers shall pay Owners for additional bunkers consumed for steaming the additional
375 distance at the price paid by Owners, net of all discounts and rebates, for the last bunkers
376 lifted.

377 Charterers shall reimburse Owners for any additional port costs incurred by Owners in
378 complying with Charterers' instructions under this Clause 8.3.

- 379 8.4 **Transshipment Area.**
 380 A Transshipment Area shall be deemed to be a port for the purposes of calculating
 381 freight and the freight rate for the voyage shall be the rate as published in *Worldscale* for
 382 the relevant Transshipment Area. If a rate is not already published for the relevant
 383 Transshipment Area the rate shall be the rate determined by *Worldscale* on the
 384 application of either party.
- 385 Subject to the exceptions and exclusions of laytime and/or demurrage found elsewhere in
 386 this Charter, including but not limited to those under Clauses 17 and 18, the time used at
 387 a Transshipment Area shall count as laytime or, if the Vessel is on demurrage, as
 388 demurrage. Laytime or, if the Vessel is on demurrage, demurrage, shall commence and
 389 end in accordance with Clause 7.3.
- 390 **9. DOCUMENTATION**
- 391 9.1 Owners undertake that for the duration of this Charter the Vessel shall have on board all
 392 such valid documentation as may, from time to time, be required to enable the Vessel to
 393 enter, carry out all required operations at, and leave, without let or hindrance, all ports to
 394 which the Vessel may be directed under the terms of this Charter and Owners hereby
 395 expressly undertake that-
- 396 9.1.1 they shall be responsible for any loss, damage, delay, cost or expense; and
- 397 9.1.2 time shall not count as laytime or, if the Vessel is on demurrage, as demurrage,
 398 during any period in which the Vessel is not fully and freely available to Charterers,
- 399 as a result of action, or the threat thereof, taken against her by any government,
 400 government organisation, competent authority, person or organisation, owing to her flag,
 401 failure to have on board valid documentation as aforesaid or any dispute relating to the
 402 wages, or crew employment policy of Owners or to the condition of the Vessel or her
 403 equipment.
- 404 **10. DRUGS AND ALCOHOL POLICY**
- 405 10.1 Owners undertake that they have, and shall maintain for the duration of this Charter, a
 406 policy on Drugs and Alcohol Abuse applicable to the Vessel (the "D & A Policy") that
 407 meets or exceeds the standards in the OCIMF Guidelines for the Control of Drugs and
 408 Alcohol Onboard Ship 1995 as amended from time to time.
- 409 10.2 Owners shall exercise due diligence to ensure that the D & A Policy is understood and
 410 complied with on and about the Vessel. An actual impairment, or any test finding of
 411 impairment, shall not in and of itself mean that Owners have failed to exercise due
 412 diligence.
- 413 10.3 Owners undertake that to the best of their knowledge, information and belief, having
 414 made due inquiry, neither the Master, nor any officer or crew member has any un-spent
 415 convictions whatsoever concerning drug or alcohol abuse.
- 416 **11. CLEANING OF VESSEL'S TANKS, PUMPS AND PIPELINES**
- 417 Without prejudice to Clause 1, Owners shall exercise due diligence to ensure that the Vessel
 418 presents for loading with her tanks, pumps and pipelines properly cleaned to the satisfaction of
 419 any inspector appointed by or on behalf of Charterers and ready for loading the cargo described
 420 in Sections C and D of PART 1. Any time used to clean tanks, pumps and pipelines to
 421 Charterers' inspector's satisfaction shall not count as laytime or, if the Vessel is on demurrage, as
 422 demurrage and shall, together with any costs incurred in the foregoing operations, be for
 423 Owners' account.
- 424 **12. INERT GAS SYSTEM ("IGS")**

- 425 12.1 Owners undertake that the Vessel is equipped with a fully functional IGS which is in full
426 working order, and is or is capable of being fully operational on the date hereof and that
427 they shall so maintain the IGS for the duration of this Charter, and that the Master,
428 officers and crew are properly qualified (as evidenced by appropriate certification) and
429 experienced in, the operation of the IGS. Owners further undertake that the Vessel shall
430 arrive at the loading port with her cargo tanks fully inerted and that such tanks shall
431 remain so inerted throughout the voyage and the subsequent discharging of the cargo.
432 Any time lost owing to deficient or improper operation of the IGS shall not count as
433 laytime or, if the Vessel is on demurrage, as demurrage.
- 434 12.2 The Vessel's IGS shall fully comply with Regulation 62, Chapter II-2 of the SOLAS
435 Convention 1974 as modified by its Protocol of 1978 and any subsequent amendments
436 and Owners undertake that the IGS shall be operated by the Master, officers and crew in
437 accordance with the operational procedures as set out in the IMO publication entitled
438 "Inert Gas Systems" (IMO 860E) as amended from time to time.
- 439 12.3 If Charterers so require, Owners shall arrange for the Vessel's tanks to be de-pressurised
440 to facilitate gauging and sampling or to be de-inerted or gas freed to facilitate inspection,
441 in each case in accordance with the operational procedures referred to in Clause 12.2.
442 Any time taken to de-pressurise, gauge, sample and re-pressurise, or to de-inert or gas
443 free, inspect and re-inert thereafter shall count as laytime or, if the Vessel is on
444 demurrage, as demurrage.
- 445 **13. CLOSED CARGO OPERATIONS**
- 446 13.1 Owners undertake that the Vessel complies with, and shall be operated for the duration
447 of this Charter in accordance with, the recommendations regarding closed loading and
448 closed discharging operations as set out in the 1996 Edition of ISGOTT as amended
449 from time to time.
- 450 13.2 If the Vessel has closed sampling equipment, such equipment shall be used, when
451 appropriate, during this Charter.
- 452 **14. OILY RESIDUES/CLEAN BALLAST**
- 453 14.1 The Vessel shall arrive at the loading port with clean ballast as defined in Regulation 1
454 (16) of Regulations for the Prevention of Pollution by Oil in Annex 1 of MARPOL
455 unless otherwise agreed. Owners shall instruct the Master to retain on board all oily
456 residues of a persistent nature remaining in the Vessel from the previous cargo. The
457 Master shall, during tank washing, collect the resultant slops into one cargo tank and after
458 maximum separation of the free water, discharge the water so separated overboard.
459 Upon completion of this operation the Master shall notify Charterers by telex of the
460 origin and estimated tonnage of the slops remaining in the said cargo tank, giving a
461 separate estimated quantity for both oil and water. The Master shall further advise
462 whether during deballasting operations it will be necessary to transfer any quantity of
463 ballast water into the cargo tank containing slops. The Master shall minimise the quantity
464 of water retained which in any event shall not exceed 0.15% of the Vessel's current
465 summer deadweight tonnage. In discharging all water separated as aforesaid the Master
466 shall comply with the requirements of the International Convention for the Prevention of
467 Pollution from Ships 1973, as amended by its Protocol of 1978 (MARPOL 73/78),
468 insofar as these do not conflict with any applicable law.
- 469 14.2 Upon the Vessel's arrival at the loading port the Master, in conjunction with cargo
470 suppliers, shall arrange for the quantity of all segregated slops to be measured (inclusive
471 of any ballast water) and shall make a note in the Vessel's ullage record of the quantity so
472 measured. The Master shall provide Charterers with a slops certificate countersigned by a
473 Terminal representative.

- 474 14.3 Without prejudice to the provisions of Clause 3.2 Charterers shall be entitled to instruct
 475 Owners to load the cargo on top of slops from previous voyages and to discharge such
 476 slops together with the cargo loaded hereunder, in which case freight shall be paid under
 477 Clause 31 at 50% of the Freight Rate stated in Section H of PART 1 on the net oil
 478 quantity of slops, up to a tonnage equivalent to 1% of the Vessel's summer deadweight;
 479 otherwise no freight shall be payable on slops. Notwithstanding the foregoing, if the
 480 provision for freight for the voyage is on a lump sum basis then Charterers shall have no
 481 liability to pay freight on slops. Irrespective of whether Charterers exercise their right to
 482 determine the disposal of slops, nothing herein shall give, or be construed as giving,
 483 Owners permission to contravene any applicable laws, conventions or regulations
 484 regarding the discharge of slops or oily residues. If Charterers instruct Owners to
 485 discharge slops ashore at a loading port where slop reception facilities are available, the
 486 time used for discharging slops shall not count against laytime or, if the Vessel is on
 487 demurrage, as demurrage and all expenses incurred shall be for Owners' account.
- 488 If a Terminal representative insists that ballast is discharged ashore and, as a result
 489 thereof, a freight differential in Worldscale applies, Charterers shall not be liable to pay
 490 the freight differential but, in lieu thereof, shall reimburse Owners in respect of the cost
 491 actually incurred by them, upon receipt by Charterers of full supporting documentation
 492 from Owners. Charterers shall only be liable to reimburse Owners for quantities of
 493 ballast discharged up to a maximum equivalent to 30% of the Vessel's current summer
 494 deadweight.
- 495 14.4 Charterers shall have no liability to pay deadfreight to Owners pursuant to this Clause 14
 496 unless Charterers have initially instructed Owners to load the cargo on top of slops but
 497 have subsequently instructed Owners to keep slops segregated.
- 498 **15. AGENCY**
- 499 Charterers shall nominate Agents at loading and discharge ports but such Agents shall be
 500 employed, instructed and paid by Owners.
- 501 **16. CANCELLATION**
- 502 16.1 Time shall be of the essence in relation to the arrival of the Vessel at the first loading port
 503 under this Charter. Owners undertake to advise Charterers promptly if at any time
 504 Owners or the Master have reason to believe that the Vessel may not arrive at the first
 505 loading port by the Cancelling Date stated in Section G of PART 1 or by any new
 506 cancelling date determined under this Clause 16.
- 507 16.2 If the Vessel is not ready to load by the Cancelling Date stated in Section G of PART 1
 508 or by any new cancelling date determined under this Clause 16 Charterers shall have the
 509 option of cancelling this Charter which option shall be exercisable within forty-eight (48)
 510 hours after the Cancelling Date or any new cancelling date determined under this Clause
 511 16.
- 512 16.3 If at any time it appears to Charterers that the Vessel's arrival at the first loading port will
 513 be delayed beyond the Cancelling Date, or beyond any new cancelling date determined
 514 under this Clause 16, Charterers may require Owners to notify Charterers in writing of
 515 the date and time that they expect the Vessel to be ready to load. In such case, Owners
 516 shall provide such information in writing within twelve (12) hours of Charterers' request.
- 517 If the date and time so notified by Owners falls after the Cancelling Date then Charterers
 518 shall have the option of cancelling this Charter which option shall be exercisable within
 519 ninety-six (96) hours (Sundays and holidays excepted) of receipt of the said notice from
 520 Owners or within forty-eight (48) hours after the Cancelling Date, whichever is earlier.
- 521 If Charterers do not exercise their option to cancel this Charter then the new cancelling
 522 date for the purpose of this Clause 16 shall be twelve (12) hours after the date and time
 523 notified by Owners, or such other date and time as may be mutually agreed.

- 524 16.4 If Owners fail, or fail timeously, to respond in writing to Charterers when required to do
525 so under Clause 16.3, Charterers shall have the option of cancelling this Charter, which
526 option shall be exercisable within ninety-six (96) hours (Sundays and holidays excepted)
527 after the period allowed for Owners' response under Clause 16.3.
- 528 16.5 Whether or not Charterers exercise their option to cancel this Charter shall be entirely
529 without prejudice to any claim for damages which Charterers may have in respect of the
530 Vessel not being ready to load by the Cancelling Date stated in Section G of PART 1 or
531 by any new cancelling date determined under this Clause 16.
- 532 16.6 Where the Vessel arrives after the Cancelling Date, or if the Vessel arrives by or after any
533 new cancelling date determined under this Clause 16, laytime shall commence either when
534 the Vessel commences loading or twenty-four (24) hours after tendering of a valid NOR
535 that has become effective under Clause 6.3, whichever first occurs. However, where the
536 arrival of the Vessel after the Cancelling Date, or after the new cancelling date as the case
537 may be, results solely from Charterers' instructions under Clause 22.1, laytime shall
538 commence in accordance with the provisions of Clauses 7.3.1 and 7.3.2.
- 539 **17. HALF LAYTIME/HALF DEMURRAGE/FORCE MAJEURE**
- 540 Any delay arising from adverse tidal conditions which could not reasonably have been predicted,
541 adverse weather, adverse sea state conditions, blockage of access to a port due to casualty or
542 wreck, fire, explosion, breakdown or failure of equipment, plant or machinery in or about any
543 loading or discharge port, Act of God, act of war, labour dispute, strike, riot, civil commotion, or
544 arrest or restraint of princes, rulers or peoples shall count as one half laytime or, if the Vessel is
545 on demurrage, at one half of the demurrage rate provided always that the cause of the delay was
546 not within the reasonable control of Charterers or Owners, as the case may be, or their
547 respective servants or agents.
- 548 **18. SUSPENSION OF LAYTIME/DEMURRAGE**
- 549 18.1 Time shall not count against laytime or, if the Vessel is on demurrage, as demurrage when
550 spent or lost:-
- 551 18.1.1 on an inward passage, including awaiting daylight, tide, opening of locks,
552 pilot or tugs or moving from an anchorage, even if topping off and/or
553 lightening has taken place at that anchorage, until the Vessel is securely
554 moored and the Vessel's gangway, if it is to be used, is in place at the berth
555 or other loading or discharge port as ordered by Charterers;
- 556 18.1.2 on an outbound passage to an In-port Transfer Position, which passage
557 shall be deemed to commence upon the disconnection of cargo hoses and
558 end upon the Vessel's arrival at such In-port Transfer position; or
- 559 18.1.3 as a result of a labour dispute, or strike, involving tugs or pilots.
- 560 18.2 Nor shall time count against laytime or, if the Vessel is on demurrage, as demurrage when
561 spent or lost:-
- 562 18.2.1 as a result, whether directly or indirectly, of breakdown, defect, deficiency
563 or inefficiency of, or other cause attributable to, the Vessel, Master, officers,
564 crew, Owners or their servants or agents;
- 565 18.2.2 as a result of a labour dispute, or strike, involving the Master, officers or
566 crew of the Vessel;
- 567 18.2.3 in, or in connection with, the handling of ballast unless this is carried out
568 concurrently with loading or discharging of cargo such that no loss of time
569 is involved;

- 570 18.2.4 in, or in connection with, the discharging of slops unless the discharging is
571 carried out concurrently with loading or discharging of cargo such that no
572 loss of time is involved; or
- 573 18.2.5 in cleaning tanks, pumps and pipelines under Clause 11.
- 574 18.3 Nothing contained in this Clause 18 shall be affected by the provisions of Clause 38.
- 575 **19 . PART A. LOADING AND DISCHARGE OF CARGO**
- 576 19.1 For the purposes of this Clause 19:-
- 577 "full cargo" shall mean the quantity of cargo stated in Section C of PART 1 or
578 the total cargo actually loaded as ascertained by adding together the
579 quantities of cargo loaded under each Bill of Lading issued under
580 this Charter, whichever is the greater;
- 581 "part cargo" shall mean either the total cargo actually loaded, if less than the
582 quantity stated in Section C of PART 1, or the quantity of each
583 parcel loaded or discharged separately, as the context may require;
- 584 "bulk discharge" shall mean the period of time taken by the Vessel to discharge the
585 full cargo or part cargo, as the case may be, excluding any time
586 during which only tank stripping and/or crude oil washing
587 operations are being performed.
- 588 19.2 The cargo shall be pumped into the Vessel at the expense and risk of Charterers and
589 pumped out of the Vessel at the expense and risk of Owners, in each case only as far as
590 the Vessel's manifold.
- 591 Owners shall, if requested, make available the personnel, equipment and facilities on
592 board the Vessel which are required for the connection and disconnection of hoses for
593 loading and discharging. Any delay resulting from the failure by Owners to provide such
594 personnel, equipment and facilities shall not count as laytime or, if the Vessel is on
595 demurrage, as demurrage. The Master may require shore supervision of, and approval
596 for, the connection and disconnection of hoses.
- 597 19.3 Owners undertake that:-
- 598 19.3.1 the Vessel shall load cargo at the maximum safe rate and in any event shall
599 load a full cargo within a maximum period of twenty-four (24) hours, or
600 pro-rata in the case of a part cargo, provided always that the cargo is
601 capable of being supplied within such time; and
- 602 19.3.2 the Vessel shall discharge cargo at the maximum safe rate and in any event
603 shall, in the case of cargoes of one or more segregated grades/parcels
604 discharged concurrently or consecutively, discharge a full cargo within
605 twenty-four (24) hours, or pro rata in the case of a part cargo, or shall
606 maintain a minimum discharge pressure of seven (7) bar at the Vessel's
607 manifold throughout the bulk discharge provided always that the cargo is
608 capable of being received within such time or at such pressure. If
609 restrictions are imposed by the Terminal during discharge, or if physical
610 attributes of the Terminal restrict the discharge rate or pressure, Owners
611 shall only be relieved of the aforesaid obligation for the period and to the
612 extent such restrictions or attributes impede the discharge rate or pressure.
613 The Terminal shall have the right to gauge discharge pressure at the Vessel's
614 manifold.

- 615 19.4 Any additional time used as a result of the inability of the Vessel to discharge the full
616 cargo within twenty-four (24) hours, or pro rata in the case of a part cargo, or to maintain
617 a minimum discharge pressure of seven (7) bar at the Vessel's manifold throughout the
618 discharge or failure by the Vessel to meet any lesser performance required pursuant to a
619 restriction imposed by the Terminal, shall be for Owners' account and shall not count as
620 laytime or, if the Vessel is on demurrage, as demurrage.
- 621 19.5 In the case of multiple grades of cargoes where the total time taken to discharge the full
622 cargo is in excess of twenty-four (24) hours (or pro rata in the case of a part cargo) and
623 the Vessel fails to maintain a minimum discharge pressure of seven (7) bar throughout
624 the discharge, each grade carried will be assessed separately as follows:-
- 625 19.5.1 The twenty-four (24) hours' allowance (pro rated in the case of a part cargo)
626 plus the appropriate crude oil washing allowance, if any, calculated in
627 accordance with Clause 19.8, shall be apportioned to each grade, which is
628 discharged consecutively, in the ratio that the quantity of that grade
629 discharged bears to the total quantity of all grades of cargo discharged
630 consecutively. This ratio shall be calculated by dividing the quantity of each
631 grade that is discharged consecutively by the aggregate bill of lading
632 quantities for all grades discharged consecutively. For the purposes of this
633 apportionment, where two (2) or more grades are discharged concurrently,
634 the quantities so discharged shall be aggregated and treated as one grade.
- 635 19.5.2 The allowance apportioned to each grade pursuant to Clause 19.5.1 shall
636 then be offset against the total time actually taken to discharge that grade.
637 Any excess time will not count against used laytime or, if the Vessel is on
638 demurrage, as demurrage. However, if the Vessel maintains a minimum
639 discharge pressure of seven (7) bar throughout the bulk discharge of a
640 particular grade then the time taken to discharge that grade will count in full
641 against used laytime or, if the Vessel is on demurrage, as demurrage.
- 642 19.6 If the full cargo cannot be delivered to the Vessel at the rate requested by the Master or
643 within the time allowed in Clause 19.3.1 or if the Terminal is unable to receive the full
644 cargo within twenty-four (24) hours or at a discharge pressure of seven (7) bar measured
645 at the Vessel's manifold, the Master shall present a Note of Protest ("NOP") to a
646 Terminal representative detailing any Terminal restrictions and/or deficiencies as soon as
647 they are imposed and/or become apparent and shall use all reasonable endeavours to
648 have the NOP signed by the Terminal representative. If the Master is unable to obtain a
649 signature from the Terminal representative he shall present a further NOP recording the
650 failure of the Terminal representative to sign the original NOP. In the case of restrictions
651 imposed by the Terminal or arising from physical attributes of the Terminal, the Master
652 shall ensure that such restrictions are clearly recorded in the Vessel's Pumping Log.
- 653 19.7 No claim by Owners in respect of additional time used in the cargo operations carried out
654 under this Clause 19 shall be considered by Charterers unless it is accompanied by the
655 following supporting documentation:-
- 656 19.7.1 the Vessel's Pumping Log signed by a senior officer of the Vessel and a
657 Terminal representative showing at hourly intervals the pressure maintained
658 at the Vessel's manifold throughout the cargo operations; and
- 659 19.7.2 copies of all NOPs issued, or received, by the Master in connection with the
660 cargo operations; and
- 661 19.7.3 copies of all other documentation maintained by those on board the Vessel
662 or by the Terminal in connection with the cargo operations.

663 **19. PART B. CRUDE OIL WASHING AND STRIPPING**

664	19.8	Owners undertake that the Vessel is equipped with a fully functional Crude Oil Washing System and that the officers and crew are properly qualified (as evidenced by appropriate certification) and experienced in the operation of such system. Whilst Charterers may instruct Owners to carry out additional crude oil washing in all tanks that contained the cargo the Master shall, in any event, arrange for crude oil washing of the cargo tanks at the discharge port to the MARPOL minimum standard, as set out in the Vessel's Crude Oil Washing Operation and Equipment Manual.
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671		When the Vessel carries out crude oil washing to the MARPOL minimum standard, in the absence of instructions from Charterers to carry out additional crude oil washing, there shall be no increase in the time allowed for discharge of the cargo. If Charterers instruct Owners to carry out additional crude oil washing then the period referred to in Clauses 19.3.2 or 19.5, as the case may be, shall be increased by twenty-five per cent (25%).
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677		Owners shall carry out crude oil washing concurrently with discharge of the cargo and the Master shall provide a crude oil washing log identifying each tank washed, and stating whether such tank has been washed to the MARPOL minimum standard or has been the subject of additional crude oil washing.
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681	19.9	Owners shall, provided always that the Vessel maintains a minimum discharge pressure of seven (7) bar during bulk discharge or meets such lesser performance required pursuant to a restriction imposed by the Terminal or arising from physical attributes of the Terminal, be allowed a period of not more than two (2) hours per segregated grade/parcel for final draining and stripping purposes unless such final draining and stripping is carried out concurrently with discharge of another grade/parcel. Any time taken for final draining and stripping purposes in excess of such allowance shall not count as used laytime or, if the Vessel is on demurrage, as demurrage.
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689		PUMPING ASSESSMENT - EXAMPLE
690		3 GRADES
691		(1) Fuel Oil 35,000 B/L < 7 BAR
692		COW (2) Arab Heavy 40,000 B/L < 7 BAR
693		COW (3) Arab Light 45,000 B/L ≥ 7 BAR
694		DISCHARGE TIME
695		(1) 00.00 1 ST June 11.50 1 ST June
696		11.50 1 ST June 12.00 1 ST June Change Grade
697		(2) 12.00 1 ST June 04.50 2 ND June
698		04.50 2 ND June 05.00 2 ND June Change Grade
699		(3) 05.00 2 ND June 20.00 2 ND June
700		Full COW required therefore additional 25% Pumping Time allowed
701		
702		Hrs Mins
703		Grade (1) <u>35,000 MT</u>
704		120,000 MT X 24 Hours 07 00 Time Allowed
705		11 50 Time Taken
		(A) Excess 04 50 < 7 BAR
706		Grade (2) <u>40,000 MT</u>
707		120,000 MT X 30 Hours 10 00 Time Allowed
708		16 50 Time Taken
709		(B) Excess 06 50 < 7 BAR
710		Grade (3) <u>45,000 MT</u>
711		120,000 MT X 30 Hours 11 15 Time Allowed
712		15 00 Time Taken

713	(C) Excess <u>00</u> <u>00</u> ≥7 BAR
714	Stripping allowance given for grade (3) pumping in excess of seven (7) bar
715	
716	Hrs Mins
717	Total Excess Pumping Time = <u>11</u> <u>40</u> (A) + (B) + (C)

718 **20. CLAIMS TIME BAR**

719 20.1 Charterers shall be discharged and released from all liability in respect of any claim for
720 demurrage, deviation or detention which Owners may have under this Charter unless a
721 claim in writing has been presented to Charterers, together with all supporting
722 documentation substantiating each and every constituent part of the claim, within ninety
723 (90) days of the completion of discharge of the cargo carried hereunder.

724 20.2 Any other claim against Charterers for any and all other amounts which are alleged to be
725 for Charterers' account under this Charter shall be extinguished, and Charterers shall be
726 discharged from all liability whatsoever in respect thereof, unless such claim is presented
727 to Charterers, together with full supporting documentation substantiating each and every
728 constituent part of the claim, within one hundred and eighty (180) days of the completion
729 of discharge of the cargo carried hereunder.

730 **21. SLACK TANKS/EVEN KEEL**

731 21.1 Notwithstanding the provisions of Clause 31, if Charterers are unable to supply the
732 quantity of cargo stated in Section C of PART 1 the Vessel shall not be required to
733 proceed to sea until such of her tanks are filled as will place her in a seaworthy condition,
734 and freight shall be paid as if the Vessel had loaded the quantity of cargo stated in Section
735 C of PART 1.

736 21.2 If for any reason the Vessel is unable to trim to even keel for arrival at a discharge port
737 Owners shall notify Charterers by telex stating the Vessel's expected arrival draught
738 forward and aft. Such notification shall be given as soon as practicable after Owners have
739 received Charterers' Voyage Orders and no later than the Vessel's departure from the
740 loading port.

- 741 22. **REVISED CHARTERERS' VOYAGE ORDERS FOR LOADING OR DISCHARGE**
742 **PORTS**
- 743 22.1 If at any time after the date of this Charter, Charterers, notwithstanding that they may
744 have nominated a loading or discharge port, wish to issue revised Charterers' Voyage
745 Orders and instruct Owners to stop and/or divert the Vessel to an alternative port within
746 any Ranges stated in Section E or F of PART 1, or cause her to await orders at one or
747 more locations, Owners shall issue such revised instructions to the Master as are
748 necessary to give effect to such revised Charterers' Voyage Orders and the Master shall
749 comply with such revised instructions as soon as the Vessel is free of any previous charter
750 commitments.
- 751 22.2 If-
- 752 22.2.1 solely by reason of Owners' compliance with such revised Charterers'
753 Voyage Orders, the Vessel suffers delay causing her to arrive at the
754 nominated port after the Cancelling Date stated in Section G of PART 1 or
755 any new cancelling date determined under Clause 16.1, then the Cancelling
756 Date or the new cancelling date, as the case may be, shall be extended by
757 the period of such delay.
- 758 22.2.2 the Vessel arrives at the nominated port after the Commencement Date
759 stated in Section G of PART 1, then any period during which the Vessel
760 has been awaiting orders prior to her arrival, less any time by which the
761 Vessel's arrival at the nominated port would, but for Charterers'
762 instructions to await orders, have preceded the Commencement Date, shall
763 count as laytime or, if the Vessel is on demurrage, as demurrage.
- 764 22.2.3 the Vessel is, after loading, instructed by Owners to stop and await orders
765 at Charterers' request then all time spent by the Vessel awaiting orders shall
766 count as laytime or, if the Vessel is on demurrage, as demurrage.
- 767 22.3 Any additional period by which the steaming time taken to reach the alternative port
768 exceeds the time that should have been taken had the Vessel proceeded to such port
769 directly shall count as laytime or, if the Vessel is on demurrage, as demurrage. Such
770 additional period shall be the time required for the Vessel to steam the additional distance
771 at the average speed actually achieved by the Vessel during the voyage or the Charter
772 Speed as stated in Section B.25 of PART 1, whichever is the higher. Charterers shall pay
773 Owners for additional bunkers consumed for steaming the additional distance at the price
774 paid by Owners, net of all discounts or rebates, for the last bunkers lifted.
- 775 **23. VESSEL/CARGO INSPECTIONS/BUNKER SURVEYS**
- 776 23.1 Charterers shall be entitled to cause their representative (which term includes any
777 independent surveyor appointed by Charterers) to carry out inspections of the Vessel
778 and/or observe cargo operations and/or ascertain the quantity and quality of the cargo,
779 water and residues on board, including the taking of cargo samples, inspection and
780 copying of the Vessel's logs, documents and records (which shall include the personal
781 notes of the crew, the rough log book and computer generated data) at any loading
782 and/or discharge port. Charterers' representative may also conduct any of the
783 aforementioned operations at or off any other port to which Charterers may require the
784 Master to divert the Vessel at any time after leaving any loading port. Charterers shall
785 obtain the consent of the owners of any cargo on board at the time before requiring the
786 Vessel to be diverted.
- 787 Charterers' representative shall be entitled to survey, and take samples from, any or all of
788 the Vessel's cargo tanks, bunker fuel tanks and non-cargo spaces at any place referred to
789 above.

- 790 23.2 Charterers' exercise of, or failure to exercise, any of their rights under the foregoing
791 provisions shall be entirely without prejudice to the respective rights and obligations of
792 the parties.
- 793 23.3 Any delay arising solely as a result of any inspection, survey or sampling under Clause
794 23.1 shall count as laytime or, if the Vessel is on demurrage, as demurrage.
- 795 23.4 Any delay arising from instructions from Charterers to Owners to divert the Vessel shall
796 be calculated by reference to the additional period by which the steaming time taken to
797 reach the next loading or discharge port exceeds the time that would have been taken had
798 the Vessel proceeded to such port directly and Owners shall be compensated for such
799 delay and bunkers consumed for steaming during such additional period in accordance
800 with the provisions of Clause 22.3.
- 801 23.5 Charterers shall also reimburse Owners in respect of port expenses reasonably incurred
802 solely by reason of Charterers' instructions to divert the Vessel.

803 24. MAINTENANCE OF CARGO TEMPERATURE

- 804 Charterers shall have the right to instruct Owners to maintain the loaded temperature of the
805 cargo up to a maximum of 60°C. Owners undertake that the Vessel is capable of maintaining
806 the cargo temperature up to 60° throughout the laden voyage and discharge of the cargo and
807 that the Master shall advise Charterers, daily at noon local time, of the temperature of such cargo
808 in each of the Vessel's tanks. If the Vessel fails to maintain the required temperature Owners
809 shall be responsible for any resulting loss, damage, cost or expense incurred by Charterers
810 (including, without limitation, any requirement that the Vessel must vacate the berth) and any
811 time lost thereby shall not count as laytime or, if the Vessel is on demurrage, as demurrage.

812 25. CARGO HEATING

- 813 Charterers shall have the right to instruct Owners to raise the temperature of the cargo above
814 the loaded temperature up to a maximum temperature of 60°C in each of the Vessel's cargo
815 tanks provided always that the length of the voyage is such as to permit the temperature rise
816 required. In such case the Master shall advise Charterers daily, at noon local time, of the
817 temperature of the cargo in each of the Vessel's tanks. Charterers shall reimburse Owners for
818 the cost of additional bunkers consumed to raise the temperature of the cargo as aforesaid. The
819 quantity of bunkers so consumed shall be calculated in accordance with the following formulae,
820 as substantiated by copies of the Vessel's cargo ullage and tank temperature records for the
821 entire laden voyage, copies of which are to be provided with Owners' claim for reimbursement.

- 822 Single Hull:-
823 Bunkers consumed (MT) = Quantity of cargo (MT) subject to temperature increase
824
$$\times$$

825 Increase in cargo temperature (°C) X 0.0001

- 826 Double Hull:-
827 Bunkers consumed (MT) = Quantity of cargo (MT) subject to temperature increase
828
$$\times$$

829 Increase in cargo temperature (°C) X 0.00007

- 830 The price for the additional bunkers consumed shall be the price paid by Owners, net of all
831 discounts or rebates, for the last bunkers lifted. Upon presentation of their claim Owners shall
832 provide Charterers with the invoices for the last bunkers lifted and evidence of payment of same.

833 26. LIBERTY

- 834 The Vessel shall have liberty to sail with or without pilots, to tow or go to the assistance of
835 vessels in distress and to deviate for the purpose of saving life and property, or for any other
836 reasonable purpose.

- 837 Unless specifically agreed to the contrary by Charterers, Owners undertake that the Vessel will
838 not stop or deviate for the purpose of replenishing bunkers on a laden passage.
- 839 **27. TRAFFIC SEPARATION AND ROUTEING**
- 840 Owners shall instruct the Master to observe regulations and recommendations as to traffic
841 separation and routeing as issued, from time to time, by responsible organisations or regulating
842 authorities including, but not limited to, the IMO, the UK Chamber of Shipping (or equivalent),
843 or as promulgated by the State of the flag of the Vessel or the State in which management of the
844 Vessel is exercised.
- 845 **28. ICE ON VOYAGE AND ICE AT LOADING OR DISCHARGE PORTS**
- 846 28.1 If on passage to the loading or discharge port the Master finds that the port is inaccessible
847 owing to ice he shall immediately request Charterers by telex to revise Charterers' Voyage
848 Orders and pending a response from Charterers the Vessel shall remain outside the area
849 of ice-bound water. Any time lost awaiting such revised Charterers' Voyage Orders shall
850 count as laytime or, if the Vessel is on demurrage, as demurrage.
- 851 28.2 Upon receipt of such request Charterers shall instruct Owners to order the Vessel to
852 proceed to an alternative ice-free and accessible port within the Ranges stated in Sections
853 E and F of PART 1 and where there are facilities for loading or discharging the cargo, as
854 the case may be. In this event freight shall be paid at the rate applicable under this
855 Charter to such alternative loading or discharge port. Any additional period by which the
856 steaming time taken to reach the alternative port exceeds the time that should have been
857 taken had the Vessel proceeded to such port directly shall count as laytime or, if the
858 Vessel is on demurrage, as demurrage. Such additional period shall be the time required
859 for the Vessel to steam the additional distance at the average speed actually achieved by
860 the Vessel during the voyage or the Charter Speed as stated in Section B.25 of PART 1,
861 whichever is the higher. Charterers shall pay Owners for additional bunkers consumed
862 for steaming the additional distance at the price paid by Owners, net of all discounts or
863 rebates, for the last bunkers lifted.
- 864 28.3 If, on or after the Vessel's arrival at the loading or discharge port, there is a danger of her
865 being frozen in, the Vessel shall proceed to the nearest safe and ice-free position and at
866 the same time the Master shall request Charterers by telex to revise Charterers' Voyage
867 Orders. Upon receipt of such request Charterers shall instruct Owners to order the
868 Vessel either to proceed to an alternative ice-free and accessible port, within the Ranges
869 stated in Sections E and F of PART 1, where there is no danger of the Vessel being
870 frozen in and where there are facilities for loading or discharging cargo, or to return to
871 and load or discharge at the port originally nominated, or to remain at the safe and ice-
872 free position to await orders. If the Vessel is ordered to such an alternative port the sums
873 to be paid by Charterers to Owners in respect of freight, additional steaming time and
874 additional bunkers shall be calculated and compensated in accordance with the provisions
875 of Clause 28.2, but if Charterers instruct Owners to load or discharge the Vessel at the
876 port originally nominated, then, subject to Clauses 7, 8, 17, 18 and 19 the whole of the
877 time from the receipt of NOR to load or discharge on the Vessel's first arrival at the port
878 originally nominated until the cargo hoses have been disconnected after the completion of
879 loading or discharging shall count as laytime or, if the Vessel is on demurrage, as
880 demurrage. Any delay caused by ice at the port originally nominated after the final
881 disconnection of the cargo hoses shall count as laytime or, if the Vessel is on demurrage,
882 as demurrage.
- 883 If Charterers instruct Owners to order the Vessel to remain at the safe and ice-free
884 position and await orders then any time lost awaiting orders shall count as laytime or, if
885 the Vessel is on demurrage, as demurrage.
- 886 **29. QUARANTINE**

887 If Charterers require the Vessel to proceed to any port at which, at the time when the Vessel is
 888 ordered to that port, there is quarantine then time spent or lost whilst the Vessel is detained due
 889 to such quarantine shall count as laytime or, if the Vessel is on demurrage, as demurrage.
 890 However, if quarantine is subsequently declared whilst the Vessel is on passage to such port
 891 Charterers shall not be liable for any delay caused by such quarantine.

892 30. BILLS OF LADING AND INDEMNITIES

893 30.1 Bills of Lading shall be signed as Charterers direct, without prejudice to this Charter.
 894 Charterers hereby indemnify Owners:-

895 30.1.1 against all liabilities that may arise from the signing of Bills of Lading in
 896 accordance with the directions of Charterers to the extent that the terms of
 897 such Bills of Lading impose more onerous liabilities than those assumed by
 898 Owners under the terms of this Charter; and

899 30.1.2 against claims brought by holders of Bills of Lading against Owners by
 900 reason of any deviation required by Charterers under Clauses 22, 23 or 28.

901 30.2 All Bills of Lading issued under this Charter shall be deemed to contain War Risks, Both-
 902 to-Blame Collision and New Jason clauses.

903 30.3 If a Bill of Lading is not available at any discharge port to which the Vessel may be
 904 ordered by Charterers under this Charter or if Charterers require Owners to deliver cargo
 905 to a party and/or at a port other than as set out in the Bills of Lading, then Owners shall
 906 nevertheless discharge such cargo in compliance with Charterers' instructions, upon
 907 presentation by the consignee nominated by Charterers ("the Receiver") of reasonable
 908 identification to the Master and in consideration of Charterers undertaking:-

909 30.3.1 to indemnify Owners (which term shall, for the purpose of this Clause,
 910 include Owners' servants and agents) and to hold Owners harmless in
 911 respect of any liability, loss, damage, cost or expense of whatsoever nature
 912 which Owners may sustain by reason of delivering the cargo to the Receiver
 913 in accordance with Charterers' instructions;

914 30.3.2 to provide Owners on demand, in the event of any proceedings being
 915 commenced against Owners in connection with the delivery of the cargo as
 916 aforesaid, from time to time, with sufficient funds to defend the same;

917 30.3.3 to provide Owners on demand with such bail or other security as may be
 918 required if, in connection with the delivery of the cargo as aforesaid, the
 919 Vessel, or any other vessel or property belonging to Owners, should be
 920 arrested or detained or, if the arrest or detention thereof should be
 921 threatened, in order to prevent such arrest or detention, or to secure the
 922 release of such Vessel or property and to indemnify Owners in respect of
 923 any loss, damage, cost or expense caused by such arrest or detention
 924 whether or not the same be justified; and

925 30.3.4 to produce and deliver to Owners all original Bills of Lading in respect of
 926 the cargo loaded by the Vessel as soon as same shall have arrived and/or
 927 come into the possession of Charterers whereupon Charterers' liability
 928 hereunder shall cease.

929 The provisions of the foregoing undertakings shall be governed by English Law.

931 31. FREIGHT RATE

932 31.1 The Freight Rate shall be that stated in Section H of PART 1. If the cargo quantity
 933 stated in Section C of PART 1 is a minimum quantity, then the freight payable for any
 934 cargo loaded in excess of the said minimum quantity shall, notwithstanding this Clause

- 935 31, be at the Overage rate stated in Section H of PART 1, unless a lump sum freight has
 936 been agreed in which case no Overage shall be payable. Where the Freight Rate stated in
 937 Section H of PART 1 is expressed as a percentage of Worldscale the Worldscale rate shall
 938 be the rate in force at the date of this Charter.
- 939 31.2 If Charterers instruct Owners to order the Vessel to increase speed under Clause 3 the
 940 Freight Rate shall be increased as provided in Section H of PART 1 for each knot of
 941 increased speed above the Charter Speed and pro rata for fractions of a knot up to the
 942 Maximum Speed. Such increase shall be calculated in accordance with the following
 943 example:
- 944 Example: The Vessel proceeds at Charter Speed of 10 knots, the rate for which is
 945 Worldscale 40. After 10 days the Master is instructed to complete the voyage at
 946 12 knots. The remainder of the voyage takes 20 days. The increased speed option
 947 provides for a premium of 0.5 of a Worldscale point per knot of increased speed
 948 over Charter Speed.
- 949 The freight rate for the above voyage would be calculated as follows:
 950 Voyage freight rate = $\frac{(\text{W}40 \times 10 \text{ days}) + \text{W}41 \times 20 \text{ days}}{30 \text{ (total voyage days)}}$
 951 = W40.67
 952 (*1 point premium for 12 knots Maximum Speed)
 953
- 954 If the Vessel fails to maintain the speed ordered, due to breakdown or any other reason
 955 whatsoever beyond Charterers' control, the freight rate shall be calculated based on the
 956 average speed actually achieved by the Vessel using BP Worldwide Marine Distance
 957 Tables to assess the length of the voyage between pilot stations at the loading and
 958 discharge ports but the freight rate shall not be less than the Freight Rate at Charter
 959 Speed.
- 960 31.3 If a lump sum freight is agreed for the voyage this shall be in respect of the overall voyage
 961 of the Vessel from the first loading port to the final discharge port.
- 962 Charterers shall be entitled to load and discharge at additional ports within the Ranges
 963 stated in Sections E and F of PART 1. If the lump sum freight stated in Section H of
 964 PART 1 specifically includes additional loading or discharge ports or if a further lump
 965 sum payment is agreed for additional loading or discharge ports then no other payment
 966 shall, subject to Clauses 5 and 34, be made by Charterers and laytime or, if the Vessel is
 967 on demurrage, demurrage shall count in accordance with the provisions of this Charter.
- 968 In the absence of any agreement in respect of lump sum freight for additional loading or
 969 discharge ports Charterers shall reimburse Owners for any additional port costs incurred
 970 by Owners in complying with Charterers' instructions. Time used at the additional ports,
 971 including time which would otherwise be excluded under Clause 18.1 (subject to the
 972 exceptions and exclusions of laytime and/or demurrage found elsewhere in this Charter,
 973 including but not limited to those under Clauses 17 and 18) shall count as laytime or, if
 974 the Vessel is on demurrage, as demurrage. Laytime, or, if the Vessel is on demurrage,
 975 demurrage shall commence upon tender of a valid NOR which has become effective as
 976 determined under Clause 6.3 and shall end when cargo hoses have been finally
 977 disconnected. The provisions of Clause 22.3 shall also apply, and reference in Clause 22.3
 978 to the term "alternative port" shall for the purposes of this Clause 31.3 be deemed to be a
 979 reference to "additional port".
- 980 31.4 Freight shall be payable immediately after completion of discharge, on the gross quantity
 981 of cargo loaded by the Vessel as evidenced by the Bills of Lading furnished by the
 982 shippers, less any sum derived from the operation of Clauses 2, 32 and 33 and less any
 983 disbursements or advances made to the Master or Agents at loading and/or discharge
 984 ports, any sums payable by Owners under Clause 34, and any additional cargo insurance
 985 premium for Owners' account under Clause 35, provided that no freight shall be payable
 986 on any quantity that submerges, at any stage of the voyage, the marks appropriate under

- 987 the International Load Line Convention, 1966, or any modification or amendment
988 thereof, to the voyage to be performed under this Charter.
- 989 31.5 All payments due to Owners under this Charter shall be remitted by Charterers to the
990 account stated in Section K of PART 1.
- 991 **32. ADDRESS COMMISSION**
- 992 Charterers shall deduct 1.25% address commission from freight (including fixed and variable
993 freight differentials), and any deadfreight and demurrage payable under this Charter.
- 994 **33. CARGO RETENTION**
- 995 33.1 If any quantity of cargo remaining on board the Vessel ("ROB") upon completion of
996 discharge is judged by an independent surveyor appointed by Charterers to be liquid, or if
997 Charterers can show that the ROB would have been liquid if Owners and/or the Master,
998 officers and crew had followed Charterers' instructions for the management of the cargo,
999 then Charterers shall be entitled to deduct from freight the value of such quantity of
1000 cargo calculated on the basis of the free on board ("FOB") value at the loading port plus
1001 freight thereon calculated in accordance with Clause 31 hereof.
- 1002 33.2 For the purpose of this Clause 33, any quantity of ROB shall be regarded as liquid if
1003 sampling and testing, which testing shall be performed as soon as practicable after
1004 sampling, shows the ROB to have had a dynamic viscosity of less than 600 centipoise at
1005 its temperature when sampled from the Vessel's tank or, if Charterers' heating
1006 instructions have not been complied with, at the temperature that would have been
1007 applicable in the Vessel's tank if such instructions had been complied with.
- 1008 Any quantity of ROB which is of insufficient depth to be sampled shall also be regarded
1009 as liquid if the independent surveyor judges it to be liquid after using other means of
1010 testing including, without limitation, a representative number of dips across each tank.
- 1011 33.3 The independent surveyor's findings shall be final and binding upon Owners and
1012 Charterers save for instances of arithmetical error in calculation.
- 1013 33.4 Charterers hereby agree to indemnify Owners against any liability to a Bill of Lading
1014 holder resulting from non-delivery of any such cargo in respect of which a deduction
1015 from freight is made under this Clause 33 provided always that Charterers shall under no
1016 circumstances be liable to indemnify Owners in an amount greater than the amount of
1017 freight so deducted.
- 1018 33.5 For the purpose of this Clause 33, slops shall not be included in the measured and
1019 reported liquid volume of oil on board the Vessel prior to loading.
- 1020 33.6 For the avoidance of doubt this Clause 33 refers solely to liquid cargo ROB from the
1021 cargo loaded hereunder and any measured volume of liquid oil on board the Vessel prior
1022 to loading shall be deducted from any calculation made under this Clause 33.
- 1023 **34. DUES AND OTHER CHARGES**
- 1024 34.1 If, under Sections 4 and 5 of Part B of the Preamble of Worldscale, a due or charge is
1025 expressly stated to be for the account of Owners or Charterers then such due or charge
1026 shall be payable accordingly. Dues and other charges payable by Charterers under Section
1027 5 of Part B of the Preamble of Worldscale shall in the first instance be paid by Owners
1028 and Charterers shall reimburse Owners upon presentation of all supporting invoices by
1029 Owners.
- 1030 34.2 If freight for a voyage is not based on Worldscale but is calculated on some other basis
1031 such as, without limitation, an agreed lump sum amount or a per tonne amount,
1032 Charterers shall not be liable for any costs covered by Worldscale, under a fixed or

- 1033 variable freight differential (Section D of *Worldscale*), such costs being deemed to be
1034 included in the agreed freight. However Sections 4 and 5 of Part B of the Preamble of
1035 *Worldscale* shall still apply.
- 1036 34.3 If a charge is imposed upon Charterers by the owner of a berth by reason of prolonged
1037 occupation of the berth by the Vessel for reasons beyond the control of Charterers, their
1038 servants or agents then such charge shall be paid by Owners.
- 1039 **35. CARGO INSURANCE**
- 1040 Any additional premiums which may be charged by cargo underwriters on any cargo insurance in
1041 respect of the cargo carried hereunder by reason of the Vessel's age and/or condition shall be for
1042 Owners' account, and Charterers shall be entitled to deduct the cost of any such additional
1043 premium from freight payable under Clause 31.
- 1044 **36. CODING OF CARGO DOCUMENTATION - US CUSTOMS REGULATIONS**
- 1045 36.1 If Charterers require the Vessel to discharge at a port within the jurisdiction of the US
1046 Customs Service, the Master shall insert Owners' Unique Identifier on each Bill of Lading
1047 accompanying a shipment of imported cargo in accordance with US Customs Regulations
1048 (19 CFR Parts 4 and 178). Owners shall provide Charterers and Agents on request with
1049 details of their Unique Identifier in respect of any cargo carried hereunder.
- 1050 36.2 If the Master fails to insert Owners' Unique Identifier under this Clause 36 Owners shall
1051 be liable for any delays resulting therefrom and any time lost thereby shall not count as
1052 laytime or, if the Vessel is on demurrage, as demurrage.

- 1053 37. UNITED STATES COAST GUARD ("USCG") CERTIFICATE OF FINANCIAL
1054 RESPONSIBILITY/UNITED STATES COAST GUARD REGULATIONS
- 1055 37.1 Owners undertake that the Vessel shall carry on board a valid USCG Certificate of
1056 Financial Responsibility ("COFR") as required under the US Federal Oil Pollution Act
1057 1990 and that for the duration of this Charter the said COFR shall be maintained in all
1058 respects valid for trading to ports in the USA. Owners further undertake that the Vessel
1059 shall carry on board copies of the Vessel's Federal Oil Spill Response Plan and any US
1060 State specific Response Plan (individually and collectively "Response Plan") that have
1061 been approved by the USCG or by the appropriate State Authority respectively and that
1062 the Master shall operate the Vessel fully in accordance with the said Response Plan.
- 1063 37.2 Owners undertake that the Vessel shall for the duration of this Charter either comply
1064 with all applicable USCG Regulations or carry on board appropriate waivers from the
1065 USCG if in any respect whatsoever the Vessel does not so comply.
- 1066 38. EXCEPTIONS
- 1067 38.1 The provisions of Articles III (other than Rule 8), IV, IV bis and VIII of the Schedule to
1068 the Carriage of Goods by Sea Act, 1971 of the United Kingdom shall apply to this
1069 Charter and shall be deemed to be inserted *in extenso* herein. This Charter shall be
1070 deemed to be a contract for the carriage of goods by sea to which the said Articles apply,
1071 and Owners shall be entitled to the protection of the said Articles in respect of any claim
1072 made hereunder.
- 1073 38.2 Charterers shall not, unless expressly provided otherwise in this Charter, be responsible
1074 for any loss, damage, cost, expense, delay or failure in performance hereunder arising or
1075 resulting from Act of God, act of war, hostilities, seizure under legal process, quarantine
1076 restrictions, labour disputes or strikes threatened or actual, riots, civil commotions, arrest
1077 or restraint of princes, rulers or people.
- 1078 39. WAR RISKS
- 1079 39.1 For the purpose of this Clause 39 the words:-
- 1080 "Owners" shall include the shipowners, bareboat charterers, disponent owners,
1081 managers or other operators who are charged with the management and/or
1082 operation of the Vessel, and the Master; and
- 1083 "War Risks" shall include any war (whether actual or threatened), act of war, civil war,
1084 hostilities, revolutions, rebellion, civil commotion, warlike operations, the
1085 laying of mines (whether actual or reported), acts of piracy, acts of
1086 terrorists, acts of hostility or malicious damage, blockades (whether
1087 imposed against all vessels or imposed selectively against vessels of certain
1088 flags or ownership, or against certain cargoes or crews or otherwise
1089 howsoever), by any person, body, terrorist or political group, of the
1090 Government of any state whatsoever, which, in the reasonable judgment of
1091 the Master and/or Owners, may be dangerous or are likely to be or to
1092 become dangerous to the Vessel, her cargo, crew or other persons on
1093 board the Vessel.
- 1094 39.2 If at any time before the Vessel commences loading, it appears, in the reasonable
1095 judgement of the Master and/or Owners, that performance of the contract of carriage, or
1096 any part of it, may expose, or is likely to expose, the Vessel, her cargo, crew or other
1097 persons on board the Vessel to War Risks, Owners may give notice to Charterers
1098 cancelling this Charter, or may refuse to perform such part of it as may expose, or may be
1099 likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War
1100 Risks provided always that if either Section E or F of PART 1 provides for a loading or
1101 discharging Range, as the case may be, and the Vessel, her crew, other persons on board,

- 1102 or cargo may be exposed, or may be likely to be exposed, to War Risks, at the port
 1103 originally nominated by Charterers, then Owners shall first require Charterers to
 1104 nominate a safe port which lies within the relevant Range, and may only cancel this
 1105 Charter if Charterers shall not have nominated such safe port within forty-eight (48)
 1106 hours of receipt of such request.
- 1107 39.3 Owners shall not be required to continue to load cargo for any voyage, or to sign Bills of
 1108 Lading for any port, or to proceed or continue on any voyage, or on any part thereof, or
 1109 to proceed through any canal or waterway, or to proceed to or remain at any port
 1110 whatsoever, where it appears, either after the loading of the cargo commences, or at any
 1111 stage of the voyage thereafter before the discharge of the cargo is completed, that, in the
 1112 reasonable judgement of the Master and/or Owners, the Vessel, her cargo (or any part
 1113 thereof), crew or other persons on board the Vessel (or any one or more of them) may be,
 1114 or are likely to be, exposed to War Risks. If it should so appear, Owners may, by telex,
 1115 request Charterers to nominate a safe port for the discharge of the cargo or any part
 1116 thereof, and if within forty-eight (48) hours of the receipt of such telex, Charterers shall
 1117 not have nominated such a port, Owners may discharge the cargo at any safe port of their
 1118 choice (including the loading port) in complete fulfilment of their obligations under this
 1119 Charter. Owners shall be entitled to recover from Charterers the extra expenses of such
 1120 discharge and, if the discharge takes place at any port other than the loading port, to
 1121 receive the full freight as though the cargo had been carried to the discharge port
 1122 originally nominated. Any additional period by which the steaming time taken to reach
 1123 the port at which the cargo is discharged exceeds the time which would have been taken
 1124 had the Vessel proceeded to the original discharge port directly, and bunkers consumed
 1125 for steaming during such additional period, shall be calculated and compensated in
 1126 accordance with the provisions of Clause 22.3.
- 1127 39.4 If at any stage of the voyage after the loading of the cargo commences, it appears, in the
 1128 reasonable judgement of the Master and/or Owners, that the Vessel, her cargo, crew or
 1129 other persons on board the Vessel may be, or are likely to be, exposed to War Risks on
 1130 any part of the route (including any canal or waterway) which is normally and customarily
 1131 used in a voyage of the nature contracted for, and there is another longer route to the
 1132 discharge port, Owners may give notice to Charterers that this route should be taken. In
 1133 such case this Charter shall be read in respect of freight and all other conditions
 1134 whatsoever as if the voyage performed were that originally designated.
- 1135 However if the Vessel discharges the cargo at a port outside the Ranges stated in Section
 1136 F of PART 1, freight shall be paid as for the voyage originally designated and any
 1137 additional period by which the steaming time taken to reach the discharge port exceeds
 1138 the time which would have been taken to reach the originally designated discharge port
 1139 directly, and bunkers consumed for steaming during such additional period, shall be
 1140 calculated and compensated in accordance with the provisions of Clause 22.3. Any
 1141 additional port, canal or waterway expenses incurred by Owners as a result of the Vessel
 1142 discharging outside the Ranges stated in Section F of PART 1 as aforesaid shall be for
 1143 Charterers' account and Charterers shall reimburse to Owners any amounts due under
 1144 this Clause 39.4 upon receipt of Owners' invoice together with full supporting
 1145 documentation.
- 1146 39.5 The Vessel shall have liberty:-
- 1147 39.5.1 to comply with all orders, directions, recommendations or advice as to
 1148 departure, arrival, routes, sailing in convoy, ports of call, stoppages,
 1149 destinations, discharging of cargo, delivery or in any way whatsoever which
 1150 are given by the government of the state under whose flag the Vessel sails,
 1151 or other government to whose laws Owners are subject, or any other
 1152 government which so requires, or any body or group acting with the power
 1153 to compel compliance with their orders or directions;

1154	39.5.2	to comply with the orders, direction or recommendations of any war risks underwriters who have the authority to give the same under the terms of the war risks insurance applicable to the Vessel;
1155		
1156		
1157	39.5.3	to comply with the terms of any resolution of the Security Council of the United Nations, any directives of the European Community, the effective orders of any other supranational body which has the right to issue and give the same, and with national laws aimed at enforcing the same to which Owners are subject, and to obey the orders and directions of those who are charged with their enforcement;
1158		
1159		
1160		
1161		
1162		
1163	39.5.4	to discharge at any other port any cargo or part thereof which may render the Vessel liable to confiscation as a contraband carrier;
1164		
1165	39.5.5	to call at any other port to change the crew or any part thereof or other persons on board the Vessel if there is good reason to believe that they may be subject to internment, imprisonment or other sanctions; and
1166		
1167		
1168	39.5.6	if cargo has not been loaded or has been discharged by Owners under this Clause 39, to load other cargo for Owners' own benefit and carry it to any other port or ports whatsoever, whether backwards or forwards or in a contrary direction to the ordinary or customary route.
1169		
1170		
1171		
1172	39.6	If in compliance with Clauses 39.2 to 39.5 anything is done or not done, such shall not be deemed to be a deviation, but shall be considered as due fulfilment by the party concerned of its obligations under this Charter.
1173		
1174		
1175	40. BOTH-TO-BLAME COLLISION	
1176	40.1	If the liability for any collision in which the Vessel is involved while performing this Charter falls to be determined in accordance with the laws of the USA, or the laws of any State which applies laws similar to those applied in the USA in the circumstances envisaged by this Clause 40, the following provision shall apply:-
1177		
1178		
1179		
1180		"If the Vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the Master, mariner, pilot or the servants of the carrier in the navigation or in the management of the Vessel, the owners of the goods carried hereunder will indemnify the carrier against all loss or liability to the other or non-carrying vessel or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of, said goods, paid or payable by the other or non-carrying vessel or her owners to the owners of said goods and set off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying vessel or carrier.
1181		
1182		
1183		
1184		
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1187		
1188		
1189		The foregoing provisions shall also apply where the owner, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of collision or contact."
1190		
1191		
1192	40.2	Whilst Charterers shall procure that all Bills of Lading issued under this Charter shall contain a provision in the foregoing terms, to be applicable where the liability for any collision in which the Vessel is involved falls to be determined under the preamble of this Clause 40, Charterers neither warrant nor undertake that such provision shall be effective. In the event that such provision proves ineffective Charterers shall, notwithstanding anything to the contrary herein provided, not be obliged to indemnify Owners.
1193		
1194		
1195		
1196		
1197		
1198	41. GENERAL AVERAGE	
1199		General Average shall be adjusted and settled in London in accordance with the York-Antwerp Rules, 1994 or any modification or re-enactment thereof for the time being in force.
1200		
1201		

1202 **42. NEW JASON**

1203 If, notwithstanding Clause 41, General Average is adjusted in accordance with the law and
1204 practice of the USA, the following provision shall apply:-

1205 "In the event of accident, danger, damage or disaster before or after the commencement of the
1206 voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for
1207 the consequence of which, the carrier is not responsible, by statute, contract or otherwise, the
1208 cargo shippers, consignees or owners of the cargo shall contribute with the carrier in general
1209 average to the payment of any sacrifices, losses or expenses of a general average nature that may
1210 be made or incurred and shall pay salvage and special charges incurred in respect of the cargo.

1211 If a salving ship is owned or operated by the carrier, salvage shall be paid for as fully as if the
1212 said salving ship or ships belonged to strangers. Such deposit as the carrier or his agents may
1213 deem sufficient to cover the estimated contribution of the cargo and any salvage and special
1214 charges thereon shall, if required, be made by the cargo shippers, consignees or owners of the
1215 cargo to the carrier before delivery".

1216 **43. CLAUSE PARAMOUNT**

1217 All Bills of Lading issued under this Charter shall be deemed to contain the following Clause
1218 Paramount:-

1219 "CLAUSE PARAMOUNT

1220 (1) This Bill of Lading shall have effect subject to any national law making the International
1221 Convention for the unification of certain rules of law relating to bills of lading signed at
1222 Brussels on 25th August 1924 (The Hague Rules) or the Hague Rules as amended by the
1223 Protocol signed at Brussels on 23rd February 1968 (The Hague/Visby Rules)
1224 compulsorily applicable to this Bill of Lading. If any term of this Bill of Lading be
1225 repugnant to that legislation to any extent, such term shall be void to that extent but no
1226 further. Neither the Hague Rules nor the Hague/Visby Rules shall apply to this Bill of
1227 Lading where the goods carried hereunder consist of live animals or cargo which by this
1228 Bill of Lading is stated as being carried on deck and is so carried.

1229 (2) Save where the Hague or Hague/Visby Rules apply by reason of (1) above, this Bill of
1230 Lading shall take effect subject to any national law in force at the port of shipment or
1231 place of issue of the Bill of Lading making the United Nations Convention on the
1232 Carriage of Goods by Sea 1978 (the Hamburg Rules) compulsorily applicable to this Bill
1233 of Lading in which case this Bill of Lading shall have effect subject to the Hamburg Rules
1234 which shall nullify any stipulation derogating therefrom to the detriment of the shipper or
1235 consignee.

1236 (3) Where the Hague, Hague/Visby or Hamburg Rules are not compulsorily applicable to
1237 this Bill of Lading, the carrier shall be entitled to the benefits of all privileges, rights and
1238 immunities contained in Articles I to VIII of the Hague/Visby Rules.

1239 (4) Nothing in this Bill of Lading shall be construed as in any way restricting, excluding or
1240 waiving the right of any relevant party or person to limit his liability under any available
1241 legislation and/or law".

1242 **44. OIL POLLUTION INSURANCE**

1243 44.1 Owners warrant that they have, and shall maintain in force throughout the period of this
1244 Charter, the following oil pollution insurances:-

1245 44.1.1 the standard oil pollution insurance cover (currently US\$500 million)
1246 available, from time to time, from their Protection and Indemnity Club;
1247 and

1248	44.1.2	any additional oil pollution insurance cover (currently US\$200 million)
1249		which is, or becomes, available from market, or other sources provided
1250		always that the security of the provider of the cover is acceptable to
1251		Charterers.
1252	45. OIL POLLUTION PREVENTION	
1253	45.1	Owners undertake that the Vessel-
1254	45.1.1	is a tanker owned by a member of the International Tanker Owners
1255		Pollution Federation Limited and will so remain throughout the period of
1256		this Charter.
1257	45.1.2	is entered in the P & I Club stated in Section 9.1 of the BP Shipping
1258		Questionnaire last completed by or on behalf of Owners and will so remain
1259		unless Owners have given Charterers prior written notice of their intention
1260		to change. Owners warrant however, that the Vessel will only be entered in
1261		a P & I Club within the International Group of P & I Clubs.
1262	45.2	When an escape or discharge of Oil occurs from the Vessel and causes or threatens to
1263		cause Pollution Damage, or when there is the Threat of an escape or discharge of Oil (i.e.
1264		a grave and imminent danger of the escape or discharge of Oil which, if it occurred,
1265		would create a serious danger of Pollution Damage, whether or not an escape or
1266		discharge in fact subsequently occurs), then upon notice to Owners or Master, Charterers
1267		shall have the right (but shall not be obliged) to place onboard the Vessel and/or have in
1268		attendance at the incident one or more Charterers' representatives to observe the
1269		measures being taken by Owners and/or national or local authorities or their respective
1270		servants, agents or contractors to prevent or minimise Pollution Damage and, in
1271		Charterers' absolute discretion, to provide advice, equipment or manpower or undertake
1272		such other measures, at Charterers' risk and expense, as are permitted under applicable
1273		law and as Charterers believe are reasonably necessary to prevent or minimise such
1274		Pollution Damage or to remove the Threat of an escape or discharge of Oil.
1275	45.3	The provisions of this Clause 45 shall be without prejudice to any other rights and/or
1276		duties of Charterers or Owners whether arising under this Charter or under applicable
1277		law or under any International Convention.
1278	45.4	In this Clause the terms "Oil", "Threat" and "Pollution Damage" shall have the same
1279		meaning as that defined in the Civil Liability Convention 1969 or any Protocol thereto.
1280	46. LIEN	
1281		Owners shall have a lien upon the cargo for all freight, deadfreight, demurrage and the cost of
1282		recovery thereof.
1283	47. SUB-LETTING	
1284		Charterers may sub-let the Vessel without prejudice to the respective rights and obligations of
1285		either party under this Charter.
1286	48. ADMINISTRATION	
1287		
1288	48.1	Unless otherwise specifically requested by either Owners or Charterers, no formal
1289		charterparty shall be prepared and signed. The terms and conditions of this Charter shall
1290		be evidenced by a recap fixture telex ("Recap Fixture Telex") issued by Charterers' broker
1291		to Owners and Charterers and shall be confirmed as correct by return telexes from both
1292		parties to the said broker who shall acknowledge receipt of such confirmation telexes to
1293		both parties within forty-eight (48) hours after the lifting of subjects and a charterparty in
1294		the format of this Charter, as modified by the Recap Fixture Telex and bearing the same

1295 date as the Recap Fixture Telex, shall be deemed to have been signed by Owners and
1296 Charterers.

1297 48.2 If either party requires a formal charterparty to be prepared and signed then Owners shall
1298 procure that Owners' broker shall prepare a charterparty in the format of this Charter, as
1299 modified by the Recap Fixture Telex, and bearing the same date as the Recap Fixture
1300 Telex and shall arrange for signature thereof by both Owners and Charterers.

1301 **49. LAW**

1302 The construction, validity and performance of this Charter shall be governed by English Law.
1303 The High Court in London shall have exclusive jurisdiction over any dispute which may arise out
1304 of this Charter.

1305 ***In Witness Whereof*** the parties have caused this Charter to be executed as of the date first above
1306 written

1307

1308 for and on behalf of

1309

1310 OWNERS

1311

1312 for and on behalf of

1313

1314 CHARTERERS



APPENDIX 1

THE BP SHIPPING QUESTIONNAIRE

ANNEX 2

ASBATANKVOY Charter Party - full text

Attachment "C"

TANKER VOYAGE CHARTER PARTY

Preamble

.....

Place Date

IT IS THIS DAY AGREED between chartered owner/owner
(hereinafter

called the "Owner") of the SS/MS(hereinafter called the "Vessel") and

..... (hereinafter called the "Charterer") that the transportation herein provided
for will be

performed subject to the terms and condition of this Charter Party, which includes this
Preamble and

Part I and Part II. In the event of a conflict, the provisions of Part I will prevail over those
contained in

Part II.

P A R T I

A Description and Position of Vessel:

Deadweight: tons (2240 lbs.) Classed:

Loaded draft of Vessel on assigned summer freeboard ft in. in salt water.

Capacity for cargo: tons (of 2240 lbs. each)

.....% more or less, Vessels option.

Coated: 0 Yes 0 No

Coiled: 0 Yes 0 No Last two cargoes:

Now: Expected ready:

B Laydays:

Commencing: Cancelling:

C Loading Port(s):

.....

Charterer's Option

D Discharging Port(s):

.....

Charterer's Option

E Cargo:

.....

Charterer's Option

F Freight rate per ton (of 2240 lbs. each)

G Freight Payable to: at

H Total Laytime in Running Hours:

I Demurrage per day:

J Commission of% is payable by Owner to

on the actual amount of freight, when and as freight is paid.

K The place of General Average and Arbitration proceedings to be London/New York (strike out one).

L Tovalop: Owners warrants vessel to be a member of TOVALOP scheme and will be so maintained throughout duration of this charter.

M Special provisions:

IN WITNESS WHEREOF, the parties have caused this Charter, consisting of a Preamble, Parts I and II, to be executed in duplicate as of the day and year first above written.

Witness the signature of:

By:

Witness the signature of:

By:

PART II

1 WARRANTY - VOYAGE - CARGO

The vessel, classed as specified in Part I hereof, and to be so maintained during the currency of this Charter, shall, with all convenient dispatch, proceed as ordered to Loading Port(s) named in accordance with Clause 4 hereof, or so near thereunto as she may safely get (always afloat), and being seaworthy, and having all pipes, pumps and heater coil's in good working order, and being in every respect fitted for the voyage, so far as the foregoing conditions can be attained by the exercise of due diligence, perils of the sea and any other cause of whatsoever kind beyond the Owner's and / or Master's control excepted, shall load (always afloat) from the factors of the Charterer a full and complete cargo of petroleum and / or its products in bulk, not exceeding what she can reasonably stow and carry over and above her bunker fuel, consumable stores, boiler feed, culinary and drinking water, and complement and their effects (sufficient space to be left in the tanks to provide for the expansion of the cargo), and being so loaded shall forthwith proceed, as ordered on signing Bills of Lading, direct to the Discharging Port(s), or so near thereunto as she may safely get (always afloat), and deliver said cargo. If heating of the cargo is requested by the Charterer, the Owner shall exercise due diligence to maintain the temperatures requested.

2 FREIGHT

Freight shall be at the rate stipulated in Part I and shall be computed on intake quantity (except deadfreight as per Clause 3) as shown on the Inspector's Certificate of Inspection. Payment of freight shall be made by Charterer without discount upon delivery of cargo at destination, less any disbursements or advances made to the Master or Owner's agent at ports of loading and / or discharge and cost of insurance thereon. No deduction of freight shall be made for water and / or sediment contained in the cargo. The services of the Petroleum Inspector shall be arranged and paid for by the Charterer who shall furnish the Owner with a copy of the Inspector's Certificate.

3 DEADFREIGHT

Should the Charterer fail to supply a full cargo, the Vessel may, at the Master's option, and shall, upon request of the Charterer, proceed on her voyage, provided that the tanks in which cargo is loaded are sufficiently filled to put her in seaworthy condition. In that event, however, deadfreight shall be paid at the rate specified in Part I hereof on the difference between the intake quantity and the quantity the Vessel would have carried if loaded to her minimum permissible freeboard for her voyage.

4 NAMING LOADING AND DISCHARGE PORTS

a The Charterer shall name the loading port or ports at least twenty-four (24) hours prior to the Vessel's readiness to sail from the last previous port of discharge, or from bunkering port for the voyage, or upon signing this Charter if the Vessel has already sailed. However, Charterer shall have the option of ordering the Vessel to the following destinations for wireless orders:

On a voyage to a port or ports in:

ST. KITS Caribbean or U.S. Gulf loading port(s)

PORT SAID Eastern Mediterranean or Persian Gulf loading port(s) (from ports west of Port Said)

b If lawful and consistent with Part I and with the Bills of Lading, the Charterer shall have the option of nominating discharging port or ports by radio to the Master on or before the Vessel's arrival at or off the following places:

place on a voyage to a port or ports in:

LAND'S END United Kingdom / Continent (Bordeaux / Hamburg range)

or Scandinavia (including Denmark)

SUEZ Mediterranean (from Persian Gulf)

GIBRALTAR Mediterranean (from Western Hemisphere)

c Any extra expense incurred in connection with any change in loading or discharging ports (so named) shall be paid for by the Charterer and any time thereby lost to the Vessel shall count as used laytime.

5 LAYDAYS

Laytime shall not commence before the date stipulated in Part I, except with the Charterer's sanction. Should the Vessel not be ready to load by 4:00 o'clock P.M. (local time) on the cancelling date stipulated in Part I, the Charterer shall have the option of cancelling this

Charter by giving the Owner notice of such cancellation within twenty-four (24) hours after such cancellation date; otherwise this Charter to remain in full force and effect.

6 NOTICE OF READINESS

Upon arrival at customary anchorage at each port of loading or discharge, the Master or his agent shall give the Charterer or his agent notice by letter, telegraph, wireless or telephone that the Vessel is ready to load or discharge cargo, berth or no berth, and laytime, as hereinafter provided, shall commence upon the expiration of six (6) hours after receipt of such notice, or upon the Vessel's arrival in berth (i.e. finished mooring when at a sea loading or discharging terminal and all fast when loading or discharging alongside a wharf), whichever first occur. However, where delay is caused to Vessel getting into berth after giving notice of readiness for any reason over which Charterer has no control, such delay shall not count as used laytime.

7 HOURS FOR LOADING AND DISCHARGING

The number of running hours specified as laytime in Part I shall be permitted the Charterer as laytime for loading and discharging cargo; but any delay due to the Vessel's condition or breakdown or inability of the Vessel's facilities to load or discharge cargo within the time allowed shall not count as used laytime. If regulations of the Owner or port authorities prohibit loading or discharging of the cargo at night, time so lost shall not count as used laytime; if the Charterer, shipper or consignee prohibits loading or discharging at night, time so lost shall count as used laytime. Time consumed by the vessel in moving from loading or discharge port anchorage to her loading or discharging berth, discharging ballastwater or slops, will not count as used laytime.

8 DEMURRAGE

Charterer shall pay demurrage per running hour and pro rata for a part thereof at the rate specified in Part I for all time that loading and discharging and used laytime as elsewhere herein provided exceeds the allowed laytime elsewhere herein specified. If, however, demurrage shall be incurred at ports of loading and / or discharge by reason of fire, explosion, storm or by a strike, lockout, stoppage or restraint of labor or by breakdown of machinery or equipment in or about the plant of the Charterer, supplier, shipper or consignee of the cargo, the rate of demurrage shall be reduced one-half of the amount stated in Part I per running hour or pro rata for part of an hour for demurrage so incurred. The Charterer shall not be liable for any demurrage for delay caused by strike, lockout, stoppage or restraint of labor for Master, officers and crew of the Vessel or tugboat or pilots.

9 SAFE BERTHING - SHIFTING

The Vessel shall load and discharge at any safe place or wharf, or alongside vessels or lighters reachable on her arrival, which shall be designated and procured by the Charterer, provided the Vessel can proceed thereto, lie at, and depart therefrom always safely afloat, any lighthouse being at the expense, risk and peril of the Charterer. The Charterer shall have the right of

shifting the Vessel at ports of loading and / or discharge from one safe berth to another on payment of all towage and pilotage shifting to next berth, charges for running lines on arrival at and leaving that berth, additional agency charges and expenses, customs overtime and fees, and any other extraport charges or port expenses incurred by reason of using more than one berth. Time consumed on account of shifting shall count as used laytime except as otherwise provided in Clause 15.

10 PUMPING IN AND OUT

The cargo shall be pumped into the Vessel at the expense, risk and peril of the Charterer, and shall be pumped out of the Vessel at the expense of the Vessel, but at the risk and peril only so far as the Vessel's permanent hose connections, where delivery of the cargo shall be taken by the Charterer or its consignee. If required by Charterer, Vessel after discharging is to clear shore pipe lines of cargo by pumping water through them and time consumed for this purpose shall apply against allowed laytime. The Vessel shall supply her pumps and the necessary power for discharging in all ports, as well as necessary hands. However, should the Vessel be prevented from supplying such power by reason of regulations prohibiting fires on board, the Charterer or consignee shall supply, at its expense, all power necessary for discharging as well as loading, but the Owner shall pay for power supplied to the Vessel for other purposes. If cargo is loaded from lighters, the Vessel shall furnish steam at Charterer's expense for pumping cargo into the Vessel, if requested by the Charterer, providing the Vessel has facilities for generating steam and is permitted to have fires on board. All overtime of officers and crew incurred in loading and / or discharging shall be for account of the Vessel.

11 HOSES: MOORING AT SEA TERMINALS

Hoses for loading and discharging shall be furnished by the Charterer and shall be connected and disconnected by the Charterer, or, at the option of the Owner, by the Owner at the Charterer's risk and expense. Laytime shall continue until the hoses have been disconnected. When Vessel loads or discharges at a sea terminal, the Vessel shall be properly equipped at Owner's expense for loading or discharging at such place, including suitable ground tackle, mooring lines and equipment for handling submarine hoses.

12 DUES - TAXES - WHARFAGE

The Charterer shall pay all taxes, dues and other charges on the cargo, including but not limited to Customs overtime on the cargo, Venezuelan Habilitation Tax, C.I.M. Taxes at Le Havre and Portuguese Imposto de Comercio Maritime. The Charterer shall also pay all taxes on freight at loading or discharging ports and any unusual taxes, assessments and governmental charges which are not presently in effect but which may be imposed in the future on the Vessel or freight. The Owner shall pay all dues and other charges on the Vessel (whether or not such dues or charges are assessed on the basis of quantity of cargo), including but not limited to French droits de quai and Spanish derramas taxes. The Vessel shall be free of charges for the use of any wharf, dock, place or mooring facility arranged by the Charterer for the purpose of loading or discharging cargo; however, the Owner shall be responsible for

charges for such berth when used solely for Vessel's purposes, such as awaiting Owner's orders, tank cleaning, repairs, etc., before, during or after loading or discharging.

13 (a) CARGOES EXCLUDED VAPOR PRESSURE

Cargo shall not be shipped which has a vapor pressure at one hundred degrees Fahrenheit (100 degree F.) in excess of thirteen and one-half pounds (13.5 lbs.) as determined by the current A.S.T.M. Method (Reid) D-323.

13 (b) FLASH POINT

Cargo having a flash point under one hundred and fifteen degrees Fahrenheit (115 degree F.) (closed cup) A.S.T.M. Method D056 shall not be loaded from lighters but this clause shall not restrict the Charterer from loading or topping off Crude Oil from vessels or barges inside or outside the bar at any port or place wherebar conditions exist.

14 (a) ICE

In case port of loading or discharge should be inaccessible owing to ice, the Vessel shall direct her course according to Master's judgement, notifying by telegraph or radio, if available, the Charterers, shipper or consignee, who is bound to telegraph or radio orders for another port, which is free from ice and where there are facilities for the loading or reception of the cargo in bulk. The whole of the time occupied from the time the Vessel is diverted by reason of the ice until her arrival at an ice-free port of loading or discharge, as the case may be, shall be paid for by the Charterer at the demurrage rate stipulated in

Part I.

14 (b)

If on account of ice the Master considers it dangerous to enter or remain at any loading or discharging place for fear of the Vessel being frozen in or damaged, the Master shall communicate by telegraph or radio, if available, with the Charterer, shipper or consignee of the cargo, who shall telegraph or radio him in reply, giving orders to proceed to another port as per Clause 14 (a) where there is no danger of ice and where there are the necessary facilities for the loading or reception of the cargo in bulk, or to remain at the original port at their risk, in either case Charterer to pay for the time that the Vessel may be delayed, at the demurrage rate stipulated in Part I.

15 TWO OR MORE PORTS COUNTING AS ONE

To the extent that the freight rate standard of reference specified in Part I F hereof provides for special groupings or combinations of ports or terminals, any two or more ports or terminals within each such grouping or combination shall count as one port for purposes of calculating freight and demurrage only, subject to the following conditions:

- a) Charterer shall pay freight at the highest rate payable under Part I F hereof for a voyage between the loading and discharge ports used by Charterer.
- b) All charges normally incurred by reason of using more than one berth shall be for Charterer's account as provided in Clause 9 hereof.
- c) Time consumed shifting between the ports or terminals within the particular grouping or combination shall not count as used laytime.
- d) Time consumed shifting between berths within one of the ports or terminals of the particular grouping or combination shall count as used laytime.

16 GENERAL CARGO

The Charterer shall not be permitted to ship any packaged goods or non-liquid bulk cargo of any description; the cargo the Vessel is to load under this Charter is to consist only of bulk liquid cargo as specified in Clause I.

17 (a) QUARANTINE

Should the Charterer send the Vessel to any port or place where a quarantine exists, any delay thereby caused to the Vessel shall count as used laytime; but should the quarantine not be declared until the Vessel is on passage to such port, the Charterer shall not be liable for any resulting delay.

17 (b) FUMIGATION

If the Vessel, prior to or after entering upon this Charter, has docked or docks at any wharf which is not rat-free or stevedore-free, she shall, before proceeding to a rat-free or stevedore-free wharf, be fumigated by the Owner at his expense, except that if the Charterer ordered the Vessel to an infected wharf the Charterer shall bear the expense of fumigation.

18 CLEANING

The Owner shall clean the tanks, pipes and pumps of the Vessel to the satisfaction of the Charterer's Inspector. The Vessel shall not be responsible for any admixture if more than one quality of oil is shipped, nor for leakage, contamination or deterioration in quality of the cargo unless the admixture, leakage, contamination or deterioration results from

- a) unseaworthiness existing at the time of loading or at the inception of the voyage which was discoverable by the exercise of due diligence, or
- b) error or fault of the servants of the Owner in the loading, care or discharge of the cargo.

19 GENERAL EXCEPTIONS CLAUSE

The Vessel, her Master and Owner shall not, unless otherwise in this Charter expressly provided, be responsible for any loss or damage, or delay or failure in performing hereunder, arising from:

- any act, neglect, default or barratry of the Master, pilots, mariners or other servants of the Owner in the navigation or management of the Vessel;
- fire, unless caused by the personal design or neglect of the Owner; - collision, stranding or peril, danger or accident of the sea or other navigable waters;
- saving or attempting to save life or property;
- wastage in weight or bulk, or any other loss or damage arising from inherent defect, quality or vice of the cargo;
- any act or omission of the Charterer or Owner, shipper or consignee of the cargo, their agents or representatives;
- insufficiency of packaging;
- insufficiency or inadequacy of marks;
- explosion, bursting of boilers, breakage of shafts, or any latent defect in hull, equipment or machinery;
- unseaworthiness of the Vessel unless caused by want of due diligence on the part of the Owner to make the Vessel seaworthy or to have her properly manned, equipped and supplied; or
- from any other cause of whatsoever kind arising without the actual fault or privity of the Owner.

And neither the Vessel nor Master or Owner, nor the Charterer, shall, unless otherwise in this Charter expressly provided, be responsible for any loss or damage or delay or failure in performing hereunder, arising or resulting from:

- Act of God;
- act of war;
- perils of the seas;
- act of public enemies, pirates or assailing thieves;
- arrest or restraint of princes, rulers or people; or

- seizure under legal process provided bond is promptly furnished to release the Vessel or cargo;
- strike or lockout or stoppage or restraint of labor from whatever cause, either partial or general; or
- riot or civil commotion.

20 ISSUANCE AND TERMS OF BILLS OF LADING

a) The Master shall, upon request, sign Bills of Lading in the form appearing below for all cargo shipped but without prejudice to the rights of the Owner and Charterer under the terms of this Charter. The Master shall not be required to sign Bills of Lading for any port which, the Vessel cannot enter, remain at and leave in safety and always afloat nor for any blockaded port.

b) The carriage of cargo under this Charter Party and under all Bills of Lading issued for the cargo shall be subject to the statutory provisions and other terms set forth or specified in sub-paragraphs (i) through (vii) of this clause and such terms shall be incorporated verbatim or be deemed incorporated by the reference in any such Bill of Lading. In such sub-paragraphs and in any Act referred to therein, the word "carrier" shall include the Owner and the Chartered Owner of the Vessel.

(i) CLAUSE PARAMOUNT

This Bill of Lading shall have effect subject to the provisions of the Carriage of Goods by Sea Acts of the United States, approved April 16, 1936, except that if this Bill of Lading is issued at a place where any other Act, ordinance or legislation gives statutory effect to the International Convention for the Unification of Certain Rules relating to Bills of Lading at Brussels, August 1924, then this Bill of Lading shall have effect, subject to the provisions of such Act, ordinance or legislation. The applicable Act, ordinance or legislation (hereinafter called the "Act") shall be deemed to be incorporated herein and nothing herein contained shall be deemed a surrender by the Owner of any of its rights or immunities or an increase of any of its responsibilities or liabilities under the Act. If any term of this Bill of Lading be repugnant to the Act to any extent, such term shall be void to that extent but no further.

(ii) JASON CLAUSE

In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Owner is not responsible by statute, contract or otherwise, the cargo shippers, consignees or owners of the cargo shall contribute with the Owner in General Average to the payment of any sacrifices, losses or expenses at General Average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the cargo. If a salvaging ship is owned or operated by the Owner, salvage shall be

paid for as if the said salving ship or ships belong to strangers. Such deposit as the Owner or his agents may deem sufficient to cover the estimated contribution of the cargo and any salvage and special charges thereon shall, if required, be made by the cargo, shippers, consignees or owners of the cargo to the carrier before delivery.

(iii) GENERAL AVERAGE

General Average shall be adjusted, stated and settled according to York / Antwerp Rules 1950 and, as to matters not provided for by those rules, according to the laws and usages at the port of New York or at the port of London, whichever place is specified in Part I of this Charter. If a General Average statement is required, it shall be prepared at such port or place in the United States or United Kingdom, whichever country is specified in Part I of this Charter, as may be selected by the Owner, unless otherwise mutually agreed, by an Adjuster appointed by the Owner and approved by the Charterer. Such Adjuster shall attend to the settlement and the collection of the General Average, subject to customary charges. General Average Agreements and / or security shall be furnished by the Owner and / or Charterer and / or Owner and / or Consignee of cargo, if requested. Any cash deposit being made as security to pay General Average and / or salvage shall be remitted to the Average Adjuster and shall be held by him at his risk in a special account in a duly authorized and licensed bank at the place where the General Average statement is prepared.

(iv) BOTH TO BLAME

If the Vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the Master, mariner, pilot or the servants of the Owner in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder shall indemnify the Owner against all loss or liability to the other or non-carrying ship or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said cargo, paid or payable by the other or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying ship or Owner. The foregoing provisions shall also apply where the owners, operators or those in charge of any ships or objects other than, or in addition to, the colliding ships or object are at fault in respect of a collision or contact.

(v) LIMITATION OF LIABILITY

Any provision of this Charter to the contrary notwithstanding, the Owner shall have the benefit of all limitations of, and exemptions from, liability accorded to the owner or chartered owner of vessels by any statute or rule of law for the time being in force.

(vi) WAR RISKS

a) If any port of loading or of discharge named in this Charter Party or to which the Vessel may properly be ordered pursuant to the terms of the Bills of Lading be blockaded, or

b) If owing to any war, hostilities, war like operations, civil war, civil commotions,

revolutions or the operation of international law

(a) entry to any such port of loading or of discharge or the loading or discharge of cargo at any such port be considered by the Master or Owners in his or their discretion dangerous or prohibited or

(b) if it be considered by the Master or Owners in his or their discretion dangerous or impossible for the Vessel to reach any such port of loading or discharge - the Charterers shall have the right to order the cargo or such part of it as may be affected to be loaded or discharged at any other safe port of loading or discharge within the range of loading or discharging ports respectively established under the provisions of the Charter Party (provided such other port is not blockaded or that entry thereto or loading or discharge of cargo thereat is not in the Master's or Owner's discretion dangerous or prohibited). If in respect of a port of discharge no orders be received from Charterers within 48 hours after they or their agents have received from the Owners a request for the nomination of a substitute port, the Owners shall then be at liberty to discharge the cargo at any safe port which they or the Master may in their or his discretion decide on (whether within the range of discharging ports established under the provisions of the Charter Party or not) and such discharge shall be deemed to be due fulfillment of the contract or contracts of affreightment so far as cargo so discharged is concerned. In the event of the cargo being loaded or discharged at any such other port within the respective range of loading or discharging ports established under the provisions of the Charter Party, the Charter Party shall be read in respect of freight and all other conditions whatsoever as if the voyage performed were that originally designated. In the event, however, that the Vessel discharges the cargo at a port outside the range of discharging ports established under the provisions of the Charter Party, freight shall be paid as for the voyage originally designated and all extra expenses involved in reaching the actual port of discharge and or discharging the cargo thereat shall be paid by the Charterers or Cargo Owners. In the latter event the Owners shall have lien on the cargo for all such extra expenses.

c) The Vessel shall have liberty to comply with any directions or recommendations as to departure, arrival, routes, port of call, stoppages, destinations, zones, waters, delivery or in any otherwise whatsoever given by the government of the nations under whose flag the Vessel sails or any government or local authority including any de facto government or local authority or by any person or body acting or purporting to act as or with the authority of any such government or authority or by any committee or person having under the terms of the war risk insurance on the vessel the right to give any such directions or recommendations. If by reason of or in compliance with any such directions or recommendations, anything is done or is not done such shall not be deemed a deviation.

If by reason of or in compliance with any such direction or recommendation the Vessel does not proceed to the port or ports of discharge originally designated or to which she may have been ordered to the terms of the Bills of Lading, the Vessel may proceed to any safe port of discharge which the Master or Owners in his or their discretion may decide on and there discharge the cargo. Such discharge shall be deemed to be due fulfillment of the contract or the contracts of affreightment and the Owners shall be entitled to freight as if discharge has been effected at the port or ports originally designated or to which the vessel may have been

ordered pursuant to the terms of the Bills of Lading. All extra expenses involved in reaching and discharging the cargo at any such other port of discharge shall be paid by Charterers and / or Cargo Owners and the Owners shall have a lien on the cargo for freight and all such expenses.

(vii) DEVIATION CLAUSE

The Vessel shall have liberty to call at any ports in any order, to sail with or without pilots, to tow or to be towed, to go to the assistance of vessels in distress, to deviate for the purpose of saving life or property or of landing any ill or injured person onboard, and to call for fuel at any port or ports in or out of the regular course of the voyage. Any salvage shall be for the sole benefit of the Owner.

21 LIEN

The Owner shall have an absolute lien on the cargo for all freight, deadfreight, demurrage and costs, including attorney fees, of recovering the same, which lien shall continue after delivery of the cargo into the possession of the Charterer, or of the holders of any Bills of Lading covering the same or of any storageman.

23 AGENTS

The Owner shall appoint Vessel's agents at all ports.

24 BREACH

Damages for breach of this Charter shall include all provable damages, and all costs of suit and attorney fees incurred in any action hereunder.

24 ARBITRATION

Any and all difference and disputes of whatsoever nature arising out of this Charter shall be put to arbitration in the City of New York or in the City of London whichever place is specified in Part I of this charter pursuant to the laws relating to arbitration there in force, before a board of three persons, consisting of one arbitrator to be appointed by the Owner, one by the Charterer, and one by the two so chosen. The decision of any two of the three on any point or points shall be final. Either party hereto may call for such arbitration by service upon any officer of the other, wherever he may be found, of a written notice specifying the name and address of the arbitrator chosen by the first moving party and a brief description of the disputes or differences which such party desires to put to arbitration. If the other party shall not, by notice served upon an officer of the first moving party within twenty days of the service of such first notice, appoint its arbitrator to arbitrate the dispute or differences specified, then the first moving party shall have the right without further notice to appoint a second arbitrator, who shall be a disinterested person with precisely the same force and effect as if said second arbitrator has been appointed by the other party. In the event that the two arbitrators fail to appoint a third arbitrator within twenty days of the appointment of the



second arbitrator, either arbitrator may apply to a Judge of any court of maritime jurisdiction in the city above-mentioned

25 SUBLET

Charterer shall have the right to sublet the Vessel. However, Charterer shall always remain responsible for the fulfillment of this Charter in all its terms and conditions.

26 OIL POLLUTION CLAUSE

Owner agrees to participate in Charterer's program covering oil pollution avoidance. Such program prohibits discharge overboard of all oily water, oily ballast or oil in any form of a persistent nature, except under extreme circumstances whereby safety of the vessel, cargo or life at sea would be imperiled. Upon notice being given to the Owner that Oil Pollution Avoidance controls are required, the Owner will instruct the Master to retain on board the vessel all oily residues from consolidated tank washings, dirty ballast, etc., in one compartment, after separation of all possible water has taken place. All water separated to be discharged overboard. If the Charterer requires that demulsifiers shall be used for the separation of oil / water, such demulsifiers shall be obtained by the Owner and paid for by the Charterer. The oil residues will be pumped ashore at the loading or discharging terminals, either as segregated oil, dirty ballast or co-mingled with cargo as it is possible for Charterer's to arrange.

If it is necessary to retain the residue on board co-mingled with or segregated from the cargo to be loaded, Charterers shall pay for any deadfreight so incurred. Should it be determined that the residue is to be co-mingled or segregated on board, the Master shall arrange that the quantity of tank washings be measured in conjunction with cargo suppliers and a note of the quantity measured made in the vessel's ullage record. The Charterer agrees to pay freight as per the terms of the Charter Party on any consolidated tank washings, dirty ballast, etc., retained on board on Charterer's instructions during the loaded portion of the voyage up to a maximum of 1% of the total deadweight of the vessel that could be legally carried for such voyage. Any extra expenses incurred by the vessel at loading or discharging port in pumping ashore oil residues shall be for Charterer's account, and extra time, if any, consumed for this operation shall count as used laytime.

Παναγιώτης

ANNEX 3

Issued March 2005, Version 1.1 Apr06

Code word for this Charter Party
"SHELLVOY 6"VOYAGE CHARTER PARTY
LONDON, 20

PREAMBLE

IT IS THIS DAY AGREED between

of (hereinafter referred to as "Owners"), being owners /disponent owners of the

motor/steam tank vessel called with an IMO number of

(hereinafter referred to as "the vessel")

and of

(hereinafter referred to as "Charterers");

that the service for which provision is herein made shall be subject to the terms and conditions of this Charter which includes Part I, Part II and Part III. In the event of any conflict between the provisions of Part I, Part II and Part III hereof, the provisions of Part I shall prevail.

PART I

(A) Description
of vessel

- (I) Owners warrant that at the date hereof, and from the time when the obligation to proceed to the loadport(s) attaches, the vessel
- (i) Is classed
- (ii) (a) Has a deadweight of tonnes (1000 kg) on a salt-water draft on assigned summer freeboard of m. and if applicable,
(b) Has on board documentation showing the following additional drafts and deadweights
- (iii) Has capacity for cargo of m³
- (iv) Is fully fitted with heating systems for all cargo tanks capable of maintaining cargo at a temperature of up to degrees Celsius and can accept a cargo temperature on loading of up to a maximum of degrees Celcius.
- (v) Has tanks coated as follows:
- (vi) Is equipped with cranes/derricks capable of lifting to and supporting at the vessel's port and starboard manifolds submarine hoses of up to tonnes (1000 kg) in weight.
- (vii) Can discharge a full cargo (whether homogenous or multi grade) either within 24 hours, or can maintain a back pressure of 100 PSI at the vessel's manifold and Owners warrant such minimum performance provided receiving facilities permit and subject always to the obligation of utmost despatch set out in Part II, clause 3 (1).
The discharge warranty shall only be applicable provided the kinematic viscosity does not exceed 600 centistokes at the discharge temperature required by Charterers. If the kinematic viscosity only exceeds 600 centistokes on part of the cargo or particular grade(s) then the discharge warranty shall continue to apply to all other cargo/grades.
- (viii) Has or will have carried, for the named Charterers, the following three cargoes (all grades to be identified) immediately prior to loading under this Charter:-
1st Last Cargo/charterer
2nd Last Cargo/charterer
3rd Last Cargo/charterer
- (ix) Has a crude oil washing system complying with the requirements of the International Convention for the Prevention of Pollution from Ships 1973 as modified by the Protocol of 1978 ("MARPOL 73/78").
- (x) Has an operational inert gas system and is equipped for and able to carry out closed sampling/ullaging/loading and discharging operations in full compliance with the International Safety Guide for Oil Tankers and Terminals ("ISGOTT") guidelines current at the date of this Charter.
- (xi) Has on board all papers and certificates required by any applicable law, in force as at the date of this Charter, to enable the vessel to perform the charter service without any delay.

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(xii)	Is entered in the P&I Club, being a member of the International Group of P&I Clubs.	41
(xiii)	Has in full force and effect Hull and Machinery insurance placed through reputable Brokers on Institute Time Clauses-Hull dated for the value of	42 43
(xiv)	Complies with the latest edition of the Oil Companies International Marine Forum (“OCIMF”) standards for oil tankers’ manifolds and associated equipment applicable to its size for cargo manifolds and vapour recovery systems.	44 45
(xv)	Is equipped to comply with, and is operated in accordance with, and has on board, the latest edition of the International Chamber of Shipping (“ICS”) and/or OCIMF guidelines / publications covering:	46 47
	(a) Ship to Ship Operations	48
	(b) ISGOTT	49
	(c) Clean Seas Guide for Oil Tankers	50
	(d) Bridge Procedure Guide	51
(II)	Throughout the charter service, Owners shall ensure that the vessel shall be maintained, or that they take all steps necessary to promptly restore vessel to be within the description in Part I clause (A)(I) and any questionnaires requested by Charterers or within information provided by Owners.	52 53 54
(III)	Owners warrant that any information provided on any Questionnaire(s) requested by Charterers or any other vessel information/details provided by Owners to Charterers is always complete and correct as at the date hereof, and from the time when the obligation to proceed to the loadport attaches and throughout the charter service. This information is an integral part of this Charter but if there is any conflict between the contents of the Questionnaire(s), or information provided by Owners, and any other provisions of this Charter then such other provisions shall govern.	55 56 57 58 59
(B) Position/ Readiness	Now Expected ready to load	60
	In addition to the above details on the position of the vessel Owners will advise Charterers of the known programme, including any contractual options available to the Charterers in Part I clause (A)(I) (viii) above between current position up to expected ready to load date at Charterers nominated or indicated first load port/area. Owners will not, unless with Charterers’ prior consent, negotiate or enter into any business or give current Charterers any further options that may affect or alter the programme of the vessel as given in this clause.	61 62 63 64 65
(C) Laydays	Commencing Noon Local Time on (Commencement Date)	66
	Terminating Noon Local Time on (Termination Date)	67
(D) Loading port(s)/ Range		68
(E) Discharging port(s)/ Range		69
(F) Cargo description	Charterers’ option	70
	Owners warrant that where different grades of cargo are carried pursuant to this Part I clause (F), they will be kept in complete segregation from each other during loading, transit, and discharge, to include the use of different pumps/lines for each grade. If, however, Charterers so require it, the vessel may be required to:	71 72 73
	(a) commingle different grades of cargo providing such grades fall within the cargo description set out in this Part I clause (F);	74
	(b) otherwise breach the vessel’s natural segregation;	75
	(c) add dye to the cargo after loading, and/or	76
	(d) carry out such other cargo operations as Charterers may reasonably require as long as the vessel is capable of such operations provided that the Charterers will indemnify Owners for any loss damage delay or expense caused by following Charterers’ instructions, except to the extent that such loss damage delay or expense could have been avoided by the exercise of due diligence by Owners.	77 78 79 80
(G) Freight rate	At % of the rate for the voyage as provided for in the New Worldwide Tanker Nominal Freight Scale current at the date of commencement of loading (hereinafter referred to as “Worldscale”) per ton (2240 lbs)/tonne (1000 Kg) or, if agreed, the following	81 82

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	lumpsum amount(s)/or freight per tonne for named load and discharge area(s)/port(s) combinations	83
(H) Freight payable to		84
(I) Laytime	running hours	85
(J) Demurrage per day (or pro rata)		86
(K) ETAs	All radio/telex/e-mail messages sent by the master to Charterers shall be addressed to	87
	All telexes must begin with the vessel name at the start of the subject line (no inverted commas, or use of MT/SS preceding the vessel name)	88 89
(L) Speed	The vessel shall perform the ballast passage with utmost despatch and the laden passage at knots weather and safe navigation permitting at a consumption of tonnes of Fueloil (state grade) per day.	90 91
	Charterers shall have the option to instruct the vessel to increase speed with Charterers reimbursing Owners for the additional bunkers consumed, at replacement cost.	92
	Charterers shall also have the option to instruct the vessel to reduce speed on laden passage. Additional voyage time caused by such instructions shall count against laytime or demurrage, if on demurrage, and the value of any bunkers saved shall be deducted from any demurrage claim Owners may have under this Charter with the value being calculated at original purchase price.	93 94 95
	Owners shall provide documentation to fully support the claims and calculations under this clause.	96 97
(M) Worldscale	Worldscale Terms and Conditions apply /do not apply to this Charter. [delete as applicable]	98
(N) Casualty/ Accident contacts	In the event of an accident / marine casualty involving the vessel, Owners' technical managers can be contacted on a 24 hour basis as follows: Company Full Name: Contact Person: Full Address: Telephone Number: Fax Number: Telex Number: Email Address: 24 Hour Emergency Telephone number:	99 100 101 102 103 104 105 106 107 108
(O) Special provisions		109
Signatures	IN WITNESS WHEREOF, the parties have caused this Charter consisting of the Preamble, Parts I, II and III to be executed as of the day and year first above written.	110 111
	By	112
	By	113

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PART II

Condition of vessel

1. Owners shall exercise due diligence to ensure that from the time when the obligation to proceed to the loading port(s) attaches and throughout the charter service -

(a) the vessel and her hull, machinery, boilers, tanks, equipment and facilities are in good order and condition and in every way equipped and fit for the service required; and

(b) the vessel has a full and efficient complement of master, officers and crew and the senior officers shall be fully conversant in spoken and written English language

and to ensure that before and at the commencement of any laden voyage the vessel is in all respects fit to carry the cargo specified in Part I clause (F). For the avoidance of doubt, references to equipment in this Charter shall include but not be limited to computers and computer systems, and such equipment shall (inter alia) be required to continue to function, and not suffer a loss of functionality and accuracy (whether logical or mathematical) as a result of the run date or dates being processed.

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Cleanliness of tanks

2. Whilst loading, carrying and discharging the cargo the master shall at all times keep the tanks, lines and pumps of the vessel always clean for the cargo. Unless otherwise agreed between Owners and Charterers the vessel shall present for loading with cargo tanks ready and, subject to the following paragraphs, if vessel is fitted with Inert Gas System (“IGS”), fully inerted.

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Charterers shall have the right to inspect vessel’s tanks prior to loading and the vessel shall abide by Charterers’ instructions with regard to tank or tanks which the vessel is required to present ready for entry and inspection. If Charterer’s inspector is not satisfied with the cleanliness of the vessel’s tanks, Owners shall clean them in their time and at their expense to the satisfaction of Charterers’ inspector, provided that nothing herein shall affect the responsibilities and obligations of the master and Owners in respect of the loading, carriage and care of cargo under this Charter nor prejudice the rights of Charterers, should any contamination or damage subsequently be found, to contend that the same was caused by inadequate cleaning and/or some breach of this or any other clause of this Charter.

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Notwithstanding that the vessel, if equipped with IGS, shall present for loading with all cargo tanks fully inerted, any time used for de-inerting (provided that such de-inerting takes place after laytime or demurrage time has commenced or would, but for this clause, have commenced) and/or re-inerting those tanks that at Charterers’ specific request were gas freed for inspection, shall count as laytime or if on demurrage as demurrage, provided the tank or tanks inspected are found to be suitable. In such case Charterers will reimburse Owners for bunkers consumed for de-inerting/re-inerting, at replacement cost.

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If the vessel’s tanks are inspected and rejected, time used for de-inerting shall not count towards laytime or demurrage, and laytime or demurrage time shall not commence or recommence, as the case may be, until the tanks have been re-inspected, approved by Charterers’ inspector, and re-inerted.

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Voyage

3. (1) Subject to the provisions of this Charter the vessel shall perform her service with utmost despatch and shall proceed to such berths as Charterers may specify, in any port or ports within Part I clause (D) nominated by Charterers, or so near thereto as she may safely get and there, always safely afloat, load the cargo specified in Part I clause (F) of this Charter, but not in excess of the maximum quantity consistent with the International Load Line Convention for the time being in force and, being so loaded, proceed as ordered on signing bills of lading to such berths as Charterers may specify, in any port or ports within Part I clause (E) nominated by Charterers, or so near thereto as she may safely get and there, always safely afloat, discharge the cargo.

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Charterers shall nominate loading and discharging ports, and shall specify loading and discharging berths and, where loading or discharging is interrupted, shall provide fresh orders in relation thereto. In addition Charterers shall have the option at any time of ordering the vessel to safe areas at sea for wireless orders. Any delay or deviation arising as a result of the exercise of such option shall be compensated by Charterers in accordance with the terms of Part II clause 26 (1).

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(2) Owners shall be responsible for and indemnify Charterers for any time, costs, delays or loss including but not limited to use of laytime, demurrage, deviation expenses, replacement tonnage, lightening costs and associated fees and expenses due to any failure whatsoever to comply fully with Charterers’ voyage instructions and clauses in this Charter which specify requirements concerning Voyage Instructions and/or Owners’/masters’ duties including, without limitation to the generality of the foregoing, loading more cargo than permitted under the International Load Line Convention, for the time being in force, or for not leaving sufficient space for expansion of cargo or loading more or less cargo than Charterers specified or for not loading/discharging in accordance with Charterers’ instructions regarding the cargo quantity or draft requirements.

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This clause 3(2) shall have effect notwithstanding the provision of Part II clause 32 (a) of this Charter or Owners’ defences under the Hague-Visby Rules.

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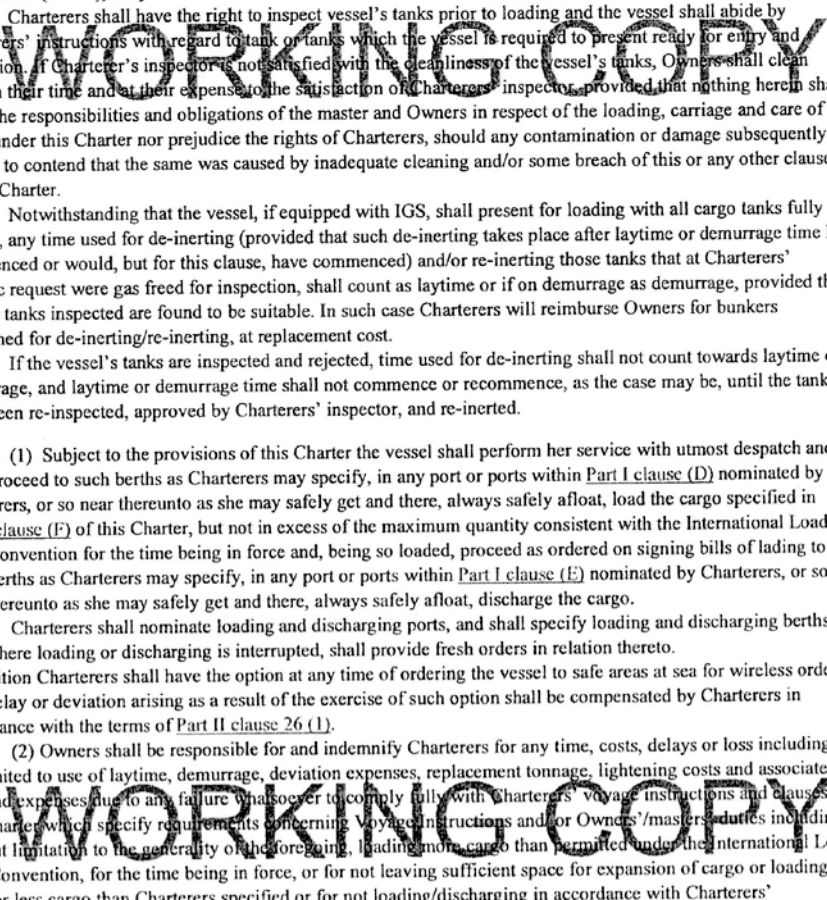
(3) Owners shall always employ pilots for berthing and unberthing of vessels at all ports and/or berths under this Charter unless prior exemption is given by correct and authorised personnel. Owners to confirm in writing if they have been exempt from using a pilot and provide Charterers with the details, including but not limited to, the authorising organisation with person’s name.

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(4) Without prejudice to the provisions of sub-clause (2) of this clause, and unless a specific prior agreement exists, if a conflict arises between terminal orders and Charterers’ voyage instructions, the master shall stop cargo

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	operations, and/or other operations under dispute, and contact Charterers immediately. Terminal orders shall never supersede Charterers' voyage instructions and any conflict shall be resolved prior to resumption of cargo, or other, operations in dispute. Where such a conflict arises the vessel shall not sail from the port or resume cargo operations, and/or other operations under dispute, until Charterers have directed the vessel to do so.	61 62 63 64
	Time spent resolving the vessel/terminal conflict will count as laytime or demurrage except that failure of Owners/master to comply with the procedure set forth above shall result in the deduction from laytime or demurrage time of the time used in resolving the vessel/terminal instruction conflict	65 66 67
	(5) In this Charter, "berth" means any berth, wharf, dock, anchorage, submarine line, a position alongside any vessel or lighter or any other loading or discharging point whatsoever to which Charterers are entitled to order the vessel hereunder, and "port" means any port or location at sea to which the vessel may proceed in accordance with the terms of this Charter.	68 69 70 71
Safe berth	4. Charterers shall exercise due diligence to order the vessel only to ports and berths which are safe for the vessel and to ensure that transshipment operations conform to standards not less than those set out in the latest edition of ICS/OCIMF Ship-to-Ship Transfer Guide (Petroleum). Notwithstanding anything contained in this Charter, Charterers do not warrant the safety of any port, berth or transshipment operation and Charterers shall not be liable for loss or damage arising from any unsafety if they can prove that due diligence was exercised in the giving of the order and if such loss or damage was caused by an act of war or civil commotion within the trading areas defined in Part I clause (D)(v).	72 73 74 75 76 77 78
Freight	5. (1) Freight shall be earned concurrently with delivery of cargo at the nominated discharging port or ports and shall be paid by Charterers to Owners without any deductions, except as may be required in the Singapore Income Tax Act and/or under Part II clause 48 and/or under clause 55 and/or under Part III clause 4(a), in United States Dollars at the rate(s) specified in Part I clause (G) on the gross bill of lading quantity as furnished by the shipper (subject to Part II clauses 8 and 40), upon receipt by Charterers of notice of completion of final discharge of cargo, provided that no freight shall be payable on any quantity in excess of the maximum quantity consistent with the International Load Line Convention for the time being in force. If the vessel is ordered to proceed on a voyage for which a fixed differential is provided in <u>Worldscale</u> , such fixed differential shall be payable without applying the percentage referred to in Part I clause (G). If cargo is carried between ports and/or by an agreed route for which no freight rate is expressly quoted in <u>Worldscale</u> , then the parties shall, in the absence of agreement as to the appropriate freight rate, apply to <u>Worldscale Association (London) Ltd.</u> , or <u>Worldscale Association (NYC) Inc.</u> , for the determination of an appropriate <u>Worldscale</u> freight rate. If Owners or master unilaterally elect to proceed by a route that is different to that specified in <u>Worldscale</u> , or different to a route agreed between Owners and Charterers, freight shall always be paid in accordance with the <u>Worldscale</u> rate as published or in accordance with any special rate applicable for the agreed route. Save in respect of the time when freight is earned, the location of any transshipment at sea pursuant to Part II clause 26(2) shall not be an additional nominated port, unless otherwise agreed, for the purposes of this Charter (including this clause 5) and the freight rate for the voyage shall be the same as if such transshipment had not taken place. (2) If the freight in Part I clause (G) is a lumpsum amount and such lumpsum freight is connected with a specific number of load and discharge ports given in Part I clause (L) and Owners agree that Charterers may order the vessel to additional load and/or discharge ports not covered by the agreed lumpsum freight, the following shall apply: (a) the first load port and the final discharge port shall be deemed to be the port(s) that form the voyage and on which the lumpsum freight included in Part I clause (G) refers to; (b) freight for such additional ports shall be calculated on basis of deviation. Deviation shall be calculated on the difference in distance between the specified voyage (for which freight is agreed) and the voyage actually performed. BP Shipping Marine Distance Tables (2004), produced by AtoBriac shall be used in both cases. Deviation time/bunker consumption shall be calculated using the charter speed and bunker consumption as per the speed and consumptions given in Part I clause(L) of this Charter. Deviation time and time spent in port shall be charged at the demurrage rate in Part I clause (J) of this Charter except that time used in port which would otherwise qualify for half rate laytime and/or demurrage under Part II clause (15) (2) of this Charter will be charged at half rate. Additional bunkers consumed shall be paid at replacement cost, and actual port costs shall be paid as incurred. Such deviation costs shall be paid against Owners' fully documented claim.	79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115
Claims, dues and other charges	6. (1) Dues and other charges upon the vessel, including those assessed by reference to the quantity of cargo loaded or discharged, and any taxes on freight whatsoever shall be paid by Owners, and dues and other charges upon the cargo shall be paid by Charterers. However, notwithstanding the foregoing, where under a provision of <u>Worldscale</u> a due or charge is expressly for the account of Owners or Charterers then such due or charge shall be	116 117 118 119

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payable in accordance with such provision. 120

(2) Any costs including those itemised under applicable “Worldscale” as being for Charterers’ account shall, unless otherwise instructed by Charterers, be paid by Owners and reimbursed by Charterers against Owners’ fully documented claim. 121-123

(3) Charterers shall be discharged and released from all liability in respect of any charges/claims (other than demurrage and Worldscale charges/dues and indemnity claims) including but not limited to additional bunkers, detention, deviation, shifting, heating, deadfreight, speed up, slow down, drifting, port costs, additional freight, insurance, Owner may send to Charterers under this Charter unless any such charges/claims have been received by Charterer in writing, fully and correctly documented, within ninety (90) days from completion of discharge of the cargo concerned under this Charter. Part II clause 15 (3) of this Charter covers the notification and fully documented claim procedure for demurrage. 124-130

(4) If, after disconnection of hoses, the vessel remains at berth for vessel’s purposes, Owners shall be responsible for all direct and indirect costs whether advised to Owners in advance or not, and including charges by Terminal/Suppliers/Receivers. 131-133

Loading and discharging cargo

7. The cargo shall be loaded into the vessel at the expense of Charterers and, up to the vessel’s permanent hose connections, at Charterers’ risk. The cargo shall be discharged from the vessel at the expense of Owners and, up to the vessel’s permanent hose connections, at Owners’ risk. Owners shall, unless otherwise notified by Charterers or their agents, supply at Owners’ expense all hands, equipment and facilities required on board for mooring and unmooring and connecting and disconnecting hoses for loading and discharging. 134-138

Deadfreight

8. Charterers need not supply a full cargo, but if they do not freight shall nevertheless be paid as if the vessel had been loaded with a full cargo. 139-140

The term “full cargo” as used throughout this Charter means a cargo which, together with any collected washings (as defined in Part II clause 40) retained on board pursuant to the requirements of MARPOL 73/78, fills the vessel to either her applicable deadweight or her capacity stated in Part I clause (A) (1) (iii), whichever is less, while leaving sufficient space in the tanks for the expansion of cargo. If under Part I clause (F) vessel is chartered for a minimum quantity and the vessel is unable to load such quantity due to having reached her capacity as stated in Part I clause (A) (1) (iii), always leaving sufficient space for expansion of cargo, then without prejudice to any claims which Charterers may have against Owners, no deadfreight between the quantity loaded and the quantity shown in Part I clause (F) shall be due. 141-148

Shifting

9. Charterers shall have the right to require the vessel to shift at ports of loading and/or discharging from a loading or discharging berth within port limits and/or to a waiting place inside or outside port limits and back to the same or to another such berth/place once or more often on payment of all additional expenses incurred. For the purposes of freight payment and shifting the places grouped in Port and Terminal Combinations in Worldscale are to be considered as berths within a single port. If at any time before cargo operations are completed it becomes dangerous for the vessel to remain at the specified berth as a result of wind or water conditions, Charterers shall pay all additional expenses of shifting from any such berth and back to that or any other specified berth within port limits (except to the extent that any fault of the vessel contributed to such danger). 149-156

Subject to Part II clause 14(a) and (c) time spent shifting shall count against laytime or if the vessel is on demurrage for demurrage. 157-158

Charterers’ failure to give orders

10. If the vessel is delayed due to Charterers’ breach of Part II clause 3 Charterers shall, subject to the terms hereof, compensate Owners in accordance with Part II clause 15(1) and (2) as if such delay were time exceeding the laytime. Such compensation shall be Owners’ sole remedy in respect of such delay. 159-161

The period of such delay shall be calculated: 162

(i) from 6 hours after Owners notify Charterers that the vessel is delayed awaiting nomination of loading or discharging port until such nomination has been received by Owners, or 163-164

(ii) from 6 hours after the vessel gives notice of readiness at the loading or discharging port until commencement of loading or discharging. 165-166

as the case may be, subject always to the same exceptions as those set out in Part II clause 14. Any period of delay in respect of which Charterers pay compensation pursuant to this clause 10 shall be excluded from any calculation of time for laytime or demurrage made under any other clause of this Charter. 167-169

Periods of delay hereunder shall be cumulative for each port, and Owners may demand compensation after the vessel has been delayed for a total of 20 running days, and thereafter after each succeeding 5 running days of delay and at the end of any delay. Each such demand shall show the period in respect of which compensation is claimed and the amount due. Charterers shall pay the full amount due within 14 days after receipt of Owners’ demand. Should Charterers fail to make any such payments Owners shall have the right to terminate this Charter by giving written notice to Charterers or their agents, without prejudice to any claims which Charterers or Owners may have against each other under this Charter or otherwise. 170-176

aydays/

11. Should the vessel not be ready to load by noon local time on the termination date set out in Part I clause 177

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Termination (C) Charterers shall have the option of terminating this Charter unless the vessel has been delayed due to Charterers' change of orders pursuant to Part II clause 26, in which case the laydays shall be extended by the period of such delay. 178
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 As soon as Owners become aware that the vessel will not be ready to load by noon on the termination date, 181
 Owners will give notice to Charterers declaring a new readiness date and ask Charterers to elect whether or not to 182
 terminate this Charter. 183
 Within 4 days after such notice, Charterers shall either: 184
 (i) declare this Charter terminated or 185
 (ii) confirm a revised set of laydays which shall be amended such that the new readiness date stated shall 186
 be the commencement date and the second day thereafter shall be the termination date or, 187
 (iii) agree a new set of laydays or an extension to the laydays mutually acceptable to Owners and Charterers 188
 The provisions of this clause and the exercise or non-exercise by Charterers of their option to terminate 189
 shall not prejudice any claims which Charterers or Owners may have against each other. 190

Laytime 12. (1) The laytime for loading, discharging and all other Charterers' purposes whatsoever shall be the 191
 number of running hours specified in Part I clause (1). Charterers shall have the right to load and discharge at all 192
 times, including night, provided that they shall pay for all extra expenses incurred ashore. 193
 (2) If vessel is able to and Charterers so instruct, the vessel shall load earlier than the commencement of 194
 of laydays and Charterers shall have the benefit of such time saved by way of offset from any demurrage incurred. 195
 Such benefit shall be the time between commencement of loading until the commencement of the original laydays. 196

Notice of 13. (1) Subject to the provisions of Part II clauses 13(3) and 14, 197
 readiness/ 198
 Running 199
 time 200
 (a) Time at each loading or discharging port shall commence to run 6 hours after the vessel is in 201
 all respects ready to load or discharge and written notice thereof has been tendered by the 202
 master or Owners' agents to Charterers or their agents and the vessel is securely moored at 203
 the specified loading or discharging berth. However, if the vessel does not proceed 204
 immediately to such berth time shall commence to run 6 hours after (i) the vessel is lying in 205
 the area where she was ordered to wait or, in the absence of any such specific order, in a 206
 usual waiting area and (ii) written notice of readiness has been tendered and (iii) the 207
 specified berth is accessible. A loading or discharging berth shall be deemed inaccessible 208
 only for so long as the vessel is or would be prevented from proceeding to it by bad weather, 209
 tidal conditions, ice, awaiting daylight, pilot or tugs, or port traffic control requirements 210
 (except those requirements resulting from the unavailability of such berth or of the cargo). 211
 If Charterers fail to specify a berth at any port, the first berth at which the vessel loads or 212
 discharges the cargo or any part thereof shall be deemed to be the specified berth at such 213
 port for the purposes of this clause. 214
 Notice shall not be tendered before commencement of laydays and notice tendered by radio 215
 shall qualify as written notice provided it is confirmed in writing as soon as reasonably 216
 possible. 217
 Time shall never commence before six hours after commencement of laydays unless loading 218
 commences prior to this time as provided in clause 13 (3). 219
 If Owners fail; 220
 (i) to obtain Customs clearance; and/or 221
 (ii) to obtain free pratique unless this is not customary prior to berthing; and/or 222
 (iii) to have on board all papers/certificates required to perform this Charter, either within 223
 the 6 hours after notice of readiness originally tendered or when time would otherwise 224
 normally commence under this Charter, then the original notice of readiness shall not 225
 be valid. A new notice of readiness may only be tendered when Customs clearance and/or 226
 free pratique has been granted and/or all papers/certificates required are in order in accordance 227
 with relevant authorities' requirements. Laytime or demurrage, if on demurrage, would then 228
 commence in accordance with the terms of this Charter. All time costs and expenses as a 229
 result of delays due to any of the foregoing shall be for Owners' account. 230
 (b) Time shall: 231
 (i) continue to run until the cargo hoses have been disconnected. 232
 (ii) recommence two hours after disconnection of hoses if the vessel is delayed for Charterers' 233
 purposes and shall continue until the termination of such delay provided that if the vessel waits 234
 at any place other than the berth, any time or part of the time on passage to such other place that 235
 occurs after two hours from disconnection of hoses shall not count. 236
 (2) If the vessel loads or discharges cargo by transhipment at sea time shall commence in accordance with 237
 Part II clause 13 (1) (a), and run until transhipment has been completed and the vessels have separated, always 238
 subject to Part II clause 14. 239
 (3) Notwithstanding anything else in this clause 13, if Charterers start loading or discharging the 240

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	vessel before time would otherwise start to run under this Charter, time shall run from commencement of such loading or discharging.	238
	(4) For the purposes of this clause 13 and of <u>Part II clause 14</u> and <u>Part II clause 15</u> "time" shall mean laytime or time counting for demurrage, as the case may be.	239
Suspension of time	14. Time shall not count when:	240
	(a) spent on inward passage from the vessel's waiting area to the loading or discharging berth specified by Charterers, even if lightening occurred at such waiting area; or	241
	(b) spent in carrying out vessel operations, including but not limited to bunkering, discharging slops and tank washings, and handling ballast, except to the extent that cargo operations are carried on concurrently and are not delayed thereby; or	242
	(c) lost as a result of:	243
	(i) breach of this Charter by Owners; or	244
	(ii) any cause attributable to the vessel, (including but not limited to the warranties in Part I (A) of this Charter) including breakdown or inefficiency of the vessel; or	245
	(iii) strike, lock-out, stoppage or restraint of labour of master, officers or crew of the vessel or tug boats or pilot.	246
Demurrage	15. (1) Charterers shall pay demurrage at the rate specified in <u>Part I clause (J)</u> .	247
	If the demurrage rate specified in <u>Part I clause (J)</u> is expressed as a percentage of <u>Worldscale</u> such percentage shall be applied to the demurrage rate applicable to vessels of a similar size to the vessel as provided in <u>Worldscale</u> or, for the purpose of <u>clause 10</u> and/or if this Charter is terminated prior to the commencement of loading, in <u>Worldscale</u> current at the termination date specified in <u>Part I clause (C)</u> .	248
	Demurrage shall be paid per running day or pro rata for part thereof for all time which, under the provisions of this Charter, counts against laytime or for demurrage and which exceeds the laytime specified in <u>Part I clause (I)</u> . Charterers' liability for exceeding the laytime shall be absolute and shall not in any case be subject to the provisions of <u>Part II clause 32</u> .	249
	(2) If, however, all or part of such demurrage arises out of or results from fire or explosion or strike or failure/breakdown of plant and/or machinery at ports of loading and/or discharging in or about the plant of Charterers, shippers or consignees of the cargo (not being a fire or explosion caused by the negligence or wilful act or omission of Charterers, shippers or consignees of the cargo or their respective servants or agents), act of God, act of war, riot, civil commotion, or arrest or restraint of princes, rulers or peoples, the laytime used and/or the rate of demurrage shall be reduced by half for such laytime used and/or for such demurrage or such parts thereof.	250
	(3) Owners shall notify Charterers within 60 days after completion of discharge if demurrage has been incurred and any demurrage claim shall be fully and correctly documented, and received by Charterers, within 90 days after completion of discharge. If Owners fail to give notice of or to submit any such claim with documentation, as required herein, within the limits aforesaid, Charterers' liability for such demurrage shall be extinguished.	251
	(4) If any part cargo for other charterers, shippers or consignees (as the case may be) is loaded or discharged at the same berth, then any time used by the vessel waiting at or for such berth and in loading or discharging which would otherwise count as laytime or if the vessel is on demurrage for demurrage, shall be pro-rated in the proportion that Charterers' cargo bears to the total cargo to be loaded or discharged at such berth. If however, the running of laytime or demurrage, if on demurrage, is solely attributable to other parties' cargo operations then such time shall not count in calculating laytime or demurrage, if on demurrage, against Charterers under this Charter.	252
Vessel inspection	16. Charterers shall have the right, but no duty, to have a representative attend on board the vessel at any loading and/or discharging ports and the master and Owners shall co-operate to facilitate his inspection of the vessel and observation of cargo operations. However, such right, and the exercise or non-exercise thereof, shall in no way reduce the master's or Owners' authority over, or responsibility to Charterers and third parties for, the vessel and every aspect of her operation, nor increase Charterers' responsibilities to Owners or third parties for the same.	253
Cargo inspection	17. This clause 17 is without prejudice to <u>Part II clause 2</u> hereof. Charterers shall have the right to require inspection of the vessel's tanks at loading and/or discharging ports to ascertain the quantity and quality of the cargo, water and residues on board. Depressurisation of the tanks to permit inspection and/or ullaging shall be carried out in accordance with the recommendations in the latest edition of the ISGOTT guidelines. Charterers shall also have the right to inspect and take samples from the bunker tanks and other non-cargo spaces. Any delay to the vessel caused by such inspection and measurement or associated depressurising/repressurising of tanks shall count against laytime, or if the vessel is on demurrage, for demurrage.	254
Cargo measure-	18. The master shall ascertain the contents of all tanks before and after loading and before and after discharging, and shall prepare tank-by-tank ullage reports of the cargo, water and residues on board which shall	255

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ment	be promptly made available to Charterers or their representative if requested. Each such ullage report shall show actual ullage/dips, and densities at observed and standard temperature (15° Celsius). All quantities shall be expressed in cubic metres at both observed and standard temperature.		295 296 297
Inert gas	19. The vessel's inert gas system (if any) shall comply with Regulation 62, Chapter II-2 of the 1974 Safety of Life at Sea Convention as modified by the Protocol of 1978, and any subsequent amendments, and Owners warrant that such system shall be operated (subject to the provisions of <u>Part II clause 2</u>), during loading, throughout the voyage and during discharge, and in accordance with the guidance given in the IMO publication "Inert Gas System (1983)". Should the inert gas system fail, Section 8 (Emergency Procedures) of the said IMO publication shall be strictly adhered to and time lost as a consequence of such failure shall not count against laytime or, if the vessel is on demurrage, for demurrage.		298 299 300 301 302 303 304
Crude oil washing	20. If the vessel is equipped for crude oil washing Charterers shall have the right to require the vessel to crude oil wash, concurrently with discharge, those tanks in which Charterers' cargo is carried. If crude oil washing is required by Charterers any additional discharge time thereby incurred, always subject to the next succeeding sentences, shall count against laytime or, if the vessel is on demurrage, for demurrage. The number of hours specified in <u>Part I clause (A) (i) (vii)</u> shall be increased by 0.6 hours per cargo tank washed, always subject to a maximum increase of 8 hours. If vessel fails to maintain 100 PSI throughout the discharge then any time over 24 hours plus the additional discharge performance allowance under this clause, shall not count as laytime or demurrage if on demurrage. This clause 20 does not reduce Owners' liability for the vessel to perform her service with utmost despatch as set out in <u>Part II, clause 3(I)</u> . The master shall provide Charterers with a crude oil washing log identifying each tank washed, and stating whether such tank has been washed to the MARPOL minimum standard or has been the subject of additional crude oil washing and whether requested by Charterers or otherwise.		305 306 307 308 309 310 311 312 313 314 315
Overage insurance	21. Any additional insurance on the cargo required because of the age of the vessel shall be for Owners' account.		316 317
Ice	22. The vessel shall not be required to force ice or to follow icebreakers. If the master finds that a nominated port is inaccessible due to ice, the master shall immediately notify Charterers requesting revised orders and shall remain outside the ice-bound area; and if after arrival at a nominated port there is danger of the vessel being frozen in, the vessel shall proceed to the nearest safe and ice free position and at the same time request Charterers to give revised orders. In either case if the affected port is: (i) the first or only loading port and no cargo has been loaded, Charterers shall either nominate another port, or give notice cancelling this Charter in which case they shall pay at the demurrage rate in <u>Part I clause (J)</u> for the time from the master's notification aforesaid or from notice of readiness on arrival, as the case may be, until the time such cancellation notice is given; (ii) a loading port and part of the cargo has been loaded, Charterers shall either nominate another port, or order the vessel to proceed on the voyage without completing loading in which case Charterers shall pay for any deadfreight arising therefrom; (iii) a discharging port, Charterers shall either nominate another port or order the vessel to proceed to or return to and discharge at the nominated port. If the vessel is ordered to proceed to or return to a nominated port, Charterers shall bear the risk of the vessel being damaged whilst proceeding to or returning to or at such port, and the whole period from the time when the master's request for revised orders is received by Charterers until the vessel can safely depart after completion of discharge shall count against laytime or, if the vessel is on demurrage, for demurrage. If, as a consequence of Charterers revising orders pursuant to this clause, the nominated port(s) or the number or rotation of ports is changed, freight shall nevertheless be paid for the voyage which the vessel would otherwise have performed had the orders not been so revised; such freight to be increased or reduced by the amount by which as a result of such revision of orders: (a) the time used including any time awaiting revised orders (which shall be valued at the demurrage rate in <u>Part I clause (J)</u>), and (b) the bunkers consumed, at replacement cost and (c) the port charges for the voyage actually performed are greater or less than those that would have been incurred on the voyage which, but for the revised orders under this clause, the vessel would have performed.		318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347
Quarantine	23. Time lost due to quarantine shall not count against laytime or for demurrage unless such quarantine was in force at the time when the affected port was nominated by Charterers.		347 348
Agency	24. The vessel's agents shall be nominated by Charterers at nominated ports of loading and discharging. Such agents, although nominated by Charterers, shall be employed and paid by Owners.		349 350

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Charterers' obligation at shallow draft port/ Lightning in port	25.(1) If the vessel, with the quantity of cargo then on board, is unable due to inadequate depth of water in the port safely to reach any specified discharging berth and discharge the cargo there always safely afloat, Charterers shall specify a location within port limits where the vessel can discharge sufficient cargo into vessels or lighters to enable the vessel safely to reach and discharge cargo at such discharging berth, and the vessel shall lighten at such location.	351 352 353 354 355
	(2) If the vessel is lightened pursuant to clause 25(1) then, for the purposes of the calculation of laytime and demurrage, the lightening place shall be treated as the first discharging berth within the port where such lightening occurs.	356 357 358
Charterers' orders/ Change of orders/ Part cargo transhipment	26. (1) If, after loading and/or discharging ports have been nominated, Charterers wish to vary such nominations or their rotation, Charterers may give revised orders subject to <u>Part I clause (D)</u> and/or <u>(E)</u> , as the case may be. Charterers shall reimburse Owners at the demurrage rate provided in <u>Part I clause (J)</u> for any deviation or delay which may result therefrom and shall pay at replacement cost for any extra bunkers consumed. Charterers shall not be liable for any other loss or expense which is caused by such variation.	359 360 361 362 363
	(2) Subject to Part II clause 33(6), Charterers may order the vessel to load and/or discharge any part of the cargo by transhipment at sea in the vicinity of any nominated port or en route between two nominated ports, in which case unless Charterers elect, (which they may do at any time) to treat the place of such transhipment as a load or discharge port (subject to the number of ports and ranges in Part I clauses (D) and (E) of this Charter), Charterers shall reimburse Owners at the demurrage rate specified in <u>Part I clause (J)</u> for any additional steaming time and/or delay which may be incurred as a consequence of proceeding to and from the location at sea of such transhipment and, in addition, Charterers shall pay at replacement cost for any extra bunkers consumed.	364 365 366 367 368 369 370
	(3) Owners warrant that the vessel, master, officers and crew are, and shall remain during this Charter, capable of safely carrying out all the procedures in the current edition of the ICS/ OCIMF Ship to Ship Transfer Guide (Petroleum). Owners further warrant that when instructed to perform a ship to ship transfer the master, officers and crew shall, at all times, comply with such procedures. Charterers shall provide, and pay for, the necessary equipment and, if necessary, mooring master, for such ship to ship operation.	371 372 373 374 375
Heating of cargo	27. If Charterers require cargo heating the vessel shall, on passage to and whilst at discharging port(s), maintain the cargo at the loaded temperature or at the temperature stated in <u>Part I clause (A) (I) (iv)</u> , whichever is the lower. Charterers may request that the temperature of the cargo be raised above or lowered below that at which it was loaded, in which event Owners shall use their best endeavours to comply with such request and Charterers shall pay at replacement cost for any additional bunkers consumed and any consequential delay to the vessel shall count against laytime or, if the vessel is on demurrage, for demurrage.	376 377 378 379 380 381
ETA	28. (1) Owners shall give Charterers a time and date of expected arrival at the first load port or if the loading range is in the Arabian Gulf, the time of her expected arrival off Quoin Island (hereinafter called "load port" in this clause) at the date of this Charter. Owners shall further advise Charterers at any time between the Charter date and arrival at load port of any variation of 6 hours or more in vessel's expected arrival time/date at the load port.	382 383 384 385 386
	(2) Owners undertake that, unless Charterers require otherwise, the master shall:	387
	(a) advise Charterers immediately on leaving the final port of call on the previous voyage of the time and date of the vessel's expected arrival at the first loading port and shall further advise Charterers 72, 48, 36, and 24 hours before the expected arrival time/date.	388 389 390
	(b) advise Charterers immediately after departure from the final loading port, of the vessel's expected time of arrival at the first discharging port or the area at sea to which the vessel has been instructed to proceed for wireless orders, and confirm or amend such advice not later than 72, 48, 36 and 24 hours before the vessel is due at such port or area;	391 392 393 394
	(c) advise Charterers immediately of any variation of more than six hours from expected times of arrival at loading or discharging ports, Quoin Island or such area at sea to Charterers.	395 396
	(d) address all messages as specified in <u>Part I clause (K)</u> .	397
	Owners shall be responsible for any consequences or additional expenses arising as a result of non-compliance with this clause.	398 399
	(3) If at any time prior to the tender of notice of readiness at the first load port, the vessel ceases to comply with the description set out in <u>Part I clause (A)</u> and in any questionnaire(s), the Owners shall immediately notify Charterers of the same, providing full particulars, and explaining what steps Owners are taking to ensure that the vessel will so comply. Any silence or failure on the part of Charterers to respond to or any inaction taken in respect of any such notice shall not amount to a waiver of any rights or remedies which Charterers may have in respect of the matters notified by Owners.	400 401 402 403 404 405
Packed cargo	29. Charterers have the option of shipping products and/or general cargo in available dry cargo space, the quantity being subject to the master's discretion. Freight shall be payable at the bulk rate in accordance with <u>Part II clause 5</u> and Charterers shall pay in addition all expenses incurred solely as a result of the packed cargo being	406 407 408

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	carried. Delay occasioned to the vessel by the exercise of such option shall count against laytime or, if the vessel is on demurrage, for demurrage.	409 410
Subletting/ Assignment	30. Charterers shall have the option of sub-chartering the vessel and/or of assigning this Charter to any person or persons, but Charterers shall always remain responsible for the due fulfilment of all the terms and conditions of this Charter. Additionally Charterers may novate this charter to any company of the Royal Dutch/Shell Group of Companies.	411 412 413 414
Liberty	31. The vessel shall be at liberty to tow or be towed, to assist vessels in all positions of distress and to deviate for the purpose of saving life or property. On the laden voyage the vessel shall not take on bunkers or deviate or stop, except as allowed in this clause 31, without prior permission of Charterers, Cargo Insurers, and Owners' P&I Club.	415 416 417 418
Exceptions	32. (1) The vessel, her master and Owners shall not, unless otherwise in this Charter expressly provided, be liable for any loss or damage or delay or failure arising or resulting from any act, neglect or default of the master, pilots, mariners or other servants of Owners in the navigation or management of the vessel; fire, unless caused by the actual fault or privity of Owners; collision or stranding; dangers and accidents of the sea; explosion, bursting of boilers, breakage of shafts or any latent defect in hull, equipment or machinery; provided, however, that Part I clause (A) and Part II clauses 1 and 2 hereof shall be unaffected by the foregoing. Further, neither the vessel, her master or Owners, nor Charterers shall unless otherwise in this Charter expressly provided, be liable for any loss or damage or delay or failure in performance hereunder arising or resulting from act of God, act of war, act of public enemies, seizure under legal process, quarantine restrictions, strikes, lock-outs, restraints of labour, riots, civil commotions or arrest or restraint of princes, rulers or people. (2) Nothing in this Charter shall be construed as in any way restricting, excluding or waiving the right of Owners or of any other relevant persons to limit their liability under any available legislation or law. (3) Clause 32(1) shall not apply to or affect any liability of Owners or the vessel or any other relevant person in respect of (a) loss or damage caused to any berth, jetty, dock, dolphin, buoy, mooring line, pipe or crane or other works or equipment whatsoever at or near any port to which the vessels may proceed under this Charter, whether or not such works or equipment belong to Charterers, or (b) any claim (whether brought by Charterers or any other person) arising out of any loss of or damage to or in connection with the cargo. Any such claim shall be subject to the Hague-Visby Rules or the Hague Rules, or the Hamburg Rules as the case may be, which ought pursuant to Part II clause 37 hereof to have been incorporated in the relevant bill of lading (whether or not such Rules were so incorporated) or, if no such bill of lading is issued, to the Hague-Visby rules unless the Hamburg Rules compulsory apply in which case to the Hamburg Rules.	419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443
Bills of lading	33. (1) Subject to the provisions of this clause Charterers may require the master to sign lawful bills of lading for any cargo in such form as Charterers direct. (2) The signing of bills of lading shall be without prejudice to this Charter and Charterers hereby indemnify Owners against all liabilities that may arise from signing bills of lading to the extent that the same impose liabilities upon Owners in excess of or beyond those imposed by this Charter. (3) All bills of lading presented to the master for signature, in addition to complying with the requirements of Part II clauses 35, 36 and 37, shall include or effectively incorporate clauses substantially similar to the terms of Part II clauses 22, 33(7) and 34. (4) All bills of lading presented for signature hereunder shall show a named port of discharge. If when bills of lading are presented for signature discharging port(s) have been nominated hereunder the discharging port(s) shown on such bills of lading shall be in conformity with the nominated port(s). If at the time of such presentation no such nomination has been made hereunder, the discharging port(s) shown on such bills of lading must be within Part I clause (E) and shall be deemed to have been nominated hereunder by virtue of such presentation. (5) Article III Rules 3 and 5 of the Hague-Visby Rules shall apply to the particulars included in the bills of lading as if Charterers were the shippers, and the guarantee and indemnity therein contained shall apply to the description of the cargo furnished by or on behalf of Charterers. (6) Notwithstanding any other provisions of this Charter, Owners shall be obliged to comply with any orders from Charterers to discharge all or part of the cargo provided that they have received from Charterers written confirmation of such orders. If Charterers by telex, facsimile or other form of written communication that specifically refers to this clause request Owners to discharge a quantity of cargo either: (a) without bills of lading and/or	444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466

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(b)	at a discharge place other than that named in a bill of lading and/or	467
(c)	that is different from the bill of lading quantity	468
	then Owners shall discharge such cargo in accordance with Charterers' instructions in consideration of receiving the	469
	following indemnity which shall be deemed to be given by Charterers on each and every such occasion and which is limited	470
	in value to 200 per cent of the C.I.F. value of the cargo on board:	471
(i)	Charterers shall indemnify Owners, and Owners' servants and agents in respect of any liability loss or damage	472
	of whatsoever nature (including legal costs as between attorney or solicitor and client and associated expenses)	473
	which Owners may sustain by reason of delivering such cargo in accordance with Charterers' request.	474
(ii)	If any proceeding is commenced against Owners or any of Owners' servants or agents in connection with the	475
	vessel having delivered cargo in accordance with such request, Charterers shall provide Owners or any of	476
	Owners' servants or agents from time to time on demand with sufficient funds to defend the said proceedings.	477
(iii)	If the vessel or any other vessel or property belonging to Owners should be arrested or detained, or if the arrest	478
	or detention thereof should be threatened, by reason of discharge in accordance with Charterers' instruction as	479
	aforesaid, Charterers shall provide on demand such bail or other security as may be required to prevent such arrest	480
	or detention or to secure the release of such vessel or property and Charterers shall indemnify Owners in respect	481
	of any loss, damage or expenses caused by such arrest or detention whether or not the same may be justified.	482
(iv)	Charterers shall, if called upon to do so at any time while such cargo is in Charterers' possession, custody or	483
	control, redeliver the same to Owners.	484
(v)	As soon as all original bills of lading for the above cargo which name as discharge port the place where	485
	delivery actually occurred shall have arrived and/or come into Charterers' possession, Charterers shall	486
	produce and deliver the same to Owners, whereupon Charterers' liability hereunder shall cease.	487
	Provided however, if Charterers have not received all such original bills of lading by 24.00 hours on the day	488
	36 calendar months after the date of discharge, then this indemnity shall terminate at that time unless before	489
	that time Charterers have received from Owners written notice that:	490
(a)	some person is making a claim in connection with Owners delivering cargo pursuant to Charterers'	491
	request or	
(b)	legal proceedings have been commenced against Owners and/or carriers and/Charterers and/or	492
	any of their respective servants or agents and/or the vessel for the same reason.	493
	When Charterers have received such a notice, then this indemnity shall continue in force until such claim or legal	494
	proceedings are settled. Termination of this indemnity shall not prejudice any legal rights a party may have	495
	outside this indemnity.	496
(vi)	Owners shall promptly notify Charterers if any person (other than a person to whom Charterers ordered	497
	cargo to be delivered) claims to be entitled to such cargo and/or if the vessel or any other property belonging	498
	to Owners is arrested by reason of any such discharge of cargo.	499
(vii)	This indemnity shall be governed and construed in accordance with the English law and each and any dispute	500
	arising out of or in connection with this indemnity shall be subject to the jurisdiction of the High Court of	501
	Justice of England.	502
(7)	The master shall not be required or bound to sign bills of lading for any blockaded port or for any port which the	503
	master or Owners in his or their discretion consider dangerous or impossible to enter or reach.	504
(8)	Charterers hereby warrant that on each and every occasion that they issue orders under <u>Part II clauses 22, 26, 34</u>	505
	or <u>38</u> they will have the authority of the holders of the bills of lading to give such orders, and that such bills of lading will not	506
	be transferred to any person who does not concur therein.	507
(9)	Owners hereby agree that original bill(s) of lading, if available, will be allowed to be placed on board.	508
	If original bill(s) of lading are placed on board, Owners agree that vessel will discharge cargo against such bill(s) of lading	509
	carried on board, on receipt of receivers' proof of identity.	510
isks	34.(1) If	511
(a)	any loading or discharging port to which the vessel may properly be ordered under the provisions of this Charter	512
	or bills of lading issued pursuant to this Charter, be blockaded, or	513
(b)	owing to any war, hostilities, warlike operation, civil commotions, revolutions, or the operation of international	514
	law (i) entry to any such loading or discharging port or the loading or discharging of cargo at any such port be	515
	considered by the master or Owners in his or their discretion dangerous or prohibited or (ii) it be considered	516
	by the master or Owners in his or their discretion dangerous or impossible or prohibited for the vessel to reach	517
	any such loading or discharging port,	518
	Charterers shall have the right to order the cargo or such part of it as may be affected to be loaded or discharged at any other	519
	loading or discharging port within the ranges specified in <u>Part I clause (D)</u> or <u>(E)</u> respectively (provided such other port is not	520
	blockaded and that entry thereto or loading or discharging of cargo thereat or reaching the same is not in the master's or Owners'	521
	opinion dangerous or impossible or prohibited).	522
(2)	If no orders be received from Charterers within 48 hours after they or their agents have received from Owners a	523
	request for the nomination of a substitute port, then	524
(a)	if the affected port is the first or only loading port and no cargo has been loaded, this Charter shall terminate	525
	forthwith;	526

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- (b) if the affected port is a loading port and part of the cargo has already been loaded, the vessel may proceed on passage and Charterers shall pay for any deadfreight so incurred; 527
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- (c) if the affected port is a discharging port, Owners shall be at liberty to discharge the cargo at any port which they or the master may in their or his discretion decide on (whether within the range specified in Part I clause (E) or not) and such discharging shall be deemed to be due fulfilment of the contract or contracts of affreightment so far as cargo so discharged is concerned. 529
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- (3) If in accordance with clause 34(1) or (2) cargo is loaded or discharged at any such other port, freight shall be paid as for the voyage originally nominated, such freight to be increased or reduced by the amount by which, as a result of loading or discharging at such other port, 533
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- (a) the time on voyage including any time awaiting revised orders (which shall be valued at the demurrage rate in Part I clause (J)), and 536
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- (b) the bunkers consumed, at replacement cost, and 538
- (c) the port charges 539
- for the voyage actually performed are greater or less than those which would have been incurred on the voyage originally nominated save as aforesaid, the voyage actually performed shall be treated for the purpose of this Charter as if it were the voyage originally nominated. 540
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- (4) The vessel shall have liberty to comply with any directions or recommendations as to departure, arrival, routes, ports of call, stoppages, destinations, zones, waters, delivery or in any otherwise whatsoever given by the government of the nation under whose flag the vessel sails or any other government or local authority including any de facto government or local authority or by any person or body acting or purporting to act as or with the authority of any such government or authority or by any committee or person having under the terms of the war risks insurance on the vessel the right to give any such directions or recommendations. If by reason of or in compliance with any such directions or recommendations anything is done or is not done, such shall not be deemed a deviation. 543
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- If, by reason of or in compliance with any such directions or recommendations as are mentioned in clause 34 (4), the vessel does not proceed to the discharging port or ports originally nominated or to which she may have been properly ordered under the provisions of this Charter or bills of lading issued pursuant to this Charter, the vessel may proceed to any discharging port on which the master or Owners in his or their discretion may decide and there discharge the cargo. Such discharging shall be deemed to be due fulfilment of the contract or contracts of affreightment and Owners shall be entitled to freight as if discharging had been effected at the port or ports originally nominated or to which the vessel may have been properly ordered under the provisions of this Charter or bills of lading issued pursuant to this Charter. All extra expenses involved in reaching and discharging the cargo at any such other discharging port shall be paid by Charterers and Owners shall have a lien on the cargo for all such extra expenses. 550
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- (5) Owners shall pay for all additional war risk insurance premiums, both for annual periods and also for the specific performance of this Charter, on the Hull and Machinery value, as per Part I clause (A) (I) (xiii) applicable at the date of this Charter, or the date the vessel was fixed “on subjects” (whichever is the earlier), and all reasonable crew war bonus. The period of voyage additional war risks premium shall commence when the vessel enters a war risk zone as designated by the London insurance market and cease when the vessel leaves such zone. If the vessel is already in such a zone the period shall commence on tendering notice of readiness under this Charter. 559
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- Any increase or decrease in voyage additional war risk premium and any period in excess of the first fourteen days shall be for Charterers’ account and payable against proven documentation. Any discount or rebate refunded to Owners for whatever reason shall be passed on to Charterers. Any premiums, and increase thereto, attributable to closure insurance (i.e. blocking and trapping) shall be for Owners’ account. 565
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35. If the liability for any collision in which the vessel is involved while performing this Charter falls to be determined in accordance with the laws of the United States of America, the following clause, which shall be included in all bills of lading issued pursuant to this Charter shall apply: 569
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- “If the vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the master, mariner, pilot or the servants of the Carrier in the navigation or in the management of the vessel, the owners of the cargo carried hereunder will indemnify the Carrier against all loss or liability to the other or non-carrying vessel or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of the said cargo, paid or payable by the other or non-carrying vessel or her owners to the owners of the said cargo and set off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying vessel or the Carrier. 572
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- The foregoing provisions shall also apply where the owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision or contact.” 578
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36. General average shall be payable according to the York/Antwerp Rules 1994, as amended from time to time, and shall be adjusted in London. All disputes relating to General Average shall be resolved in London in accordance with English Law. 580
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- Without prejudice to the foregoing, should the adjustment be made in accordance with the Law and practice of the United States of America, the following clause, which shall be included in all bills of lading issued pursuant to this Charter, shall apply: 582
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- “In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Carrier is not responsible, by statute, contract or otherwise, the cargo, shippers, consignees or owners of the cargo shall contribute with the Carrier in 584
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	general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the cargo.	587 588
	If a salving vessel is owned or operated by the Carrier, salvage shall be paid for as fully as if the said salving vessel or vessels belonged to strangers. Such deposit as the Carrier or its agents may deem sufficient to cover the estimated contribution of the cargo and any salvage and special charges thereon shall, if required, be made by the cargo, shippers, consignees or owners of the cargo to the Carrier before delivery."	589 590 591 592
ause ramount	37. The following clause shall be included in all bills of lading issued pursuant to this Charter: (1) Subject to sub-clauses (2) or (3) hereof, this bill of lading shall be governed by, and have effect subject to the rules contained in the International Convention for the Unification of Certain Rules relating to bills of lading signed at Brussels on 25 th August 1924 (hereafter the "Hague Rules") as amended by the Protocol signed at Brussels on 23 rd February 1968 (hereafter the "Hague-Visby Rules"). Nothing contained herein shall be deemed to be either a surrender by the carrier of any of his rights or immunities or any increase of any of his responsibilities or liabilities under the Hague-Visby Rules. (2) If there is governing legislation which applies the Hague Rules compulsorily to this bill of lading, to the exclusion of the Hague-Visby Rules, then this bill of lading shall have effect subject to the Hague Rules. Nothing herein contained shall be deemed to be either a surrender by the carrier of any of his rights or immunities or an increase of any of his responsibilities or liabilities under the Hague Rules. (3) If there is governing legislation which applies the United Nations Convention on the Carriage of Goods By Sea 1978 (hereafter the "Hamburg Rules") compulsorily to this bill of lading to the exclusion of the Hague-Visby Rules, then this bill of lading shall have effect subject to the Hamburg Rules. Nothing herein contained shall be deemed to be either a surrender by the carrier of any of his rights or immunities or an increase of any of his responsibilities or liabilities under the Hamburg Rules. (4) If any term of this bill of lading is repugnant to the Hague-Visby Rules, or Hague Rules or Hamburg Rules, if applicable, such term shall be void to that extent but no further. (5) Nothing in this bill of lading shall be construed as in any way restricting, excluding or waiving the right of any relevant party or person to limit his liability under any available legislation and/or law.	593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610
ack loading	38. Charterers may order the vessel to discharge and/or backload a part or full cargo at any nominated port within the loading / discharging ranges specified within Part I clauses (D/E) and within the rotation of the ports previously nominated, provided that any cargo loaded is of the description specified in Part I clause (F) and that the master in his reasonable discretion determines that the cargo can be loaded, segregated and discharged without risk of contamination by, or of any other cargo. Charterers shall pay in respect of loading, carrying and discharging such cargo as follows: (a) a lumpsum freight calculated at the demurrage rate specified in Part I clause (I) on any additional port time used by the vessel; and (b) any additional expenses, including bunkers consumed (at replacement cost) over above those required to load and discharge one full cargo and port costs which included additional agency costs; and (c) if the vessel is fixed on a Worldscale rate in Part I clause (G) then freight shall always be paid for the whole voyage at the rate(s) specified in Part I clause (G) on the largest cargo quantity carried on any ocean leg.	611 612 613 614 615 616 617 618 619 620
unkers	39. Owners shall give Charterers or any other company in the Royal Dutch/Shell Group of Companies first option to quote for the supply of bunker requirements for the performance of this Charter.	621 622
il pollution evention/ allast anagement	40.(1) Owners shall ensure that the master shall: (a) comply with MARPOL 73/78 including any amendments thereof; (b) collect the drainings and any tank washings into a suitable tank or tanks and, after maximum separation of free water, discharge the bulk of such water overboard, consistent with the above regulations; and (c) thereafter notify Charterers promptly of the amounts of oil and free water so retained on board and details of any other washings retained on board from earlier voyages (together called the "collected washings"). (d) not to load on top of such 'collected washings' without specific instructions from Charterers. (e) provide Charterers with a stow certificate to be made up and signed by the master and an independent surveyor/terminal representative. The certificate shall indicate: Origin and composition of slops, Volume, Free water and API measured in barrels at 60 deg F. (2) On being so notified, Charterers, in accordance with their rights under this clause (which shall include without limitation the right to determine the disposal of the collected washings), shall before the vessel's arrival at the loading berth (or if already arrived as soon as possible thereafter) give instructions as to how the collected washings shall be dealt with. Owners shall ensure that the master on the vessel's arrival at the loading berth (or if already arrived as soon as possible thereafter) shall arrange in conjunction with the cargo suppliers for the measurement of the quantity of the collected washings and shall record the same in the vessel's ullage record. (3) Charterers may require the collected washings to be discharged ashore at the loading port, in which case no freight shall be payable on them. (4) Alternatively Charterers may require either that the cargo be loaded on top of the collected washings and the collected washings be discharged with the cargo, or that they be kept separate from the cargo in which case Charterers shall pay for any deadfreight incurred thereby in accordance with Part II clause 8 and shall, if practicable, accept discharge of the collected	623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643

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	washings at the discharging port or ports.	644
	In either case, provided that the master has reduced the free water in the collected washings to a minimum consistent with the retention on board of the oil residues in them and consistent with sub-clause (1)(a) above, freight in accordance with Part II clause 5 shall be payable on the quantity of the collected washings as if such quantity were included in a bill of lading and the figure therefore furnished by the shipper provided, however, that	645 646 647 648
	(i) if there is a provision in this Charter for a lower freight rate to apply to cargo in excess of an agreed quantity, freight on the collected washings shall be paid at such lower rate (provided such agreed quantity of cargo has been loaded) and	649 650 651
	(ii) if there is provision in this Charter for a minimum cargo quantity which is less than a full cargo, then whether or not such minimum cargo quantity is furnished, freight on the collected washings shall be paid as if such minimum cargo quantity had been furnished, provided that no freight shall be payable in respect of any collected washings which are kept separate from the cargo and not discharged at the discharge port.	652 653 654 655
	(5) Whenever Charterers require the collected washings to be discharged ashore pursuant to this clause, Charterers shall provide and pay for the reception facilities, and the cost of any shifting there for shall be for Charterers' account. Any time lost discharging the collected washings and/or shifting therefore shall count against laytime or, if the vessel is on demurrage, for demurrage.	656 657 658 659
	(6) Owners warrant that the vessel will arrive at the load port with segregated/ clean ballast as defined by Annex I of MARPOL 73/78 including any amendments thereof.	660 661
response tion and ance	41. (1) Owners warrant that throughout the duration of this Charter the vessel will be:	662
	(i) owned or demise chartered by a member of the 'International Tanker Owners Pollution Federation Limited, and entered in the Protection and Indemnity (P&I) Club stated in Part I clause (A) I (xii) .	663 664
	(2) It is a condition of this Charter that Owners have in place insurance cover for oil pollution for the maximum on offer through the International Group of P&I Clubs but always a minimum of United States Dollars 1,000,000,000 (one thousand million). If requested by Charterers, Owners shall immediately furnish to Charterers full and proper evidence of the coverage.	665 666 667
	(3) Owners warrant that the vessel carries on board a certificate of insurance as required by the Civil Liability Convention for Oil Pollution damage. Owners further warrant that said certificate will be maintained effective throughout the duration of performance under this Charter. All time, costs and expense as a result of Owners' failure to comply with the foregoing shall be for Owners' account.	668 669 670 671
	(4) Owners warrant that where the vessel is a "Relevant Ship", they are a "Participating Owner" as defined, as applicable, in the Small Tanker Oil Pollution Indemnification Agreement ("STOPIA") or in the Tanker Oil Pollution Indemnification Agreement ("TOPIA"), and that the vessel is entered in STOPIA or TOPIA (as applicable) and shall so remain during the currency of this Charter provided always that STOPIA or TOPIA (as applicable) is not terminated in accordance with its provisions.	672 673 674
	42. Owners shall have an absolute lien upon the cargo and all subfreights for all amounts due under this charter and the cost of recovery thereof including any expenses whatsoever arising from the exercise of such lien.	675 676
s and iol	43. Owners are aware of the problem of drug and alcohol abuse and warrant that they have a written policy in force, covering the vessel, which meets or exceeds the standards set out in the "Guidelines for the Control of Drugs and Alcohol on board Ship" as published by OCIMF dated June 1995. Owners further warrant that this policy shall remain in force during the period of this Charter and such policy shall be adhered to throughout this Charter.	677 678 679 680 681
F	44. Owners warrant that the terms of employment of the vessel's staff and crew will always remain acceptable to the International Transport Workers Federation on a worldwide basis. All time, costs and expenses incurred as a result of Owners' failure to comply with foregoing shall be for Owners' account.	682 683 684
rs of st/ iciencies	45. It is a condition of this Charter that from the time the vessel sails to the first load port there will be no Letter(s) of Protest ("LOP") or deficiencies outstanding against the vessel. This refers to LOP's or deficiencies issued by Terminal Inspectorate or similar Port or Terminal or Governmental Authorities.	685 686 687
imen- 1	46. Owners shall ensure that the master and agents produce documentation and provide Charterers with copies of all such documentation relevant to each port and berth call and all transshipments at sea including but not limited to: Notice of Readiness / Statement of Facts / Shell Form 19x (if Charterers nominate agents under Part II clause 24) / Time sheet(s) / LOPs/ Hourly pumping logs /crude oil washing performance logs by facsimile (to the number advised in the voyage instructions). These documents to be faxed within 48 hours from sailing from each load or discharge port or transshipment area. If the vessel does not have a facsimile machine on board the master shall advise Charterers, within 48 hours from sailing from each port under this Charter, of the documents he has available and ensure copies of such documents are faxed by agents to Charterers from the relevant port of call or at latest from the next port of call. Complying with this clause does not affect the terms of Part II clause 15(3) with regard to notification and submission of a fully documented claim for demurrage or a claim described in Part II clause 6(3) of this Charter. Any documents to be faxed under this clause may be, alternatively, scanned and e-mailed to Charterers. If any actions or facilities of Suppliers / Receivers / Terminal/ Transshipment vessels or Charterers, as applicable, impinge on the vessel's ability to perform the warranties and / or guarantees of performance under this Charter the master must issue a LOP to such effect. If the master fails to issue such LOP then Owners shall be deemed to have waived any rights to claim.	688 689 690 691 692 693 694 695 696 697 698 699 700
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	Master and agents shall ensure that all documents concerning port/berth and cargo activities at all ports/berths and transshipment at sea places are signed by both an officer of the vessel and a representative of either Suppliers / Receivers / Terminal / Transshipment vessels or Charterers, as applicable.	701 702 703
	If such a signature from Suppliers / Receivers / Terminal/ Transshipment vessels or Charterers, as applicable, is not obtainable the master or his agents should issue a LOP to such effect.	704 705
	All LOP's issued by master or his agents or received by master or his agents must be forwarded to Charterers as per the terms of this clause.	706
ministra-	47. The agreed terms and conditions of this Charter shall be recorded and evidenced by the production of a fixture note sent to both Charterers and Owners within 24 hours of the fixture being concluded. This fixture note shall state the name and date of the standard pre-printed Charter Party Form, on which the Charter is based, along with all amendments / additions/ deletions to such charter party form. All further additional clauses agreed shall be reproduced in the fixture note with full wording. This fixture note shall be approved and acknowledged as correct by both Owners and Charterers to either the Ship Broker through whom they negotiated or, if no Ship Broker was involved, to each other within two working days after fixture concluded. No formal written and signed Charter Party will be produced unless specifically requested by Charterers or Owners or is required by additional clauses of this Charter.	707 708 709 710 711 712 713 714
go ation	48. If on completion of discharge any liquid cargo of a pumpable nature remains on board (the presence and quantity of such cargo having been established, by application of the wedge formula in respect of any tank the contents of which do not reach the forward bulkhead, by an independent surveyor appointed by Charterers and paid jointly by Owners and Charterers), Charterers shall have the right to deduct from freight an amount equal to the FOB loading port value of such cargo, cargo insurance plus freight thereon; provided, however, that any action or lack of action hereunder shall be without prejudice to any other rights or obligations of Charterers, under this Charter or otherwise, and provided further that if Owners are liable to any third party in respect of failure to discharge such pumpable cargo, or any part thereof, Charterers shall indemnify Owners against such liability up to the total amount deducted under this clause.	715 716 717 718 719 720 721 722
rogen hide	49. Owners shall comply with the requirements in ISGOTT (as amended from time to time) concerning Hydrogen Sulphide and shall ensure that prior to arrival at the load port the Hydrogen Sulphide (ppm by volume in vapour) level in all ballast and empty cargo spaces is below the Threshold Limit Value ("TLV") - Time Weighted Average ("TWA"). If on arrival at the loading terminal, the loading authorities, inspectors or other authorised and qualified personnel declare that the Hydrogen Sulphide levels in the vessels' tanks exceed the TLV- TWA and request the vessel to reduce the said level to within the TLV-TWA then the original notice of readiness shall not be valid. A valid notice of readiness can only be tendered and laytime, or demurrage time, if on demurrage, can only start to run in accordance with Part II clause 13 when the TLV-TWA is acceptable to the relevant authorities. If the vessel is unable to reduce the levels of Hydrogen Sulphide within a reasonable time Charterers shall have the option of cancelling this Charter without penalty and without prejudice to any claims which Charterers may have against Owners under this Charter.	723 724 725 726 727 728 729 730 731 732 733
lations	50. Owners warrant that the vessel will fully comply with all port and terminal regulations at any named port in this Charter, and any ports to which Charterers may order the vessel to under this Charter in accordance with Part I clauses (D/E) provided that Owners have a reasonable opportunity to acquaint themselves with the regulations at such ports.	734 735 736
le Point/ y and ring	51. (1) Owners warrant that: (a) the vessel complies with the OCIMF recommendations, current at the date of this Charter, for equipment employed in the mooring of ships at single point moorings in particular for tongue type or hinged bar type chain stoppers and that the messenger from the Chain Stopper(s) is secured on a winch drum (not a drum end) and that the operation is totally hands free (b) the vessel complies and operates in accordance with the recommendations, current at the date of this Charter, contained in the latest edition of OCIMF's "Mooring Equipment Procedures" (2) If requested by Charterers, or in the event of an emergency situation arising whilst the vessel is at a Single Buoy Mooring ("SBM") the vessel shall pump sea water, either directly from the sea or from vessels clean ballast tanks, to flush SBM's floating hoses prior to, during or after loading and/or discharge of the cargo; this operation to be carried out at Charterers' expense and with time counting against laytime, or demurrage, if on demurrage. Subject to Owners exercising due diligence in carrying out such an operation Charterers hereby indemnify Owners for any cargo loss or contamination directly resulting from this request. If master or Owners are approached by Suppliers/Receivers or Terminal Operators to undertake such an operation Owners shall obtain Charterers' agreement before proceeding.	737 738 739 740 741 742 743 744 745 746 747 748 749 750 751
/MTSA	52. (1) (a) From the date of coming into force of the International Code for the Security of Ships and of Port Facilities and the relevant amendments to Chapter XI of SOLAS ("ISPS Code") and the US Maritime Transportation Security Act 2002 ("MTSA") in relation to the vessel, and thereafter during the currency of this Charter, Owners shall procure that both the vessel and "the Company" (as defined by the ISPS Code) and the "owner" (as defined by the MTSA) shall comply with the requirements of the ISPS Code relating to the vessel and "the Company" and the requirements of MTSA relating to the vessel and the "owner".	752 753 754 755 756 757

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	Upon request Owners shall provide a copy of the relevant International Ship Security Certificate to Charterers. Owners shall provide documentary evidence of compliance with this clause 52 (1) (a).	758
	(b) Except as otherwise provided in this Charter, loss, damage, expense or delay caused by failure on the part of Owners or “the Company”/“owner” to comply with the requirements of the ISPS Code/MTSA or this clause shall be for Owners’ account.	759
	(2) (a) Charterers shall provide the Owners with their full style contact details and other relevant information reasonably required by Owners to comply with the requirements of the ISPS Code/MTSA. Additionally, Charterers shall ensure that the contact details of any sub-charterers are likewise provided to Owners. Furthermore, Charterers shall ensure that all sub-charter parties they enter into shall contain the following provision:	760
	“The Charterers shall provide the Owners with their full style contact details and, where sub-letting is permitted under the terms of the charter party, shall ensure that contact details of all sub-charterers are likewise provided to the Owners”.	761
	(b) Except as otherwise provided in this Charter, loss, damage, expense or delay caused by failure on the part of Charterers to comply with this sub clause (2) shall be for Charterers’ account.	762
	(3) (a) Without prejudice to the foregoing, Owners right to tender notice of readiness and Charterers’ liability for demurrage in respect of any time delays caused by breaches of this clause 52 shall be dealt with in accordance with Part II clauses 13, (Notice of readiness/Running time), 14, (Suspension of Time) and 15, (Demurrage), of the charter.	763
	(b) Except where the delay is caused by Owners and/or Charterers failure to comply, respectively, with clauses (1) and (2) of this clause 52, then any delay arising or resulting from measures imposed by a port facility or by any relevant authority, under the ISPS Code/MTSA, shall count as half rate laytime, or, if the vessel is on demurrage, half rate demurrage.	764
	(4) Except where the same are imposed as a cause of Owners and/or Charterers failure to comply, respectively, with clauses (1) and (2) of this clause 52, then any costs or expenses related to security regulations or measures required by the port facility or any relevant authority in accordance with the ISPS Code/MTSA including, but not limited to, security guards, launch services, tug escorts, port security fees or taxes and inspections, shall be shared equally between Owners and Charterers. All measures required by the Owners to comply with the Ship Security Plan shall be for Owners’ account.	765
	(5) If either party makes any payment which is for the other party’s account according to this clause, the other party shall indemnify the paying party.	766
Business principles	53. Owners will co-operate with Charterers to ensure that the “Business Principles”, as amended from time to time, of the Royal Dutch/Shell Group of Companies, which are posted on the Shell Worldwide Web (www.Shell.com), are complied with.	767
Law and litigation	54. (a) This Charter shall be construed and the relations between the parties determined in accordance with the laws of England.	768
Arbitration	(b) All disputes arising out of this Charter shall be referred to Arbitration in London in accordance with the Arbitration Act 1996 (or any re-enactment or modification thereof for the time being in force) subject to the following appointment procedure:	769
	(i) The parties shall jointly appoint a sole arbitrator not later than 28 days after service of a request by in writing by either party to do so.	770
	(ii) If the parties are unable or unwilling to agree the appointment of a sole arbitrator in accordance with (i) then each party shall appoint one arbitrator, in any event not later than 14 days after receipt of a further request in writing by either party to do so. The two arbitrators so appointed shall appoint a third arbitrator before any substantive hearing or forthwith if they cannot agree on a matter relating to the arbitration.	771
	(iii) If a party fails to appoint an arbitrator within the time specified in (ii) (the “Party in Default”), the party who has duly appointed his arbitrator shall give notice in writing to the Party in Default that he proposes to appoint his arbitrator to act as sole arbitrator.	772
	(iv) If the Party in Default does not within 7 days of the notice given pursuant to (iii) make the required appointment and notify the other party that he has done so the other party may appoint his arbitrator as sole arbitrator whose award shall be binding on both parties as if he had been so appointed by agreement.	773
	(v) Any award of the arbitrator(s) shall be final and binding and not subject to appeal.	774
	(vi) For the purposes of this clause 54 any requests or notices in writing shall be sent by fax, e-mail or telex and shall be deemed received on the day of transmission.	775
	(c) It shall be a condition precedent to the right of any party to a stay of any legal proceedings in which maritime property has been, or may be, arrested in connection with a dispute under this Charter, that that party furnishes to the other party security to which that other party would have been entitled in such legal proceedings in the absence of a stay.	776
Small claims	(d) In cases where neither the claim nor any counterclaim exceeds the sum of United States Dollars 50,000 (or such other sum as Owners/Charterers may agree) the arbitration shall be conducted in accordance with the London Maritime Arbitrators’ Association Small Claims Procedure current at the time when the arbitration	777
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proceedings are commenced.

8

Address
commission

55. Charterers shall deduct address commission of 1.25% from all payments under this Charter.

8

8:

Construction

56. The side headings have been included in this Charter for convenience of reference and shall in no way affect the construction hereof.

8:

8:

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- Australia (1) (a) The vessel shall not transit the Great Barrier Reef Inner Passage, whether in ballast en route to a loadport or laden, between the Torres Strait and Cairns, Australia. If the vessel transits the Torres Strait, the vessel shall use the outer reef passage as approved by the Australian Hydrographer. Owners shall always employ a pilot, when transiting the Torres Strait and for entry and departure through the Reef for ports north of Brisbane. (b) The vessel shall discharge all ballast water on board the vessel and take on fresh ballast water, always in accordance with safe operational procedures, prior to entering Australian waters. (c) On entering, whilst within and whilst departing from the port of Sydney Owners and master shall ensure that the water line to highest fixed point distance does not exceed 51.8 (fifty one point eight) metres. (d) If Charterers or Terminal Operators instruct the vessel to slow the cargo operations down or stop entirely the cargo operations in Sydney during the hours of darkness due to excessive noise caused by the vessel then all additional time shall be for Owners' account.
- Goods Services Tax (e) (i) Goods Services Tax ("GST") imposed in Australia has application to any supply made under this Charter, the parties agree that the Charterer shall account for GST in accordance with Division 83 of the GST Act even if the Owner becomes registered. The Owner acknowledges that it will not recover from the Charterer an additional amount on account of GST. (ii) The Owner acknowledges that it is a non-resident and that it does not make supplies through an enterprise carried on in Australia as defined in section 995-1 of the Income Tax Assessment Act 1997. (iii) The Charterer acknowledges that it is registered. Where appropriate, terms in this clause have the meaning set out in section 195-1 of the GST Act.
- Brazil (2) (a) Owners acknowledge the vessel will have, if Charterers so require, to enter a port or place of clearance within mainland Brazil, to obtain necessary clearance from the Brazilian authorities and/or to pick-up personnel required to be on board during the loading of the cargo at Fluminense FPSO. The vessel then proceeds to the Fluminense FPSO where she can tender her notice of readiness. Time at the port of clearance, taken from arrival at pilot station to dropping outward pilot to be for Charterers' account and payable at the agreed demurrage rate together with freight. However this time not to count as laytime or demurrage if on demurrage. (b) Freight payment under Part II clause 5 of this Charter shall be made within 5 banking days of receipt by Charterers of notice of completion of final discharge.
- Canada (3) Owners warrant that the vessel complies with all the Canadian Oil Spill response regulations currently in force and that the Owner is a member of a certified oil spill response organisation and that the Owners/vessel shall continue to be members of such organisation and comply with the regulations and requirements of such organisation throughout the period of this Charter.
- Egypt (4) (a) Any costs incurred by Charterers for vessel garbage or in vessel deballasting at Sidi Kerir shall be for Owners' account and Charterers shall deduct such costs from freight (b) Charterers shall have the option for the discharge range Euromed and/or United Kingdom/ Continent (Gibraltar Hamburg range) to instruct the vessel to transit via Suez Canal. In the event that Charterers exercise this option the following shall apply: Charterers option to part discharge Ain Sukhna and reload Sidi Kerir. Charterers will pay the following with freight against Owners' fully documented claim: (c) time incurred at the demurrage rate on the passage from the point at which the vessel deviates from the direct sailing route between last loadport and Port Suez, till the tendering of notice of readiness at Ain Sukhna, less any time lost by reason of delay beyond Charterers' reasonable control; (d) time incurred at the demurrage rate on the passage from disconnection of hoses at Sidi Kerir to the point at which the vessel rejoins the direct sailing route between Port Said and the first discharge port UK Continent or Mediterranean, less any time lost by reason of delay beyond Charterers' reasonable control; (e) time incurred at the demurrage rate between tendering of notice of readiness at Ain Sukhna and disconnection of hoses there; (f) time incurred at the demurrage rate between tendering of notice of readiness at Sidi Kerir and disconnection of hoses there; (g) all bunkers consumed during the periods (c) to (f) above at replacement cost; (h) all port charges incurred at Ain Sukhna and Sidi Kerir. Freight rate via Suez shall be based on the Suez/Suez flat rate without the fixed Suez rate differential, other than as described below (the Worldscale rates in Part I clause (G) of this Charter to apply). All canal dues related to Suez laden transit, including Suez Canal port costs, agency fees and expenses, including but not limited to escort tugs and other expenses for canal laden transit, to be for Charterers' account and to be settled directly by them. Charterers' to pay Owners the 'ballast transit only' fixed rate differential as per Worldscale together with freight.

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	(5) (a)	In assessing the pumping efficiency under this Charter at ports in India, Owners agree to accept the record of pressure maintained as stated in receiver's statement of facts signed by the ship's representative.	59
	(b)	Owners shall be aware of and comply with the mooring requirements of Indian ports. All time, costs and expenses as a result of Owners' failure to comply with the foregoing shall be for Owners' account.	60 61 62 63
	(c)	Charterers shall not be liable for demurrage unless the following conditions are satisfied:	64
	(i)	the requirements of <u>Part II clause 15 (3)</u> are met in full; and	65
	(ii)	a copy of this Charter signed by Owners is received by Charterers at least 2 (two) working days prior to the vessel's arrival in an Indian port.	66 67
		Charterers undertake to pay agreed demurrage liabilities promptly if the above conditions have been satisfied.	68 69
Japan	(6) (a)	Owners shall supply Charterers with copies of:-	70
	(i)	General Arrangement/Capacity plan; and	71
	(ii)	Piping/Fire Fighting Diagrams	72
		as soon as possible, but always within 4 working days after subjects lifted on this Charter.	73
	(b)	If requested by Charterers, Owners shall ensure a Superintendent, fully authorised by Owners to act on Owners' and/or master's behalf, is available at all ports within Japan to attend safety meetings prior to vessel's arrival at the port(s) and be in attendance throughout the time in each port and during each cargo operation.	74 75 76 77
	(c)	Vessel to record and print out the position with date/time by Global Positioning System when vessels enters Japanese Territorial Waters ("JTW") in order to perform vessel's declaration of entering JTW for crude oil stock piling purpose.	78 79
	(d)	If under <u>Part I clause (E)</u> of this Charter Japan, or in particular ports or berths in Tokyo Bay and/or the SBM at UBE Refinery, are discharge options and if the vessel is over 220,000 metric tons deadweight and has not previously discharged in Tokyo Bay or the SBM at UBE Refinery then:	80 81 82 83
	(i)	Owners shall submit an application of Safety Pledge Letter confirming that all safety measures will be complied with; and	84 85
	(ii)	Present relevant ship data to the Japanese Maritime Safety Agency.	86
		Owners shall comply with the above requirements as soon as possible but always within 4 working days after subjects lifted on this Charter.	87 88
	(e)	If Charterers instruct the vessel to make adjustment to vessel's arrival date/time at discharge port(s) in Japan, any adjustments shall be compensated in accordance with <u>Part I clause (L)</u> of this Charter. If vessel is ordered to drift off Japan, at a location in Owners'/master's option, then the following shall apply:-	89 90 91 92
	(i)	Time from vessel's arrival at drifting location to the time vessel departs, on receipt of Charterers' instructions, from such location shall be for Charterers' account at the demurrage rate stipulated in <u>Part I clause (J)</u> of this Charter.	93 94 95
	(ii)	Bunkers consumed whilst drifting as defined in sub clause (e)(i) above shall be for Charterers' account at replacement cost.	96 97
		Owners shall provide full documentation to support any claim under this clause.	98
New Zealand	(7) (a)	Owners of vessels carrying Persistent Oil - as defined by the International Group of P&I Clubs - which shall always incorporate Crude and Fuel Oil, Non Persistent Oil as defined by the International Group of P&I Clubs - which shall always incorporate Petroleum Products; and Chemicals, warrant that the vessel shall comply at all times with the Maritime Safety Authority of New Zealand's Voluntary Routeing Code for Shipping whilst transiting the New Zealand coast and / or en route to or from ports in New Zealand and whether laden or in ballast.	99 100 101 102 103 104
	(b)	the following voyage routing will apply:	105
	(i)	vessels to keep a minimum of 5 miles off the New Zealand coast (and outlying islands) until approaching the port's pilot station with the following exceptions:	106 107
	a)	to pass a minimum of 4 miles off the coast when transiting Cook Strait;	108
	b)	to pass a minimum of 5 miles to the east of Poor Knights Islands and High Peaks Rocks;	109
	c)	to pass a minimum of 3 miles from land when transiting the Colville or Jellicoe Channels.	110
		If due to safe navigation and or other weather related reasons the vessel proceeds on a different route to those set out above, the Owners and master shall immediately advise Charterers and Owner's agents in New Zealand of the route being followed and the reasons for such deviation from the above warranted route.	111 112 113
Thailand	(8)	If <u>Part I clause (E)</u> of this Charter includes option to discharge at a port/berth in Thailand then the following, which is consistent with industry practice for ships discharging in Thailand, shall apply over and above any other terms contained within this Charter:-	114 115
	(a)	Laytime shall be 96 running hours	116
	(b)	Freight payment under <u>Part II clause 5</u> of this Charter shall be made within 15 days	117

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Issued March 2005

"SHELLVOY 6"

PART III

		of receipt by Charterers of notice of completion of final discharge of cargo.	119
	(c)	Cargo quantity and quality measurements shall be carried out at load and discharge ports by mutually appointed independent surveyors, with costs to be shared equally between Owners and Charterers.	120 121
		This is additional to any independent surveyors used for the <u>Cargo Retention clause 48</u> in Part II of this Charter.	122 123
United Kingdom	(9) (a)	It is a condition of this Charter that Owners ensure that the vessel fully complies with the latest Sullom Voe regulations, including but not limited to:	124 125
	(i)	current minimum bulk loading rates; and	126
	(ii)	pilot boarding ladder arrangements.	127
		Owners shall also comply with Charterers' instructions regarding the disposal of ballast from the vessel. Charterers shall accept any deadfreight claim that may arise by complying with such instructions.	128 129
	(b)	It is also a condition of this Charter that Owners ensure that the vessel fully complies with the latest Tranmere and Shellhaven regulations, including but not limited to:	130 131
	(i)	being able to ballast concurrently with discharge ; or	132
	(ii)	maintaining double valve segregation at all times between cargo and ballast if the vessel has to part discharge, stop to ballast, then resume discharge.	133 134
	(c)	in the event of loading or discharge at Tranmere, Shell U.K. Ltd. shall appoint tugs, pilots and boatmen on behalf of Owners. The co-ordinator of these services shall be OBC, who will submit all bills to Owners direct, irrespective of whether OBC are appointed agents or not. Owners warrant they will put OBC in funds accordingly.	135 136 137 138
United States of America	(10)(a)	It is a condition of this Charter that in accordance with U.S. Customs Regulations, 19 CFR 4.7a and 178.2 as amended, Owners have obtained a Standard Carrier Alpha Code (SCAC) and shall include same in the Unique Identifier which they shall enter, in the form set out in the above Customs Regulations, on all the bills of lading, Cargo manifest, Cargo declarations and other cargo documents issued under this Charter allowing carriage of goods to ports in the U.S. Owners shall be liable for all time, costs and expenses and shall indemnify Charterers against all consequences whatsoever arising directly or indirectly from Owners' failure to comply with the above provisions of this clause.	139 140 141 142 143 144 145 146
		Owners warrant that they are aware of the requirements of the U.S Bureau of Customs and Border Protection ruling issued on December 5th 2003 under Federal Register Part II Department of Homeland Security 19 CFR Parts 4, 103, et al. and will comply fully with these requirements for entering U.S ports.	147 148 149 150
Coastguard compliance	(b)	Owners warrant that during the term of this Charter the vessel will comply with all applicable U.S. Coast Guard (USCG) Regulations in effect as of the date the vessel is tendered for first loading hereunder. If waivers are held to any USCG regulation Owners to advise Charterers of such waivers, including period of validation and reason(s) for waiver. All time costs and expense as a result of Owners' failure to comply with the foregoing shall be for Owners' account.	151 152 153 154 155
	(c)	Owners warrant that they will	156
	(i)	comply with the U.S. Federal Water Pollution Control Act as amended, and any amendments or successors to said Act	157 158
	(ii)	comply with all U.S. State Laws and regulations applicable during this Charter, as they apply to the U.S. States that Charterers may order vessel to under <u>Part I clauses (D/E)</u> of this Charter.	159 160
	(iii)	have secured, carry aboard the vessel, and keep current any certificates or other evidence of financial responsibility required under applicable U.S. Federal or State Laws and regulations and documentation recording compliance with the requirements of OPA 90, any amendments or succeeding legislation and any regulations promulgated thereunder. Owners shall confirm that these documents will be valid throughout this Charter.	161 162 163 164 165
W-8BEN	(d)	If the recipient of the freight due under this Charter does not file taxes within the US, then such recipient shall complete an IRS Form W-8BEN and forward the original by mail to Charterers, attention "Freight Payments". Should this not be received in a timely manner, then Charterers shall not be liable for interest on late payment of freight, or be in default of this Charter for such late payment.	166 167 168 169
Vapour Recovery System		Owners warrant that the vessel's vapour recovery system complies with the requirements of the United States Coastguard.	170 171
Vietnam	(11)	If required by Charterers, when loading Bach Ho crude oil, Owners will instruct the master to start the cargo heating system(s) prior to loading commencing.	172 173

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Πανεπιστήμιο Πειραιώς

ANNEX 4

Comparison of Laytime exceptions

Delays	Asbatankvoy	BP Voy3	Bp Voy4	Shellvoy5/6	ExxonMobil Voy 2000/2005
Adverse weather at anchorage	*	½	½	^	½
Adverse weather at berth	*	½	½	*	½
Adverse sea state conditions	*	½	½	*	½
Awaiting tide	*	-	*½	^	-
Awaiting daylight	*	-	-	^	-
Awaiting pilot	*	-	-	^	-
Awaiting tugs	*	-	-	^	-
Awaiting documents O/B (hours)	NS	2h	3h	1h/#2h	2h
Act of God/war/riot	*	½	½	½	*
Ballasting/deballasting & slops	o	+	+	+	+
Breakdown of shore machinery	½	½	½	*/#½	½
Breakdown of vessel	o	-	-	-	-
Bunkering	NS	NS	NS	NS/#+	+
Crude oil washing (additional pumping time)	NS	6hr prorata	25%	0.75/tank	TBI
Cleaning vessel's tanks/pumps/pipelines	NS	-	-	NS/#-	-
ETA's 72/48/24 hour notices	NS	-	-	-	-
Excessive pumping time	NS	>24h	>24h	>24h	>24h
Fire/explosion in terminal	½	½	½	½	½
Fire/explosion at port	*	½	½	½	½
Gangway in place	*	*	-	*	-
Ice	*	*	*	^	*½
Inadequate documentation	NS	-	-	-	-
Other delays to berthing outside Charterer's control	-	*	*	^	½
Other delays outside Charterer's control	*	*	*	*	½
Port control requirements	*	*	*	^	-
Shifting to berth	o	-	-	-	-
Shifting between berths	*	*	*	*	*
Storm	½	½	½	NS	½
Strike/lockout at shore	½	½	½	*	½
Strike by tugs/pilots	-	-	-	-	-
Strike by Master/crew	-	-	-	-	-
Timebar for demurrage claims (days)	NS	90d	90d	60d/90d	90d

KEY

*	Counts as used laytime/demurrage
-	Does not count as used laytime/demurrage
o	Does not count as used laytime
^	Preventing laytime to start/if already in laytime, same counts as used laytime/demurrage
½	Any delay will be treated at half-rate
*½	Any delay due to tide unpredicted counts at half-rate
+	Does not count as used laytime/demurrage unless concurrent with load/discharge
NS	Not specified
TBI	To be included
>Hr	If the allowance is exceeded, laytime/demurrage shall count
25%	Additional 25% pumping allowance (upon Charterers' request)
#	Only applicable for Shellvoy6

Πανεπιστήμιο Πειραιώς

ANNEX 5

Sample oil contract

A. Sales CIF contract

DATE: /5/ 2010



(MP/2010/2)

Tender For Gasoline and Gasoil Supply During The second Half of 2010 Via South – Khor Al-Zubair Terminal By Vessels

SOMO; as one of Iraqi Ministry Of Oil formations, located in Baghdad, Hay Al Mo'utasim, adjacent to Risafa Fun Fair, is pleased to invite companies to bid for the supplying of quantities of Gasoline and Gasoil by vessels to Iraq via **Khor Al-Zubair** terminal. Interested reputable parties are invited to submit their bids that should be complied to the following conditions:-

1ST: - General Conditions

- 1- Bids submitted should be typed on the bidder's correspondence format letters (full address, Tel., Fax, e-mail and mobile numbers to be clearly mentioned) duly signed by the applicant; whose name and official rank should be indicated.
- 2- Bids should be submitted to the tender's box at SOMO's headquarter in sealed and stamped envelope to be affixed with the tender title and code as mentioned herein above.
- 3- The following documents should be attached with the bid:-
 - A deposit of 1% of the estimated value of the quantity intended for contracting should be made in favour of SOMO through an endorsed cheque or cash payment or unconditional and valid bank guarantee issued either by an Iraqi state bank(Trade Bank Of Iraq, Rafidein Bank, Al-Rasheed Bank) or by banks authorized by (CBI) Central Bank of Iraq (e.g. Regional Cooperation Bank, North Bank, Al-Bilad Islamic Bank For Investment & Finance). **For calculating such deposits, the monthly average of Gasoline and Gasoil price as published in Platts related publication for April 2010 as stipulated below in Para (4) "Price" of each product.** However, this deposit shall be confiscated if the awarded company refuses to sign the contract after one week from the date of bid awarding notification is made. Non-awarded companies will retrieve their deposits. As for the awarded companies, the said deposits shall be changed to 5% of the estimated contractual value as a performance bond.
 - Recent, valid and authentic letter of authorization legalized by the Iraqi embassy at the country of registration if the application for bid is submitted by the company's representative (s).
 - Companies' profile for the new bidders that have not submitted their profile before.
 - All Iraqi / foreign companies that have a registered bureau in Iraq should submit a certificate issued by the Iraqi General Committee of Taxation confirming the settlement of taxation valid for 2009.
 - **All Iraqi / foreign companies should submit a certificate of their financial competency issued by a reputable financial institutions / organizations.**
- 4- Bids submitted by bidders, that failed to execute previous contracts with SOMO, shall be neglected (SOMO's Option).
- 5- Submission of bids shall commence on May 6, 2010 until May 26 , 2010 at **12:00 Baghdad time**, bids submitted after closing time shall be disregarded.
- 6- Final results will be announced at SOMO's headquarter.
- 7- Awarded bidder(s) shall bear costs (as a percentage of the contracted quantity) of advertisement in newspapers and other media means.

- 8- SOMO shall not be obliged to enter into discussions with unsuccessful bidders as to the results of the bid evaluation.
- 9- SOMO reserves the right not to award the tender and such decision shall be final and binding for the bidders.
- 10- Without prejudice SOMO is not obliged to award the tender to the lowest bidder.
- 11- Bidding, awarding and all measures to the extent of contracting should be made in accordance with valid Iraqi laws and regulations exercise by SOMO.

2ND: - Import Conditions

Qualified bidders should observe the following conditions:

A- Gasoline: -

1. **Quality:** Unleaded average 92 Research Octane Number Min. of the following guaranteed specifications:

Sp.gravity @ 15 °C	(0.750) *
Distilled @ 100°C Vol. %	(30) Min.
Distilled @ 145°C Vol. %	(70) Min.
Final Boiling Point °C	225 Max.
Residue Vol.%	2 Max.
Colour	Red or Clear & Transparent
Sulphur Content %Wt	0.1 Max.
Methanol content& other oxygenates (vol. %)	Nil
Ethanol <u>and/or</u> ETBE <u>and/or</u> MTBE content (vol. %)	10 % Max.(even for the mixture)
Existent Gum (mg/100ml)	5.0 Max
Induction Period @ 100°C (Minute)	240 Min.
(Copper Strip Corrosion)	1 Max.
Lead content	Nil
R.V.P. (Kgm/cm ²) @ 37.8° C	0.45 – 0.84

* Indication and not a control specification

Note: Samples taken should be clear free from water and any suspended matter.

2. Quantity:

- Total quantity of around (675000) M. Tons ±10% (Subject to increase /decrease (**Buyer's option**)).
- Monthly quantity of around (112500) M. Tons ±10% (Subject to increase /decrease (**Buyer's option**)).
- **Duration of contact :- 1st of July until 31st of December 2010.**
- The above quantity will be awarded to the successful bidder(s).
- Seller(s) undertakes to commence delivery of the above quantities at the Iraqi terminal as of the 1st of July 2010.
- Seller(s) undertakes to spread the said quantities as evenly as possible over the course of the delivery period.
- Buyer (SOMO) has the right at his sole option to review the quantity (i.e. maintain, increase, decrease and/or to consider contract to be expired on 31/12/2010 and/or to extend the validity of the said contract) . However, Buyer shall inform seller of such case within 15 days prior to each case.

3. Discharge Point: CIF Khor Al -Zubair Terminal.

4. Price:

A. Please quote your best competitive price per M.T. of gasoline CIF Khor Al-Zubair based on the average of the mean quotations for **“Prem unl. 10ppm” as published by Platts European Marketscan under the heading FOB Med (Italy)**.

Applicable Platts quotations shall be the five published quotations around the B/L date, two preceding the B/L date, and two following B/L date. If no quotation on B/L date then only four quotations shall apply two immediately preceding the B/L date and two immediately following the B/L date.

B. Seller undertakes to pay (50) cents/M.T to cover monitoring cost at discharge port in Iraq.

C. Seller shall bear the discharge fee levied by port authority (in Iraqi dinar) prevailing at the time of discharge.

D. The Seller & the Buyer shall appoint (on periodically basis) a mutually acceptable independent inspector to determine the quantities of vessel's tanks on board before and after discharging operation, and the costs of such inspection to be 50% for Seller's account & 50% for Buyer's account. The findings of the inspector shall be final and binding on both parties.

5. Specifications Deviations:

If the delivered Gasoline product is found by our laboratories to be deviated from the contracts' guaranteed specification stated in Para- 1. “Quality” above, the Buyer has the right to take the following measures :

- a- If the deviation found to be within the accepted limits, buyer has the right to impose a fine (as shown in the under listed table) and Seller is obliged to pay the same upon receiving a written notification from Buyer.

Specifications	The measuring unit	Acceptable limits	Acceptable limits with penalty	The amount of penalty (% from cargos value)
Final boiling point Max.	Deg C	225	230	0.01% for each (1 deg.) above 225
Residue Max.	Vol. %	2	2.5	0.02% for each (0.1 vol.) above 2.0
Sulphur content Max.	Wt. %	0.1	0.2	0.05% for each (0.05 wt.) above 0.1
Octane No. Min.		92	88	1% for each (1 deg.) less than 92

However, Seller undertakes to comply with contractual specification stipulated on Para 1. “Quality”

- b- The Buyer (SOMO) has the right to reject the said cargo if the deviation in specifications is found to be out of the acceptable limits (as shown in the above table) and the Seller shall bear all costs & damages resulted thereby. other consequences resulted thereof shall be dealt in accordance with the Iraqi legal regulations.

B- Gasoil: -**1- Quality: according to the following guaranteed specification:**

Sp.gravity at 15 °C	(0.85)*
Pour point °C	(-9) Max.
Flash point (Pm.) Deg c	60 Min.
Sulphur Content wt%	0.1 Max.
Ash wt%	0.01Max.
Cetane No.	50 Min.
Diesel index	52 Min
Rams-bottom Carbon Residue (on 10% Res. wt%)	0.2 Max.
Colour (ASTM)	2 Max.
Viscosity Cst @ 40 °C	5.6 Max.
Distilled @ 350 °C Vol. %	85 Min.

* Indication and not a control specification

Note:- Samples taken should be clear free from water and any suspended matter.

2- Quantity:

- Total quantity of around (38250) M. Tons ±10% (Subject to increase /decrease (Buyer's option).
- Monthly quantity of around (12750) M. Tons ±10% (Subject to increase /decrease (Buyer's option).
- **Duration of contact:- 1st of July until 30th of September 2010.**
- The above quantity will be awarded to the successful bidder(s).
- Seller(s) undertakes to commence supply of the above quantities at the Iraqi terminal as of the 1st of July 2010 (Buyers Option).
- Seller(s) undertakes to spread the said quantities as evenly as possible over the course of delivery period.
- Buyer (SOMO) has the right at his sole option to review the quantity (i.e. maintain, increase, decrease and/or to consider contract to be expired on 30/9/2010 and/or to extend the validity of the said contract) . However, Buyer shall inform Seller of such case within 15 days prior to each case.

3- Discharge Point: CIF basis at Khor Al -Zubair Terminal.**4- Price:**

- A. Please quote your best competitive price per M.T. of Gasoil **CIF** at Khor Al-Zubair based on the average of the mean quotations **for "Gasoil" as published by Platts Asia-Pacific/Arab Gulf Marketscan under the heading FOB Arab Gulf.**
Applicable Platts quotations shall be the five published quotations around the B/L date, two preceding the B/L date, and two following B/L date. If no quotation on B/L date then only four quotations shall apply two immediately preceding the B/L date and two immediately following the B/L date.
- B. Seller undertakes to pay (50) cents/M.T to cover monitoring cost at discharge port in Iraq for CIF Basis.
- C. Seller shall bear the discharge fee levied by port authority (in Iraqi dinar) prevailing at the time of discharge for CIF Basis.
- D. The Seller & the Buyer shall appoint (on periodically basis) a mutually acceptable independent inspector to determine the quantities of vessel's tanks on board before and after discharging operation, and the costs of such inspection to be 50% for Seller's account &

50% for Buyer's account. The findings of the inspector shall be final and binding on both parties.

5- Specifications Deviations:

If the delivered Gasoil product is found by our laboratories to be deviated from the contracts' guaranteed specification stated in Para – 1. "quality" above, the buyer has the right to take the following measures :

- a- If the deviation found to be within the accepted limits, Buyer has the right to impose a fine (as shown in the under listed table) and Seller is obliged to pay the same upon receiving a written notification from Buyer.

specifications	the Measuring unit	Acceptable limits	Acceptable limits with penalty	The amount of penalty (% from cargos value)
Flash point(PM)Min.	Deg C	60	55	0.2% for each 1deg. less than 60
Pour point Max.	Deg C	-9	-6	0.1% for each 3 deg. above -9
Sulphur content Max.	Wt. %	0.1	0.2	0.1% for each 0.01 wt. above 0.1
Color (ASTM) Max.		2	2.5	0.1% for each 0.1 deg. above 2.0
Rams-bottom Carbon Residue Max.	Wt. %	0.2	0.25	0.1% for each 0.01 wt. above 0.2
Diesel index Min.		52	51	1% for each 1 deg. less than 52
Cetane No. Min.		50	49	1% for each 1 deg. less than 50

However, seller undertakes to comply with contractual specification stipulated on para1. "quality"

- b- The Buyer (SOMO) has the right to reject the said cargo if the deviation in specifications is found to be out of the acceptable limits (as shown in the above table) and the Seller shall bear all costs & damages resulted thereby. Other consequences resulted thereof shall be dealt in accordance with the Iraqi legal regulations.

The following regulation shall be applied for each of the above petroleum products:-

1- Payment:

Payment shall be made by an irrevocable documentary letter of credit covering the monthly quantities delivered at Iraqi discharge terminal/depots according to SOMO's standard payment procedures.

2- Penalty:

If Seller's vessel, loaded with oil products, arrives Khor Al-Zubair terminal after her accepted laycan range, penalty equivalent to the daily demurrage rate stipulated in the charter party shall be imposed on the days of the delay and prorata for part of the day. However, Buyer reserves the right to terminate the contract at his sole option if the Seller's vessel fails to deliver of oil products within the agreed laycan range for three consecutive trips for CIF basis.

3- Monthly penalty:

If Seller fails to supply the monthly quantity according to Para (2-QUANTITY) of each products , the Buyer has the right to impose a fine as shown in the below formula, and seller is obliged to pay the same upon receiving a written notification from buyer:-

$$\text{Value of penalty} = \text{Value of undelivered monthly quantity}^* \times 0.02$$

* where in the "Value of undelivered monthly quantity" = [0.75 – (delivered monthly percentage) × monthly contractual quantity] × applicable weighted price for the month of delivery

4- OFF-SPEC PRODUCT:

Seller undertakes to deliver Gasoline and Gasoil conforming to contractual specifications. In case that Gasoline or Gasoil cargo is found to be off specs by buyer representative at Khor Al-Zubair Terminal, Buyer has the right to reject the said cargo & Seller shall bear all costs & damages resulting thereby, **a fine equal to(10%) of the value of the said cargo shall be**

imposed on Seller. Amount of the said fine shall be deducted from Seller's next invoice(s) . Seller has no right to claim the fined amount under any circumstances. Other consequences resulting thereof shall be dealt in accordance with the Iraqi legal regulations.

- 5- Buyer has the right to terminate the contract at his sole option if the Seller's fails to supply oil products to the monthly contractual quantity for two consecutive months and Seller has no right to claim under any circumstances.
- 6- Final contract liquidation shall be made upon receiving a certificate issued by the Iraqi General Committee Of Taxation confirming the settlement of taxation.
- 7- **All other terms and conditions as per SOMO's standard terms and conditions.**

**Director General
SOMO**

Source: <http://www.docstoc.com/docs/82953409/Gasoline-Supply-Contract>

Sample crude contract

B. Sales FOB contract



PETROLEOS DE VENEZUELA S.A. AND CHINA NATIONAL UNITED OIL CORPORATION AND CHINA DEVELOPMENT BANK CORPORATION CONFIRM THAT THIS VERSION OF THE PETROLEUM SALES AND PURCHASE CONTRACT IS THE FORM AGREED IN THEIR MEETINGS IN VENEZUELA AND SINGAPORE FROM 16 MARCH TO 18 MARCH 2011 AND IS IN SUBSTANTIALLY AGREED FORM SUBJECT TO REVIEW BY LOCAL COUNSEL, INTERNAL APPROVALS OF EACH PARTY, AND ANY AMENDMENTS OF A MINOR OR TYPOGRAPHICAL NATURE.

 Mr Asdrubal Chavez J.
 Vice President
 For and on behalf of
PETROLEOS DE VENEZUELA S.A.

 Mr Zhao Yong
 Vice President
 For and on behalf of
CHINA NATIONAL UNITED OIL CORPORATION

PETROLEUM SALES AND PURCHASE CONTRACT

CONTRACT NO. _____

PDVSA PETROLEO, S.A. IS PLEASED TO CONFIRM THIS SALES AGREEMENT, IN ACCORDANCE WITH THE FOLLOWING TERMS AND CONDITIONS:

1. ENTITIES:

PURCHASER: CHINA NATIONAL UNITED OIL CORPORATION
 PETROCHINA INTERNATIONAL PLAZA
 NO.27 CHENGFANG STREET XICHENG DISTRICT, BEIJING,100033 CHINA.

SELLER: PDVSA PETROLEO, S.A. ON BEHALF OF THE BOLIVARIAN REPUBLIC OF VENEZUELA
 URB. LA CAMPIÑA, AVDA. LIBERTADOR, CALLE EL EMPALME
 EDIF. PETROLEOS DE VENEZUELA, TORRE OESTE, PISO 7
 VENEZUELA 1060.

2. RECITALS

WHEREAS, THE MINISTRY OF PEOPLE'S POWER FOR PLANNING AND FINANCE OF THE BOLIVARIAN REPUBLIC OF VENEZUELA ("MPF"), THE MINISTRY OF PEOPLE'S POWER FOR ENERGY AND PETROLEUM OF THE BOLIVARIAN REPUBLIC OF VENEZUELA ("MEP"), EL FONDO DE DESARROLLO NACIONAL S.A. PETROLEOS DE VENEZUELA S.A. ("PDVSA"), BANCO DE DESARROLLO ECONOMICO Y SOCIAL DE VENEZUELA ("BANDES"), CHINA DEVELOPMENT BANK CORPORATION ("CDB") AND CHINA NATIONAL UNITED OIL CORPORATION ("PURCHASER") HAVE ENTERED INTO THE FRAMEWORK AGREEMENT DATED _____, 2011 IN ORDER TO INCREASE THE SINO-VENEZUELA JOINT FUND (THE "FRAMEWORK AGREEMENT");

WHEREAS CDB, BANDES, PDVSA AND PURCHASER HAVE SIGNED A FOUR PARTY AGREEMENT IN _____, 2011 ("FOUR PARTY AGREEMENT").



WHEREAS, CDB AS LENDER AND BANDES AS BORROWER HAVE ENTERED INTO (I) A FACILITY AGREEMENT PURSUANT TO WHICH CDB WILL PROVIDE A FACILITY OF UP TO US\$4,000,000,000 TO BANDES DATED _____, 2011 (THE "FACILITY AGREEMENT");

WHEREAS, PURCHASER AND SELLER (DIRECTLY AND THROUGH THEIR AFFILIATES) HAVE ALREADY ESTABLISHED A FAVORABLE AND STRATEGIC RELATIONSHIP IN THE OIL TRADING BUSINESS;

WHEREAS, PURCHASER AND SELLER INTEND TO FURTHER MAINTAIN AND INCREASE THE TRADING VOLUME OF FUEL AND/OR CRUDE OIL, AND TO ENHANCE BUSINESS COOPERATION IN THE FUTURE;

BOTH PARTIES AGREE TO MAKE THIS PETROLEUM SALES AND PURCHASE CONTRACT BASED ON THE FOLLOWING TERMS AND CONDITIONS:

NOW THEREFORE, IN ACCORDANCE WITH THE FRAMEWORK AGREEMENT AND THE RESPECTIVE INSTRUCTIONS (WITH EACH COPY TO PURCHASER) OF MPF, MEP AND PDVSA TO APPLY ALL PROCEEDS DUE AND PAYABLE UNDER THIS PETROLEUM SALES AND PURCHASE CONTRACT TOWARDS THE REPAYMENT AND SATISFACTION OF THE OBLIGATIONS OF BANDES UNDER OR IN CONNECTION WITH THE FACILITY AGREEMENT, SELLER IS PLEASED TO ENTER INTO THIS PETROLEUM SALES AND PURCHASE CONTRACT (THE "CONTRACT") FOR AND ON BEHALF OF THE BOLIVARIAN REPUBLIC OF THE VENEZUELA, AS A MECHANISM OF PAYMENT OF BANDES' OBLIGATIONS UNDER THE FACILITY AGREEMENT AS PER THE FOLLOWING TERMS AND CONDITIONS.

TERMS DEFINED IN THE FOUR PARTY AGREEMENT SHALL HAVE THE SAME MEANING WHEN USED IN THIS CONTRACT UNLESS OTHERWISE DEFINED HEREIN OR THE CONTEXT REQUIRES OTHERWISE.

3. BASIC TERMS:

3.1. TYPE OF SALE: FREE ON BOARD (FOB)

THE TYPE OF SALE COULD BE COST AND FREIGHT (CFR) SUBJECT TO MUTUAL AGREEMENT.

3.2 PRODUCT TYPE:

3.2.1 BASE PRODUCT: IFO-380

3.2.2 ADDITIONAL PRODUCT: FUEL OIL AMUAY BY MUTUAL AGREEMENT.

3.2.3 CRUDE OIL: ANY CRUDE OIL MUTUALLY AGREED BY THE PARTIES

3.3 DURATION:

THIS CONTRACT SHALL COME INTO EFFECT ON THE DATE ON WHICH THIS CONTRACT IS DULY SIGNED BY THE PARTIES HERETO (THE "EFFECTIVE DATE"), HOWEVER THE DELIVERY DATE SHALL BEGIN ON 19 FEBRUARY 2012 (THE "DELIVERY DATE"), UNTIL THE LATER TO OCCUR OF (I) THREE (3) YEARS FROM THE EFFECTIVE DATE, OR (II) THE DATE ON WHICH ALL THE OBLIGATIONS OF BANDES UNDER THE FACILITY AGREEMENT HAVE BEEN IRREVOCABLY AND UNCONDITIONALLY SATISFIED IN FULL.

3.4 QUANTITY

3.4.1 IT IS UNDERSTOOD THAT SELLER SHALL DELIVER A VOLUME OF 230.000 BARRELS PER DAY ACCORDING TO THE FOUR PARTY AGREEMENT (AS MAY ADJUSTED IN ACCORDANCE WITH THE FOUR PARTY AGREEMENT OR THIS AGREEMENT). THE MINIMUM QUANTITY TO BE DELIVERED AS SPECIFIED ABOVE SHALL NOT PREVENT SELLER, ACTING ON BEHALF OF THE BOLIVARIAN REPUBLIC OF VENEZUELA, FROM INCREASING THE BARRELS OF FUEL AND/OR CRUDE OIL SPECIFIED PURSUANT TO OR OTHERWISE IN ACCORDANCE WITH THIS CONTRACT.



3.4.2 TOLERANCE: IN ANY CARGO TO BE SUPPLIED UNDER THIS CONTRACT, FOR OPERATIONAL REASONS SELLER MAY REDUCE THE AGREED NOMINATION VOLUME BY UP TO 10 PCT (MAX 10%). NO DEAD FREIGHT CLAIM CAN BE MADE AGAINST SELLER IF SELLER PROVIDES AT LEAST THE BASIC NOMINATION LESS 10 PCT (MAX 10%). ADDITIONALLY, BOTH PURCHASER AND SELLER AGREE THAT NO CLAIM WILL BE SUBMITTED FOR PAYMENT IF THE INITIAL VALUE IS LESS THAN 30,000 US DOLLARS.

3.4.3 CRUDE OIL: PER MUTUAL AGREEMENT, SELLER IN ANY MONTH COULD SUBSTITUTE, THE FUEL OIL CARGO BY CRUDE OIL CARGO, OR GIVE AN ADDITIONAL CARGO AND SUCH CRUDE OIL SHALL BE ACCORDING TO CLAUSE 3.2.3 OF THIS CONTRACT. ANY SUBSTITUTION OR ADDITION OF CRUDE OIL SHALL BE IN ACCORDANCE WITH THE PROCEDURE SET OUT IN CLAUSE 7.6 OF THE FOUR PARTY AGREEMENT.

IF FOR WHATEVER REASON SELLER'S PRODUCTION OR DELIVERY OF FUEL AND/OR CRUDE OIL IS ADVERSELY AFFECTED, SELLER SHALL ENSURE THAT IT SHALL GIVE PURCHASER PRIORITY IN THE SUPPLY OF FUEL AND/OR CRUDE OIL IN THE TYPE AND QUANTITY STIPULATED HEREIN.

NOTWITHSTANDING THE MINIMUM QUANTITY OF FUEL AND/OR CRUDE OIL STATED ABOVE, IN THE EVENT THAT THE PROSPECTIVE DEBT SERVICE COVER RATIO IS OR WILL BE LESS THAN 1.3 PDVSA PETROLEO S.A. MAY EITHER:

- (I) JOINTLY WITH PDVSA, PROCURE THE REQUISITE MPF INSTRUCTIONS UPON RECEIPT OF WHICH INSTRUCTIONS, DEPOSIT INTO THE COLLECTION ACCOUNT PART OR ALL THE PROCEEDS FROM THE SALE OF EXPORT GOODS BY PDVSA PETROLEO S.A. TO THE PURCHASER ON BEHALF OF THE BOLIVARIAN REPUBLIC OF VENEZUELA (IN ADDITION TO THOSE PROCEEDS DUE IN RESPECT OF CONTRACT NO. SA 137033 AND THIS CONTRACT) TO ENSURE THAT THE ACTUAL DEBT SERVICE COVER RATIO IS EQUAL TO OR GREATER THAN 1.3 ON THE DATE FALLING 35 DAYS PRIOR TO THE NEXT IMMEDIATE INTEREST PAYMENT DATE; OR
- (II) INCREASE THE MINIMUM QUANTITY OF FUEL AND/OR CRUDE OIL SET OUT ABOVE, IN EACH CASE, SUCH THAT THE TOTAL VALUE OF FUEL AND/OR CRUDE OIL TO BE DELIVERED TO AND PAYABLE BY PURCHASER PURSUANT TO THIS CONTRACT SHALL CAUSE THE ACTUAL DEBT SERVICE COVER RATIO TO BE NO LESS THAN 1.3 ON THE DATE FALLING 35 DAYS PRIOR TO THE NEXT IMMEDIATE INTEREST PAYMENT DATE.

IN THE EVENT SELLER IS REQUIRED TO DELIVER BARRELS OF FUEL AND/OR CRUDE OIL IN ADDITION TO THE MINIMUM QUANTITIES SET OUT IN THE TABLE ABOVE, SELLER SHALL DELIVER, AND PURCHASER SHALL PURCHASE AND MAKE PAYMENT FOR, ANY SUCH ADDITIONAL BARRELS OF FUEL AND/OR CRUDE OIL, IN EACH CASE, ON THE TERMS AND CONDITIONS SET OUT HEREIN.

3.5 QUALITY:

3.5.1 IFO-380

SPECIFICATION	DESC	UCM	TEST METH	TYPE	MIN	MAX
ALUMINUM + SILICE		PPM	D8184	REPORT	N/A	80
API GRAVITY @ 60F (15,5C)		API	D1298	N/A	11.2	N/A
ASH CONTENT		WT PCT	D482	N/A	N/A	.15
CARBON CONRADSON		WT PCT	D189	N/A	N/A	18
DENSITY @ 15C		KG/M3	D1298	N/A	N/A	991
FLASH POINT, FM		CELSIUS	D93	N/A	65.6	N/A
POUR POINT, WINTER		CELSIUS	D97	N/A	N/A	15.6



SODIUM CONTENT	PPM	A.A/IP288	N/A	N/A	60
SULPHUR CONTENT	WT PCT	D4294	N/A	N/A	3.0
VANADIUM CONTENT	PPM	D5863	N/A	N/A	300
VISCOSITY KINEMATIC @122F (50C)	CST	D445	N/A	N/A	380
WATER BY DISTILLATION	VOL PCT	D95	N/A	N/A	1.0

3.5.2 FUEL OIL AMUAY

SPECIFICATION DESCRIPTION	UOM	TEST METHOD	MIN	MAX
ALUMINIUM	PPM	D5184	N/A	30
API GRAVITY @60F(15,5C) API		D1298	10.5	N/A
ASH CONTENT	WT PCT	D482	N/A	0.15
CARBON CONRADSON	WT PCT	D189/D4530	N/A	16
FLASH POINT, FM	F	D93	150	N/A
POUR POINT	F	D97	N/A	60
WATER AND SEDIMENT	VOL PCT	D1796	N/A	1.0
SILICE	PPM	D5184	N/A	50
SODIUM CONTENT	PPM	D5708	N/A	70
SULPHUR CONTENT	WT PCT	D2622	N/A	3.00
VANADIUM CONTENT	PPM	D5863	N/A	500
VISCOSITY @ 122F (50C)	CST	D445	N/A	850

3.5.3 QUALITY OF OTHER CRUDE OIL SHALL BE DETERMINED ACCORDING TO SELLER'S COMMERCIAL SPECIFICATIONS AND ACCEPTED BY PURCHASER.

3.5.4 QUALITY CERTIFICATION: THE QUALITY CERTIFICATION WILL BE BASED ON THE VOLUME TO BE USED FROM EACH SHORE TANK OR/AND EACH VESSEL FROM PDVSA USED AS FLOATING TANK ASSIGNED TO CARRY OUT A SHIP-SHORE-SHIP OPERATION AT THE LOADING PORT NOMINATED BY THE SELLER TO SUPPLY PURCHASER.

3.5.5 QUANTITY CERTIFICATION: THE QUANTITY CERTIFICATION WILL BE BASED ON THE TOTAL VOLUME DELIVERED BY EACH SHORE TANK OR/AND EACH VESSEL FROM PDVSA USED AS FLOATING TANK ASSIGNED TO CARRY OUT A SHIP-SHORE-SHIP OPERATION AT THE LOADING PORT NOMINATED BY THE SELLER TO SUPPLY PURCHASER, ADJUSTED BY THE V.E.F OF EACH PDVSA VESSEL (IF IT APPLIES) TAKING INTO ACCOUNT THE QUALITIES (API, BS&W) OF EACH CONTAINER.

3.6 LOADING PORTS: BONAIRE AND/OR FREEPORT, BAHAMAS, AMUAY OR ANY OTHER PORT NOMINATED BY SELLER AND ACCEPTED BY PURCHASER.

4. DESTINATION:

IFO-380: SINGAPORE AND/OR CHINA.

VENEZUELAN CRUDE OIL: CNPC REFINERY SYSTEM.

OTHER CRUDE OIL: MUTUAL AGREEMENT.

FUEL OIL AMUAY: DISCUSSION CASE BY CASE BY MUTUAL AGREEMENT.

SELLER AGREES TO ENTER INTO THIS CONTRACT BASED ON PURCHASER'S EXPRESSLY UNDERTAKING TO DESTINE THE IFO-380 TO: CHINA AND/OR SINGAPORE

PURCHASER WILL DECLARE THE INTENDED SPECIFIC DISCHARGE PORT(S) IN CHINA AND/OR SINGAPORE WHEN SENDING VESSEL INSTRUCTIONS TO SELLER AT LEAST TEN (10) DAYS BEFORE THE FIRST DAY OF THE AGREED LOADING RANGE IN ACCORDANCE TO THE PDVSA PETROLEO Y GAS, S.A. CONTRACT FOR THE LATEST SALE OF CRUDE OIL AND OR PETROLEUM PRODUCTS GENERAL CONDITIONS FOB (PDVSA GTC).



PURCHASER MAY ONLY CHANGE THE FINAL DESTINATION WITH SELLER'S WRITTEN APPROVAL GIVEN THREE (3) DAYS PRIOR TO THE LOADING DATE AND SELLER SHALL APPLY A PENALTY TO PURCHASER DUE TO THAT MODIFICATION OF THE FINAL DESTINATION IF FINAL DESTINATION IS DIFFERENT THAN THESE SPECIFY IN THE CONTRACT (CHINA AND/OR SINGAPORE). SUCH PENALTY WILL BE THE PRICE DIFFERENTIAL BETWEEN THE CONTRACT PRICE AND THE PRICE WHICH SELLER WOULD HAVE CHARGED, IN ACCORDANCE WITH ITS COMMERCIAL PRACTICES FOR THE SAME FUEL OIL SOLD TO THE NEW DESTINATIONS.

SUCH RIGHT SHALL ACCRUE REGARDLESS OF WHETHER SELLER HAS GRANTED OR DENIED PURCHASER ITS CONSENT FOR A CHANGE IN THE DESTINATION OF THE PRODUCTS.

PURCHASER SHALL PROVIDE SELLER, WITHIN SIXTY (60) CALENDAR DAYS FROM THE B/L DATE (B/L DATE COUNTS AS DAY ZERO), WITH A DISCHARGE CERTIFICATE FOR THE PURPOSE OF VERIFYING DESTINATION OF THE PRODUCT. FOR THE PURPOSE OF THIS CLAUSE A DISCHARGE CERTIFICATE MAY CONSIST OF:

- AN INDEPENDENT INSPECTOR'S CERTIFICATE OF DISCHARGE, OR
- THE CORRESPONDING CUSTOMS FEES RECEIPT OR OTHER GOVERNMENT DOCUMENTS EVIDENCING THE PORT IN WHICH THE OIL WAS DISCHARGED.

THE DISCHARGE PORT CERTIFICATE SHALL BE SENT TO:

AV. LIBERTADOR CON CALLE EL EMPALME.
EDIF. PETRÓLEOS DE VENEZUELA, TORRE OESTE
PISO 7, CARACAS, VENEZUELA POSTAL CODE:1060
ATTN. ANIRIS ROJAS / LISMEIDA AVENDAÑO
EMAIL: ROJASAMX@PDVSA.COM / AVENDANOLC@PDVSA.COM
FAX: 88-212-708-3186

5. FOB PRICE

THE PRICE OF THE PRODUCT TO BE DELIVERED PURSUANT TO THE CONTRACT HEREOF, SHALL BE DETERMINED BY MEANS OF THE FOLLOWING PRICE FORMULA:

IFO380: HSFO 380 4% SINGAPORE PLATT'S MID (USD/MT) PLUS K (USD/MT) MINUS FREIGHT (USD/MT).

WHERE K = USD -2.50 PER METRIC TON (MINUS USD TWO DOLLARS AND FIFTY CENTS PER METRIC TON)

FUEL OIL AMUAY: SUBJECT TO DISCUSSION CASE BY CASE PER MUTUAL AGREEMENT.

CRUDE OIL: SUBJECT TO DISCUSSION CASE BY CASE PER MUTUAL AGREEMENT

5.1 PRICING PERIOD:

5.1.1 PROVISIONAL PRICING PERIOD (FOR PROVISIONAL INVOICE): THE PRICING PERIOD WILL BE NINE (9) CONSECUTIVE EFFECTIVE QUOTATIONS PUBLISHED AROUND BILL OF LADING DATE (B/L DATE). IF B/L DATE FALLS ON SATURDAY THE PRIOR QUOTATION SHOULD BE CONSIDERED DEEMED B/L DATE BUT IF B/L DATE FALLS ON SUNDAY, HOLIDAY OR A DAY THAT PLATT'S DOES NOT QUOTE THEN THE NEXT EFFECTIVE QUOTATION SHOULD BE CONSIDERED DEEMED B/L DATE FOR PRICE CALCULATION PURPOSE. ALWAYS NINE (9) SEPARATE EFFECTIVE QUOTATIONS TO BE APPLIED (NO DOUBLE DATES).

5.1.2 FINAL PRICING PERIOD (FOR FINAL INVOICE): THE PRICING PERIOD SHALL BE BASED ON THE AVERAGE OF THE EFFECTIVE PUBLISHED PRICE QUOTATIONS STARTING CALENDAR DATE FROM THIRTY ONE (31) TO SIXTY (60) AFTER BILL OF LADING DATE (B/L DATE COUNTS AS DAY ZERO)

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NOTE: FINAL PRICE TO BE ROUNDED TO FOUR (4) DECIMAL PLACES AND SHALL BE EXPRESSED IN DOLLARS OF THE UNITED STATES OF AMERICA (US\$) PER BARREL; WITH THE FIGURE IN THE FIFTH (5TH) DECIMAL PLACE FROM FIVE TO NINE ROUNDED UPWARDS AND THE FIGURE FROM ONE TO FOUR ROUNDED OFF.

5.2 FREIGHT

PURCHASER AND SELLER WILL COORDINATE ACCORDINGLY IN ORDER TO SECURE SUITABLE TONNAGE, COMPETITIVE MARKET RATES, GIVEN FREIGHT MARKET CONDITIONS AT THE TIME OF FIXING DATE OF CHARTERED VESSEL.

EVEN CHARTERING RESPONSIBILITY WILL ALWAYS BE BINDING ON PURCHASER, CV SHIPPING SHALL HAVE THE PRIORITY TO ACT AS PURCHASER'S TRANSPORTATION AGENT TO OFFER AND TO SUPPLY ITS CHARTERED OR OWNED VESSELS FOR A MINIMUM OF 25% OF THE TOTAL VOLUME UNDER THIS CONTRACT AND PURCHASER SHALL HAVE A MINIMUM OF TWENTY (20) DAYS PRIOR TO THE INTENDED LOADING WINDOW TO DEFINE ITS CHARTERED OFFER, AND PURCHASER MUST ALWAYS ENDEAVOR TO CHARTER AT THE LOWEST COST "SUITABLE TONNAGE" FOR EACH VOYAGE. IN THE EVENT THAT PDVSA HAVE VESSELS TO OFFER, PDVSA COULD OFFER THEIR VESSELS TO CV SHIPPING AS TRANSPORTATION AGENT OF PURCHASER.

PURCHASER SHALL HAVE THE OPTION TO EVALUATE CV SHIPPING'S OFFERED VESSEL AND ACCEPT OR REJECT IT WITHIN THE NEXT 24 CONTINUOUS HOURS (WORKING DAYS) AFTER THE PRESENTATION OF CV SHIPPING'S FREIGHT PROPOSAL.

IN THE EVENT THAT VESSEL IS CHARTERED BY CV SHIPPING, THE FREIGHT CALCULATION WILL BE BASED ON THE ACTUAL FREIGHT COST.

IN THE EVENT THAT THE VESSEL IS NOT CHARTERED BY CV SHIPPING, THE CALCULATION OF FREIGHT WILL BE AS FOLLOWS:

A SYSTEM OF BANDS SHALL BE USED TO DETERMINE THE VALUE OF THE APPLICABLE FREIGHT TO BE USED IN ANY OF THE PRICING FORMULAS SET FORTH IN CLAUSE 5 OF THIS AGREEMENT.

PURSUANT TO CLAUSE NUMBER TEN (10) OF THIS CONTRACT (NOMINATION), ON THE SAME DAY OF SELLER'S CONFIRMATION OF THE FIVE (5) DAY LOADING RANGE (THE CONFIRMATION DATE), THE SELLER SHALL REQUEST TO THE ASSOCIATION OF SHIP BROKERS & AGENTS (ASBA) AND TO THE LONDON TANKER BROKER PANEL (LTBP) AN INDEPENDENT MARKET ASSESSMENT TO BE COMPRISED OF A TEN (10) DAY PERIOD AROUND SELLER'S CONFIRMED LOADING RANGE, ONE WAY VOYAGE TO NINGBO (PEOPLE'S REPUBLIC OF CHINA OR SINGAPORE) FROM PDVSA SYSTEM (VENEZUELA, ARUBA, BONAIRE AND CURACAO RANGE) AS THE CASE MAY BE, AS WELL AS, ALL RELEVANT DESCRIPTIONS OF THE VESSEL SHIPPING THE CARGO IN QUESTION. THE INDEPENDENT MARKET ASSESSMENT SHALL BE REQUESTED UNDER LUMP SUM BASIS TO BOTH ASBA AND LTBP.

THE ARITHMETIC AVERAGE OBTAINED FROM THE MARKET ASSESSMENT OF THE ASBA AND THAT OF THE LTBP SHALL BE USED AND UNDERSTOOD AS THE MARKET REFERENCE FREIGHT.

THE ACTUAL FREIGHT SHALL BE UNDERSTOOD AS THE ACTUAL COST INCURRED BY PURCHASER FOR THE AFREIGHTMENT OF THE VESSEL LIFTING A GIVEN CARGO FROM PDVSA SYSTEM (VENEZUELA, ARUBA, BONAIRE AND CURACAO RANGE) TO NINGBO (PEOPLE'S REPUBLIC OF CHINA OR TO SINGAPORE) ONLY, EXCLUDING ANY COST RELATED TO DEMURRAGE CLAIMS, DEVIATIONS, EXTRA BUNKER CONSUMPTION, LIGHTERING, AND/OR ANY OTHER OPERATION (OF ANY KIND OR NATURE) UNDER PURCHASER'S REQUEST.

THE FREIGHT TO BE APPLIED THEN, IN ANY OF THE PRICING FORMULAS REFERRED TO IN CLAUSE 7 OF THIS CONTRACT, SHALL BE OBTAINED AS PER THE FOLLOWING

**APPRAISAL:**

A. IF THE ACTUAL FREIGHT FALLS WITHIN A RANGE OF PLUS OR MINUS FOUR PERCENT (+/- 4%) OF THE MARKET REFERENCE FREIGHT (HEREINAFTER REFERRED TO AS "THE PRIMARY BAND"), BEING PLUS FOUR PERCENT (+4%) THE UPPER LIMIT VALUE OF THE PRIMARY BAND AND MINUS FOUR PERCENT (-4%) THE LOWEST LIMIT VALUE OF THE PRIMARY BAND, THE APPLICABLE FREIGHT SHALL BE HUNDRED PERCENT (100%) OF THE ACTUAL FREIGHT VALUE.

B. IF THE ACTUAL FREIGHT FALLS WITHIN A RANGE OF PLUS OR MINUS EIGHT PERCENT (+/-8%) OF THE MARKET REFERENCE FREIGHT (HEREINAFTER REFERRED TO AS "THE SECONDARY BAND"), BEING PLUS EIGHT PERCENT (+8%) THE UPPER LIMIT OF THE SECONDARY BAND AND MINUS EIGHT PERCENT (-8%) THE LOWEST LIMIT OF THE SECONDARY BAND, THE FOLLOWING CONDITIONS SHALL APPLY:

B.1 IN CASE OF +8%, THE APPLICABLE FREIGHT SHALL BE EQUAL TO THE THIRTY PERCENT (30%) OF THE VALUE OBTAINED FROM THE ARITHMETIC SUBTRACTION OF THE ACTUAL FREIGHT MINUS THE UPPER LIMIT VALUE OF THE PRIMARY BAND PLUS THE HIGHEST LIMIT VALUE OF THE PRIMARY BAND.

B.2 IN CASE OF -8%, THE APPLICABLE FREIGHT SHALL BE EQUAL TO THE FIFTY PERCENT (50%) OF THE VALUE OBTAINED FROM THE ARITHMETIC SUBTRACTION OF THE LOWEST LIMIT VALUE OF THE PRIMARY BAND MINUS THE VALUE OF THE ACTUAL FREIGHT PLUS THE VALUE OF THE ACTUAL FREIGHT.

C. IN CASE THE ACTUAL FREIGHT IS GREATER THAN THE UPPER LIMIT OF THE SECONDARY BAND, THE APPLICABLE FREIGHT SHALL BE THE VALUE OF THE UPPER LIMIT VALUE OF THE SECONDARY BAND.

D. IN CASE THE ACTUAL FREIGHT IS LOWER THAN THE LOWEST LIMIT OF THE SECONDARY BAND, THE APPLICABLE FREIGHT SHALL BE THE VALUE OF THE LOWEST LIMIT OF THE SECONDARY BAND.

PURCHASER MUST SEND TO SELLER A COPY OF THE CHARTER PARTY NO LATER THAN FIVE (5) DAYS AFTER THE BILL OF LADING DATE (B/L DATE).

THE COST OF THE MARKET ASSESSMENT SHALL BE BORNE EQUALLY BETWEEN PURCHASER AND SELLER (50/50). THE MARKET ASSESSMENT SHALL BE SENT BY THE ASBA AND THE LTBP TO PURCHASER AND SELLER. PAYMENT OF THE ASSESSMENT SHALL BE EFFECTED DIRECTLY BY THE PARTIES HEREOF TO THE ASBA AND THE LTBP.

6. PAYMENT: OPEN ACCOUNT**IFO-380**

6.1 **PROVISIONAL PAYMENT** PROVISIONAL PAYMENT SHALL BE MADE BASED ON 100% OF THE PROVISIONAL INVOICE AMOUNT AND SHALL BE MADE THIRTY (30) DAYS AFTER B/L DATE (B/L DATE COUNTS AS DAY ZERO).

6.2 **FINAL PAYMENT** IT SHALL BE BASED ON THE PRICING PERIOD SET FORTH ABOVE IN CLAUSE 5.1.2. IN THE CASE OF A DIFFERENCE BETWEEN THE PROVISIONAL PAYMENT AND THE FINAL INVOICE DUE TO SELLER THE PAYMENT SHALL BE MADE WITHIN THREE (03) WORKING DAYS AFTER THE INVOICE IS SENT BY SELLER. IN CASE OF A DIFFERENCE DUE TO PURCHASER, THE AMOUNT SHALL BE OFFSET IN THE UPCOMING CARGO.

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NOTE WHEN SELLER HAS DELIVERED A CARGO IN THE LAST DAYS BEFORE THE END OF ANY QUARTER PAYMENT AND THE DUE DATE OF THE PROVISIONAL PAYMENT IS EXPECTED FOR THE NEXT QUARTER; THE SELLER SHALL HAVE THE RIGHT TO REQUEST PURCHASER AN ADVANCE PAYMENT JUST TO AVOID A QUARTERLY PAYMENT SHORTFALL IN THE FACILITY AGREEMENT. IN THIS CASE, TO BE AGREED BETWEEN PARTIES, PURCHASER FINANCIAL COST COULD BE INCLUDED IN THE ADVANCED PAYMENT INVOICE.

6.3 PAYMENT SELLER IRREVOCABLY INSTRUCTS PURCHASER TO PAY, AND PURCHASER SHALL PAY, ALL AMOUNTS PAYABLE IN RESPECT OF THE SALES AND PURCHASE OF FUEL AND/OR CRUDE OIL HEREUNDER DIRECTLY INTO THE COLLECTION ACCOUNT. ALL PAYMENTS TO BE MADE BY PURCHASER UNDER THIS CONTRACT MUST BE MADE IN US DOLLARS BY TELEGRAPHIC TRANSFER TO THE COLLECTION ACCOUNT AS DEFINED IN THE FACILITY AGREEMENT.

6.4 SELLER ACKNOWLEDGES AND AGREES THAT ANY PAYMENT UNDER THIS CONTRACT BY PURCHASER INTO THE COLLECTION ACCOUNT (AS DEFINED IN THE FACILITY AGREEMENT), AS APPLICABLE, SHALL CONSTITUTE SELLER'S GOOD RECEIPT OF THE SAME AMOUNT UNDER THIS CONTRACT. SELLER SHALL NOT INSTRUCT PURCHASER TO MAKE ANY PAYMENT UNDER THIS CONTRACT TO ANY ACCOUNT OTHER THAN THE COLLECTION ACCOUNT WITHOUT THE EXPRESS WRITTEN CONSENT OF CDB. OTHERWISE, PURCHASER SHALL HAVE THE RIGHT TO SUSPEND MAKING THE PAYMENT.

7. LAYTIME

SELLER SHALL HAVE AN ALLOWED LAYTIME OF SEVENTY TWO (72) HOURS SHINC TO COMPLETE THE LOADING OF A 2,000,000 BARRELS CARGO OF IFO-380 NOMINATED AND ACCEPTED UNDER THIS CONTRACT. ALLOWED LAYTIME SHALL COMMENCE WHEN THE VESSEL IS ALL FAST OR WHEN SIX (6) CONSECUTIVE HOURS HAVE EXPIRED SINCE THE TENDER OF NOTICE OF READINESS (NOR), WHICHEVER FIRST OCCURS, IF THE VESSEL ARRIVES DURING THE ACCEPTED THREE (3) DAYS LOADING RANGE. FOR OTHER SIZE OF CARGO THE LAYTIME SHALL BE DEFINED ON CASE BY CASE BASIS. (SEE CLAUSE 7 OF THE PDVSA FOB GENERAL CONDITIONS OF SALE).

CRUDE OIL AND FUEL OIL AMUAY SHALL BE NEGOTIATED ACCORDING TO THE CARGO SIZE.

8. INSPECTION

THE QUANTITY AND THE QUALITY OF EACH SHIPMENT OF PRODUCTS OR CRUDE OIL SHALL BE DETERMINED AT THE LOADING PORT OR/AND EACH VESSEL FROM PDVSA USED AS FLOATING TANK ASSIGNED TO CARRY OUT A SHIP-SHORE-SHIP OPERATION BY AN INDEPENDENT PETROLEUM INSPECTOR. SUCH INSPECTOR SHALL BE APPOINTED JOINTLY BY SELLER AND PURCHASER. INSPECTION COST SHALL BE BORNE EQUALLY BETWEEN PURCHASER AND SELLER (50/50). INDEPENDENT INSPECTOR WILL USE THE LATEST PETROLEUM INDUSTRY'S ACCEPTABLE TEST METHODS AND THE RESULTS SHALL BE RETAINED AT LOADING PORT FOR A PERIOD ON NINETY (90) DAYS AFTER THE BILL OF LADING DATE. NO CLAIMS ON QUANTITY AND/OR QUALITY SHALL BE ACCEPTED BY SELLER AFTER SAID NINETY (90) DAYS PERIOD. (SEE CLAUSE 2 OF THE PDVSA FOB GENERAL CONDITIONS OF SALE).

SELLER RESERVES THE RIGHT TO WITNESS THE DISCHARGE OPERATION OF THIS CARGO. IN CASE IT APPLIES, THE PROCEDURE WILL BE CARRIED OUT BY AN INDEPENDENT INSPECTOR 100% AT SELLER'S ACCOUNT, AND IT WILL NOT IMPLY ANY DEMURRAGE AT THE DESTINATION PORT.

9. NOMINATION

9.1 IFO-380 PURCHASER SHALL INFORM SELLER BY THE LATEST THE 10TH DAY OF EACH MONTH (M-1):

- * ITS TEN (10) DAY LOADING RANGE NOMINATION WITHIN WHICH PURCHASER PROPOSES TO LIFT THE PRODUCT FOR THE IMMEDIATE UPCOMING MONTH (M)





- THE QUANTITY OF THE PETROLEUM PRODUCTS PURCHASER PROPOSES TO LIFT DURING THE SUBSEQUENT MONTH.
- THE INTENDED DESTINATION OF THE NOMINATED CARGO.

SELLER SHALL CONFIRM TO THE PURCHASER A FIVE (5) DAY LOADING RANGE (THE CONFIRMATION DATE) NO LATER THAN FIVE (5) WORKING DAYS AFTER PURCHASER NOMINATION IS RECEIVED BY SELLER INCLUDING THE LOADING PORT.

THE AGREED FIVE (5) DAYS LOADING RANGE RESULTING FROM THE PROCEDURE SET OUT IN THE PRECEDING PROVISION OF THIS CLAUSE SHALL BE THEN NARROWED TO A THREE (3) DAYS LOADING RANGE (THE NARROWING) AND MAY BE SUBSEQUENTLY MODIFIED BY EXPRESS WRITTEN AGREEMENT BETWEEN THE PURCHASER AND SELLER, PROVIDED HOWEVER, THAT SUCH AGREEMENT IS RECORDED BY AN EXCHANGE OF CORRESPONDENCE. NOTWITHSTANDING THE AFOREMENTIONED, SELLER MAY REJECT PURCHASER NOMINATION AND GIVE A COUNTER PROPOSAL. IN ANY CASE, THE PARTIES SHALL ENDEAVOR TO AGREE ON A NOMINATION PROGRAM ACCEPTABLE TO BOTH PARTIES.

AT LEAST TEN (10) DAYS PRIOR TO THE FIRST DAY OF THE AGREED LOADING RANGE, PURCHASER SHALL NOTIFY SELLER OF THE FOLLOWING:

- (A) THE NAME AND CHARACTERISTICS OF THE VESSEL WHICH IT NOMINATES TO TAKE DELIVERY OF THE OIL.
- (B) THE DATE OF VESSEL'S ARRIVAL WITHIN THE AGREED LOADING RANGE.
- (C) APPROXIMATE QUANTITY AND QUALITY OF OIL TO BE LOADED CONSISTENT WITH THE QUANTITY AND QUALITY OF OIL WHICH LIFTING HAS BEEN NOMINATED AND ACCEPTED PURSUANT TO SECTION 5.4 OF THE PDVSA FOB GENERAL CONDITIONS OF SALE).
- (D) THE NAME OF THE PROPOSED INDEPENDENT INSPECTOR.

SELLER MAY EITHER REJECT OR ACCEPT PURCHASER'S VESSEL NOMINATION. IF SELLER REJECTS THE VESSEL NOMINATED, PURCHASER SHALL THEN TAKE IMMEDIATE ACTION TO NOMINATE ANOTHER VESSEL ACCEPTABLE TO SELLER.

PURCHASER SHALL BE ENTITLED TO SUBSTITUTE ANY VESSEL NOMINATED ACCORDING TO SECTION 6.1 OF THE PDVSA FOB GENERAL CONDITIONS OF SALE BY ANOTHER VESSEL OF SIMILAR SIZE AND CHARACTERISTICS, WITHOUT PREJUDICE TO SELLER'S RIGHT TO ACCEPT OR REJECT SUCH NEW NOMINATION AS PROVIDED FOR IN SECTION 6.2 ABOVE. HOWEVER, SELLER SHALL NOT UNREASONABLY REJECT ANY VESSEL OR A SUBSTITUTE NOMINATED BY PURCHASER.

9.2 CRUDE OIL AND FUEL OIL AMUAY

SUBJECT TO DISCUSSION CASE BY CASE PER MUTUAL AGREEMENT.

10. DEMURRAGE

AS PER CHARTER PARTY.

SELLER SHALL PAY PURCHASER DEMURRAGE IN DOLLARS OF THE UNITED STATES OF AMERICA FOR THE DEMURRAGE RESULTING WHEN THE USED LAYTIME EXCEEDS THE LAYTIME ALLOWED TO SELLER HEREUNDER. OTHER TERMS AND CONDITIONS RELATED TO DEMURRAGES CLAIM AND NOT STATED HERE SHALL BE APPLIED AS PER THE PDVSA GTC.

11. CLAIMS ON QUANTITY OR QUALITY

ANY CLAIM AS TO SHORTAGE IN QUANTITY OR DEFECTS IN THE QUALITY OF THE PRODUCT SHALL BE MADE BY WRITTEN CLAIM TO SELLER AS SOON AS POSSIBLE AFTER SUCH APPARENT





SHORTAGE AND/OR DEFECTS ARE DISCOVERED, WITH ALL DETAILS AND SUPPORTING DOCUMENTATION NECESSARY TO EVALUATE THE CLAIM. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CLAIM AS TO SHORTAGE IN THE QUANTITY OR DEFECT IN THE QUALITY OF OIL, IF SUCH WRITTEN CLAIM IS NOT RECEIVED BY SELLER WITHIN NINETY (90) CALENDAR DAYS AFTER THE BILL OF LADING DATE.

OTHER TERMS AND CONDITIONS RELATED TO CLAIMS ON QUANTITY OR QUALITY AND NOT STATED HERE SHALL BE APPLIED AS PER THE PDVSA GTC.

12. MARITIME SECURITY REGULATIONS

A) PURCHASER SHALL PROCURE THAT THE SHIP COMPLIES WITH THE REQUIREMENTS OF THE INTERNATIONAL SHIP AND PORT FACILITY SECURITY CODE, THE RELEVANT AMENDMENTS TO CHAPTER XI OF SOLAS (COLLECTIVELY REFERRED AS ISPS CODE) AND WITH OTHER LAWS AND REGULATIONS RELATING TO MARITIME SECURITY. ANY COSTS OR EXPENSES INCLUDING DEMURRAGE, RETENTION, DELAY OR ANY ADDITIONAL CHARGE, FEE OR DUTY LEVIED ON THE SHIP AT THE LOADING PORT AND ACTUALLY INCURRED BY SELLER RESULTING DIRECTLY FROM THE FAILURE OF THE SHIP TO COMPLY WITH THE ISPS CODE AND OTHER MARITIME SECURITY REGULATIONS, SHALL BE FOR THE ACCOUNT OF PURCHASER, INCLUDING ANY DEMURRAGE AT THE LOADING PORT RESULTING DIRECTLY FROM THE SHIP BEING REQUIRED BY THE PORT FACILITY AUTHORITIES TO TAKE ANY ACTION OR ANY SPECIAL OR ADDITIONAL SECURITY MEASURES OR UNDERGO ADDITIONAL INSPECTIONS BY VIRTUE OF THE 10 SHIP'S PREVIOUS PORTS OF CALL AS ESTABLISHED IN THE ISPS CODE.

B) NOTWITHSTANDING ANY PRIOR ACCEPTANCE OF SHIP BY SELLER, IF AT ANY TIME PRIOR TO THE PASSING OF RISK AND THE TITLE, THE SHIP CEASES TO COMPLY WITH THE REQUIREMENTS OF THE ISPS CODE:

B.A) SELLER SHALL HAVE THE RIGHT NOT TO BERTH SUCH NOMINATED SHIP AND ANY DEMURRAGE RESULTING SHALL NOT BE FOR THE ACCOUNT OF THE SELLER.

B.B) PURCHASER SHALL BE OBLIGED TO SUBSTITUTE SUCH NOMINATED SHIP COMPLYING WITH THE REQUIREMENTS OF THE ISPS CODE.

C) SHIP AGENTS SHALL COMPLY WITH THE ISPS CODE AND OTHER MARITIME SECURITY REGULATIONS; IN CONSEQUENCE, ANY DELAY BY FAILURE OF COMPLIANCE WILL BE FOR THE ACCOUNT OF PURCHASER.

D) PRIOR TO LOADING, PURCHASER SHALL PROVIDE SELLER WITH A COPY OF INTERNATIONAL SHIP SECURITY CERTIFICATE ACCORDING WITH THE ISPS CODE.

E) SELLER SHALL PROCURE THAT THE LOADING PORT/TERMINAL/INSTALLATION COMPLIES WITH THE REQUIREMENTS OF THE ISPS CODE AND OTHER MARITIME SECURITY REGULATIONS. ANY COSTS OR EXPENSES IN RESPECT OF THE SHIP INCLUDING DEMURRAGE, RETENTION, DELAY OR ANY ADDITIONAL CHARGE, FEE OR DUTY LEVIED ON THE SHIP AT THE LOADING PORT AND ACTUALLY INCURRED BY PURCHASER RESULTING DIRECTLY FROM THE FAILURE OF THE LOADING PORT/TERMINAL/INSTALLATION TO COMPLY WITH THE ISPS CODE AND OTHER MARITIME SECURITY REGULATIONS SHALL BE FOR THE ACCOUNT OF THE SELLER.

F) PRIOR TO LOADING OF THE SHIP, SELLER WILL PROVIDE PURCHASER WITH A COPY OF INTERNATIONAL PORT SECURITY CERTIFICATE IN ACCORDANCE TO THE ISPS CODE.

G) IF THE MARITIME SECURITY IS AFFECTED BY ANY EVENT OR CIRCUMSTANCE, AS DEFINED IN THE ISPS CODE, NOT IMPUTABLE TO ANY OF THE PARTIES, AND SPECIAL SECURITY MEASURES OR ACTIONS HAVE TO BE TAKEN BY THE PORT AUTHORITIES OR THE SHIP; ANY COST OR EXPENSE FOR DEMURRAGE, RETENTION OR DELAY, MAY BE SHARED BY PURCHASER AND SELLER IN 50%.

13. ARBITRATION





13.1 ALL DISPUTES, CONTROVERSIES OR CLAIMS ARISING OUT OF OR IN RELATION TO THIS CONTRACT, INCLUDING THE VALIDITY, INVALIDITY, BREACH, OR TERMINATION THEREOF, SHALL BE SETTLED EXCLUSIVELY BY ARBITRATION IN ACCORDANCE WITH THE UNCITRAL ARBITRATION RULES ("RULES") IN EFFECT AT THE TIME OF THE ARBITRATION, EXCEPT AS SUCH RULES MAY BE MODIFIED HEREIN OR BY MUTUAL AGREEMENT OF THE PARTIES:

- THE ARBITRATION SHALL BE ADMINISTERED BY THE SINGAPORE INTERNATIONAL ARBITRATION CENTRE ("SIAC") IN ACCORDANCE WITH ITS PRACTICE RULES AND REGULATIONS;
- THE PLACE OF ARBITRATION SHALL BE SINGAPORE;
- THE LANGUAGE OF THE ARBITRATION SHALL BE ENGLISH;
- THE NUMBER OF ARBITRATORS SHALL BE THREE (3) TO BE APPOINTED AS FOLLOWS;
- THE CLAIMANT SHALL APPOINT ONE (1) ARBITRATOR IN THE REQUEST FOR ARBITRATION;
- THE RESPONDENT SHALL APPOINT ONE (1) ARBITRATOR WITHIN THIRTY (30) DAYS FOLLOWING THE SERVICE OF THE REQUEST FOR ARBITRATION UPON THE RESPONDENT. IF AT THE END OF THE 30-DAY PERIOD THE SECOND ARBITRATOR HAS NOT BEEN APPOINTED, THE CHAIRMAN OR DEPUTY CHAIRMAN OF THE SIAC SHALL APPOINT THE SECOND ARBITRATOR AS SOON AS PRACTICABLE.
- THE TWO (2) ARBITRATORS THUS APPOINTED SHALL CHOOSE THE THIRD ARBITRATOR WHO WILL ACT AS THE PRESIDING ARBITRATOR OF THE TRIBUNAL. IF WITHIN THIRTY (30) DAYS OF THE APPOINTMENT OF THE SECOND ARBITRATOR, THE TWO (2) APPOINTED ARBITRATORS FAIL TO APPOINT THE PRESIDING ARBITRATOR, THE CHAIRMAN OR DEPUTY CHAIRMAN OF THE SIAC SHALL APPOINT THE PRESIDING ARBITRATOR.
- THE ARBITRAL AWARD SHALL BE IN WRITING AND SHALL BE FINAL AND BINDING ON THE PARTIES. THE AWARD MAY INCLUDE AN AWARD OF COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND DISBURSEMENTS. JUDGMENT UPON THE AWARD MAY BE ENTERED BY ANY COURT HAVING JURISDICTION THEREOF OR HAVING JURISDICTION OVER THE PARTY AGAINST WHICH THE AWARD IS ENTERED OR ITS ASSETS;
- DURING ARBITRATION, ALL THE PARTIES SHALL CONTINUE TO FULFIL THEIR RESPECTIVE OBLIGATIONS UNDER THIS CONTRACT;
- THE PARTIES AGREE TO WAIVE, FOR PURPOSES OF ARBITRATION PURSUANT TO THIS CLAUSE (ARBITRATION), ANY RIGHT OF APPLICATION TO DETERMINE A PRELIMINARY POINT OF LAW OR APPEAL TO ANY COURT OF LAW ON A POINT OF LAW WHICH MAY BE AVAILABLE TO IT UNDER ANY APPLICABLE LAW.

14. TAXES, DUTIES AND CHARGES

14.1 SELLER SHALL BE RESPONSIBLE FOR THE EXPORT LICENSE, PERMIT OR OTHER OFFICIAL AUTHORIZATION FROM RELEVANT GOVERNMENTAL AUTHORITIES OF EXPORT COUNTRIES, AND CARRY OUT WHERE APPLICABLE ALL CUSTOMS FORMALITIES NECESSARY FOR THE EXPORT OF THE CARGO. THE COSTS OF CUSTOMS FORMALITIES NECESSARY FOR EXPORT AS WELL AS ALL DUTIES, TAXES AND OTHER CHARGES PAYABLE UPON EXPORT IS FOR SELLER'S ACCOUNT.

14.2 PURCHASER SHALL BE RESPONSIBLE FOR THE IMPORT LICENSE, PERMIT OR OTHER OFFICIAL AUTHORIZATION, FROM RELEVANT GOVERNMENTAL AUTHORITIES OF IMPORT COUNTRIES, AND CARRY OUT WHERE APPLICABLE ALL CUSTOMS FORMALITIES NECESSARY FOR THE IMPORT OF THE CARGO. THE COSTS OF CUSTOMS FORMALITIES NECESSARY FOR IMPORT AS WELL AS ALL DUTIES, TAXES AND OTHER CHARGES PAYABLE UPON IMPORT IS FOR PURCHASER'S ACCOUNT.



14.3 EACH PARTY SHALL KEEP THE OTHER PARTY WHOLE AND HARMLESS IN EVENT OF ANY DELAYS, DETENTION TO THE PERFORMING VESSEL AND/OR CARGO DUE TO ANY DELAY DERIVED FROM NON-COMPLIANCE WITH 14.1 AND 14.2.

15. INSURANCE

THE RESPONSIBILITY FOR SECURING INSURANCE ON ANY SHIPMENT, WHETHER AGAINST MARINE, WAR OR OTHER RISKS AND THE COSTS RESULTING THEREFROM SHALL REST WHOLLY ON PURCHASER.

16. LIMITATION OF LIABILITY

NEITHER PARTY SHALL BE LIABLE FOR INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS OR REVENUES.

17. ASSIGNMENT

NO PARTY MAY ASSIGN OR TRANSFER ALL OR ANY OF THEIR RESPECTIVE RIGHTS, BENEFITS OR OBLIGATIONS UNDER THIS CONTRACT EXCEPT WITH THE PRIOR WRITTEN CONSENT OF THE OTHER PARTY AND CDB.

NO PARTY SHALL CREATE IN FAVOR OF ANY PERSON ANY MORTGAGE, CHARGE, PLEDGE, LIEN OR OTHER SECURITY INTEREST OR ANY OTHER AGREEMENT OR ARRANGEMENT HAVING A SIMILAR EFFECT OVER OR IN RESPECT OF ALL OR ANY PART OF THE THIS CONTRACT INCLUDING, BUT NOT LIMITED TO, THE PROCEEDS DUE HEREUNDER.

18. APPLICABLE LAW

ALL MATTERS RELATED TO THE VALIDITY, INTERPRETATION OR PERFORMANCE OF THIS CONTRACT SHALL BE GOVERNED BY THE LAWS OF THE BOLIVARIAN REPUBLIC OF VENEZUELA.

19. NON - COMPLIANCE:

SELLER AND PURCHASER AGREE THAT WITHIN FIFTEEN (15) CALENDAR DAYS FROM THE CARGO LOADING SCHEDULED DATES, IF PURCHASER HAS NOT MADE BEST ENDEAVOUR TO LIFT THE CARGO, THE SELLER SHALL IMPOSE THE PURCHASER A PENALTY PAYMENT TO COVER ALL OPERATIONAL COST INCLUDED BUT NOT LIMITED TO: AGENTS, TUGS, MARINE TRANSPORTATION, STORAGE, INSPECTION AND ADMINISTRATIVE FEE AND EXPENSES INCURRED BY THE SELLER IN THE EXECUTION OF THIS CONTRACT DUE TO DELAYS CAUSED BY THE PURCHASER. THIS PAYMENT IS TO BE CANCELLED WITHIN THE TEN (10) DAYS FOLLOWING THE WRITTEN PARTICIPATION BY SELLER TO THE PURCHASER.

20. LATE ARRIVAL

THE LATE ARRIVAL TO BE APPLICABLE FOR ANY DELAY OCCURRED AS CAUSED BY THE PURCHASER IN THE AGREED LOADING RANGE, THE PURCHASER SHALL BE CHARGED WITH A FEE OF ONE THOUSAND FIVE HUNDRED DOLLARS OF THE UNITED STATES OF AMERICA (USD 1,500.00) PER HOUR OR A FRACTION OF AN HOUR. IN CASE OF LATE ARRIVAL SELLER SHALL MAKE BEST ENDEAVOURS TO BERTH THE VESSEL WITHOUT ANY UNREASONABLE DELAY.

21. SELLER'S UNDERTAKING

SELLER REPRESENTS AND WARRANTS TO PURCHASER THAT ALL NECESSARY APPROVALS AND AUTHORIZATIONS (FOR THE SALE OF FUEL AND/OR CRUDE OIL ON BEHALF OF THE BOLIVARIAN REPUBLIC OF THE VENEZUELA UNDER THIS CONTRACT, FOR THE EXECUTION OF THIS CONTRACT AND THE ALLOCATION OF THE PROCEEDS GENERATED UNDER THIS CONTRACT) SHALL HAVE BEEN DULY OBTAINED AND MAINTAINED DURING THE DURATION OF THIS CONTRACT.

22. WAIVER OF IMMUNITY

22.1 EACH PARTY IRREVOCABLY AND UNCONDITIONALLY:

(i) AGREES THAT IF THE OTHER PARTY BRINGS PROCEEDINGS AGAINST IT OR ITS ASSETS IN RELATION TO THIS CONTRACT, NO IMMUNITY (SOVEREIGN OR OTHERWISE) FROM THOSE PROCEEDINGS (INCLUDING, WITHOUT LIMITATION, SUIT, ATTACHMENT PRIOR TO JUDGEMENT,



OTHER ATTACHMENT, THE OBTAINING OF JUDGEMENT, EXECUTION OR OTHER ENFORCEMENT) WILL BE CLAIMED BY OR BEHALF OF ITSELF OR WITH RESPECT TO ITS ASSETS;

(II) WAIVES ANY SUCH RIGHT TO IMMUNITY WHICH IT OR ITS ASSETS NOW HAS OR MAY SUBSEQUENTLY ACQUIRE; AND

(III) CONSENTS GENERALLY IN RESPECTS OF ANY SUCH PROCEEDINGS TO THE GIVING OF ANY RELIEF OR THE ISSUE OF ANY PROCESS IN CONNECTION WITH THOSE PROCEEDINGS, INCLUDING, WITHOUT LIMITATION, THE MAKING, ENFORCEMENT OR EXECUTION AGAINST ANY ASSETS WHATSOEVER (IRRESPECTIVE OF ITS USE OR INTENDED USE) IF ANY ORDER OR JUDGEMENT WHICH MAY BE MADE OR GIVEN IN THOSE PROCEEDINGS.

22.2 EXCEPTIONS

NOTWITHSTANDING SUB-CLAUSE 19.1 ABOVE, SELLER DOES NOT WAIVE SUCH IMMUNITY IN RESPECT OF ANY OF ITS PROPERTY OR ASSETS WHICH ARE:

(I) USED BY A DIPLOMATIC OR CONSULAR MISSION OF VENEZUELA (EXCEPT AS MAY BE NECESSARY TO ELECT SERVICE OF PROCESS);

(II) PROPERTY OF A MILITARY CHARACTER AND UNDER THE CONTROL OF A MILITARY AUTHORITY OR DEFENCE AGENCY OR PROPERTY FORMING PART OF THE CULTURAL HERITAGE OF VENEZUELA; OR

(III) SUBJECT TO IMMUNITY UNDER THE LAWS OF VENEZUELA.

23. FORCE MAJEURE

SEE THE PDVSA FOB GENERAL CONDITIONS OF SALE.

24. MODIFICATION

THE TERMS AND CONDITIONS OF THIS CONTRACT CAN NOT BE MODIFIED OR AMENDED IN ANY WAY EXCEPT BY AGREEMENT OF BOTH PARTIES IN WRITING.

25. NOTICES

EXCEPT AS OTHERWISE PROVIDED IN THIS CONTRACT, ALL NOTICES TO BE GIVEN UNDER THE CONTRACT BY EITHER PARTY TO THE OTHER SHALL BE SUFFICIENTLY GIVEN IN WRITING, BY TELEX, CABLE OR FACSIMILE AND DELIVERED TO THE OTHER PARTY AS FOLLOWS:

PDVSA PETROLEO S.A.

NAME	DEPARTMENT	PHONE	FAX	E-MAIL
ALGHYS DE LOS RIOS	COMMERCIAL MANAGER	58212-7083527	58212-7088011	DELOSRIOS@PDVSA.COM
TIBISAY ZABALETA	TRADER	58212-7083369	58212-7085011	ZABALETATD@PDVSA.COM
YOLANDA JIMÉNEZ	TRADER	58212-7083146	58212-7083565	JIMENEZYD@PDVSA.COM
LUIS VÁSQUEZ	TRADER	58212-7083171	58212-7085011	VASQUEZLEL@PDVSA.COM
ANIRIS FÓJAS	CONTRACT ADMINISTRATION	58212-7083249	58212-7083186	FÓJASANR@PDVSA.COM
LISMEIDA AVENDAÑO	CONTRACT ADMINISTRATION	58212-708	58212-7083186	AVENDANOLO@PDVSA.COM
ONESIMO DEZEO	QUALITY AND TECHNOLOGY	58212-7084601	58212-7085026	DEZEOO@PDVSA.COM
NILYEN GIL	VOLUME AND DEMURRAGE	58212-7084530	58212-7085026	GILN@PDVSA.COM
MARTIN RIVAS	OPERATIONAL	58212-7081157	58212-7083186	RIVASMDX@PDVSA.COM
PAOLA MARCANO	OPERATIONAL	58212-7081440	58212-7083186	MARCANOPM@PDVSA.COM
MIGUEL BOLÍVAR	FINANCE	58212-7083614	58212-7083944	BOLIVARM@PDVSA.COM
ROBERT LÓPEZ	OPERATIONAL	58212-7084967	58212-7083186	LOPEZROX@PDVSA.COM
LOURDES MAVAREZ	OPERATIONAL	58212-7083144	58212-7083186	MAVAREZLM@PDVSA.COM
LISLIEBETH ANEZ	OPERATIONAL	58212-7081370	58212-7083186	ANEZLJ@PDVSA.COM



ANA LUGO	OPERATIONAL	58212-7081565	58212-7083186	LUGOANG@PDVSA.COM
VANESA SALCEDO	OPERATIONAL	58212-7081736	58212-7083186	SALCEDOVS@PDVSA.COM

CHINA NATIONAL UNITED OIL CORPORATION

NAME	DEPARTMENT	PHONE	FAX	E-MAIL
MR. ZHANG TAO	COMMERCIAL	86-424-2104735	86-2122634949	ZHANG.TAO@PETROCHINA-USA.COM
MR. WANG JIE	COMMERCIAL	86-1066227151	86-1066227055	WANG.JIE@SCHINAOL.COM.CN
MR. TOM RICE	CHARTERING	1-201-7181805	1-201-7181819	TOM.RICE@PETROCHINA-USA.COM
MR. JERRY ZHANG	SHIPPING OPERATION	1-201-7181804	1-201-7181819	JERRY.ZHANG@PETROCHINA-USA.COM
MR. WANG QING	OPERATION	86-212-2685135 86-424-1827870	86-2122634949	WANG.QING@PETROCHINA-USA.COM

ALL NOTICES AND COMMUNICATIONS BETWEEN SELLER AND PURCHASER ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT MUST BE RECEIVED BY SELLER OR PURCHASER WITHIN OFFICE HOURS (0800-1700, MONDAY TO FRIDAY) IN THE RELEVANT TIME ZONE AND SET IN ACCORDANCE WITH THE NOTIFICATIONS PROVISIONS HEREIN. ANY NOTICE OR COMMUNICATION ADDRESSED TO SOMEONE OTHER THAN THE PURCHASER'S OR SELLER'S REPRESENTATIVES NAMED HEREIN SHALL BE DEEMED TO HAVE NOT BEEN RECEIVED AND SHALL HAVE NO LEGAL OR CONTRACTUAL FORCE OR EFFECT. ANY NOTICE OR COMMUNICATIONS RECEIVED OUTSIDE OF OFFICE HOURS SHALL BE DEEMED TO HAVE BEEN RECEIVED ON THE NEXT WORKING DAY.

ALL OTHER TERMS AND CONDITIONS EXCEPT AS SET ABOVE SHALL BE AS PER PDVSA GTC, WHICH PURCHASER DECLARES TO KNOW AND ACCEPT. IN CASE THERE IS ANY DISCREPANCY BETWEEN THIS CONTRACT AND THE PDVSA GTC, THIS CONTRACT SHALL PREVAIL.

IN WITNESS WHEREOF EACH OF THE PARTIES HAS CAUSED THIS CONTRACT TO BE EXECUTED IN ENGLISH IN TWO COPIES BY THEIR RESPECTIVE DULY AUTHORIZED OFFICERS OR REPRESENTATIVES AS OF THE DATE OF MARCH ____, 2011.

MR. ASDRÚBAL CHÁVEZ, J.
VICE PRESIDENT
PDVSA PETRÓLEO, S.A.

MR. ZHAO YONG
VICE PRESIDENT
CHINA NATIONAL UNITED OIL CORPORATION

Source: <http://www.scribd.com/doc/74100775/Oil-Contract-Agreed-Form-18Mar11>

ANNEX 6

Example of General Terms & Conditions

PART ONE - FOB deliveries

1. Delivery

The Product shall be delivered by the Seller to the Buyer, in bulk FOB at the Loading Terminal on to Vessel(s) provided or procured by the Buyer.

2. Measurement and sampling, independent inspection and certification

2.1 Measurement and sampling

The quantity and quality of the Product delivered under the Agreement shall be determined by measurement, sampling and testing in accordance with the standard practice at the Loading Terminal at the time of shipment. Notwithstanding the provisions of Section 2.2, the certificates of quantity and quality (or such other equivalent documents as may be issued at the Loading Terminal) for the Product comprising the shipment issued in accordance with such standard practice shall, except in cases of manifest error or fraud, be conclusive and binding on both parties for invoicing purposes but without prejudice to the rights of either party to make any claim pursuant to Section 31.

2.2 Independent inspection

2.2.1 Either party may appoint a mutually acceptable independent inspector at the Loading Terminal, subject to any necessary prior agreement of the Loading Terminal operator having been obtained. Such appointment shall be notified in writing to the other party. Unless otherwise provided for in the Special Provisions, all charges in respect thereof shall be shared equally between the parties and the inspector's report shall be made available to both parties.

2.2.2 In addition to the independent inspector appointed pursuant to Section 2.2.1 or should the parties fail to mutually agree upon an independent inspector, either party may, at its own expense, appoint a representative at the Loading Terminal, subject to any necessary prior agreement of the Loading Terminal operator.

2.3 Place of Certification

Should it not be customary practice at the Loading Terminal at the time of shipment for measurement and sampling pursuant to Section 2.1 to take place at the Vessel's manifold immediately prior to loading, or should the parties agree otherwise, then it is a condition of the Agreement that the Seller shall be obliged to provide the same quantity and quality of the Product at the Vessel's permanent hose connection as set out in the certificates of quantity and quality so issued.

3. Risk and Property

3.1 Notwithstanding any right of the Seller to retain the documents referred to in Section 35 until payment, the risk and property in the Product delivered under the Agreement shall pass to the Buyer as the Product passes the Vessel's permanent hose connection at the Loading Terminal.

3.2 Any loss of or damage to the Product during loading, if caused by the Vessel or its officers or crew, shall be for the account of the Buyer. Any claim made by the Seller's supplier(s) against the Seller in respect of damage to any facilities at the Loading Terminal (or in the event the facilities are operated by the Seller any claim by the Seller or by an Affiliate of the Seller) caused by the Buyer's Vessel shall be borne by the Buyer.

4. Laydays

4.1 The Laydays shall be the day or range of days (issued in accordance with standard practice at the Loading Terminal) in which:

4.1.1 the Buyer's nominated Vessel must tender a valid NOR at the Loading Terminal pursuant to Section 6.1; and 4.1.2 the Seller shall have a sufficient quantity of the Product deliverable under the Agreement available at the Loading Terminal so as to enable loading to commence and continue on an uninterrupted basis pursuant to Section 6.2.

4.2 The Laydays shall be either:

4.2.1 as specified in the Special Provisions; or

4.2.2 established in accordance with the procedure(s) specified in the Special Provisions; or

4.2.3 where such Laydays cannot be ascertained by reference to Sections 4.2.1 or 4.2.2, as notified by the Seller to the Buyer by not later than either:

- (a) the date 12 days prior to the first day of the Laydays so notified; or
- (b) the 20th day of the month preceding the first month in which the Laydays fall, whichever is the later.

4.3 The Laydays established in accordance with Sections 4.2.2 or 4.2.3 shall, unless otherwise specifically agreed between the parties, fall entirely within any delivery period specified in the Special Provisions.

5. – Nomination of Vessels

5.1 Full and part cargo lots

Unless otherwise provided in the Special Provisions, delivery hereunder shall be given and taken in one full cargo lot or a part cargo lot at the Buyer's option but subject always to the prior agreement of the Loading Terminal operator.

5.2 Nomination of Vessel

5.2.1 Each Vessel shall be nominated in writing by the Buyer to the Seller. Such nomination shall specify:

- (a) the name of the Vessel, date built, summer deadweight, length and flag;
- (b) the grade and approximate quantity to be loaded;
- (c) the ETA of the Vessel;
- (d) the destination(s) of the Vessel;
- (e) such other information as may be required by the Loading Terminal operator from time to time;
- (f) full written instructions regarding the particulars and destination of the bills of lading and such other customary Loading Terminal documentation which may be required by the Buyer;
- (g) details of any cargo on board or to be laden on board if loading a part cargo; and
- (h) confirmation that the Vessel complies with the requirements of Schedule E hereto.

5.2.2 The nomination shall not be effective unless it is received by the Seller not later than 5 days prior to the first day of the Laydays. Notwithstanding the foregoing, if the nomination is received by the Seller after such 5th day and is accepted by the Seller, it shall be effective but the Buyer shall be liable for all costs resulting from any delays in loading the Product under the Agreement that are due directly to the failure by the Buyer to nominate in a timely manner and any such delays shall not count as time allowed to the Seller for loading or if the Vessel is on demurrage, as demurrage. In the event that the Agreement is entered into 5 days or less prior to the first day of the Laydays then the nomination must be received, by the Seller, no less than 2 days prior to the first day of the Laydays.

5.3 Substitution of Vessels

In respect of any nominated Vessel, the Buyer may, or if necessary to perform its obligations under the Agreement must, substitute therefore another Vessel provided always that: 5.3.1 the size of the substitute Vessel and the quantity to be loaded shall not, without the prior written consent of the Seller, differ materially from the size of the Vessel previously named and the quantity specified in the nomination;

5.3.2 the Laydays which would have applied in respect of the Vessel originally nominated shall apply to the substitute Vessel; and

5.3.3 the Buyer shall give to the Seller notice in writing of the name and the destination(s) of the substitute Vessel as soon as practicably possible but in any event not later than the ETA of the substitute Vessel or the ETA of the Vessel originally nominated, whichever is the earlier.

5.4 ETA

The Buyer or its representative shall notify the Seller or its representative of any change(s) in the ETA notified pursuant to Sections 5.2 or 5.3, but the Laydays shall be revised only with the Seller's specific written agreement. The giving or withholding of such agreement shall be at the absolute discretion of the Seller.

5.5 Rejection of nominations and Vessels

5.5.1 The Seller shall give notice accepting or rejecting any Vessel nominated by the Buyer within 1 Business Day of receipt of the Buyer's nomination.

5.5.2 Notwithstanding anything to the contrary express or implied elsewhere herein, the Seller shall have the right:

- (a) to reject any nomination made by the Buyer pursuant to Sections 5.2 or 5.3 on any reasonable ground; and/or
- (b) to refuse, on any reasonable ground, to accept for loading any Vessel named pursuant to Sections 5.2 or 5.3; and/or

(c) to reject the Vessel in question, 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), on any reasonable ground if such Vessel is involved in any incident or more recent information regarding such Vessel becomes available to the Seller which indicates that the information relied upon by the Seller in previously accepting the Vessel was materially incorrect or incomplete; and/or

(d) without derogating from any other reasonable grounds that may be available to the Seller it shall be a reasonable ground for the Seller to reject or refuse a Vessel pursuant to this Section if the Vessel, either at the time of nomination or subsequently at any time up to the time of commencement of loading, is not approved by any internal ship vetting system operated by the Seller or alternatively is determined by such internal ship vetting system to be unacceptable under the Seller's ship vetting policy.

5.6 Regulations at the Loading Terminal

5.6.1 All restrictions at the Loading Terminal with respect to maximum draft, length, deadweight, displacement, age, flag and the like, the procedures relevant to health, safety and Vessel operations and all applicable governmental, local and port authority regulations and any other applicable requirements of whatever nature in force at the Loading Terminal shall apply to the Buyer's Vessel (including without limitation the requirements set out in Schedule E). Notwithstanding Section 5.6.2, the Buyer shall be deemed to be fully familiar with such Loading Terminal requirements and shall nominate a Vessel that can comply with such requirements at all times.

5.6.2 The Seller shall provide all information regarding restrictions at the Loading Terminal and such other Loading Terminal requirements that are readily available to it, upon the Buyer's written request.

5.6.3 Notwithstanding anything to the contrary express or implied in this Section 5 or in Sections 6 and 7, if any Vessel nominated by the Buyer does not comply with the foregoing provisions or any of them, the Seller or the Seller's supplier may refuse to berth or load the Vessel in question.

5.7 Changes in procedures

This Section 5 shall be subject to modification, by written notice from the Seller to the Buyer, to take account of changes in the nomination and/or other procedures applicable from time to time at the Loading Terminal.

5.8 Liability

The Seller shall not be liable for the consequences of rejection or delay (including but not limited to demurrage) of the Vessel or other restriction suffered in respect of the Vessel by virtue of the application of any regulations or other requirements of this Section 5 and/or of Schedule E, and the Buyer shall be liable for any costs or damages incurred by the Seller arising out of any such rejection of, delay to or restriction of the Vessel.

6. Arrival of Vessel/ Berthing.

6.1 Arrival of Vessel

6.1.1 The Buyer shall arrange for its Vessel to report its ETA to the Loading Terminal, with a copy to the Seller, at least 72, 48 and 24 hours prior to its arrival and otherwise in accordance with the standard reporting procedure applicable from time to time at the Loading Terminal in question. If the Buyer's Vessel fails, for any reason, to give at least 24 hours' prior notice of arrival at the Loading Terminal, the time allowed to the Seller for loading pursuant to Section 7.1 shall be extended by a period equal to the delay in giving such 24 hours' notice, but in any case not exceeding an additional 24 hours.

6.1.2 By no later than 2400 hours (local time) on the last day of the Laydays the Vessel must have:

- (a) arrived at the Loading Terminal in question (or the usual waiting place), and be in all respects ready to commence loading the Product deliverable hereunder; and
- (b) tendered a valid NOR.

6.1.3 Once a valid NOR has been tendered pursuant to Section 6.1.2, the Buyer shall be obliged to receive delivery of the Product in accordance with Section 6.2.2.

6.2 Loading

6.2.1 Unless otherwise agreed in writing by the Seller, the Seller shall not be under any obligation to commence loading hereunder prior to 0600 hours (local time) on the first day of the Laydays.

6.2.2 After receipt of the NOR pursuant to Section 6.1.2, the Seller, having regard to the requirements of the Loading Terminal, Loading Terminal procedures and the time when the

Vessel has complied with the provisions of Section 6.1, shall commence loading as soon as reasonably practicable, even if this means that loading is completed outside the Laydays or outside any other period specified in the Special Provisions.

6.3 Berth

6.3.1 Subject to compliance by the Buyer's nominated Vessel with all other requirements of the Loading Terminal at the time in question, the Seller shall provide or cause to be provided free of charge to the Buyer (subject to the provisions of Section 34) a Berth to be indicated by the Seller or its representative that the Vessel can safely reach and leave and where it can lie and load always safely afloat.

6.3.2 The Seller shall at all material times and at no expense to the Buyer provide and maintain or cause to be provided and maintained, in good working order, all necessary flexible hoses, connections, pipelines, tank facilities necessary for the loading of the Buyer's Vessel.

6.3.3 The Seller shall not be deemed to warrant the safety of any channel, fairway or other waterway used in approaching or departing from the Berth designated by the Seller. The Seller shall not be liable for any loss, damage, injury or delay to the Buyer's Vessel resulting from the use of such waterways; or any damage to the Buyer's Vessel caused by other users of the waterway.

6.3.4 Notwithstanding Section 6.3.1 above, if the Berth in question requires the Buyer's Vessel to be loaded from a floating storage facility, lighter or other Vessel by means of ship-to-ship transfer, such Berth shall be subject to the Buyer's ship or Loading Terminal vetting procedures and the Buyer may, on any reasonable ground and without liability, refuse the use of such facility for the purpose of loading its nominated Vessel. Any ship-to-ship or lightering operations shall be carried out in accordance with the procedures set out in the ICS/OCIMF Ship-to-Ship transfer guides.

6.4 Vacation of Berth

The Buyer's Vessel shall vacate the Berth as soon as loading hoses have been disconnected, provided that such Vessel's departure is not delayed awaiting production of Loading Terminal documents unless such documents can be delivered to the Vessel at a suitable anchorage or where early departure procedure ("EDP") is applied. If the Vessel fails to vacate the Berth due to a cause within the control of the Vessel and/or the Buyer, any loss or damage suffered by the Seller, or its supplier, resulting from such failure shall be paid by the Buyer to the Seller. For the avoidance of doubt, it is agreed that for the purposes of this Section any technical failure or breakdown on the part of the Vessel shall be a cause within the control of the Vessel and the Buyer. The Buyer's liability in such event shall be limited to no more than the excess Berth utilisation charge actually incurred by the Seller pursuant to Section 6.5 and/or any demurrage suffered by the next Vessel scheduled to load that had been delayed as a direct result of such failure and such demurrage having actually been incurred by the Seller. The Buyer's liability for such demurrage shall be limited to no more than the excess time taken by the Buyer's vessel to vacate the Berth.

6.5 Berth utilisation

Notwithstanding the provisions of Section 7, if at the Loading Terminal the Seller's supplier or any other agency (whether or not an Affiliate of the Seller) imposes on the Seller, in respect of the Buyer's Vessel, an excess Berth utilisation charge in accordance with the Loading Terminal regulations or a contractually agreed or otherwise established scale for any hours of Berth utilisation in excess of a specified period of hours (as such scale may be advised by the Seller to the Buyer from time to time), but does not impose such charge directly on the Buyer's Vessel itself, such charge shall be for the Buyer's account, except where such excess Berth utilisation is caused by the Loading Terminal, the Seller or the Seller's supplier.

6.6 Shifting and Lightering

6.6.1 The Seller shall have the right to shift the Vessel from one Berth to another. All costs, including but not limited to damages for delay, shall be for the Seller's account if such shifting is for the Seller's purposes and otherwise shall be for the Buyer's account.

6.6.2 The Seller shall have the option to load the Vessel from lighters subject always to the Buyer's rights under Section 6.3.4, when the cost of such lightering (together with any additional expense reasonably incurred by the Vessel in respect thereof) shall be for the Seller's account. The Seller shall be obliged to notify the place of lightering to the Vessel when NOR is tendered. The place of lightering so notified shall be deemed the Berth for the purposes of Sections 6 and 7 and all references therein to the Berth shall be construed accordingly.

7. Time allowed, delays and demurrage

7.1 Time allowed

The time allowed to the Seller for the loading of the quantity of the Product deliverable hereunder to each Vessel shall be:

7.1.1 in the case of Vessels of 15,000 tons summer deadweight or less, 24 running hours; or

7.1.2 in all other cases, 36 running hours; all days and holidays included unless loading on the day or holiday in question is prohibited by law or regulation at the Loading Terminal.

7.2 Running hours

7.2.1 Except as otherwise provided in the Special Provisions or in this Section 7.2, provided always that the Buyer has complied with Section 6.1, running hours shall commence Berth or no Berth either:

(a) 6 hours after a valid NOR is tendered to the Seller or its representative by the master of the Vessel (or the master's representative) after its arrival at the Loading Terminal, or

(b) if the Vessel moved directly to the Berth, when the Vessel is securely moored at the Berth, whichever is the earlier.

7.2.2 If NOR is given for the Vessel before the first day of the Laydays, running hours shall commence at 0600 hours (local time) on the first day of the Laydays or on commencement of loading, whichever is the earlier. If NOR is given for the Vessel after the last day of the Laydays and is accepted for loading by the Seller in its sole and absolute discretion, then, without prejudice to any of the Seller's other rights, running hours shall commence only on commencement of loading.

7.2.3 Time shall cease to run upon final disconnection of loading hoses after completion of loading of the cargo. However, time shall recommence 2 hours after disconnection of hoses if the Vessel is delayed in its departure due to the Seller's or the Seller's supplier's purposes and shall continue until the termination of such delay.

7.2.4 Any delay arising out of or in connection with any of the following situations shall not be counted or included in calculating the time taken by the Seller to load the shipment or the time in respect of which the Seller is liable for demurrage (whether or not the Vessel is already on demurrage):

(a) awaiting tide, tugs, pilot, daylight, ice, moderation of weather or sea state prior to berthing;

(b) awaiting immigration, customs or pratique;

(c) on an inward passage until the Vessel is securely moored at the Berth;

(d) preparing for and handling or shifting of ballast, bilges, slops or other substances or bunkering unless concurrent with cargo operations;

(e) restrictions imposed by the owner, charterer or master of the Vessel;

(f) any breakdown of the Vessel's equipment or failure to comply with the requirements of the Loading Terminal with respect to equipment aboard;

(g) cleaning and inspection of the Vessel's cargo tanks;

(h) time spent complying with any of the regulations and other requirements referred to in Section 5;

(i) any other delay attributable to the Vessel, the Buyer or agents of the Buyer; or

(j) any onboard strike, lockout, stoppage or restraint of labour by members of the crew.

7.3 Delays

In the event of any delay of any kind or from any cause whatsoever whether in connection with the scheduling of the Vessel's turn to load (including any change in such scheduling), provision of a Berth for the Vessel, berthing or loading of the Vessel or otherwise howsoever without limitation, and provided always that the Vessel is eventually loaded pursuant to Section 6.2.2, any rights of the Buyer against the Seller, however the same may arise and whether or not arising under the Agreement, shall be limited in all circumstances whatsoever to a claim for the payment of demurrage, and the Buyer shall not be entitled to complain directly or indirectly of any delay except for the purpose of founding a claim to such demurrage.

7.4 Demurrage

7.4.1 If the shipment is not loaded within the time allowed in accordance with Section 7.1, the time so allowed shall be extended by the excess time but (subject always to Section 5.2.2 and 6.1.1) the Seller shall pay to the Buyer demurrage, in the same currency as is prescribed for payment for the Product 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 hereinafter specified. The Seller's liability for demurrage shall be absolute and not be subject to the provisions of Section 37, but in the event of delay directly attributable to fire or explosion or the breakdown or failure of

equipment, plant or machinery at the Loading Terminal (not resulting from want of due diligence by the Seller), act of war, civil commotion, or arrest or restraint of princes, rulers or peoples, the rate of demurrage shall be reduced by one half for the period of such delay.

7.4.2 The appropriate rate of demurrage shall be either:

- (a) the rate, if any, specified in the Special Provisions; or
- (b) the applicable single voyage charter party rate; or
- (c) where there is no single voyage charter party rate or, in the Seller's sole opinion the single voyage charter party rate is not representative of the market rate, the market rate current on the date running hours commence as aforesaid for a Vessel of the size and type used for a single voyage charter from the Loading Terminal to the Discharge Port. If the parties fail to agree within 30 days upon such rate, then at the request of either party, such rate shall be determined by The London Tanker Brokers Panel Ltd. (or its successors in title), whose decision thereon shall be final and binding and whose costs shall be paid for by the applicant;

7.4.3 Any demurrage claim must be notified to the Seller in writing within 45 days of the date of disconnection of loading hoses, with full supporting documentation (including, but not exclusively, the time computation, NOR, Vessel's port log, statement of facts and, where applicable, evidence of the charter party rate), together with any other documentation that the Seller may reasonably require. Any such documentation not then available shall be provided to the Seller within 180 days of the disconnection of loading hoses. If the Buyer fails to give such notice or provide such documentation within the above respective time limits, then the Buyer's claim shall be deemed to have been waived and any liability of the Seller for demurrage shall be extinguished.

7.4.4 Notwithstanding the provisions of this Section 7 or the charter party (where the Special Provisions specify that laytime and demurrage shall be determined in accordance with the charter party terms and conditions), the Buyer shall not be entitled to recover demurrage from the Seller except to the extent that the Seller is able to recover and does recover such demurrage from the Seller's supplier and the Seller shall not be obliged to pay any amounts in excess thereof.

7.4.5 The Seller may only rely on Section 7.4.4 if, and to the extent that:

- (a) the Seller's acquisition terms with Seller's supplier include laytime and demurrage provisions so as to allow the recovery of demurrage on terms that are no worse than the Loading Terminal's usual terms; and
- (b) the Seller has exercised reasonable endeavours to recover from the Seller's supplier any demurrage for which the Buyer has presented a claim.

7.5 Part cargo lots

If the delivery hereunder is co-loaded with the Product being delivered to the Buyer by another supplier at the same Berth, the Seller shall only be liable for that proportion of the demurrage equal to the ratio of the volume delivered by the Seller to the total volume loaded onto the Vessel at that Berth.

PART TWO – CFR/CIF /DES deliveries

8. Delivery

8.1 CFR & CIF deliveries

The Product shall be delivered by the Seller to the Buyer, in bulk at the Loading Terminal and shipped by the Seller CFR or CIF (as applicable) to the agreed Discharge Port(s).

8.2 DES deliveries

The Product shall be delivered by the Seller to the Buyer, in bulk DES at the Discharge Port(s).

9. Measurement and sampling, independent inspection and certification

9.1 CFR & CIF deliveries

9.1.1 Measurement and sampling

The quantity and quality of the Product delivered under the Agreement shall be determined by measurement, sampling and testing in accordance with the standard practice at the Loading Terminal at the time of shipment. Notwithstanding the provisions of Section 9.1.2, the certificates of quantity and quality (or such other equivalent documents as may be issued at the Loading Terminal) for the Product comprising the shipment issued in accordance with such standard practice shall, except in cases of manifest error or fraud, be conclusive and

binding on both parties for invoicing purposes but without prejudice to the rights of either party to make any claim pursuant to Section 31.

9.1.2 Independent inspection

(a) Either party may appoint a mutually acceptable independent inspector at the Loading Terminal, subject to any necessary prior agreement of the Loading Terminal operator having been obtained. Such appointment shall be notified in writing to the other party.

Unless otherwise provided for in the Special Provisions, all charges in respect thereof shall be shared equally between the parties and the inspector's report shall be made available to both parties.

(b) In addition to the independent inspector appointed pursuant to Section 9.1.2(a) or should the parties fail to mutually agree upon an independent inspector, either party may, at its own expense, appoint a representative at the Loading Terminal, subject to any necessary prior agreement of the Loading Terminal operator.

(c) Notwithstanding the provisions of Sections 9.1.2(a) and 9.1.2(b), if an independent inspector has already been appointed by the Seller or any third party in respect of the shipment prior to the nomination of such shipment by the Seller to the Buyer pursuant to Section 14 or if such inspection has already been carried out, then both parties shall be bound by the results of such measurement of quantity, sampling and analysis thereof as carried out by such independent inspector, provided always the certificates of quantity and quality (or such other equivalent documents as may be issued at the Loading Terminal) of the Product comprising the shipment are issued in accordance with Section 9.1.1 above.

9.1.3 Place of Certification

Should it not be customary practice at the Loading Terminal at the time of shipment for measurement and sampling pursuant to Section 9.1.1 to take place at the Vessel's manifold immediately prior to loading, or should the parties agree otherwise, then it is a condition of the Agreement that the Seller shall be obliged to provide the same quantity and quality of the Product at the Vessel's permanent hose connection as set out in the certificates of quantity and quality so issued.

9.2 DES deliveries

9.2.1. The quantity and quality of the Product delivered under the Agreement shall be determined by measurement, sampling and testing carried out at the Discharge Port at the time of discharge by an independent inspector jointly agreed upon by the Buyer and Seller. All charges of the independent inspector shall be shared equally between the parties and the inspector's certificates of quality and quantity shall be made available to both parties. The Buyer shall ensure that the independent inspector shall have full access to the facilities at the Discharge Port necessary to enable the inspector to perform his duties.

9.2.2. The independent inspector shall for the purpose of determining the quality of the Product carry out or witness tests on a composite sample of the Product taken by the inspector or in his presence from the Vessel's tanks at the Discharge Port immediately prior to commencement of discharge and in accordance with the test method(s) referred to in the specification of the Product set out in the Special Provisions, or, where no test method is set out, in accordance with the most current API and ASTM Measurement Standards at the time of delivery.

9.2.3. The independent inspector shall for the purpose of determining the quantity of the Product proceed as follows:

(a) where the Product is delivered from the Seller's Vessel directly into static shore tanks (that is shore tanks to or from which no Product is being pumped other than the Product being delivered hereunder) the gross quantity of the Product so delivered shall be determined by the independent inspector by reference to Discharge Port meter measurements taken or witnessed by the independent inspector in accordance with API MPMS Chapter 5.

Meters shall be proved prior to discharge by or in the presence of the independent inspector in accordance with API MPMS Chapter 4. Where metering facilities are not available, or where in the opinion of the independent inspector the meters did not perform in accordance with API MPMS Chapter 5, or where the meters were not proven prior to discharge in accordance with API MPMS Chapter 4, the gross quantity of the Product delivered hereunder shall be determined by reference to shore tank gauging taken or witnessed by the independent inspector in accordance with API MPMS Chapter 3; or

(b) where the Product is delivered from the Seller's Vessel directly into active shore tanks (that is shore tanks where Product is being pumped out of the tank during the discharge of the

Product hereunder) and where no correctly functioning or proven Discharge Port meters are available in accordance with Section 9.2.3(a), the gross quantity of the Product delivered hereunder shall be determined by the independent inspector by reference to the Vessel's discharged figures as adjusted by its Vessel Experience Factor ("VEF") in accordance with VEF Addendum to API MPMS Chapter 17.1.

9.3 CFR Outturn and CIF Outturn deliveries

For the purpose of determining the compliance of the Product with the quantity and quality provisions of the Special Provisions, quality shall be determined at the Loading Terminal pursuant to Section 9.1, and quantity measurement shall be carried out at the Discharge Port pursuant to Section 9.2.

9.4 Part cargo lots delivered CFR or CIF

Where delivery is made as an unsegregated 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 outturn quantity (determined at each Discharge Port in accordance with the provisions of Section 9.2.3 above) which was discharged at its Discharge Port. The costs of such independent inspection shall be shared equally between the parties for their respective Discharge Ports and the inspector's report shall be made available to all parties.

10. Risk and Property

10.1 CFR and CIF deliveries

10.1.1 Notwithstanding any right of the Seller to retain the documents referred to in Section 35 until payment, the risk and property in the Product delivered under the Agreement shall pass to the Buyer as the Product passes the Vessel's permanent hose connection at the Loading Terminal.

10.1.2 In the case of delivery as a part cargo lot where the Product deliverable hereunder is not identifiable or ascertainable on board the Seller's Vessel separately from Product destined for receivers other than the Buyer, risk and property in the Product shall pass in accordance with Section 10.1.1 and the Buyer shall be an owner in common of the bulk with the other receivers, each owning a proportion of the bulk represented by their respective bills of lading to the total quantity recorded on all the bills of lading issued in respect of the bulk.

10.1.3 If the Vessel has commenced or completed loading prior to being nominated to the Buyer pursuant to Section 14, then notwithstanding any right of the Seller to retain the documents referred to in Section 35 until payment, the risk in the Product delivered under the Agreement shall be deemed to have passed to the Buyer as the Product passed the Vessel's permanent hose connection at the Loading Terminal and property in the Product shall pass immediately upon receipt by the Seller of the Buyer's acceptance of such nomination.

10.2 DES deliveries

The risk and property in the Product delivered under the Agreement shall pass to the Buyer as the Product passes the Vessel's permanent hose connection at the Discharge Port.

11. Laydays and Indicative Discharge Dates

11.1 Where Laydays are specified in the Special Provisions, they shall be the day or range of days in which Seller's nominated Vessel must tender a valid NOR at the Loading Terminal and loading shall commence as soon as reasonably practicable, even if this means loading is effected or completed outside the Laydays or outside any other period specified in the Special Provisions.

11.2 Where Laydays are specified in the Special Provisions pursuant to Section 11.1, if the Seller also expressly or implicitly provides the Buyer with a date or range of dates within which a nominated Vessel shall arrive at the Discharge Port these shall be indicative only, made by the Seller as an honest assessment without guarantee. The Seller shall not assume any responsibility for the delivery of the Product at the Discharge Port within such arrival date range. The commencement of laytime shall be as set out in Section 16.2.1 below, except where it is specified in the Special Provisions that the arrival date range is to be used for demurrage purposes in which case, Section 16.4 shall apply.

11.3 Where there are no Laydays specified in the Special Provisions and the Seller expressly or implicitly provides the Buyer with a date or range of dates within which a nominated Vessel shall arrive at the Discharge Port, then Seller shall not be in breach of and shall be deemed to have fulfilled its obligation(s) with regard to any delivery providing the loading and carriage of the relevant cargo is on terms (including, with regard to the place of loading, the time of loading, and the expected /customary voyage time) consistent with the arrival at the

Discharge Port, on the agreed date or range of dates, safe navigation and weather permitting. The commencement of laytime shall be as set out in Section 16.4 below.

12. Insurance

12.1 CFR deliveries

The responsibility for securing insurance, whether against marine or other risks, shall rest wholly with the Buyer.

12.2 CIF deliveries

12.2.1 The Seller undertakes to procure and pay for insurance against marine risks to the full value of the shipment hereunder plus 10%. Such insurance, which shall operate from the time risk passes pursuant to Section 10.1.1 at the Loading Terminal until the Product passes the Vessel's permanent hose connection at the Discharge Port, shall be in accordance with the provisions of a Marine Cargo Insurance Policy subject to Institute Cargo Clauses (A), and the benefit thereof shall accrue to the Buyer upon the passing of risk in the shipment as provided for in the Agreement.

12.2.2 The Seller undertakes to procure insurance against war, strikes, riots and civil commotions risks in respect of the delivery of the Product hereunder. Such insurance shall be subject to Institute War Clauses (Cargo) and Institute Strikes Clauses (Cargo) current on the date of sailing of the Vessel and the actual premium payable at the current London Market rate for the voyage to be performed ruling on the said date shall be charged to and be recoverable from the Buyer by the Seller as an addition to the purchase price and such addition shall then form part of such purchase price.

12.2.3 If requested by the Buyer, the Seller shall provide Buyer with the original certificate of insurance or insurance company's cover note.

12.3 DES deliveries

The responsibility for securing insurance, whether against marine or other risks, shall rest wholly with the Seller.

12.4 Additional Vessel insurance, etc.

12.4.1 In all cases, if and for so long as the voyage to the Discharge Port, or any seas through which the Vessel has to travel in performance of the Agreement incurs, for the Seller pursuant to the terms of the relevant charter party, additional costs or charges including insurance or war risk insurance premium for the Vessel's hull and machinery, protection and indemnity or cargo insurances; crew bonuses and the provision of security services for the Vessel, or any or all of them, then any and all costs of such additional insurance and/or additional premium and/or other expenses shall be paid by the Buyer to the Seller in addition to the price payable pursuant to the Agreement.

12.4.2 The Seller reserves the right to refuse at any time:

(a) to direct any Vessel to undertake or to complete the voyage to the Discharge Port if such Vessel is required in the performance of the Agreement:

(i) to transit or to proceed to or to remain in waters so that the Vessel concerned would be involved in a breach of any Institute Warranties (if applicable) or, in the Seller's opinion, to risk its safety or to risk ice damage; or

(ii) to transit or to proceed to or to remain in waters where there is war (de facto or de jure) or threat thereof;

(b) prior to the commencement of loading to direct any Vessel to undertake the voyage to the intended Discharge Port if such Vessel is required in the performance of the terms of the Agreement to transit waters which, in the Seller's reasonably held opinion, would involve abnormal delay; 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.

12.4.3 If the Seller agrees to direct a Vessel to undertake or to complete the voyage as referred to in Section 12.4.2, the Buyer undertakes to 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 (including those referred to in Section 12.2) and any other sums that the Seller may be required to pay to the Vessel's owner including but not limited to any sums in respect of any amounts deductible under such owners' insurance and any other costs and/or expenses incurred by the Seller.

13. Charter Party conditions

13.1 This Section shall only apply in the case of delivery CFR or CIF.

13.2 Subject always to any provisions for payment and documents pursuant to Sections 35, the Seller may arrange shipment under bills of lading, which incorporate charter party

conditions normally in use for Vessels. Without prejudice to the generality of the foregoing, such conditions shall be deemed to include:

13.2.1 the provision that the shipment shall be pumped out of the Vessel at the Vessel's expense;

13.2.2 the provision that if, at any time after loading but before commencement of discharge:

(a) importation of the Product comprising the shipment at the port at which discharge was to have taken place is prohibited under the laws of the country in which such Product was produced, or by regulations, rules, directives or guidelines applied by the government of that country or any relevant agency thereof; and/or

(b) the country, state, territory or region at which discharge was to have taken place becomes a Restricted Jurisdiction (as defined in Section 33.2); the shipment shall be discharged at an alternative safe port nominated by the Buyer which is not subject to any such prohibition and which is acceptable to the Seller (which acceptance shall not be unreasonably withheld).

13.3 If any prohibition referred to in Section 13.2.2 becomes applicable, such alternative port shall be deemed to be the Discharge Port stipulated under the Agreement for the shipment in question and all extra expenses (if any) involved in the Vessel's reaching such alternative Discharge Port and/or in the discharge of the shipment thereat shall be for the Buyer's account.

13.4 Where the Buyer, by written instruction, specifically requests that the Seller discharge a quantity of Product either:

(a) without bills of lading being available for presentation to the Vessel's master at the Discharge Port and/or

(b) at a Discharge Port other than that named in the bill of lading and/or

(c) that is different from the bill of lading quantity and the Seller discharges the Product in accordance with such Buyer's written instructions, then the Buyer shall indemnify and hold the Seller harmless against any liability, loss or damage (including legal costs as between attorney or solicitor and client as associated expenses) which the Seller may sustain by reason of delivering the Product in accordance with the Buyer's instructions. This Section shall not be included in the scope of Section 38.1.

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

(a) co-mingle different grades of cargo belonging to the Buyer;

(b) otherwise breach the Vessel's natural segregation;

(c) dope the cargo by introducing additives after loading;

(d) add dye to the cargo after loading;

(e) perform on board blending of the cargo;

(f) carry additives/dye in drums on deck;

(g) carry out such other cargo operation as the Buyer may reasonably require. and always providing the Vessel is capable of performing such operations and that such operations are within the scope of the charter party conditions, then the Buyer shall indemnify and hold the Seller harmless against any liability, loss, damage, delay or expense which the Seller may sustain by reason of complying with the Buyer's request. The indemnity given by the Buyer to the Seller shall be no less in scope than the indemnity required by the Vessel owner to comply with the Buyer's request. This Section shall not be included in the scope of Section 38.1.

13.6 Without prejudice to the Buyer's obligations under Section 16, the Seller undertakes in all cases to settle freight and demurrage due to the ship owners.

14. Nomination of Vessels.

14.1 Full and part cargo lots

Unless otherwise provided in the Special Provisions, delivery hereunder shall be given and taken in one full cargo lot or a part cargo lot at the Seller's option.

14.2 Nomination

The Vessel shall be nominated in writing by the Seller to the Buyer either (1) on or about the time the Agreement is entered into between the parties, or (2) at least 5 days prior to the first day of the Loading Terminal Laydays, whichever is the later. Such nomination shall specify:

(a) the name of the Vessel, date built, summer deadweight, length and flag;

(b) the grade and approximate quantity to be loaded (or the bill of lading quantity, if known);

(c) the Loading Terminal Laydays (or the bill of lading date, if known) and the ETA at the Discharge Port;

(d) such other information as maybe required by the Discharge Port operator from time to time;

(e) details of any other cargo on board or to be laden on board if delivery is of a part cargo;
(f) in the case of any sales afloat, DES or any variation thereof whereby the Product has 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 Seller shall provide the name of each such Vessel, date built and flag; and

(g) confirmation that the Vessel complies with the requirements of Schedule E hereto.

The Seller undertakes to inform the Buyer of any changes to the ETA advised pursuant to Section

14.2(c) as soon as practicable after receipt thereof from its supplier or the Vessels' owner or agent and, where applicable, such information as shall be necessary so as to establish the time and place of the passing of property pursuant to Section 10.1.

14.3 Buyer's nomination

The Buyer shall, within 1 Business Day or such other period as may be specified in the Special Provisions after receipt of the Seller's nomination made pursuant to Section 14.2, notify the Seller of:

14.3.1 the final Discharge Port, if not already specified in the Special Provisions, when the Seller's approval thereto shall be required in writing within 1 Business Day thereafter, such approval not to be unreasonably withheld. No change to the final Discharge Port so nominated or specified shall be made without the Seller's prior written acceptance which shall not be unreasonably withheld and subject always to the provisions of Section 14.8;

14.3.2 if the Special Provisions provide a range within which a Discharge Port or ports may be nominated, the Seller's approval to each port shall be required in writing within 1 Business Day after any valid nomination, such approval not to be unreasonably withheld; and

14.3.3 in the case of CFR or CIF delivery, full written instructions regarding the particulars and destination of the bills of lading and such other customary Loading Terminal documentation which may be required by the Buyer (and, for the avoidance of doubt, the Buyer shall be liable for all costs resulting from any delays in loading the Product hereunder due to failure by the Buyer to supply such information in a timely manner). The Seller shall have the right to issue its own instructions if such instructions are not so provided by the Buyer. All costs (including but not limited to demurrage) arising directly out of any failure by the Buyer to comply with the foregoing shall be for the Buyer's account.

14.4 Substitution of Vessels

In respect of any nominated Vessel, the Seller may, or if necessary to perform its obligations under the Agreement must, substitute therefore another Vessel provided always that:

14.4.1 the size of the substitute Vessel and the quantity to be loaded shall not, without the prior written consent of the Buyer, differ materially from the size of the Vessel previously named and the quantity specified in the nomination; And 14.4.2 the Seller shall give to the Buyer notice in writing of the name of the substitute Vessel not less than 3 clear days before:

(a) in the case of CFR or CIF delivery, the last day of the Loading Terminal Laydays of the substitute Vessel or the last day of the Loading Terminal Laydays of the Vessel originally nominated, whichever is the earlier, provided always that such substitution shall not be allowed after commencement of loading of the Vessel originally nominated unless otherwise specifically agreed between the parties; or

(b) in the case of DES delivery, the ETA of the substitute Vessel or the ETA of the Vessel originally nominated, whichever is the earlier.

14.5 Acceptance of Vessels

14.5.1 The Buyer shall give notice accepting or rejecting any Vessel nominated by the Seller within 1 Business Day of receipt of the Seller's nomination.

14.5.2 Notwithstanding anything to the contrary express or implied elsewhere, the Buyer shall have the right (which right may only be exercised prior to the passing of risk and property hereunder) to refuse, on any reasonable ground, to accept any Vessel named pursuant to Sections 14.2 or 14.4. The Buyer shall not be liable for any loss or damage, direct or indirect, which the Seller may suffer as a result of the Buyer exercising such right.

14.5.3 Notwithstanding any prior acceptance of a Vessel (whether named in the Special Provisions or nominated or substituted pursuant to Sections 14.2 or 14.4), the Buyer shall have the right (which right may only be exercised prior to the passing of risk and property hereunder) to reject the Vessel in question on any reasonable ground if such Vessel is involved in any incident or more recent information regarding such Vessel becomes available to the Buyer which indicates that the information relied upon by the Buyer in previously accepting the Vessel was materially incorrect or incomplete.

14.5.4 In the case of CFR or CIF delivery, if the facilities at the Loading Terminal in question require the Seller's Vessel to be loaded from a floating storage facility, lighter or other Vessel by means of ship-to-ship transfer, such Berth shall be subject to the Buyer's ship or Loading Terminal vetting procedures and the Buyer may, on any reasonable ground and without liability, refuse the use of such facility for the purpose of loading the nominated Vessel.

14.5.5 Without derogating from any other reasonable grounds that may be available to the Buyer, it shall be a reasonable ground for the Buyer to reject or refuse a Vessel pursuant to this Section if the Vessel either at the time of nomination or subsequently at any time up to the time of loading is not approved by any internal ship vetting system operated by the Buyer or alternatively is determined by such internal ship vetting system to be unacceptable under the Buyer's ship vetting policy and/or does not comply with the Buyer's port clearance requirements.

14.6 Regulations at the Loading Terminal and/or Discharge Port

14.6.1 All restrictions at the Loading Terminal and at the Discharge Port with respect to maximum draft, length, deadweight, displacement, age, flag and the like, the procedures relevant to health, safety and Vessel operations and all applicable governmental, local and port authority regulations, and any other applicable requirements of whatever nature and howsoever communicated in force at the Loading Terminal and at the Discharge Port (including without limitation the requirements set out in Schedule E) shall apply to the Seller's Vessel.

14.6.2 The Buyer shall provide all information regarding restrictions at the Discharge Port and such other Discharge Port requirements that are readily available to it, upon the Seller's written request.

14.6.3 Notwithstanding anything to the contrary express or implied in this Section 14 or in Sections 15 and 16, if the Vessel nominated by the Seller does not comply with the foregoing provisions or any of them, the Buyer or the Buyer's customer may refuse to berth or discharge the Vessel in question.

14.7 Pumping

The Seller warrants that the Vessel will discharge its full cargo within 24 hours (or pro-rata in the case of a part cargo) or will maintain 100 PSI at the ship's rail, provided shore facilities permit discharge within such time or at such pressure. Time lost as a result of the Vessel being unable to discharge the cargo as stated above shall not count as Laytime or time on demurrage.

14.8 Alternative or Range of Discharge Port(s)

Where the Buyer exercises any Discharge Port options in accordance with the Special Provisions or Section 14.3.1 and available to the Seller under the terms of the relevant charterparty:

14.8.1 unless otherwise provided for in the Special Provisions, the price stated in the Special Provisions shall be adjusted by the freight differential calculated in accordance with such charter party 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 Port, provided always that any delays arising out of such failure to agree shall be for the Buyer's account; and

14.8.2 the Buyer shall be liable for any additional costs incurred by the Seller, including but not limited to deviation costs and costs in respect of any additional bunker consumption.

14.9 Loaded details (CFR and CIF deliveries)

As soon as possible after the loading has been completed, the Seller shall notify the Buyer of the actual quantity loaded and the latest ETA of the Vessel at the Discharge Port.

15. Arrival of Vessel, Berth, discharge, ETA's.

15.1 Arrival of Vessel

The Seller shall arrange for its Vessel to report its ETA to the Discharge Port, with a copy to the Buyer, at least 72, 48 and 24 hours prior to its arrival and otherwise in accordance with the standard reporting procedure applicable from time to time at the Discharge Port in question.

15.2 Berth

15.2.1 Subject to compliance by the Seller's nominated Vessel with all other requirements of the Discharge Terminal at the time in question, the Buyer shall provide or cause to be provided free of charge to the Seller (subject to the provisions of Section 34) a Berth to be indicated by the Buyer or its representative at which the Vessel can when fully laden safely reach and leave and where it can lie and discharge always safely afloat.

15.2.2 The Buyer shall at all material times and at no expense to the Seller provide and maintain or cause to be provided and maintained, in good working order, all necessary flexible hoses, connections, pipelines, tank facilities necessary for the discharging of the Seller's Vessel.

15.2.3 The Buyer shall not be deemed to warrant the safety of any channel, fairway or other waterway used in approaching or departing from the Berth designated by the Buyer. The Buyer shall not be liable for any loss, damage, injury or delay to Seller's Vessel resulting from the use of such waterways; or any damage to the Seller's Vessel caused by other users of the waterway.

15.2.4 Notwithstanding the Buyer's obligations under 15.2.1, where the Buyer has purchased the Product on board a named Vessel, the Seller represents to the Buyer and warrants that the named Vessel can berth and discharge the contractual quantity of Product at the Discharge Port regardless of whether the contractual quantity is a whole or part cargo and irrespective of the port scheduling of the Vessel. Failure to comply with this term shall entitle the Buyer to refuse to berth the named Vessel. Any costs incurred by the Seller in providing a substitute Vessel, or lightering and/or transhipping the Product at the Discharge Port including demurrage shall be for the account of the Seller.

15.3 Discharge

The Buyer shall arrange for each Vessel to be discharged as expeditiously as possible.

15.4 Shifting

The Buyer shall have the right to shift the Vessel from one Berth to another. All costs, including but not limited to damages for delay, shall be for the Buyer's account if such shifting is for the Buyer's purposes and otherwise shall be for the Seller's account.

15.5 Lightering and Transhipment

15.5.1 Vessels shall not be compelled to lighter at the Discharge Port, but if any lightering shall be undertaken at the request of the Buyer the expense thereof shall be for the Buyer's account and all time expended in connection with such lightering shall count as running hours for the purposes of calculating the liability for demurrage under the provisions of Section 16.

(a) Any lightering operations shall be carried out in accordance with the procedures set out in the ICS/OCIMF Ship-to-Ship transfer guides. The lightering Vessel shall be subject to the Seller's prior acceptance, which shall not be unreasonably withheld.

(b) Any ship-to-ship transfer (transhipment) operations shall be carried out in accordance with the procedures set out in the ICS/OCIMF Ship-to-Ship transfer guides. The receiving Vessel shall be subject to the Seller's prior acceptance, which shall not be unreasonably withheld.

(c) Except in relation to any ship-to-ship transfer carried out at the request of and for the purposes of the Seller, any ship-to-ship transfer operation shall only be carried out with the Seller's express consent and shall only be carried out outside port limits and at the Buyer's sole risk and the Buyer shall be liable to the Seller in respect of all time spent in excess of permitted running hours calculated at the relevant demurrage rate notwithstanding the Vessel is outside port limits, and for all and any losses, costs, damages and proceedings arising therefrom and shall indemnify the Seller in respect thereof. This Section shall not be included in the scope of Section 38.1.

15.5.2 All time used for any lightering operation (excluding any time consumed for the purposes set out in Section 16.2.4) shall be counted or included in calculating the time taken by the Buyer to discharge the Vessel or the time in respect of which the Buyer is liable for demurrage. Any additional steaming and/or waiting time used solely for the purposes of any lightering operation shall count as Laytime or, if the Vessel is on demurrage, as demurrage.

15.5.3 Except in relation to any lightering carried out at the request of and for the purposes of the Seller, any lightering operation carried out shall be at the Buyer's risk and the Buyer shall be liable to the Seller in respect of any losses, costs, damages and proceedings arising therefrom and shall indemnify the Seller in respect thereof. This Section shall not be included in the scope of Section 38.1.

15.5.4 In relation to any dispute as to quantity when lightering or ship-to-ship transfers have been undertaken the first laden Vessel's figures (not being a lightering Vessel or a receiving Vessel) shall prevail, subject always to the provisions of Section 31.2.

16. Time allowed, delays and demurrage

16.1 Time allowed

The time allowed to the Buyer for the discharge of the quantity of the Product deliverable by each Vessel hereunder shall be:

16.1.1 in the case of discharge of a full cargo lot:

- (a) in the case of Vessels of 15,000 tons summer deadweight or less, 24 running hours; or
- (b) in all other cases, 36 running hours; and

16.1.2 in the case of discharge of a part cargo lot, that proportion of 24 or 36 running hours, as the case may be, which the quantity of the Product in the shipment, plus 5 percent, bears to the total quantity of Product loaded on the Vessel at the Loading Terminal(s); all days and holidays included unless discharging on the day or holiday in question is prohibited by law or regulation at the Discharge Port.

16.2 Running hours

16.2.1 Running hours shall commence Berth or no Berth either:

- (a) 6 hours after a valid NOR is tendered to the Buyer or their representative by the master of the Vessel (or the master's representative) after its arrival at the Discharge Port or
- (b) if the Vessel moves directly to the Berth, when the Vessel is securely moored at the Berth, whichever is the earlier.

16.2.2 Time shall cease to run upon final disconnection of discharging hoses after completion of discharge of the cargo. However, time shall recommence 2 hours after disconnection of hoses if the Vessel is delayed in its departure due to the Buyer's or the Buyer's receiver's purposes and shall continue until the termination of such delay.

16.2.3 Such valid NOR may be tendered at any time after the vessel has arrived within the customary anchorage or waiting place of the Discharge Port or, if the Vessel moves directly to the Berth, when the Vessel is securely moored at the Berth.

16.2.4 Any delay arising out of or in connection with any of the following situations shall not be counted or included in calculating the time taken by the Buyer to discharge the shipment or the time in respect of which the Buyer is liable for demurrage (whether or not the Vessel is already on demurrage):

- a) awaiting tide, tugs, pilot, daylight, ice, moderation of weather or sea state prior to berthing;
- b) awaiting immigration, customs or pratique;
- c) on an inward passage until the Vessel is securely moored at the Berth;
- d) preparing for and handling or shifting of ballast, bilges, slops or other substances or bunkering unless concurrent with cargo operations;
- e) restrictions imposed by the owner, charterer or master of the Vessel;
- f) any breakdown of the Vessel's equipment or failure to comply with the requirements of the Discharge Port with respect to equipment aboard;
- g) time spent complying with any of the regulations and other requirements referred to in Section 14.6;
- h) any other delay attributable to the Vessel, the Seller or agents of the Seller; or
- i) any onboard strike, lockout, stoppage or restraint of labour by members of the crew.

16.3 Demurrage

16.3.1 If the shipment is not discharged within the time allowed in accordance with Section 16.1, the Buyer shall pay to the Seller demurrage, in the same currency as is prescribed for payment of the Product 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 hereinafter specified, always provided that, if by reason of her own deficiencies the Vessel cannot maintain an average pumping rate as specified in Section 14.7 from the time of commencing pumping, any additional time used solely by reason of such deficiencies shall be deducted in calculating the time (if any) in respect of which the Buyer is liable for demurrage as herein provided. The Buyer's liability for demurrage shall be absolute and not subject to the provisions of Section 37, but in the event of delay directly attributable to fire or explosion or the breakdown or failure of equipment, plant or machinery at the Discharge Port (not resulting from want of due diligence by the Buyer), act of war, civil commotion, or arrest or restraint of princes, rulers or peoples, the rate of demurrage shall be reduced by one half for the period of such delay.

16.3.2 The appropriate rate of demurrage shall be either:

- (a) the rate, if any, specified in the Special Provisions; or
- (b) the applicable single voyage charter party rate; Or
- (c) where there is no single voyage charter party rate or, in the Buyer's sole opinion the single voyage charter party rate established is not representative of the market rate, the market rate current on the date running hours commence as aforesaid for a Vessel of the size and type used for a single voyage charter from the Loading Terminal to the Discharge Port. If the parties fail to agree within 30 days upon such rate, then at the request of either party, such rate shall be determined by The London Tanker Brokers Panel Ltd. (or its successors in title),

whose decision thereon shall be final and binding and whose costs shall be paid for by the applicant.

16.3.3 Any demurrage claim must be notified to the Buyer in writing within 90 days of the date of disconnection of discharging hoses, with full supporting documentation (including, but not exclusively, the time computation, NOR, Vessel's port log, statement of facts and, where applicable, evidence of charter party rate), together with any other documentation that the Buyer may reasonably require. Any such documentation not then available shall be provided to the Buyer within 180 days of the disconnection of discharging hoses. If the Seller fails to give such notice or provide such documentation within the above respective time limits, then the Seller's claim shall be deemed to have been waived and any liability of the Buyer for demurrage shall be extinguished.

16.4 Time allowed and damages for delay under Indicative Discharge Date Contracts

16.4.1 Should the Vessel arrive at the Discharge Port such that running hours pursuant to Section 16.2.1 above commences at a time within the Indicative Discharge Date range given by the Seller then the time allowed and damages for delay shall be computed in all respects in accordance with Section 16.

16.4.2 Should the Vessel arrive at the Discharge Port such that running hours pursuant to Section 16.2.1 above would commence at a time prior to the Indicative Discharge Date range given by the Seller, then notwithstanding Section 16.3, time shall not count against the Buyer whether as time allowed for discharge or as demurrage until 00.01 hours (local time) on the first day of the Indicative Discharge Date range or on commencement of discharge, whichever is earlier.

16.4.3 Should the Vessel arrive at the Discharge Port after the last day of the Indicative Discharge Date range given by the Seller, then Section 16.2.1 shall be modified to the extent that running hours shall commence Berth or no Berth 36 hours after NOR is tendered or on commencement of discharge, whichever is the earlier. Save as aforesaid, Section 16 shall apply in full.

Πανεπιστήμιο Πειραιώς

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