



**GENERAL TERMS AND CONDITIONS  
MARINE PROVISIONS  
FOR ALL PURCHASES AND SALES  
(EXCLUDING BUNKERING SALES)**

- (1) **Prices, Import Fees, Drawbacks:** Prices stipulated, unless otherwise indicated, are subject to deduction for charges, or losses due to outage, imperfections or defects in commodity or equipment, or noncompliance with sample, embodied or implied specifications, or late delivery date.

In the case of C&F, CIF and delivered (outturn) contracts, Buyer shall be the importer of record and shall be responsible for all import fees in addition to the stated price and compliance with import regulations. For products exported from the U.S., Seller shall be entitled to any possible duty drawbacks.

For all contracts, all duties, taxes and levies of every description imposed on the product at discharge port shall be borne by Buyer. For FOB contracts all duties, taxes and levies at the load port and the discharge port on the Vessel shall be borne by Buyer. For CIF, C&F and Delivered (outturn) contracts all duties, taxes and levies at the load port on the Vessel shall be borne by Seller and all such duties, taxes and levies at the discharge port on the Vessel shall be borne by Buyer.

Buyer assumes responsibility for payment of any and all federal, state and local taxes, fees and charges including, without limitation, the superfund tax and harbor maintenance fees. If Buyer is entitled to purchase product free of any such tax, Buyer shall furnish Seller all appropriate exemption certificates prior to passage of title.

- (2) **Payment:** Payment shall be made by Buyer in net cash in U.S. Dollars unless otherwise specified upon receipt of invoice supported by appropriate delivery documents/bills of lading, as applicable, including documents requested by Buyer at the time the agreement was confirmed. All expenses incurred by Seller, including, but not limited to reasonable attorney's fees caused by non-payment or delayed payment by Buyer shall be for the account of Buyer and payable upon demand. Payment for product delivered must be made in full in U.S. dollars without offset, deduction or counterclaim of any kind.
- (3) **Financial Responsibility:** If either party's ability to perform any of its obligations becomes impaired or unsatisfactory to the other party, satisfactory security for performance reasonably acceptable to the demanding party shall be given upon demand, and performance under the agreement may be withheld until such security is received. If such security is not received within fifteen (15) days from

demand or such shorter period as circumstances or operational requirements dictate, the demanding party may cancel this agreement. The exercise by either party of its rights under this section shall be without prejudice to any other rights or remedies available to the parties.

- (4) **Quality and Quantity Determinations:** For FOB marine deliveries and CIF and C&F deliveries at Seller's dock, product quality will be determined based on samples from Seller's shore tank and quantity will be determined based on Seller's static shore tank gauges. For deliveries made by Seller's barge or Vessel to Buyer's Vessel, product quantity will be determined based on readings from Seller's static shore tank gauges plus the measured fuel on board quantity on Seller's barge or Vessel prior to loading minus measured fuel oil quantity remaining on board Seller's barge or Vessel after completion of discharge to Buyer's Vessel, with a measure of the quantity of fuel oil loaded on Buyer's Vessel as a cross reference--differences by greater than 1/2 of 1% by volume to be resolved by the mutual agreement of Buyer and Seller. For delivered (outturn) contracts, quality will be determined based on sample(s) from Seller's vessel and quantity will be determined based on Buyer's shore tank gauges. Quality and quantity for non-marine shipments shall be in accordance with standard measuring and testing procedures in force for the agreed method of delivery at the receiving facilities at time of delivery unless otherwise agreed.
- (5) **Inspection:** Buyer and Seller shall have the right to have their representatives witness and review the determination of quantity and quality of the products delivered hereunder, the cost for such inspection being for the sole account of the party exercising such right. On request of either party, an inspector, jointly agreed to, may be appointed to witness and review such determinations and the cost for such inspection shall be shared equally by the parties.
- (6) **Warranties:** Seller warrants that it has good and marketable title to the products described in the agreement, free from any liens or encumbrances, that the products conform to the descriptions in the agreement. Seller makes no other warranties of any kind including the warranty of merchantability and the warranty of fitness for a particular purpose. The products described herein will be delivered by Seller in compliance with all Federal and State Laws, Rules and Regulations. Seller specifically warrants that the products to be delivered to Buyer are not "hazardous wastes", "recyclable material" or "off-specification used oil" as such terms are defined in the Resource Recovery and Conservation Act, 40 (United States) CFR 260, et seq.
- (7) **Delivery, Title and Risk of Loss:** For FOB contracts Seller shall deliver the products to Buyer FOB Buyer's Vessel. Title and risk of loss of the product shall pass to Buyer when the product passes the flange connection between the delivery hose and the Vessel's cargo intake manifold. For CIF and C&F contracts, Seller shall deliver the product to Buyer on board the Vessel provided by Seller at the load port and Seller shall arrange for the Vessel

to discharge the product at the discharge port. Title and risk of loss of the product shall pass at the load port in the same manner as for FOB contracts.

For Delivered (outturn) contracts, title and risk of loss shall pass to Buyer when the product passes the flange between the permanent cargo-discharge manifold of the vessel and the receiving hose of the terminal or lightering vessel, if applicable.

For pipeline deliveries title and risk of loss passes as the product passes the pipeline meter; tank car deliveries, as the product is actually loaded into tank cars.

- (8) **Vessel Nomination and Acceptance for FOB Contracts:** At least 10 days prior to commencement of the agreed loading range Buyer shall provide Seller with a description of Buyer's intended Vessel, including name, pertinent physical characteristics and any other information which may be required or requested for the preparation and disposition of Bills of Lading or other cargo documents by the Seller or terminal operator. Seller will then accept or reject Buyer's proposed Vessel within 5 days. Seller shall not unreasonably withhold acceptance. Buyer may substitute another Vessel provided written notice is given to Seller not less than 3 days before the first day of the latest agreed loading range of the last previously nominated Vessel, if such substitution is acceptable to Seller. Seller's acceptance of substitute vessels shall not be unreasonably withheld.

All Vessels nominated and accepted shall be in full operational and technical compliance with applicable international conventions, laws, regulations and other requirements of the load port, discharge port and country of registry.

- (9) **Vessel Nomination and Acceptance For CIF and C&F Contracts:** For CIF, C&F and delivered (outturn) contracts Seller will give Buyer at least 10 days notice prior to the first day of the agreed loading range giving the name and pertinent characteristics of the Vessel and Buyer shall accept or reject such proposed Vessel within five days. Buyer's acceptance shall not be unreasonably withheld. Seller may utilize a substitute Vessel by giving Buyer not less than 3 days notice prior to the first day of the agreed loading range of the previously nominated Vessel, if Buyer accepts such substituted Vessel. Buyer shall not unreasonably withhold acceptance of a substitute Vessel.
- (10) **Vessel Arrival Notices:** For FOB contracts, Buyer shall notify Seller or terminal operator at the loading port of the expected hour of arrival of the nominated Vessel approximately 72, 48 and 24 hours before arrival. Any delays resulting from a failure to give the 24 hours advance notice of arrival shall not count as laytime nor, if Vessel is on demurrage, as time on demurrage. As soon as the Vessel has arrived at the customary anchorage at the loading port and is ready to load, Buyer shall notify Seller at the loading port with notice of readiness by written communication or by radio or telephone (if subsequently confirmed promptly in writing). For CIF, C&F and delivered (outturn) contracts, Seller will

notify Buyer or terminal operator in the same manner as specified for Buyer above for FOB contracts.

- (11) **Laytime and Demurrage for FOB Contracts:** For arrivals during the agreed loading range, laytime or time on demurrage commences upon arrival in berth or when six hours have elapsed following notice of readiness, whichever occurs first. Arrival in berth means the completion of mooring when loading at a sea terminal, Vessel being all fast when loading alongside a berth, or Vessel being all fast alongside the first loading barge, lighter or other Vessel, if applicable. For arrivals before the first day of the agreed loading range, laytime or time on demurrage commences at 0600 hours local time on the first day of the agreed loading range or upon arrival in berth, whichever occurs first. For arrivals during the seven-day period following the agreed loading range, laytime or time on demurrage commences upon arrival in berth. For arrivals more than seven days after the agreed loading range, Seller shall not be obligated to load the Vessel unless Seller agrees specifically to do so, such agreement not to be unreasonably withheld, in which case laytime shall commence upon arrival in berth. For FOB, CIF and C&F contracts, if arrival of Buyer's vessel occurs outside the agreed loading range resulting in delays which cause demurrage to accrue to the account of Seller or other affected party at the loading terminal, Buyer shall be responsible for all such "consequential demurrage" or other foreseeable costs."

Laytime or, if Vessel is on demurrage, time on demurrage, shall continue until all cargo hoses have been disconnected upon final termination of loading. Disconnection of all cargo hoses shall be effected promptly. If Vessel is delayed in excess of two hours after such disconnection of cargo hoses solely for Seller's purposes, laytime or, if Vessel is on demurrage, time on demurrage shall be deemed to have continued without interruption from the disconnection of the cargo hoses until the termination of such delay.

Seller shall be allowed thirty-six hours as laytime to complete loading at a single loading port. Should the Vessel load from two or more ports, laytime at each port shall be a proration of thirty hours based on the gross volume of cargo loaded at a port relative to the total gross cargo loaded on the voyage, plus six hours per port.

- (12) **Demurrage Exclusions and Inclusions for FOB Contracts:** Time for the following shall not count as laytime, nor, if Vessel is on demurrage, as time on demurrage; on an inward passage moving from anchorage or other waiting place, waiting for daylight, tide, tugs or pilot; by reason of local law, regulations or intervention by authorities, including, with the exception of port closure due to weather and/or sea conditions, waiting for customs and immigration clearance or due to Buyer, Vessel Owner, Vessel Operator or port authority prohibiting or restricting loading including prohibiting loading at night; time in discharging ballast or slops, cleaning tanks, pumps, pipelines, bunkering or for any other

purpose of Vessel only, unless done concurrent with loading with no loss of time involved; due to overflow, breakdown, inefficiency, repairs or other conditions whatsoever attributable to Vessel, due to delay in or suspension of loading directed by Seller because of Buyer's failure to comply with the requirements of this Agreement relating to payment; due to lightering at Buyer's request; due to awaiting cargo documentation instructions from Buyer; due to escape or discharge of product or the threat of an escape or discharge of product on or from the Vessel; due to delay directed by Seller or terminal operator caused by any unsafe condition of Vessel (Seller or terminal operator shall exercise due diligence to arrange reberthing and recommencement of loading promptly, once Vessel's deficiency has been corrected and the time period of exclusion will be that period between the time of hose disconnection and hose reconnection); due to quarantine, unless such quarantine was in force at the time when such port or place was nominated by Buyer to Vessel Owner; due to any other delay solely for Buyer or Vessel purposes. In addition, the following situations shall not count as used laytime nor time on demurrage:

- any time consumed in interruption of transfer operations due to the Vessel's requiring separate and/or additional shore tank gauges for any reason. This would include interruption of transfer operations as a result of the Vessel Party requests for line fill checks by comparing intermediate Vessel and shore gauges;
- any delay caused by strike, lockout, stoppage or restraint of labor of the Master, officers and crew of the Vessel or pilots or other subcontractors under the Vessel Party's control;
- failure to have the required certificate of financial responsibility, or failure to be in compliance with United States Coast Guard Regulations (or hold the necessary waiver if not in compliance), or failure to have other legally required documentation, including existing or renewal of Tank Vessel Exam;
- delay awaiting applicable U.S. Customs and Immigration clearance;
- after the Terminal notifies the Vessel to proceed in, or after disconnection of hoses or Vessel release, any delay in reaching or clearing the berth caused by conditions not reasonably within the Terminal's control, including, but not limited to, weather delays (including but not limited to lightning, storm, wind, waves, swells and fog), channel blockages, or awaiting daylight, pilots, tugs and tide;
- any delay caused by the Vessel Party's failure to comply with all financial and/or credit responsibilities of this Agreement;
- any delay caused by the Vessel or Vessel Party's failure to comply with the general vessel requirements of the Terminal which shall receive or deliver the Cargo, including published and posted Terminal requirements;
- any delay caused by the failure or non-operation of any Vessel fitted with an inert gas system.

Time spent or lost due to any of the following shall count as laytime, or if the Vessel is on demurrage, as time on demurrage: (a) any delay to Vessel after the expiration of six hours from giving Notice of Readiness before arrival in berth or any delay to Vessel after arrival in berth due to fire, explosion, strike, lockout or stoppage of labor, breakdown of machinery or equipment in or about the plant of Seller or terminal operator of the cargo, or unavailability of berth (prior to arrival in berth); (b) due to any other delay solely for Seller or terminal purposes.

Any delay to Vessel after the expiration of six hours from giving Notice of Readiness before arrival in berth or any delay to Vessel after arrival in berth due to weather and/or sea conditions, shall count as laytime or, if Vessel is on demurrage, as time on demurrage. This shall be the case even if any other condition(s) described in Demurrage Exclusions above coincide with the period of weather and/or sea conditions. If such demurrage is so incurred, demurrage shall be paid at half the rate specified herein.

Any delays for which laytime or demurrage consequences are not allocated in this agreement shall count as laytime, or if Vessel is on demurrage, as time on demurrage. If such demurrage is incurred, demurrage shall be paid at half the rate specified herein.

- (13) ***Laytime and Demurrage for CIF, C&F and Delivered (Outturn) Contracts:*** Buyer shall pay demurrage to Seller at the rate specified herein for all time by which the allowed laytime is exceeded by the time taken for discharging.

Demurrage, at the discharge port, shall be paid by Buyer at the rate specified at "Worldscale" base demurrage rates, adjusted by applying as a percentage the spot market charter rate applicable to the size, type, trade and service (clean or dirty as appropriate) of the Vessel used. This rate will be obtained from H. Clarkson and Company Ltd., London EC3A 7BP, England. The "Worldscale" rate and the spot market voyage charter rate shall be those current on the date the Vessel commences to discharge. Any demurrage claim under this agreement must be given to Buyer, with supporting documentation, within 180 days after completion of discharge. Demurrage for which Buyer is liable shall be paid promptly.

For arrivals during the agreed discharge period, laytime commences upon arrival in berth or when six hours have elapsed following notice of readiness, whichever occurs first. Arrival in berth means the completion of mooring of Vessel when discharging at a sea terminal, Vessel being all fast when discharging alongside a berth, or Vessel being all fast alongside the first discharge barge, lighter or other Vessel. For arrivals before the first day of the agreed discharge range, laytime or time on demurrage shall commence at 0600 hours local time on the first day of the agreed discharge range or upon arrival in berth, whichever occurs first. For arrivals after the agreed discharge range, laytime or time on demurrage commences upon arrival in berth. Laytime or, if Vessel is on demurrage, time on

demurrage continues until all cargo hoses have been disconnected upon final termination of discharging. Disconnection of all cargo hoses shall be effected promptly. If Vessel is delayed in excess of two hours after such disconnection of cargo hoses solely for Buyer's purposes, laytime or, if Vessel is on demurrage, time on demurrage shall be deemed to have continued without interruption from the disconnection of the cargo hoses until the termination of such delay.

Buyer is allowed thirty-six hours at laytime within which to complete discharging and for all other Buyer's purposes whatsoever for a single discharge port. Should the Vessel discharge cargo at Buyer's request at two or more ports, the laytime allowed to discharge the part cargo at each port shall be a proration of thirty-six hours based on the gross volume of cargo discharged at a port relative to the total gross cargo discharged on the voyage.

(14) ***Demurrage Exclusions and Inclusions for CIF, C&F and Delivered (Outturn)***

**Contracts:** Time lost for any of the following shall not count as laytime nor, if Vessel is on demurrage, as time on demurrage; on an inward passage moving from anchorage or other waiting place, including but not limited to waiting for daylight, tide, tugs or pilot; by reason of local law, regulations or intervention by authorities, including, with the exception of port closure due to weather and/or sea conditions, waiting for customs and immigration clearance; or due to Vessel Owner, Vessel Operator or port authority prohibiting or restricting discharging including prohibiting discharging at night; in discharging ballast or slops, cleaning of tanks, pumps, pipelines, bunkering or for other purposes of Vessel only, unless done concurrently with discharging so that no time is lost; due to breakdown, inefficiency, repairs or other conditions whatsoever attributable to Vessel, due to escape or discharge of product or the threat of an escape or discharge of product on or from the Vessel; due to suspension of discharging directed by Buyer or terminal operator due to an unsafe condition of Vessel (Buyer or terminal operator shall exercise due diligence to arrange reberthing and recommencement of discharging promptly, once Vessel's deficiency has been corrected and the time period for exclusion will be that period between the time of hose disconnection and hose reconnection); due to quarantine, unless such quarantine was in force at the time when such port or place was specified by Buyer to Seller; due to any other delay solely for Seller or Vessel purposes.

Time lost because of any of the following shall count as laytime or, if the Vessel is on demurrage as time on demurrage: (a) any delay to Vessel after the expiration of six hours from giving Notice of Readiness before arrival in berth or any delay to Vessel after arrival in berth due to; shifting of Vessel, clearing of lines, clingage recovery, or lightening at Buyer's request; fire, explosion; strike, lockout or stoppage of labor; breakdown of machinery or equipment in or about the plant of Buyer or terminal operator or unavailability of berth (prior to arrival in berth); (b) due to any other delay solely for Buyer or terminal purposes.

- (15) **Demurrage Rates:** All demurrage payable hereunder shall be at "Worldscale" based demurrage rates, adjusted by applying as a percentage the spot market charter rate appropriate to the size, type, trade and service (clean or dirty) of the Vessel used. This rate will be obtained from H. Clarkson & Company Ltd., in London, England and will be consistent with rates obtained from the London Tanker Broker's Panel. Prorata for partial cargoes with 12 hour minimum. In all cases, minimum allowed laytime shall be 12 hours.
- (16) **Demurrage Claims:** All demurrage claims must be submitted in writing with supporting documentation, including a copy of the Vessel or port log signed by the master within 60 days from the date of completion of loading or discharge, as applicable. Valid demurrage charges between parties will be due by the owing party no later than 45 days from receipt of the claim. The party against whom claim is made must file written objections thereto within such 60 day period or the claim will be presumed valid. Collection of demurrage from any third party shall not be an excuse, defense or condition to a claim for payment by the party owed. Time bar for FOB C&F/CIF/DEL-DES sales is 150 days. Time bar for FOB C&F/CIF/DEL-DES purchases is 90 days.
- (17) **Lighterage for FOB Contracts:** Lighterage, if any, shall be at the expense and risk of Buyer except that if lighterage should be required solely by Seller or terminal operator because adequate berth is not available to Buyer's Vessel, then such lighterage shall be at the expense and risk of Seller.
- (18) **Discharge for C&F, CIF and Delivered (Outturn) Contracts:** Discharge hoses shall be furnished by Buyer or the terminal and shall be connected and disconnected by Buyer or its nominee or the Vessel's personnel at Buyer's option. The Vessel shall provide all necessary pumps, power, and hands required on board for mooring and unmooring, connecting and disconnecting hoses and loading and discharging.
- The Vessel will be properly inerted throughout loading, the voyage and discharge of the cargo if the Vessel is so equipped. Inert gas system failure during discharge resulting in suspension of operation shall not count as used laytime or, if the Vessel is on demurrage as time on demurrage.
- (19) **Insurance for CIF Contracts:** If the price specifies insurance then Seller shall procure and pay for insurance against marine risks to the CIF price plus ten percent of each shipment and such insurance shall be effective from the shore tank at port of loading to the shore tank at port of discharge and shall be in accordance with the provisions of standard American Institute Cargo policies subject to Bulk Oil Clauses (Free of Particular Average), and the benefit shall accrue to the parties as their interests may appear. Seller shall not, however, procure insurance against the risk of war, strikes, riots and civil commotions with respect to any shipment except when Seller receives notice from Buyer, in writing at least forty-eight hours before commencement of loading, requesting Seller to

procure such insurance. When procured by Seller, the insurance so requested shall be subject to American Institute War Clauses in effect on the date of sailing of the shipment covered; and the actual premium payable at the current market rate of the vessel's voyage prevailing on that date shall be paid by Buyer to Seller as an addition to the purchase price to be paid by Buyer.

All product to be transported hereunder to the discharge port, shall be insured at Buyer's expense with Oil Companies Institute for Marine Pollution Compensation Limited under the terms of the CRISTAL Agreement, or have equivalent oil pollution insurance coverage.

- (20) **Safe Berth:** For C&F, CIF and delivered (outturn) contracts a safe berth for the Vessel at discharge port shall be provided by Buyer, free from wharfage, dockage and quay dues. Such berth shall be of sufficient depth to permit the Vessel to lie safely afloat. Buyer shall have the right to shift the Vessel at discharge port from one safe berth to another or to anchorage at Buyer's expense. Seller shall have the same obligations and rights at the loading port for FOB contracts.
- (21) **Tankers and Barges:** All tankers and barges used by the parties shall meet the requirements of the terminal which is to be used for delivery or transfer of the product and the parties shall give all nominations and notices in accordance with the rules of such terminal(s) and the applicable port authorities. Acceptance of any tanker or barge for any one delivery of product shall not constitute continuing acceptance of such tanker or barge for subsequent discharge or loading. All duties or other charges with respect to any tanker or barge, including, without limitation, those incurred for tugs and pilots, port costs and taxes on freight shall be borne by the tanker or barge. Neither party warrants the safety of public channels, fairways, approaches thereto, anchorages or other publicly maintained areas where any tanker or barge may be directed.
- (22) **Pollution Prevention and Responsibility:** In the event that any product is spilled or escapes during the loading of any vessel, or during the course during transporting product in the performance of the agreement, the parties shall undertake such measures as are reasonably necessary to protect against or mitigate any resulting environmental damage or as required by any governmental authorities.

With respect to all Vessels and barges making or receiving deliveries under the Agreement (or any contract hereunder), Buyer and Seller agree that each such Vessel and barge shall comply fully and meet any requirements including having any insurance, bond or other financial requirements under applicable oil pollution or spill prevention laws or regulations.

All vessels will carry aboard a current U.S. Coast Guard Certificate of Financial Responsibility.

- (23) **Force Majeure:** Neither party shall be liable to the other for failure or delay in making or accepting deliveries or other performance hereunder (except for payment due hereunder) to the extent such failure or delay shall be due to acts, orders, regulations or requests of any international, federal, state or local civilian or military authority, war, insurrection, rebellion, riots, strikes, labor difficulties, acts of God, accidental disruption or breakdown of production or transportation facilities or any other cause reasonably beyond the control of such party. Settlement of strikes, walkouts or differences with workers shall be entirely within the discretion of the party having the difficulty.
- (24) **Indemnity:** The Parties indemnify and hold each other harmless from and against any and all claims, liabilities, losses, costs, and expenses including attorney's fees, asserted against the indemnitee by any person (including, without limitation, the parties hereto and their employees, agents, contractors, suppliers, and customers) for personal injury or death, loss or damage to property, or fines or penalties, to the extent of the indemnitor's own negligence or misconduct, or the handling or use of the product delivered hereunder, or that of indemnitor's employees, agents or contractors, or in any way arising out of violations of any federal state or local regulations. Where personal injury, death or loss of or damage to property is the result of the joint negligence or willful misconduct of both parties hereto, the indemnitor's duty of indemnification shall be in proportion to its allocable share of joint negligence or willful misconduct.
- (25) **Audit:** Each party shall have the right to witness any transfer and measurement procedures and shall have access to the accounting and other records of the other party relating to performance of this agreement. The right to audit such records shall remain in effect for three (3) years following termination of this agreement.
- (26) **Waiver:** No waiver of any breach by either party of any provision of this agreement shall be construed as a continuing waiver nor shall such waiver apply to succeeding breaches of the same or any other provision of this agreement.
- (27) **Assignment:** Neither party may assign this agreement without the prior written consent of the other.
- (28) **Conflict With Other Provisions:** In the event of a conflict between these General Terms and Conditions and the provisions of the specific or customized Agreement between the parties, the latter will control.
- (29) **Notices:** All notices, statements, invoices or other communication shall be in writing and effective when delivered by mail, telex or cable to the address of the other party, or if delivered by facsimile, when received at such other party's facsimile number.

- (30) **Amendments:** These terms and agreements may not be modified in any way except by written agreement signed by both parties.
- (31) **Damages:** No claim may be made for indirect, special or consequential damages.
- (32) **Arbitrations:** Any controversy arising hereunder for contracts involving import or export of product shall be settled by arbitration in the English language in New York, New York, by three arbitrators in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Each party shall appoint one arbitrator and a third arbitrator who shall act as chairman, shall be appointed by the American Arbitration Association. Nothing in this agreement shall be construed to prevent any court having jurisdiction from issuing injunctions, attachments or other similar orders and relief in aid of any arbitration commenced or to be commenced hereunder. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction hereof.
- (33) **Governing Law:** This agreement shall be governed by and construed in accordance with the internal substantive law of the State of Texas, USA. The parties expressly agree that the "United Nation Convention on Contracts for the International Sale of Goods 1980" is not applicable and is excluded. The meaning of terms used herein is so defined in Incoterms 1990, which are incorporated herein by reference.
- (34) **Confidentiality:** Both parties agree to keep confidential all information relating to any contract or transaction between the parties as well as any information disclosed by either party to the other regarding the disclosing party's processes, techniques, business plans, marketing strategies, trade secrets, customer lists, patents, copyrights or other information designated by such party to be proprietary or secret information. No such information will be disclosed by either party to any third party in any form except as required by a signed court order issued by a court of competent jurisdiction after at least 72 hours written notice has been given to the party whose information is to be disclosed.
- (35) **Port Security:** The party responsible for marine transportation hereunder ("Responsible Party") warrants that any vessel nominated hereunder shall comply with the requirements of the International Ship and Port Facility Security Code and/or Maritime Transportation Security Act of 2002, as applicable ("Security Regulations").

Should vessel not comply with the requirements of the Security Regulations the other party has the right not to berth such nominated vessel and any resulting demurrage and/or expenses shall be for the Responsible Party. All Costs

associated with requalifying or replacing the vessel and any subsequent costs will be for Responsible Party's account.

In either party makes any payment which is for the other party's account according to this clause, the other party shall within 30 days reimburse the paying party.

- (36) **Material Safety Data Sheets (MSDS):** For all movements of product within the United States or involving United States commerce, as applicable, Seller is responsible for providing Buyer with current Material Safety Data Sheets (MSDS) accurately identifying each and all component(s) present in the product stream the subject of this contract, prior to product lifting. Any additional costs, penalties or expenses incurred by Buyer including, but not limited to, demurrage caused by or resulting from Seller's failure to provide such MSDS will be the responsibility of Seller.

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