

# CONTRACT TERMS: ICE FUTURES ABU DHABI MURBAN CRUDE OIL FUTURES CONTRACT

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## SECTION K - CONTRACT TERMS: ICE FUTURES ABU DHABI MURBAN CRUDE OIL FUTURES CONTRACT<sup>1</sup>

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<sup>1</sup> Inserted 25 September 2020.

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### K.1 INTERPRETATION

These Contract Terms together with the applicable Contract Procedures (these Contract Terms and the Contract Procedures together the “**Contract Rules**”), apply to transactions in ICE Futures Abu Dhabi Murban Crude Oil Futures Contracts (“**ICE Murban Crude Oil Futures Contract**”).

Where remaining open positions become delivery obligations and the Contract Rules refer specifically, the ADNOC GTCs (as defined below) may apply. In the event of any inconsistency between the Rules, the Clearing House Rules, the Contract Rules and the ADNOC GTCs, the Rules, the Clearing House Rules and the Contract Rules shall prevail, but only to the extent of the inconsistency.

In these Contract Terms, where more than one time zone is referenced, (e.g. both London Prevailing Time and Singapore Prevailing Time or UAE Prevailing Time), this is for convenience only. In the event of a discrepancy between such referenced time zones, the first time zone referenced shall take precedence.

Notwithstanding the limitations of Rule I.14.2, the Exchange, at its sole discretion, may modify the Contract Rules (and such modification may apply in relation to existing as well as new Contracts) in order to comply with any rules or requirements which may subsequently be imposed and/or varied either under Applicable Law or by the Terminal Operator in relation to the delivery of Murban Crude Oil at the Terminal.

### K.2 SCOPE

The ICE Murban Crude Oil Futures Contract shall be for the sale and delivery by the Seller to the Buyer of Murban Crude Oil meeting the relevant Contract specification and in accordance with the Contract Rules.

### K.3 DEFINITIONS

K.3.1 Save as otherwise specified herein, words and phrases defined in the Rules shall have the same meaning in the Contract Rules.

K.3.2 In the Contract Rules:

“ADNOC” means the Abu Dhabi National Oil Company (ADNOC) P.J.S.C., a company organised and existing under the laws of Abu Dhabi, UAE and whose principal postal address is P.O. Box 898, Abu Dhabi, UAE;

“ADNOC General Terms and Conditions” or “ADNOC GTCs” means provisions of the ‘*ADNOC General Terms and Conditions for the Sale of Crude oil / Condensate and Liquefied Petroleum Gas*’, January 2023<sup>+</sup> version (as amended from time to time) relating to FOB Fujairah deliveries of Murban Crude Oil at the Terminal, which relate to or fall under the areas that are specified below:

#### PART 1

Measurement, sampling and determination of Quality and Quantity (Article 6.2)

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Force Majeure (Article 14 but excluding Article 14.2(h))  
Demurrage Claims (Article 17.7)

## PART 2

Shipping Terms (Article 26 but excluding Article 26.4)  
Vessel Compliance and Approval (Article 31)  
Rejection of Nomination and Vessels (Article 32)  
Consequences of Rejection (Article 33)  
Arrival of Vessel, Berth and Loading etc. (Article 34)  
Laytime, Delay and Demurrage (Article 35 but excluding Article 35.3)  
Allocation of Costs (Article 36)

ANNEX A (excluding 2B and 11)

The articles specified above for each area are not intended to be an exhaustive list of all applicable provisions of the ADNOC GTCs, and other articles may also apply insofar as they relate to or fall under the areas specified above. The references are based on the January 2024<sup>3</sup> version and may change depending on amendments made to subsequent versions of the ADNOC GTCs.

For the avoidance of any doubt, all other remaining provisions of the ADNOC GTCs that do not relate to or fall under the areas specified above shall **not** be applicable to any delivery of Murban Crude Oil in accordance with the Contract Rules. Such provisions shall include, but are not limited to, the articles that relate to the following areas of the ADNOC GTCs:

Quality and Quantity (Article 6.1)  
Dispute Resolution (Article 17, but excluding article 17.7 on Demurrage Claims)  
Limitation of Liabilities (Article 18)  
Confidentiality (Article 20)  
Time Bar (Article 24)  
Buyer Indemnity (Article 37)

Note: references to “*Buyer*” and “*Seller*” in the ADNOC GTCs shall be interpreted to mean *Buyer* and *Seller* under this ICE Murban Crude Oil Futures Contract.

“ADP” means the alternative delivery procedure specified in Rule K.13;

“ASTM” means ASTM International, formerly known as the American Society for Testing and Materials, a global society working to advance the development and delivery of international voluntary consensus standards;

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“Barrel”	means 42 (forty-two) United States standard gallons at 231 (two hundred thirty-one) cubic inches per gallon at sixty degrees (60 <sup>o</sup> ) degrees Fahrenheit;
“BS&W”	means basic sediment and water;
“Buyer”	in respect of a Murban Contract, means the person who is obliged under such Contract to take delivery in respect of each lot;
“Certificates of Quantity and Quality”	means the certificates of quantity and quality that document the quantity and quality of each delivery of Murban Crude Oil as determined by the processes set forth herein and in the relevant parts of the ADNOC GTCs;
“Clearing Day”	means a day on which the Clearing House is open for business, or such other day as may be determined by the Clearing House;
"Contract Rules"	means the ICE Futures Abu Dhabi Contract Terms and Contract Procedures governing transactions in ICE Futures Abu Dhabi Murban Crude Oil futures;
“Contract Procedures”	means the Contract Procedures for the ICE Futures Abu Dhabi Murban Crude Oil Futures Contract, as may be amended from time to time;
"Delivery Day"	means a day, specified by the Buyer in accordance with the Contract Rules, within the Delivery Range (unless otherwise agreed by the Terminal Operator and the Buyer pursuant to L.4(c)), during which loading of Murban Crude Oil under the Contract is expected to commence, as defined in the Clearing House Rules;
“Delivery Period”	means the timeframe specified in Rule K.9.1;
“Delivery Range”	means the three (3) consecutive day period (falling within the Delivery Period) proposed by the Buyer and confirmed by the Terminal Operator to the Seller, starting at 08:00 UPT on the first Terminal Loading Day and ending at 07:59 UPT on the fourth Terminal Loading Day, during which loading of the Murban Crude Oil into the Buyer's Vessel at the Terminal is scheduled to commence.  Notwithstanding, the Terminal Operator may shorten the Delivery Range from three consecutive Terminal Loading Days to two consecutive Terminal Loading Days, in which case any such shortened Delivery Range will be notified by the Terminal Operator to the parties and the Clearing House;
“EDSP”	means the Exchange Delivery Settlement Price and has the meaning attributed to it in Rule K.8;
"Environmental Law"	means any applicable law that relates to: (a) pollution or the protection of the environment; (b) health and safety; or (c) any possession, use, handling,

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treatment, storage, disposal, transport, import, export, release, or discharge of, or exposure to, any Hazardous Material, and includes (but is not limited to) the following laws/rules and any amendments, revisions or replacements thereto, as may be enacted from time to time: Federal Law No. 24 of 1999 for the Protection and Development of the Environment, Federal Regulations for Handling Hazardous Materials, Hazardous Waste and Medical Waste issued by Cabinet Decree No. 37 of 2001, any relevant guidelines issued by the Abu Dhabi Environment Agency ~~Guidelines for storage of chemicals and hazardous materials~~, Requirements of the Supreme ~~Petroleum~~ Council for Financial and Economic Affairs with regard to materials, products and waste related to the petroleum industry, the requirements of the Abu Dhabi Civil Defense Authority, any relevant circulars, regulations or rules of any kind as may be imposed by ADNOC or any port authorities and any relevant health and safety regulations of the Federal Ministry of Human Resources and Emiratisation ~~Directorate General of Civil Defence (including the UAE Fire and Life Safety Code of Practice), and the ADNOC and Port of Fujairah Authority Circular on health, safety and environmental obligations;~~

- "Hazardous Materials" means: (a) petroleum and petroleum products, by-products or breakdown products, radioactive materials, asbestos-containing materials and polychlorinated biphenyls; and (b) any other chemicals, materials, substances, or wastes defined or regulated as toxic or hazardous or as a pollutant or contaminant under, or with respect to which obligations or liabilities may be imposed pursuant to, any applicable Environmental Law;
- "Last Trading Day" means the day on which trading shall cease in respect of a particular Contract, being the last Trading Day of the second month preceding the Delivery Period for such expiring Contract. If the day on which trading is due to cease is the Trading Day preceding New Year's Day, then trading shall cease on the next preceding Trading Day;
- "Laytime" means the time allowed to Seller for the loading of Murban on board a Vessel at the Terminal, as calculated in accordance with and further detailed by the ADNOC GTCs;
- "Letter of Indemnity" means a letter of indemnity issued by the Seller in favour of the Buyer in the form set out in the Appendix to these Contract Terms (or such other form as the Exchange may from time to time prescribe or permit), countersigned by the Seller's bank if so requested by the Buyer, provided that where the Seller is the Clearing House, the letter of indemnity shall be issued by the Seller whose tender has been allocated by the Clearing House to the Buyer for the purposes of delivery, and where the Seller is not the Clearing House, the letter of indemnity shall be issued in favour of the Buyer to whom the Clearing House has allocated such Seller's tender for the purposes of delivery;

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“London Prevailing Time” or “LPT”	means the prevailing time in London, United Kingdom;
“Marker Price”	means a volume weighted average price of trades in the time window determined and published by the Exchange from time to time preceding the marker time of:  (i) 16:30 Singapore Prevailing Time; or (ii) 16:30 London Prevailing Time;
“Murban Crude Oil” or “Murban”	means onshore liquid hydrocarbons extracted from the hydrocarbon reservoirs from those fields known as the Bu-Hasa, Sahil, Shah, Asab, Bab, Huwaila, Rumaitha, Shanayel, Al-Dabb’iya Qusahwira, Bida El Qemzan and Mender Fields, and such other fields as notified by the Exchange from time to time;
"Murban Contract"	means a Contract made on the terms of the Contract Rules for the sale and delivery of one or more lots of Murban Crude Oil and delivered FOB <u>Fujairah at the Terminal</u> ;
“Seller”	in respect of a Murban Contract, means the person who is obliged under such Contract to deliver in respect of each lot;
“Singapore Prevailing Time” or “SPT”	means the prevailing time in Singapore;
“Terminal”	means any delivery facility managed by the Terminal Operator at which Murban is delivered, located in Fujairah, UAE;
“Terminal Loading Day”	means, for the purposes of any Delivery Range, a period of twenty-four (24) consecutive hours beginning at 08:00 UPT on any day of a nominated Delivery Range and, for all other references, shall mean a calendar day in UAE;
"Terminal Minimum Loading Requirement"	shall have the meaning set out in Rule K.5.4;
“Terminal Operator”	means Abu Dhabi Company for Onshore Petroleum Operations <u>Ltd Limited (trading as ‘ADNOC Onshore’)</u> , or whichever company performs and/or regulates the operations and procedures (including any loading programme) for the shipment and delivery of Murban Crude Oil under this Contract at the Terminal;
“Trading Day”	means a day on which the Market is open to trade as determined by the Exchange from time to time;

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“UAE Prevailing Time” or “UPT” means the prevailing time in the United Arab Emirates; and

“Vessel” means any ship or vessel designed, constructed, equipped and maintained to safely load and carry crude oil.

## K.4 CONTRACT SPECIFICATION

K.4.1 Each Murban Contract shall be for one or more lots of Murban Crude Oil to be delivered on board a Vessel as a whole or part cargo ~~within the specified Delivery Period~~ in the relevant delivery month in accordance with the Contract Rules.

## K.5 QUANTITY

K.5.1 One lot of Murban Crude Oil shall be 1,000 Barrels.

K.5.2 All volumes shall be determined at a temperature of sixty degrees (60°) Fahrenheit or fifteen degrees (15°) Centigrade in accordance with the ASTM Petroleum Measurement Tables approved for use at the Terminal at the time of loading by Seller.

K.5.3 The determination of the volumes shall be net of BS&W.

K.5.4 Subject to K.4.1 and K.5.1 there is no specified minimum quantity of Murban Crude Oil to be delivered for the purposes of this Contract. However, parties should be aware that in relation to each Vessel the Terminal Operator imposes a minimum loading requirement (which may be amended from time to time) of two hundred thousand (200,000) Barrels (i.e. 200 lots) for deliveries at the Terminal of Murban Crude Oil resulting from the Murban Contract ("**Terminal Minimum Loading Requirement**").

For the purposes of complying with the Terminal Minimum Loading Requirement, a Buyer may co-load on the Vessel:

- (a) one or more Exchange traded lots of Murban Crude Oil delivered in accordance with one or more Murban Contract(s); with
- (b) one or more parcel(s) of Murban Crude Oil in one or more over the counter / non-Exchange transaction(s) ("**OTC**") for FOB loading at ~~Fujairah~~ the Terminal;

provided that:

- (i) loading of all co-loaded lots and parcels on the Vessel is completed within the same delivery month as the month in which the Delivery Range of the relevant Murban Contract(s) falls; and

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(ii) as between Seller and Buyer, the Murban Crude Oil to be delivered to the Buyer in accordance with Murban Contract(s) shall be deemed delivered in full before the commencement of loading of any OTC Murban Crude Oil referred to in (b).

In the event the total number of lots of Murban Crude Oil going to physical delivery under a Contract in a particular delivery month does not meet the Terminal Minimum Loading Requirement, each Buyer taking delivery will be required to confirm in writing to the Clearing House by 13.30 LPT on the first Clearing Day following the Last Trading Day that it can meet such Terminal Minimum Loading Requirement by co-loading Exchange traded lots and OTC parcels of Murban Crude Oil for FOB loading at ~~Fujairah~~ the Terminal.

- K.5.5 If the Terminal Minimum Loading Requirement cannot be met as set out in Rule K.5.4, the parties may use the ADP mechanism to settle the Contract. The Clearing House reserves the right to treat such failure to meet the Terminal Minimum Loading Requirement as an Event of Default on the part of the party concerned in accordance with Part 9 of the Clearing House Rules.
- K.5.6 As between Sellers under different Murban Contract(s), Murban Crude Oil shall be deemed delivered pro rata in respect of each lot until all lots have been deemed delivered, unless otherwise agreed between the Sellers and the Buyer.
- K.5.7 The Seller shall have the option, subject to the Buyer's agreement, to deliver under the Contract a quantity which is less than the Contract Quantity (after the allowed tolerance of zero point two per cent (0.2%) has been taken into account), provided:
- (a) the Seller and the Buyer have also agreed an ADP in accordance with Rule K.13 for the balance quantity, so that the quantity delivered under the Contract and the quantity for which an ADP has been agreed shall together make up the full Contract Quantity; and
  - (b) the quantity delivered by Seller under the Contract shall be a multiple of full lots (subject to the 0.2% tolerance).

If Seller exercises such option, all resulting costs shall be for Seller's account and the quantity delivered under the Contract shall be invoiced by the Clearing House on a full lots basis.

### K.6 QUALITY

- K.6.1 The Murban Crude Oil delivered shall be of the quality customarily supplied at the Terminal at the time of loading. The quality of Murban Crude Oil actually delivered by Seller will fluctuate from time to time and may differ from one upstream field to another.

Buyers and Sellers acknowledge that there are no exact guaranteed quality specifications in respect of the Murban Crude Oil and that all statutory or other conditions or warranties express or implied relating to the description or satisfactory quality of the Murban Crude Oil or its merchantability or fitness for any particular purpose are excluded to the extent permitted by Applicable Law.



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K.6.2 Any claim as to the deficiency of quantity or quality of the Murban Crude Oil must be notified in writing to Seller and the Exchange no later than sixty (60) days from the relevant bill of lading date and always provided that such a claim is accompanied by evidence fully supporting the complaint.

### K.7 PRICE

K.7.1 The Contract price shall be in United States dollars and cents per Barrel with a minimum fluctuation of one cent (\$0.01) per Barrel, or as otherwise determined by the Exchange from time to time.

K.7.2 The Contract price shall be:

- (i) inclusive of all duties, taxes, imposts and levies, wharfage, landing fees and other port and marine service charge imposts, fees and dues of every description imposed or levied by any governmental authority or port authority arising out of or in connection with the delivery of Murban Crude Oil under a Contract after property has passed and any interest or penalties arising directly therefrom where such relate to the provision of Murban Crude Oil to be lifted or to the onshore operations in or about the loading of any Vessel; and,
- (ii) exclusive of all duties, taxes, imposts and levies and all wharfage, landing fees and other port and marine service charges due and arising out of or in connection with the execution of a delivery of Murban Crude Oil under a Contract at any stage before property has passed and any interest or penalties arising directly therefrom where such relate to any Vessel, her crew on board or ashore, or otherwise to a Contract.

### K.8 EXCHANGE DELIVERY SETTLEMENT PRICE ("EDSP")

K.8.1 The Exchange will publish the EDSP, as determined by the Exchange in accordance with Rule K.8.2 and K.8.3, on the Last Trading Day for each Contract delivery month, which shall be the basis for delivery of all outstanding Contracts as of the Cessation of Trading on the Last Trading Day and which go to physical delivery on the expiry date.

K.8.2 Subject to Rule K.8.3, the EDSP in respect of a Contract which goes to physical delivery on the expiry date shall be the Marker Price published at 16:30 Singapore Prevailing Time on the Last Trading Day of the second month preceding the Delivery Period.

K.8.3 Notwithstanding Rule K.8.2, the Exchange may, in its absolute discretion, determine in respect of a Contract, on any day prior to the commencement of the delivery month, a price other than the EDSP determined in accordance with Rule K.8.2.

K.8.4 In the event that the EDSP in respect of a Murban Contract which goes to physical delivery is set at a negative price, the roles of the Buyer and the Seller as set forth in the Rules and Contract Rules shall be reversed solely in respect of the payment obligation related to that EDSP.

### K.9 DELIVERY

K.9.1 Unless otherwise agreed by the Terminal Operator and Buyer pursuant to L.4(c), delivery shall commence within the three day Delivery Range (as confirmed and/or shortened to a two day Delivery Range by the Terminal), which shall fall within the "**Delivery Period**", being no earlier than the first Terminal Loading

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Day of the delivery month and no later than the third Terminal Loading Day prior to the end of the said delivery month. Delivery shall be completed within the delivery month, to enable bills of lading to be dated latest the final day of the delivery month. For the purposes of this Rule it is assumed that delivery, once commenced, will be continuous. Any interruption in the delivery shall be notified to the Exchange and the Clearing House.

K.9.2 Delivery shall be made on a free-on-board (FOB) ~~Fujairah~~ basis at the Terminal onto the Buyer's Vessel as a full or part cargo.

K.9.3 The Seller and the Buyer agree to execute such documentation, as may be required by the Terminal Operator from time to time, to enable the loading of Murban Crude Oil at the Terminal and also to comply with the applicable parts of the ADNOC GTCs, including but not limited to the articles specified at K.3.2.

K.9.4 The Seller and the Buyer acknowledge that the Murban Crude Oil delivered under this Contract is subject to the laws, rules and regulations issued and revised from time to time by the Governments of the United Arab Emirates and the Emirate of Abu Dhabi and the Fujairah Municipality. The Seller and the Buyer shall comply with all Applicable Laws, rules and regulations relating to the purchase or sale of Murban Crude Oil.

K.9.5 Notwithstanding Rules K.9.1 to K.9.4 and in accordance with Rule K.13 (Alternative Delivery Procedure), delivery may be made by any other modes of delivery or in any other location.

### K.10 RISK AND PROPERTY

K.10.1 Property in the Murban Crude Oil shall pass from the Seller to the Buyer as the Murban Crude Oil passes the junction point of the connecting flange connecting the delivery hose of any loading installation at the Terminal with the receiving manifold of the Vessel at the Terminal. The Buyer assumes all risk of, and full responsibility for, any loss, deterioration, evaporation and damage of whatsoever nature to or in respect of the Murban Crude Oil howsoever caused arising after the Murban Crude Oil passes the junction point of the connecting flange connecting the delivery hose of the loading installation with the receiving manifold of the Vessel at the Terminal.

### K.10A WARRANTY OF TITLE

At the time property in the Murban Crude Oil passes to Buyer under this Contract:

(a) Seller warrants that it is entitled to possession of the Murban Crude Oil, has title to the Murban Crude Oil which shall be delivered free from any liens and claims, charges and encumbrances of whatsoever

kind (including but not limited to unpaid taxes, fees or other charges) and has the right to sell the Murban Crude Oil.

- (b) Buyer will have the benefit of the warranty as to quiet possession implied by law.

### K.11 EXCLUSION OF LIABILITY

Neither the Exchange nor the Clearing House makes any representation, provides any guarantee or warranty or shall have any liability (except for liability for fraud, willful misconduct, or bad faith on the part of the Exchange or the Clearing House, death or personal injury caused by negligence of, or any liability on the part of, the Exchange or the Clearing House which cannot lawfully be excluded) in relation to:

- (a) the selection of the Terminal Operator;
- (b) the condition of the Terminal and/or the Terminal's availability, accessibility, capacity, suitability, fitness for purpose and/or its controls and standards regarding the storage, loading or transportation of Murban Crude Oil;
- (c) the Terminal's arrangements for conferring and/or transferring property or contractual entitlements and/or its arrangements, timings, schedulings and/or procedures (including but not limited to line-up procedures) for loading or delivery, rights in respect of fractional entitlements, property co-mingling, co-loading of Exchange traded and OTC parcels, insolvency protections or insurance cover;
- (d) any Vessel nominated on which Murban Crude Oil is loaded (included but not limited to such Vessel's compliance with applicable Vessel requirements, vetting and clearance procedures);
- (e) any contamination of Murban Crude Oil or other pollutant;
- (f) the performance by the Terminal, the Terminal Operator, each Vessel and such Vessel's master or crew, of any responsibilities, liabilities and/or obligations it or they may assume to any Buyer, Seller or Member or other person(s) whether pursuant to the Contract Rules or otherwise;
- (g) the compliance of the Terminal Operator, each Vessel and such Vessel's master or crew, and of each Buyer and Seller with such of the ADNOC GTCs as may apply to them and with any other Applicable Law rules, regulations or requirements;
- (h) Environmental Law matters or any matters or any environmental liability, including compliance with Environmental Laws or environmental standards by the Terminal, Terminal Operator, each Vessel and such Vessel's owners, operators, managers, master or crew or their servants or agents, and/or
- (i) the performance and/or solvency of the Terminal Operator or of any bank that has countersigned a Letter of Indemnity provided in accordance with the Contract Procedures.

Members, Buyers and Sellers should make their own enquiries to satisfy themselves as to any of the above matters as they relate to the Terminal. Members should not rely in any way on any action taken by the Exchange and/or the Clearing House in relation to the Terminal recognition process as a Delivery Facility (such term as is defined in the Clearing House Rules) and shall rely on their own due diligence carried out in this regard, including in respect of any compliance obligations relating to the Contract and the Murban Crude Oil, therefore operating at their own risk.

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Persons making or taking delivery of Murban Crude Oil from the Terminal shall accordingly have no claim against the Exchange or the Clearing House for any loss or damage thereby incurred or suffered, however such loss or damage may be caused.

The exclusions and limitations of liability set out above are without prejudice to the generality of other exclusions and limitations in the Rules and the Clearing House Rules.

### K.12 EXCHANGE FOR PHYSICAL ("EFP")

EFP transactions involving Murban Crude Oil Contracts shall be subject to the requirements of the Rules provided that EFPs executed on the Last Trading Day for the expiring Contract month may be reported at any time after the Cessation of Trading until 19:30 SPT on the Last Trading Day. New EFPs may not be initiated during this period; the prescribed timeframe is solely for the registration of previously agreed contracts.

### K.13 ALTERNATIVE DELIVERY PROCEDURE ("ADP")

- K.13.1 Notwithstanding any other provision of the Contract Rules and subject to the Seller's option as set out at Rule K.5.7, a Seller may agree with the Buyer to whom his tender is allocated by the Clearing House in accordance with the Contract to make delivery of a product of a specification other than that provided for and/or in a manner and/or at a place and/or on terms other than those specified in the Contract Rules. Any such ensuing ADP negotiation should reflect commercial practice by proceeding from verifiable evidence of a quantifiable cost or loss that has accrued to either party as a result.
- K.13.2 In the event the Seller and Buyer so agree (an "**Alternative Delivery Procedure**" or "**ADP**"), they shall each immediately give notice of that fact to the Clearing House in such form and containing such details as may from time to time be prescribed by the Clearing House.
- K.13.3 Following receipt of such notices, the Clearing House shall liquidate the parties' Contract at the relevant EDSP published by the Exchange pursuant to Rule K.8 and shall, as a result of the parties entering into an ADP under this Rule cease to owe to or be due any obligation by the Seller or the Buyer, whether under any Contract or otherwise. Any additional amounts payable as a result of the ADP shall be settled directly between the Seller and Buyer without involvement of the Clearing House.
- K.13.4 Without prejudice to the foregoing, the Seller and Buyer may, with the consent of the Clearing House, arrange to pass documents relating to, and to make payment for, Murban Crude Oil through the Clearing House.

### K.14 MEASUREMENT, SAMPLING AND DETERMINATION OF QUALITY AND QUANTITY

- K.14.1 The quantity and quality of each delivery of Murban Crude Oil shall be determined by the Terminal Operator in accordance with customary practices at the Terminal and the results of which shall be recorded in Certificates of Quantity and Quality. The Seller shall notify the Buyer and the Clearing House of the quality and quantity recorded in the Certificate of Quality and Quantity as soon as possible after completion of loading.

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- K.14.2 Each of the Seller and Buyer may designate its own representative, at its own expense, subject to obtaining any required access approval at the Terminal, who shall have the right to witness the determination of quantity and quality at the time of loading.
- K.14.3 The Certificates of Quantity and Quality issued by the Terminal Operator following the determination of quality and quantity shall be final and binding and conclusive on Buyer and Seller, except in case of fraud or manifest error. The signed Certificates of Quality and Quantity shall be used for all references to quantity and quality in documentation, including bill of lading purposes.
- K.14.4 Unless otherwise stated in this Contract or agreed between the parties, the American Petroleum Institute (API) Gravity and BS&W content of each delivery of Murban Crude Oil shall be determined in accordance with the methods of the ASTM Petroleum Measurement Tables approved for use at the Terminal at the time of loading by the Seller.
- K.14.5 Two (2) representative samples of each delivery of Murban Crude Oil shall be taken, in accordance with the customary practices at the Terminal, from the loading lines through which Murban Crude Oil is loaded. The samples shall be sealed by Seller or its representative and one (1) sample shall be placed on board the Vessel for Buyer and one (1) shall be retained by the Terminal Operator on behalf of the Seller as a reference sample and properly kept for ninety (90) Days, unless otherwise directed by the Seller.
- K.14.6 Any claim as to the deficiency of quantity or quality of the Murban Crude Oil (including but not limited to a claim relating to the ADNOC GTCs specified in K.3.2) shall be determined in accordance with Exchange Rule I.18 (Delivery Disputes).

### K.15 SELLER'S OBLIGATIONS

- (a) The Seller is obliged to:-
- (i) accept any Buyer or Buyers with open positions to whom the Clearing House allocates its tender for the purposes of delivery;
  - (ii) deliver to the Clearing House all documents stipulated in the Contract Procedures and the Clearing House Rules;
  - (iii) subject to any default on the part of the Buyer, make delivery of Murban Crude Oil in accordance with the Contract;
  - (iv) ensure that Murban Crude Oil is, on delivery, of the quality and quantity required by the Contract Rules;
  - (v) have available at 08:00 UPT on the first day of the Delivery Range a quantity and quality of Murban Crude Oil sufficient to meet its obligations under the Contract;
  - (vi) load the contractual quantity within the loading volume tolerance of plus or minus zero point two percent (0.2%);

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- (vii) insofar as there is a failure to load within the Laytime agreed between the parties and the Terminal Operator, and to the extent that such failure is not the fault of the Buyer, pay any additional fees and demurrage in accordance with the ADNOC GTCs;
  - (viii) if required, deliver to the Clearing House evidence of any permits required to effect the delivery of Murban Crude Oil in accordance with the Contract;
  - (ix) comply with all relevant provisions of the Contract Rules, the Clearing House Rules and all Applicable Laws;
  - (x) comply with all Environmental Laws and the ADNOC GTCs and ensure that any required permits and documentation are in place and all relevant notices and filings are made, as required thereunder; and
  - (xi) use reasonable efforts to mitigate any losses suffered or incurred under the Contract.
- (b) The obligation set out at paragraph (a)(vii) above shall not be borne by the Clearing House or by any Seller except the Seller who actually arranges delivery of Murban Crude Oil (or actually makes such other arrangements for delivery as the Buyer may have chosen or agreed to under the Contract Rules). Such Seller shall owe the obligation directly to the Buyer who originally incurs the charges or fees and not to any other Buyer save as may be agreed.
- (c) In the event of non-availability of certain documents referred to in sub-paragraph (ii) by the time specified for their presentation for payment, the Seller shall provide to the Clearing House a Letter of Indemnity in accordance with the Contract Procedures.

### K.16 BUYER'S OBLIGATIONS

- (a) The Buyer is obliged to:-
- (i) promptly take up and accept any one or more tenders complying with the Contract Rules which are allocated to the Buyer by the Clearing House;
  - (ii) deliver to the Clearing House all documents stipulated in the Contract Procedures and the Clearing House Rules and make payment to the Clearing House against the original delivery documents lodged pursuant to the Contract Procedures or, in accordance with the Contract Procedures, against a Letter of Indemnity provided by the Seller in accordance with the Contract Procedures. A Buyer may not reject the delivery documents or any Letter of Indemnity provided by the Seller due to frivolous or vexatious reasons;
  - (iii) subject to any default on the part of the Seller, take delivery of Murban Crude Oil in accordance with the Contract;
  - (iv) provide its preferred Delivery Range(s) for lifting Murban Crude Oil no later than 14:00 LPT on the twenty-fifth calendar day prior to the first calendar day of the delivery month;

- (v) accept the Delivery Range allocated to it by the Terminal Operator for the lifting of Murban Crude Oil in accordance with the Contract Rules, whether or not such dates match those provided by the Buyer to the Seller as its preference. The Delivery Range must fall within the Delivery Period, as specified in K.9.1;
- (vi) nominate a Vessel, acceptable to the Terminal Operator, capable of lifting the Contract quantity, to the Seller at a time and with sufficient information to allow the Seller, acting expeditiously, to meet the vessel nomination requirements imposed on a Buyer under the Terminal Operator's terms and procedures and the ADNOC GTCs;
- (vii) take delivery of the allocated Murban Crude Oil under the Contract within the loading volume tolerance of plus or minus zero point two percent (0.2%);
- (viii) comply with all relevant provisions of the Contract Rules, the Clearing House Rules and all Applicable Laws;
- (ix) comply with all Environmental Laws and the ADNOC GTCs, and ensure that all required permits and documentation is in place, and all relevant notices and filings are made, as required thereunder; and
- (x) use reasonable efforts to mitigate any losses suffered or incurred under the Contract.
- (b) If the Buyer fails to make payment in the manner and within the time specified, the Clearing House may (without prejudice to any other steps open to it under the Contract Rules, the Clearing House Rules or otherwise) forthwith take any or all of the following steps:
  - (i) realise the security or margin furnished to it by the Buyer (all costs, expenses and interest involved in such realisation and delay to be for the account of the Buyer);
  - (ii) sell Murban Crude Oil (through any Member or otherwise); any resulting difference in price together with all interest and charges arising from the sale and delay to be for the account of the Buyer; and
  - (iii) apply the proceeds of paragraphs (i) and (ii) and any margin held from the Buyer in cash in reduction or satisfaction of the Buyer's obligations, accounting to the Buyer for any security, documents, proceeds or cash remaining.

## **K.17 DELIVERY MARGIN**

Before the time for delivery under this Contract, the Buyer will be required to provide full contract value plus 0.2%, or such amount as may be specified by the Clearing House from time to time.

## **K.18 FORCE MAJEURE**

K.18.1 For purposes of the Contract Rules, a Force Majeure Event shall also include:

- (a) any unforeseeable occurrence outside the control of either party to the Contract which prevents, delays or hinders the performance in whole or in part of any of its obligations hereunder (but excluding an obligation to make payment);

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(b) any operational failure of the Terminal or Terminal Operator;

(c) any curtailment, reduction, failure, or cessation of supplies of Murban Crude Oil imposed by the Organization of the Petroleum Exporting Countries or the Emirate of Abu Dhabi or ADNOC; or

(d) any other similar instances that may be classed and/or declared as Force Majeure events by the ADNOC GTCs from time to time.

Neither party shall be deemed to be in default of its obligations, nor shall any penalty or damages be payable if and to the extent that performance of such obligations is prevented, hindered or delayed by a Force Majeure Event. If a Force Majeure Event hinders or prevents the affected party from performing any of its obligations under a Contract, it shall immediately notify the Exchange and the Clearing House in writing of such event and the obligations under the Contract which are affected together with documentary evidence in support of the same. The Exchange may refer this matter to the ARC Committee under Rule I.17 (Non-Performance of Delivery Obligations) or I.18 (Delivery Disputes) or any other Exchange body as it considers in its discretion to be appropriate, to determine whether the Force Majeure Event which has occurred has hindered, prevented, or delayed the affected party from performing its obligations to deliver under a Contract, or otherwise refer the matter to the Board.

If the ARC Committee, a panel appointed by the ARC Committee or any other Exchange body, as the case may be, determines that a Force Majeure Event has prevented, hindered or delayed the performance of a Contract for a period of five (5) days beyond the time limit set out in the Contract Rules or such other period as may be determined by the Exchange, the Contract may be invoiced back by the Clearing House at a price to be fixed by the Clearing House and the Exchange, in their absolute discretion, as appropriate in accordance with the Clearing House Rules. Such price shall be binding on the parties and no dispute as to such price may be referred to arbitration but completion of invoicing back shall be without prejudice to the right of either party to refer the question of the existence, extent or duration of the Force Majeure Event or any default or related dispute to arbitration.

### **K.18A EXCHANGE DIRECTIONS**

K.18A.1 Notwithstanding any other provision in the Contract Rules for the ICE Murban Crude Oil Futures Contract, if, due to any unforeseen occurrence or operational instance impacting the Terminal, the Exchange is no longer satisfied that physical deliveries under the ICE Murban Crude Oil Futures Contract can take place in accordance with the Contract Rules, the Exchange may, at its sole discretion:

(a) direct that all or part of the deliveries required to take place under the ICE Murban Crude Oil Futures Contract are to take place at the delivery facilities managed by the Terminal Operator at which Murban is delivered, located in Jebel Dhanna, UAE, instead of at the Terminal;

(b) require any deliveries so redirected to take place in accordance with delivery instructions issued by the Exchange and/or the Clearing House; and



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(c) take any other action as it considers appropriate, including without limitation requiring the Buyer and Seller to take any such action as the Exchange and/or the Clearing House may direct.

### **K.19 GOVERNING LAW**

As set out in Rule I.8 of the Rules, the Contract Rules and all non-contractual obligations arising out of or in connection therewith are governed by and shall be governed by and construed in accordance with the laws of England and Wales.

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### Appendix - Letter of Indemnity

**FROM:** [SELLER COMPANY NAME]

**TO:** [BUYER COMPANY NAME]

We refer to our delivery to you of a quantity of [ ] barrels (representing [ ] lots with tolerance adjustment) of [MONTH AND YEAR] Murban Crude Oil FOB ~~Fujairah~~ basis at the Terminal on Vessel "[VESSEL NAME]", with bills of lading dated [B/L DATE], under and in accordance with the terms of one or more ICE Murban Crude Oil Futures Contracts.

In consideration of your having agreed to accept delivery of and pay for the Murban Crude Oil delivered by us under and in accordance with one or more ICE Murban Crude Oil Futures Contracts without having been provided with the following original delivery document[s] for payment [*delete as applicable*]:

- (A) [a full set of original, negotiable, to order bills of lading]; [and]
- (B) [an original Certificate of Quality & Quantity ("Q&Q")],

we hereby represent and warrant all of the following:

*[If a full set of original bills of lading is not available, wording to include (i), (ii) and (iii); if an original certificate of Q&Q is not available, wording to include (iv) and (v); if neither original bills of lading nor original -Certificate of Q&Q is available, wording to include all representations and warranties at (i) to (v).]*

- (i) that a full set of original, negotiable, to order bills of lading exists and is valid;
- (ii) that at the time title in the Murban Crude Oil passed to you in accordance with the ICE Murban Crude Oil Futures Contract(s):
  - a. we were entitled to possession of and had the right to sell the Murban Crude Oil;
  - b. we were entitled to possession of the original clean on board bills of lading relating to such Murban Crude Oil;
  - c. we had title to the Murban Crude Oil; and
  - d. title in the Murban Crude Oil passed to you in accordance with the ICE Murban Crude Oil Futures Contract(s) free from any liens and claims, charges or encumbrances of whatever kind;
- (iii) that you will have the benefit of the warranty as to enjoyment of quiet possession implied by law in the ICE Murban Crude Oil Futures Contract(s) but without prejudice to any other warranty so implied.
- (iv) that an original Certificate of Q&Q has been issued in accordance with the Murban Crude Oil Futures Contract(s); and
- (v) that we are entitled to possession of that original Certificate of Q&Q.

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

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- (a) our failure to present to you for payment, in accordance with the ICE Murban Crude Oil Futures Contract(s), [(A)] a full set of original, negotiable, to order bills of lading [and (B)] an original Certificate of Q&Q [*delete as applicable*]; and/or
- (b) any action, proceeding and/or claim brought or threatened against you by reason of our said failure and/or any breach of our above express representations and warranties; and/or
- (c) any other claims arising out of or in connection with [(A)] [the original clean on board bills of lading] [and (B)] [the original Certificate of Q&Q] [*delete as applicable*] including any liens, charges or encumbrances asserted on these documents or the Murban Crude Oil.

Our liability hereunder shall remain in full force and effect unless and until we provide you with [(A)] a full set of original, negotiable, to order bills of lading [and (B)] [the original Certificate of Q&Q] [*delete as applicable*], which we irrevocably agree to provide to you promptly after the same [has]/[have] [*delete as applicable*] come into our possession.

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

This letter of indemnity shall be governed by and construed in accordance with English law, shall be subject to the exclusive jurisdiction of the English Courts and shall cease to have effect upon [(A)] [the full set of original, negotiable, to order bills of lading] [and (B)] [the original Certificate of Q&Q] [*delete as applicable*] being provided to you, save that any claims arising under this letter of indemnity in respect of the period prior to our delivery to you of [(A)] [the full set of original, negotiable, to order bills of lading] [and (B)] [the original certificate of Q&Q] [*delete as applicable*] shall remain effective.

Signed by (authorised signatory): .....

Title: .....

of: [SELLER COMPANY NAME]

[COUNTERSIGNED BY: [SELLER'S BANK][*may be added at Buyer's request*]

TO: [BUYER COMPANY NAME]

In consideration of your agreeing as aforesaid we the undersigned [BANK NAME] whose customer is [FULL NAME OF SELLER] hereby jointly and severally agrees to be bound by the terms of the above letter of indemnity.

Signed by (authorised signatory): .....

Title.....

of: [BANK NAME]