

Den norske stats oljeselskap a.s

**CONDITIONS OF SALE  
APPLICABLE TO OFFSHORE LOADED CRUDE OIL SALES  
CIF**

Edition of January 1999

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**I. Definitions**

Except where the context otherwise indicates, the following terms shall have the meaning ascribed to them in this Paragraph I, and shall include plural as well as singular.

- a. "Affiliate" shall mean any company or corporation of Seller or Buyer which owns directly or indirectly fifty (50) percent or more of the shares carrying voting rights of such Party (Parent Company) and any company or corporation other than such Party of which such Parent Company or such Party owns directly or indirectly fifty (50) percent or more of the shares carrying voting rights.
- b. "Agreement" shall mean the Crude Oil Sales/Purchase Agreement of which these Conditions of Sale form a part. Certain specific provisions agreed between Buyer and Seller form Part 1 of the Agreement and the Conditions of Sale form Part 2 of the Agreement.
- c. "Barrel" shall mean a volume of forty-two (42) US gallons corrected for temperature to sixty (60) degrees Fahrenheit.
- d. "Cargo" shall mean any particular quantity of the Oil loaded or to be loaded into Vessel as set out in Part 1 of the Agreement.
- e. "Cargo Manifest" shall mean certificate of quantity, certificate of quality and certificate of origin, issued separately or issued as one certificate containing these three (3) certificates.
- f. "Commencement of Loading" shall, in respect of a Cargo, mean the time and date at which the loading of the Cargo commences, as recorded on the time sheet prepared by Operator.
- g. "Completion of Loading" shall, in respect of a Cargo, mean the time and date at which the operation of loading is completed, as recorded on the time sheet prepared by Operator.
- h. "Completion of Discharge" shall, in respect of a Cargo, mean the final disconnection of Vessel's discharge hose(s) following the discharge thereof.
- i. "Day" shall mean a calendar day.

- j. "Discharge Port(s)" shall, in respect of a Cargo, mean the port(s) nominated by Buyer and accepted by Seller for discharge of such Cargo.
- k. "Dollars" or "USD" or "US dollars" shall mean dollars of the United States of America.
- l. "Grade" shall mean any grade of the Oil specified in Part 1 of the Agreement.
- m. "Laytime" shall have the meaning as that given to it in Paragraph XII of these Conditions of Sale.
- n. "Metric Ton" shall mean the unit of weight equal to one thousand (1000) kilograms.
- o. "Month" shall mean a calendar month.
- p. "Offshore Loading Facility" shall mean the offshore loading facilities at the offshore field(s) as specified in Part 1 of the Agreement.
- q. "Oil" shall mean crude oil specified in Part 1 of the Agreement.
- r. "Operator" shall mean the operator for the time being of the offshore field(s) as specified in Part 1 of the Agreement.
- s. "Party" shall mean either Seller or Buyer.
- t. "Parties" shall mean Seller and Buyer jointly.
- u. "Quarter" shall mean a period of the three (3) consecutive Months commencing on first (1st) January or first (1st) April or first (1st) July or first (1st) October.
- v. "Vessel" shall mean the ship whether owned or chartered or otherwise obtained by Seller and employed by Seller to ship the Oil to the Discharge Port.
- w. "Year" shall mean a calendar year commencing on first (1st) January.

## **II. Delivery**

The Oil shall be delivered on board Vessel for shipment in bulk to the Discharge Port.

## **III. Property and Risk**

- a. The property and risk in the Oil shall pass from Seller to Buyer as the Oil passes Vessel's first (1st) permanent hose connection at the Offshore Loading Facility.

- b. In the event Seller exercises its option under Paragraph XI (c), both property and risk in the Oil retained on board Vessel upon suspension of discharge, shall pass to Seller.

#### **IV. Insurance**

- a. Seller undertakes to procure and pay for insurance against marine risks to
  - i. the invoice value of each Cargo hereunder plus
  - ii. ten (10) percent hereof as anticipated profit

The insurance shall be on "all risks" conditions against civil risks, with deductible one half (0.5) percent, in accordance with the provisions of the standard policy of "Norwegian conditions relating to insurance for the carriage of goods. Cefor form. no. 252 of October 1995", which is basically corresponding to the English Institute Cargo clauses (A) of 1.1.82.

The benefit of the insurance shall accrue to Buyer upon the passing of the property and risk according to Paragraph III.

#### **V. Price, Credit Period and Currency**

The price to be paid, the applicable credit period and currency in respect of a Cargo shall be as stated in Part 1 of the Agreement.

#### **VI. Payment**

- a. Payment for each Cargo shall be made with good value in immediately available funds within the due date as set forth in Part 1 of the Agreement by telegraphic transfer to Seller's bank account, as from time to time advised by Seller, on presentation of Seller's commercial invoice (telex invoice acceptable) and bills of lading and other usual shipping documents or in the absence of such documents upon presentation of Seller's Letter of Indemnity as set out in Paragraph XVIII, without deduction, discount, set off or counterclaim or gravity adjustment.
- b. In the event payment due date falls on a Saturday or a New York banking holiday other than a Monday, then payment will be effected on the preceding New York banking day. If the payment due date falls on a Sunday or a Monday which is a banking holiday in New York, then the payment shall be effected on the next New York banking day.
- c. Buyer shall instruct its bank to advise Seller's bank by SWIFT or tested telex quoting the value date of the transfer, the amount, the invoice number and the clearing bank, if any. Such advise is to be sent in due time so as to enable Seller's bank to credit Seller with value on due date.

- d. Interest on overdue payments shall be paid for the period starting on and including the due date for payment as set forth in Part 1 of the Agreement and ending on but excluding the value date of the payment, on the basis of an annual rate corresponding to three (3) Months British Bankers Association Interest Settlement Rates (BBAISR) (or such other interest rate as may be used in replacement thereof) for USD (or if the payment is made in other currency than USD, for that other currency) as published by British Bankers Association (BBA) for the due date plus three (3) percentage points.
- e. Seller may at any time before payment has been received by Seller, require Buyer to provide a stand-by letter of credit or a bank guarantee for payment of the Cargo whichever Seller may request. Each such stand-by letter of credit or bank guarantee shall be irrevocable, in an amount to cover one hundred and ten (110) percent of the estimated value of the Cargo for which it is provided and shall be established in favour of Seller and shall be confirmed irrevocably and unconditionally by a bank or banks to be approved by Seller. The stand-by letter of credit shall be in a form acceptable to Seller and meet the requirements set out below:

Quote

Stand-by letter of credit

At request of ..... (hereinafter referred to as Buyer), we, ..... hereby open our irrevocable stand-by letter of credit no. .... in favour of Den norske stats oljeselskap a.s, N-4035 Stavanger, Norway (hereinafter referred to as Seller) covering the purchase of .....

We hereby irrevocably and unconditionally undertake to make payment of up to ..... in favour of Seller's account no. 15013832 with Chase Manhattan Bank, London, upon Seller's first written request and presentation of the following documentation:

- a. A copy of Seller's commercial invoice evidencing the quantity of product purchased by Buyer (telex invoice acceptable).
- b. Seller's signed statement stating that payment of the above mentioned invoice is due and that payment has not been made by Buyer (presentation on telex acceptable).

This stand-by letter of credit shall be valid also in the event that the quantity and/or invoiced amount exceed(s) or is/are less than the quantity and/or amount stated herein.

We hereby agree that request for payment in accordance with the terms stipulated herein will be duly honoured upon presentation of the documentation as set out in (a) and (b) above if presented to our ..... on or before ..... after which date this stand-by letter of credit becomes null and void.

Partial drawing is allowed.

In addition to any payment made according to the above section (a) we will honour claims for interest at the rate of three (3) Months British Bankers Association (BBA) Interest Settlement Rates (BBAISR) for USD published by British Bankers Association (BBA) on the due date plus three (3) percentage points calculated from due date according to invoice to actual date of payment to beneficiary.

All related banking charges and commissions whether of Buyer or Seller shall be for the account of Buyer.

This stand-by letter of credit is subject to the Uniform Customs and Practice for documentary credit (UCP 500 1993 Revision, International Chamber of Commerce, Paris).

This telex is the instrument of utilisation. No mail confirmation follows.

This stand-by letter of credit shall be valid also in the event that the invoiced amount exceeds the amount stated herein.

Unquote

All related banking fees, commissions and expenses whether of Buyer or Seller shall be for the account of Buyer. If a stand-by letter of credit or a bank guarantee has not been provided as outlined herein, Buyer shall be deemed in breach of the Agreement and Seller may without prejudice to any other rights or remedies at any time thereafter terminate the Agreement forthwith. Any cost and loss of income incurred by Seller due to Buyer's failure to provide security of payment as outlined herein, shall be borne by Buyer.

## **VII. Quality and Quantity**

- a. The Oil shall be of the quality which is available at the Offshore Loading Facility at the time of loading the Cargo.
- b. The measurement of the quantity of the Oil and the testing of the quality thereof shall be carried out at the offshore field in accordance with good standard practice followed at the offshore field at the time of loading the Cargo.
- c. The sediment and water in each Cargo shall be measured in accordance with good standard practice followed at the offshore field at the time of loading the Cargo.
- d. Seller shall ensure that the Cargo Manifest is issued in accordance with good standard practice followed at the offshore field at the time of loading the Cargo and that the Cargo Manifest is forthwith delivered to Buyer. Save for fraud or manifest error, the said Cargo Manifest shall be conclusive and binding on both Parties. The figures stated in said Cargo Manifest shall be used by Seller in the

preparation of invoices and Buyer shall be obliged to pay the invoiced amount based on such figures.

- e. In the event Seller exercises its option under sub-Paragraph XI c), or in the event Vessel is loaded at the Offshore Loading Facility to receivers other than Buyer, the quantities of the Cargo and other cargo(es) in subject shipment stated in the total of the original certificate of quantity figures given in the original Cargo Manifest applicable to all cargoes in subject shipment will be adjusted based on measurement in accordance with good standard practice at the Discharge Port and possible other discharge port(s). The adjusted figures applicable to the Cargo shall be used by Seller in the preparation of invoices and Buyer shall be obliged to pay the invoiced amount based on such figures.

The adjustment will be made in accordance with the following formula:

$$QI = \frac{RB * ON}{RN}$$

where:

QI is the quantity applicable to the Cargo which will form the basis for invoicing.

RB is the quantity of the Cargo as discharged, measured as set forth in this sub-Paragraph VII (e).

RN is the total discharged quantity of all cargoes in subject shipment, measured as set forth in this sub-Paragraph VII (e).

ON is the total of the original certificate of quantity figures given in the original Cargo Manifest applicable to all cargoes in subject shipment.

- f. If Seller and Buyer mutually agree to use an independent inspector at Discharge Port, Buyer shall appoint an independent inspector acceptable to both Parties. The cost for such inspection shall be equally shared between the Parties. If joint agreement on the independent inspector is not reached, either Party may nominate its own independent inspector at its own expense.
- g. Any claim as to shortage in quantity of the Cargo or defects in quality of the Oil 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 of the Cargo or defects in quality of the Oil, if such written claim is not received by Seller within sixty (60) Days after Completion of Discharge.



## **VIII. Charter Party Conditions**

- a. Seller may arrange shipment under bills of lading which may incorporate any of the charter party conditions in use for tank ships.
- b. Seller undertakes to settle freight and demurrage due to the shipowner(s).

## **IX. Berth and Discharge Port**

- a. Buyer shall provide free of charge, a berth or berths at Discharge Port at which Vessel can safely reach and leave and at which Vessel can lie and discharge always safely afloat.
- b. Any costs of shifting berth, unless for Seller's or Vessel's reasons, shall be for the account of Buyer.
- c. Seller shall procure that Vessel shall comply with all applicable regulations of governmental, local and port authorities at Discharge Port.

## **X. Nominations of Shipment**

- a. No later than the twenty-fifth (25th) Day of Month A, Seller will tentatively nominate the Grade and quantity of Oil to be delivered in Month C.
- b. No later than the fifth (5th) Day of Month B, Buyer shall advise Seller for each Cargo to be delivered in Month C the following details:
  - i. preferred Grade and quantity.
  - ii. preferred loading date.
- c. No later than the fifteenth (15th) Day of Month B, Seller will advise Buyer for each Cargo to be delivered in Month C:
  - i. Grade and preliminary quantity.
  - ii. five (5) Day loading date range. Such five (5) Day loading date range will no later than the twenty-second (22nd) Day of Month B be narrowed down to a three (3) Day loading date range.
- d. No later than ten (10) Days prior to the first (1st) Day of the three (3) Day loading date range for each cargo, Buyer will nominate to Seller Discharge Port being within Northwest Europe which are not south of Nantes including Donges terminal including Ireland and Baltic ports of Denmark, Sweden, Poland, Finland and other Baltic States always within Institute Warranties Limits (IWL), always subject to Seller's acceptance.

- e. No later than eight (8) Days prior to the first (1st) Day of the three (3) Day loading date range, Seller will nominate:
  - i. Grade and quantity.
  - ii. name of Vessel or to be named (TBN) (Seller to advise Buyer of Vessel's name no later than three (3) Days prior to the first Day of the three (3) Day loading date range).
- f. No later than five (5) Days prior to the first (1st) Day of the three (3) Day loading date range, Buyer will forward to Seller the document instructions for the Cargo. Seller will use its reasonable endeavors to accommodate such instructions.
- g. Seller will arrange for Vessel to notify Buyer or its representative at Discharge Port of seventy-two (72), forty-eight (48) and twenty-four (24) hours notice of ETA Discharge Port, and thereafter any variations of more than two (2) hours.
- h. Any modifications in the quantity of Oil, date ranges or loading date range arising from production changes, weather, operational matters or any circumstances beyond Seller's reasonable influence, shall be notified Buyer without delay and such changed notification shall be deemed to be accepted by Buyer and any modified quantity and/or date ranges shall replace the quantity and/or date ranges respectively as nominated.
- i. Where a particular date is specified in the Agreement for nominations and this date falls on a Saturday, or a Sunday, or on a public holiday specifically affecting Seller, such nominations must be received by Seller by the last working Day prior to the date specified. Furthermore, a nomination may be considered as invalid for all the purposes thereof if it is not received by Seller by three (3) p.m. local time on the Day or date specified in the Agreement for receipt of such nomination. Seller shall not be liable for any loss or damage, direct or indirect, which Buyer may suffer as a result of such nomination being invalid.

## **XI. Priority of Vessel**

- a. In the event a situation should arise which may have as a consequence the reduction or stoppage of the production of oil at one or more of the production facilities at the offshore field, Seller may by written notice to Buyer require that Vessel may proceed to another port or terminal than the Discharge Port and further Buyer may require that Vessel shall have priority to discharge at the Discharge Port ahead of other Vessels, except Vessels carrying oil which has been loaded at an offshore loading facility on or adjacent to a petroleum production platform serving an oil field in the North Sea. In the event of such requirement Buyer shall ensure that Vessel can proceed directly without waiting to a discharge berth provided by Buyer in accordance with Paragraph IX and immediately on arrival thereat commence discharging.

- b. Seller shall in such events indemnify Buyer against extra costs incurred, hereunder unavoidable extra port dues and demurrage incurred, as a direct result of priority being given to Vessel, by vessels, which have given valid notices of readiness to discharge prior to Vessel giving notice of readiness to discharge, provided that this indemnity shall in each case be limited to the amount of Laytime actually used by Vessel.
- c. In the event a situation should arise which may have as consequence the reduction or stoppage of the production of oil at one or more of the production facilities at the offshore fields, Seller may, whether the Cargo has been fully discharged or not, at its sole discretion, forthwith order Vessel to cease discharging and leave the Discharge Port.
- d. In the event Seller exercises its option under (c) of this Paragraph XI, the quantity of Oil discharged shall be determined as set forth in sub-Paragraph VII (e).

## **XII. Laytime and Demurrage**

- a. Subject as hereinafter provided, the Laytime allowed to Buyer for discharging a Cargo shall be thirty-six (36) running hours after the arrival of Vessel at the Discharge Port, Sundays and holidays included. However, if Vessel is discharged to other receivers at discharge ports other than the Discharge Port or to other receivers at the Discharge Port when discharged in two or more discharge operations, then the Laytime allowed to Buyer for discharging the Cargo shall be reduced pro rata as the quantity of the Cargo bears to the total quantity of crude oil loaded on Vessel.
- b. Laytime shall commence, berth or no berth, six (6) hours after Vessel's master or its representative has tendered to Buyer or Buyer's representative notice of readiness to discharge, or the time when Vessel is securely moored at the berth whichever is the earlier. Notice of readiness shall be tendered at the Discharge Port upon arrival at the customary anchorage or upon arrival at the pilot station, whichever is applicable.

Laytime shall cease upon Completion of Discharge.

- c. Time spent by Vessel on inward passage or in handling ballast or discharging slops, shall not count against Laytime or time on demurrage.
- d. If Vessel shifts berth for any reason other than a reason on the part of Seller or Vessel, then the time taken to shift berth shall count against Laytime or time on demurrage.
- e. In the event that the Laytime is exceeded, the appropriate rate of demurrage in respect of excess time payable by Buyer to Seller shall be the daily demurrage rates according to Part 1 of the Agreement.

If Vessel is discharged at the Discharge Port by or on behalf of Buyer and one or other receivers of crude oil in one discharge operation, then the demurrage payable by Buyer shall be for such proportion of the excess time used as the Cargo bears to the total volume of crude oil discharged at the Discharge Port.

- f. Seller warrants that Vessel is able to discharge the Cargo within thirty-two (32) hours, (eight (8) hours less if crude oil washing is not conducted) or maintain one hundred (100) PSI at Vessel's manifold provided shore facilities permit. Time lost as a result of Vessel being unable to discharge the Cargo as stated above shall not count as Laytime or time on demurrage.
- g. If, however, demurrage is incurred as a result of fire, explosion, strike, lockout, stoppage or restraint of labour or by breakdown of machinery or equipment at receiving terminals in the Discharge Port, the rate of demurrage above mentioned shall be reduced by one-half per running hour or pro rata for part of an hour for demurrage thus incurred.
- h. For avoidance of doubt, Paragraph XXI shall not apply to this Paragraph XII.
- i. Buyer shall not be liable for any demurrage resulting from delay caused by strike, lockout, stoppage or restraint of labour for master, officers and crew of Vessel.
- j. Demurrage shall be paid by Buyer to Seller no later than thirty (30) Days after Sellers invoice supported by appropriate documentation. In the event that payment has not been made within due date interest on overdue payment shall be calculated in accordance within Paragraph VI (d).

### **XIII. Lighterage**

Vessel may be lightered at the Discharge Port only with the written consent of Seller and, if any lightering shall be undertaken at the request of Buyer, the expense thereof shall be for Buyer's account and all time used in such lightering together with all delay consequent thereupon shall count against Laytime or time on demurrage.

The same will apply for ship to ship transfer operations.

### **XIV. Warranties**

Seller warrants that the Oil shall conform to the description stated in Part 1 of the Agreement, that Seller has title thereto, and that the Oil is free from royalties, load port taxes, liens and encumbrances. Otherwise, there are no other guarantees or warranties expressed or implied, of merchantability, fitness, or suitability of the Oil for any particular purpose. Seller shall not be responsible in any respect whatsoever for any loss, damage or injury resulting from any hazard inherent in the nature of the Oil.

**XV. IMO Requirements**

Seller warrants that Vessel shall be fitted according to the measures and procedures agreed to at the IMO (International Maritime Organisation) conference of Tanker Safety and Pollution Prevention as and when these become effective at the Discharge Port, and that Vessel complies with the International Safety Management Code (ISM).

**XVI. Pollution**

Seller warrants that Vessel is owned or demise chartered by a member of The International Tanker Owners Pollution Federation Ltd. (ITOPF).

Seller shall exercise reasonable efforts to ensure that Vessel carries on board a certificate of insurance as described in the Civil Liability Convention for oil pollution damage and Vessel has in place insurance cover for oil pollution no less in scope and amounts than under the rules of P&I clubs entered into the international group of P&I clubs.

**XVII. ITF Clause**

Seller will arrange that the minimum terms and conditions of employment of the crew of Vessel will on arrival at Discharge Port be covered by an ITF (International Transport Workers' Federation) agreement or a bona fide trade union agreement on terms equivalent to ITF terms.

**XVIII. Documents**

- a. Seller shall provide bills of lading and other usual shipping documents in accordance with instructions given by Buyer in accordance with Paragraph X (f).
- b. If such documents are not available to Buyer when Buyer shall pay for the Cargo, Seller shall indemnify Buyer in accordance with the following:

Quote

**LETTER OF INDEMNITY**

We refer to a cargo of ..... Barrels of ..... crude oil (Cargo) loaded on board Vessel ..... at the port of ..... on .....

Although we have sold and transferred title to the said Cargo to you, we have been unable to provide you with the original bills of lading, Cargo Manifest and time sheet for the above Cargo.

In consideration of your paying to us USD ..... being the full purchase price of the above Cargo, we hereby expressly warrant that we have marketable title to

such crude oil and that we have full right and authority to transfer such title to you and to effect delivery of the said crude oil.

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

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

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

This Letter of Indemnity shall be governed by and construed in accordance with Norwegian law and any disputes hereunder that cannot be settled by mutual agreement between the Parties shall be subject to the exclusive jurisdiction of the Norwegian Courts.

Unquote

- c. Buyer warrants that the consignee is entitled to the Cargo, and undertakes to cause the consignee to surrender the bills of lading to Vessel's master or agent as soon as possible when they come to hand.
- d. If documents are not available for presentation to Vessel's master at the Discharge Port, Seller will instruct master to discharge the Cargo and Buyer undertakes to hold Seller harmless and indemnified against all claims as a result of such documents not being presented.
- e. Should Vessel or any other vessel or property belonging to Vessel's owner be arrested as a consequence of the fact that the Cargo has been delivered without presentation of bills of lading under circumstances in which the indemnification set out in (d) of this Paragraph XVIII shall apply, Buyer to provide and pay for the necessary security and to obtain release of Vessel or any other vessel or property as set out above and cover all legal and additional expenses incurred thereby and Vessel to remain on-hire during possible time lost. If any proceedings are commenced against Seller with respect to said Cargo as a result of the foregoing, Buyer shall have a right to instruct first class attorneys to defend the case at Buyer's own costs or alternatively at Buyer's option pay the costs of attorneys appointed by Seller.

## **XIX. Disposal**

Buyer shall not under any circumstances refine or dispose of the Oil to countries with which the Norwegian Government has decided not to have trade relations. Without diminution of such obligation on Buyer, Seller undertakes to inform Buyer as soon as practicable of any changes in laws, regulations, rules or guidelines which become known to Seller. Buyer acknowledge that at the date hereof it is informed of all such laws, regulations, rules and guidelines relevant to its undertakings under this Paragraph XIX.

In the event the Oil is disposed of to a third party, Buyer shall ensure that the end user abides by the restrictions set forth herein and without delay provide Seller with all relevant information as Seller may require related to such alternative disposal including name of end user, Discharge Port and name of refinery.

## **XX. Taxes, Duties and Charges**

Seller shall be responsible for the payment of any taxes, duties or other charges arising in the country where the Oil is loaded and which arise from the sale and delivery to Buyer of the Oil. All other imposts, taxes, duties, dues and other charges on the Oil or Vessel (when not included in the agreed freight rates) shall be the responsibility of Buyer.

## **XXI. Force Majeure**

- a. Neither Seller nor Buyer shall be responsible for any failure to fulfil their respective obligations under the Agreement if fulfilment has been prevented, delayed, hindered or curtailed by:
  - i. any circumstances whatsoever which are beyond the reasonable control of Seller or Buyer, as the case may be, or
  - ii. compliance with any order, demand or request of any government or of any international, national, port, transportation, local or other authority or agency or of any body or person purporting to be or to act for such authority or agency; or
  - iii. any strike, lockout or labour dispute;

provided always that nothing contained herein shall relieve Buyer of any of its obligations to make payments due to Seller under the Agreement by the due dates for payment according to the provisions of Paragraph VI which obligations are absolute.

- b. The Party seeking relief under (a) of this Paragraph XXI shall advise the other Party as soon as practicable of the circumstances causing the failure to fulfil its obligations and shall thereafter provide such information as is available regarding the progress and possible cessation of those circumstances. Subject to

the provisions of Paragraph XXII, performance of obligations under the Agreement shall be resumed as soon as reasonably possible after such circumstances have ceased. The time of Seller to make, or Buyer to receive delivery hereunder shall be extended during any period in which delivery shall be delayed or prevented by reason of any of the foregoing causes up to a period of thirty (30) Days. If any delivery hereunder shall be so delayed or prevented for more than thirty (30) Days, either Party may terminate the Agreement with respect to such delivery upon giving written notice.

## **XXII. Change in Seller's Supplies of Crude Oil**

- a. In the event that the production forecast for or the availability from any of Seller's or Seller's suppliers', sources of supply of crude oil, whether deliverable under the Agreement or not, or the normal means of transport or delivery of such Oil, is delayed, hindered, interfered with, curtailed or prevented, Seller has the right to withhold, reduce, suspend or terminate deliveries of the Oil to be made available to Buyer to the extent that Seller's actions are based on information provided by or through the International Energy Agency (IEA) and/or in reasonable expectation by the Seller of a request or requirement of or made by or through the IEA or as a result of the Seller's compliance with a request or requirement of or made by or through the IEA.

In such event Seller shall be free to allocate its remaining availability as Seller may in its absolute discretion think fit and Buyer shall be obliged to accept and pay for any Oil tendered for delivery even if less than the full contractual quantity. Seller shall not be bound to purchase or otherwise make good shortages resulting from such causes.

In the event of such curtailment or interference, any additional crude oil made available to Seller from outside sources may be disposed of by Seller in its absolute discretion and need not be taken into account in the determination whether or not, for the purpose of this sub-Paragraph XXII (a), the curtailment or interference in question continues to subsist.

- b. If Seller is seeking relief under this Paragraph XXII Seller shall advise Buyer as soon as practicable of the circumstances in question and the remedies implemented or to be implemented by Seller. No curtailment, suspension or termination of deliveries or receipt of the Oil pursuant to this Paragraph XXII shall operate to extend the duration of the Agreement. All Oil, the timely delivery or receipt of which does not take place for reasons stated in this Paragraph XXII shall, unless otherwise agreed, be deducted from the volume of the Oil required to be delivered and received hereunder.

## **XXIII. Ice Clause**

- a. In case of ice at the Discharge Port or on the voyage to the Discharge Port, Vessel shall not force ice, but to follow in icebreakers cut provided master



considers such navigation safe and unarmful to Vessel. Buyer shall on its own account, place any necessary icebreakers at Vessel's disposal.

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

- i. any extra insurance applicable.
  - ii. the costs of any ice damage incurred less any sum which can be recovered under any insurance.
  - iii. any charter hire paid by Seller for the period of repair due to such ice damage, including deviation to repair yard.
- b. In the event that the master deems Vessel in danger of being frozen in at the Discharge Port, Seller may, at its sole discretion, order Vessel to cease discharging and leave the Discharge Port. In such circumstances Buyer shall, on its own account, place necessary icebreakers at Vessel's disposal.
- c. In the event that the Discharge Port is inaccessible due to ice, or in the event the master deems Vessel in danger of being frozen in, Vessel will proceed to the nearest safe ice-free position and at the same time request revised orders. Immediately upon receipt of such request Buyer shall nominate an alternative ice-free and accessible port, where there is no danger of being frozen in and where there are facilities for receiving the Cargo in bulk. In this event, any extra freight, expenses, demurrage and dues incurred as result of such change, shall be paid for by Buyer.

#### **XXIV. Suspension and Termination**

- a. Seller may at its sole discretion, and in addition to any other legal remedies it may have, forthwith upon giving notice to Buyer either suspend deliveries of the Oil or terminate the Agreement if:
  - i. Buyer for any reason whatsoever fails to make any payment due to Seller under the Agreement by the due date for payment or otherwise is in substantial breach of any of its obligations under the Agreement; or
  - ii. Buyer fails to take delivery of the Oil in accordance with the provisions of the Agreement and such failure is not excused by any other provision of the Agreement; or
  - iii. a petition is filed with a court having jurisdiction or an order is made or an effective resolution is passed for the dissolution, liquidation or winding up of Buyer or its Parent Company; or
  - iv. there is a major change in the direct or indirect ownership of Buyer; or

- v. Buyer or its Parent Company becomes insolvent or is adjudged bankrupt or makes an assignment for the benefit of its creditors or does not pay or is in Seller's reasonable opinion expected to be unable or unwilling to pay its debts as the same become due; or
- vi. a receiver is appointed or an encumbrance takes possession of the whole or a significant part of the assets or undertaking of Buyer or its Parent Company; or
- vii. Buyer or its Parent Company ceases or threatens to cease to carry on its business or a major part thereof or a distress, execution or other process is levied or enforced or sued out upon or against any significant part of the property of Buyer or its Parent Company and is not discharged within fourteen (14) Days.

In the event of Seller suspending deliveries of the Oil in any of the circumstances referred to in (i) - (vii) of this sub-Paragraph XXIV (a) Seller may so long as the event continues, and in addition to any other legal remedies it may have, forthwith upon giving notice to Buyer terminate the Agreement.

- b. If, pursuant to the provisions of this Paragraph XXIV Seller withholds, reduces or suspends deliveries of the Oil, then Seller shall be under no obligation to make up any quantity of the Oil which would have been delivered to Buyer but for such withholding, reduction or suspension.
- c. Any termination of the Agreement shall be without prejudice to the rights and obligations of each Party as accrued at the date of termination.

## **XXV. Liability**

Except as expressly provided in the Agreement, neither Seller nor Buyer shall be liable for any indirect or consequential losses which may be suffered or alleged to have been suffered by the other Party.

## **XXVI. Assignment**

Neither Party shall assign any of its rights and obligations under the Agreement, in whole or in part, without the prior written consent of the other Party. The assigning Party shall remain jointly and severally liable for the full performance by the assignee(s) or any subsequent assignee(s) of its/their obligations with regard to the Agreement.

## **XXVII. Applicable Law, Litigation and Arbitration**

- a. The Agreement shall be governed by and construed in accordance with the laws of Norway.

- b. Except as provided for in (c) below, the Parties hereto accept Stavanger City Court as the proper legal venue for the settlement of any controversy or dispute that may arise in connection with, or as a result of, the Agreement which the Parties are unable to resolve by mutual agreement.
- c. Any controversy or dispute that may arise in connection with or as a result of Paragraph XII, Laytime and Demurrage, where amount in dispute does not exceed a sum of USD one hundred thousand (100,000) or any other controversy or dispute that may arise in connection with or as a result of the Agreement, where the amount in dispute does not exceed a sum of USD twenty-five thousand (25,000) which the Parties are unable to resolve by mutual agreement, shall be referred to and finally resolved by arbitration in Oslo conducted by one (1) arbitrator in accordance with the rules for Alternative Dispute Resolution Chapter III Fast Track Arbitration, of the Oslo Chamber of Commerce.

The arbitration proceedings shall be conducted in the English language.

Any arbitral award shall be enforceable in accordance with the rules of the New York convention of 1958 on the recognition and enforcement of foreign arbitral awards. Judgement upon the awards rendered may be entered in any court or other authority having jurisdiction or application may be made to said courts or other authority for a judicial acceptance of the award and an order of enforcement, as the case may be.

## **XXVIII. General Provisions**

- a. The failure of Seller or Buyer at any time to require performance by the other Party of any provisions hereof shall in no way affect the right of a Party to request any performance which may be due thereafter pursuant to such provision. Nor shall the waiver by Seller or Buyer of any breach of any provision of the Agreement be taken or held to be a waiver of any subsequent breach of such provision.
- b. The Agreement and all information obtained by one Party from the other Party shall be treated as confidential.
- c. The headings appearing in the Agreement are for convenience only.
- d. Any modification of and addition to the Agreement shall be made in writing.
- e. The provisions of Part 1 of the Agreement shall prevail over the provisions of Part 2 of the Agreement to the extent there is any inconsistency.

## **XXIX. Notices**

Unless otherwise agreed in writing, any notices, statements, requests or other communications to be given to either Party pursuant to the Agreement shall be sufficiently made if sent by post (by airmail if airmail is possible) postage paid, or by

telegraph, telex, facsimiles transmission or other means of data transmission to the address of the other Party specified for this purpose in the Agreement.