

**SIBUR INTERNATIONAL GMBH**

**GENERAL CONDITIONS**

**OF SALES OF PETROCHEMICALS AND HYDROCARBONS**

**FOR ALL DELIVERIES**

**January 15, 2018**

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## INTRODUCTORY PROVISIONS

**A.** These **General Conditions** (the "**General Conditions**") supplementing Business Terms shall apply to all Contracts executed by and between SIBUR International GmbH and a Buyer into which Business Terms are incorporated by reference, whether such Contracts are entered into orally, in writing or otherwise (including, for the avoidance of doubt, electronically), unless otherwise expressly agreed in the Contract. The last version of the General Conditions existing and effective as of the Effective Date of the Contract shall apply to such Contract.

**B.** The General Conditions may be amended, revised, restated or supplemented by SIBUR International GmbH from time to time. The General Conditions are available at [www.sibur-int.com/documents/](http://www.sibur-int.com/documents/).

**C.** If there is any conflict, ambiguity or inconsistency between the terms and conditions of the General Conditions and Business Terms and/or the terms and conditions of the Contract and/or Incoterms, the order of priority of such documents (from highest to lowest) shall be as follows:

1. the Contract; then
2. Business Terms; then
3. General Conditions; then
4. Incoterms.

**D.** All terms used, but not defined herein shall have the respective meanings set forth in the Contract and/ or in the Business Terms, subject to clause C above.

## PART I

### TERMS, DEFINITIONS AND INTERPRETATIONS

**1.1.** The following terms when used in the Contract with initial capital letters shall have the respective meanings as defined below:

"**Actual Contract Quantity**" shall mean the quantity of the Goods actually delivered by Seller to Buyer under the Contract.

"**Actual Monthly Quantity**" shall mean the quantity of the Goods actually delivered by Seller to Buyer under the Contract within a respective month of delivery.

"**Affiliate**" shall mean any person or entity that directly or indirectly controls, is controlled by, or is under the common Control of Seller or Buyer. "Control" for the purposes of this definition shall mean direct or indirect beneficial ownership of more than fifty per cent (50%) of the authorized share capital which provide voting rights or other voting interests in the entity in question.

"**Anti-Competitive Behavior**" shall mean any communication (by any means, whether electronic, written, verbal or otherwise), agreement (by any means, whether formal, informal, contractual, non-contractual, written or verbal) or other form of co-ordination or cooperation with any other competitor (whether past, present or potential) that is unlawful or otherwise restricted or prohibited under applicable competition Law and regulations.

"**Anti-Corruption Laws**" shall mean all applicable anti-bribery or anti-money laundering Law of any government, international or supranational organization, including without limitation, the U.S. Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, the UK Anti-Terrorism, Crime and Security Act 2001, the UK Money Laundering Regulations 2007 and the UK Proceeds of Crime Act 2002, the UK Terrorism Act 2006 and the applicable country legislation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or such other relevant laws of any other country in which business will be conducted (as the case may be).

"**Applicable Authority**" shall mean (i) any supranational organization or any state or political subdivision thereof, (ii) any authority exercising executive, legislative, judicial, regulatory or administrative functions on behalf of a supranational organization, a state or political subdivision thereof, including without limitation any supranational authority, government authority, ministry, agency, department, board, commission or instrumentality and subdivisions thereof, pursuant to the rights granted thereto by applicable Law.



“**ASTM method**” shall mean the method of testing of the Goods based on the ASTM Standards for Materials, Products, Systems & Services in accordance with the procedure and regulations of ASTM as provided at [www.astm.org](http://www.astm.org).

“**Bribery**” shall mean the offering, promising, giving, authorizing or accepting of any undue pecuniary or other advantage to, by or for any Applicable Authority or for anyone else in order to obtain or retain a business advantage or other improper advantage, including but not limited to in connection with public or private procurement contract awards, regulatory permits, taxation, customs, judicial and legislative proceedings.

Bribery often includes (but is not limited to):

(i) kicking back a portion of a Contract payment to government or party officials or to employees of contracting contractual counterparty, their close relatives, friends or business partners; or

(ii) using intermediaries such as agents, subcontractors, consultants or other Third Parties, to channel payments to government or party officials, or to employees of a contractual counterparty party, their relatives, friends or business partners.

“**Business Day**” or “**Working Day**” or “**Banking Day**” or “**Bank Day**” shall mean any day other than Saturday, Sunday or any public holiday on which banks are open for business in Moscow (Russian Federation), Vienna (Austria), New York (USA), London (England), and the country in which the Place of Destination is located .

“**Business Terms**” shall mean commercial terms and conditions, which shall be applicable to the respective Contract via reference in such Contract to such terms and conditions. Business Terms are available at [www.sibur.int.com/documents/](http://www.sibur.int.com/documents/).

“**Buyer**” shall mean a Party buying Goods as specified in the Contract.

“**Carrier**” shall mean any person or company contracted by Buyer or by Seller, as the case may be, to undertake to perform or to procure the performance of agreement with the Carrier by rail, road, sea or a combination thereof as may be applicable to the terms of delivery.

“**Certificate of Origin**” shall mean the document issued by Seller or the Manufacturer or a chamber of commerce or other agreed Third Party (as the case may be) specifying the country where the Goods were actually produced.

“**Certificate of Quality**” shall mean the document issued by the Seller or the Manufacturer in respect of the Goods confirming the quality of the Goods in accordance with the Contract.

“**CHF**” shall mean the official currency of Switzerland.

“**Confidential Information**” shall have the meaning set forth in the Part III of the General Conditions.

“**Consent**” shall mean any consent, approval, authorization, waiver, permit, grant, franchise, concession, agreement, licence, certificate, exemption, order, registration, declaration, filing, report or notice of, with or to any person (and “person” for this purpose shall mean any natural person, firm, partnership, association, corporation, company, limited liability company, trust, joint stock company, business trust, Applicable Authority or other organization or entity).

“**Container**” shall mean the type of container used for the delivery, transportation and/or storage of the Goods, as applicable.

“**Contract**” shall mean any contractual arrangement (whether oral, in writing, electronic or otherwise) relating to supply of Goods to Buyer by Seller into which Business Terms, and by extension the General Conditions, are incorporated by reference.

“**Corrupt Practices**” shall mean Bribery, Extortion or Solicitation, Trading in Influence and Laundering Corrupt Proceeds.

“**Day**” shall mean a calendar day.

“**Delivery Date**” shall mean the moment when the Goods are deemed delivered to the Buyer. The Delivery Date, and/or the means of determining the Delivery Date shall be as provided in the Contract.

“**Effective Date**” shall mean the date the Contract/Amendment shall take effect from.

“**ETA**” or “**Estimated Time of Arrival**” shall mean estimated time of arrival of the Vessel to the respective port.

“**EU**” shall mean the European Union and includes, where the context requires and/or when reference is made, to EU Regulations, the European Parliament, the Council of the European Union, the European Commission or other relevant regulatory body of the European Union.

“**Euro**” or “**EUR**” or “**€**” shall mean the official currency of the European Union.

“**Eurozone**” shall mean the group of member states of the EU which have adopted and fully incorporated the Euro as their lawful single and common currency in accordance with applicable EU Laws. A “member” used in reference to the Eurozone shall be construed accordingly.

“**Extortion or Solicitation**” shall mean the demanding of a bribe, whether or not coupled with a threat if the demand is refused.

“**Force Majeure Event**” shall have the meaning set forth in Part V of the General Conditions.

“**Goods**” shall mean the goods to be delivered by Seller to Buyer as specified in the Contract.

“**General Conditions**” shall mean the standard terms and conditions of the Contract, supplementing the Business Terms relevant to the Contract, as set out herein.

“**Governmental Approval**” shall mean any Consent of or from an Applicable Authority, including without limitation any certificates, licenses or permits issued by an Applicable Authority.

“**Incoterms**” shall mean the international commercial terms, the official publication by the International Chamber of Commerce No. 715, 2010.

“**Inspector**” shall mean an independent inspector appointed in accordance with the Business Terms to perform quality and quantity inspection of the Goods.

“**Inspector’s Report**” shall mean any report, conclusion, opinion, certificate or other written document (or combination thereof) issued by the Inspector and the reflecting results of the Goods’ quantity and quality inspection as described in the Business Terms.

“**ISPS Code**” shall mean the International Code for the Security of Ships and Port Facilities and the relevant amendments to CHAPTER XI of SOLAS (International Convention for the Safety of Life at Sea 1974), as amended from time to time.

“**Into Tank**” shall mean, in relation to a transfer, sale or purchase of the Goods whereby title to the Goods are delivered by transfer from one storage tank into another tank in the same storage facility, as may be provided for in the Contract.

“**Laundering Corrupt Proceeds**” shall mean the concealing or disguising the illicit origin, source, location, disposition, movement or ownership of property, knowing that such property is the proceeds of crime.

“**Law**” shall mean all applicable (i) provisions of all constitutions, treaties, statutes, laws, customs, codes, rules, regulations, ordinances or orders of any Applicable Authority, (ii) Governmental Approvals including without limitation any consent, approval, authorization, waiver, permit, grant, franchise, concession, agreement, license, certificate, exemption, order, permit, registration,

declaration, filing, report or notice of or from an Applicable Authority and (iii) orders, decisions, injunctions, judgments, awards and decrees of any Applicable Authority.

**“Letter of Credit”** or **“Stand-by Letter of Credit”** shall have the meanings set forth in the Uniform Customs and Practice for Documentary Credits, 2007 Revision, ICC Publication No. 600 (UCP).

**“Longstop Date”** shall mean the date set forth in the introductory paragraph of the Contract/Amendment.

**“Manufacturer”** shall mean the plant by which the Goods are produced.

**“MSDS”** shall mean material safety data sheet as provided in [www.msds.com](http://www.msds.com).

**“MT”** or **“mt”** shall mean metric tonne (a unit of 1,000 kilograms).

**“Nomination”** shall mean the nomination of the Vessel which is to be loaded with the Goods, as described in greater detail in the Business Terms (as applicable).

**“NOR”** shall mean the notice of arrival or notice of readiness tendered by the Vessel upon arrival of the Vessel at the Place of Destination (unloading port or customary anchorage or area or such other place as the Vessel may be ordered to await unloading), as applicable.

**“Packaging”** shall mean all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of the Goods, including (but not limited to) paper, wooden, plastic and metal boxes, bags, pallets, and not fall within the definition of Transport and Container as specified herein.

**“Party”** and **“Parties”** shall mean the parties to the Contract referred to individually and collectively.

**“Place of Destination”** shall mean the place the Goods shall be delivered as specified in the Contract.

**“Place of Shipment”** shall mean the place where the Goods are to be loaded (dispatched), which may be, without limitation (i) the Manufacturer’s loading facility or a warehouse or storehouse, (ii) the loading port or Terminal, or (iii) any other place, as applicable and as may be specified in the Contract.

**“Planned Contract Quantity”** shall mean the quantity of the Goods set forth in the Contract agreed by the Parties to be delivered under the Contract during the term of the Contract.

**“Planned Monthly Quantity”** shall mean the quantity of the Goods set forth in the Contract agreed by the Parties to be delivered under the Contract in a calendar month.

**“Price”** shall mean the price per metric tonne of the Goods at which the Seller sells the Goods to the Buyer as stipulated in the Contract.

**“Purchase Order”** shall mean a document provided from the Buyer to the Seller indicating the quantity and type of Goods which the Buyer wishes to purchase under a Contract.

**“Quarter”** shall mean the period of the three consecutive calendar months commencing on 1st January (“Q I”), or 1st April (“Q II”), or 1st July (“Q III”), or 1st October (“Q IV”).

**“RMB”** shall mean the official currency of the People’s Republic of China.

**“RTC”/“Railway Wagon”** shall mean a vehicle designed for transportation of the Goods by rail.



“**RUBLE**” or “**RUB**” or “**RUR**” shall mean Russian Rubles, the lawful currency of the Russian Federation.

“**Sales Order Confirmation (SOC)**” shall mean the Seller’s offer for delivery of the Goods to the Buyer on the certain terms and conditions specified therein. For the avoidance of doubt a SOC which is accepted by the Buyer shall be considered a Contract.

“**Sanctions**” shall mean restrictive and discriminatory measures in trade and economic fields adopted by any Applicable Authority in respect of other countries, groups of countries, individuals or legal entities with intent to force them to change their policies or specific actions. Sanctions can be expressed in full or partial embargo on imports/exports, the prohibition of entry and visa restrictions, blocking and freezing of assets, prohibition of financial transactions with the countries, individuals and entities specified above, including cross-border payments and investments.

“**Seller**” shall mean SIBUR International GmbH, the seller of the Goods under Contracts.

“**Shipment**” shall mean the certain quantity of the Goods to be delivered by Seller to Buyer at any one time under a single Transport Document or document of title (as applicable).

“**Shipment Date**” shall mean the date stamped on the Transport Document at the Place of Shipment.

“**Shipment Period**” shall mean the range of the dates within which the Goods are to be dispatched by Seller from the Place of Shipment.

“**Specification**” shall mean the specification describing the quality of the Goods as agreed by the Parties and set forth in the Contract.

“**Spot Contract**” shall mean the Contract for a single shipment.

“**Tax**” or “**Taxes**” shall mean all (i) taxes, fees, duties, tariffs, levies, imposts, or other public charges of any kind, including, without limitation, taxes, required contributions or other charges on or with respect to income, franchise, gross receipts, property, sales, use, profits, capital stock, payroll, employment, social security, health insurance fund, pension fund and other social funds, workers compensation and unemployment or related compensation, (ii) taxes or charges in the nature of excise, withholding, ad valorem, stamp, transfer, value added or gains taxes, (iii) license registration or documentation fees, (iv) customs duties, tariffs and similar charges of any kind whatsoever and (v) any interest, penalties, additions to tax or additional amounts imposed by any taxing Applicable Authority with respect to those items enumerated in clauses (i), (ii), (iii) and (iv) of this definition.

“**Term Contract**” shall mean a Contract with a mechanism which allows the Buyer to place repeat orders for the delivery of Goods over a defined period of time.

“**Terminal**” shall mean a facility where the Goods are stored and handled, including incoming and outgoing movements.

“**Third Party**” shall mean any person or entity other than a Party to the Contract.

“**Total Goods Value**” shall mean the amount, calculated by multiplying the Actual Contract Quantity by the Price.

“**Trading in Influence**” shall mean the offering or Solicitation of an undue advantage in order to exert an improper, real or supposed influence with a view of obtaining from a public official an undue advantage for the original instigator of the act or for any other person.

“**Transport**” shall mean containers, tank cars, cisterns, other means of transport used for the Goods delivery, transportation, storage, etc.

“**Transport Document**” shall mean the document that serves as an evidence of acceptance and receipt of the Goods for transportation (Bill of Lading, Railway bill, CMR, etc. as the case may be) as described in greater detail in the Business Terms.

“**Transportation Information**” shall mean the information required for the Party arranging transportation of the Goods to properly execute such obligation in accordance with the terms and conditions of the Business Terms.

“**Transport Return Date**” shall mean the period within which the Buyer shall return the Transport (when applicable) at the address specified in the Contract.

“**Truck**” shall mean a vehicle used for transportation of Goods by road.

“**USD**” or “**US Dollar**” or “**Dollar**” or “**US\$**” or “**\$**” shall mean United States Dollars, the lawful official currency of the United States of America.

“**Verification Act**” shall mean verification report (act) executed between the Buyer and the Seller and confirming the quantity of and amount paid for the delivered Goods for a particular period and as described in greater detail in the Business Terms.

“**Vessel**” shall mean the ship contracted by the Buyer or the Seller, as the case may be for delivery of the Goods (if applicable).

**1.2. Headings.** Any heading, article, boxes, clause, subclause, section, subsection, paragraph, part and table heading herein, in the Business Terms and the Contract are inserted for purposes of convenience only and shall not affect in any way the meaning or interpretation of the General Conditions, Business Terms or the Contract.

**1.3. Reference to articles, clauses, etc.** Save where the context requires otherwise, references to Articles, Boxes, Clauses, Subclauses, Sections, Subsections, Parts, Paragraphs, Tables, Annexes, Appendices and the like shall be references to the articles, boxes, clauses, subclauses, sections, subsections, parts, paragraphs, tables, annexes, appendices and the like of the Contract and/or Business Terms and/or the General Conditions, when made in the Contract and/or Business Terms, and/or the General Conditions respectively.

**1.4. Singular and plural.** In the Contract and/or Business Terms, and/or the General Conditions, the singular shall include the plural and vice versa and the word “including” shall be deemed to be followed by the phrase “without limitation”, references to any gender shall include a reference to the other gender; references to other agreements or to any statute, rule or regulation or instrument shall mean the same as amended, modified or replaced from time to time.

**1.5. Herein, hereunder, hereinafter.** The terms “herein”, “hereunder”, “hereinafter” and similar terms shall be interpreted to refer to the Contract and/or Business Terms, and/or the General Conditions, when made in the Contract and/or Business Terms, and/or the General Conditions respectively, unless otherwise follows from the context.

**1.6. Reference to period.** The Gregorian Calendar shall apply to the Contract, Business Terms and General Conditions and where any period in days, weeks, months or years is referred to in the Contract, Business Terms and General Conditions, such period shall be calculated in days, weeks, months or years respectively, of the Gregorian Calendar, unless expressly provided otherwise (and the day on which any such period is expressed to commence shall not be counted for the purpose of such period’s calculation).

**1.7. Writing.** A reference to “writing” or any cognate expressions is a reference to any mode of representing or reproducing words in a visible non-transitory form and includes fax and e-mail. Any correspondence made in frame of the performance of the Contract may be submitted per fax or email pursuant to Part V hereof.

**1.8. Including.** Any phrase introduced by the terms “including” or “in particular”, or any cognate expression, shall be construed as illustrative and not limiting of any preceding words.

## PART II

### CONTRACT FORMATION PROCEDURE

#### SECTION A - GENERAL PROVISIONS

**2.1.** If the Buyer wishes to buy any Goods from the Seller, the Parties shall negotiate in good faith either: (i) a Term Contract (in accordance with the provision of Section B of Part II below); or a Spot Contract (in accordance with the provisions of Section C of Part II below).

**2.2.** If notwithstanding clause 2.1. the Parties agree the terms of a Contract by some other method, these General Terms and the applicable Business Terms for the Goods shall govern that Contract and no other terms, including for the avoidance of doubt any of the Buyer’s standard purchasing terms, shall apply to any such Contract. For the avoidance of doubt, the Seller shall not be obliged to accept



any Purchase Orders or requests for Goods to be delivered to Buyer where the Buyer does not place a Purchase Order in accordance with the procedures established in Section B and/or Section C below.

**2.3.** All Spot Contracts shall be validly concluded between the Parties at the time where either: (i) the Contract is executed and signed by both of the Parties; or (ii) subject to clause 2.4. and after the Seller has sent a draft of the Contract to the Buyer by email, the Seller receives an email confirmation from the Buyer that the Buyer accepts the without any further modifications. All Term Contracts shall be validly concluded between the Parties at the time where the Contract is executed and signed by both of the Parties.

**2.4.** The Purchase Order, the Sales Order Confirmation and any other communication given or made by the Parties in connection therewith (including confirmation of the Purchase Order or acceptance of the Sales Order Confirmation (as the case may be)), hereinafter the "Communication", shall be in writing. Communications may be delivered either: (i) in hard copy which, in the case of Purchase Orders, SOCs and notifications from the Buyer that it accepts an SOC, shall be signed by an authorized representative of the relevant Party; or (ii) through email correspondence from the e-mail addresses and contact persons of the Parties designated by the Parties in the Term Contract or in official confirmation letter from the Buyer.

**2.5.** If the Seller receives any Communication from the Buyer which was sent from someone other than the contact person or email address specified in the Term Contract or in official confirmation letter from the Buyer, and the Buyer has not notified the Seller in advance of any change of contact person or email address, the Seller may in its sole discretion choose to treat the Communication as invalid and not received.

**2.6.** Subject to clause 2.5., including in any circumstances where the Seller has elected not to treat a Communication as invalid in accordance with clause 2.5., each Party warrants to the other that any Communication sent by it shall be made with the full authorization of that Party.

**2.7.** The date of receipt of the Communication shall be at the earlier of: the time the recipient acknowledges receipt; and twenty four (24) hours after transmission, unless the sender receives notification that the email has not been successfully delivered.

#### **SECTION B - FORMATION OF TERM CONTRACTS**

**2.8.** The Seller and the Buyer may execute a draft of a Term Contract which incorporates by reference these General Terms and the appropriate Business Terms.

At any time when the Buyer wishes to purchase Goods in accordance with the terms of the Term Contract, it shall send to the Seller a Purchase Order. The Purchase Order shall specify: (i) the type of Goods which the Buyer wishes to purchase, (ii) quantity of the Goods, (iii) delivery location, (iv) price (v) Buyer's order number and the Frame Contract Number specified on the Term Contract; and (vi) other information concerning the Goods delivery.

**2.9.** The Seller shall notify the Buyer of its confirmation or proposed amendments to the Purchase Order by sending to the Buyer the Sales Order Confirmation. The Buyer shall consider and accept the Sales Order Confirmation in accordance with clause 2.3. within the period of time provided for in the Sales Order Confirmation. If a Sales Order Confirmation is not accepted by the Buyer within the timeframe specified in the Sales Order Confirmation, the Seller's offer to deliver the Goods to the Buyer in accordance with the terms of the Sales Order Confirmation shall be regarded as rescinded, and Buyer shall be required to place a new Purchase Order if it wishes to purchase these Goods. Upon the Buyer's acceptance of the Sales Order Confirmation as described in this clause, the Sales Order Confirmation shall constitute a binding Contract for the Seller to sell, and for Buyer to purchase, the Goods specified under the terms and conditions of the SOC.

#### **SECTION C - FORMATION OF SPOT CONTRACTS**

**2.10.** If the Buyer wishes to purchase Goods under a Spot Contract, it shall send to the Seller a Purchase Order in accordance with clause 2.3. The Purchase Order shall specify: (i) the type of Goods which the Buyer wishes to purchase, (ii) quantity of the Goods, (iii) delivery location, (iv) price (v) Buyer's order number and (vi) other information concerning the Goods delivery.

**2.11.** The Seller shall notify the Buyer of its confirmation or proposed amendments to the Purchase Order by sending to the Buyer the Sales Order Confirmation in accordance with clause 2.3. The Buyer shall consider and accept the Sales Order Confirmation by email in accordance with clause 2.3. within the term provided in the Sales Order Confirmation. If a Sales Order Confirmation is not accepted by the Buyer within the timeframe specified in the Sales Order Confirmation, the Seller's offer to deliver the Goods to the Buyer in accordance with the terms of the Sales Order Confirmation shall be regarded as rescinded and Buyer shall be required to place a new Purchase Order if it wishes to purchase these Goods. Upon the Buyer's acceptance of the Sales Order Confirmation as described in clause

2.3., the Sales Order Confirmation shall constitute a binding Contract for the Seller to sell, and for Buyer to purchase, the Goods specified under the terms and conditions of the SOC.

### PART III

#### CLAIMS

**3.1.** Claims if any on quality or quantity of the Goods to be provided by the Buyer to the Seller within 45 (forty five) Days after the Delivery Date, unless the Contract provides otherwise. If the Buyer fails to make a claim within the agreed period of 45 (forty five) Days after the Delivery Date such claim will automatically be considered as time barred, null and void, and such delivered Goods shall be deemed accepted by the Buyer and in accordance with all terms and conditions of the Contract, and further claims in respect of the quality of the Goods are not permitted and may not be enforced.

**3.2.** The Buyer shall not be entitled to use a claim in relation to a particular Shipment of Goods as a basis for refusal to accept other Shipments of the Goods delivered under the Contract, or the Goods delivered pursuant to any other Contract agreed between the Parties.

**3.3.** Unless otherwise specified in the Contract and subject to clauses 3.1 and 3.2 above, any cause of action and/or claim that Buyer may have against Seller under the Contract shall be brought within two (2) years after the cause of action and/or claim accrues, failing which the Buyer shall be deemed to have waived its rights relating thereto.

### PART IV

#### GENERAL PAYMENT TERMS

**4.1. Time of payment.** Time for payment shall be of the essence, without limitation as to prepayment conditions or payment via the Letter of Credit.

**4.1.1. Bank details.** Bank details of the Seller shall be indicated in the invoice. The Buyer shall make payment in accordance with the Contract by wire transfer indicating the number and the date of the Contract/Amendment and the number and the date of the invoice issued by the Seller in the bank payment reference. Funds must be received in the nominated bank account no later than the due date on Seller's invoice document or no later than the last banking day before the due date if that due date on Seller's invoice document falls on a non-banking day.

**4.1.2. Payment documents.** Save as otherwise provided in the Contract or herein, the Buyer shall effect payment against presentation of the Seller's commercial and Transport Document/Certificate of ITTT (in relation to Into tank delivery). Should the Seller not be able to provide the Buyer with such documents at the payment due date, the Buyer shall nevertheless effect payment against presentation of Letter of Indemnity (LOI) in the Seller's standard form enclosed at Annex 1 hereto.

**4.1.3. SWIFT confirmation.** The Buyer shall provide the Seller with a copy of SWIFT confirmation within 1 (one) Business Day after the payment have been delivered to the Buyer's bank.

**4.1.4. VAT.** Unless the Contract provides otherwise, the Price is exclusive of any VAT and the Seller shall have the right to invoice the Buyer for any such VAT.

**4.1.5. The date of payment.** The date of payment is the date when 100% (one hundred per cent) of the amount specified in the Seller's invoice is credited to the Seller's bank account.

**4.1.6. Withholdings and gross-up.** Unless the Contract provides otherwise, all payments due or payable to the Seller under the Contract shall be paid in full, regardless of whether the Buyer is required to withhold or to apply any Taxes on payments made under the Contract. If the Buyer is required to withhold or to apply any Taxes on payments made under the Contract, then the Buyer shall increase the amount of each such payment so that the Seller bank account is actually credited with the full sum due and payable under the Contract as if no such Taxes had been deducted, regardless of any withholdings or application of any Taxes on payments made under the Contract. The Total Goods Value and all other amounts payable by the Buyer to the Seller under the Contract shall be payable without the right to any discount, deduction, set-off, lien, claim or counter-claim.

**4.1.7. Interest.** If the Total Goods Value or any other amounts due by the Buyer to the Seller under the Contract are not paid when due, interest shall accrue and be payable on all amounts outstanding until payment in full is received into the Seller's bank account as described in Business Terms.

**4.1.8. Banking expenses.** All expenses of the Seller's bank and at the Seller's correspondent bank shall be for the account of the Seller. All expenses outside the Seller's bank and at the Seller's correspondent bank shall be for the account of the Buyer.



**4.1.9. Verification Act.** On a quarterly basis a Verification Act should be fully executed by both Parties. The Seller shall send by fax or by email to the Buyer the Verification Act signed by the Seller once in each calendar quarter. Within 2 (two) Days from the date of receipt of the Verification Act signed by the Seller the Buyer shall check the information therein, and provide the Seller with its substantiated objections (if any). The Seller shall consider such objections within 7 (seven) Days and either correct the Verification Act accordingly or agree with the Buyer the Verification Act to be executed by both Parties.

**4.1.10. Defective Performance of Obligations.** In the event the Buyer fails to perform or delays performance of any obligations under the Contract at least two (2) times during any rolling six (6) month period or if any obligations are past due for more than for one (1) month, then the Seller may elect by written notice to the Buyer: (i) to change the payment terms applicable between the Buyer and the Seller to Prepayment and/or (ii) to request from the Buyer additional reasonable means of security of obligations, which the Buyer must provide within fifteen (15) Business Days following the relevant request. The change shall come into force with the next dispatch of the Goods after the notification. The Seller is entitled to suspend delivery of the Goods until the Goods are paid and/or additional security of obligations is provided. In addition to the foregoing should the Buyer fails to perform any of its payment obligations (including interest payment) for more than for three (3) days the Seller shall be entitled to suspend the shipment of the Goods till the moment when all obligations are fulfilled by the Buyer in full. Such suspension shall not constitute a delay for the purposes of liquidated damages.

**4.1.11. Multicurrency.** The Parties hereby agree that notwithstanding the currency specified in price determination of the Goods in the Contract the currency of the payment may be any of the following currencies: USD, EUR, RMB, RUB or Swiss francs (CHF).

The Buyer shall make all payments under the Contract strictly in the currency specified in the respective invoice issued by the Seller and according to the bank details (hereinafter the "Bank Details") specified in the respective invoice.

The conditions of this clause 4.1.11 are of the essence and breach of this Part shall be deemed a Material Breach for the purposes of the Contract.

The payment shall be effected at the exchange rate of the European Central Bank ("ECB"). The invoice amount shall be converted into another currency by using the foreign exchange rate of the European Central Bank ("ECB"), rounded to four decimal places, quoted at 16:00 hours Central European Time as reported on the ECB web site ([www.ecb.int](http://www.ecb.int)), one Banking day before the Payment Date.

For the purposes of this Clause:

"Payment Date" means the value date indicated in a SWIFT message (or other accepted means of written interbank payment instructions) with payment instructions (or in the other respective payment document if applicable) for the respective payment.

## **PART V NOTICES**

**5.1.** Any consent, approval or notice required or permitted to be given or made in the course of performance of the Contract by one of the Parties to the other Party shall be in writing and shall be delivered in person or by Federal Express, DHL (or other recognised international courier service requiring signature upon receipt) or by facsimile or email (as evidenced by a paper copy of such email). In proving the giving of a communication, it shall be sufficient to prove that, if delivered by courier, delivery was made to the appropriate address specified in the Contract and posted by an appropriate courier (in case of delivery by person or by post), or, if sent by fax, the fax was properly transmitted to the appropriate fax number specified in the Contract, or, if sent by email, the email was sent to the appropriate email address and to contact person specified in the Contract.

**5.2. The date of receipt.** The date of receipt of the Notice, demand or other communication will be (i) if delivered by hand, at the time of delivery, (ii) if delivered by courier – on the fourteenth (14<sup>th</sup>) Day after the same is so mailed, except in the event of disruption of the postal service in which event the notice, demand or other communication will be deemed to be received only when actually received; (iii) if sent by fax, at the time of transmission; and (iv) if sent by email, at the earlier of: the time a return receipt is generated automatically by the recipient's email server; the time the recipient acknowledges receipt; and twenty four (24) hours after transmission, unless the sender receives notification that the email has not been successfully delivered.

**5.3. Change of notice details.** Either Party shall promptly notify the other Party in writing as to the change of notice details of the Party and the new details to which notice shall be given to it thereafter.

**5.4. Originals.** Where original documents are required to be delivered in accordance with the Contract, such documents shall be sent either by certified mail or by courier to the postal address of the receiving Party as stipulated in the Contract.

**5.5. Language of the correspondence.** All correspondence concerning the Contract shall be conducted in English (unless otherwise agreed by the Parties in the Contract).



## PART VI

### CONFIDENTIAL INFORMATION

**6.1.** In connection with the Contract a Party (the “**Receiving Party**”) may discover, receive, or otherwise acquire, whether directly or indirectly, information related to the other Party (the “**Disclosing Party**”) or Affiliates of the Disclosing Party or its Affiliates’ businesses, or information of Third Parties that the Disclosing Party is obligated to keep confidential (collectively, in whatever form or medium, “**Confidential Information**”). Confidential Information shall not include information (i) that is, or becomes, publicly known through no wrongful act or omission, direct or indirect, of the Receiving Party or its officers, directors, employees, consultants or agents, (ii) that was already known to Receiving Party without obligations of confidentiality prior to receipt from Disclosing Party, as reasonably evidenced by the Receiving Party, and was legitimately in the Receiving Party’s possession, without any obligation to keep such information confidential, (iii) that the Receiving Party independently develops without the use of any Confidential Information of the Disclosing Party, or (iv) that the Receiving Party receives or has received on a non-confidential basis from a source other than the Disclosing Party that is entitled to disclose the same to the Receiving Party; provided, however, that the Receiving Party is able to provide the Disclosing Party with the documentary evidence regarding any of the exceptions (if any) or as required in connection with any rules or requirements of any stock exchange on which such Party is listed or may be listed, or as may otherwise be required by applicable Law.

**6.2.** The Receiving Party shall (i) use the Disclosing Party’s Confidential Information solely in connection with exercise of its rights or performance of its obligations under the Contract, and (ii) disclose the Disclosing Party’s Confidential Information only as necessary to the Receiving Party’s officers, employees, Affiliates, consultants, including legal advisors and auditors whose duties relate to the Contract and reasonably require familiarity with such information in order for the Receiving Party to perform its obligations or exercise its rights under the Contract and who are bound by a legally enforceable written obligation of confidentiality with terms that are the same as, or more stringent than, those set out herein. Each Receiving Party shall be liable for any losses and/or damages incurred by the Disclosing Party resulting from such disclosure of Confidential Information by the above mentioned persons to any Third Parties.

**6.3.** Subject to the exceptions to the confidentiality obligations set out herein, neither Party (nor its Affiliates, subsidiaries or other related parties) may disclose, publish or otherwise reveal the contents of the Contract to any Third Party without the prior express written consent of the other Party (which consent shall not be unreasonably withheld or delayed). Notwithstanding the aforementioned and without limiting the exceptions set out herein, each Party shall be permitted to disclose the terms and conditions of the Contract (i) to actual or potential investors and lenders and their authorized representatives under written confidentiality agreements that protect the confidentiality of the contents of the Contract which are the same as, or more stringent than, those set out herein, or (ii) as required in connection with any rules or requirements of any stock exchange on which such Party is listed or may be listed, or (iii) as may otherwise be required by applicable Law, or (iv) as may be reasonably required for the performance of the Parties’ obligations under the Contract; provided however, that the Party making a disclosure pursuant to an exception set forth in the preceding provisions (i) or (iv) shall provide the other Party with prior written notice and shall, to the extent practical, cooperate with the other Party in seeking confidential treatment of the information to be disclosed (if and to the extent available), or (v) to its Affiliates under written confidentiality agreements that protect the confidentiality of the contents of the Contract which are the same as, or more stringent than, those set out herein. In addition to the aforesaid exceptions the Seller is permitted to disclose without the Buyer’s prior consent the Confidential Information to any bank with regard to the assigned rights.

**6.3.** No press release referring to the Contract or utilizing the other Party’s name shall be made without the prior written consent of the other Party.

**6.4.** The obligation to maintain the confidentiality of the Confidential Information disclosed during the term of the Contract shall continue during five (5) years beyond the date of the Contract’s termination, unless otherwise agreed in writing by both Parties.

## PART VII

### FORCE MAJEURE

**7.1.** Except in relation to any failure or inability to make a payment due under the Contract, and Buyer’s liability for demurrage under the Contract (which shall not be excused by force majeure), neither Party shall be liable to the other Party for any delay or non-performance of any obligations under the Contract and/or Business Terms (other than the payment of money) if such delay or non-performance is, except in the cases specified in Part XIV (“**Sanctions**”), (i) due to circumstances reasonably beyond such Party’s control, not including non-availability of funds but including, and not limited to, any fires, strikes, lockouts, labor disputes of any kind, partial or general stoppage of labor, breakdown of or accident to the Manufacturer or warehouse or storehouse, machinery facilities, delays of

carriers due to break down or adverse weather, explosions, floods, drought, war, sabotage, any local or national health emergency, appropriations of property, civil disorders, government requirements, rules, orders or any other acts issued or requested by any governmental or other Applicable Authorities or any person purporting to act on behalf of such Applicable Authorities, civil or military authorities, acts of aggression, terrorism (or the threat thereof), acts of God or of the public enemy or any other causes beyond Party's reasonable control, except for the causes specified in Part XIV hereof, and (ii) could not have reasonably been prevented by such Party taking commercially reasonable precautions or customary steps to circumvent or mitigate such circumstances (if and to the extent such events were reasonably foreseeable).

7.2. A Party whose performance is affected by a Force Majeure Event shall provide written notice to the other Party of such Force Majeure Event, specifying the nature and the expected duration of the Force Majeure Event, within ten (10) Business Days after the Force Majeure Event begins, and shall take prompt action using its commercially reasonable efforts to remedy the effects of the Force Majeure Event. If requested by the Party not affected by a Force Majeure Event, the Parties shall discuss the Force Majeure Event and further steps in order to fulfill the Contract obligations.

7.3. Seller, when affected by a Force Majeure Event which prevents or hinders the supply of the Goods to Buyer or any other customer, shall apportion any quantity of the Goods remaining available to it between itself, Buyer and Third Parties (including Seller's Affiliates) with whom Seller has contractual commitments to deliver the Goods, provided that those arrangements were entered into prior to the occurrence of the Force Majeure Event.

7.4. In case of a Force Majeure Event declaration, the Party affected by it shall have no obligation to acquire by purchase or otherwise any shortfall of the Goods which by reason of Force Majeure Event such Party is unable to deliver to the other Party under the Contract.

7.5. If the affected Party's inability to perform lasts more than sixty (60) Days, any Goods, the delivery of which has been prevented by the Force Majeure Event, may be cancelled by either of the Parties by giving of notice to the other. In such cases neither of the Parties will be entitled to claim from the other Party any compensation for possible losses.

7.6. A certificate or other document describing the occurrence of the Force Majeure Event issued by the respective chamber of commerce of the Seller's or the Buyer's country or of a transit country or any Applicable Authority shall be sufficient proof of a Force Majeure Event and its duration.

7.7. In the event that the affected Party's inability to perform exceeds three (3) months, the Party not affected by a Force Majeure Event shall, on giving of thirty (30) Days' written notice, have the right to terminate the Contract. Where the Contract is so terminated, neither Party will be entitled to compensation or damages arising from or in connection with this Part, save in respect of Shipments delivered prior to the Force Majeure Event.

## **PART VIII ARBITRATION AND LAW**

8.1. The Contract, and any non-contractual obligations arising out of or in connection with this Contract, shall be governed by, interpreted and construed in accordance with the laws of England and Wales notwithstanding the choice of law rules of any jurisdiction and determined without reference to the principles of conflicts of laws.

The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the General Conditions, Business Terms or any Contract.

8.2. Save as expressly provided in the Contract or Business Terms, any dispute, controversy, claim or difference relating to or arising out of, or in connection with, the Contract, including any question regarding the existence, scope, validity or termination of the Contract shall be settled, to the exclusion of the ordinary courts, by arbitration in accordance with the rules of the Arbitration Institute of the Stockholm Chamber of Commerce (the «SCC») in force on the date that the notice of arbitration is submitted .

8.3. The rules for expedited arbitrations shall apply where the amount in dispute does not exceed EUR 100,000. Where the amount in dispute exceeds EUR 100,000 the arbitration rules shall apply. The arbitral tribunal shall be composed of a sole arbitrator where the amount in dispute exceeds EUR 100,000 but not EUR 1,000,000. Where the amount in dispute exceeds EUR 1,000,000, the arbitral tribunal shall be composed of three arbitrators. Any nonmaterial dispute shall be settled by the arbitral tribunal of three arbitrators.

8.4. In case the size of the claim is changed, so that the dispute shall be considered in a different order (for example, if the original dispute was declared on 50, 000 EUR at an expedited arbitration and then the claim was increased to 1, 500,000 EUR, the dispute shall be considered in the normal way by three arbitrators) arbitration proceedings should be terminated and started from the beginning in



accordance with this arbitration clause. The amount in dispute includes the claims made in the request for arbitration and any counterclaims made in the answer to the request for arbitration.

**8.5.** Each Party shall submit the documents in English. Documents submitted in a language other than English shall be translated into English at the expense of the Party submitting the documents. Each Party shall have the right, at its sole cost and expense, to have an interpreter attend the arbitration hearings if it so chooses.

**8.6.** The seat of the arbitration shall be Stockholm, Sweden where all hearings shall take place. The arbitration proceedings shall be conducted in the English language, and the award shall be in English.

**8.7.** The decision of the arbitrators shall be final and binding on the Parties. The arbitrators' awards shall be consistent with the limitations of liability and other terms and conditions set out in the Contract, to the extent permitted by English law.

#### **PART IX SURVIVAL PROVISIONS**

**9.1.** Notwithstanding the foregoing, provisions of PART V (CONFIDENTIAL INFORMATION), PART VII (ARBITRATION AND LAW), PART IX (INJUNCTIVE RELIEF) hereof, PARAGRAPH VIII (RESPONSIBILITIES OF THE PARTIES) of the Business Terms in relation to Into Tank delivery and PARAGRAPH XI (RESPONSIBILITIES OF THE PARTIES) of the Business Terms in relation to other delivery terms shall remain in full force and effect after termination of the Contract until the moment specified in the respective provisions, or in case of PART VII and PART VIII hereof for other period provided by applicable Law.

#### **PART X INJUNCTIVE RELIEF**

**10.1.** The Parties acknowledge and agree that irreparable harm and/or significant commercial damage may be caused to a Party resulting from any breach of the Contract by the other Party and/or any acts, or omissions of the other Party's employees, agents, officers directors or any other Third Party acting in concert with it or its behalf in connection with the Contract.

**10.2.** If the circumstances occur as referred to in clause 10.1 above, and/or the Party has reasonable grounds for believing that such circumstances will occur or have occurred, in addition to and without prejudice to any of the Party's other rights and remedies under the Contract, Business Terms and/or applicable Law, such Party shall be entitled to commence and pursue proceedings in any competent court in any jurisdiction for injunctive, conservatory and/or interim, including and without limitation an immediate restraining order, freezing order, order for the arrest or seizure of assets.

#### **PART XI HEALTH, SAFETY AND ENVIRONMENT**

**11.1.** The Goods supplied the Seller in the condition in which they are sold are considered not to constitute a hazard to health or safety, provided that they are handled, used and stored in accordance with normally accepted safe business practices applicable to the Goods. The Buyer shall, for its own protection, consult the producer's Material Safety Data Sheet (MSDS) (if any), relevant codes of practice and standards, and factory inspectorates with regard to adequate hygiene, safety and environmental standards and enforcement thereof, with respect to handling, processing and storing of the Goods, their by-products and wastes of any sort.

**11.2.** Buyer warrants to Seller that it is aware of and understands the information in the MSDS for the Goods and it will adopt appropriate procedures to ensure that all persons or agents authorized by Buyer to carry out any of the rights, duties or obligations of Buyer under the Contract and all of Buyer's other officers, employees, contractors and agents who are involved in the loading, transportation, delivery, handling or use of the Goods sold and delivered to Buyer under the Contract are aware of, and comply with the information provided in the relevant Material Safety Data Sheet.

**11.3.** Buyer accepts the inherent risks associated with the Goods as set herein and shall accordingly have no claim of any kind against Seller directly or indirectly arising from damage to any property as a result of direct or indirect exposure to the Goods.

**11.4.** Seller shall not be liable for any cost, loss or damage resulting from the receipt of the Goods in non-compliant storage facilities. Buyer shall indemnify Seller against any claim which any Third Party might have or bring against Seller in this respect.

**11.5.** Any advice or instructions given in any form by Seller concerning storage, transport, use or application of the Goods delivered shall be on without prejudice basis and Seller shall not be liable for any loss, damage or expense resulting from observance of such advice.



## PART XII

### REACH

**12.1. "REACH"** shall mean EU Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures and any accompanying directives, amendments and any other regulations of the EU or Applicable Authorities related thereto (as the foregoing may be amended from time to time).

**12.2.** Each Party shall comply with any obligations it may have under REACH which are applicable to any transaction contemplated under the Contract and/or which arise out of and/or in connection with the execution of the Contract.

**12.3.** Seller shall provide Buyer with the Chemical Abstract Service Number ("**CAS Number**") on its own by not later than at the time of loading of the Goods, unless otherwise specified in the Contract.

**12.4.** Notwithstanding any other provision to the contrary in the Contract, in providing Buyer with a CAS Number and/or Existing Commercial Chemical Substances Number and/or any other health, safety and environmental information relating to the Goods pursuant to this Part, regardless of their source, the Seller provides no warranty or representation as to the accuracy or completeness of such identification number(s) or information relating to it and needed by Buyer and/or reasonably requested by Buyer to comply with the requirements of REACH, hence Seller accepts no liability for loss, damage, delay or expense incurred by Buyer for whatever reason arising from its reliance on the accuracy of the identification numbers or other information hereunder provided and/or the existence of a valid (pre-) registration of the Goods to be imported into the EU/EEA.

## PART XIII

### RESTRAINT OF TRADE

**13.1.** Buyer shall not sell or deliver or unload the Goods to a country or a resident of a country in contravention of any Law of the country in which the Goods are produced.

**13.2.** Buyer undertakes that the Goods delivered under the Contract shall not be exported, sold or supplied by it to any country, state, territory or region or to any natural or legal person of such country, state, territory or region against which there are sanctions imposed by the United Nations Security Council, European Union, United Kingdom or United States on the export, sale or supply of such Goods to such location or person.

## PART XIV

### SANCTIONS

Notwithstanding anything to the contrary elsewhere in the Contract (including Business Terms):

**14.1.** Neither Party shall be obliged to perform any obligation otherwise required by the Contract (including without limitation an obligation to (a) perform, deliver, accept, sell, purchase, pay or receive monies to, from, or through a person or entity, or (b) engage in any other acts) if this would be in violation of, inconsistent with, or expose such Party to any Sanctions binding on that Party by virtue of Law or the Contract.

**14.2.** Where any performance by a Party would be in violation of, inconsistent with, or expose such Party to the Sanctions, such Party (the "**Affected Party**") shall, as soon as reasonably practicable give written notice to the other Party of its inability to perform. Once such notice has been given the Affected Party shall be entitled:

i. to immediately suspend the affected obligation (whether payment or performance) until such time as the Affected Party may lawfully discharge such obligation; and/or

ii. where the inability to discharge the obligation continues (or is reasonably expected to continue) until the end of the contractual time for discharge thereof, to a full release from the affected obligation, provided that notwithstanding the foregoing where the relevant obligation relates to payment for the Goods which have already been delivered under the Contract, the affected payment obligation shall either (i) remain suspended until such time as the Affected Party may lawfully resume payment, or (ii) be canceled by Seller, provided that the Parties will have the opportunity to carry into execution the return of such Goods to Seller, unless otherwise will be agreed by the Parties in writing; and/or

iii. where the obligation affected is acceptance of the Vessel, to require the nominating Party to nominate an alternative Vessel; in each case without any liability whatsoever (including but not limited to any damages for breach of the Contract, costs, fees and expenses).

**PART XV  
ANTI-TRUST**

**15.1.** Each Party hereby warrants to the other Party that, as of the date of the Contract and on each subsequent occasion it performs obligations under the Contract, it has not engaged in any Anti-competitive Behavior in relation to the potential or actual terms and conditions of Contract to be agreed or as agreed in relation to the Goods, including but not limited to the amount paid for the Goods, any level of volume discount or any other credit terms.

**PART XVI  
ANTI-CORRUPTION**

**16.1.** Each Party hereby represents and warrants to the other that it complies with all Anti-Corruption Laws.

**16.2.** Buyer and Seller each represent, warrant and undertake that they shall not, directly or indirectly

a) pay, offer, give or promise to pay or authorize the payment or other transfer of any other thing which has monetary value, including without limitation any funds, services, gifts, entertainment, commissions, fees and/or other advantage of any kind to any Applicable Authority, including but not limited to:

- i. a government official or an officer or employee of a government or any department, agency or instrumentality of any government;
- ii. an officer or employee of a public international organization;
- iii. any person acting in an official capacity for or on behalf of any government or department, agency, or instrumentality of such government or of any public international organization;
- iv. any political party or official thereof, or any candidate for political office;
- v. any director, officer, employee or agent/representative of an actual or prospective counterparty, supplier or customer of Buyer or Seller;
- vi. or any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities, or

b) engage in any other Corrupt Practices including without limitation: Bribery, Extortion or Solicitation, Trading in Influence or Laundering Corrupt Proceeds.

**16.3.** Notwithstanding the foregoing undertakings, Buyer agrees to notify promptly Seller about action of any instance where Buyer has failed to comply with any provisions of this Part and take necessary remedial actions within a reasonable time and to inform Seller about these actions.

**16.4.** Necessary remedial action might include providing co-operation in evidentiary action in conducting an examination or calling for an external audit of the incident, issuing warnings, reorganizing work, terminating sub-contracts or contracts of employment with persons or employees involved in corruption, or correcting the detrimental economic effect on the other Party of any proven non-compliance by, for example, adjusting the amount of the Price of the Contract. The nature and quantity of the remedial measures required of the Party subject to allegation will depend on the circumstances of the case in question, including the gravity of the infringement and on the conclusiveness of the evidence provided.

**16.5.** This Part contains the compulsory conditions for the Parties, and each Party may at its sole discretion suspend the execution of the obligations hereunder and/or terminate the Contract forthwith upon written notice to the other at any time, if in their reasonable judgment the other is in breach of any of Anti-Corruption Laws without prejudice to the other rights of the respective Party under the Contract or the applicable Law.

**16.6.** The Parties shall refer all disputes related to any alleged non-compliance with this Part according to PART VIII hereof. However, non-compliance may be the subject of the parallel criminal proceedings which may result in criminal sanctions or other consequences under Law than contractual, including liability sounding in tort.

**16.7.** Each Party will oppose any attempt of Extortion or Solicitation and is encouraged to report such attempts through available formal or informal reporting mechanisms upon consultation with the other Party.

**PART XVII  
EUROZONE EXIT/BREAK-UP CLAUSE**



**17.1. Eurozone exit.** If for any reason (whether involuntarily or voluntarily), one or more Eurozone Members exits the Eurozone and/or is no longer a Eurozone Member and/or ceases to use the Euro as its national currency, but the Eurozone continues to exist, the following terms shall apply (unless the Contract or other written agreement between the Parties provides otherwise):

- a) any payments to be made in Euro under the Contract and/or the Business Terms shall continue to be denominated and paid in Euro regardless of whether either Party or their bank accounts are resident in a Eurozone country ;
- b) any such payments shall be made to an appropriate Euro bank account designed in writing to the paying Party by the Party receiving payment but such bank account shall be held in an account in a Eurozone country ; and
- c) clause 16.3 shall apply.

**17.2. Eurozone break-up.** If for any reason whatsoever, the Eurozone ceases to exist and/or the Euro ceases to: (a) be a currency traded in London or other major economic centers; and/or (b) a currency accepted for payment, the following terms shall apply:

- a) any payment to be made in Euro under the Contract shall be denominated in an alternative currency (including but not limited to USD, RMB or CHF) to be determined by the Seller in its discretion;
- b) the Euro payment shall be converted into the relevant alternative currency by applying the rate of foreign exchange between the Euro and such alternative currency published by the European Central Bank on the last Banking day prior to the Eurozone break-up or such other rate as may be agreed by the Parties in writing;
- c) any such payments shall be made to the bank account designed in writing to the paying Party by the receiving payment; and
- d) clause 17.3 shall apply.

**17.3.** For the avoidance of doubt:

- a) Any Law (including any Regulations of the EU or of any other country ) contrary to the provisions of this Part shall not apply, to the extent that the effect of such Law is capable of being excluded by agreement between parties to a contract.
- b) Neither a Eurozone exit nor a Eurozone break-up shall: (a) constitute a Force Majeure Event entitling either Party to invoke Part VII hereof, nor (b) entitle either Party to terminate the Contract or suspend performance of any of its obligations under the Contract and/or Business Terms.

## PART XVIII

### MISCELLANEOUS

**18.1 Entire Contract.** The Contract, relevant Business Terms and this General Conditions are an integral part of the Contract, including attachments and any addenda or amendments thereto, and together they constitute the sole and entire understanding between the Parties with respect to the subject matter of the Contract and supersede all and any prior oral or written agreements, negotiations and discussions between the Parties pertaining to the subject matter of the Contract or the Contract as a whole.

**18.2. Amendments.** Save as expressly provided in the Contract, no amendment or variation of the Contract shall be effective unless in writing and signed by a duly authorized representative of each of the Parties to it (except for a Sales Order Confirmation concluded via e-mail pursuant to Part II hereof). Without limiting the above, the Seller is entitled to unilaterally change the General Conditions and/or Business Terms from time to time by uploading the new version of the General Conditions and/or the Business Terms to the Seller's website at [www.sibur-int.com](http://www.sibur-int.com). The new version of the General Conditions and/or the Business Terms shall come into force within 10 (ten) days after such upload.

**18.3. Assignment.** Neither Party may assign the Contract or any of its rights under the Contract or transfer any obligations under the Contract, without the other Party's prior written consent, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Seller may, without consent, assign or transfer its rights and/or delegate its obligations under the Contract in whole or in part to any Affiliate of Seller or to any bank. Notwithstanding the foregoing, the Seller may, without consent, assign or transfer its rights and/or obligations under the Contract in whole or in part to any Seller Group Company or to any bank. For the purposes of this Clause 18.3 "Seller Group Company" shall mean any legal entity falling under the same group of companies as the Seller. Any attempt at assignment in violation of this Clause shall be null and void.

**18.4. Binding effect.** The terms and conditions of the Contract shall be binding upon, and shall inure to the benefit of, the Parties to the Contract and their respective permitted successors and assigns.

**18.5. No Third party beneficiaries.** Nothing in the Contract and/or Business Terms will give rights to any Third Parties and the provisions of the Contract (Rights of Third Parties) Act 1999 as amended from time to time are specifically excluded.

**18.6. The Parties' relationship.** The relationship hereby established between Seller and Buyer is solely that of a seller and a buyer of goods at arms' length. Each is an independent contractor engaged in the operation of its own respective business, and nothing in the



Contract and/or Business Terms shall be construed to create a partnership, agency, joint venture, pooling, franchise or employer-employee relationship between the Parties. Neither Party has the power or the authority to act for, represent, or bind the other Party (or any of the other Party's Affiliates) in any manner.

**18.7. Execution.** Subject to clause 2.3, either Party may sign the Contract and any related amendments and attachments, or other documents and send a copy to the other Party by fax or email with subsequent provision of the original documents within thirty (30) Days after the receipt of a copy thereof. The copy document shall be construed as legally binding upon the Parties until the original document is provided.

**18.8. The Seller's warranties, guarantees and representations.** Seller warrants that it has full legal title to the Goods and that it has full right and power to convey such title to Buyer. FOR THE AVOIDANCE OF DOUBT SELLER MAKES NO GUARANTEES, WARRANTIES, REPRESENTATIONS, EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS OR SUITABILITY OF THE GOODS FOR A PARTICULAR PURPOSE, CONCERNING THE GOODS. ANY WARRANTIES, CONDITIONS OR OTHER TERMS IMPLIED BY LAW, CUSTOM, CONTRACT, STATUTE OR OTHER LEGAL THEORY OR OTHERWISE, WHETHER AS TO MERCHANTABILITY, QUALITY, FITNESS FOR PURPOSE OF THE GOODS OR OTHERWISE ARE SPECIFICALLY EXCLUDED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

**18.9. Expenses.** Whether or not the transactions contemplated hereby are consummated, all costs and expenses (including the expenses, costs and fees of each Party attorneys, auditors and financial and other professional advisors) incurred in connection with the Contract and/or the drafting or negotiation of the terms and conditions of the Contract or any other transaction arising out of or in connection with the Contract shall be borne and paid by the Party incurring such costs and expenses.

**18.10. Waiver.** Any failure on the part of any Party to the Contract to comply with any of its obligations, agreements or conditions under the Contract may only be waived in writing by the Party to whom such compliance is owed but such waiver will not be considered to be a waiver of future failure(s) to comply with an obligation, agreement or condition. No act or omission by a Party may be deemed to be a waiver of any rights if such a waiver is not declared explicitly and in writing.

**18.11. Severability.** If any part of the Contract is deemed to be unenforceable, invalid or in contravention of Applicable Law by a court or arbitral tribunal of competent jurisdiction, the remainder of the Contract shall remain in full force and effect. The Parties shall negotiate in good faith to replace the invalid provision with a provision which reflects, to the extent possible, the original intent of the invalid provision.

**18.12. Set-off.** No set-off may be made by Buyer against any claims unless otherwise agreed in writing by Seller in advance. . For the avoidance of any the Seller shall be entitled at all times to set-off any and all amounts owing at any time from Buyer to Seller against any amount due by Seller under the Contract.

**18.13. Warranties.** Each Party hereby represents and warrants to the other that:

- a) it has the authority to enter into and perform its obligations under the Contract,
- b) the Contract has been duly executed and delivered on behalf of such Party, and constitutes a legal, valid, binding obligation, enforceable against such Party in accordance with its terms and conditions,
- c) it is a corporation duly organized, validly existing and in good standing under the laws and regulations of its jurisdiction of incorporation or formation,
- d) neither the execution of the Contract nor its performance thereunder conflicts with any applicable Law or any other contract to which it is a party or any obligation to which it is subject,
- e) within five (5) Days after the relevant event, the Party so effected will inform the other Party of any changes or amendments to its direct or indirect ownership.

**18.14. Counterparts.** If the Contract is executed in two counterparts, each shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties hereby acknowledge and agree that the Contract has been prepared jointly and no rule of strict construction shall be applied against either Party

**ANNEX 1****LETTER OF INDEMNITY (TEMPLATE)****The Buyer****To whom it may concern****LETTER OF INDEMNITY**

This Letter of Indemnity (the "Indemnity") dated as of \_\_\_\_\_, 20\_\_ (hereinafter the "Signing Date").

We refer to our Contract № \_\_ dated the \_\_th day of \_\_\_\_\_, \_\_\_\_ (the "Contract") in respect of your purchase from us of \_\_ mt of \_\_\_\_\_ ("the Goods") on Vessel "\_\_\_\_", bill of lading date \_\_\_\_.

In consideration of your making payment of \_\_ (*spelling*) for \_\_ mt of the said Goods in accordance with the Contract and having agreed to accept delivery of the Goods without having been provided with the documents as set out in the Contract, we hereby represent and warrant all of the following:

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

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

- (a) our failure to present the documents to you in accordance with the Contract; and/or including but not limited to
- (b) any action or proceeding brought or threatened against you by reason of our said failure and any breach of our above express representations and warranties in connection with questions of title to or the right to possession of the documents or the Goods or the proceeds of either; or any liens, charges or encumbrances asserted on the documents or the Goods or any other claims arising out of or in connection with the documents.

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

No term of this indemnity is intended to, or does, confer a benefit or remedy on any party other than the named Buyer under the Contract whether by virtue of the Contracts (Rights of Third Parties) Act 1999 or howsoever.

This Indemnity shall be governed by and construed in accordance with the laws of England. Any dispute arising out of or in connection with this Indemnity, including any question regarding its existence, validity or termination, shall be subject to the exclusive jurisdiction of the courts of England.

Each provision of this Indemnity is severable and distinct from the others. If any such provision is or at any time becomes to any extent invalid, illegal or unenforceable under any enactment of rule of law, it shall to that extent be deemed not to form part of this Indemnity but (except to that extent in the case of that provision) it and other provisions of this Indemnity shall continue in full force and effect and their validity, legality and enforceability shall not be thereby affected or impaired.

All terms used, but not defined, in this Indemnity but defined in the Contract shall have the respective meanings set forth in the Contract.

In this Indemnity, the singular shall include the plural and vice versa and the word "including" shall be deemed to be followed by the phrase "but not limited to." The terms "herein" and "hereunder" and similar terms shall be interpreted to refer to this entire Indemnity.

This Indemnity shall be deemed effective for all purposes as of the Signing Date of the Indemnity and shall cease to have effect upon the documents being provided to you.