

**Terms and Conditions for Bulk Shipments
by Barge or Vessel**
(Ver. 06/08a)

These Terms and Conditions for Bulk Shipments by Barge or Vessel ("Terms and Conditions") form an integral part of the Sales Contract (the "Contract") and, unless otherwise specifically provided herein, applicable provisions of the Contract shall be deemed included in this attachment. Any terms used in this attachment, which are defined in the Contract, are intended to have the same meaning when used in this attachment. "Vessel" as used in these Terms and Conditions may mean any barge, tow, or oceangoing barge, or may mean any oceangoing or intercoastal self-powered vessel, whichever is appropriate. The term "tow" means any combination of boats or barges with the ability to function as a single unit.

Section 1. Nomination Procedure.

1.1. Nomination of Port and Berth.

1.1.(a) **Information Regarding Berths.** If Buyer and Seller have not specified such details in the Contract, as far in advance as may reasonably be accomplished, a Party receiving a vessel arranged by the other Party shall advise such other Party of the port, and name and exact location of the berth or anchorage to which the vessel should be directed for loading or discharge. The Party receiving a vessel will also advise of (i) limitations of the berth, including maximum beam, overall length, maximum draft, and summer deadweight; (ii) any controlling regulation; and (iii) any other details the Party arranging the vessel may from time to time reasonably require.

1.1.(b) **Changes in Information.** A Party receiving a vessel arranged by the other Party shall advise the arranging Party immediately if during the course of the Contract there are any material changes to the details of the port, berth or anchorage. Seller and Buyer will confer promptly to implement reasonable measures required by such changes to avoid disruption in loading or unloading and to avoid additional freight or other charges. However, if such changes to the details of the port and berth or anchorage result in additional freight, costs for change or replacement of existing charters or other charges, the Party making such changes will be responsible for payment or reimbursement of all such freight, costs and charges.

1.1.(c) **Condition of Port/Berth.** Buyer and Seller will undertake reasonable efforts to confirm that the cargo loading/receiving facilities nominated comply with all applicable local, national and international regulations and laws concerning the safe receipt and handling of the cargo, and do not present a hazard to the vessel, its crew or the environment, including but not limited to compliance with the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78).

1.1.(d) **Port Security and Safety Requirements.** Buyer and Seller will undertake reasonable efforts to ensure that cargo loading/receiving facilities nominated comply with the requirements of the International Code for the Security of Ships and of Port Facilities and the relevant amendments to Chapter XI of SOLAS ("ISPS Code") and, if located within the USA and/or US territories, with the US Maritime Transportation Security Act 2002 ("MTSA"). Any costs or expenses in respect of the vessel (including demurrage or any additional charge, fee or duty levied on the vessel at the loading or discharge port and actually incurred by the charterer of the vessel) resulting from the failure of the loading or discharge point to comply with the ISPS Code or MTSA, as the case may be, including but not limited to the time required or costs incurred by the vessel in taking any action or any special or additional security measures required by the ISPS Code and/or MTSA, shall be for the account of the Party which nominated the non-compliant facilities.

1.1.(e) **Inspection of Nominated Berths.** The Party receiving a vessel arranged by the other Party will allow or arrange to allow the arranging Party's own or appointed inspectors reasonable access to inspect the loading or discharge point and facilities, as the case may be, if requested by that arranging Party. The Party arranging the vessel assumes no duty, however, to perform such an inspection. Moreover, any inspection by the Party arranging the vessel does not relieve the other Party of its risks, liabilities and responsibilities under legal requirements, custom of the industry, or under the terms of the Contract or these Terms and Conditions.

1.1.(f) **Discontinuance of Use of Berth.** Any provision of the Contract or these Terms and Conditions notwithstanding, if the vessel owner, its master or the Party arranging the vessel reasonably conclude that loading/discharge berths and associated facilities are unsafe or unfit for handling of the cargo, then such obligations may be suspended without penalty and both Parties shall reasonably cooperate with each other and persons involved to remedy any such conditions so as to allow resumption of performance.

1.2. Chartering and Nomination of Vessels.

1.2.(a) **Chartering of Vessels.** Except where provisions of the Contract specify the means of chartering vessels, a Party arranging a vessel shall be free to arrange at its own discretion vessels for transport of the cargo, generally considering reasonable alternatives among (i) transport on vessels owned by such Party, if any, (ii) time chartered or bareboat chartered vessels, (iii) contracts of affreightment, (iv) spot charter, or (v) other reasonable alternatives. Such Party shall be free to arrange shipments in vessels of any flag registration, and may decline, without penalty, to make such arrangements if any government action taken after the effective date of the Contract limits this ability. A Party arranging a vessel will undertake reasonable efforts to arrange for vessels or space on vessels which, at the time arranged, should efficiently meet the loading and delivery requirements taking into account the notice given by a Party requesting the other to arrange a vessel, the length of voyage, the timing for vessel nominations, the availability of vessels for charter, applicable governmental restrictions and other relevant factors. The Party to receive the vessel agrees that the loading or delivery of the cargo shall be subject to these factors, and also subject to ordinary and customary shipping disciplines and tolerances. Buyer and Seller agree to keep the other informed of circumstances which render impractical particular loading or delivery dates or periods, so that alternative dates may be arranged where circumstances require.

1.2.(b) **Nomination of Vessel.** As soon as it may reasonably be available, a Party arranging a vessel will advise the other Party of the latest Estimated Time of Arrival ("ETA") at the loading or discharge port, and the laytime allowance at each port and demurrage rate as per the performing vessel. After loading, the Parties will promptly exchange information on the cargo loaded, whether multiple cargos are associated with the

Contract, and the cargo tonnage. The Parties agree to cooperate in providing quantities to be loaded and accepting such quantities at time of unloading which vary within a reasonable range (e.g. + or - 5% or other customary tolerance) from nominated quantities so as to minimize deadfreight claims by vessel owner and to otherwise allow for efficiency and cost-effectiveness in transport of the Products.

1.2.(c.) **Information in Vessel Nomination.** To the extent applicable, the Party arranging the vessel shall include in the vessel nomination (i) the vessel's name (including last two previous names, if any), flag and crew nationality; (ii) the vessel's capacity; (iii) the vessel's length, beam and draft; (iv) the loading date range (which shall unless otherwise agreed, comprise a range of five (5) days for coastal movements and ten (10) days for ocean-going vessel); (v) the vessel's agent and protection and indemnity club representative in the port of loading and discharge, as applicable; (vi) confirmation of the type, quantity and quality of cargo expected from Seller to be offered for loading; (vii) details of last three previous cargoes carried; (viii) the laytime allowance and rate of demurrage as per the performing vessel; (ix) the charter Party form under which the vessel has been fixed, if requested by the other Party; and (x) amount of in-transit cargo on board, if any.

1.2.(d.) **Demurrage and Laytime on Vessels Nominated.** If division of laytime is not otherwise specified for any nomination, total time allowed for discharging all cargos shall be one half of total laytime allowed by the performing vessel, and laytime shall be allocated among cargo owners prorata (percentage by volume of the cargo to all cargo loaded or to be loaded on the vessel).

1.2.(e.) **Vessel Security and Safety Requirements**
Vessels nominated by a Party shall comply with the requirements of the ISPS Code and, where the vessel may call upon a port within the USA and/or US territories or waters, the MTSA. The vessel shall, when required, submit a Declaration of Security (DOS) to the appropriate persons or authorities prior to arrival at the discharge port. A Party nominating a vessel will provide that the vessel, her master and crew will comply fully with the International Safety Management code and be in possession of a valid Safety Management Certificate. The vessel shall be owned or demise chartered by a member of the International Tanker Owners Pollution Federation Limited (ITOPF). The vessel shall have a full and efficient complement of master, officers and crew certified in accordance with Standards of Training Certification Watchkeeping (STCW) requirements. The vessel shall carry on board a valid certificate of insurance as described in the 1969 Civil Liability Convention for Oil Pollution Damage and the International Convention on Civil Liability for Oil Pollution Damage, 1992. The vessel shall have in place insurance cover for oil pollution no less in scope and amounts than available under the Rules of P&I Clubs entered into the International Group of P&I Clubs.

1.2.(f.) **Acceptance/Rejection of Vessel.** Unless the Party arranging the vessel advises that other time limits are imposed due to operational or chartering constraints, the Party receiving such vessel for loading or discharge shall give notice accepting or rejecting the vessel nomination within two (2) days. The Party receiving the vessel shall not unreasonably reject any vessel nomination. In the case of acceptance, as soon as the shipping fixture is firm, the Party arranging the vessel shall reconfirm to the other Party the details provided when the vessel was nominated, and shall provide the details of the vessel's owner's agents at the port of loading or discharge, as may be applicable. In the case of the receiving Party's reasonable rejection of the vessel, the Party arranging the vessel shall, as soon as practical, nominate and give notice of an alternative vessel and/or date range for arrival of such vessel for prompt acceptance or rejection, and in the event of further reasonable rejection, the Parties shall cooperate to find a reasonable alternative for transport of the cargo.

1.2.(g.) **Changes After Acceptance of Vessel.** If, after acceptance of the vessel nomination, the Party to receive the vessel cancels the shipment or makes any change with respect to (i) the quantity of cargo it will make available for loading or will receive for discharge, as the case may be, (ii) the dates for loading or receipt of the cargo, (iii) the port or berth of loading or discharge then, in addition to any other remedies provided by the Contract or these Terms and Conditions, that Party shall be responsible for any additional shipping costs including deadfreight and/or cancellation penalties.

1.2.(h.) **Changes After Nomination.** A Party arranging a vessel may substitute vessels meeting requirements for the shipment, in which case such arranging Party shall promptly advise the other Party. Any such substituted vessel shall be an acceptable vessel and shall arrive at the port with proximate cargo capacity or quantity, as the case may be, within a reasonable time of the ETA of the original vessel considering the circumstances for change to the original vessel nomination.

1.3. **Additional War Risk Premiums.**

1.3.(a.) Where Seller has arranged the vessel, Buyer shall pay its prorata share of any additional war risk insurance premiums and/or crew war bonus where, after the effective date of the Contract the London insurance market declares a war risk zone and such additional expenses are charged by vessel owner due to the vessel transiting the war risk zone in order to load, transport or discharge the Product bought or sold pursuant to the Contract. The prorata share shall be determined by Buyer's percentage of all cargos that necessitate transit through the war risk zone for loading, transport or discharge. Any discount or rebate refunded to Seller on such premium for whatever reason shall be passed on to Buyer.

1.3.(b.) If the vessel is loading or discharging for others within the war risk zone, or transiting a war risk zone for others (i.e. such transit is not required for Buyer's cargo), Buyer shall not be liable for any additional war risk insurance premium and/or crew war bonus.

1.4. **Delay or Rejection of Buyer Arranged Vessel.**
Where Buyer is responsible for arranging the vessel, as soon as it is reasonably concluded that the vessel will not arrive ready for loading by the last day of the previously agreed loading date range, Buyer shall offer to extend the loading date range suitably under the circumstances or to cancel the vessel nomination and nominate a substitute vessel or voyage. Buyer's extended date range or substitute vessel nomination will be subject to Seller's acceptance. Following reasonable rejection of a vessel by the load port or berth authorities or by Seller or the terminal for failure to comply with the safety and operational requirements, Seller shall not be obliged—until such conditions are remedied—to deliver under the Contract that quantity of cargo which could not be loaded because of such noncompliance.

1.5. **Bills of Lading.** In sufficient time considering the circumstances (in absence of additional facts not less than five (5) days prior to commencement of the laytime at the loading port), Buyer shall provide Seller with instructions to facilitate preparation and delivery of bills of lading and other relevant documents to banks, receivers and/or Buyer. Seller will promptly advise of instances in which Buyer's instructions cannot be carried out. In absence of specific instructions or where Buyer's instructions may not be carried out, Seller will send the documents to Buyer, or Buyer's bank, if applicable, by means reasonably determined by Seller to be appropriate under the circumstances when loading is complete.

1.6. **Notification of Incidents.** Should vessels involved in delivery of Product bought or sold pursuant to the Contract be involved in a marine incident including collision (with other ships, jetties, buoys, etc.), fire or explosion, grounding,

spillage, storm damage, pollution or threatened pollution or any marine incident with loss of life or injury the Parties will promptly each advise the other as to information known about the incident. Parties advising any Shell affiliate shall do so by immediately emailing Shell Casualty London (email address "CasualtyTelex@Shell.com") commencing with the words "Casualty Distribution" or by telephoning +44-207-934-7777. The text of the message should include (if known): (i) type of casualty/incident; e.g., fire, explosion, collision, grounding, chemical or oil spill etc.; (ii) the date and geographical location of the incident; (iii) the name of the charterers of the vessel; (iv) the extent of the personal injuries/death; (v) estimate of damage to ship(s)/shore facilities; (vi) estimate of the cargo lost or damaged and a definition of the product or products involved; (vii) telephone number of a contact within the other Parties' and vessel owner's organization with whom Shell can respond/followup; (viii) time and origin of the message. In the event that not all of the above information is immediately to hand, notification should not be withheld but should be dispatched immediately on the understanding that the balance of the information will be forthcoming immediately when available. Urgent Shell product related medical advice may be obtained by calling +44-207-934-2111. If this is necessary, the above procedures should still be followed. For avoidance of doubt, the above notification in no way absolves either Party from the requirement to notify appropriate authorities as their responsibility to do so may apply under law.

1.7. **Incident Response and Liability.** If a Party has arranged for charter of a vessel but does not bear risk of loss for the Product, then in the event of casualty, breakdown, accident, danger, damage or disaster at port or in transit losses are incurred, actions taken or sacrifices made which are necessary for completion of the voyage or salvage of the vessel or rescue of the crew, the Party with risk of loss shall be responsible for all costs payable or owed by the cargo interests on the vessel, and no such liability shall shift to charterer whether or not the loss or liability may be due to the negligence of the master of the vessel or her crew or other causes. If, in response to an emergency situation, the vessel or vessel owner contacts the charterer for instructions as to the cargo or actions to be taken in response, rescue or salvage, the charterer will undertake reasonable efforts to consult with and obtain concurrence from the Party bearing risk of loss of the cargo in responses taken or made. However, the charterer shall thereafter be able to make decisions reasonably required in response and the Party with risk of loss shall reimburse the cost of such actions and indemnify the charterer for any and all liabilities, expenses, losses or damages attributable to the cargo owner's interest which might reasonably arise therefrom. In no event shall the Party with risk of loss of the cargo raise as a defense to a claim for reimbursement that in undertaking or performing such measures, charterer (or those responding on charterer's behalf) acted as a volunteer.

1.8. **Information After Loading.** After loading has been completed, Seller will notify Buyer of the actual quantity loaded. Where Seller arranged the vessel, Seller shall also advise of any revision to the ETA at the discharge port.

Section 2. Conditions for Loading and Discharge of the Cargo.

2.1. **Circumstances at Berth for Loading and Discharge.** Seller shall load (except where applicable Incoterms provide for delivery at vessel side) and Buyer shall accept discharge of (except under Incoterms that provide for Seller to incur expense of unloading) the cargo at no expense to the other Party at the berth and port arranged as provided in these Terms and Conditions and under circumstances where the nominated vessel can safely reach the berth, lie, load/discharge and leave, always safely afloat. All dues and port costs relating to the vessel (including but not limited to agency fees) and/or shifting berth (unless such shift is solely for purposes of the Party receiving the

vessel) shall be the responsibility of the Party arranging the vessel.

2.2. **Responsibilities for Loading and Unloading.** The Party with responsibility for loading and/or unloading shall promptly arrange for each vessel to be loaded or discharged continuously and as expeditiously as possible. At all times when needed, the Party with such responsibility shall furnish or have furnished in good working order and in compliance with applicable requirements all flexible hoses, connections, pipelines, shoreside storage tankage and other accommodation for loading or discharge of the vessel. Certificates of fitness or test reports demonstrating sufficiency of the equipment shall be provided to the other Party or its designated inspectors upon request.

2.3. **Requests for Alternate Procedures or Receiver.** Where a Party requests loading or unloading other than through the procedures of these Terms and Conditions or delivery other than in the manner reflected on the bill of lading, the other Party shall not be obliged to do so. However, should the other Party agree to accept or discharge the cargo as the first Party so requests, the Party making the request for deviation from the procedures or the bill of lading hereby agrees to indemnify the other Party from any and all liabilities, expenses, losses or damages which might arise there from. A Party requesting delivery other than in accordance with the bill of lading, at the other Party's discretion, may be required to furnish a guaranty by a bank or other source approved by the other Party.

2.4. No Warranty of Discharge Date.

2.4.(a.) Except where the Contract or Incoterms specified in the Contract provide otherwise, dates for discharge of the cargo, range of dates or fact of delivery are not provided in the form of a warranty, notwithstanding any vessel nomination or other communication by Seller specifying an arrival date, discharge date or other information related to cargo arrival and discharge.

2.4.(b.) Agreements and communications concerning the range of dates for arrival and laytime of vessels are offered for purposes of determining the Parties' liability, if any, for demurrage. No such agreements and communications shall confer to a Party rights or remedies or establish any breach of an obligation to supply or buy goods or products. The Parties' obligations to supply and buy such goods or products and its limitations of liability associated with it shall instead be as set forth and limited by the Contract.

2.5. Calculation of Laytime/Demurrage.

2.5.(a.) In determination of allowed laytime, the number of running hours for loading/discharge equipment specified in the Contract or in the nomination of the vessel shall be allowed to each Party for loading and discharge and all other purposes. After commencement, all calendar days shall be included in calculation of laytime, including but not limited to Saturdays, Sundays and public holidays.

2.5.(b.) Laytime shall commence when notice of the vessel's readiness for loading or discharge ("Notice of Readiness") has been tendered to the Party receiving the vessel or his representative by the master of the vessel or his representative, confirming that the vessel is in all respects ready to load or unload the nominated cargo. A Notice of Readiness may be issued at any time of day or night, whether or not the berth is ready and available, and whether or not any free pratique or other port/customs requirements have been obtained. If a 6-Hour or other Notice of Readiness allowance has been made in the charter with the vessel owner, laytime shall commence upon expiration of such period or when the vessel is fully moored, whichever is earlier. A Notice of Readiness may be tendered at any time after the vessel has

arrived within the customary anchorage or waiting place of the port, or if the vessel moves directly to the berth, when the vessel is securely moored to the berth.

2.5.(c.) If an agreement exists for ship-to-ship transfer of the cargo to or from a vessel directly to or from one or more vessels in the same port or place, and such transfer takes place within a port, then the place of transfer shall be treated as the first loading or discharging place within the port for commencement of laytime or demurrage. If the transfer is accomplished at sea, then all time between the arrival of the vessel at the transfer area until the vessels have separated shall count as laytime or demurrage, as the case may be.

2.5.(d.) Whenever cargo is being loaded or discharged with cargos not subject to the Contract at the same port and the vessel is waiting to berth, then laytime and demurrage shall be apportioned on the basis of the ratio of the tonnage of cargo subject to the Contract to the total tonnage of all such cargoes.

2.5.(e.) Laytime shall cease on completion of loading or discharge of the cargo and disconnection of cargo hoses. It is further provided, however, that if the vessel is delayed after disconnection of the hoses by causes attributable to the Party responsible for such loading or unloading or its agents, laytime shall continue, and if allowable laytime is exceeded, such Party shall be responsible for all demurrage incurred until the delay attributable to that Party or its agents ceases.

2.5.(f.) No event shall suspend the running of time for laytime, or suspend demurrage if allowable laytime is exceeded (including an event of force majeure or similar excuse for non-performance set out in the Contract), except when and to the extent it is established that demurrage is not owed, is reduced or is excused under the charter with the vessel owner.

2.6. **Shifting.** A vessel may be required to shift from the original loading or discharging berth then back to the same or a different berth, provided the Party requesting the shift first obtains the written consent of the Party arranging the vessel (if different from the Party requiring such shift) and the master of the vessel agrees that such shift will not compromise the safety of the vessel, the crew or the cargo aboard his vessel. Consent of the Party arranging the vessel shall not be unreasonably withheld. The Party requiring such shift shall be responsible for all additional expenses incurred. Time spent will count as laytime, and if allowable laytime is exceeded, the Party requiring such shift shall be responsible for all demurrage incurred.

2.7. **Vacating Berth.** If the vessel fails to vacate a berth on completion of loading or unloading or when otherwise requested to vacate the berth for reasons including but not limited to the vessel being unable to commence or continue loading or unloading after reaching berth, or is unable to load or unload cargo in an efficient manner due to breakdown, inefficiency, violation of loading terminal's safety regulations or other causes, the loading or unloading terminal reserves the right to request the vessel to vacate the berth. If the vessel has not started or completed loading or unloading when required by the terminal to vacate the berth, the terminal may restrict the vessel from further access to the berth until the vessel is in all respects ready to commence or continue loading or unloading the cargo at the rate consistent with the agreed conditions.

2.8. **Tank Washing.** If washing is performed by requirement of MARPOL 73/78 or compliance with any other laws or is performed as a requirement of a Party or any competent authority, additional time for washing and for discharge of resulting liquids and waste materials shall be included in calculation of laytime and, if allowable laytime is exceeded, then the Party with responsibility for loading or unloading at such berth shall be responsible for all demurrage incurred therefor. All such liquids and waste products shall, as between Buyer and Seller, be the responsibility of Buyer at the discharging facility, with full

responsibility and title to the liquids and waste products. A Party receiving such liquids and waste products agrees to handle and dispose of all such liquids and waste products properly and in a manner that fully complies with all applicable laws.

2.9. **Payment of Demurrage.** The charterer shall have 120 days after completion of discharge to make a claim, in the event the charterer has incurred a liability to the vessel owner for demurrage due to the other Party exceeding its allocated portion of the allowable laytime. Within thirty (30) days of demand for reimbursement, the other Party shall pay the charterer the full rate for demurrage specified by Contract or as per the vessel nomination or otherwise as per the performing vessel. Where the charter with the vessel owner allows for demurrage to be reduced for events including, but not limited to, (i) fire or explosion not due to negligence of Buyer or receiver, (ii) acts of God, (iii) acts of war, (iv) riots or civil commotion, (v) strikes, or (vi) arrest or restraint by governments, the other Party shall pay only the reduced amount. Liability as provided herein is absolute except as provided in these Terms and Conditions, and shall not be reduced by any liability allocation provisions found in the Contract.

2.10. **Unavailable Bill of Lading.** Buyer will notify Seller if an original Bill of Lading has not been received or will not be available to Buyer, or Buyer's agent or receiver at the port of discharge to enable Buyer to take immediate receipt of the cargo upon arrival of the vessel and its tendering of a valid Notice of Readiness to discharge. Upon execution of a letter of indemnity in a form acceptable to Seller, without incurring any liability therefore, Seller will undertake reasonable steps to facilitate discharge of the cargo and mitigate the delay caused by unavailability of the Bill of Lading. Seller may require, at its discretion, that a bank approved by Seller provide an indemnity. Delays shall continue to count as laytime and Buyer shall remain solely liable for demurrage unless the unavailability of the Bill of Lading is shown to have been due to the fault of Seller.

2.11. **Loss of Availability of Vessels/Cargos.** In addition to other remedies which may be available in the Contract or at law, if availability of vessels for charter or space for cargos is lost to Seller due to Buyer's failure to accept cargos as agreed in the Contract or to perform its obligations with respect to the Terms and Conditions, then Buyer's requests for extended or different shipping arrangements will be subject to Seller's availability of vessels, cargos and Buyer's payment of necessary additional chartering expenses.