

Agreement for the Sale of Brent Blend Crude Oil
on 15 Day Terms
Part 2
General Conditions Shell U.K. Limited
July 1990

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PART 2

GENERAL CONDITIONS

1. DEFINITIONS

- A. In these General Conditions, which shall be designated Shell 15-Day Brent Blend 1990, the following terms shall have the meanings specified below:
- a) "Agreement" shall mean the agreement of which certain specific items agreed by Buyer and Seller form Part 1 and these General Conditions form Part 2;
 - b) "Arrival Point" shall mean the customary arrival point for vessels as advised from time to time by the Terminal Operator;
 - c) (i) "Bank Holiday" shall mean a Day when the banks in the specified place are closed for the transaction of normal banking business;
(ii) "Banking Day" shall mean a Day when the banks in the specified place are open for the transaction of normal banking business;
 - d) "Barrel" shall mean a volume of 42 U.S. gallons measured at 60 degrees Fahrenheit;
 - e) The "Brent System" shall mean the group of companies participating in, and representing the total beneficial ownership of, the pipeline system that gathers and transports Oil from the Brent Field and other producing areas to the Loading Terminal;
 - f) "Brent Blend Crude Oil" shall mean Oil which is made available for loading at the Loading Terminal;
 - g) "BS and W" shall mean sediment and water;
 - h) "Cargo" shall mean 500,000 barrels
(the "Nominal Volume") plus or minus 5% in Buyer's operational tolerance of Brent Blend Crude Oil of the quality available at the Loading Terminal at the time of loading. For the avoidance of doubt, a Cargo may comprise one or more parcels of O11 made available through the Brent System, or one or more parcels of oil made available through the Ninian System, or a combination of one or more parcels made available through the Brent System and one or more parcels made available through the Ninian System.
 - i) "Cargo Reference Number" shall mean the number allocated by the Brent System or the Ninian System (as the case may be) to a parcel of Brent Blend Crude Oil which is intended by the Brent System or the Ninian System to be made available for loading on the Scheduled Day during the Specified Month. If the Cargo comprises more than one parcel of Brent Blend Crude Oil then any reference to the Cargo Reference Number of the Cargo shall be understood to refer to the Cargo Reference Numbers of all parcels included in the Cargo;
 - j) "Commencement of Loading" shall mean the time and date at which the loading of the Cargo commences, as recorded on the tanker time sheet prepared by the Terminal Operator;
 - k) "Completion of Loading" shall mean the time and date at which the operation of loading is completed, as recorded on the tanker time sheet prepared by the Terminal Operator;
 - l) "Disconnection of Hoses" shall mean the time and date at which the operation of disconnecting the loading hoses after Completion of Loading is completed, as recorded on the tanker time sheet prepared by the Terminal Operator;

- m) "Day" shall mean a calendar day;
 - n) "deliver", shall include "procure to be delivered" and the term "delivery" shall be construed accordingly;
 - o) "Dollar" or "\$" shall mean dollars of the United States of America;
 - p) "Loading Terminal" shall mean the loading terminal at Sullom Voe;
 - q) "Laydays" shall mean a range of 3 Days the middle Day of which is the Scheduled Day and which falls wholly within the Specified Month;
 - r) "Month" shall mean a calendar month;
 - s) The "Ninian System" shall mean the Group of companies participating In, and representing the total beneficial ownership of, the pipeline system that gathers and transports oil from the Ninian Field and other producing areas to the Loading Terminal;
 - t) "Oil" shall mean liquid substances produced and transported from oil and gas wells together with any incidental gas associated with such liquids;
 - u) "Port Authority" shall mean the Shetland Islands Council Port Authority as established by the Zetland County Council Act 1974 having jurisdiction over the Port of Sullom Voe, or its successor from time to time;
 - v) "Prime Supplier" shall mean any person putting Oil into the Brent System or the Ninian System pipelines but shall be taken to include the Oil and Pipelines Agency or any successor thereto. A "Prime Supplier of the Cargo" is any Prime Supplier (part of) whose equity entitlement constitutes all or any part of the Cargo;
 - w) "Scheduled Day" shall mean the Day within the Specified Month on which, according to the Brent System schedule or the Ninian System schedule (as the case may be), the Cargo to be sold hereunder is intended by 'the Brent System or the Ninian System to be made available for loading;
 - x) "Specified Month" shall mean the Month agreed in Part 1 hereof;
 - y) "Terminal Operator" shall mean the person charged with operation of the Loading Terminal;
 - z) "vessel" shall, where the context admits, include a substitute vessel.
- B. Any reference herein to time being of the essence is included for emphasis or avoidance of any doubt. The absence of such an expression elsewhere herein shall not be taken to mean that in any other provision time is necessarily not of the essence.
 - C. Any reference herein to a breach of this Agreement being a repudiation is included for emphasis or the avoidance of any doubt. The absence of such an expression elsewhere shall not be taken to mean that any other breach does not amount to repudiation.
 - D. Unless otherwise stated, all references to date or time herein shall refer to local time in London. Any reference to time in relation to any communication (e.g. requiring a declaration to be made or a nomination to be given "not later than a specific time") shall be deemed to refer to the time at which such communication is received by the addressee, not the time of its dispatch.
 - E. The Clause headings have been included in this Agreement for convenience of reference only and in no way affect the construction hereof.

2. DELIVERY

The Cargo shall be delivered at the Loading Terminal as a single lot in bulk free on board the vessel provided by Buyer.

3. LAYDAYS

- a) Seller shall declare to Buyer the Laydays and the Cargo Reference Number in respect of the Cargo not later than, and time shall be of the essence in this respect, 1700 hours London time on the 15th Day prior to the first Day of the Laydays. By way of example, if a declaration is made on the first Day of the Specified Month then the earliest Laydays acceptable are 16th-18th of the Specified Month. Telephone declarations made by 1700 hours shall be valid, but must be promptly confirmed by telex from Seller. If the 15th Day prior to the first Day of the Laydays is a Saturday, Sunday or London Bank Holiday then such declaration shall be made not later than 1700 hours on the last preceding London Banking Day. Buyer shall use all reasonable efforts to ensure that appropriate facilities and sufficient authorised personnel are available for the prompt receipt of declarations.
- b) If Seller is itself purchasing the Cargo from, or Buyer is itself selling the Cargo to, any third party, Seller or Buyer, as the case may be, undertakes to pass on as expeditiously as possible any communication given to it hereunder which it is contractually bound to give to such third party.
- c) The Cargo Reference Number declared pursuant to Clause 3(a) shall relate to a Cargo which at the time of such declaration is, according to the Brent System schedule or *the Ninlan System schedule (as the case may be)*, intended by the Brent System or *the Ninlan System* to be made available for loading on the Scheduled Day. However, providing that the Cargo Reference Number is validly declared as aforesaid, Seller shall not be in breach of this Agreement if the Cargo Reference Number in respect of the Cargo is not at the time of loading the same as the Cargo Reference Number previously declared pursuant to Clause 3(a) provided that the Cargo Reference Number at the time of loading refers to a Cargo which at commencement of the Laydays declared pursuant to Clause 3(a) was scheduled by the Loading Terminal for loading on the Scheduled Day.

4. PRICE

The price shall be the price agreed in Part 1 hereof, calculated in Dollars per Barrel net of B S and W, FOB the Loading Terminal and no gravity adjustment shall apply.

5. PAYMENT

- a) Payment shall be made to the person and in the place agreed in Part 1 hereof or as may be subsequently notified to Buyer, in Dollars in full, without discount withholding setoff or counterclaim, in immediately available funds 30 Days after the bill of lading date on presentation of Seller's commercial invoice (telex invoice acceptable) and full set of original bills of lading, original certificate of quantity and quality and original certificate of origin and authenticity. In the absence of original documents, Buyer shall pay against receipt of Seller's commercial invoice and a letter of indemnity executed by Seller in the form set out in Appendix C hereto.

Buyer's obligation to make payment as aforesaid shall not be reduced by any letter of credit or guarantee which may be required in accordance with Clause 6 hereof.

- b) If payment falls due on a Saturday or on a Bank Holiday other than a Monday in the place where payment is to be made, payment shall be made on the last preceding Banking Day. If payment falls due on a Sunday or Monday Bank Holiday in the place where payment is to be made, payment shall be made on the next succeeding Banking Day.

6. FINANCIAL SECURITY

a) Financial Security for Payment

Financial security for payment may be required of the Buyer, in which case Part 1 of this Agreement shall specify one of the following forms of security:

- (i) An irrevocable documentary letter of credit. This letter of credit shall be in a form acceptable to Seller and meet the requirements set out in Appendix A hereto.
- (ii) An irrevocable standby letter of credit. This letter of credit shall be in a form acceptable to Seller and meet the requirements set out in Appendix B hereto.
- (iii) Such other form of security as the Seller may require which may include advance payment.

With reference to Clauses 6(a)(i) and 6(a)(ii) above, if a letter of credit is specified in Part 1 of this Agreement, such letter of credit shall be opened by or confirmed by a first-class international bank acceptable to Seller. Such letter of credit shall be so opened or confirmed (as the case may be) and advised to Seller by 1600 hours London time on the 10th Day prior to the first of the Laydays or, if such 10th Day is a Saturday, Sunday or London Bank Holiday by 1600 hours London time on the last preceding London Banking Day.

If for any reason loading of the Cargo does not take place within the Laydays and is delayed such that Buyer's letter of credit, opened or confirmed in accordance with this Agreement will expire before payment is due, Buyer shall at Seller's request extend the period of validity of the letter of credit as Seller may reasonably require and the costs of such extension shall be for Buyer's account.

Failure by Buyer to comply with the foregoing shall be a breach of this Agreement and Seller may (without prejudice to its other remedies and despite the allowance of more time for the opening of such letter of credit) at any time thereafter prior to Commencement of Loading elect to treat this Agreement as repudiated by Buyer and hold Buyer liable for all losses suffered by Seller as a result of Buyer's breach, provided that such right shall be lost if the letter of credit is opened and advised to Seller before such right has been exercised.

b) Bank Guarantee of Letter of Indemnity

If specified in Part 1 of this Agreement, any letter of indemnity proffered pursuant to Clause 5(a) shall be joined in by a first-class bank acceptable to Buyer, in the form included at the end of Appendix C.

7. BUYER'S DUTY TO PROVIDE A VESSEL

a) Duty to nominate

- (i) No later than 1700 hours London time on the 7th Day prior to the first Day of the Laydays Buyer shall nominate to Seller the vessel's name and its ETA, which must be before or within the Laydays. Nomination of a named ship "or substitute" (and ETA) is acceptable; so is nomination of a "TBN" provided that a named vessel (and ETA) is subsequently nominated to Seller by Buyer not later than 1700 hours London time on the 5th Day prior to the first Day of the Laydays. If the 7th Day and/or the 5th Day, as the case may be, referred to above falls on a Saturday, Sunday or London Bank Holiday, Buyer shall make the appropriate nomination by 1700 hours on the last preceding London Banking Day.

- (ii) Any nomination under this Clause 7 may be made orally provided telex confirmation follows promptly.

b) Acceptability of vessel

- (i) Buyer shall procure that the vessel shall at the time of loading comply with all applicable rules, regulations and directions of governmental, local and port authorities and of the Loading Terminal (including for example, but without limitation, any restrictions as to length, draught, displacement and other dimensions of the vessel, any requirements relating to the vessels status under a recognised ship Inspection or ship vetting scheme, and' the requirements set out in Appendix D hereto and any amendments made thereto from time to time. Appendix D is however provided by way of example only and is not necessarily correct at the date hereof). Buyer shall be responsible for remaining up to date with all such rules, regulations and directions and any amendments thereto. Notwithstanding anything to the contrary expressed or implied herein, Seller shall not be liable for the consequences of rejection under Clause 7(b)(iv) if the vessel is rejected by such authorities or the Loading Terminal acting in their or its official capacity.

- (ii) It is agreed that it is in the interests of both Buyer and Seller and beneficial to each of them to ensure that the Cargo is covered to the fullest extent by voluntary schemes providing compensation for pollution incidents. Accordingly, Buyer warrants that:

any vessel nominated by Buyer to carry the Cargo shall be owned by or bareboat chartered to a party to the Tanker Owner's Voluntary Agreement concerning Liability for Oil Pollution dated 7th January, 1969 (IITOVALOPII) as amended from time to time, and that

the Cargo covered by this Agreement shall be owned or deemed to be owned by a party to the Contract Regarding an Interim Supplement to Tanker Liability for Oil Pollution dated 14th January, 1971 (IICRISTALII) as amended from time to time, and that Buyer will immediately become a party to CRISTAL if necessary to achieve this end.

It is a condition of this Agreement that if the Buyer contracts to sell or otherwise dispose of the Cargo, Buyer shall ensure that the contract will contain the provisions of this Clause 7b(iii) (including this paragraph) mutatis mutandis.

- (iii) Seller reserves the right to reject any vessel if such vessel is unacceptable to Seller for any reasonable cause whatsoever. If Seller rejects any vessel it must give notice thereof promptly to Buyer.

- (iv) The Terminal Operator and/or government, local or port authorities may reject any vessel in the exercise of their respective jurisdictions, and any notice of such rejection given to the master or vessels agent shall be deemed to have been given to Buyer.

c) Arrival within Laydays

- (i) When the vessel has arrived at the Arrival Point and is in all respects ready to commence loading the Cargo, the master of the vessel, being properly satisfied that all formalities can be completed without delay, shall give notice of readiness to load ("NOR") to the Terminal Operator as Seller's representative at the Loading Terminal.

- (ii) Buyer shall procure that the vessel tenders NOR before or within the Laydays.

d) Loading

Buyer's vessel having tendered NOR, Buyer shall be obliged to receive delivery of the Cargo in accordance with Clause 9(c).

e) Substitution

Buyer shall have the obligation to nominate a substitute vessel whenever necessary for the performance of Buyer's obligations under Clause 7(b), 7(c) or 7(d) and in this Agreement (including without limitation Clause 7(b), 7(c) and 7(d)), "the vessel" shall, where the context admits, include any substitute vessel.

f) Repudiation

Buyer shall be in breach and Seller may without prejudice to its other rights, treat this Agreement as having been repudiated by Buyer, if:

- (i) Buyer fails to make a timely nomination as required by Clause 7(a)(i); or
- (ii) the vessel fails to tender NOR before the end of the Laydays, as required by Clause 7(c)(ii), or
- (iii) the vessel has tendered NOR in accordance with Clause 7(c)(ii) but is subsequently rejected in accordance with Clause 7(b)(iv) and Buyer fails to provide a substitute vessel which tenders NOR within the Laydays and which is not so rejected; or
- (iv) the vessel fails to load the Cargo in accordance with Clause 7(d) and Buyer fails to provide a substitute vessel which tenders NOR within the Laydays and which loads in accordance with Clause 7(d).

8. INSPECTION

Either party may, upon giving notice to the other, appoint an independent inspector to measure the quantity and test the quality of the Cargo loaded or to be loaded. The party requiring inspection shall appoint such inspector and bear the costs. If both parties require inspection then Buyer shall appoint a mutually acceptable inspector and the costs shall be shared equally.

9. SELLER'S DUTIES AT THE LOADING TERMINAL

- a) Seller shall provide or shall cause to be provided, free of charge, a berth or berths which the vessel can safely reach and leave and at which she can lie and load always safely afloat.
- b) Seller or the Terminal Operator may require the vessel to shift berth or to move to anchorage. In the event that Seller exercises this right for reasons not attributable to Buyer or to the vessel, then the cost of shifting berth or moving to anchorage (and back to berth, if applicable) shall be for the account of Seller. In all other cases such costs shall be for the account of Buyer.
- c) Provided the vessel tenders NOR before the end of the Laydays and that Buyer has complied with its obligations under this Agreement, then Seller shall be obliged to effect delivery to the vessel, and Buyer shall be obliged to receive delivery, as soon as reasonably practicable having regard to:
 - (i) routine fluctuations in the quantity of Brent Blend Crude Oil available for immediate loading
 - (ii) the Loading Terminal practices and procedures
 - (iii) the time when the vessel tendered valid NOR to load,

even if this means that delivery is effected or completed outside the Laydays or outside the Specified Month, save that if the vessel tenders NOR prior to the Laydays, the obligations of the parties under this sub-Clause shall not come into effect until 0600 hours on the first Day of the Laydays.

10. LOADING CONDITIONS AND DEMURRAGE

- a) Subject to the provisions of this Clause 10 the time allowed to Seller for loading the Cargo shall be 36 running hours weather permitting Sundays and holidays included unless loading on the Sunday or holiday in question is prohibited by law or regulation at the Loading Terminal. Time shall begin to run, berth or no berth, 6 hours after the vessel has arrived at the Arrival Point and the vessel's master or his representative has tendered NOR, or upon Commencement of Loading if earlier, except that: -
 - (i) if the vessel arrives and tenders NOR prior to the Laydays, time shall commence at 0600 hours on the first Day of the Laydays or upon Commencement of Loading, whichever is the earlier; and
 - (ii) if the vessel arrives and tenders NOR after the Laydays and is loaded, time shall commence upon Commencement of Loading.
- b) Time used for loading the Cargo shall cease to run upon Disconnection of Hoses.
- c) If the total time used for loading the Cargo exceeds the time allowed under Clause 10(a), Seller shall pay demurrage to Buyer for such excess -time. The amount and terms of the demurrage payable shall be as follows: -
 - (i) The appropriate rate of demurrage shall be determined by applying the Average Freight Rate Assessment (AFRA) appropriate to the size of vessel actually used as provided by the London Tanker Brokers' Panel and current on the date of presentation of NOR, to the demurrage rate appropriate to the size of vessel in question, or in the case of part cargoes to the demurrage rate appropriate to a vessel having a summer deadweight equal to the cargo size loaded plus 5%, as provided for in Worldscale as amended from time to time.
 - (ii) Any demurrage claim shall be in writing and shall be supported by all evidence then available to Buyer. Unless such demurrage claim has been received by Seller within 90 Days after the date of Disconnection of Hoses, Seller's liability for demurrage, if any, shall be extinguished.
 - (iii) If there is any delay in loading the vessel but Oil is eventually loaded, regardless of whether or not such loading commences during the Laydays or the Specified Month, the rights of Buyer against Seller in respect of delay to the vessel howsoever caused, whether or not such rights arise under this Agreement, shall be limited to a claim for the payment of demurrage in accordance with the provisions of this Clause 10.
 - (iv) Demurrage shall be payable in Dollars.
- d) Notwithstanding anything elsewhere contained in this Clause 10, time shall not count against time allowed or, if the vessel is on demurrage, for demurrage, when spent or lost: -
 - (i) on an inward passage, including awaiting tide pilot tugs weather or daylight, or moving from anchorage even if lightening has taken place at the anchorage, until the vessel is securely moored at the berth or other loading place; or
 - (ii) in berthing of the vessel due to bad weather; or

- (iii) awaiting pratique, immigration or customs clearance; or
- (iv) due to breakdown, inefficiency or other cause attributable or relating to the vessel, her master, officers or crew or tugs or pilots, or to the vessels owners or the agent(s) of Buyer including without limitation inability of the vessel to load the Cargo or take delivery within the time allowed; or
- (v) in handling ballast or slops other than concurrently with loading; or
- (vi) due to the Terminal Operator or Port Authority prohibiting or restricting loading due to weather conditions.

Furthermore, in the event of delay directly attributable to fire, explosion or the breakdown of machinery or equipment at the Loading Terminal, the rate of demurrage shall be reduced by one half for the period of such delay.

- e) If the vessel is loaded at the Loading Terminal by or on behalf of Seller and one or more other suppliers of Oil, Seller's liability for any excess time used shall be for such proportion of the excess time used as the Cargo bears to the total volume of Oil loaded on the vessel at the Loading Terminal.
- f) Buyer shall ensure that the vessel shall carry out all operations at the Loading Terminal expeditiously and shall vacate berth as soon as possible upon Disconnection of Hoses subject to considerations of safety. Buyer shall reimburse Seller for any excess berth occupancy charges which may arise from non-compliance with the foregoing.
- g) For the avoidance of doubt, it is agreed that Clause 14 shall not apply to this Clause 10.

11. DUES AND CHARGES

All dues and other charges on the vessel shall be the responsibility of Buyer. Buyer shall likewise be responsible for payment of any taxes, duties, imposts, fees, charges and dues of every description on the Cargo in respect of any stage after the Cargo passes the vessel's permanent hose connection at the Loading Terminal.

12. PROPERTY AND RISK

Notwithstanding Seller's right to retain the documents until payment, the property and risk in the Oil supplied hereunder shall pass to Buyer as the Oil passes the vessel's permanent hose connection upon loading at the Loading Terminal.

13. QUALITY AND QUANTITY

- a) The quality of the Cargo shall be that which is available at the Loading Terminal at the time of loading.
- b) The measurement of the quantity and the BS and W of the Cargo and the testing of the quality of the Cargo (whether by taking samples or otherwise), shall be carried out in accordance with standard practice followed at the Loading Terminal at the time of loading.
- c) Seller shall ensure that certificates of quantity and quality are issued in accordance with standard practice followed at the time of loading at the Loading Terminal and that copies of such certificates are delivered to Buyer as soon as reasonably possible. Such certificates shall be used by Seller in the preparation of invoices, and Buyer shall be obliged to pay the invoiced amount, but always without prejudice to the right of either party to claim adjustment of monies paid to the extent that such certificates are shown to be incorrect.

14. EXCEPTIONS

- a) If Seller is (either immediately or originally) a Prime Supplier of the Cargo, such Seller shall not be in breach of its obligations under this Agreement (except obligations to pay money) if and to the extent that fulfilment has been delayed, hindered, interfered with, curtailed or prevented by any circumstance whatsoever which is not within the reasonable control of Seller, including but not limited to: -
- (i) any curtailment, failure or cessation in the production, processing, pipeline transportation or loading operations of supplies of Brent Blend Crude Oil; or
 - (ii) any law,-regulation or ordinance, or compliance with any order, demand or request 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 any corporation directly or indirectly controlled by any one of them; or
 - (iii) any strike, lock-out or labour dispute (whether or not Seller is party thereto or would be able to influence or procure the settlement thereof).
- b) If Buyer is (either immediately or ultimately) the last FOB buyer of the Cargo, Buyer shall not be in breach of its obligations under Clause 7 of this Agreement if and to the extent that fulfilment has been delayed, hindered, interfered with, curtailed or prevented by any event or circumstance beyond its reasonable control.
- c) If Seller is not (either immediately or originally) a Prime Supplier of the Cargo, or if Buyer is not (either immediately or ultimately) the last FOB buyer of the Cargo, Seller or Buyer, as the case may be, shall not be responsible for any failure to fulfil its obligations under this Agreement (except obligations to pay money) if and to the extent that fulfilment has been delayed, hindered, interfered with, curtailed or prevented:
- (i) in the case of Seller, by any failure by Seller's supplier, or by anyone antecedent to it in the contractual chain, to deliver any Oil deliverable - hereunder or otherwise to perform its contract and the effective cause of such failure was an event- or circumstance affecting the Prime Supplier as provided in Clause 14(a); or
 - (ii) in the case of the Buyer, by any failure by Buyer's purchaser, or anyone subsequent to it in the contractual chain, to comply with the obligations of a buyer under Clause 7 and the effective cause of such failure was an event or circumstance affecting the last FOB buyer which was beyond such last FOB buyer's reasonable control, and which delayed, hindered, interfered with, curtailed or prevented the last FOB buyer from performing the obligations of a buyer under Clause 7.

For the avoidance of doubt, it is agreed that no failure in performance by Seller's supplier, Buyer's purchaser or any other party to any contractual chain shall constitute an exception under this Agreement except as set out in this Clause 14(c).

- d) Seller or Buyer, as the case may be, shall be under a continuing obligation to overcome any event or circumstance falling within Clauses 14(a), 14(b) or 14(c), and to resume contractual performance, as soon as possible provided however that neither such party shall be liable for any continued failure of performance hereunder if and for so long as such failure results from any event or circumstance of which notice has validly been given under Clause 14(e).

- e) Buyer or Seller, as the case may be, shall, as soon as it becomes aware of the existence of an event or circumstance falling within Clause 14(a), 14(b) or 14(c), give written notice thereof to the other party, stating the nature of such event or circumstance, its anticipated duration and its anticipated effect on performance of this Agreement, and shall amend or revise such notice as may be necessary from time to time. A party shall be entitled to rely on any cause or circumstance only to the extent that it complies with the foregoing.

As soon as contractual performance can be resumed, Seller shall use all reasonable efforts to procure that the Loading Terminal takes the vessel onto the berth and to effect delivery to the vessel, as soon as reasonably practicable after she has tendered NOR at the Loading Terminal, having regard to:

- (i) routine fluctuations in the quantity of Brent Blend Crude Oil available for immediate loading
- (ii) the Loading Terminal practices and procedures
- (iii) the time when the vessel tendered valid NOR to load

but always without prejudice to the rights of other vessels presenting timely NOR'S. Buyer shall be obliged to receive such delivery even though such delivery may take place outside the Laydays and may take place outside the Specified Month. For the avoidance of doubt, this Clause 14 shall not prejudice Buyer's rights under Clause 10.

- f) If by reason of any of the causes referred to in Clause 14(a) either a Prime Supplier's availabilities of Brent Blend Crude Oil or the normal means of transport of such Oil is delayed, hindered, interfered with, curtailed or prevented, then the parties hereto acknowledge that Prime Supplier shall be at liberty to withhold, reduce or suspend deliveries of the Cargo In good faith to such extent as it may in its absolute discretion think fit and shall be free to allocate, according to its own discretion, its available supplies in good faith but without giving preference to its own requirements or those of its subsidiary or affiliated companies. If Prime Supplier exercises such liberty, or if Seller is Prime Supplier, then Seller shall be entitled to withhold, reduce or suspend deliveries hereunder accordingly and Seller shall not be bound to purchase or otherwise make good shortages resulting from any such cause. In such circumstances Buyer shall be obliged to accept and pay for any oil tendered even if less than the full contractual quantity.
- g) The performance of any obligation, whether arising out of any contract or arrangement or otherwise, by virtue of which any authority, agency, body or person is entitled to require and does require any Oil by way of royalty in kind shall be deemed to constitute a compliance with an order or request as provided in Clause 14(a)(ii).
- h) If following a declaration made by the Seller pursuant to Clause 3 hereof Seller is unable to comply with its obligation to effect delivery in accordance with this Agreement for any of the causes referred to in Clause 14(a) or Clause 14(c)(i) hereof on or before the 60th Day after the last Day of the Laydays, this Agreement shall terminate without liability on either tide save that such termination shall be without prejudice to any accrued rights or liabilities.
- i) If as a result of an event or circumstance falling within Clause 14(b) or Clause 14(c)(ii) the vessel fails to tender NOR, or if NOR having been tendered, the Cargo is not loaded on the vessel, on or before the 60th Day after the last Day of the Laydays, this Agreement shall terminate without liability on either side save that such termination shall be without prejudice to any accrued rights and liabilities.

15. DESTINATION RESTRICTIONS AND CERTIFICATION

It is a condition of this Agreement that Buyer shall not sell, or otherwise dispose of the Cargo for supply, to any destination which is at the time of delivery not permitted under the laws of the United Kingdom or any regulations, rules or guidelines applied by the United Kingdom Government or any agency thereof.

Buyer shall keep itself informed as to such laws, regulations rules or guidelines and acknowledges that they apply to this transaction. Buyer acknowledges that at the date hereof it is aware of all such laws, regulations, rules and guidelines relevant to its undertaking under this Clause. Without diminution of such obligation on Buyer, Seller undertakes to inform Buyer as soon as practicable of any changes in such laws, regulations, rules or guidelines which become known to Seller.

Buyer shall, if Seller so requires, provide Seller, within 60 Days after the date of discharge of the Cargo, with appropriate documentation for the purpose of verifying the final destination thereof. Such documentation shall include the, name of the discharge port or ports, the date or dates of discharge and the grade and quantity discharged. The obligation of Buyer to provide such documentation shall not be affected by any sale or disposal of the Cargo by Buyer.

16. ADDITIONAL CONDITIONS, TERMINATION

- a) In the event of either party becoming bankrupt or making a composition or arrangement with its creditors, or in the event of either party having a winding-up order made or (except for the purposes of amalgamation or reconstruction) a resolution for voluntary winding-up passed, or having a provisional liquidator receiver manager or administrator of its business or undertaking appointed, or having possession taken by or on behalf of the holders of any debenture secured by a floating charge of any property comprised in or subject to the floating charge, or doing or suffering any equivalent act or thing under any applicable law, such party shall be in breach hereof and the other party may by notice terminate this Agreement without prejudice to any rights of action or claims accrued at the date of termination.
- b) If at any time the reliability or the financial responsibility of Seller should in the reasonable opinion of Buyer be or become Impaired or unsatisfactory, then notwithstanding Clause 5(a) hereof Buyer may refuse to make payment against Seller's letter of indemnity unless such letter is joined in by a first-class bank acceptable to Buyer in the form Included at the end of Appendix C.
- c) If the reliability or the financial responsibility of Buyer should in the reasonable opinion of Seller be or become Impaired or unsatisfactory, then
 - (i) if this occurs at any time before Commencement of Loading, advance cash payment shall be made, or at the option of Seller other security satisfactory to Seller shall be given, by Buyer to Seller on demand by Seller in respect of the Cargo or any proportion thereof; and after such demand Seller may withhold the Cargo until such payment or security shall have been received by It. If Buyer fails to provide such payment or security within a period of 2 London Banking Days' after such demand is made Buyer shall be in breach hereof and Seller may forthwith by notice terminate this Agreement without prejudice to any rights of action or claims It may have under this Agreement or otherwise, and
 - (ii) if this occurs at any time after Commencement of Loading but before payment in full has been made of all amounts due hereunder, Seller may give written notice to Buyer requiring immediate payment of any and all sums then outstanding hereunder, and such sums shall thereupon become immediately due and payable (but without prejudice to the terms of Clause 16(e)(i)).

Seller shall pay interest on any amount paid under this Clause 16(c) from the date on which such payment is received up to and including the last day of the agreed credit period. Such interest shall be paid at a rate published under Eurocurrency interest rates

in the Financial Times for the Banking Day on which payment is received. If the Financial Times is not published on that day, the Eurocurrency rate used shall be that stated in the last preceding publication of the Financial Times.

- d) Buyer shall be responsible for obtaining all consents, permissions, approvals and assurances of whatsoever nature needed to give effect to the payment provisions of this Agreement and for procuring the currency for the payment required thereunder.
- e) (i) Unless otherwise agreed in writing any amount due from Buyer which is not paid within the agreed credit period shall bear simple interest from the date on which it became due up to and including the date of payment at the rate calculated as an annual rate of 3% plus the mean of the bid and offer rates for one month Dollars as published under Eurocurrency interest rates in the Financial Times for the Banking Day upon which payment becomes due. If the Financial Times is not published on that day, the Eurocurrency rate used shall be that stated in the last preceding publication of the Financial Times.
- (ii) The foregoing shall not be construed as an indication of any willingness on the part of Seller to provide extended credit as a matter of course and shall be without prejudice to any rights and remedies which Seller may have under this Agreement or otherwise.

17. APPLICABLE LAW

This Agreement shall be governed by and construed in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts without recourse to arbitration. The UN Convention for the International Sale of Goods (1980) shall not apply.

18. ASSIGNMENT

- a) Buyer and Seller may each assign its respective rights and obligations hereunder but only with the prior written consent of the other party, it being always understood that such other party hereto retains all rights to decline to consent to any such assignment in its sole and unfettered discretion and without any obligation to give any reasons therefor. Assignor shall remain responsible for the fulfilment of the terms and conditions of this Agreement in accordance with Clause 18(b), below.
- b) Any such assignment shall be effected by notice in writing from the assignor and confirmed by the assignee in writing to signify its acceptance of the obligations under this Agreement. Upon the making of any such assignment, the assignor shall remain liable for due performance of the obligations so assigned.

19. NO WAIVER

No waiver by either party of any breach of this Agreement by the other party shall be construed as a waiver of any succeeding breach of the same or any other term or condition hereof.

20. BOOK-OUT

- a) If after the date on which this Agreement is entered into it is found that the transaction which is the subject of this Agreement forms part of a series of transactions which can be shown by any party to any of such transactions to form a continuous circle of such transactions ("the circlet"), the parties hereto hereby express willingness to consider entering into any book-out agreement (as defined in Clause 20(b) below) that may reasonably be proposed by any party to any of the transactions in the circle provided always that each party involved in the circle has given or gives a similar undertaking, it being always understood that each party hereto- retains all rights to decline to enter any such book-out

agreement in its sole and unfettered discretion and without any obligation to give any reasons therefor.

- b) For the purpose of Clause 20(a) above, a book-out agreement shall mean an agreement between all parties to the circle in question pursuant to which each party in the circle agrees to forego the receiving or making of physical delivery of Oil and to discharge its relevant contracts of purchase and sale in consideration of each other party in the circle undertaking to make payment to or to receive payment from, as the case may be, its supplier and its customer of such sums as shall be agreed between each supplier in the circle and its customer. In determining the sums so payable Buyer and Seller agree that the following shall apply in any such book-out agreement: -
- (i) there shall be a deemed delivery quantity of the Nominal Volume;
 - (ii) there shall be a deemed bill of lading date of either the 15th day of the Specified Month or, if the Seller's declaration of the Laydays has been made pursuant to the Agreement, the middle Day of the Laydays; and
 - (iii) discounting, if agreed, shall be based on London Interbank Offer Rate for one month Eurodollars current on the date on which such book-out agreement is formally proposed by one party in the circle to all the other parties in the circle.
- c) The provisions relating to the method of payment in the book-out agreement shall, unless otherwise specifically agreed between the parties to the agreement, be as set out in the payment provisions hereof if the sum payable is to be paid by Buyer to Seller. If, however, such sum is to be paid by Seller to Buyer payment shall, unless otherwise agreed, be in accordance with such payment provisions as would usually be found in any sales by Buyer to Seller under sales contracts between them.

21. NOTICES

Save as expressly provided herein, all communications to be given hereunder by either party to the other shall be given in writing, which may be by telex, to the address specified in Part 1 hereof.

22. LIMITATION OF LIABILITY

Except as expressly provided in the Agreement, neither Seller nor Buyer shall be liable for consequential or indirect loss or damage of any kind arising out of or in any way connected with the performance of or failure to perform this Agreement. In particular, Seller shall in no circumstances be liable for more than the difference between the contract price and the market price, such market price to be ascertained as of the last day of the Laydays or any earlier date on which the Seller commits a repudiatory breach of the Agreement or a breach which is deemed under this Agreement to be repudiatory, save that Seller shall be liable for any direct costs incurred by Buyer in respect of a vessel properly nominated in, accordance with this Agreement.

23. CONFLICT WITH PART 1

The provisions of Part 1 of this Agreement shall prevail over the provisions of this Part 2 to the extent that there is any inconsistency.

IRREVOCABLE DOCUMENTARY LETTER OF CREDIT

The irrevocable documentary letter of credit referred to in Clause 6(a)(i) shall meet the following conditions in addition to those specified in the said Clause:

- a) Validity The letter of credit shall be valid from the date on which it is opened until at least 60 days after the last of the Laydays. It shall make no reference to the name of a vessel or the Cargo Reference Number(s) and is to be valid for loading commencing before, during or after the Laydays.
- b) Sum The letter of credit shall be opened for a sum equal to the value of 110 percent of the Nominal Volume of the Cargo at the price specified in Part 1 of the Agreement and shall be valid for any lesser sum equal to the value of the oil delivered at such price.
- c) Payment The letter of credit shall provide for payment to be in US dollars by telegraphic transfer in immediately available funds without discounting, withholding, setoff or counterclaim 30 days after bill of lading date on presentation of the documents as described hereunder. Provision shall be made such that if payment falls due on a Saturday or a Bank Holiday other than a Monday in the place where payment is to be made, then payment is to be made on the preceding Banking Day, while if payment falls due on a Sunday or Monday Bank holiday in the place where payment is to be made, then payment is to be made on the next succeeding Banking day. Payment on the due date shall be prior to the closing time of Seller's bank.
- d) Documents The letter of credit shall provide for payment to be made on presentation of:
 - (i) Seller's commercial invoice; a telex invoice shall be acceptable.
 - (ii) Full set original bills of lading.
 - (iii) Original certificate of quality and quantity.
 - (iv) Original certificate of origin and authenticity at the counters of a London bank acceptable to Seller.

The letter of credit shall provide that if the original documents (ii), (iii) and (iv) of this paragraph (d) are not available at the time presentation is made, then payment shall be made on presentation of:

 - (i) Seller's commercial invoice
 - (ii) Seller's letter of indemnity in the form given in Appendix C to this Agreement.
- e) Late Presentation of Documents The letter of credit shall provide that if the documents are Presented after the due date for payment but within the validity of the letter of credit, payment shall be made immediately on presentation of the documents.
- f) Early Presentation of Documents The letter of credit shall provide that documents presented after 21 days from bill of lading date shall be accepted.
- 8) Costs All costs associated with the letter of credit including confirmation costs, if any, shall be for Buyer's account.

- h) Relation to this Agreement The letter of credit shall take effect in accordance with its terms but such terms shall not alter, add to or in any way affect the terms of this Agreement or any of them.
- i) Uniform Customs and Practice for Documentary Credits, 1983 Revision, ICC Publication no. 400.

APPENDIX B

IRREVOCABLE STANDBY LETTER OF CREDIT

The irrevocable standby letter of credit referred to in Clause 6(a)(ii) shall meet the following conditions in addition to those specified in the said Clause:

- a) Validity The letter of credit shall be valid from the date on which it is opened until at least 66 days after the last of the Laydays. It shall make no reference to the name of a vessel or the Cargo Reference Number(s) and is to be valid for loading commencing before, during or after the Laydays.
- b) Sum The letter of credit shall be opened for a sum equal to the value of 110 percent of the Nominal Volume of the Cargo at the Price specified in Part 1 of the Agreement and shall be valid for any lesser sum equal to the value of the Oil delivered at such price.
- c) Payment Payment shall be made available by sight draft drawn on the opening bank (or confirming bank as the case may be) for 100 percent of the invoice value.
- d) Documents The letter of credit shall provide for payment to be made available on presentation of:
 - (1) Seller's signed statement that:
 - (i) it sold and delivered to {Buyer} a Cargo of {No. of Barrels} of Brent System Crude Oil which was loaded on board the {Name of vessel} at Sullom Voe Loading Terminal on {date of bill of lading},
 - (ii) the price per barrel was US Dollars {Price} FOB Sullom Voe Loading Terminal,
 - (iii) payment was due on {due date for payment, being thirty days after the date of the bill of lading unless such date falls on a Saturday or a Bank holiday in the place where payment is to be made other than a Monday, when payment is to be made on the preceding Banking Day or unless such date falls on a Sunday or a Monday Bank Holiday in the place where payment-is to be made, in which case payment is to be made on the next succeeding Banking Day} and that
 - (iv) payment was not made by the Buyer on the due date.
 - (2) A signed copy of the unpaid invoice
 - (3) A copy of one of the original the bills of lading or a copy of a letter of indemnity for missing documents.
- e) Costs All costs associated with the letter of credit including confirmation costs, if any, shall be for Buyer's account.
- f) Relation to this Agreement The letter of credit shall take effect in accordance with its terms but such terms shall not alter, add to or in any way affect the terms of this Agreement or any of them.

- g) Uniform Customs The letter of credit shall be governed by the Uniform Customs and Practice for Documentary Credits, 1983 Revision, ICC Publications no. 400.

APPENDIX C

LETTER OF INDEMNITY

In consideration of your paying for the cargo of US barrels of Brent System crude oil per tanker which sailed from Sullom Voe on loaded with such cargo when the documents required by or pursuant to the contract ('the documents') are not available as so required at the time payment is due under our contract dated (the "Contract")

It is agreed that: -

1. We hereby warrant to you that:
 - (a) At the time of such loading we had the right to sell the said cargo to you, and
 - (b) That title in the said cargo has been passed as provided in the contract to you free from any and all liens charges and encumbrances of any nature whatsoever.
2. We hereby irrevocably and unconditionally undertake to indemnify you and hold you harmless against any claims made against you by anyone and all loss, costs (including but not limited to legal costs), damages, and expenses which you may suffer, incur or be put to, as a result of:
 - (a) a breach by us of our warranties or any of them as set out in clause 1 above, and/or
 - (b) our failure to deliver the documents or any of them in accordance with the contract.
3. Your acceptance of this indemnity in lieu of the documents shall not prejudice your right to call for the usual documents in accordance with the contract for future shipments under the contract (if any) and shall not establish a course of dealing between us.
4. This indemnity shall cease to have effect upon presentation by us of the documents and acceptance thereof by you in accordance with the contract.
5. This indemnity shall be governed by and construed in accordance with English Law and any disputes, controversies or claims arising out of or in relation to this indemnity or the breach, termination or invalidity thereof shall be subject to the exclusive jurisdiction of the English courts.

Signed

Endorsement by Bank

In consideration of your agreeing as aforesaid we the undersigned

..... of whose customer is

..... jointly and severally agree to be bound by the terms of the above letter of indemnity.

Signed

APPENDIX D

REQUIREMENTS FOR VESSELS USING THE LOADING TERMINAL AT SULLOM VOE

(A) Any vessel nominated shall: -

- (a) have a summer deadweight not exceeding 300,000 long tons (unless specifically agreed by the Seller) and, in the case of a vessel arriving part-laden, it shall have on berthing a draught not exceeding 13.0 metres in salt water and a displacement not exceeding 250,000 long tons. The vessel shall have a minimum overall length of 170 metres. If the vessel nominated is a combination carrier capable -of carrying bulk dry cargo, the Buyer shall advise the Seller at the time of nomination whether that vessel is an ore/oil carrier or an oil bulk ore carrier (OBO);
- (b) conform to the following requirements: -
 - (i) the vessel shall be able to discharge ballast and load cargo simultaneously or, if not, the vessel shall be able to load part cargo prior to discharging dirty ballast so as to comply with Port Regulations and so that the vessel will have its propeller fully submerged at all times whilst alongside the berth;
 - (ii) the vessel shall be able to either discharge segregated ballast ashore or retain such ballast on board should this be found to be contaminated;
 - (iii) the vessel shall comply with the standards required in the EEC Memorandum of Understanding on Port State Control;
 - (iv) the vessel shall be able to accept a minimum bulk loading rate per hour as follows: -
 - for vessels of up to 89,999 tons SDWT: 7.5% of SDWT per hour;
 - for vessels of between 90,000 tons SDWT and 179,999 tons SDWT: 6.6% of SDWT per hour;
 - for vessels of 180,000 tons SDWT and above: 5.8% of SDWT per hour;
 - (v) the vessel has a venting system capable of handling the applicable minimum bulk loading rate per hour set out in (iv) above;
 - (vi) the vessel can be moored in accordance with a standard equivalent to that recommended by the Oil Companies International Marine Forum (OCIMF);
 - (vii) the vessel is fitted with a fully operational inert gas plant capable of producing inert gas with an oxygen content of 5% or less by volume;
 - (viii) the vessel will on arrival be fully inerted with an oxygen content of 8% or less by volume in all cargo tanks;

- (ix) the vessel is equipped with a system for determining hull stress and such system is fully operational and in use;
- (x) the vessel shall, if coming directly from lay up, or if such vessel has been out of service for repairs, dry docking or other reasons, immediately prior to nomination, have been tested at the time of recommissioning in respect of all cargo pipelines, oil handling and deballasting equipment, including gauging equipment and such equipment shall have been found to be satisfactory;
- (xi) the vessel is adequately manned and is able to meet the number and standard of watchkeepers proposed by the Standards of Training, Certification and Watchkeeping Convention 1978, and

the Buyer shall, at the time of nomination, warrant to the Seller that the vessel in question conforms with all of the foregoing requirements.

(c) if such vessel is a combination carrier it shall conform to the following additional requirements and at the time of nomination the Buyer shall additionally confirm to the Seller that the vessel nominated:-

- (i) is able to be loaded in such a manner that it can be removed from the berth at any time in the event of an emergency;
 - (ii) will be in a fully stable condition for sailing on completion of loading of the nominated quantity of cargo;
 - (iii) will have completed all preparations for oil loading prior to arrival at the pilot station;
 - (iv) will meet all environmental requirements and will have decks clear of all previous dry bulk cargo spillings;
 - (v) all crude oil loading equipment such as pipelines, valves, gauging systems will have been checked and found to be in order.
- (B) (a) (i) The vessel nominated shall arrive with a total ballast and/or part cargo, bunkers, fresh water and stores amounting to not less than 35% of its summer deadweight tonnage, and this fact shall be confirmed in the notice of nomination.
- (ii) If the vessel arrives with a total ballast and/or part cargo, bunkers, fresh water and stores amounting (in the reasonable opinion of the Seller or the Seller's suppliers) to less than 35% of the summer deadweight tonnage of that vessel, then the nomination in question shall be void, loading will be refused and no demurrage, deviation or other costs will be payable by the Seller to the Buyer.

If, for any reason, an authorised UK Government representative advises the Seller or the Seller's suppliers that he may be instituting legal procedures against the master or owner of the vessel on the grounds of pollution, then the Seller or the Seller's suppliers shall have the right to suspend or delay loading and may require the vessel to vacate the berth. At the Seller's discretion, in such circumstances, loading may be refused and no demurrage, deviation or other costs will be payable by the Seller to the Buyer.

(b) No vessel shall be nominated for loading unless the charter party includes the following clause:-

"As from the date of agreement to and for the duration of this charter, owners and their agents shall observe charterer's instructions regarding the disposal of ballast from the vessel. For the like period as aforesaid, owners shall ensure that no Engine Room, Pump Room or other oily effluent is discharged from the

vessel and shall, if required by charterer, produce evidence of instructions cabled by them to the Master forbidding the discharge of such effluent from his vessel.

If, before the commencement of loading at Sullom Voe Terminal, charterer produces to owners evidence of non-compliance with such instructions regarding the disposal of ballast or evidence of the discharge or apparent discharge of such effluent, charterer may by notice in writing cancel this charter without thereby incurring any penalty. Charterer will accept dead freight incurred in complying with charterer's instructions."

(c) The Buyer shall, when ordering the vessel to proceed to Sullom Voe: -

(i) have instructed owners and their agents, with reference to the clause set out in (b) above, as follows: -

- From the time of receipt of these instructions to retain on board all cargo tank ballast until arrival at Sullom Voe Terminal.
- In the event of bad weather necessitating taking on additional cargo tank ballast, to likewise retain it on board.
- Any cargo tank ballast not discharged to shore facilities At Sullom Voe must be retained on board for discharge ashore at the vessel's next port of call or until the vessel is at least 300 miles from a European coastline when it may be discharged in accordance with the legal provisions for such discharges.
- The foregoing requirements also apply to the discharge of Engine room and Pump room effluent.
- To present the vessel at Sullom Voe Terminal with a total deadweight of not less than 35 per cent of the summer deadweight tonnage including ballast, cargo retained on board, bunkers, fresh water and stores.
- Segregated clean ballast in permanent clean ballast tanks is to be maximised and may be discharged overside after berthing and after permission has been given by the Port Authority.

(ii) have passed on to owners and their agents the following recommendations which reflect the recommendations of the Shetland Islands Council: -

"Masters are strongly recommended to keep at least 10 miles off the Shetland Islands when approaching or leaving Yell Sound. Since Fair, Isle is part of the Shetland Islands it is recommended that vessels navigate the Fair Channels approximately midway between Fair Isle and either mainland Shetland or North Ronaldsay, Orkney. It is further recommended that passage between off-lying islands/skerries, etc., including Foula and mainland Shetland, should not be attempted. For the final approach to/departure from Yell Sound, vessels are strongly recommended to navigate on the offshore side of the boundaries joining the following co-ordinates: -

When approaching from the west:

60 degrees 42.5 minutes north 01 degree 42.0 minutes west

60 degrees 42.5 minutes north 01 degree 22.0 minutes west

60 degrees 40.0 minutes north 01 degree 17.0 minutes west

When approaching from the east:

60 degrees 40.0 minutes north 01 degree 14.0 minutes west

60 degrees 56.5 minutes north 01 degree 14.5 minutes west

61 degrees 01.5 minutes north 00 degree 59.5 minutes west

61 degrees 01.5 minutes north 00 degree 48.0 minutes west

60 degrees 56.5 minutes north 00 degree 27.0 minutes west

Where for any reason of safety or emergency or otherwise Masters do not intend to observe the foregoing recommendations, Masters should immediately notify Sullom Voe Port Control (by VHF Channel 16 or via agents) giving their intended course and the reason for not adopting the recommended course. Charts should not be cleaned off until berthed at Sullom Voe to facilitate checking by Port Authority."

- (B) Each vessel shall report to the Seller or its representative at the port of loading, stating the expected hour of arrival, as follows: -

Reporting times

At least 72 hours before arrival, again at least 48 hours before, and again at least 24 hours before arrival, thereafter advising any variation of more than 3 hours. Additionally vessels whose previous discharge port is less than 72 hours sailing time from Sullom Voe shall, in such reports made prior to departure from the discharge port, advise the name of that discharge port and estimated time of departure therefrom.