

## **BPCL's GENERAL TERMS AND CONDITIONS FOR FOB SALE OF OIL**

### **1. QUALITY**

(1) The quality of oil supplied here under shall be the production quality of the oil being supplied at the time and place of loading, unless specifications are prescribed elsewhere in the agreement, in which case such specifications represent the only quality characteristics which the oil is required to meet.

(2) This Clause 1 constitutes the whole of Sellers' obligations with respect to the quality of oil to be supplied and (save to the extent that exclusion thereof is not permitted or is ineffective by operation of 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.

### **2. METHOD AND RATE OF SUPPLY**

The oil shall be supplied by Sellers to Buyers, free of expense, in bulk Free On Board (F.O.B.) vessels provided or procured by Buyers at a loading port(s) as agreed.

### **3. 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 original cargo suppliers shall prepare and sign certificates as to the quantity and quality of the oil loaded upon completion of loading of the cargo. Sellers shall advise Buyers by fax or telex, cable or facsimile of the quantity and quality recorded on such certificates as soon as possible after completion of loading of the cargo.

The results of measurement, sampling and testing shall, for the purposes of the agreement, 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 shown that the results are incorrect.

(2) Where permitted by Seller's suppliers, Buyers may appoint a representative acceptable to Sellers and 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 Buyers' representative and Sellers' suppliers shall be the quantity and quality for the purpose of the certificate(s). If any difference arises between Buyers' representative and Sellers' suppliers with regard to the loaded quantity and quality, it shall be settled by an expert appointed under Clause 13. The decision of such expert shall be final and binding upon both Buyers and Sellers; but pending such decision, the quantity and quality as ascertained by Sellers' suppliers shall be used for the purpose of the telex, cable or facsimile referred to in Clause 3 (1).

Unless otherwise specifically agreed, all costs incurred by Buyers in respect of their representative shall be borne by Buyers and any delays occasioned by such inspection resulting in demurrage at the loading port should be for the sole account of Buyers.

(3) A sufficient quantity of the relevant representative samples shall be correctly taken at each loading port and kept in accordance with internationally recognised methodology and practice.

#### 4. RISK AND PROPERTY

(1) The risk and property in the oil supplied under the terms of the agreement shall pass to Buyers at the loading port as the oil passes the loading vessel's permanent hose connection.

(2) 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 Buyers.

#### 5. PAYMENT

1. (i) Payment for each cargo shall be made by Buyers to Sellers against presentation of the following documents :-

(a) full set of clean original Bill of Lading;  
and

(b) Invoice complying with the requirements of this Clause 5,

Within thirty (30) days of Bill of Lading

date provided however that if any or all of the required documents are not available at the time payment is due hereunder Buyers shall pay against Sellers Letter of Indemnity (in the form set out in Appendix A) for the missing documents.

(ii) Sellers' invoice shall be based on quantities determined in accordance with Clause 3.

(iii) Unless otherwise agreed the payment of any other costs, expenses or charges which arise under the terms of the agreement shall be made against presentation of Sellers' invoice and shall be for immediate settlement by Buyers on or by the date advised thereon.

(2) All payments to be made by Buyers to Sellers under the agreement shall be made free of all charges and without asserting at the time for payment any set-off, counterclaim or right to withhold whatsoever to Seller's specified bank account, quoting Seller's invoice number and Buyer's name.

(3) (i) Unless otherwise agreed in writing any amount due from Buyers which is not paid within the agreed credit period shall bear simple interest commencing on the day immediately after date on which it became due up to and including the date of payment at the rate calculated as an annual rate (360 day year basis) of prime lending rate at Mumbai as quoted by State Bank of India at the 10.00 a.m. fixing on the first banking day for each month in which the overdue exists.

(ii) The foregoing shall not be construed as an indication of any willingness on the part of Sellers to provide extended credit as a matter of course and shall be without prejudice to any rights and remedies which Sellers may have under this agreement or otherwise.

(4) Where the due day for payment falls on a Saturday or a weekday other than Monday which is not a banking day in Mumbai or at such other place as may be designated by Sellers for payment, then any such payment shall be made on the nearest preceding banking day. Where the last day for payment falls on a Sunday or a Monday which is not a banking day in Mumbai or at such other place so designated, then any such payment shall be made on the next following banking day.

(5) Financial security for payment may be required of Buyers at any time before payment has been received by Sellers in which case Sellers shall specify one of the following forms of security:-

- (i) an irrevocable Letter of Credit in a form and for an amount acceptable to Sellers opened or confirmed by a first class international bank acceptable to Sellers and payable at Mumbai or
- (ii) such other form of security as Sellers may require which may include payment in advance.

Unless otherwise specified by Sellers, the security shall be received by Sellers no later than 1700 hrs IST time on the 5<sup>th</sup> Mumbai banking day prior to the first day of the agreed loading date range.

(6) It is a condition of the agreement that Buyers comply with their obligations under this Clause 5 including, if required, to provide financial security within the time prescribed by Sellers. Any failure either in whole or in part by Buyers to comply with any such obligation shall be a breach of condition. On the occurrence of such a breach and for as long as such breach is continuing Sellers may at any time by notice to Buyers forthwith :-

- (i) terminate the agreement; and/or
- (ii) without prejudice to the right to terminate, suspend all

or any supplies of oil.

Buyers shall be liable for all losses suffered by Sellers as a result of Buyers' breach.

Termination hereunder shall be without prejudice to any right or action or claim accrued on or before the date of termination.

## 6. TAXES, DUTIES AND IMPOSTS

- (1) All taxes, duties and other imposts (other than those levied on the vessel) in respect of any oil sold under the terms of the agreement in the country in which the loading port is situated shall be for the account of Sellers [other than value added tax, goods and services tax or similar multi-stage consumption tax as Buyers are able to recover].
- (2) All other such charges including any taxes arising as a result of interest becoming due in accordance with Clause 5 (4) shall be for the account of Buyers.

## 7. VESSEL NOMINATION

- (1) Unless otherwise agreed, Buyers shall at least fourteen (14) days before the first day of the agreed loading date range notify Sellers by telex / fax of the name and summer deadweight tonnage of the vessel to be used and the expected date of the vessel's arrival at the loading port, and shall provide Sellers with any other vessel details necessary for the purpose of implementing the agreement. Sellers shall give notice accepting or rejecting any vessel nomination within two (2) Mumbai working days after receipt of such nomination, but shall not reject any such nomination unreasonably. In case of rejection, Buyers shall, as soon as possible, nominate to Sellers an alternative vessel for Sellers' prompt acceptance or rejection, and, in the case of the latter, the parties shall negotiate a mutually acceptable nomination.

Buyers' 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. If any of this detail is unknown at the time of nomination then such missing details should be advised no later than seven days prior to the first day of the agreed loading range. Buyers may, or if necessary to perform their obligations hereunder must, with Sellers prior agreement, substitute any vessel or another vessel which is similar in all material respects to the vessel so replaced. Buyers may also, with Sellers prior agreement and by giving Sellers reasonable notice, amend in other respects any vessel nomination or series of vessel nominations. If such amendment is rejected by Sellers, the parties shall negotiate a mutually acceptable alternative vessel nomination. Buyers shall not, unless otherwise agreed, be relieved of its responsibility to perform the agreed loading.

(2) Buyers hereby warrant and undertake 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:-

(a) comply with all applicable rules, regulations and directions of governmental, local and port authorities (and of the loading terminal) 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 Buyers' vessel does not meet any of the requirements set out in (i)

(ii) and (iii) above Sellers or Sellers' suppliers may refuse to berth or load or continue to load the vessel with the scheduled loading.

(3) Should availability of oil be lost to Sellers or should Buyers fail to load the contractual quantity of the scheduled loading due, in either case, to Buyers' withdrawal of any vessel, to the arrival of any vessel at the loading port after the last day of the agreed loading date range or to rejection of a vessel by the load port authorities or by Sellers' suppliers or Sellers as considered not to comply with any of the requirements of Clause 7 (3), Sellers shall be under no obligation to supply that volume of oil which would have been loaded on such vessel. Notwithstanding the provisions of Clause 11, Sellers shall be indemnified by Buyers for any and all costs, damages or expenses incurred by Sellers as a result of Buyers failure to load the contractual quantity due to any of the above reasons and for all payments required to be made by Sellers to Sellers' suppliers for failing to take delivery of the volume of oil aforesaid or due to Buyers vessel being withdrawn by Buyers, arriving at the loading port after the last day of the agreed loading date range or being rejected by the load port authorities or by Sellers' suppliers or Sellers as aforesaid and for all additional costs, damages or expenses incurred by Sellers in defending any such claims or in avoiding the requirement to make such payments.

## **8. LOADING CONDITION**

- (1) Buyers shall give Sellers as far in advance as Sellers require 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). Sellers 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 the agreement.
- (2) Buyers shall arrange for each vessel to give to Sellers,

and to any other party nominated by Sellers, its estimated time of arrival at the loading port in such manner and at such intervals prior to arrival as required by the port authority, Sellers and/or Sellers' suppliers.

- (3) Sellers shall provide or shall cause to be provided, free of charge, a berth or berths which the vessel can safely reach and leave and at which she can lie and load always safely afloat. All port costs, including the expense, if any, of shifting berth at the loading port (unless such shift is for Sellers' purposes), shall be for Buyers' account.
- (4) Sellers shall at all material times and at no expense to Buyers provide and maintain or cause to be provided and maintained in good working order all necessary flexible hoses, connections, pipelines, tankage facilities and other accommodation for such loading of the vessel.
- (5) The time allowed for loading each cargo under the agreement shall be thirty six (36) running hours (weather permitting and Sundays and holidays included) and shall begin to run at each loading port either:-
  - (i) at the expiry of six (6) hours after notice of readiness to load has been received by Sellers, or by any other party nominated by Sellers, from the Master or his representative (which notice of readiness may be tendered only after the vessel has arrived within the customary anchorage or waiting place of the port or, if the vessel moves directly to the berth, when the vessel is securely moored to the loading berth); or
  - (ii) if the vessel moves directly to the berth, when the vessel is securely moored at the loading berth, whichever occurs first, except that:-
    - (a) if the vessel arrives before the first day of the agreed loading date range nominated and accepted in accordance with the provisions of Clause 7, laytime shall not commence until 06.00 hours on the first day of the agreed loading date range or the time loading commences whichever is the earlier; or
    - (b) if the vessel arrives after the last day of the agreed loading date range nominated and accepted in

accordance with the provisions of Clause 7, laytime shall commence at the time loading commences.

- (6) Laytime shall cease on disconnection of cargo hoses on completion of loading.
- (7) Time shall not count against laytime, or if the vessel is on demurrage, for demurrage when spent or lost:-
  - I. on an inward passage moving from her waiting place to the loading place nominated by Sellers; or
  - II. whilst the vessel is handling or preparing to handle ballast or bunkers, unless this is carried out concurrent with loading or other normal cargo operations such that no loss of time is involved, or is carried out to comply with shore restrictions; or
  - III. by any delay due to fault, failure or inefficiency of the vessel; or
  - IV. awaiting tide, tug boats, pilot, daylight, immigration/customs or pratique, unless any or all of these delays are occasioned by shifting berth for Sellers' account as defined in Clause 8 (3); or
  - V. as a result of strike, lockout, stoppage or restraint of labour.

No other event shall suspend the running of time to be counted as laytime Or demurrage even if it is an event of a type described in clause 11 (1).

- (8) If the laytime allowance as provided under Clause 8 (5) is exceeded Sellers shall, except as hereinafter provided in this Clause, pay to Buyers demurrage for all such excess time at the full rate specified in Clause 8(8)If however all or part of such demurrage is incurred due to fire or explosion or by breakdown of machinery or equipment at the port offloading in or about the plant of Sellers or Sellers' suppliers (not being first caused by the negligence or the willful act or omission of sellers, Sellers' suppliers, their servants or agents), or arises or results from act of God, act of war, riot, civil commotion, or arrest or restraint of princes, rulers or peoples, the rate of demurrage shall be reduced to one half for the period of such demurrage or part thereof. Unless otherwise agreed the rate of demurrage to be

used for the purposes of this Clause 8 shall be as per contract between Buyer & Seller.

(9) A demurrage claim will only be considered by Sellers provided that a fully documented claim is received (or if all documents are not available to Buyers notice of formal claim is advised by Buyers with an estimate of the amount if requested) within forty five (45) days from the date on which notice of readiness to load is given.

(10) Notwithstanding the foregoing provisions of this Clause 8 Buyers shall not be entitled to recover demurrage from Sellers except to the extent that Sellers are able to recover such demurrage from Sellers suppliers and Sellers shall not be obliged to pay any amounts in excess thereof. Sellers shall however use reasonable endeavors to recover from Sellers suppliers any demurrage for which Buyers have presented a claim in accordance with the terms of this Clause 8.

(11) If the vessel concerned loads oil purchased by Buyers from Sellers as well as other oil at the same loading port, Sellers' liability to Buyers for demurrage under the foregoing provisions shall be limited to that proportion of the total demurrage due equal to the ratio of the oil purchased by Buyers from Sellers to the total quantity of oil loaded on the vessel concerned at the port concerned.

(12) Sellers agree to reimburse Buyers for the cost of any time lost and for any bunkers used on behalf of Buyers to raise the temperature above or reduce the temperature below the temperature at which cargo was loaded in order to meet the temperature range agreed separately between sellers and Buyers provided that:-

(i) the vessel loading such cargo arrives at the loading port ready to load during the agreed loading date range and failure to meet requirements of the temperature range is not due to fault or failure of the vessel or to suspension of loading for vessel's purposes; or

(ii) the vessel loading such cargo arrives at the loading port ready to load during the agreed loading date range, and Sellers elect to load the vessel with oil at a temperature not within the specified or agreed temperature range.

In respect of each claim, Buyers shall furnish Sellers with reasonable evidence of the costs, which have been incurred.

(13) Payment of agreed costs arising in connection with Clause 8 (12) and of due demurrage shall be made on Buyers' demand and shall be paid in United States Dollars to Buyers' account with a bank

nominated by them or in such other manner as may be agreed between Sellers and Buyers.

(14) Any claim by Sellers' suppliers against Sellers on account of damage to Sellers' suppliers' facilities caused by Buyers' nominated vessel shall be borne by Buyers.

## **9. POLLUTION COMPENSATION**

It is in the interests of both Sellers and Buyers and beneficial to each of them to ensure that all cargoes under the agreement are covered to the fullest extent by voluntary schemes providing compensation for pollution incidents. Accordingly, Buyers warrant that each vessel nominated to carry a cargo shall be enrolled in Tovalop and also that they are a member of Cristal Limited or if not that they will endeavour at the earliest possible opportunity to become a member of Cristal Limited in order to provide such cover for all such cargoes.

## **10. DESTINATION RESTRICTION AND CERTIFICATION**

(1) It is a condition of the agreement that the oil purchased may not, in any event, be sold supplied or delivered, directly or indirectly, or to any destination which at the time of disposal is declared an embargoed destination by the Government of country in which oil is produced or a destination prohibited by the terms on which Sellers have acquired the oil, provided that if Buyers are, or are likely to be, prevented by any law, policy, demand or request to which they are subject or any governmental policy, demand or request by which Buyers reasonably consider they are bound from complying with the above, Sellers and Buyers shall meet and discuss the implications for Buyers and Sellers and, pending resolution of any difficulty which such law causes or is likely to cause, Sellers may at their discretion suspend in whole or in part supplies hereunder.

(2) Buyers shall provide Sellers with a certificate of discharge for the oil purchased under the agreement. The certificate of discharge shall be prepared on headed stationery by the vessel's agents at the discharge port and attested by an official seal and signature of the customs authorities or local Chamber of Commerce. The certificate of discharge shall reach Sellers within four months of the bill of lading date. The certificate of discharge should include

the names of the loading and discharge ports, the dates of loading and discharge, the grades and volumes involved, the vessel name, details of lightering or ship to ship transfer if applicable, and the names of the vessel's agents at the discharge port and the consignee. In the event that any specific detail is not available, Buyers will provide separate advice to cover such omission.

- (3) Sellers shall have the right to suspend deliveries under this or subsequent or other agreements between Buyers and Sellers if satisfactory certification is not received from Buyers within four months of the date of the bill of lading of the cargo concerned.
- (4) Sellers reserve the right to appoint a representative to witness and verify discharge.

## **11. EXCEPTIONS**

- (1) Neither Sellers nor Buyers shall be responsible for any failure to fulfil their respective obligations under the agreement (other than the payment of money, provision of security or their obligations under Clause 10) if fulfillment has been delayed, hindered, interfered with, curtailed or prevented
  - (i) by any circumstance whatsoever which is not within the control of Sellers or Sellers' suppliers or of Buyers as the case may be; or
  - (ii) by any curtailment, failure or cessation of supplies of oil from any of Sellers' or Sellers' suppliers' sources of supply (whether in fact sources of supply for the purposes of the agreement or not); or
  - (iii) by any compliance with any law, regulation or ordinance, or with any order, demand or request of any international, national, port, transportation, local or other authority or agency or of any body or person purporting to be or to act for such authority or agency or any corporation directly or indirectly controlled by any of them; or
    - (iii) by any strike, lockout or labour dispute (whether or not Sellers, Sellers' suppliers or Buyers as the case may be are party thereto or would be able to influence or procure the settlement thereof).

- (2) If by reason of any of the causes referred to in Clause 11 (1) either the availability from any of Sellers' sources of supply of oil, whether deliverable under the agreement or not, or the normal means of transport of such oil is delayed, hindered, interfered with, curtailed or prevented, then Sellers shall be at liberty to withhold, reduce or suspend supplies hereunder to such extent as Sellers in their absolute discretion may think fit, and Sellers shall not be bound to purchase or otherwise make good shortages resulting from any such cause.
  
- (3) The performance of any obligation, whether arising out of any contract, arrangement or otherwise, by which any authority, agency, body or person is entitled to require and does require any oil by way of royalty in kind shall be deemed to constitute a compliance with an order or request as provided in Clause 11 (I)(iii).
  
- (4) No curtailment or suspension of deliveries, or acceptance of deliveries, pursuant hereto shall operate to extend the term of the agreement or to terminate the agreement. Shipments of oil or any portion thereof, the delivery or acceptance of which has been prevented by any of the causes referred to in Clause 11 (1), shall be deducted from the amount required to be delivered and received hereunder unless otherwise agreed. Performance under the agreement shall resume to the extent made possible by the end or amelioration of the cause(s) referred to in Clause 11 (1).

## **12. APPLICABLE LAW AND ARBITRATION**

The proper law of this agreement is English Law and English Law shall be used for interpreting the agreement and for resolving all claims or disputes arising out of or in connection with the agreement (whether based in contract in tort or on any other legal doctrine). Any such claim or dispute not settled by negotiation shall be settled by arbitration in Mumbai before a single arbitrator agreed upon by both parties or if not so agreed appointed in accordance with the English Arbitration Acts as amended from time to time. The arbitration shall be conducted in English and the arbitration award shall be final without appeal to the courts.

## **13. APPOINTMENT OF EXPERTS**

- (1) Where pursuant to any provision in the agreement 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 Sellers and Buyers, or, in default of such agreement, Director of Indian Institute of Petroleum, Dehradun, India.

- (2) Sellers and Buyers shall furnish the expert with all written or oral information which he may reasonably require for his determination.
- (3) The cost of the services of the expert, if appointed, shall be shared equally between Sellers and Buyers.

#### **14. ADDITIONAL CONDITIONS, TERMINATION**

- (1) If either party should go into liquidation (other than voluntary liquidation for the purpose of corporate reconstruction), or if a receiver or sequestrator of the undertaking and assets (or any part thereof) of either party should be appointed, or if either party should become bankrupt or insolvent, should enter into a deed of arrangement or a composition for the benefit of its creditors, or should do or suffer any equivalent act or thing under any applicable law, the other party may, by written notice, forthwith terminate the agreement without prejudice to any right of action or claim accrued at the date of termination.
- (2) If at any time the reliability or the financial responsibility of Buyers (or of any guarantor or other person furnishing security in support of Buyer) should in Sellers' reasonable opinion be or become impaired or unsatisfactory, advance cash payment shall be made, or at Sellers' option other security satisfactory to Sellers shall be given, by Buyers to Sellers on demand by Sellers in respect of any cargo or any proportion thereof. Any amounts specified in such demand shall thereby become immediately due and payable. After such demand, and in the event that a cargo has not already been delivered, Sellers may withhold any cargo until such payment or security shall have been received by them. If Buyers fail to provide such payment or security within a period of two (2) Mumbai banking days after such demand is made Buyers shall be in repudiatory breach hereof and Sellers may forthwith by notice terminate the agreement without prejudice to any rights of action

or claims it may have under the agreement or otherwise.

## **15. NEW AND CHANGED REGULATIONS**

- (1) It is understood by the parties that Sellers are entering into this agreement in reliance on the laws, rules, regulations, decrees, agreements, concessions and arrangements (hereinafter called "Regulations") in effect on the date hereof with governments, government instrumentality's or public authorities affecting the oil sold hereunder including, but without limitation to the generality of the foregoing, those relating to the production, acquisition, gathering, manufacturing, transportation, storage, trading or delivery thereof, insofar as such Regulations affect Sellers or Sellers' suppliers.
- (2) In the event that at any time and from time to time during the term of this agreement any Regulations are changed or new Regulations become effective, whether by law, decree or regulation or by response to the insistence or request of any governmental or public authority or any person purporting to act therefore, and the material effect of such changed or new Regulations (a) is not covered by any other provision of the agreement, and (b) has a material adverse economic effect upon Sellers, Sellers shall have the option to request renegotiations of the prices or other pertinent terms provided for in the agreement. Said option may be exercised by Sellers at any time after such changed or new Regulation is promulgated, by written notice of desire to renegotiate, such notice to contain the new prices or terms desired by Sellers. If the parties do not agree upon new prices or terms satisfactory to both within thirty (30) days after Sellers give such notice, Sellers shall have the right to terminate the agreement at the end of the said thirty (30) day period. Any oil lifted during such thirty (30) day period shall be sold and purchased at the price and on the terms applying hereunder without any adjustment in respect of the new or changed Regulations concerned.

## **16. LIMITATION OF LIABILITY**

- (1) Neither party shall be liable for indirect, special or consequential damages.

- (2) In case of quality being off specification or of failure to supply or of delay in supplying any quantity of oil for which Sellers are responsible, Buyers shall not be entitled to damages exceeding the agreed selling price for the oil under the agreement. Any claim in respect of the foregoing will only be considered by Sellers provided that a fully documented claim is received within one year from the date of the occurrence.

## **17. ASSIGNMENT**

- (1) Either party shall, having obtained the prior written consent of the other party have the right at any time to assign to another company all or part of the rights and obligations to sell and deliver or buy and receive the oil in accordance with the terms of the agreement. The assigning party shall remain responsible for the fulfillment of the terms and conditions of the agreement in accordance with paragraph (2) of this Clause 17.
- (2) Any such assignment shall be effected by notice in writing from the assignor countersigned by the assignee to signify its acceptance of the obligations under the agreement. Upon the making of any such assignment, the assignor shall remain bound to perform or procure performance of the said obligations (as so accepted) by the assignee.

## **18. DEFINITIONS**

For the purpose of the agreement the following terms shall have the following meanings, unless the context otherwise requires:-

- (1) "agreement" means these "General Terms and Conditions" (including Appendix A) as amended from time to time together with any form of agreement in which they are incorporated;
- (2) "barrel" means 42 U.S. standard gallons of 231 cubic inches at 60 degrees Fahrenheit
- (3) "calendar" means a gregorian calendar.
- (4) "Long ton" means an English ton of 2, 240 English pounds;
- (5) "Metric ton" or "tonne" means a quantity equivalent to a mass of

1,000 kilograms;

(6) "Day" means a calendar day;

((7) "Month" means a calendar month;

(8) "quarter" means a period of three consecutive months beginning on 1<sup>st</sup> January or 1<sup>st</sup> April or 1<sup>st</sup> July or 1<sup>st</sup> October;

(9) "Sellers' suppliers" means any body or person being a direct or indirect source of supply for Sellers;

(10) "year" means a calendar year commencing on the 1<sup>st</sup> day of January and ending with the 31<sup>st</sup> day of December;

(11) "banking day" means a day when the banks in the specified place are open for the transaction of normal banking business;

(12) "feedstock" means any hydrocarbon substance which is to be treated or blended in order to convert it into a commercially different substance, with the exception of crude oil;

(13) "petroleum product" means any hydrocarbon substance which is not a crude oil or a feedstock;

(14) "oil" means crude oil, petroleum products, feedstock's and/or bulk lubricants;

(15) "Tovalop" means the Tanker Owners' Voluntary Agreement Concerning Liability for Oil Pollution dated 7<sup>th</sup> January 1969, as amended from time to time;

(16) "Cristal" means the Contract Regarding an Interim Supplement to Tanker Liability for Oil Pollution dated 14<sup>th</sup> January 1971, as amended from time to time; &

(17) "Worldscale" means Worldwide Tanker Nominal Freight Scale.

## **19. NOTICES**

Unless otherwise specifically provided, all notices to be given hereunder by either party to the other shall be sufficiently given if in writing, by telex, cable or facsimile and delivered to the other party as follows: -

By Buyers to Sellers at the office of Sellers at:

M/s. Bharat Petroleum Corpn. Ltd.,

International Trade Dept.,

Bharat Bhavan I, 5<sup>th</sup> Floor,

4 & 6 Currimbhoy Road,

Ballard Estate,

Mumbai – 400 001

By Sellers to Buyers at the office of Buyers as specified in the agreement.

APPENDIX A

**LETTER OF INDEMNITY**

FROM: BHARAT PETROLEUM CORPORATION LIMITED

TO:

.....

IN CONSIDERATION of your paying for the cargo of.....U.S. Barrels/Metric Tons of (type of crude oil and/or product)

..... which sailed from  
(Port).....  
..... on (vessel and  
date)..... loaded  
with such cargo when the (document) .....  
for such cargo has not been delivered to you at the time payment is  
due under our contract  
dated.....

We hereby warrant 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 had unencumbered title to the said cargo.

We 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 loss, 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 us 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 designated court in Mumbai.