
Date

26 May 2009

Recipients

All DME Members

From

Greg Collins, Chief Compliance Officer

Category

Compliance

Proposal

Proposed Rule changes to DME Rulebook, Chapter 10: DME Oman Crude Oil Futures Contract

Consultation Paper 09-002 is issued in accordance with Dubai Mercantile Exchange Limited (DME) Rule 4.20 and Section 9 of the Authorised Market Institutions Module of the Dubai Financial Services Authority (DFSA) Rulebook. This Consultation Paper seeks comments on proposals to amend Chapter 10 of the DME Rulebook: DME Oman Crude Oil Futures Contract.

Application of the Consultation Paper

Consultation Paper 09-002 is directed primarily at DME Members and other users or prospective users of DME's facilities. DME also welcomes any comments from any organisation which represents groups of such users or prospective users.

Overview of changes

Key changes are as follows:

- Changes to Delivery Committee composition and proceedings, including the addition of Customer representation on the delivery committee;
- Introduction of additional powers for CCO to enforce Delivery Committee decisions;
- Introduction of appeal avenue for directions made concerning Force Majeure Events;
- Introduction of summary dismissal powers for appeals considered frivolous or vexatious;
- Earlier timeframes for the release of Seller's Margin;
- Express language to permit Parcel splits and to prohibit charging for such splits;
- Introduction of a "split weekends" clause;
- Introduction of interests charges for late payments;
- Indemnification of counterparties in the event of a failure to make or take delivery within loading tolerance;
- Clarification of arbitration processes available under the Exchange and Clearing House rules;

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- Extension of the window for lodging ADP notices; and
 - Requirements to notify the Exchange of certain documentation concerning physical delivery.

Note that terms not otherwise defined herein shall have the meaning ascribed to them under the DME Rulebook. Full details of the changes have been marked up as an attachment to this Consultation Paper.

Rationale for Rule changes

The changes to Chapter 10 reflect feedback received from industry participants as well as experience from the Exchange in administering the DME Oman Crude Oil Futures Contract

How to provide comments

The deadline for providing comments on the proposals in this Consultation Paper is twenty eight (28) calendar days from the date of this Consultation Paper. All comments on the proposed changes should be addressed to:

Mr Greg Collins
Chief Compliance Officer
Dubai Mercantile Exchange Limited
P.O. Box 66500
Dubai
United Arab Emirates
greg.collins@dubaimerc.com

Next steps

Unless specifically requested otherwise, DME may publish on its website any comments it receives from this consultation.

As soon as practicable following the deadline for comments on the proposals in this Consultation Paper, DME will consider whether any amendment or revision to the proposed changes is appropriate. DME will then implement the changes to the DME Rulebook (including any amendment or revision, if appropriate). The amendments to the DME Rulebook will only take effect once approved by the DFSA. DME will issue a Member Notice on the DME website confirming the date upon which the changes to the DME Rulebook will become effective.

Signed



Greg Collins
Chief Compliance Officer

Please pass comments to:
Mr Greg Collins, Chief Compliance Officer
greg.collins@dubaimerc.com

Chapter 10 DME Oman Crude Oil Futures Contract

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10.1 Scope

The provisions of Chapter 10 (which include the Appendices) shall apply to all contracts bought or sold on the Exchange for future delivery of Oman crude oil of normal export quality.

10.2 Definitions

For the avoidance of doubt, terms defined in Chapter 1 of these Rules that are used in this Chapter 10 shall have the meanings given to them in Chapter 1 of these Rules. For the purpose of this Chapter 10, the following terms shall have the following meanings, unless the context otherwise requires:

- (1) Alternative Notice of Intention to Deliver has the meaning given to it in Rule 10.1.
- (2) Answering Memorandum has the meaning given to it in Rule 10.18(D).
- (3) Appeal Panel has the meaning given to it in Rule 10.18(B).
- (4) Appellant has the meaning given to it in Rule 10.18(A).

- (5) **Barrel** means forty-two (42) US standard gallons of two hundred and thirty-one (231) cubic inches per gallon corrected for temperature to sixty (60) degrees Fahrenheit. Formatted: Justified
- (6) **B/L Details** has the meaning given to it in Rule 10.15(E).
- (7) **Buyer Clearing Member** means, in relation to a Contract to which the Clearing House is party, the long Clearing Member. Formatted: Justified
- (8) **Buying Customer** means the customer of a Buyer Clearing Member or such Buyer Clearing Member if the Buyer Clearing Member is acting for its own account. Deleted: shall mean
- (9) **Clearing Business Day** means a day on which the Clearing House is open for the processing and clearing of Exchange Contracts.
- (10) **Confirmation Notice** has the meaning given to it in Rule 10.15(E).
- (11) **Crude Lifting Procedures** means the procedures for the lifting of Oil at the Loading Port promulgated by the Terminal Operator, as the same may be amended from time to time.
- (12) **Customer** means a Buying Customer or Selling Customer. Formatted: Justified
- (13) **Delivery Documents** has the meaning given to it in Rule 10.15(F). Deleted: Contract
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- (14) **Delivery Month** means the month in which the Oil is to be delivered and received as specified by the Exchange. Deleted:
- (15) **Delivery Notice** has the meaning given to it in Rule 10.15(E). Deleted: <#>Demurrage Rules means the rules and procedures governing the charges paid for detaining a ship or other cargo carrier at the Loading Port for longer than the agreed laytime.¶
- (16) **Failure to Perform** means in respect of a Buyer Clearing Member or Seller Clearing Member, its failure or that of its Customer to perform its obligations for the purposes of making or taking delivery of Oil in accordance with the terms of the Contract other than as a result of a Force Majeure Event, and **Failed to Perform** shall be construed accordingly. Formatted: Justified
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- (17) **Final Settlement Price** has the meaning given to it in Rule 10.9. Field Code Changed
- (18) **Force Majeure Event** means any circumstance (including but not limited to a strike, lock-out, national emergency, governmental action, or act of God) which is beyond the control of the affected Clearing Member and its Customer, and which prevents such Clearing Member or Customer from performing its respective obligations for the purposes of making or taking delivery of Oil in accordance with the terms of the Contract or Physical. Deleted: shall mean
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- (19) **Hearing** has the meaning given to it in Rule 10.17(A).
- (20) **Hearing Date** has the meaning given to it in Rule 10.17(A).
- (21) **Hearing Registrar** has the meaning given to it in Rule 10.18(A).
- (22) **ISPS Code** means the International Code for the Security of Ships and of Port Facilities and the relevant amendments to Chapter XI of SOLAS. Formatted: Justified
- (23) **Laydays** means those days that are the accepted days for loading a Parcel.

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(24) **Letter of Indemnity** means a letter of indemnity in the form set out in Appendix B to this Chapter 10.

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(25) **LIBOR** means the British Bankers' Association Interest Settlement Rate for one (1) month dollar deposits displayed on the appropriate page of the Reuters screen as of the date any amount owing hereunder falls due or, if no such rate is available for dollars for such period, the rate quoted by Barclays Bank PLC for one (1) month deposits to leading banks in the London interbank market.

(26) **Loading Port** means the Mina Al Fahal Terminal, Oman.

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(27) **Memorandum of Appeal** has the meaning given to it in Rule 10.18(C).

(28) **Non Confirmation Notice** has the meaning given to it in Rule 10.15(E).

(29) **Notice** has the meaning given to it in Rule 10.11(C).

(30) **Notice of Appeal** has the meaning given to it in Rule 10.18(A).

(31) **Notice of Assessment** has the meaning given to it in Rule 10.17(T).

(32) **Notice of Hearing** has the meaning given to it in Rule 10.17(A).

(33) **Notice of Intent to Arbitrate** has the meaning given to it in Rule 10.19(B).

(34) **Notice of Intention to Accept** has the meaning given to it in Rule 10.11(A).

(35) **Notice of Intention to Deliver** has the meaning given to it in Rule 10.11(B).

(36) **ODC** has the meaning given to it in Rule 10.17(C).

(37) **ODC Administrator** means a person selected from time to time by the Clearing House and the Exchange to perform the duties allocated to the ODC Administrator in this Chapter 10.

(38) **ODC Chairman** has the meaning given to it in Rule 10.17(E).

(39) **ODC Panel** has the meaning given to it in Rule 10.17(F).

(40) **ODC Panellist** has the meaning given to it in Rule 10.17(F).

(41) **Oil** means crude oil for delivery F.O.B. at the Loading Port pursuant to a Contract.

(42) **Oman Futures Contract** or **Contract** means the Oman crude oil futures contract to which this Chapter 10 applies.

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(43) **Parcel** has the meaning given to it in Appendix A.

(44) **Party** means:

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(a) in the Physical Delivery Procedures, a Selling Customer or a Buying Customer;
and

(b) in all other cases, a Seller Clearing Member or a Buyer Clearing Member.

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(45) Payment Date has the meaning given to it in Rule 10.15(F).

(46) Physical Contract has the meaning given to it in Rule 10.12(A).

(47) **Physical Delivery Procedures** means Appendix A to this Chapter 10.

(48) **Prior Month** means the month immediately prior to the Delivery Month.

(49) **Seller Clearing Member** means in relation to a Contract to which the Clearing House is party, the short Clearing Member.

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(50) **Selling Customer** means the customer of a Seller Clearing Member or such Seller Clearing Member if the Seller Clearing Member is acting for its own account.

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(51) Selling Customer's Invoice has the meaning given to it in Rule 10.15(F).

(52) Selling Customer's Suppliers means any person being a direct or indirect source of supply for the Selling Customer.

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(53) **Senior Clearing House Officer** means a senior officer of the Clearing House.

(54) **Singapore Business Day** means a day (other than a Saturday or Sunday) on which banks in Singapore are open for the normal conduct of banking business.

(55) **Terminal Operator** means Petroleum Development Oman L.L.C. or its successor as operator of the Loading Port.

(56) **Vessel** means the tanker transporting the Oil.

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10.3 **Grade and Quality Specifications**

The Oil must be the same quality as the oil generally being supplied at the Loading Port at the time of loading. This Rule 10.3 constitutes the whole of Selling Customer's and **Seller** Clearing Member's obligations with respect to the quality of Oil to be supplied and (to the extent permitted by law) all statutory or other conditions or warranties with respect to the description, merchantability or quality of the Oil or its fitness for any purpose are hereby excluded.

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10.4 **Contract Value**

The contract value shall be the Final Settlement Price multiplied by one thousand (1,000) multiplied by the number of Contracts to be delivered.

10.5 **Contract Months**

Trading shall be conducted in such Contract Months as shall be determined by the Exchange. Trading in a Contract Month shall commence on the day fixed by the Exchange.

10.6 **Prices and Price Fluctuations**

Prices shall be quoted in US dollars and cents per Barrel. The minimum price fluctuation shall be 1 cent (\$0.01) per Barrel. There shall be no maximum price fluctuation limits.

10.7 **Trading Hours**

The Exchange shall determine the trading hours from time to time.

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10.8 Termination of Trading

Trading in the current Contract Month shall cease on the last Trading Day of the second month preceding the Delivery Month that is a Singapore Business Day and a Clearing Business Day.

10.9 Final Settlement Price

The final Settlement Price for a Contract Month shall be the Settlement Price for the last Trading Day of the Contract Month. The Settlement Price for the last Trading Day of the Contract Month shall be determined as at 16:30 (Singapore time) using the same procedures as those set out at Rule 6.26 (the **Final Settlement Price**). The Exchange shall publish the Final Settlement Price on the last Trading Day in that Contract Month. The Final Settlement Price will be used for purposes of margins for delivery of the Oil.

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10.10 Availability for Delivery

A Seller Clearing Member shall for the purposes of the Clearing House Rules, be regarded as in a position to fulfil its contractual obligation only if, prior to one (1) hour before the close of trading in the applicable Contract Month, such Seller Clearing Member has received from the Selling Customer a certification, in the form prescribed by the Clearing House, stating that the Selling Customer has or will have in position at the Loading Port, a quantity and quality of Oil sufficient to meet the Seller Clearing Member's obligations to make delivery when and as prescribed by these Rules; provided, however, that the receipt of such certification shall not relieve the Seller Clearing Member of any obligations under any Rule of the Clearing House or the Exchange, other than the Clearing House Rules.

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10.11 Procedures for Physical Delivery

(A) Notice of Intention to Accept

Clearing Members having open long positions after trading has ceased shall give the Clearing House a notice of intention to accept delivery (**Notice of Intention to Accept**) by 14:00 (New York time) on the first (1st) Clearing Business Day after the Last Trading Day. The Notice of Intention to Accept shall be in the form prescribed by the Clearing House, shall be properly completed and signed, and shall indicate the name(s) of the Buying Customer(s), the number of Contracts to be accepted, and such additional information as may be required by the Clearing House.

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(B) Notice of Intention to Deliver

Clearing Members having open short positions after trading has ceased shall give the Clearing House a notice of intention to deliver (**Notice of Intention to Deliver**) by 14:00 (New York time) on the first (1st) Clearing Business Day after the Last Trading Day. The Notice of Intention to Deliver shall be in the form prescribed by the Clearing House, shall be properly completed and signed, and shall indicate the names of the Selling Customer(s), the number of Contracts to be delivered and any additional information as may be required by the Clearing House.

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(C) Matching Procedures and Notification

(1) The Clearing House will, pursuant to the Clearing House Rules, aggregate the positions held in respect of the same Customer by Buyer Clearing Members and Seller Clearing Members and then match the aggregate long position held in respect of a Customer by one (1) or more Clearing Members with one (1) or more aggregate short positions held in respect of one (1) or more Customers by one (1) or more Clearing Members. The criteria for matching will be determined by the Clearing House and will take into account in respect of each aggregate position:

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- (i) the total quantity of Oil for which the Buying Customer or Selling Customer must make or take delivery; and
- (ii) whether the total quantity of Oil for which the Buying Customer or Selling Customer must make or take delivery is greater than or equal to two hundred thousand (200,000) Barrels.

(2) The Clearing House will, pursuant to the Clearing House Rules, carry out the following activities by 15:01 (New York time) on the first (1st) Clearing Business Day after the last Trading Day in the applicable Contract Month:

- (i) the Clearing House will notify each Buyer Clearing Member and Seller Clearing Member of the identity of each Seller Clearing Member and Buyer Clearing Member to which it has been matched and that of each such Party's corresponding Customer;

- (ii) the Clearing House will allocate Notices of Intention to Deliver and Notices of Intention to Accept (each a **Notice**) to the Buyer Clearing Member and Seller Clearing Member matched to the Party that gave the Notice; and

- (iii) the Clearing House will give copies of the Notices to the Exchange and the respective Customers of the Clearing Members.

(D) Delivery Tolerance

The Oil must be delivered within a loading tolerance of plus or minus zero point two percent (0.2%).

10.12 Physical Contract, Making and Taking Delivery, and Risk and Property

(A) Physical Contract

(1) With respect to each transaction to which a Buying Customer and a Selling Customer are matched pursuant to Rule 10.11(C), there shall be a contract between such Selling Customer and Buying Customer that will be governed by and construed in accordance with English law and shall be subject to the Rules (the **Physical Contract**). The terms of each Physical Contract will be the obligations specified to apply to the Selling Customer and the Buying Customer in this Chapter 10.

(2) A Clearing Member that submits a Notice of Intent to Accept or Notice of Intent to Deliver on behalf of a Customer pursuant to Rule 10.11(A) or (B) (as applicable) will be deemed to have acknowledged and agreed (as agent on behalf of such Customer) that: (a) such Customer will be legally bound to a Physical Contract with the Customer to which it is matched pursuant to Rule 10.11(C), (b) such Customer is familiar with the terms of this Chapter 10 and the Crude Lifting Procedures as in effect on the date of submission of the Notice of Intent to Deliver or Notice of Intent to Accept and (c) to be bound by the Crude Lifting Procedures except to the extent that such Crude Lifting Procedures conflict with the terms of this Chapter 10, in which case the terms of this Chapter 10 shall prevail.

(B) Selling Customer's Obligations

The Selling Customer is obliged to:

- (1) subject to the terms of this Chapter 10 and for each position that has been matched pursuant to Rule 10.11(C), make delivery to the Buying Customer in respect of that match;

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- (2) give all notices and other communications and provide all documents required of it under this Chapter 10;
- (3) make delivery in accordance with this Chapter 10 at the Loading Port on the actual Laydays determined in accordance with this Chapter 10;
- (4) make delivery within a loading tolerance of plus or minus zero point two percent (0.2%), and if it fails to comply with such obligation, indemnify the Buying Customer in respect of all damages, costs, expenses and liabilities incurred by the Buying Customer to a third party because of such failure;
- (5) provide the documentary requirements to the Exchange as set out in Paragraph 4(1) of the Physical Delivery Procedures;
- (6) insofar as delivery is not completed within the actual Laydays, pay any additional delivery fees and demurrage for which it is responsible under the Contract, the Crude Lifting Procedures, or in accordance with good industry practice;
- (7) comply generally with the terms of this Chapter 10; and
- (8) make delivery in accordance with applicable law.

(C) **Buying Customer's Obligations**

The Buying Customer is obliged to:

- (1) subject to the terms of this Chapter 10 and for each position that has been matched pursuant to Rule 10.11(C), take delivery from the Selling Customer in respect of that match;
- (2) give all notices and other communications and provide all documents required of it under this Chapter 10;
- (3) take delivery in accordance with this Chapter 10 at the Loading Port on the Laydays determined in accordance with this Chapter 10;
- (4) take delivery within a loading tolerance of plus or minus zero point two (0.2%), and if it fails to comply with such obligation, indemnify the Selling Customer in respect of all damages, costs, expenses and liabilities incurred by the Selling Customer to a third party in respect of such failure;
- (5) provide the documentary requirements to the Exchange as set out in Paragraph 4(1) of the Physical Delivery Procedures;
- (6) promptly take up documents and make payment in accordance with Rule 10.15;
- (7) comply generally with the terms of this Chapter 10; and
- (8) take delivery in accordance with applicable law.

(D) **Crude Lifting Procedures**

- (1) Customers and Clearing Members shall comply with and be bound by the obligations set out in the Crude Lifting Procedures, except to the extent that such Crude Lifting

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(1) . For the purpose of this Rule 10.12, there shall be a contract between each Selling Customer and Buying Customer (the **Delivery Contract**), which shall be governed by and construed in accordance with English law and shall be subject to the Rules. The terms of the Delivery Contract are those obligations specified to apply to the Selling Customer and Buying Customer in this Chapter 10.¶
¶
(2) . The Buying Customer and the Selling Customer each agree that it is familiar with the current Demurrage Rules issued by the Terminal Operator and agree that the Demurrage Rules as amended from time to time, shall govern the calculation of demurrage due under the Delivery Contract, except to the extent that the Demurrage Rules conflicts with the terms of this Chapter 10. ¶
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(D) . **Demurrage**¶

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Procedures conflict with the terms of this Chapter 10, in which case the terms of this Chapter 10 shall prevail.

- (2) 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 Port and actually incurred by the Buying Customer resulting directly from the failure of the Loading Port to comply with the ISPS Code, shall be for the account of the Selling Customer, 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.

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- (3) Save where the Vessel has failed to comply with the requirements of the ISPS Code, the Selling Customer shall be responsible for any demurrage actually incurred by the Buying Customer arising from the delay to the Vessel at the Loading Port resulting directly from the Vessel being required by the Terminal Operator to take any action or any special or additional security measures or undergo additional inspections by virtue of the Vessel's previous ports of call.

- (4) The Selling Customer's liability to the Buying Customer in respect of a matched delivery under this Chapter 10 for any costs, losses or expenses incurred by the Vessel, the charterers of the Vessel or the Vessel owners resulting from the failure of the Loading Port to comply with the ISPS Code shall exclude the payment of demurrage and costs not actually incurred by the Buying Customer in accordance with the provisions of this Rule 10.12 and Paragraph 5 of the Physical Delivery Procedures.

- (5) No claim for demurrage shall be entertained unless the fully documented claim is received (or if not all documents are available to the Buying Customer, notice of formal claim is given by the Buying Customer with an estimate of the amount of the claim) within forty (40) days from the date of the bill of lading.

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- (6) The documentation to be submitted with the claim shall include all information required by the Terminal Operator under the Crude Lifting Procedures. Any documents not available on the date of formal claim but which the Terminal Operator requires shall be provided to the Selling Customer within eighty (80) days from the date of the bill of lading.

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- (7) The Buying Customer shall not be entitled to recover demurrage from the Selling Customer except to the extent that the Selling Customer is able to recover such demurrage from the Selling Customer's Suppliers and the Selling Customer shall not be obliged to pay any amounts in excess thereof. The Selling Customer shall however use reasonable endeavours to recover from the Selling Customer's Suppliers any demurrage for which the Buying Customer has presented a claim in accordance with the terms of the Physical Contract.

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- (8) If the Vessel concerned loads Oil under a Contract as well as other Oil at the Loading Port, the Selling Customer's liability to the Buying Customer under the Physical Contract in respect of that Contract shall be limited to that proportion of the total demurrage due that is equal to the ratio of the Oil loaded under the Contract in relation to the total quantity of Oil loaded on the Vessel concerned at the Loading Port.

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- (E) Any dispute between Customers arising from or in connection with a Physical Contract (including any dispute regarding the parties to the Physical Contract, or the formation, existence, breach or termination of a Physical Contract) that is not resolved pursuant to the procedures set forth in Rule 10.17 and Rule 10.18 shall be referred to arbitration under the Arbitration Rules as if the Physical Contract were a Contract, provided, however, that:

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- (1) if an ODC has been convened in respect of such Physical Contract pursuant to Rule 10.17, in no event shall any Customer commence any proceedings under the Arbitration

Rules until such time as the ODC has rendered its finding, determination or direction and either (a) an Appeal Panel has rendered its decision in respect of any appeal pursuant to Rule 10.18 or (b) the time period for bringing an appeal of such ODC direction has expired (and, in the event any arbitration proceedings are commenced before an ODC is convened, such proceedings will be stayed until the foregoing requirements of this clause (1) are satisfied); and

(2) in any arbitration proceedings, the factual findings of the ODC (including in respect of the occurrence or non-occurrence of a Force Majeure Event) will not be subject to dispute, and in considering the matter the Tribunal (as such term is defined in Chapter 5) will consider such factual findings to have been agreed and stipulated by the Customers.

(F) **Risk and Title**

The risk and title in the Oil delivered under the terms of the Physical Contract shall pass to the Buying Customer at the Loading Port as the Oil passes the loading Vessel's permanent hose connection. Any loss of or damage to the Oil during loading, if caused by the Vessel or her officers or crew, shall be for the account of the Buying Customer.

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10.13 EFPs and EFSs

(A) An EFP or EFS must be posted before 23:00 (Singapore time) on the Trading Day following the last Trading Day in the expiring Contract Month, otherwise it shall not be valid and effective. An EFP or EFS transaction must be posted into the appropriate Clearing House clearing system as advised by the Exchange from time to time.

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(B) Any EFP or EFS shall be governed by the provisions of Rule 6 28.

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(C) Each Clearing Member must satisfy the Exchange at its request that the transaction is a legitimate EFP or EFS transaction. All documentary evidence relating to the EFP or EFS, including (without limitation) evidence as to change of ownership of the physical commodity or swap commitment, shall be obtained by the Clearing Members from their Customers and made available by the Clearing Members for examination by the Exchange upon request.

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10.14 Alternative Delivery Procedures

(A) Where the Clearing House has under Rule 10.11(C) matched a position of a Seller Clearing Member with a position of a Buyer Clearing Member, the Customers in respect of the matched positions may agree to make and take delivery under terms and conditions that differ from the Rules of this Chapter 10. In such a case, the Clearing Members shall execute an alternative notice of intention to deliver on the form prescribed by the Clearing House (an **Alternative Notice of Intention to Deliver**) and shall deliver a completed executed copy of such Alternative Notice of Intention to Deliver to the Clearing House by 18:00 (Singapore time) on the first actual Layday or at such later time and date following the first actual Layday but prior to the Payment Date as the Clearing House may agree. No Alternative Notice of Intention to Deliver shall be effective unless a completed executed copy is delivered to the Clearing House in accordance with the preceding sentence.

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(B) The delivery of an executed Alternative Notice of Intention to Deliver to the Clearing House in accordance with Rule 10.1(A) shall release the Seller Clearing Member and Buyer Clearing Member and the Clearing House from their respective obligations in respect of the Contracts relating to the matched position. Upon receipt of an executed Alternative Notice of Intention to Deliver, the Clearing House shall pursuant to the Clearing House Rules, release any delivery margins it holds with respect to the Contracts to which the Clearing House is party.

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- (C) In executing an Alternative Notice of Intention to Deliver, Clearing Members shall indemnify the Clearing House against any liability, cost or expense it may incur for any reason in connection with a Contract to which the Alternative Notice of Intention to Deliver relates.

10.15 Margins and Payment

- (A) By 11.00 (New York time) on the final Business Day of the Prior Month, the Buyer Clearing Member shall obtain from the Buying Customer margin equal to the full value of the product to be delivered. Such margin shall be in a form acceptable to the Clearing House.
- (B) The Seller Clearing Member shall obtain from the Selling Customer margin in a form acceptable to the Clearing House in an amount fixed from time to time by the Clearing House. The Buyer Clearing Member shall obtain from the Buying Customer margin in a form acceptable to the Clearing House in an amount fixed from time to time by the Clearing House.
- (C) For the avoidance of doubt, the forms of margin acceptable to the Clearing House include a letter of credit deposited with the Clearing House in a form approved by the Clearing House, that is issued or approved by a Clearing House approved original margin depository and is drawn in favour of the Clearing House.
- (D) The Buyer Clearing Member and Seller Clearing Member shall provide delivery margins to the Clearing House in such amounts and in such form as required by the Clearing House.
- (E) Upon receipt by the Selling Customer (from the Selling Customer's Supplier) of the applicable bill of lading details as issued by the Terminal Operator in respect of a delivery of Oil (B/L Details), the Selling Customer shall provide a copy of such B/L Details by e-mail or fax to the Buying Customer (who will in turn provide a copy to the Buyer Clearing Member), the Seller Clearing Member, and the Exchange. Thereafter the following shall occur:
- (1) Within twenty four (24) hours of the Seller Clearing Member and Buyer Clearing Member receiving the B/L Details, the Seller Clearing Member and Buyer Clearing Member shall submit a notice to the Clearing House by email or fax confirming receipt of the same. Such notice shall be in a form prescribed by the Clearing House (the **Delivery Notice**).
 - (2) Upon receipt of the Delivery Notice, the Clearing House shall seek confirmation from the Exchange that the B/L Details confirm that the Selling Customer and Buying Customer have satisfied their delivery obligations to each other with respect to the quantity and quality of Oil delivered under this Chapter 10.
 - (3) To the extent that the Selling Customer and the Buying Customer have satisfied the Exchange in accordance with Rule 10.15(E)(2) above the Exchange shall submit a notice confirming the same (the **Confirmation Notice**) by email or fax to the Clearing House. In the event that the Selling Customer and the Buying Customer have failed to satisfy the Exchange in accordance with Rule 10.15(E)(2) above the Exchange shall submit a notice stating the same (the **Non Confirmation Notice**) by email or fax to the Clearing House. In submitting a Confirmation Notice or a Non Confirmation Notice the Exchange shall be entitled to rely on the information set forth in the B/L Details and the Delivery Notice and will not be liable for any inaccuracy therein.
 - (4) Upon receipt of the Confirmation Notice by the Clearing House, the Clearing House shall, in accordance with the Clearing House Rules, release the Seller Clearing Member's delivery margin to the Seller Clearing Member, which shall in turn release the Selling Customer's margin to the Selling Customer.
 - (5) In the event that the Clearing House receives a Non Confirmation Notice from the Exchange, it shall retain the Seller Clearing Member's delivery margin until it receives

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satisfactory confirmation that all issues in respect of the Selling Customer's and Buying Customer's performance of its delivery obligations with respect to the quantity and quality of Oil delivered under this Chapter 10 have been resolved. Upon such resolution the Clearing House will release the Seller Clearing Member's delivery margin to the Seller Clearing Member (who shall in turn return release the Selling Customer's margin to the Selling Customer).

(F) The Buying Customer shall pay the Selling Customer in respect of a delivery of Oil and (subject to 10.15(O)) payment shall be due on the date (the Payment Date) that is the later of:

(1) the day thirty (30) days after the date of the bill of lading; and

(2) on the date of presentation of the following documents applicable to the delivery:

- (i) a full set (original, duplicate and triplicate) of clean original bills of lading made out or endorsed to the order of the Buying Customer;
- (ii) an invoice complying with the requirements of this Rule 10.15 (Selling Customer's Invoice);
- (iii) a certificate of quantity and quality;
- (iv) a certificate of origin;
- (v) a cargo manifest;
- (vi) an ullage report;
- (vii) a Vessel loading time sheet; and
- (viii) a receipt for any sealed sample of the cargo provided by the Selling Customer,

(the Delivery Documents).

If any or all of the Delivery Documents are not presented, the Buying Customer may agree to pay the Selling Customer for the delivery against presentation of those Delivery Documents that are presented and a Letter of Indemnity for the missing Delivery Documents duly executed by the Selling Customer or, if the Buying Customer chooses, duly executed and given jointly and severally by the Selling Customer and the Selling Customer's bank.

(G) The Selling Customer's Invoice shall be based on the quantity of Oil delivered under the Contract, determined so as to reflect the quantities determined in accordance with Paragraph 2 of the Physical Delivery Procedures. The amount payable on the Payment Date in respect of the delivery shall be the Contract Value adjusted for the quantity of Oil delivered under the Contract, determined so as to reflect the quantities determined in accordance with Paragraph 2 of the Physical Delivery Procedures.

(H) Unless otherwise agreed, the payment of any other costs, expenses or charges payable by the Buying Customer that arise under this Chapter 10 shall be made against presentation of the Selling Customer's Invoice (or any other invoice from the Selling Customer) and shall be for immediate settlement by the Buying Customer on or by the date notified therein.

(I) Not later than 12:00 (New York time) on the third (3rd) Business Day prior to the Payment Date, the Selling Customer shall notify, by e-mail or fax, the Seller Clearing Member of the bank account to which payment shall be made. The Seller Clearing Member shall notify the Buyer Clearing Member who shall in turn notify the Buying Customer.

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(J) On the Payment Date, the Buying Customer shall pay the Selling Customer the amount payable under Rule 10.15(G). Payment shall be made by bank transfer to the bank account nominated by the Selling Customer. Not later than 12:00 (New York time) the Buying Customer shall notify, by e-mail or fax, the Buyer Clearing Member of the details of the transfer of funds. The Buyer Clearing Member shall notify, by e-mail or fax, the Seller Clearing Member who shall in turn notify the Selling Customer.

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(K) The Selling Customer shall notify the Seller Clearing Member that it has received payment not later than the Business Day following the date of receipt. Where payment has been received, the Seller Clearing Member shall deliver a notice of payment to the Buyer Clearing Member and the Clearing House not later than the Business Day following the date payment is made. On receipt of such notice of payment the Clearing House shall, in accordance with the Clearing House Rules, release the Buyer Clearing Member's delivery margin to the Buyer Clearing Member, who shall in turn release the Buying Customer's margin to the Buying Customer. Where the Selling Customer has not received payment on or before the Payment Date, it shall so notify the Seller Clearing Member, which will in turn notify the Buyer Clearing Member and the Clearing House.

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(L) If the Seller Clearing Member receives notification that payment has not been received, it shall notify the Clearing House in writing. On the following Business Day, unless the Buyer Clearing Member or Buying Customer have notified the Clearing House that the Seller Clearing Member has Failed to Perform, the Clearing House shall, in accordance with the Clearing House Rules, liquidate the Buying Customer's delivery margin and, when liquidation is complete, pay the Seller Clearing Member, which shall in turn pay the Selling Customer.

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(M) All payments to be made under this Chapter 10 shall be made in dollars and shall be made free of all charges and without asserting at the time for payment any set-off, counterclaim or right to withhold whatsoever.

(N) Any amounts not paid by the due date specified in this Chapter 10 will bear interest at a rate of LIBOR plus two hundred (200) basis points per annum (compounded monthly) from the date payment was due until the date payment is made.

(O) If the day on which any payment hereunder would otherwise be due under this Chapter 10 is a Sunday or any Monday that is not a Business Day, then such payment will be due on the next following Business Day. If the day on which any payment hereunder would otherwise be due is a Saturday or any weekday (other than a Monday) that is not a Business Day, then such payment will be due on the nearest preceding Business Day.

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10.16 Non-Performance of Delivery Obligations

(A) The Seller Clearing Member and the Buyer Clearing Member are each responsible to the Exchange and the Clearing House for their respective obligations and those of their respective Customers under the provisions of this Chapter 10.

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(B) When a Seller Clearing Member or a Buyer Clearing Member has Failed to Perform, the Buyer Clearing Member or Seller Clearing Member, as the case may be, shall be liable to the Clearing Member with which its position has been matched pursuant to Rule 10.11(C) for any damages awarded pursuant to Rule 10.19 and to the Exchange for any assessments made pursuant to Rule 10.18.

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10.17 Oman Delivery Committee

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(A) If any Buying Customer, Selling Customer, Buyer Clearing Member or Seller Clearing Member is of the view that a Failure to Perform or possible Failure to Perform has occurred, it shall notify the Clearing House (with a copy to the Exchange) thereof, such notification to include (1) an

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identification of the Contract(s), Clearing Members and Customers involved and (2) a description of the circumstances involved (including any alleged Force Majeure Event that may excuse the alleged Failure to Perform). In addition, a Buyer Clearing Member or Seller Clearing Member may request at any time that the Clearing House refer a Failure to Perform or Possible Failure to Perform to an ODC.

- (B) If it appears to the Clearing House (whether through notification received pursuant to Rule 10.17(A) or otherwise) that a Seller Clearing Member or Buyer Clearing Member has Failed to Perform, or may have Failed to Perform, the Clearing House in conjunction with the Exchange and the ODC Administrator may, as soon as practicable, take such steps as it deems appropriate to help achieve an amicable settlement between the Parties to the affected Contract (including any affected Customer). Such assistance may include convening a meeting (which may be held in person or by telephone or video conference) among the Parties to the affected Contract to discuss avenues for an amicable settlement among such Parties.

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- (C) The Clearing House may refer a Failure to Perform (or possible Failure to Perform) to an Oman Delivery Committee (ODC) if in the opinion of the Clearing House the Failure to Perform (or possible Failure to Perform):

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(1) is by the Seller Clearing Member, concerns the quantity or quality of Oil that has been delivered, would not entitle the Buying Customer to reject the delivery (a minor quantity or quality issue) and is not resolved within sixty (60) days of coming to the attention of the Clearing House;

(2) is a failure to make or take delivery that is not cured within ten (10) days of the last actual Layday determined in accordance with this Chapter 10;

(3) is not a minor quantity or quality issue and is not resolved amicably by the Parties within ten (10) days of coming to the attention of the Clearing House;

(4) urgently requires review in the interests of the Oman Futures Contract, the Exchange or the Clearing House.

- (D) Upon a determination by the Clearing House to refer a Failure to Perform or possible Failure to Perform to an ODC pursuant to Rule 10.17(C), the Clearing House shall so notify the ODC Administrator who shall in turn issue a notice of hearing (Notice of Hearing) convening an ODC to the Exchange, the Clearing House and the Parties to the affected Contract. The Notice of Hearing will state:

(1) the date and time (Hearing Date) at which the hearing of the ODC (Hearing) will first convene (which may be no less than two (2) and no more than five (5) Business Days following the date of issuance of the Notice of Hearing);

(2) the parties to the Hearing;

(3) a summary of the dispute to be resolved; and

(4) the means by which the Hearing will be conducted, including by conference call, in person, or by other means.

- (E) Each ODC shall consist of:

(1) two (2) representatives of the Clearing House, one (1) of whom shall be the chairman of the ODC (ODC Chairman);

(2) one (1) representative of the Exchange; and

(3) three (3) ODC Panellists selected in accordance with Rule 10.17(F).

A representative of a relevant ministry of the Oman Government shall be entitled to observe the proceedings of each ODC, as well as the ODC Administrator and such other persons as the ODC Chairman shall deem appropriate.

- (F) The Exchange shall consult with the Clearing House in maintaining a panel of individuals (each an ODC Panellist) willing and able to participate in ODC proceedings and sufficient in number to support the timely formation of one or more ODCs (the ODC Panel). In appointing ODC Panellists, consideration shall be given to the appointee's:

(1) experience with lifting Oman crude;

(2) general knowledge of oil trading and shipping; and

(3) possession of such other qualifications as the Clearing House may deem relevant;

provided, that membership or affiliation with the Exchange or the Clearing House shall not be a prerequisite to appointment as an ODC Panellist.

ODC Panellists shall be selected for participation in an ODC by lottery or other means of selection* identified by the Clearing House; provided an ODC Panellist may not serve on an ODC if such person has a direct or indirect interest in performance of the delivery obligations in question. Each ODC Panellist shall disclose to the ODC Chairman and the ODC Administrator any such interest or any other interest that might preclude such ODC Panellist from rendering a fair and impartial decision. Any objection raised by a Seller Clearing Member or Buyer Clearing Member to any ODC Panellist being appointed to an ODC shall be determined by the ODC Chairman, at his or her discretion.

- (G) No person serving on an ODC shall, in the absence of bad faith or wilful default, incur any liability whatsoever to any Member, Seat Lessee or Guaranteed Customer, or their respective employees, for any decision taken or any act or omission of such ODC, whether in contract, in tort or otherwise.

- (H) No member of an ODC shall use or disclose, for any purpose other than the performance of such person's duties relating to such ODC, Confidential Information obtained as a result of such person's participation on such ODC. No person may trade for his own account, or for or on behalf of the account of any other person, in any Exchange Contract on the basis of any Confidential Information that such person knows was obtained in breach of the preceding sentence.

- (I) The ODC Chairman will have the authority to call meetings of the ODC. Notice of all ODC meetings will be distributed by the ODC Administrator and may be in writing, by telephone or by any other means of communication, and such notice shall be made at least one (1) day before any meeting. Any one (1) or more members of an ODC may participate in a meeting by means of a conference telephone or similar communications device allowing all persons participating in the meeting to hear each other at the same time, and participation by such means shall constitute presence at a meeting. The presence of at least five (5) out of the six (6) members of an ODC shall be required to form a quorum.

- (J) Any ODC so appointed shall retain jurisdiction over the delivery obligations in question until they have been performed, a Buyer Clearing Member or Seller Clearing Member has been found to have Failed to Perform or the Parties have jointly notified the ODC that they have amicably resolved the issue relating to delivery obligations and the ODC has accepted such resolution. The Exchange's legal counsel shall serve as legal advisor to the ODC or procure legal advice thereto.

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(K) An ODC may choose to require a Party to an affected Contract (including any relevant Customer) to present written submissions and evidence in support of their position in such form, and by such time, as such ODC may choose. Where an ODC considers it necessary, an oral hearing may take place. A Party to an affected Contract (including any relevant Customer) may appear personally and may be represented by counsel or other representative of its choice at such oral hearing. An ODC will determine the matter on such evidence as it may deem relevant, even where such evidence may not be admissible in a court of law.

(L) An ODC may obtain expert advice from any person it deems as having expertise in the matter in question including the Terminal Operator and any relevant Ministry of the Omani Government.

(M) As expeditiously as practicable after being convened pursuant to Rule 10.17(C), an ODC shall, by a minimum vote of five (5) out of six (6), make a determination in accordance with Rule 10.17(N) below; provided that if the ODC deadlocks or is otherwise unable to reach a decision by a minimum vote of five (5) out of six (6), the decision shall be made on behalf of the ODC by the ODC Chairman.

(N) In reaching its determination, an ODC may find either:

(1) that a Failure to Perform has occurred, in which case the ODC may take any one or combination of the following actions as it deems suitable:

(a) direct the Buyer Clearing Member or Seller Clearing Member as to how the delivery should proceed, or to take such other steps as the ODC may deem necessary or appropriate to rectify the Failure to Perform; or

(b) direct the Buyer Clearing Member or Seller Clearing Member to pay to the Clearing House its reasonable costs and those of the Exchange, and the ODC. Such costs may include: the fees and expenses of the ODC Chairman and the Exchange representative of the ODC; the fees and expenses of any ODC Panellist; any legal costs; and the expenses that the Clearing House or the Exchange may incur or be subjected to in respect of the matter; or

(2) that an alleged Failure to Perform is excused because of the occurrence of a Force Majeure Event, in which case the ODC may take any one or combination of the following actions as it deems suitable:

(a) direct the Clearing House to reverse one or more of the affected Contracts at a price to be set by the ODC taking into account any information it considers relevant for this purpose, including information supplied by the Clearing House or the Exchange;

(b) direct the Buyer Clearing Member and/or the Seller Clearing Member as to what reasonable steps should be taken to mitigate the effects of such Force Majeure Event; or

(c) refer the matter to the Clearing House Board for consideration of emergency action pursuant to the Clearing House Rules; or

(3) that an alleged Failure to Perform has not occurred for reasons other than the occurrence of a Force Majeure Event.

(O) An ODC shall report its decision in writing to the ODC Administrator, who shall in turn provide a copy of the decision to the Exchange (which shall maintain such decision in its records), the Clearing House, and to the Clearing Members, Members, and Customers involved, but need not otherwise make the decision available to the public. The written report of decision shall include,

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as appropriate to the decision, whether a Buyer Clearing Member or Seller Clearing Member has Failed to Perform and whether there has been a Force Majeure Event that has affected a Party to an affected Contract (including any relevant Customer) together with any directions made pursuant to Rule 10.17(N). The ODC Administrator shall provide such copy by fax or e-mail, and each recipient shall be deemed to have received the same on the day the ODC Administrator dispatched the same; provided that if such day is not a Business Day, then it will be deemed to have received the same on the next following Business Day.

(P) Upon receipt of a decision of an ODC, the Clearing House shall:

- (1) in the case of a Failure to Perform by a Seller Clearing Member: (a) retain all delivery margins deposited by the Seller Clearing Member for the delivery until any amounts determined to be due to the Clearing House or the Buyer Clearing Member pursuant to Rules 10.18 and 10.19 have been paid; and (b) apprise the Buyer Clearing Member of the remedies provided pursuant to Rule 10.19; and
- (2) in the case of a Failure to Perform by a Buyer Clearing Member: (a) retain all delivery margins deposited by the Buyer Clearing Member until any amounts determined to be due to the Clearing House or the Seller Clearing Member pursuant to Rules 10.18 and 10.19 have been paid; and (b) apprise the Seller Clearing Member of the remedies provided pursuant to Rule 10.19.

(Q) The CCO, after consulting the ODC Chairman, shall be entitled to issue supplemental directions to the Buyer Clearing Member and Seller Clearing Member consistent with the ODC's decision in order to ensure the proper and effective implementation of that decision.

(R) A Clearing Member and Member and its Customer shall comply with any finding, determination or direction made in the decision of an ODC and delivered by the ODC Administrator under this Rule 10.17, and with any supplemental directions issued by the CCO pursuant to Rule 10.17(Q). The determination of a matter by an ODC and the issuance of any supplemental directions by the CCO shall be without prejudice to the powers of the Clearing House or the Exchange under the Clearing House Rules or the Rules.

(S) If a Clearing Member, Member, Guaranteed Customer or Customer refuses or fails to comply with or perform any finding, determination, or direction made in the decision of an ODC and delivered by the ODC Administrator under this Rule 10.17, with any supplemental direction issued by the CCO pursuant to Rule 10.17(Q), or with any finding or direction of an Appeals Panel under Rule 10.18, then without limitation to the application of Chapter 7 of these Rules the CCO may, for the period of non-compliance, impose any or all of the following sanctions:

- (1) immediate suspension of access to the Trading Platform;
- (2) immediate suspension of Membership in the Exchange; and
- (3) monetary fines in an amount not to exceed US\$10,000 per day.

(T) Whenever a Seller Clearing Member or Buyer Clearing Member is found by an ODC to have Failed to Perform then:

- (1) the ODC may assess a fine to be paid to the Exchange, the amount of which will not be less than one thousand dollars (\$1,000) and not more than twenty percent (20%) of the total contract value (as determined pursuant to Rule 10.4) of the Contract(s) in respect of which it has Failed to Perform; and

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(2) the ODC Administrator shall issue to such failing Party a notice of assessment (**Notice of Assessment**) specifying the fine levied by the ODC with respect to such Failure to Perform.

(U) The Exchange may act as agent for the Clearing House (on such terms as the Clearing House and the Exchange may agree) in the exercise of some or all of the duties and responsibilities of the Clearing House under this Rule 10.17 and under Rule 10.18.

10.18 Appeals

(A) A Buyer Clearing Member or Seller Clearing Member (**the Appellant**) may appeal any direction made by an ODC pursuant to Rule 10.17(N) or any fine levied pursuant to Rule 10.17(T) by filing a notice (**Notice of Appeal**) with the hearing registrar of the Clearing House (**Hearing Registrar**) and by serving a copy of the same on the other Clearing Member and the compliance department of the Clearing House, within fourteen (14) Business Days following deemed receipt of an ODC's written decision pursuant to Rule 10.17(O) on the grounds that such direction or fine was inappropriate on the basis that:

- (1) the direction of the ODC was one that no reasonable ODC could have reached;
- (2) the direction of the ODC was based on a misinterpretation of the Rules or an error of law; or
- (3) the amount of the fine levied pursuant to Rule 10.17(T) was excessive or insufficient.

For the avoidance of doubt, the factual findings and determinations of the ODC with respect to a Failure to Perform (including in respect of the occurrence or non-occurrence of a Force Majeure Event) will be final and not subject to appeal, and in considering the appeal the Appeal Panel will consider such factual findings to have been agreed and stipulated by the Clearing Members.

(B) In the event of an appeal, the chairman of the Clearing House, or his designee, shall appoint an appeal panel (**Appeal Panel**) to hear and decide the appeal. The Appeal Panel shall be composed of three (3) members of the Clearing House, at least one (1) of whom shall be a member of the Clearing House Board. No member of the Appeal Panel may have a direct or indirect interest in the matter under appeal. Each Appeal Panel member shall disclose to the chairman of the Clearing House, or his designee, any such interest or any other interest that might preclude such member from rendering a fair and impartial determination. Any objection raised by a Seller Clearing Member or Buyer Clearing Member to any member of the Appeal Panel shall be determined by the Clearing House.

(C) The Appellant shall file, within twenty (20) days after filing the Notice of Appeal, a memorandum of appeal (a **Memorandum of Appeal**) setting out the basis for the appeal. The Memorandum of Appeal must be filed with the Hearing Registrar and a copy of the same served upon the ODC Administrator and the compliance department of the Clearing House.

(D) The compliance department of the Clearing House, the Appellant and the Hearing Registrar may file an answering memorandum to the Memorandum of Appeal (an **Answering Memorandum**) within ten (10) days of receipt of the Memorandum of Appeal.

(E) Unless the chairman of the Clearing House determines otherwise, failure by a Party to file a Notice of Appeal or a Memorandum of Appeal in the time specified in this Rule 10.18 shall constitute a waiver of its rights to appeal in respect of the relevant, direction or fine (as applicable), and the fines set out in the Notice of Assessment shall be paid within five (5) days to the Exchange. Failure to pay such fines in accordance with this Rule 10.18 shall subject the Party to the sanctions set out in Rule 10.17(S) and Chapter 7. In the event a Party fails to appeal,

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or waives the opportunity to appeal the direction or fine (as applicable) of the ODC shall be final and not subject to further appeal.

- (F) Subject to the requirements of this Rule 10.18, the Appeal Panel may determine its own procedure; provided that in conducting such appeal it shall comply with the requirements of natural justice. The Appeal Panel shall be the sole judge with respect to the evidence presented to it. Outside counsel instructed by the Clearing House shall advise the Appeal Panel. The Appeal Panel may obtain expert advice from any person it deems as having expertise in the matter in question including, without limitation, the Terminal Operator and any relevant Ministry of the Government of Oman.

- (G) The procedures for the hearing of the appeal before the Appeal Panel shall be as follows:

- (1) At a date to be set by order of the Appeal Panel, and prior to such hearing, the Appellant, the compliance department of the Clearing House and the other Clearing Member shall furnish each other with a list of witnesses expected to be called at the hearing, and a list of documents and copies thereof expected to be introduced at the hearing.
- (2) At such hearing the Appellant may appear personally and may be represented by counsel or other representative of their choice.
- (3) The Clearing House's compliance department shall be entitled to offer evidence relating to the delivery obligations and shall be entitled to call witnesses and introduce documents in support thereof.
- (4) The burden of proof shall be on the Clearing House's compliance department to demonstrate, by the weight of the evidence, that the fine set out in the Notice of Assessment is not inappropriate on the grounds alleged by the Appellant.
- (5) The Appellant shall be entitled to rebut the Clearing House compliance department's evidence and shall be entitled to call witnesses and introduce documents in support thereof.
- (6) The Appellant, the Clearing House's compliance department and the other Clearing Member shall each be entitled to cross-examine any witness called by the other at the hearing.
- (7) The Notice of Assessment, the Notice of Appeal, the Memorandum of Appeal, any Answering Memorandum, the transcript of the appeal, any documentary evidence or other material presented to and accepted by the Appeal Panel shall constitute the record of the hearing. The decision of the Appeal Panel shall be based upon the record of the hearing.
- (8) The Appeal Panel shall have the power to impose a fine on any person who is within the jurisdiction of the Clearing House and whose actions impede the progress of a hearing.
- (9) The Appeal Panel shall issue a written decision in which it may affirm or modify any finding, determination, direction or fine decided or imposed by the ODC and shall state the reasons therefore.
- (10) In the event the chairman of the Appeal Panel deems an appeal to be frivolous, vexatious, or clearly without merit, it will be entitled to summarily dismiss such appeal at any time and impose a fine on the Appellant in an amount not to exceed US\$10,000.

- (H) The decision of the Appeal Panel shall be a final decision of the Clearing House, and shall constitute a final disciplinary action of the Clearing House. A fine is payable on the effective date of the decision or as specified. The effective date shall be fifteen (15) days after a copy of the

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written decision has been delivered to the Appellant. The Exchange will also deliver a copy of the written decision to the DFSA before the effective date.

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- (I) The Appeal Panel shall consider and make recommendations to the Clearing House Board concerning acceptance or rejection of, any offer of settlement submitted by a party to the appeal. In the case of an offer of settlement, acceptance by the Clearing House Board shall constitute the final disciplinary action of the Clearing House.

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- (J) A Clearing Member, Member, or Customer shall comply with any decision of the Appeals Panel. Any Clearing Member, Member or Customer who refuses or fails to comply with or perform any finding, determination, or direction made under this Rule 10.18 shall be deemed to have breached this Rule and may be the subject of disciplinary proceedings under Rule 10.17(S) and/or Chapter 7 of the Rules.

- (K) No person serving on an Appeal Panel, in the absence of bad faith or wilful default, incur any liability whatsoever to any Member, Seat Lessee, Guaranteed Customer, or Customer or their respective employees, for any decision taken or any act or omission of the Appeal Panel, whether in contract, in tort or otherwise.

- (L) No member of an Appeal Panel shall use or disclose, for any purpose other than the performance of such person's duties relating to the Appeal Panel, Confidential Information obtained as a result of such person's participation on the Appeal Panel. No person may trade for his own account, or for or on behalf of the account of any other person, in any Exchange Contract on the basis of any Confidential Information that such person knows was obtained in breach of the preceding sentence.

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10.19 Arbitration Procedure

- (A) Any claim for damages for loss suffered that arise between the Seller Clearing Member and Buyer Clearing Member as a result of any Failure to Perform (or possible Failure to Perform) shall be settled by arbitration in accordance with this Rule 10.19.

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- (B) A notice of intent to arbitrate (a **Notice of Intent to Arbitrate**) must be submitted to the Secretary of the Clearing House within seven (7) Business Days of the occurrence upon which the claim is based, or receipt of the findings of the ODC with respect to a Failure to Perform (or possible Failure to Perform). Unless good cause for delay exists, failure to submit a Notice of Intent to Arbitrate within the prescribed period will be deemed a waiver of a Party's rights to arbitrate such a dispute.

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- (C) The arbitration will be conducted in accordance with, and governed by, the Clearing House arbitration rules. The chairman of the Clearing House Board, or his designee, shall appoint an arbitration panel composed of three (3) members of the Clearing House, at least one (1) of whom shall be a Member of the Clearing House Board.

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- (D) There shall not be pending simultaneously arbitral proceedings under Rule 10.12(E) and Rule 10.19 with respect to the same underlying claim(s). Accordingly, no Customer shall commence any arbitration proceedings under Rule 10.12(E) if proceedings under this Rule 10.19 in respect of the same underlying claim(s) have already been commenced, and in the event that, subsequent to the institution of proceedings under this Rule 10.19, proceedings which are commenced with respect to the same underlying claim(s), then the proceedings under Rule 10.12(E) will be stayed insofar as they relate to the same underlying claim(s) at issue in the proceedings under this Rule 10.19.

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10.20 Taxes, Duties and Imposts

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- (A) All taxes, duties and other impostes (other than those levied on the Vessel) in respect of any Oil sold under this Chapter 10 in the country in which the Loading Port is situated, shall be for the account of the Selling Customer other than value added tax, goods and services tax or similar multi-stage consumption tax as the Buying Customer is able to recover.
- (B) All other such charges shall be for the account of the Buying Customer.

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10.21 Applicable Law

This Contract shall be governed by and construed in accordance with English law.

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10.22 Appointment of Experts

- (A) Where pursuant to any provisions of the Physical Delivery Procedures a matter is required to be determined by an expert, the expert shall be a person fitted by the possession of expert knowledge for the determination of the matter in question. The expert shall be appointed by agreement between the Selling Customer and the Buying Customer, or, in default of such agreement, by the President for the time being of the Energy Institute in the United Kingdom.
- (B) The Selling Customer and the Buying Customer shall furnish the expert with all written or oral information that the expert may reasonably require for his determination.
- (C) The cost of the services of the expert, if appointed, shall be shared equally between the Selling Customer and the Buying Customer.

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10.23 Limitation of Liability

Pursuant to this Chapter 10, neither the Clearing House nor the Exchange shall have any liability in respect of or in connection with placing of Oil in Vessels and the transport of Oil in Vessels, howsoever caused. Accordingly, no claim can be made against either the Clearing House or the Exchange for any loss or damage incurred or suffered by any person in connection with the placing of Oil in Vessels or the taking delivery of the same, whether or not such loss or damage results from any delay in connection with the loading of any Vessel, any spillage of Oil or any other pollution or any other cause whatsoever, and whether or not as a result of the negligence of the Exchange or Clearing House. Nothing in this Rule 10.23 excludes or limits the liability of the Exchange or Clearing House for death or personal injury caused by its negligence.

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10.24 Decisions with Respect to the Loading Port

Any confirmation in writing received from the Oman Ministry of Oil and Gas confirming any decision or action taken by that Ministry or the Terminal Operator shall be conclusive as to the taking of that decision or action by that Ministry or the Terminal Operator as the case may be.

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Appendix A – Physical Delivery Procedures

In these Physical Delivery Procedures, the following additional definitions shall apply:

Buyer means the Buying Customer.

Cargo means the total quantity of Oil to be lifted by a Vessel, whether or not it is all for the Buyer.

Layday Notice means a notice of the actual Laydays that is to be given by the Seller as provided in Paragraph 3(3).

Loading Schedule means the schedule prepared by the Terminal Operator specifying the date on which each Parcel is intended to be made available for delivery at the Loading Port during the Delivery Month and the Parcel Reference Number allocated to each Parcel.

NOR means a notice of readiness given by a Vessel that it is ready to take a Parcel from the Loading Port.

Parcel means a specified volume of Oil intended to be made available for loading at the Loading Port during the Delivery Month in accordance with the Loading Schedule.

Parcel Reference Number means, in relation to each Parcel, the number allocated by the Terminal Operator to that Parcel as shown by the Loading Schedule.

Primary Supplier means any person to whom, in relation to a particular Delivery Month, Oil is allocated as that person's equity entitlement under the applicable Oil production allocation.

Scheduled Day means, in relation to each Parcel, the day shown in the Loading Schedule as the day on which that Parcel is intended to be made available for loading.

Seller means the Selling Customer.

Seller's Suppliers means any person being a direct or indirect source of supply for the Seller.

Any reference to a Paragraph is, unless the context otherwise requires, a reference to a paragraph of these Physical Delivery Procedures.

1. METHOD AND RATE OF SUPPLY

The Oil shall be supplied by the Seller to the Buyer, free of any expense, in bulk F.O.B. Vessels provided or procured by the Buyer at the Loading Port.

2. MEASUREMENT, SAMPLING AND TESTING

(1) The quantity and quality of the Oil in each Cargo shall be determined by measurement, sampling and testing in the manner customary at the Loading Port and shall include testing that enables a net quantity to be calculated. The Seller shall request the Seller's Suppliers to prepare and sign certificates as to the quantity and quality of the Oil loaded upon completion of loading of the Cargo. The Seller shall notify the Buyer by e-mail, telex, cable or fax of the quantity and quality recorded on such certificates as soon as possible after completion of loading of the Cargo.

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The results of measurement, sampling and testing shall, for the purposes of this Chapter 10, be treated as conclusive as to the quantity and quality loaded. However, the conclusiveness of the results so far as they relate to the quantity and quality loaded may be displaced to the extent that it can be reasonably shown that the results are incorrect.

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(2) Where permitted by the Seller's Suppliers, the Buyer may appoint a representative (the **Representative**) acceptable to the Seller and the Seller's Suppliers to assist in the supervision of and to inspect the loading of each Cargo. If such representative is appointed, the quantity and quality of the Oil as jointly ascertained by the Representative and the Seller's Suppliers shall be the quantity and quality for the purpose of the certificate(s). If any difference arises between the Representative and the Seller's Suppliers with regard to the loaded quantity and quality, it shall be settled by an expert appointed under Rule 10.22. The decision of such expert shall be final and binding upon the Parties save for fraud and manifest error; but pending such decision, the quantity and quality as ascertained by the Seller's Suppliers shall be used for the purpose of the e-mail, telex, cable or fax referred to in Paragraph 2(1).

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(3) Unless otherwise specifically agreed, all costs incurred by the Buyer in respect of the Representative shall be borne by the Buyer and demurrage resulting from any delays occasioned by such inspection shall be for the sole account of the Buyer.

(4) A sufficient quantity of the relevant representative samples shall be correctly taken at the Loading Port and kept in accordance with internationally recognised methodology and practice.

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3. LAYDAYS AND TANKER NOMINATION PROCEDURE

(1) **Fixing Laydays**

The Laydays applicable to each quantity of Oil which the Seller is to deliver as one Parcel shall be determined as provided under this Paragraph 3. Unless this Paragraph 3 provides otherwise the Laydays shall be:

- (i) the Scheduled Day; and
- (ii) the day after the Scheduled Day.

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(2) **Buyer's Preferred Laydays**

(i) From the first (1st) Singapore Business Day of the Prior Month, but no later than the tenth (10th) day of the Prior Month (or if the 10th day falls on a non-Singapore Business Day, then by 17.00 (Singapore time) on the preceding Singapore Business Day), the Buyer shall notify the Seller of the dates preferred by the Buyer as Laydays. Thereafter the Buyer may revise its previous notification of preferred dates by so notifying the Seller by not later than the tenth (10th) day of the Prior Month (or if the tenth (10th) day falls on a non-Singapore Business Day, then by 17.00 (Singapore time) on the preceding Singapore Business Day).

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(ii) If the Buyer intends to co-load the Oil and other crude oil at the Loading Port into the same Vessel or to split any Parcel into two or more Parcels, the Buyer shall notify the Seller of this when giving notice under Paragraph 3(2)(i) above. In the event the Buyer notifies the Seller of its intention to split a Parcel, then the Buyer shall provide the Seller with the relevant details thereof, including its preferred Laydays for each portion of such split Parcel. The Seller shall not

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impose any charge on the Buyer for the splitting of a Parcel and in the event any such charge is imposed by any of the Seller's Suppliers, it shall be borne by the Seller.

- (iii) The Seller must promptly notify the Seller's Suppliers of the dates notified by the Buyer under Paragraph 3(2)(i) above and any notification given to the Seller under Paragraph 3(2)(ii) above. The Seller is not obliged to accept any of the dates notified by the Buyer but is obliged to accept any request by the Buyer to split Parcels.

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- (iv) In the event that the Buyer fails to notify the Seller of any preferred Laydays under Paragraph 3(2)(i) above, the Seller will notify the Buyer of its failure to do so, and the Seller will notify the Seller's Suppliers of the preferred Laydays as decided by the Seller, in order to fulfil the Seller's obligations to the Seller's Suppliers. Failure of the Buyer to notify any preferred Laydays to the Seller shall not excuse or reduce any of the Buyer's obligations under the Rules.

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(3) **Notification or Agreement of Actual Laydays**

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If the Seller is a Primary Supplier and the Contract is the Seller's first sale of the Oil (a **First Primary Sale**) then the Seller must give the Buyer the Layday Notice by 17:00 (Singapore time) on the next Singapore Business Day following after the Loading Schedule publication date. If the Seller is not a Primary Supplier and the Contract is not a First Primary Sale, then the Seller must give the Buyer the Layday Notice within one (1) business hour after the time the Seller received notice of the Laydays from the Seller's Suppliers and by no later than 18:00 (Singapore time) on the fifteenth (15th) day of Prior Month (or, if that day is not a Singapore Business Day then by 18:00 (Singapore time), on the preceding Singapore Business Day). The Seller must give the Buyer the Layday Notice irrespective of whether the dates to be notified as the actual Laydays are the same as any of the preferred dates notified by the Buyer under Paragraph 3(2)(i) above. If the Seller does not give a Layday Notice in accordance with this Paragraph 3(3), then the Seller must give the Layday Notice within one (1) business hour after the time the Seller received notice of the Laydays from the Seller's Suppliers.

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(4) **Late Layday Notice(s): Limitation of Seller's Remedies**

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If the Layday Notice is received by the Buyer later than the time provided for under Paragraph 3(3), no such losses, costs and expenses as are described in Paragraph 3(10) below shall be reimbursable by or otherwise recoverable from the Buyer (and shall be borne and paid exclusively by the Seller) unless and to the extent that they result from failure by the Buyer to comply with the requirements of the proviso to Paragraph 3(5)(iii) below.

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(5) **Continuance of Buyer's Obligations Despite Late Layday Notice(s)**

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This Paragraph 3(5) applies if any Layday Notice is received by the Buyer later than the time provided for under Paragraph 3(3) above.

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- (i) Late receipt by the Buyer of the Seller's Layday Notice shall not constitute or be treated as a breach of the Seller's obligations entitling the Buyer to treat any Physical Contract as having been repudiated by the Seller, and the Buyer expressly waives, relinquishes and foregoes any such entitlement.

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- (ii) The Buyer further agrees expressly that, subject as provided below, the Buyer will continue to observe and perform all of the Buyer's duties and obligations under

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this Chapter 10 in the like manner and to the like extent as would be applicable if the Layday Notice had not been given later than required under Paragraph 3(3).

- (iii) For the purpose of sub-Paragraph (ii) above, any failure by the Buyer to nominate a Vessel within any of the times provided for under this Paragraph 3, or to procure the Vessel to arrive or tender an NOR within the Laydays shall not constitute and shall not be treated as a breach of the Buyer's duties and obligations in relation to such matters, provided that the Buyer shall have (a) complied with the requirements of Paragraph 3(6) below; (b) nominated a Vessel in the least time reasonably practicable after receipt of the Seller's notification of the Laydays; and (c) taken all steps reasonably practicable in the circumstances to cause the Vessel to proceed to and arrive at Loading Port within, or as close as reasonably practicable to, the time at which it ought to have done so if the Layday Notice had been given within the time provided for under Paragraph 3(3) and thereafter proceed diligently with the receipt and loading of the Oil as provided in sub-Paragraph (iv) below but in any event within the Delivery Month.
- (iv) The provisions of sub-Paragraphs (i) and (ii) above shall apply subject to and without prejudice to the Buyer's right and entitlement to exercise all such remedies (if any) as may be or become exercisable by the Buyer in all the circumstances (with the exception of any right or entitlement which may have been available to the Buyer but for the foregoing provisions of this Paragraph 3(5)).

(6) **Duty of Buyer in Absence of Layday Notice**

If, by 18:00 (Singapore time) on the fifteenth (15th) day of Prior Month, the Buyer has not received the Seller's Layday Notice, the Buyer shall forthwith: (a) notify the Seller, and (b) notify the Terminal Operator and furnish the Terminal Operator with the name of the Seller, (if known).

(7) **Contents of Layday Notices**

Each Layday Notice must specify the following:

- (i) the Parcel Reference Number(s) applicable to the Parcel(s) intended to comprise the Oil;
- (ii) the quantity of each Parcel;
- (iii) the Laydays applicable to each Parcel;
- (iv) except in the case of a First Primary Sale, the date and time of day when the Seller received notice from the Seller's Suppliers; and
- (v) the date and time of day when the Seller's notice was given to the Buyer.

(8) **Communication of Layday Notices, etc.**

- (i) All Layday Notices must first be given orally by the Seller to the Buyer and promptly confirmed by e-mail or fax.
- (ii) Each Party must ensure that appropriate facilities and sufficient authorized personnel are available and ready to receive and pass Layday Notices and all other pertinent information during business hours on Singapore Business Days.

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- (iii) Additionally, if the Seller is purchasing the Oil from, or the Buyer is selling the Oil to, a third party, each Party must pass on as expeditiously as possible any communication received by it under this Chapter 10 and which it is contractually bound to communicate to such third party.

(9) Large Cargoes

In respect of Cargoes of one million, five hundred thousand and one (1,500,001) Barrels or more, the Parties understand that the Terminal Operator may impose a shorter range of Laydays than Paragraph 3(1) provides and such other special conditions as the Terminal Operator may reasonably require given the size of the Cargo and the loading facilities and conditions at Loading Port, and the Buyer agrees to comply with such shorter range of Laydays and such other special conditions imposed by the Terminal Operator.

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(10) Buyer's Responsibility

Once a lifting programme has been determined in accordance with Paragraphs 3(1) to 3(9), the Buyer shall be held fully responsible for any problems arising from its failure to take a Parcel on the Laydays or otherwise failing to fulfil its programme or any of these nomination procedures, and shall be liable to compensate the Seller for any loss, cost or expense arising thereby.

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(11) Delivery Month

For the avoidance of doubt, no change in the price payable for a Parcel of Oil shall result if either the date of the bill of lading is outside the Delivery Month or if any of the Oil in a Parcel is loaded outside the Delivery Month.

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(12) Right to Refuse Nominated Tankers

The Buyer understands and agrees that the Terminal Operator shall have the right to refuse to accept nominated tankers if, at the Terminal Operator's sole discretion, the Terminal Operator determines that such nominated tanker:

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- (i) does not comply with the Terminal Operator's tanker safety regulations; or
- (ii) is not suitable to load at the Loading Port.

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(13) Buyer's Nomination

The Buyer's nomination shall be consistent with the Loading Port authority requirements and shall include, but shall not be limited to, the Vessel's name, flag, crew nationality, capacity, length, beam, summer deadweight and draught together with the quantity and quality of the grade(s) of Oil to be loaded inclusive of the operational tolerance requirement, estimated date of arrival of the Vessel at Loading Port, the Vessel's agent, the Parcel Reference Number notified by the Seller to the Buyer as being applicable to the Oil, full instructions regarding the Vessel, the makeup and disposition of bills of lading and other documents and orders for port(s) of discharge, and the destination of the crude oil Cargo nominated.

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(14) Firm Tanker Nominations

Nominations quoted (to be nominated) shall be replaced by firm tanker nominations for the same quantities with the same accepted date range not less than five (5) days before the beginning of the first day of the accepted date range (or if the fifth (5th) day falls on a

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non-Singapore Business Day, then by 17:01 (Singapore time) on the preceding Singapore Business Day).

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(15) **Vessel Substitution**

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The Buyer, with the Seller's prior agreement, may, or if necessary to perform their obligations hereunder must, substitute any Vessel by another Vessel which is similar in all material respects to the Vessel so replaced and otherwise complies with all requirements of the current tanker nomination procedures issued by the Terminal Operator relating to the lifting of the Cargo. The notice of the substitution and of the estimated time of arrival of the substitute tanker shall be given not less than five (5) days prior to the first day of the accepted date range for the originally nominated tanker (or if five (5) days prior falls on a non-Singapore Business Day, then by 17:01 (Singapore time) on the preceding Singapore Business Day). The Buyer may also, with the Seller's prior written agreement and by giving the Seller reasonable notice, amend in other respects any Vessel nomination or series of Vessel nominations provided that the expected date of arrival of the Vessel remains within the Laydays allocated to the Buyer's nomination in accordance with this Paragraph 3 and such nominations otherwise comply with all requirements of the current tanker nomination procedures issued by the Terminal Operator relating to the lifting of this Cargo. If such amendment is rejected by the Seller, the Parties shall negotiate a mutually acceptable alternative Vessel nomination. The Buyer shall not, unless otherwise agreed, be relieved of their responsibility to perform the agreed lifting within the accepted loading date range.

(16) Any substitution other than as described above shall be considered a new nomination and require fresh acceptance by the Seller. Cancellation of a Vessel shall be notified to the Seller in writing or by telex not less than five (5) days before such Vessel's first day of the accepted date range at Loading Port (or if the fifth (5th) day falls on a non-Singapore Business Day, then by 17:01 (Singapore time) on the preceding Singapore Business Day). Cancellation will require that the Buyer nominate a substitute Vessel. In case of cancellation, if the Buyer fails to nominate a substitute Vessel and, for operational reasons, the Seller has to make alternative arrangements for disposal of the nominated volume, all direct associated costs will be for the Buyer's account provided Seller has made all reasonable efforts to mitigate such costs.

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(17) Documentation requirements for each Vessel shall be notified to the Seller in writing or by telex at least five (5) days in advance of the date of arrival (or if the fifth (5th) day falls on a non-Singapore Business Day, then by 17:01 (Singapore time) on the preceding Singapore Business Day) and not later than five (5) days prior to the start of the first day of the accepted date range. In addition, the Seller shall copy the Exchange on these documentation requirements between it and the Seller's Suppliers.

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(18) **Buyer's Warranties**

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The Buyer hereby warrants and undertakes that:

- (i) they are familiar with the latest vessel size restrictions, including but not limited to, deadweight, draught, beam and overall length limitations of the Loading Port and will not nominate a Vessel exceeding such limitations;
- (ii) they are familiar with, and shall cause the Vessel to comply with, all applicable regulations in force at the loading port, including, but without limitation, those relating to fires on board vessels; and
- (iii) they shall procure that each Vessel nominated hereunder shall, at the time of loading:

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- (a) comply with all applicable rules, regulations and directions of governmental, local and port authorities (and of the Loading Port) and shall conform in all respects to all relevant international regulations and agreements;
- (b) have hull, machinery, boilers, tanks, equipment and facilities which are in good order and condition, in every way fit for the service required and fit to load and carry the Cargo specified; and
- (c) have a full and efficient complement of master, officers and crew.

If the Buyer's Vessel does not meet any of the requirements set out in (a), (b) and (c) above, the Buyer recognises that the Terminal Operator may refuse to berth or load or continue to load the Vessel with the scheduled loading.

(19) Should the Buyer fail to load the contractual quantity of the scheduled loading, due to (i) the Buyer's withdrawal of any Vessel, (ii) the arrival of any Vessel at the Loading Port after the last Layday or (iii) rejection of a Vessel by the Terminal Operator as a result of it not meeting the requirements of Paragraph 3(18), the Seller shall be indemnified by the Buyer for any and all costs, damages or expenses incurred by the Seller as a result of the Buyer's failure to load the contractual quantity due to any of the above reasons and for all payments required to be made by the Seller to the Seller's Suppliers for failing to take delivery of the volume of Oil due to any of the above reasons and for all additional costs, damages or expenses incurred by Seller in defending any such claims or in avoiding the requirement to make such payments.

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(20) The Buyer warrants and undertakes to the Seller that (for each Vessel nominated to carry a Cargo) the Vessel is owned or demise chartered by a member of the International Tanker Owners Pollution Federation Limited. The Buyer shall exercise reasonable efforts to ensure that:

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- (a) the Vessel carries 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; and
- (b) the Vessel has in place insurance cover for oil pollution no less in scope and amounts than the highest available under the Rules of P&I Clubs entered into the International Group of P&I Clubs.

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(21) The Seller and the Buyer shall copy the Exchange and their respective Clearing Members on all notifications and other correspondence pursuant to this Paragraph 3.

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4. LOADING CONDITIONS

(1) The Buyer shall give the Seller, with a copy to the Exchange and the Buyer Clearing Member, not less than five (5) days before the Scheduled Day with respect to the Parcel, full instructions consistent with the Loading Port regulations regarding the loading of each Vessel and the making up and destination of documentation covering the Cargo(s). The Seller shall use reasonable endeavours to arrange for such instructions to be carried out but they shall not be obliged to arrange for an instruction to be carried out which is inconsistent with any provision, expressed or implied, in this Chapter 10. In addition, the Seller shall copy the Exchange on these documentation requirements between it and the Seller's Suppliers.

(2) The Buyer shall arrange for each Vessel to give to the Seller, any other person nominated by the Seller, and the Exchange its estimated time of arrival at the Loading

Port in such manner and at such intervals prior to arrival as required by the Loading Port authorities and the Seller.

(3) The Seller shall provide or shall cause to be provided, free of charge, a berth or berths ~~that~~ the Vessel can safely reach and leave and at which she can lie and load always safely afloat. All port costs, including the expense, if any, of shifting berth at the Loading Port (unless such shift is for the Seller's purposes), shall be for the Buyer's account.

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(4) The Buyer agrees that it is familiar with the current ~~Crude~~ Lifting ~~Procedures~~ and agrees that these ~~Crude~~ Lifting ~~Procedures~~, including any subsequent amendments relevant to this Cargo, shall govern the lifting of the Cargo. The Buyer agrees to comply with all of the obligations under the ~~Crude~~ Lifting ~~Procedures~~ related to the Vessel or the obligations of the Buyer thereunder.

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5. ISPS COMPLIANCE

- (1) The Buyer shall procure that the Vessel shall comply with the requirements of the ISPS Code.
- (2) The Buyer shall procure that the Vessel shall when required submit a Declaration of Security (DoS) to the appropriate authorities prior to arrival at the Loading Port.
- (3) Notwithstanding any prior acceptance of the Vessel by the Terminal Operator, if at any time before the passing of risk and title the Vessel ceases to comply with the requirements of the ISPS Code:

- (i) the Terminal Operator shall have the right not to berth such nominated Vessel and no demurrage resulting thereby shall be for the account of the Seller; and
 - (ii) the Buyer shall be obliged to substitute such nominated Vessel with a Vessel complying with the requirements of the ISPS Code.

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- (4) The Seller shall procure that the Loading Port shall comply with the requirements of the ~~ISPS~~ Code.

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6. DESTINATION RESTRICTIONS

The Buyer recognises that the Seller cannot cooperate with, agree to or comply with any terms or requests, including documentary requests, which are prohibited under the laws applicable to the Seller or under United Nations decisions.

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Appendix B – Letter of Indemnity

FROM: (Seller) [and (Seller's Bank)]

TO: (Buyer)

IN CONSIDERATION of your agreeing to pay for the cargo of

..... Barrels of

..... (type of crude oil and/or product)

which sailed from (Port)

on (vessel and date)

loaded with such cargo when the (required document(s))

for all required documents in relation to such cargo have not been delivered to you at the time payment is due under our agreements.

The Seller hereby warrants to you that at the time property passed as specified under the terms of the above contract we had the right to sell the said cargo to you and we have unencumbered title to the said cargo.

We [jointly and severally] hereby irrevocably and unconditionally undertake to indemnify you and hold you harmless against any claim made against you by anyone as a result of breach by us of any of our warranties as set out above, and all losses, costs (including, but not limited to costs as between attorney or solicitor and own client), damages, and expenses which you may suffer, incur or be put to which are not too remote as a result of our failure to deliver the above document(s) in accordance with the contract.

This indemnity shall terminate on delivery by the Seller of the aforesaid document(s) and their acceptance by you.

This indemnity shall be governed by and construed in accordance with English law and all disputes, controversies or claims arising out of or in relation to this indemnity or the breach, termination or validity hereof shall be decided by the English courts.

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The Panel may meet at any time in person, by telephone or otherwise.

The Panel

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Such submissions and evidence shall be provided in the timescales and the form required by the Panel.	

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Following its determination of any matter referred to it under Rule

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or (C), the Panel shall report its findings (which shall include, as appropriate, whether a Buyer Clearing Member or Seller Clearing Member has Failed to Perform and whether there has been a Force Majeure Event that has affected a party to an affected Contract (including any relevant Customer)) and directions to the Clearing House's compliance department, the Exchange and each of the Parties to the affected Contracts and their Customer.

Upon finding a Clearing Member has Failed to Perform other than as a result of a Force Majeure Event, the Panel shall:

in the case of a failure to perform by a Seller Clearing Member: (a) notify a Senior Clearing House Officer of its findings, who shall instruct the Clearing House to retain all delivery margins deposited by the Seller Clearing Member for the delivery until any amounts determined to be due to the Clearing House or the Buyer Clearing Member pursuant to Rules 10.18 and 10.19 have been paid; and (b) apprise the Buyer Clearing Member of the remedies provided pursuant to Rule 10.19; and

in the case of a failure to perform by a Buyer Clearing Member: (a) notify a Senior Clearing House Officer of its findings, who shall instruct the Clearing House to retain all delivery margins deposited by the Buyer Clearing Member until any amounts determined to be due to the Clearing House or the Seller Clearing Member pursuant to Rules 10.18 and 10.19 have been paid; and (b) apprise the Seller Clearing Member of the remedies provided pursuant to Rule 10.19.

(M) Upon finding a Clearing Member has Failed to Perform other than as a result of a Force Majeure Event, the Panel

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new evidence is available which, had it been before the Panel, could have caused the Panel to make a different finding, determination or direction provided that the appealing Clearing Member could not have produced the evidence to the Panel had he made reasonable endeavours to obtain it.

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