



HOUSTON TERMINAL SERVICES AGREEMENT

Base Agreement

FINAL FORM

THIS PRELIMINARY DRAFT, AND ANY DISCUSSIONS, COMMUNICATIONS, CORRESPONDENCE, ACTIONS AND INACTIONS IN CONNECTION THEREWITH, ARE NOT INTENDED (AND SHOULD NOT BE DEEMED) TO CREATE, UNDER ANY CIRCUMSTANCE (WHETHER BY OPERATION OF LAW OR OTHERWISE) ANY LEGALLY BINDING OBLIGATIONS ON OR BE ENFORCEABLE AGAINST ANY PARTY. THE ONLY MANNER IN WHICH ANY BINDING OBLIGATION OR COMMITMENT OF ANY PARTY CAN BE CREATED OR ARISE IS PURSUANT TO THE EXECUTION OF A DEFINITIVE WRITTEN AGREEMENT BY AUTHORIZED REPRESENTATIVES OF ALL PARTIES.

HOUSTON TERMINAL SERVICES AGREEMENT – FOB EHSC TERMINAL

BY AND BETWEEN

ENTERPRISE HOUSTON SHIP CHANNEL, L.P.

AND

[_____]

DATED: [_____] , 20[__]



HOUSTON TERMINAL SERVICES AGREEMENT

Base Agreement

This Houston Terminal Services Agreement - Base Agreement (this “**Base Agreement**”), together with all attached or incorporated exhibits, schedules, attachments and documents (collectively, the “**Agreement**”) is made as of the ___ day of _____, 20___, (the “**Effective Date**”), by and between the following entities (collectively, the “**Parties**” and each individually, a “**Party**”):

ENTERPRISE HOUSTON SHIP CHANNEL, L.P. (“**Enterprise**”), a limited partnership duly organized and validly existing under the laws of the State of Texas, with administration of its principal place of business and address at 1100 Louisiana Street, Houston, Texas 77002; and

_____ (“**Customer**”), a _____ duly organized and validly existing under the laws of _____, with administration of its principal place of business and address at _____.

RECITALS

- A. Enterprise owns and operates a marine terminal facility located at 15602 Jacintoport Boulevard near the Houston Ship Channel in Harris County, Texas capable of receiving, staging and delivering petroleum based products from and to pipelines, barges and ocean-going vessels (the “**Terminal**”) that is subject to a lease agreement between the Port of Houston Authority of Harris County, Texas, a political subdivision of the State of Texas (the “**Houston Port Authority**”) and Enterprise.
- B. Customer is party to that certain WTI Houston Crude Oil futures contract, dated _____, 20___ (the “**Futures Contract**”), for the purchase and sale of Crude Oil pursuant to Chapter 201 of the NYMEX Rulebook (said Chapter of the NYMEX Rulebook, as in effect as of the Effective Date, “**NYMEX Chapter 201**”).
- C. Customer has redeemed a certain Dock Space Allocation Certificate, by and between Customer and Enterprise (the “**Certificate**”), issued pursuant to a Dock Space Allocation Run under NYMEX Rule 201105.G, and Enterprise and Customer have entered into the Agreement in accordance with the Certificate.
- D. Customer desires to utilize the Terminal for Crude Oil that (i) either (a) has been purchased by Customer, and physically delivered to Customer’s account at the ECHO Terminal, in each case, pursuant to and in accordance with the Futures Contract (such volume of Crude Oil, the “**Futures Volume**”), or (b) subject to the Non-Futures Volume Cap, is otherwise held in Customer’s account at the ECHO Terminal at the time of nominated Services, (ii) meets the quality specifications for “WTI Houston Crude Oil Futures” (as published by the CME Group and Enterprise Products Partners LP in NYMEX Chapter 201) that are in effect as of the Effective Date (the “**Product Specifications**”) and (iii) is tendered and delivered on behalf of Customer for Services hereunder (“**Product**”).
- E. Customer further desires that Enterprise provide, or cause to be provided, the following services related to the receipt, staging, handling and redelivery of Product at the Terminal (individually, a “**Service**” and collectively, the “**Services**”) pursuant to the terms of the Agreement:
 - (i) receipt of Product as provided in Section 4.1 of this Base Agreement;
 - (ii) handling, transfer and throughput of Product within the Terminal;
 - (iii) fungible, Product staging services as provided in Section 5.1 of this Base Agreement;
 - (iv) redelivery of Product as provided in Section 4.2 and Section 4.4 of this Base Agreement; and
 - (v) measurement, sampling and testing of Product as provided in the Agreement.

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- F. Subject to the terms and conditions hereof, Enterprise is willing to provide or cause to be provided the Services for Product at the Terminal pursuant to the Agreement.

NOW THEREFORE, the Parties, in consideration of these premises and of the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, and intending to be legally bound hereby, agree as follows:

1. **DEFINED TERMS.** Capitalized terms used in the Agreement, but not otherwise defined therein will have the meanings given to such terms in Exhibit "A", Defined Terms, to this Base Agreement (the "**Defined Terms**").
2. **TERM OF THE AGREEMENT; ONBOARDING REQUIREMENTS.**
 - 2.1 Subject to the terms and conditions hereof, the Agreement will be effective as of the Effective Date and will end on the earlier to occur of (a) the point in time at which Customer's Vessel has vacated its berth at the Terminal following Completion of Loading, and (b) Customer's cancellation (or deemed cancellation) of the Cargo pursuant to the terms of the Agreement (including pursuant to Section 4.4.1, Section 4.4.2, Section 4.4.3, or Section 7.2.1(f) of this Base Agreement) (the "**Term**").
 - 2.2 Notwithstanding anything herein to the contrary, Enterprise's obligations to perform any of the Services under the Agreement is expressly conditioned upon Customer having first registered with, and provided to Enterprise all onboarding information required under, Enterprise's "E-Stream" online interface system ("**E-Stream**"). In the event that Customer fails to register with, or to provide Enterprise with all on boarding information required under, E-Stream on or prior to the date that is two (2) Business Days prior to the Laycan Nomination Deadline, then Customer shall be deemed to have cancelled the Cargo.
3. **PRODUCT AND PRODUCT SPECIFICATIONS**
 - 3.1 **Product Representation and Warranty.** Customer represents and warrants to Enterprise that (i) all Product tendered by Customer or for Customer's account for receipt under the Agreement into the Fungible Staging Tanks will comply with the Product Specifications and applicable Laws and Regulations, (ii) to Customer's knowledge, no such Product is intended for use in food, drug or cosmetic applications, and (iii) Enterprise's performance of the Services will not subject the Terminal or Enterprise to the jurisdiction of the U.S. Food and Drug Administration. Enterprise will have no obligation to receive and/or handle any product that does not meet the Product Specifications ("**Non-Conforming Product**") and may, without prejudice to any other remedy available to Enterprise, promptly reject and suspend receipt of said Non-Conforming Product (the "**Rejected Product**") and cause Customer to take redelivery or otherwise dispose of the Rejected Product, all at Customer's sole expense. Enterprise shall also have the right, without prejudice to any other remedy available to Enterprise, to reject and return to Customer, at Customer's sole expense any Non-Conforming Product, even after receipt by Enterprise.
 - 3.2 **Non-Conforming Product.**
 - 3.2.1 **Non-Conforming Product.** Enterprise shall have no obligation to receive and/or handle any Non-Conforming Product. Enterprise may, in its sole discretion, elect to receive and handle such Non-Conforming Product subject to the physical limitations of the Terminal and general industry practice. In no event shall Enterprise be required to receive into the Fungible Staging Tanks or otherwise handle at the Terminal any product with properties which would result, in Enterprise's sole opinion, in Enterprise's non-compliance with federal, state, or local legal or regulatory requirements.

- 3.2.2 No Waiver. Acceptance by Enterprise of any Customer Party's samples or tests of Customer's product (including any tests showing that such product meets the Product Specifications) and/or acceptance by Enterprise of any Non-Conforming Product at the Terminal shall not operate as a waiver of the requirements and obligations of Customer under this Section 3 (or as a waiver of any subsequent default, whether of a like or different character), nor in any way prevent Enterprise from refusing any additional quantities or further receipts of Non-Conforming Product.
- 3.2.3 Charges. Customer shall not be relieved of its obligations to pay all Charges as a result of Non-Conforming Product. For the receipt, staging, handling and redelivery of any Non-Conforming Product and/or Rejected Product by Enterprise hereunder, Customer shall pay to Enterprise the Charges for such services at the rates specified in Section 6 of this Base Agreement.

3.3 Non-Conforming Product Indemnity.

- 3.3.1 Obligations. If Enterprise receives Non-Conforming Product which it would otherwise be entitled to reject, then:
- 3.3.1.1 Customer will bear the financial responsibility for all incremental costs (other than capital costs) in connection with receiving, treating, handling, disposing and/or redelivering Non-Conforming Product by such means as are appropriate, including special costs of handling or processing any products contaminated by any Non-Conforming Product; and
- 3.3.1.2 **CUSTOMER WILL RELEASE, PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE ENTERPRISE PARTIES FROM AND AGAINST ANY AND ALL CLAIMS ARISING OUT OF OR RESULTING FROM OR ATTRIBUTABLE TO THE DELIVERY BY OR ON BEHALF OF CUSTOMER OF NON-CONFORMING PRODUCT, AND ANY AND ALL CLAIMS BY ANY CUSTOMER PARTIES OR ANY OTHER ENTERPRISE CUSTOMER WHICH ARISE OUT OF, ARE INCIDENT TO, OR RESULT FROM ENTERPRISE ACCEPTING, TREATING, HANDLING, STAGING, DISPOSING OR REDELIVERING NON-CONFORMING PRODUCT (INCLUDING ANY CLAIMS BY ANY OTHER ENTERPRISE CUSTOMER FOR DOWNGRADE TO ANY AND ALL OF SUCH CUSTOMER'S PRODUCT ATTRIBUTABLE TO THE DELIVERY BY OR ON BEHALF OF CUSTOMER OF NON-CONFORMING PRODUCT HEREUNDER), REGARDLESS OF WHETHER DUE OR ALLEGEDLY DUE TO THE NEGLIGENCE (WHETHER SOLE, JOINT, OR CONCURRENT), FAULT, BREACH OF DUTY, OR STRICT LIABILITY OF ANY ENTERPRISE PARTY, THE UNSEAWORTHINESS OF ANY VESSEL, OR ANY OTHER THEORY OF LEGAL LIABILITY.** In the event Customer fails to defend and protect any member of the Enterprise Parties pursuant to the Agreement, then such member shall be entitled to defend and protect its interests, and Customer shall be liable for all Legal Costs incurred by such member and Enterprise in connection with (i) defending and protecting the interests of such member and/or (ii) enforcing the Agreement.

4. RECEIPTS AND REDELIVERIES

- 4.1 **Product Receipts**. Subject to the terms and conditions of the Agreement, Enterprise will receive into the Fungible Staging Tankage the volume of Product nominated by Customer in accordance

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with the Agreement and the Marine Provisions (the “**Nominated Volume**”) for redelivery from the Terminal hereunder, as such Product is purchased and physically delivered to Customer’s account at the ECHO Terminal pursuant to the terms and provisions of the Futures Contract; provided that (a) Customer may, upon written notice to Enterprise, nominate and tender, as a part of the Nominated Volume, Product other than Futures Volumes for Services hereunder, up to a maximum volume equal to the Non-Futures Volume Cap, and (b) Customer may not specify a Nominated Volume hereunder that is (i) less than 650,000 Barrels of Product (the “**Minimum Cargo Volume**”), or (i) more than 850,000 Barrels of Product (the “**Maximum Cargo Volume**”). Subject only to sub-clause (a) preceding, Customer acknowledges and agrees that Enterprise’s obligation to receive Product into the Fungible Staging Tanks, and to otherwise provide Services as contemplated by the Agreement, extend only to Product that has been physically delivered to Customer’s account at the ECHO Terminal pursuant to the Futures Contract, and that Customer shall not be entitled hereunder to substitute any other volumes of Crude Oil or other product for Services hereunder.

- 4.2 Product Redeliveries.** Subject to the terms and conditions of the Agreement, Enterprise will redeliver a single Cargo of Product from the Fungible Staging Tanks, on a free on board (FOB) basis at the Enterprise Redelivery Point, to the Vessel nominated by Customer and accepted by Enterprise pursuant to Section 4.4 of this Base Agreement. Customer acknowledges and agrees that Enterprise reserves the right (the “**Load Volume Tolerance**”) to load a minimum volume of Product equal to 98% multiplied by the Nominated Volume (the “**Minimum Load Volume**”) and a maximum volume of Product equal to 102% multiplied by the Nominated Volume (the “**Maximum Load Volume**”). It is recognized and agreed by the Parties that the Minimum Load Volume and Maximum Load Volume represent the lower and upper points, respectively, of the Load Volume Tolerance and will be for operational purposes only to provide flexibility in loading the Cargo from the Terminal to Customer’s Vessel.
- 4.3 Product Movement.** The following will apply to any and all receipts of Product into, redeliveries of Product from and/or movement of Product within the Terminal:
- 4.3.1 Nomination Procedures. The nomination procedures set forth in the then-current Marine Provisions will apply to any and all receipts of Product into, redeliveries of Product from and/or movements of Product within the Terminal, and Customer shall be bound by the rules, procedures and obligations set forth therein. Enterprise reserves the right to amend, supplement, modify or otherwise change such nomination procedures (or any of them) from time to time, upon written notice to Customer, to reflect changes in the nomination procedures and/or other procedures, rules and policies of Enterprise with respect to the Terminal Facilities;
- 4.3.2 Confirmed Nominations. All receipts of Product into, redeliveries of Product from and/or movements of Product within the Terminal will be subject to a Confirmed Nomination by Enterprise;
- 4.3.3 Batched System. The Terminal utilizes common pipelines and manifolds for product receipt, transfer and redelivery on a batched system. Enterprise will accept, redeliver and/or transfer Product hereunder solely in accordance with such batched system; and
- 4.3.4 Limits. The receipts of Product into, redeliveries of Product from and/or movements of Product within the Terminal may not exceed the safe operating limits (under normal operating conditions) and then-available capacities of the Terminal Facilities.

4.4 Dock Services.

- 4.4.1 Laycan Nomination. Subject to the terms and conditions in the Agreement, Customer will have the right to nominate a Requested Laycan Window pursuant to the Marine Provisions for the loading of the Cargo onto a Vessel at a Dock under the Agreement (the “**Laycan Nomination**”). Notwithstanding anything to the contrary in the Marine Provisions, the Requested Laycan Window specified in the Laycan Nomination must be within the Customer Assigned Decade. The Laycan Nomination must be delivered to Enterprise no later than the fifteenth (15th) day of the calendar month that is one (1) calendar month prior to the Delivery Month (“**M-1**”, with the Delivery Month constituting M0); provided, that if the fifteenth (15th) day of M-1 is not a Business Day, the Laycan Nomination must be made not later than the last Business Day prior to such fifteenth (15th) day of M-1 (as applicable, the “**Laycan Nomination Deadline**”). By way of example only, if the Delivery Month is February of a given year, then Customer must submit the Laycan Nomination not later than January 15 of such year. If Customer fails to submit a Laycan Nomination in accordance with this Section 4.4.1 on or prior to the Laycan Nomination Deadline, then Customer shall be deemed to have cancelled the Cargo.
- 4.4.2 Alternative Laycan Windows. Notwithstanding anything to the contrary in the Agreement or the Marine Provisions, if Customer submits the Laycan Nomination in accordance with Section 4.4.1 above, then Enterprise will either (a) accept the Requested Laycan Window covered by the Laycan Nomination, or (b) offer to Customer one or more Alternative Laycan Windows within the Customer Assigned Decade. In the event that Enterprise offers any Alternative Laycan Window(s) in respect of the Laycan Nomination, Customer shall have one (1) Business Day from Customer’s receipt of Enterprise’s offer of such Alternative Laycan Window(s) to (i) select one of such Alternative Laycan Window(s), or (ii) reject each such Alternative Laycan Window and cancel the Cargo, in each case, by written notice to Enterprise. If Customer fails to timely respond within said one (1) Business Day period, Customer will be deemed to have rejected each such Alternative Laycan Window and to have cancelled the Cargo.
- 4.4.3 Cargo Cancellations. Customer shall have the right to cancel the Cargo at any time upon providing written notice thereof to Enterprise. In the event that Customer cancels (or is deemed to have cancelled) the Cargo, Enterprise shall not be under any obligation to load Customer’s Product hereunder at the Terminal, and insofar as Enterprise has received Product hereunder into the Fungible Staging Tanks prior to such Cargo cancellation the terms and provisions set forth in Section 5.3.1 of this Base Agreement shall apply. Additionally, if Customer cancels (or is deemed to have cancelled) a Cargo after the Laycan Nomination Deadline, then the Cancellation Fee set forth in Section 6.3 of this Base Agreement shall apply.
- 4.4.4 No Obligation to Nominate; No Carry Over. Customer acknowledges and agrees that it shall not be obligated to deliver any Laycan Nomination hereunder. However, if Customer fails to timely elect, or otherwise elects not to deliver a Laycan Nomination, pursuant to Section 4.4.1 above, (a) the Terminal Services Fee shall not be reduced or otherwise abated, (b) Customer shall not be entitled to carry over any such un-made Laycan Nomination for any other Requested Laycan Window, and (c) Customer may not apply any un-nominated volumes of Product for redelivery to any other Vessel.
- 4.4.5 Delays in Loading. If, due to a Force Majeure declared by Enterprise, the loading of a Cargo that is the subject of a Confirmed Nomination cannot be completed on or prior to

the date that is fifteen (15) Days following the last Day of the Confirmed Laycan Window, then the Cargo shall be deemed to have been cancelled; provided, that the Cancellation Fee set forth in Section 6.3 shall not apply to a Cargo cancellation pursuant to this Section 4.4.5.

4.5 Redeliveries to Vessels.

- 4.5.1 Port Procedures. Enterprise will have the right to publish and enforce rules, regulations, policies and procedures for the conduct of Customer Parties within the Terminal and the redelivery and loading of Product onto the Vessel nominated by Customer hereunder (each, as applicable, the “**Port Procedures**”). The Port Procedures will apply generally to all of Enterprise’s customers and their associated parties at the Terminal. Enterprise reserves the right to amend, supplement, modify or otherwise change the Port Procedures, from time to time, in its sole discretion, and will provide written notice to Customer reflecting changes in such rules, regulations, policies and procedures.
- 4.5.2 Vessel Arrangements. Customer will arrange, at its sole cost and expense, for the supply of a suitable Vessel and her arrival at the relevant Dock. Notwithstanding anything to the contrary contained herein or otherwise, Enterprise will not have any obligation to perform any services aboard any Vessel.
- 4.5.3 Vessel Approval. Enterprise reserves the right to approve or reject Customer’s nominated Vessel(s) in advance in accordance with the Marine Provisions, the Port Procedures, and Enterprise’s then-current Vessel requirements.
- 4.5.4 Vessel Warranty. With respect to any Vessel arriving at a Dock to load the Cargo hereunder, Customer warrants to Enterprise that:
- 4.5.4.1 Customer is familiar with, and that Customer has notified such Vessel of the Port Procedures;
- 4.5.4.2 Customer has nominated such Vessel in compliance with the Marine Provisions and the Port Procedures; and
- 4.5.4.3 such Vessel is capable of loading Product at a minimum sustained rate of thirty-five thousand (35,000) Barrels per hour (the “**Minimum Rate**”).
- 4.5.5 Failure to Meet Minimum Rate. If a Vessel does not perform at the Minimum Rate for any reason other than (a) the gross negligence or willful misconduct of Enterprise or (b) operational limitations of the applicable Dock, Enterprise may, at its sole discretion, (i) prohibit such Vessel from berthing at the Docks, (ii) require such Vessel to immediately vacate its berth, (iii) refuse to load Product onto such Vessel, and/or (iv) if loading operations have commenced for such Vessel, cease such operations and order such Vessel to depart from the applicable Dock immediately. Enterprise’s rights under this Section 4.5.5 shall be without prejudice to any of Enterprise’s other rights or remedies under the Agreement.
- 4.5.6 Applicability. The terms and provisions of this Section 4.5 shall apply to any and all redeliveries of Product to Vessels; provided, however, that nothing contained in this Section 4.5 shall authorize or permit Customer to nominate Vessels to load Product from the Terminal except to the extent provided under Section 4.4 of this Base Agreement.

4.6 Additional Connections or Facilities. Customer acknowledges that Customer's use of any connections to and from the Terminal Facilities (including, without limitation, any pipeline connections, facilities or facility modifications or other services that become available after the Effective Date), other than those services set forth in this Section 4, are not included, and should not be deemed to be included, in the Agreement. Any discussions, communications, correspondence, actions and inactions in connection therewith are not intended to create, and should not under any circumstance (whether by Law and Regulation or otherwise) be deemed to create (or to intend to create), any legally binding rights or obligation to use any such pipeline connections, facilities, or services.

5. FUNGIBLE PRODUCT STAGING

5.1 Staging Capacity. Subject to the terms and conditions herein contained, Enterprise agrees to provide Customer, on a non-exclusive basis, fungible staging services, up to the Maximum Cargo Volume, to be used for the staging of Product only in preparation of redelivering the Cargo to Customer's Vessel. The capacity utilized by Enterprise to provide the fungible staging services as specified in this Section 5.1 is referred to as the "**Staging Capacity**".

5.2 Acknowledgement; Commingling. Customer acknowledges that (a) the Staging Capacity made available to Customer under the Agreement is on a fungible basis, and that Enterprise is not providing such capacity (nor shall Customer have any rights to storage hereunder) on a dedicated, segregated or otherwise exclusive basis; (b) any Product delivered into the Fungible Staging Tanks may be commingled in the Staging Capacity utilized by Enterprise with product(s) owned by one or more Enterprise Parties and/or Third Parties; (c) Product will be redelivered from the Terminal using common piping, manifolds and flanges, and that such Product may come into contact with residue materials and product contained in such piping, manifolds and flanges; and (d) any Product redelivered for Customer under the Agreement is not expected to be, or include, the identical Product delivered into the Fungible Staging Tanks hereunder, but such Product shall meet the Product Specifications when so redelivered.

5.3 Product Balancing.

5.3.1 Overbalances. Notwithstanding anything herein to the contrary, to the extent that (a) a volume of Product in excess of the Maximum Cargo Volume is received into the Fungible Staging Tank(s) hereunder, (b) any volume of Product remains in any Fungible Staging Tank or otherwise at the Terminal after the Cargo has been loaded pursuant to the Agreement (including as a result of the underloading of a Vessel within the Load Volume Tolerance set forth in Section 4.2 above), and/or (c) any volume of Product remains in any Fungible Staging Tank or otherwise at the Terminal after the cancellation (or deemed cancellation) of the Cargo (such volumes of Product, as applicable, the "**Holdover Balance**"), then Enterprise shall return a volume of Product equal to such Holdover Balance to Customer's account at the ECHO Terminal; provided, however, that to the extent that Customer does not have sufficient contractual rights for storage with respect to such Holdover Balance at the ECHO Terminal at such time, then Enterprise shall have the right to sell, vacate or otherwise dispose of such Product in any commercially reasonable manner and, in which event, (i) Enterprise will be entitled to deduct all amounts due and payable by Customer to Enterprise under the Agreement from the proceeds received from such sale, (ii) all direct costs incurred by or on behalf of Enterprise in connection with any such sale (including transportation charges incurred in connection therewith) shall be for Customer's account, and (iii) Enterprise will remit the net amount of the proceeds received from such sale, if any, to Customer.

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5.3.2 Underbalances. To the extent that Enterprise redelivers a volume of product to Customer's Vessel hereunder that exceeds the volume of Product held for the account of Customer hereunder at such time (including as a result of the loading of excess Product onto a Vessel within the Load Volume Tolerance set forth in Section 4.2 above), Customer agrees to use Commercially Reasonable Efforts to clear such Product imbalance in a timely manner (but in no event later than thirty (30) days following Completion of Loading), by causing a volume of product meeting the Product Specifications equal to such shortfall (the "**Shortfall Balance**") to be delivered into Customer's account at the ECHO Terminal, whereupon the Shortfall Balance will be settled physically with Enterprise. To the extent that Customer is unable to cause the Shortfall Balance to be delivered into its account at the ECHO Terminal in a timely manner, Enterprise shall have the right to acquire or otherwise have delivered into Customer's account a volume of product necessary to reduce such Shortfall Balance to zero (0) Barrels, in which event Customer shall promptly reimburse Enterprise for all costs and expenses incurred by or on behalf of Enterprise as a result of such settlement, including the price paid by Enterprise for such product and any transportation costs and expenses relating thereto.

6. FEES AND CHARGES

- 6.1 Terminal Services Fee.** In consideration of Customer's right to nominate Services under the Agreement, Customer will pay a terminal services fee (the "**Terminal Services Fee**") equal to (a) the Nominated Volume, *multiplied by* (b) \$0.50 per Barrel; provided, that if Customer fails to nominate the Nominated Volume in accordance with the Agreement, then the Nominated Volume for purposes of calculating the Terminal Services Fee shall be deemed to equal the Minimum Cargo Volume. The Terminal Services Fee shall be payable by Customer whether or not Customer nominates any Services under the Agreement; provided, however, that to the extent that Enterprise loads a volume of Product onto Customer's Vessel that is less than the Nominated Volume (i) pursuant to the Load Volume Tolerance set forth in Section 4.2 above, or (b) as a result of an event of Force Majeure declared by Enterprise (as applicable, the "**Excused Underload Volume**"), then the Terminal Services Fee shall be reduced by an amount equal to (x) the Excused Underload Volume, *multiplied by* (ii) \$0.50 per Barrel.
- 6.2 Variable Loading Fee.** To the extent that volumes of Product in excess of the Nominated Volume are loaded onto Customer's Vessel hereunder (the "**Excess Volume**"), then Customer will pay to Enterprise an excess loading fee equal to \$0.50 per Barrel *multiplied by* the Excess Volume.
- 6.3 Cancellation Fee.** If Customer, for any reason (including due to an event of Force Majeure affecting Customer) other than (a) any event of Force Majeure declared by Enterprise that prevents Enterprise from loading the Cargo, or (b) a failure by Enterprise due to an Enterprise Party's fault or negligence to load the Cargo onto Customer's Vessel in accordance with the applicable Confirmed Nomination, cancels (or is deemed to have cancelled) the loading of the Cargo at any time after the Laycan Nomination Deadline, Customer will pay to Enterprise a cancellation fee (the "**Cancellation Fee**") equal to (x) the Nominated Volume, *multiplied by* (y) \$0.50 per Barrel. The Cancellation Fee will not be reduced, and it shall be deemed a cancellation for which a Cancellation Fee shall be due, for (i) an event of Force Majeure declared by Customer, (ii) the late arrival or the failure of Customer's Vessel to arrive during the Confirmed Laycan Window for any reason (including for an event of Force Majeure), unless such Vessel is subsequently loaded pursuant to the Agreement, or (c) Customer's default or the inability of Customer's Vessel to load the Cargo due to Customer's Vessel's non-compliance with the Agreement, including the failure of Customer's Vessel to perform at the Minimum Rate.

- 6.4 Excess Occupancy Payment.** In the event Customer's Vessel fails to vacate its berth at the Terminal upon Completion of Loading or as otherwise required under the Marine Provisions and/or under the Port Procedures (as applicable), unless such failure is caused solely by Enterprise, Customer will pay Enterprise an additional dockage fee equal to \$7,000 per hour for each hour (or part thereof) that such Vessel so remains at its berth at the Terminal (the "**Excess Occupancy Payment**"). In addition to the Excess Occupancy Payment, Customer shall be liable for and shall pay to Enterprise any other charges assessed by the Houston Port Authority (or any other Governmental Authority) and any other losses, damages, costs or expenses which Enterprise may incur as a result of the failure of such Vessel to vacate its berth as required (including all out of pocket Third Party fees for demurrage which Enterprise incurs due to such Vessel's failure to vacate its berth as required).
- 6.5 Texas Coastal Protection Fee.** To the extent that the State of Texas (through the General Land Office or other instrumentality) imposes a coastal protection fund or similar fee on Enterprise (or an Affiliate of Enterprise) on account of Customer's product transferred through the Terminal, Enterprise shall have the right to charge Customer, and Customer shall be responsible for reimbursing Enterprise, for such fee.
- 6.6 Vessel Vetting Fees.**
- 6.6.1 Late Vessel Information Fee. If Customer fails to provide to Enterprise a complete Vessel questionnaire in respect of any Vessel nominated by Customer hereunder, within the time period prescribed in the Marine Provisions, and Enterprise elects not to exercise its right under the Marine Provisions to refuse to berth such Vessel, then Customer shall pay to Enterprise a late Vessel information fee of \$450 for such Vessel.
- 6.6.2 Vessel Cancellation Fee. In the event that Customer returns a Vessel questionnaire in respect of a nominated Vessel as required pursuant to the Marine Provisions, but subsequently cancels the Vessel covered by such Vessel questionnaire less than twenty-four (24) hours prior to the first (1st) Day of the Confirmed Laycan Window, then Customer shall pay to Enterprise a late Vessel cancellation fee of \$450 for such Vessel.

7. LAYTIME

- 7.1 Allowed Laytime.** The amount of Laytime allowed for Enterprise to load Product onto a Vessel shall be determined as follows ("**Allowed Laytime**"):
- 7.1.1 an amount of time determined by dividing the sum of the Nominated Volume *plus* any volume loaded in excess of the Nominated Volume for such Vessel by a loading rate of twelve thousand (12,000) Barrels of Product per hour; *plus*
- 7.1.2 an additional six (6) hours to prepare such Vessel for loading, including connecting loading arms and pre-inspection of such Vessel by the inspector; to prepare such Vessel for arrival or departure (as applicable), including disconnecting the loading arms and for the inspector or Houston Port Authority to release such Vessel; and to account for other standard operational requirements.
- 7.2 Commencement.**
- 7.2.1 Laytime. Subject to strict compliance by Customer and the applicable Vessel with the Agreement, the Marine Provisions and the Port Procedures, Laytime shall commence as follows:

- (a) if (i) the Vessel tenders NOR as provided in the Marine Provisions within the applicable Confirmed Laycan Window, (ii) the Vessel is authorized by the Houston Port Authority and/or other applicable Governmental Authorities to operate only during daylight operating hours (a “**Daylight Restricted Vessel**”), (iii) the NOR is received by Enterprise during daylight operating hours, and (iv) the Daylight Restricted Vessel is permitted by the Houston Port Authority or other applicable Governmental Authority to proceed to its berth during such daylight operating hours, then Laytime will commence six (6) hours after Enterprise’s receipt of such NOR;
 - (b) if the NOR for a Daylight Restricted Vessel is tendered as provided in the Marine Provisions within the applicable Confirmed Laycan Window and is received by Enterprise during daylight operating hours, but the Daylight Restricted Vessel is not permitted to proceed to its berth during such daylight operating hours by the Houston Port Authority or other applicable Governmental Authority, then Laytime will commence when pilots board the Vessel, plus six (6) hours, or when the Daylight Restricted Vessel is all fast, whichever comes first, and as may be set forth in the Port Procedures;
 - (c) if the NOR for a Daylight Restricted Vessel is tendered as provided in the Marine Provisions within the Confirmed Laycan Window and is received by Enterprise during daylight restricted hours, then Laytime will commence when pilots board the Vessel, plus six (6) hours, or when the Daylight Restricted Vessel is all fast, whichever comes first, and as may be set forth in the Port Procedures;
 - (d) if the NOR for a Vessel that is not a Daylight Restricted Vessel is tendered as provided in the Marine Provisions within the Confirmed Laycan Window, then Laytime will commence six (6) hours after Enterprise’s receipt of the NOR;
 - (e) if the NOR is tendered before the first day of the Confirmed Laycan Window, then Laytime will not commence until the earlier of (i) actual commencement of loading operations for the Vessel and (b) beginning of daylight operating hours on the first day of such Confirmed Laycan Window; and
 - (f) if the NOR is tendered as provided in the Marine Provisions (i) after the last day of the applicable Confirmed Laycan Window, or (ii) after daylight cutoff on the last day of the applicable Confirmed Laycan Window for a Daylight Restricted Vessel, then (x) unless Enterprise agrees in writing to otherwise load the Vessel, Customer shall be deemed to have cancelled the Cargo, and (y) Enterprise shall have no obligation to receive such Vessel at the Terminal, or to load Product to such Vessel; provided, however, that Enterprise may, at its sole discretion, agree in writing to do so, in which event, Laytime shall commence when Customer’s Vessel is all fast and actual loading operations have commenced; provided, further, that any such agreement by Enterprise shall be without prejudice to any fees payable by Customer to Enterprise pursuant to Section 6 of this Base Agreement.
- 7.2.2 Heightened Security Measures. Notwithstanding Section 7.2.1 above, due to heightened security measures, Laytime shall not commence until the Vessel has satisfied all U.S. regulatory requirements, including all USCG and CBP inspections and clearances.
- 7.2.3 Completion. Laytime shall cease at Completion of Loading.

7.2.4 Early Arrivals. In order to facilitate dock optimization, in the event a Vessel arrives at the customary anchorage or other waiting area for the Terminal prior to the start of the Confirmed Laycan Window for such Vessel, Enterprise reserves the right (but not the obligation), at its sole discretion, to order such Vessel to immediately transit to berth at a Dock. In the event Enterprise elects to exercise this option, Laytime calculations shall commence upon commencement of actual loading operations for such Vessel; provided, however, that all other Laytime related items shall be in accordance with the other provisions of this Section 7.2.

7.3 Exceptions to Laytime and Demurrage.

7.3.1 Laytime Exclusions. Any time consumed due to any of the following events will not be computed as Laytime, or, if in demurrage, as time on demurrage, even if any of such events occur after the expiration of Allowed Laytime (if applicable):

- (a) time consumed by the Vessel in moving from port or anchorage to the relevant Dock, including waiting for tide, traffic (including any one-way traffic limitations imposed by the Houston Port Authority or other applicable Governmental Authority), mooring, tugs, pilots, survey and inspection or daylight;
- (b) any delay due to the Vessel's condition, breakdown, or any other causes attributable to, or for which any Customer Party, the Vessel, or its master or crew is responsible (including incompatibility with or between the Terminal and the Vessel and time consumed in making up connections to remedy such incompatibility, pollution or threat thereof, or any delay in bunkering the Vessel, taking on or discharging ballast water or discharging slops);
- (c) time consumed for conditioning a Vessel's tanks or to clear Enterprise's shore pipelines or hoses of any unlike product for loading operations;
- (d) any delay in loading due to prohibition of loading at any time by the Vessel, the owner or operator of the Vessel, or by any Governmental Authority, unless such prohibition is caused by Enterprise's failure to comply with applicable Laws and Regulations;
- (e) any delays due to the Vessel's noncompliance with or violation of applicable operating or safety rules and/or regulations, including (i) federal or state laws, (ii) USCG and CBP regulations, (iii) the Port Procedures and other Terminal rules and regulations, (iv) any other Laws and Regulations, or (v) obligations to obtain or maintain required certificates and certifications;
- (f) any delays awaiting USCG and CBP clearances, other required governmental or port clearances or other local administrative requirements, or free pratique, if applicable;
- (g) any delay caused by strike, lockout, stoppage or restraint of labor of the master, officer or crew of the Vessel; or
- (h) any delay caused by conditions not reasonably within Enterprise's control, including weather, lightning, awaiting tide, Force Majeure, blockage or closure of channels (including blockages or closures due to fog, spills or accidents), maritime security restrictions, or port closures, port congestion, and other port

Base Agreement

restrictions and conditions, and the effects of any such port events, restrictions or conditions on the Houston Ship Channel, the Terminal and/or berth availability.

- 7.3.2 **Loss of Berth.** In addition, if as a result of such causes and events the Vessel loses her turn to berth at the Terminal, Laytime shall be suspended until the Vessel is all fast; provided that if such suspension of Laytime was due to a cause or event under Section 7.3.1(a) or (if such delay does not result due to or in connection with an act or omission of any Customer Party) Section 7.3.1(g) above, then the Vessel will be assigned the next available open period for berthing in accordance with the Marine Provisions; and provided, further, that if such suspension of Laytime was due to causes or events under Section 7.3.1(b), (c), (d), (e), (f), or (g) above, then Enterprise shall be under no obligation to provide a berth for the Vessel at the Terminal, and the Vessel shall be deemed to have failed to perform at the required Minimum Rate pursuant to the terms of Section 4.5.5 above.
- 7.3.3 **Events while at Berth.** If any of the causes or events described in Section 7.3.1 above occur while such Vessel is in berth at a Dock, extra expenses thereby incurred by Enterprise in connection with such Vessel remaining at the berth shall be for Customer's account, and time lost in between berthings shall not count as Laytime; provided that the Vessel will be assigned the next available open period for berthing in accordance with the Marine Provisions.

8. DEMURRAGE

- 8.1 **Rate.** For all Laytime used in excess of the Allowed Laytime, Enterprise shall pay demurrage to Customer (in U.S. dollars) per running hour (pro-rated for any portion thereof) at a rate equal to the rate charged per the applicable Vessel's charter party documents (or the time charter equivalent) pursuant to the voyage chartered by Customer; provided that, in connection with any claim for demurrage hereunder, Customer shall deliver to Enterprise all documentation necessary, in Enterprise's reasonable determination, to substantiate the validity of such claim. Notwithstanding the foregoing, in no event shall Enterprise be liable for any demurrage in excess of the lesser of (a) that amount actually charged to Customer for time used in excess of the Allowed Laytime to load Customer's Product onto such Vessel and (b) Fifteen Thousand Dollars (\$15,000.00) per day (or pro rata for part thereof) for such Vessel.
- 8.2 **Sole and Exclusive Remedy. CUSTOMER'S RIGHT TO DEMURRAGE (AS SET FORTH IN SECTION 8.1 OF THIS BASE AGREEMENT) SHALL CONSTITUTE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IN RESPECT OF ANY FAILURE OF ENTERPRISE TO COMPLETE THE LOADING OF CUSTOMER'S PRODUCT WITHIN THE ALLOWED LAYTIME, AND ENTERPRISE SHALL NOT BE LIABLE FOR (a) ANY OTHER DIRECT OR INDIRECT DAMAGES, SPECIAL DAMAGES, COSTS, EXPENSES OR OTHER CLAIMS ARISING OUT OF OR RESULTING FROM THE DEMURRAGE OR (b) ANY AMOUNTS IN EXCESS OF THE AMOUNTS EXPRESSLY PROVIDED FOR IN SECTION 8.1 OF THIS BASE AGREEMENT.**
- 8.3 **Claims.** Customer must notify Enterprise of any Claim for demurrage under this Section 8 in writing, and must provide a fully documented claim therefor within ninety (90) calendar days following Completion of Loading for the applicable Vessel. For purposes of this Section 8, full documentation must include copies of: (a) the NOR for the applicable Vessel, (b) a statement of facts from the master of such Vessel, (c) such Vessel's pumping logs (if applicable), (d) the agent's port log with respect to such Vessel, and (e) a laytime statement. **CUSTOMER'S**

FAILURE TO GIVE ENTERPRISE NOTICE AND PROVIDE THE CLAIM (WITH FULL DOCUMENTATION AS PROVIDED IN THIS SECTION 8.3) SHALL CONSTITUTE A FULL AND COMPLETE WAIVER OF SAID DEMURRAGE CLAIM, AND ENTERPRISE'S LIABILITY FOR DEMURRAGE WITH RESPECT TO SUCH VESSEL SHALL IMMEDIATELY AND FOREVER BE EXTINGUISHED.

9. **ADDITIONAL SERVICES.** If Enterprise (i) at Customer's written request, performs or causes to be performed, any services other than the Services or (ii) upon written notice to Customer, performs or causes to be performed any services other than the Services because Customer's product (including Product contaminated by, or rendered off-specification due to contact with, any Rejected Product) does not comply with the applicable Product Specifications, Customer will pay Enterprise the cost of such services plus an administrative fee equal to fifteen percent (15%) of such costs.
10. **MISCELLANEOUS**
- 10.1 **Credit Requirements.** Customer will provide credit support in form and substance determined by and satisfactory to Enterprise to guaranty payment by Customer under the Agreement by at least five (5) Business Days before the first Day of the Confirmed Laycan Window.
- 10.2 **Incorporation; Conflict Priority.** This Base Agreement, inclusive of the Recitals, and the Product Specifications, the Defined Terms, the General Terms and the Measurement Procedures attached hereto are hereby incorporated into and made part of the Agreement and, subject to the following sentence, will be given full force and effect as if contained in the body of this Base Agreement. In the event of a conflict between one or more provisions of the Agreement, a Confirmed Nomination and/or any provisions contained in the Marine Provisions or the Port Procedures, such provisions will be given priority in the following order: (1) Confirmed Nomination; (2) Base Agreement; (3) Product Specifications; (4) General Terms; (5) Marine Provisions; (6) Port Procedures; (7) Measurement Procedures; and (8) Defined Terms.
- 10.3 **Notices.** Any notice required under the Agreement (other than notices specified in Exhibit "C") must be sent or transmitted by (a) United States mail, certified or registered, return receipt requested, (b) confirmed overnight courier service, or (c) confirmed facsimile transmission properly addressed or transmitted to the address of the Party indicated below or to such other address or facsimile number as one Party provides to the other Party in accordance with this provision. All notices, consents, requests, demands, and other communications hereunder are to be in writing, and are deemed to have been duly given or made on the delivery date. With respect to notices required under Exhibit "C" (other than notices required to be delivered by Enterprise to effect any change to such Exhibit), the Parties may deliver such notices by e-mail, and any such e-mail notice shall be sent to the address of the other Party specified below and shall be effective, if sent on a Business Day before 1700 hours Houston Time, as of that day; and, in any other case, as of the Business Day after it was sent. Notices required under the Marine Provisions or the Port Procedures shall be sent or transmitted as specified therein. Enterprise's and Customer's contact names, addresses, and facsimile numbers for the purpose of notification are as follows (as the same may be changed from time to time by Enterprise and Customer, as applicable, upon providing the other Party prior written notice):



HOUSTON TERMINAL SERVICES AGREEMENT

Base Agreement

If to Enterprise:

Formal legal notices (to be given by internationally recognized overnight courier, first class registered or certified mail, postage prepaid, or hand delivery) will be addressed to:

ENTERPRISE HOUSTON SHIP CHANNEL, L.P.
1100 Louisiana Street
Houston, TX 77002
Attention: General Counsel
Email: generalcounsel@eprod.com

All other communications will be sent as follows:

ENTERPRISE HOUSTON SHIP CHANNEL, L.P.
1100 Louisiana Street
Houston, Texas 77002
Attention: Senior Vice President – Crude Oil and Refined Products

Kindly use Enterprise's assigned contract number in all correspondence

If to Customer:

[____]
[____]

Phone: [____]
Email: [____]

[SIGNATURE PAGE FOLLOWS]



HOUSTON TERMINAL SERVICES AGREEMENT

Base Agreement

IN WITNESS WHEREOF, the Agreement has been executed by the Parties as of the Effective Date.

ENTERPRISE HOUSTON SHIP CHANNEL, L.P. [_____]
By Enterprise Houston Ship Channel GP, LLC,
its general partner

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit "A" – Defined Terms

Capitalized terms used in the Agreement will have the following meanings:

"ACH" means Automated Clearing House, computer-based clearing and settlement facility established to process the exchange of electronic transactions between participating depository institutions.

"Adequate Assurances" means sufficient security in a form, amount, for a term, and from an issuer acceptable to Enterprise, including, but not limited to, a Letter of Credit, cash, a prepayment, or a parent guaranty in form and substance satisfactory to Enterprise of the prompt payment, when due, of any and all present or future indebtedness of Customer as a result of Enterprise's performance of the Services hereunder.

"Affiliate" means, with respect to any Person, any Person that directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with such Person. The term "control" (including its derivatives and similar terms) shall mean possessing the power to direct or cause the direction of the management and policies of a Person, whether through ownership, by contract, or otherwise. Any Person shall be deemed to be an Affiliate of any specified Person if such Person owns fifty percent (50%) or more of the voting securities of the specified Person, or if the specified Person owns fifty percent (50%) or more of the voting securities of such Person, or if fifty percent (50%) or more of the voting securities of the specified Person and such Person are under common control.

"Agreement" has the meaning set forth in the Preamble to the Base Agreement to which these Defined Terms are attached, and consist of the Base Agreement, these Defined Terms (Exhibit "A"), the General Terms and Conditions (Exhibit "B"), and the Measurement Procedures (Exhibit "C").

"Allowed Laytime" has the meaning set forth in Section 7.1 of the Base Agreement.

"Alternative Laycan Window" means an alternative laycan window offered by Enterprise in accordance with the Marine Provisions.

"API" means the American Petroleum Institute.

"ASTM" means the American Society for Testing and Materials.

"Barrel" means 42 United States Gallons of 231 cubic inches per gallon at sixty degrees Fahrenheit (60° F) measured on a gross standard basis.

"Base Agreement" has the meaning set forth in the Preamble of the Base Agreement to which this Exhibit "A" is attached.

"Business Day" means a day on which banks in Houston, Texas are open for normal banking business; and a Business Day will open at 8:00 a.m. and close at 5:00 p.m. Houston Time.

"Cancellation Fee" has the meaning set forth in Section 6.3 of the Base Agreement.

"Cargo" means the particular delivery of Product at the Enterprise Delivery Point and the loading of such Product on Customer's Vessel as specified in a Confirmed Nomination.

"CBP" means U.S. Customs and Border Protection.

"Certificate" has the meaning set forth in Recital C of the Base Agreement.

"Charges" means all of the financial and other obligations that could reasonably become payable to Enterprise under the terms of the Agreement, including but not limited to the payment of the fees set forth in Section 6 of the Base Agreement and all performance obligations of Customer to Enterprise under the Agreement.

Exhibit "A" – Defined Terms

"Claims" means all claims or actions, threatened or filed and whether groundless, false, or fraudulent, arising out of the Agreement, and the resulting losses, damages, expenses, Legal Costs, whether incurred by settlement or otherwise, and whether arising or accruing prior to or after the termination of the Agreement.

"Commercially Reasonable Efforts" means, with respect to performance by either Party of the applicable obligations under the Agreement, the efforts a reasonable person in such Party's position would use to attempt to satisfy performance of such obligations, but not obligating such Party to incur expenditures exceeding the amount a reasonable person would incur for performance of the applicable obligations under the circumstances. For clarity, the Parties expressly intend the obligation to utilize Commercially Reasonable Efforts requires a lesser effort on the part of the performing Party than the obligation to utilize "best efforts." The Parties agree that an obligation to utilize "best efforts" means the performing Party must do essentially everything in its power to complete performance of the applicable obligations irrespective of the cost to the performing Party.

"Completion of Loading" means, for loading operations with respect to a particular Vessel, the time at which such Vessel has ceased receiving Product and the Dock's loading arm has been disconnected or could have been disconnected but for the Vessel.

"Confidential Information" has the meaning set forth in Section 20.1 of the General Terms.

"Confirmed Laycan Window" means a Requested Laycan Window accepted by Enterprise or an Alternative Laycan Window accepted by Customer (as applicable), in either case, in accordance with the Agreement and the Marine Provisions.

"Confirmed Nomination" means a Laycan Nomination setting forth the information required pursuant to the Marine Provisions, if such nomination is accepted by the Parties pursuant to the terms of the Agreement.

"Crude Oil" has the meaning given to the term "crude oil" in NYMEX Chapter 201.

"Customer" has the meaning set forth in the Preamble to the Base Agreement.

"Customer Assigned Decade" means the Decade that is allocated to Customer pursuant to the Certificate (i.e., either the second (2nd) or third (3rd) Decade of the Delivery Month, or the first (1st) Decade of the calendar month immediately following the Delivery Month, as applicable).

"Customer Parties" means (i) Customer and its Affiliates, (ii) owners, operators, and intermediate charterers of Customer's nominated Vessels, and such Vessels *in rem*, and (iii) the respective equity holders, officers, directors, employees, representatives, agents, contractors, successors and permitted assigns of any entities described in parts (i) and (ii) of this definition (excluding any member of the Enterprise Parties).

"Daylight Restricted Vessel" has the meaning set forth in Section 7.2.1(a) of the Base Agreement.

"Decade" means, with respect to any calendar month, a (generally) ten (10) consecutive day period during that month, where the first Decade consists of the first ten calendar days of such month, the second Decade consists of the second ten calendar days of such month, and the third Decade consists of the remaining calendar days in such month.

"Defined Terms" has the meaning set forth in Section 1 of the Base Agreement.

"Delivery Month" means the "delivery month" for the applicable Product, as such term is used in NYMEX Chapter 201 with respect to the Futures Contract.

"Dispute" has the meaning set forth in Section 18.2 of the General Terms.

Exhibit “A” – Defined Terms

“**Dispute Notice**” has the meaning set forth in Section 18.2 of the General Terms.

“**Dock**” means any of the marine docks and berthing facilities designated for Vessels that are connected to the Terminal and in commercial service as of the Effective Date, and other such marine docks or berthing facilities as may be agreed to in writing by the Parties from time to time, but in any case, only insofar as such marine docks and/or berthing facilities are in commercial service as of the date of requested Service under the Agreement. As of the Effective Date, the existing Docks are commonly referred to as Dock 1, Dock 1-A, Dock 4, Dock 5, Dock 6, Dock 7, Dock 8 and Dock 9.

“**E-Stream**” has the meaning set forth in Section 2.2 of the Base Agreement.

“**ECHO Terminal**” means Enterprise Crude Pipeline LLC’s crude oil terminal, pumping station and tank farm facility located in Harris County, Texas.

“**Effective Date**” has the meaning set forth in the Preamble to the Base Agreement.

“**Enterprise**” has the meaning set forth in the Preamble to the Base Agreement.

“**Enterprise Parties**” means (i) Enterprise and its Affiliates and (ii) the respective equity holders, officers, directors, employees, representatives, agents, contractors, successors and permitted assigns of any of Enterprise or its Affiliates (excluding any member of Customer Parties).

“**Enterprise Redelivery Point**” has the meaning set forth in Section 3.2.2 of the General Terms.

“**Event of Default**” has the meaning set forth in Section 17.1 of the General Terms.

“**Excess Occupancy Payment**” has the meaning set forth in Section 6.4 of the Base Agreement.

“**Excess Volume**” has the meaning set forth in Section 6.2 of the Base Agreement.

“**Excused Underload Volume**” has the meaning set forth in Section 6.1 of the Base Agreement.

“**FERC**” means the Federal Energy Regulatory Commission and their successor or replacement organization.

“**FERC Regulation**” has the meaning set forth in Section 1.5.1 of the General Terms.

“**Force Majeure**” means any cause, whether of the kind enumerated herein or otherwise, that is not reasonably within the control of the Party, or its Affiliates, claiming suspension or delay, and which, by the exercise of Commercially Reasonable Efforts, such Party is unable to prevent or overcome, and which wholly or partially prevents or delays such Party’s performance of any of its obligations under the Agreement, including any of the following: strikes, lockouts, or other industrial disturbances; wars, blockades, insurrections, or acts of terrorists, saboteurs or the public enemy; epidemics; landslides, earthquakes, tornadoes, fires, hurricanes, floods, washouts, or other acts of God; arrests or restraints of governments and people; compliance (voluntary or involuntary) with Laws and Regulations, or requests of any official or agency of any Governmental Authority; rationing of, shortages of, or inability to obtain or use any material or equipment; any Governmental Authority’s closing of, or placing restrictions upon the use of, mooring facilities, docks, harbors, ports, pipelines, staging tanks, or other navigational or transportation mechanisms; riots or civil disturbances; explosions; failures, disruptions, breakdowns, or accidents to machinery, facilities, terminals, docks, tankage, or lines of pipe (whether owned, leased, or rented); the testing, making repairs, performing maintenance, alterations, enlargements, or connections to machinery, facilities, docks, tankage, or lines of pipe (whether owned, leased, or rented), excepting any failure to perform regular or routine maintenance or operate within manufacturer’s guidelines; the necessity to not operate, or to reduce the operation of, equipment to protect the safety of the public and/or environment; freezing of lines or equipment; embargoes, priorities, expropriation, or condemnation by a Governmental Authority; and interference by civil or military authorities. Any of the following will not, in any event or

Exhibit “A” – Defined Terms

circumstance, constitute an event of Force Majeure under the Agreement: loss of Customer’s supply and/or markets; Customer’s inability to economically use or resell the Product or any Non-Conforming Product; and a Vessel’s inability to timely arrive, dock, load or unload Product or Non-Conforming Product, or vacate her berth at a Dock (in any case, even if such inability of the Vessel is itself due to Force Majeure). However, any event of Force Majeure affecting the Terminal, the Docks, the Houston Ship Channel, or any other applicable port, anchorage, or ship channel, in each case, serving the Dock will constitute an event of Force Majeure under the Agreement.

“**Fungible Staging Tank**” means any tank located at the ECHO Terminal or the Terminal and that is utilized by Enterprise to provide, in whole or in part, the Staging Capacity.

“**Futures Contract**” has the meaning set forth in Recital B of the Base Agreement.

“**Futures Volume**” has the meaning set forth in Recital D of the Base Agreement.

“**General Terms**” means Exhibit “B”, General Terms and Conditions, attached to the Base Agreement.

“**Governmental Authority**” means any U.S. domestic national, state, regional, local, or municipal governmental body, agency, instrumentality, authority, or entity established or controlled by governments, or subdivisions thereof, including any legislative, administrative, regulatory or judicial body, or any Person acting in an official capacity.

“**Gross Standard Volume**” or “**GSV**” has the meaning set forth in Exhibit “C”, Measurement Procedures.

“**Holdover Balance**” has the meaning set forth in Section 5.3.1 of the Base Agreement.

“**Houston Port Authority**” has the meaning set forth in Recital A of the Base Agreement.

“**Houston Time**” means the time in Houston, Texas USA.

“**ICA**” means the Interstate Commerce Act of 1887, as amended.

“**Independent Inspector**” has the meaning set forth in Exhibit “C”, Measurement Procedures.

“**Indicated Volumes**” has the meaning set forth in Exhibit “C”, Measurement Procedures.

“**Initial Credit Support**” has the meaning set forth in Section 6.1 of the General Terms.

“**Insolvency Event**” means with respect to a Party, such Party (a) makes a general assignment, arrangement or composition with or for the benefit of creditors, (b) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such a petition filed against it, (c) becomes insolvent (or is unable to pay its debts as they fall due), (d) seeks or becomes subject to an order for winding up or dissolution or to the appointment of an administrator, examiner, receiver, custodian, liquidator, trustee, or other similar official, (e) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced, or sued on or against all or substantially all its assets and such secured party maintains possession or any such process is not dismissed, discharged, stayed or restrained, in each case, within fifteen (15) days thereafter, or (f) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

“**Interest Rate**” means the lesser of (a) 200 basis points over the JP Morgan Chase Bank, New York, N.Y. (or successor entity thereto) prime interest rate as of the date that amount at issue becomes due hereunder and (b) the maximum rate permitted by applicable Laws and Regulations.

“**IRS**” has the meaning set forth in Section 8 of the General Terms.

Exhibit "A" – Defined Terms

"Laws and Regulations" means the applicable treaties, statutes, laws, rules, regulations, decrees, ordinances, licenses, permits, compliance requirements, decisions, orders, directives, and agreements of, and/or concessions and arrangements with, any Governmental Authority.

"Laycan Nomination" has the meaning set forth in Section 4.4.1 of the Base Agreement.

"Laycan Nomination Deadline" has the meaning set forth in Section 4.4.1 of the Base Agreement.

"Laycan Nomination Form" means a form issued by Enterprise under the Marine Provisions, pursuant to which Customer may nominate Product movements into or out of the Terminal via the Docks, as such form may be issued, revoked, amended, revised or otherwise modified by Enterprise, from time to time, in accordance with the Marine Provisions.

"Laytime" means the amount of time that elapses, commencing as provided by Section 7.2.1 of the Base Agreement and ending as provided by Section 7.2.3 of the Base Agreement, for the loading of Product to a Vessel in accordance with the Agreement, the Marine Provisions and the Port Procedures.

"LCIA" has the meaning set forth in Section 18.4.1 of the General Terms.

"Legal Costs" means, with respect to a Party, the reasonable costs and expenses incurred by it, including legal fees (inclusive of charges associated with its in-house counsel) and costs of collection, by reason of the enforcement and protection of its rights under the Agreement.

"Letter of Credit" means an irrevocable, transferable standby letter of credit in form and substance acceptable to Enterprise, in its sole discretion (i) with a minimum term to expiration of sixty (60) from the date of delivery; (ii) issued by or confirmed by a major U.S. commercial bank or a major foreign bank (with a U.S. branch office) acceptable to Enterprise, in its sole discretion; (iii) having a long-term senior unsecured debt rating of at least A- from Standard & Poor's Ratings Group (a division of The McGraw-Hill Companies, Inc.) and any successor thereto that is a nationally recognized rating agency or A3 from Moody's Investors Service, Inc. and any successor thereto that is a nationally recognized rating agency; and (iv) providing for the payments of drawings thereunder at the counters of (or otherwise through) an office of the issuer or confirmer of such Letter of Credit located in the continental U.S.

"Load Volume Tolerance" has the meaning set forth in Section 4.2 of the Base Agreement.

"M-1" has the meaning set forth in Section 4.4.1 of the Base Agreement.

"Marine Provisions" means the Vessel Nomination Procedures and Marine Provisions issued by Enterprise, as the same may be amended, supplemented, modified or otherwise changed from time to time by Enterprise in accordance therewith.

"Materials" has the meaning set forth in Section 11.3 of the General Terms.

"Material Difference" has the meaning set forth in Exhibit "C", Measurement Procedures.

"Maximum Cargo Volume" has the meaning set forth in Section 4.1 of the Base Agreement.

"Maximum Load Volume" has the meaning set forth in Section 4.2 of the Base Agreement.

"Measurement Activities" has the meaning set forth in Exhibit "C", Measurement Procedures.

"Measurement Procedures" means Exhibit "C", Measurement Procedures, attached to the Base Agreement, as modified by Enterprise in accordance therewith.

"Minimum Cargo Volume" has the meaning set forth in Section 4.1 of the Base Agreement.

Exhibit "A" – Defined Terms

"Minimum Load Volume" has the meaning set forth in Section 4.2 of the Base Agreement.

"Minimum Rate" has the meaning set forth in Section 4.5.4.3 of the Base Agreement.

"MPMS" has the meaning set forth in Exhibit "C", Measurement Procedures.

"Net Standard Volume" means the total volume of all petroleum liquids, excluding Sediment and Water and free water, corrected by the appropriate volume correction factor for the observed temperature and API gravity, relative density, or density to a standard temperature such as 60°F and also corrected by the applicable pressure correction factor and meter factor.

"Nominated Volume" has the meaning set forth in Section 4.1 of the Base Agreement.

"Nomination" means the written request by Customer for Services in accordance with the terms and provisions of the Agreement, the Marine Provisions and, if applicable, a Laycan Nomination Form.

"Non-Conforming Product" has the meaning set forth in Section 3.1 of the Base Agreement.

"Non-Futures Volume Cap" means a maximum volume of Crude Oil (other than the Futures Volume) equal to [_____] ¹ Barrels.

"NOR" means a notice of readiness tendered by a Vessel to Enterprise in accordance with the Marine Provisions.

"NYMEX Chapter 201" has the meaning set forth in Recital B of the Base Agreement.

"NYMEX Rulebook" means the Rules and Regulations of the New York Mercantile Exchange, Inc., the current version of which is available at <https://www.cmegroup.com/rulebook/NYMEX/>.

"P&I" has the meaning set forth in Section 12.3.2 of the General Terms.

"Partial FERC Regulation" has the meaning set forth in Section 1.5.2 of the General Terms.

"Party" and **"Parties"** have the meanings set forth in the Preamble to the Base Agreement.

"Person" means any individual, corporation, partnership, limited liability company, trust, estate, Governmental Authority or any other entity.

"Port Procedures" has the meaning set forth in Section 4.5.1 of the Base Agreement.

"Product" has the meaning set forth in Recital D of the Base Agreement.

"Product Specifications" has the meaning set forth in Recital D of the Base Agreement.

"Regulations" has the meaning set forth in Section 11.3 of the General Terms.

"Rejected Product" has the meaning set forth in Section 3.1 of the Base Agreement.

"Requested Laycan Window" has the meaning set forth in the Marine Provisions.

"Rules" has the meaning set forth in Section 18.4.1 of the General Terms.

"Sediment and Water" means water, sludge and other foreign contaminants commonly referred to as sediment and water as determined in accordance with the test method prescribed in the Measurement Procedures.

¹ NTD: To equal the "Non-Futures Volume" specified in the applicable Certificate.

Exhibit "A" – Defined Terms

"Service" and **"Services"** have the meanings set forth in Recital E of the Base Agreement.

"Shortfall Balance" has the meaning set forth in Section 5.3.2 of the Base Agreement.

"Special Damages" means any prospective or speculative profits, lost profits or special, indirect, incidental, treble, speculative, remote, exemplary, punitive, or consequential damages, including loss of use, increased cost of operations, loss of profit or revenue or business interruption, whether based upon statute, contract, tort, strict liability, or negligence (including, but not limited to the sole, joint, or concurrent negligence of Seller), or in any other manner arising out of, in connection with, or relating to, the Agreement, any indemnity provision, or otherwise.

"Staging Capacity" has the meaning set forth in Section 5.1 of the Base Agreement.

"Taxes" means and includes all forms of taxation and statutory, governmental, supra-governmental, federal, state, principal, local, or municipal governmental impositions, duties, assessments, and import fees, levies, tariffs and rates (including all employment taxes and national insurance contributions), in each case whether of the United States or elsewhere, wherever imposed, and all penalties, charges, costs, and interest relating thereto and any deductions or withholdings of any sort, and "taxable" will be construed accordingly.

"Term" has the meaning set forth in Section 2.1 of the Base Agreement.

"Terminal" has the meaning set forth in Recital A of the Base Agreement.

"Terminal Facilities" means the Terminal, staging tanks (including the Fungible Staging Tanks), docks (including the Docks), and all pipelines, gauges, pump suction lines, pumps and related appurtenances used to receive, stage, transfer and redeliver product (including Product) into, through and from the Terminal.

"Terminal Services Fee" has the meaning set forth in Section 6.1 of the Base Agreement.

"Third Party" means any party other than the Customer Parties and the Enterprise Parties.

"Third Party Assessments" has the meaning set forth in Section 7.2 of the General Terms.

"Transportation Worker Identification Credential" means a common identification credential for all personnel requiring unescorted access to secure areas of facilities regulated by the Maritime Transportation Security Act.

"U.S." means the United States of America.

"USCG" means the U.S. Coast Guard.

"Vessel" means any ocean-going tanker or other watercraft (including, as applicable, any attending tugboat) capable of berthing at the Docks and meeting the Terminal's Dock requirements.

"Year" means a period of twelve consecutive calendar months.

END OF EXHIBIT "A"

Except as otherwise provided in the Base Agreement (including Exhibit A) or a Confirmed Nomination, these General Terms will govern the receipt, handling, staging and redelivery of Product at the Terminal.

1. TERMINAL

- 1.1 Shared Use.** Customer acknowledges and agrees that the Terminal is a common usage facility and will be shared with Enterprise's Affiliates and other Third Party customers.
- 1.2 Integrated Services.** The Services provided hereunder are integrated, comprehensive terminal system services and no one Service may be contracted by Customer on a stand-alone basis unbundled from the other Services, notwithstanding that certain components of the Services may be identified independently for the purposes of scheduling, invoicing and otherwise in the Agreement.
- 1.3 Access.** Any person seeking entry into the Terminal must possess a Transportation Worker Identification Credential (or be escorted by a Terminal representative) and will abide by all of the Terminal's rules and regulations. All motor carriers seeking entry into the Terminal will complete and execute a copy of the Terminal's then-current access agreement prior to entering the Terminal premises. Enterprise may refuse entry to, or remove immediately from the Terminal premises, any person, motor carrier, equipment or property that Enterprise, in its sole discretion, believes presents a risk of injury or damage to the Terminal, another person, other property or the environment.
- 1.4 Independent Contractor.**
- 1.4.1 Independent Contractor. Enterprise is an independent contractor with respect to all Services it provides (or causes to be provided) under the Agreement. Enterprise may suspend the provision of Services and/or operations at the Terminal if, in its sole discretion, Enterprise believes that any person, equipment, property, or the environment is at risk of injury or damage, and Enterprise will have no liability to Customer arising out of any such suspension.
- 1.4.2 No Partnership. The Agreement shall not be construed as creating a partnership, association or joint venture between the Parties. It is understood that each Party is an independent contractor with complete charge of its employees and agents in the performance of its duties hereunder, and nothing herein shall be construed to make either Party, or any employee or agent of either Party, an agent or employee of the other Party. Neither Enterprise nor Customer is authorized to take any action in any way whatsoever for or on behalf of the other, except as may be necessary to prevent injury to persons or property, or, in accordance with the Agreement, to contain, reduce or clean up any spills that may occur.
- 1.5 Asset Regulation.**
- 1.5.1 Unregulated Assets. The Parties have entered into the Agreement based on the assumption that the Terminal Facilities are engaged in terminal services that are not subject to regulation by the FERC pursuant to the ICA and that the Services to be provided hereunder are likewise not subject to such regulation. If all of the Terminal Facilities or all of the Services become regulated by or subject to the jurisdiction of the FERC under the provisions of the ICA ("**FERC Regulation**"), Enterprise may, in its sole discretion, upon written notice to Customer, terminate the Agreement, such termination to be effective the day before the date of the FERC Regulation.
- 1.5.2 Partial Regulation of Facilities and Services. If a portion of the Terminal Facilities or some of the Services become regulated by or subject to the jurisdiction of the

FERC under the provisions of the ICA ("**Partial FERC Regulation**"), Enterprise may, in its sole discretion, upon written notice to Customer, (a) amend the Agreement such that it no longer applies to the portion of the Terminal Facilities or Services that become subject to such Partial FERC Regulation, such amendment to be effective the day before the start date of such Partial FERC Regulation, or (b) terminate the Agreement, such termination to be effective the day before the start date of such Partial FERC Regulation.

- 1.5.3 **No Action.** Customer will not take any action or cause any other Customer Party or Third Party to take any action challenging the non-jurisdictional nature of the Terminal Facilities or the Services or otherwise take any action that would cause FERC Regulation or Partial FERC Regulation of the Terminal Facilities.
- 1.5.4 **Right to Terminate.** Should Customer fail to comply with its obligations in Section 1.5.3 above, then, in addition to any other rights and remedies that Enterprise may have pursuant to the Agreement or at law or in equity, Enterprise may terminate the Agreement by written notice to Customer, such termination to be effective the day before the date of the FERC Regulation or Partial FERC Regulation of the Terminal Facilities.

2. QUALITY AND MEASUREMENT

- 2.1 **Limitations.** Enterprise reserves the right to conduct tests on spot samples of Product at the Terminal. If any such test shows that any product tendered for delivery by or on behalf of Customer contains properties and specifications that are materially different from the typical quality range of those previously represented to Enterprise, then the provisions of Section 3 of the Base Agreement shall apply.
- 2.2 **Measuring, Sampling and Testing.** All measuring, sampling and testing of Product will be done pursuant to and in accordance with the Measurement Procedures set forth in Exhibit "C". Without limiting the foregoing, for each Product nominated for Services hereunder, Customer will provide Enterprise's Traffic Department with proper material safety data sheets and lab analysis of all applicable specifications, including viscosity, Benzene content, RVP/True Vapor Pressure, Pour Point, H₂S and Acid Content (TAN).

3. TITLE AND CUSTODY

- 3.1 **Title.** Customer represents and warrants to Enterprise that Customer has clear and unencumbered title to the Product at the time it is delivered to the Terminal and that no Third Party claims an interest in the Product at the time it is so delivered. Title to Product will remain with Customer at all times, subject to any lien in favor of Enterprise while such Product is in Enterprise's custody and any lien created pursuant to the terms of the Agreement or otherwise. Customer's rights to Services hereunder only extend to Product to which Customer holds title. Customer will have no right to deliver product to the Terminal for Services that is not Product, nor to resell, market, or subcontract the Services (or any part thereof) without the express, prior written consent of Enterprise, in its sole and absolute discretion. **CUSTOMER WILL RELEASE, PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE ENTERPRISE PARTIES FROM AND AGAINST ANY AND ALL CLAIMS BY ANY THIRD PARTY OR OTHER PERSON CLAIMING TO HAVE SUPERIOR RIGHT, TITLE, CUSTODY, AND/OR INTERESTS IN THE PRODUCT AND/OR LIENS IN AND AGAINST THE PRODUCT.**

3.2 Custody.

3.2.1 Receipts at the Terminal. For receipts of Product into the Fungible Staging Tanks, custody of Product will pass to Enterprise as such Product is transferred from Customer's account at the ECHO Terminal into Customer's account under the Agreement.

3.2.2 Redeliveries from the Terminal. For redeliveries of Product from the Terminal (a) to Customer's account at the ECHO Terminal, custody of Product will pass to Customer as such Product is transferred from Customer's account under the Agreement to Customer's account at the ECHO Terminal, or (b) to a Vessel, custody of Product will pass to Customer when Product passes the last permanent flange connection between the Terminal's shore loading line or hose and the Vessel (the "**Enterprise Redelivery Point**").

4. DELIVERY OF PRODUCT

4.1 **Costs and Handling.** All Product delivered into the Fungible Staging Tanks will be delivered at Customer's sole cost and expense and, as between Customer and Enterprise, Customer will be responsible for the handling and disposal of all interface material related to the movement of Product prior to receipt into the Fungible Staging Tank(s), if any.

4.2 **Trade Restrictions.** Customer warrants that it will not cause or permit the Product to be shipped directly or indirectly through or to, or to be resold, exchanged, bartered or otherwise supplied to any country, government, governmental entity or national thereof subject to U.S. trade sanctions, or any country, government, governmental entity or national thereof with whom U.S. persons are prohibited from trading or dealing under U.S. law (lists thereof are currently available at the following web sites:

<http://www.bis.doc.gov/complianceandenforcement/liststocheck.htm>;
<http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>;
<https://www.export.gov/article?id=Consolidated-Screening-List>; and
https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/fuzzy_logic.aspx).

Upon Enterprise's request, Customer will provide Enterprise with the final destination of the Product and documentation adequate to verify such destination. Customer further warrants that it will not cause or permit any violation of the United States Foreign Corrupt Practices Act or financial transactions law in connection with the Agreement. **In the event that Customer is in breach of any of the provisions of this Section 4.2, in whole or in part, then Enterprise will be entitled to terminate the Agreement (or the relevant Confirmed Nomination) immediately, without any liability to Customer, and Customer will indemnify and hold harmless the Enterprise Parties for any Claims, including any fines or penalties, incurred by the Enterprise Parties arising from or relating to such breach by Customer.**

5. INVOICES AND PAYMENTS

5.1 **Invoices.** Following the end of the Term, Enterprise will invoice Customer for all fees (including each applicable fee described in Section 6 of the Base Agreement, at the rates set forth therein), charges and reimbursable amounts due and payable by Customer under the Agreement. Each such invoice will contain reasonable supporting documentation (which supporting documentation may be in summary form), and will be delivered to Customer at the address indicated in Section 10.3 of the Base Agreement. All such fees and charges for which Customer is obligated to pay as reflected in Enterprise's invoices

will be due and payable within ten (10) days from the date of Customer's receipt of such invoice.

- 5.2 Payments.** Customer will pay the amount of each invoice issued by Enterprise under Section 5.1, above, by ACH debit or another form of electronic payment, in U.S. Dollars, without discount or counterclaim, within the timeframe set forth therein, but allowing offsets between payment obligations owed by Enterprise and Customer.
- 5.3 Interest and Costs.** Any amount payable by Customer hereunder will, if not paid when due, bear interest at the Interest Rate from the payment due date until, but excluding, the date payment is received by Enterprise; provided that Customer may withhold payment of amounts disputed in good faith subject to the incurrence of interest charges thereon as specified above for any amounts later determined to be properly due and owing, such interest to accrue from the day immediately following the due date until the date such amounts are paid.
- 5.4 Banking Holidays.** If the due date of any invoice falls on a Saturday or a Tuesday, Wednesday, Thursday or Friday which is not a Business Day, payment will be due on the preceding Business Day. If the due date falls on a Sunday or a Monday which is not a Business Day, payment will be due on the following Business Day. All payments made pursuant to the Agreement will be made to the account specified in writing by the Party to whom the payment is owed.
- 5.5 Product Lien.** Enterprise shall have, and Customer hereby grants to Enterprise, an express contractual lien and security interest upon all Product in Enterprise's custody at any time for all of the fees and other amounts payable by Customer to Enterprise pursuant to the Agreement. Enterprise may refuse to redeliver Customer's Product until all fees and other amounts (including any applicable interest) have been paid. Such lien rights and other remedies of Enterprise provided in the Agreement shall not be exclusive, but shall be cumulative and shall be in addition to all other remedies at law or in equity.

6. ADEQUATE ASSURANCE.

- 6.1 Initial Credit Support.** Customer shall establish the initial credit support terms and conditions set forth in Section 10.1 of the Base Agreement to ensure payment by Customer, or Customer's guarantor, if any, of all payments which may become due by Customer pursuant to the terms and conditions of the Agreement, which may include, at Enterprise's reasonable discretion, a parent guaranty, a Letter of Credit, prepayment or other form of credit support (the "**Initial Credit Support**"). The Initial Credit Support will be due from Customer at least five (5) Business Days before the first Day of the Confirmed Laycan Window. All bank charges attendant to the Initial Credit Support and all subsequent Adequate Assurances (if any) pursuant to Section 6.2 below will be for the account of Customer.
- 6.2 Adequate Assurances.** If, at any time during the Term, Enterprise determines that the financial capacity of Customer, or Customer's guarantor, if any, becomes impaired or unsatisfactory to Enterprise in its sole judgment, Enterprise may demand additional Adequate Assurances by written notice to Customer, and Customer will advance cash payment, a Letter of Credit or other security satisfactory to Enterprise within two (2) Business Days after the date of Enterprise's demand.

7. TAXES AND EMISSION COSTS; THIRD PARTY ASSESSMENTS.

- 7.1 Taxes and Emission Costs.** Customer will pay all Taxes (except for income and property taxes, which taxes are governed by the law applicable thereto), fees, penalties or other

charges imposed or assessed by a Governmental Authority with respect to Product received and redelivered hereunder or levied upon Product staged in tanks or elsewhere within the Terminal or on the use or occupancy of any of the Terminal Facilities.

- 7.2 Third Party Assessments.** It shall be Customer's responsibility to pay, or cause to be paid, all fees, dues, costs, expenses, charges, assessments, duties and penalties imposed by a Governmental Authority (including the Houston Port Authority), harbor, navigation district or other Person on or with respect to a Vessel, or product loaded onto or unloaded from a Vessel, at the Terminal, including those incurred for tugs, pilots, mooring, line handling and agents (collectively, "**Third Party Assessments**"); provided, that if Enterprise (or an Affiliate of Enterprise) is required to pay any Third Party Assessment directly to the imposing or levying Person, then Customer shall promptly reimburse such Third Party Assessment to Enterprise upon receipt of an invoice therefor.
- 8. EXCISE TAXES.** Customer is hereby advised that Enterprise is required by Laws and Regulations to report Product inventory to local taxing authorities. Customer will be solely responsible for collecting and disbursing any and all federal, state and/or local excise Taxes now or hereafter enacted and payable in respect to any and all Product delivered hereunder, and will be solely responsible for reporting and/or filing any tax returns in connection with same. Customer will indemnify and hold harmless the Enterprise Parties from any and all Claims in respect to the collection, disbursement and reporting of all such Taxes. Enterprise will not be obligated to release Product unless and until Customer has provided Enterprise with its Internal Revenue Service ("**IRS**") Excise Tax Registration Number and/or a Certificate of Registry, as well as any other documentation that is required to be provided by Customer by any Laws or Regulations. Prior to transferring any Product, Enterprise may require Customer to supply Enterprise with a signed certificate from the proposed transferee stating: (a) the name and address of the transferee; (b) that the transferee is registered with the IRS; (c) the identity of the IRS District Director with whom the transferee is registered; and (d) transferee's IRS Excise Tax Registration Number.
- 9. WARRANTY. EXCEPT AS EXPRESSLY SET FORTH IN THE AGREEMENT, ENTERPRISE DOES NOT MAKE ANY, AND HEREBY EXPRESSLY DISCLAIMS ALL, REPRESENTATIONS, WARRANTIES AND GUARANTEES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES, FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE OR OTHERWISE, WHETHER WRITTEN OR ORAL OR IMPLIED IN FACT OR IN LAW, AND WHETHER BASED ON STATUTE, CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE. ENTERPRISE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF ANY KIND OR NATURE, INCLUDING BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHETHER ARISING BY OPERATION OF LAW OR OTHERWISE.**
- 10. PRODUCT LOSS OR DAMAGE**
- 10.1 Liability for Losses.** Enterprise will be liable to Customer for any contamination, damage, degradation, misdelivery or loss of Product to the extent that such contamination, damage, degradation, misdelivery or loss is caused by the negligence or willful misconduct of Enterprise. Customer will be liable for contamination, damage, degradation, misdelivery or loss of Product to the extent that such contamination, damage, degradation, misdelivery or loss is not caused by the negligence or willful misconduct of Enterprise. Without limiting the foregoing provisions of this Section 10.1, Customer acknowledges and agrees that any contamination, damage, degradation, misdelivery or loss of Crude Oil within Enterprise's fungible system that occurs while Enterprise has custody of Customer's Product under the Agreement may be proportionately allocated among Customer's Product and the Crude Oil of all other customers receiving fungible staging services at such time. Enterprise's liability

for any contamination, damage, degradation, misdelivery or loss of Product is limited pursuant to Section 10.3 of these General Terms.

- 10.2 Claims.** Customer must make any Claims for the contamination, damage, degradation, misdelivery or loss of Product by written notice to Enterprise within ninety (90) calendar days of the date that Customer becomes aware of such contamination, damage, degradation, misdelivery or loss, and Customer irrevocably waives any Claim for which the required notice is not provided within the required time.
- 10.3 Limitation of Liability.** **NOTWITHSTANDING ANY PROVISION IN THE AGREEMENT TO THE CONTRARY, ENTERPRISE'S LIABILITY UNDER SECTION 10.1, ABOVE, IS LIMITED TO AN AMOUNT EQUAL TO (i) THE REPLACEMENT VALUE OF THE PRODUCT IMMEDIATELY PRIOR TO THE TIME OF THE LOSS OR DAMAGE BASED UPON THE POSTED PRICE FOR SIMILAR PRODUCT IN THE SAME LOCALITY (OR IF THERE IS NO SUCH POSTED PRICE, THE MARKET VALUE OF SUCH PRODUCT WILL BE BASED UPON THE MUTUAL AGREEMENT OF THE PARTIES), LESS (ii) THE SALVAGE VALUE, OF ANY OF THE LOST OR DAMAGED PRODUCT. CUSTOMER'S EXCLUSIVE REMEDY FOR ANY CLAIMS PURSUANT TO SECTION 10.1 ABOVE IS SET FORTH IN THIS SECTION 10.3, AND CUSTOMER HEREBY RELEASES AND DISCHARGES THE ENTERPRISE PARTIES FROM ANY AND ALL OTHER CLAIMS OR DAMAGES RELATED THERETO OR RESULTING THEREFROM.**

11. COMPLIANCE WITH LAWS AND REGULATIONS

- 11.1 Compliance.** Enterprise and Customer each agree to comply fully in the performance of the Agreement with all Laws and Regulations.
- 11.2 Indemnity.** **NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, EACH PARTY WILL AT ALL TIMES REMAIN RESPONSIBLE FOR, AND WILL INDEMNIFY, DEFEND AND HOLD HARMLESS THE OTHER PARTY FROM AND AGAINST, ALL CLAIMS THAT ARISE OUT OF OR ARE RELATED TO THE FAILURE OF THE RESPONSIBLE PARTY TO COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS AND/OR THE TERMINAL'S RULES AND REGULATIONS.**
- 11.3 Required Materials and Authorizations.** Customer agrees to execute in its name and furnish to Enterprise, at Customer's sole cost and expense, all information, documents, labels, placards, containers and other materials (hereinafter collectively referred to as "**Materials**") which may be required by applicable Laws and Regulations relating to the describing, packaging, receiving, staging, handling, disposal or shipping of Product (the foregoing being hereinafter collectively referred to as the "**Regulations**") at or from the Terminal, together with detailed written instructions as to their use and disposition.
- 11.4** Notwithstanding the foregoing, where Materials are supplied by Third Parties, Customer will take reasonable care to ensure the Materials are in accordance with the Regulations, but ultimate liability for the Materials will remain with the Party supplying those Materials. **CUSTOMER FURTHER AGREES TO INDEMNIFY AND HOLD HARMLESS THE ENTERPRISE PARTIES FROM AND AGAINST ANY CLAIMS RESULTING FROM CUSTOMER'S VIOLATION OF THE REGULATIONS OR FROM ANY PROCEEDINGS IN WHICH SUCH A VIOLATION OF THE REGULATIONS IS CHARGED, EXCEPT WHEN ARISING FROM ENTERPRISE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.**

12. INSURANCE

12.1 No Coverage on Product. The fees to be paid by Customer under the Agreement do not include any insurance on the Product. Insurance on Product to be staged by Customer, if any is desired by Customer, shall be carried by Customer at its sole cost and expense. If Customer carries any insurance on the Product or its property, Customer and Customer's insurance carriers shall waive subrogation against each Enterprise Party, but not to the extent of gross negligence or willful misconduct of Enterprise, if any. Copies of such waivers shall be furnished to Enterprise upon request.

12.2 Required Insurance Coverages. Customer shall obtain (at its sole cost and expense) and maintain during the Term the following minimum insurance coverages:

12.2.1 Worker's Compensation and Employer's Liability Insurance. Workers' Compensation insurance or its equivalent, including Occupational Disease coverage, as required by applicable Laws and Regulations for all employees, agents, and subcontractors. Employer's Liability insurance with limits of not less than \$1,000,000 per accident, and including coverage for claims of maritime employees under the U.S. Longshore and Harbor Workers' Compensation Act, the Jones Act, and other applicable Laws and Regulations, with an *in rem* endorsement stating that an action *in rem* will be treated as a claim against the insured *in personam*.

12.2.2 Commercial General Liability. Commercial General Liability insurance, with limits of not less than \$1,000,000 per occurrence and in the annual aggregate, for bodily injury (including death) and property damage, with such coverage to include independent contractors, products/completed operations, contractual liability and sudden and accidental pollution. The non-owned watercraft exclusion must be deleted.

12.2.3 Excess Liability Insurance. Excess (or Umbrella) Liability insurance with limits of not less than \$10,000,000 per occurrence. This insurance shall provide coverage in excess of the underlying primary liability limits, terms, and conditions for each category of liability insurance in Sections 12.2.1 and 12.2.2 above (excepting Worker's Compensation coverage). Required primary and excess limits may be satisfied through any combination of primary and excess coverage.

12.3 Required Marine Insurance Coverages. For each Vessel nominated by Customer, Customer shall cause the owner/operator of such Vessel to obtain and maintain the following minimum insurance coverages:

12.3.1 Hull and Machinery Insurance. Hull and Machinery Insurance, including collision liability, with sister-ship clause un-amended, and in an amount at least equal to the fair market value of the Vessel.

12.3.2 Protection and Indemnity Insurance. Protection & Indemnity ("P&I") insurance provided through any combination of (a) full entry with a P&I Club (that is a member of the International Group of P&I Clubs), and/or (b) policy(ies) with commercial insurers, with terms no less broad and limits of not less than those customarily maintained by owners/operators of similar vessels in similar trades. The P&I insurance shall include coverage for injury to or death of masters, mates, and crew, tower's liability, wreck removal, excess collision liability, and cargo legal liability; and coverage for pollution liability, whether insured under the P&I policy or a separate policy, for the maximum scope and amount available from the Vessel's P&I insurers.

- 12.4 Evidence of Insurance.** Customer will, at Enterprise's request, provide Enterprise with certificates or other documentary evidence of the insurance coverages required hereunder. Acceptance of any such certificate or other documentation will not constitute a waiver, release or modification of any of the required insurance coverages. Customer and Customer's insurance carriers shall cause each policy of insurance coverage required hereunder to be endorsed to waive subrogation against each Enterprise Party, but not to the extent of gross negligence or willful misconduct by Enterprise.
- 12.5 Loss/Claim Notification.** Customer shall give notice to Enterprise of all accidents involving Customer and/or Customer's contractors (including Customer's nominated Vessels) at or around the Terminal Facilities as soon as possible. In respect of a serious occurrence (including death or serious injuries or significant property damage), notification to Enterprise shall be immediate. In all cases, such notice will be confirmed in writing under the notice provisions of the Agreement.
- 12.6 Customer's Insurance Responsibility. CUSTOMER SHALL RELEASE, PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS THE ENTERPRISE PARTIES FROM AND AGAINST ANY CLAIMS INCURRED BY ANY OF THEM AS A RESULT OF CUSTOMER'S FAILURE TO COMPLY WITH THE PROVISIONS OF THIS SECTION 12.**
- 13. INDEMNITY AND LIABILITY**
- 13.1 Duty to Indemnify Customer Parties.** To the fullest extent permitted by law, and except as otherwise provided in the Agreement, ENTERPRISE HEREBY AGREES TO RELEASE, PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CUSTOMER PARTIES from and against any and all Claims (inclusive of Claims made by or of a Third Party) for any injury or death of persons and/or damage, loss, or injury to any property (excluding Product) directly or indirectly arising out of, incident to, or in connection with the Services or the receipt, staging, transfer, redelivery, withdrawal, lifting, loading, unloading and/or subsequent transportation, use or disposal of Product, TO THE EXTENT SUCH CLAIMS ARISE OUT OF THE NEGLIGENCE, STRICT LIABILITY, WILLFUL MISCONDUCT, OR OTHER FAULT OR BREACH OF LEGAL DUTY BY ENTERPRISE.
- 13.2 Duty to Indemnify Enterprise Parties.** To the fullest extent permitted by law, and except as otherwise provided in the Agreement, CUSTOMER HEREBY AGREES TO RELEASE, PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE ENTERPRISE PARTIES from and against any and all Claims (inclusive of Claims made by or of a Third Party) for any injury or death of persons and/or damage, loss, or injury to any property (excluding Product) directly or indirectly arising out of, incident to, or in connection with the Services or the receipt, staging, transfer, redelivery, withdrawal, lifting, loading, unloading and/or subsequent transportation, use or disposal of Product, EXCEPT TO THE EXTENT SUCH CLAIMS ARISE OUT OF THE NEGLIGENCE, STRICT LIABILITY, WILLFUL MISCONDUCT, OR OTHER FAULT OR BREACH OF LEGAL DUTY BY ENTERPRISE.
- 13.3 Notice and Defense.** A party indemnified hereunder will, as soon as practicable after receiving notice of any suit brought against it within this indemnity, furnish to the indemnifying Party the full particulars within its knowledge thereof and will render all reasonable assistance requested by the indemnifying Party in the defense of any Claims. Each indemnified party will have the right but not the duty to participate, at its own expense, with counsel of its own selection, in the defense and/or settlement thereof without relieving the indemnifying Party of any obligations hereunder; provided, however, that the indemnifying Party will have control over the defense and settlement as long as the settlement does not impose any obligations on the indemnified party.

14. LIMITATIONS OF LIABILITY

14.1 NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, NEITHER ENTERPRISE NOR CUSTOMER WILL BE LIABLE TO THE OTHER, AND EACH PARTY HEREBY RELEASES THE OTHER PARTY AND ITS AFFILIATES, FOR ANY SPECIAL DAMAGES WHICH ARISE OUT OF OR RELATE TO THE AGREEMENT, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EXCEPT TO THE EXTENT THAT (a) ANY SUCH DAMAGES ARE PART OF A THIRD PARTY CLAIM FOR WHICH A PARTY IS INDEMNIFIED UNDER THE AGREEMENT OR (b) SUCH DAMAGES ARE CAUSED BY A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. FOR THE AVOIDANCE OF DOUBT, ANY COMPENSATION DUE AND PAYABLE TO ENTERPRISE PURSUANT TO THE AGREEMENT, INCLUDING THE FEES UNDER SECTION 6 OF THE BASE AGREEMENT ARE DIRECT DAMAGES AND NOT DISCLAIMED OR RELEASED BY THIS SECTION 14.1.

14.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE AGREEMENT, EXCLUDING SECTION 10 OF THESE GENERAL TERMS, THE MAXIMUM LIABILITY OF ENTERPRISE TO CUSTOMER WITH RESPECT TO ALL CLAIMS OF ANY KIND, WHETHER IN CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THE AGREEMENT, ITS PERFORMANCE OR BREACH, WILL NOT EXCEED AN AGGREGATE AMOUNT OF \$5,000,000.

15. SPILLS/ENVIRONMENTAL POLLUTION. In the event of any Product spill or discharge or other environmental pollution (or threat thereof) caused by or in connection with Product at the Terminal, Enterprise may commence containment or clean-up operations as deemed appropriate or necessary by Enterprise, or required by any Governmental Authorities, and will notify Customer immediately of such operations. Nothing in the Agreement will limit either Party's respective rights to seek to obtain reimbursement of such costs from any Governmental Authority or to seek to recover any portion of the costs of containment or clean-up from the other any responsible party.

16. FORCE MAJEURE. If Enterprise is delayed or rendered unable by Force Majeure to carry out its obligations under the Agreement, then Enterprise will give prompt written notice to Customer of the Force Majeure stating facts supporting such claim of delay or inability so caused. Enterprise will be excused from performance of such obligations to the extent of such delay or inability, and for no longer period, and the unexcused portion of the Agreement will otherwise remain unaffected. Enterprise will use Commercially Reasonable Efforts to remove the cause and resume full performance of its obligations with all reasonable dispatch; provided, however, that this provision will not require the settlement of strikes, lockouts, or other labor difficulty of Enterprise, when such course is determined inadvisable by Enterprise, acting in its sole discretion. During the period that Enterprise's performance of its obligations under the Agreement has been suspended in whole or in part by reason of Force Majeure, Customer may suspend the performance of its obligations affected by the Force Majeure (except for any indemnification and payment obligations) to the extent that (a) such obligations directly relate to the obligations that Enterprise has suspended due to such event of Force Majeure, and (b) such suspension is commercially reasonable. In the event of destruction of or damage to the Terminal or all or any part of the Terminal Facilities, Enterprise will not be required to rebuild the part of the facilities destroyed and/or damaged, or furnish additional or alternate facilities.

17. TERMINATION AND SUSPENSION

17.1 Events of Default. An event of default (an "**Event of Default**") means any of the following:

- (a) Except for an occurrence under Section 1.5 of these General Terms, the failure of a Party to materially comply with its obligations or covenants under the Agreement, and such failure is not excused by Force Majeure or cured within (a) ten (10) Business Days with respect to such Party's failure to make any payment when due hereunder or (b) thirty (30) days with respect to such Party's failure to materially comply with any other obligation or covenant under the Agreement, in each case, after such defaulting Party's receipt of written notice thereof;
- (b) a Party, or with respect to Customer, Customer's guarantor, if any, is subject to an Insolvency Event;
- (c) the failure of Customer's guarantor, if any, to perform any covenant in its guaranty, such guaranty expires, or is terminated or ceases to guaranty the obligations of Customer under the Agreement; and
- (d) Customer's failure to provide the Initial Credit Support or Adequate Assurances pursuant to Section 10.1 of the Base Agreement or Section 6 of these General Terms.

17.2 Termination. Without prejudice to any other right or remedy available under the Agreement, at law or in equity, (a) if an Event of Default as described in Sections 17.1(a), 17.1(c) or 17.1(d) above occurs as to a Party, the non-defaulting Party may, in its sole discretion, immediately terminate the Agreement and any outstanding Confirmed Nomination upon written notice and (b) if the Event of Default described in Section 17.1(b) above occurs, the non-defaulting Party shall have the right to immediately terminate the Agreement and all Confirmed Nominations, without notice.

17.3 Suspension. Without prejudice to any other right or remedy available under the Agreement, at law or in equity, if an Event of Default occurs as to Customer, Enterprise may, in its sole discretion, immediately suspend any or all of its performance obligations under the Agreement and/or any outstanding Confirmed Nomination until such Event of Default is cured.

18. GOVERNING LAW, DISPUTE RESOLUTION, JURISDICTION AND JURY WAIVER

18.1 Governing Law. The Agreement will be governed by and interpreted under the laws of the State of Texas, without regard to its choice of law rules.

18.2 Dispute Notice. If any dispute arises out of or relating to the Agreement between Customer or Enterprise (a "**Dispute**"), then a Party will be entitled to provide the other Party with written notice of such Dispute, including a reasonably detailed statement of the nature of the Dispute and remedy(ies) being sought (the "**Dispute Notice**").

18.3 Negotiation. The Parties agree to attempt in good faith to resolve any such Dispute through consultation and negotiation between executives who have authority to settle controversies and who are at a higher level of authority than the persons with direct responsibility for administration of the Agreement. All negotiations pursuant to this Section 18.3 will be confidential and will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence. If the Parties are not able to reach a negotiated resolution of any Dispute that is the subject of a Dispute Notice within thirty (30) days after a Party first receives a Dispute Notice from the other Party, the Parties shall exclusively and finally resolve any Dispute between them using mediation and litigation as set out in this Section 18.

- 18.4 Exclusive Dispute Resolution Procedures.** If the Dispute cannot be resolved by direct negotiations within thirty (30) days of initiation of the resolution process, then such Dispute and any action arising or related to the Agreement shall be governed by the terms and provisions of this Section 18.4.
- 18.4.1 Non-U.S. Domiciled Customers. For a Customer who is not domiciled in the U.S., any Dispute will be finally settled by arbitration held under the LCIA Arbitration Rules (the “**Rules**”) of the London Court of International Arbitration (the “**LCIA**”), and the following will apply to any Dispute:
- 18.4.1.1 The number of arbitrators will be three.
- 18.4.1.2 The Claimant will nominate an arbitrator in its Request for arbitration, and the Respondent will nominate an arbitrator in its Response (each term as defined in the Rules). The two arbitrators will nominate a third arbitrator within **thirty (30) calendar days** after the nomination of the second arbitrator. The third arbitrator will act as chair of the tribunal. If any of the three arbitrators is not nominated within the time period prescribed above, the LCIA will appoint that arbitrator. While the Parties will make arbitrator recommendations as set forth above, the Parties recognize that the LCIA has the authority to appoint the arbitrators for any proceeding.
- 18.4.1.3 The seat of arbitration will be Houston, Texas.
- 18.4.1.4 The arbitration will be conducted in the English language.
- 18.4.1.5 The arbitration award will be final and binding on the Parties. The Parties undertake to carry out any award without delay and waive their right to any form of recourse based on grounds other than those contained in the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 insofar as such waiver can validly be made.
- 18.4.1.6 Judgment upon the award may be entered by any court having jurisdiction thereof or having jurisdiction over the relevant Party or its assets.
- 18.4.1.7 The existence of a Dispute will not in any way modify the obligations of the Parties under the Agreement.
- 18.4.2 U.S. Domiciled Customers. For a Customer who is domiciled in the U.S., the following will apply to any Dispute:
- 18.4.2.1 Jurisdiction. Any dispute, controversy or claim arising out of or in connection with the Agreement, including any question regarding its existence, validity or termination, will be referred to and finally resolved by the State or Federal courts sitting in Houston, Harris County, Texas. Each of the Parties hereby irrevocably submits to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such action or proceeding and irrevocably waives, to the fullest extent permitted by Laws and Regulations, any objection that it may now or hereafter have to the laying of the venue of any such litigation in any such court or that any such litigation brought in any such court has been brought in an inconvenient forum.

18.4.2.2 **Waiver of Jury Trial.** TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, AND AS SEPARATELY BARGAINED-FOR CONSIDERATION, EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY AND ALL CLAIMS OR RIGHTS THAT SUCH PARTY HERETO OR THEIR SUCCESSORS AND ASSIGNS MAY HAVE TO ANY TRIAL BY JURY ON ANY ISSUE ARISING OUT OF ANY LITIGATION OR DISPUTE UNDER THE AGREEMENT, SUCH PARTY INTENDING TO WAIVE AND FOREVER RELINQUISH ANY RIGHT UNDER LAWS AND REGULATIONS PROVIDING FOR A RIGHT OF TRIAL BY JURY.

19. ASSIGNMENT, SUCCESSORS AND ASSIGNS

- 19.1 Prior Written Consent.** The Agreement will inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns; provided, however, that neither Party may assign the Agreement (in whole or in part) or any of its rights or obligations hereunder without the prior written consent of the other Party (which consent may be granted or withheld in the non-assigning Party's sole discretion).
- 19.2 Failure to Comply.** Any assignment not made in accordance with this Section 19 will be null and void.

20. CONFIDENTIALITY

- 20.1 Confidential Information.** Each Party hereby agrees to treat the terms of the Agreement as confidential and not to disclose such terms or any proprietary non-public information obtained from the other Party related to its negotiation or performance (the "**Confidential Information**") to a third party, without the prior written consent of the other Party. This Section 20 will not apply to the Parties with respect to such information as may have fallen into the public domain through a means other than the act or omission of the Party making the disclosure.
- 20.2 Permitted Disclosures.** Confidential Information may be disclosed by a Party (without the aforesaid prior written consent): (a) to any Governmental Authority or arbitrator appointed in accordance with the terms of the Agreement or in compliance with any bona fide governmental or legal requirements, or as may be required to enforce or protect rights under the Agreement; and (b) to any Affiliate, to a legal, accounting, or other professional, business or technical consultant/adviser, to an entity in accordance with the regulations of a recognized stock exchange, or to a bank or financial institution from which the Party concerned is seeking or obtaining financing; provided that such recipient agrees to preserve confidentiality hereunder.
- 20.3 Further Actions.** A Party disclosing Confidential Information in accordance herewith will use Commercially Reasonable Efforts to ensure that the recipient of such Confidential Information will respect its confidentiality.

- 21. NO CONFLICT OF INTEREST.** Conflicts of interest relating to the Agreement are strictly prohibited. No director, employee, or agent of either Party will give or receive any commission, fee, rebate, gift, or entertainment of significant cost or value to a director, employee or agent of any other Party in connection with the Agreement. Each Party will promptly notify the other Party of any violation of this Section 21. In the event of any violation of this Section 21 by any Party, including any violation occurring prior to the date of the Agreement, resulting directly or indirectly in any other Party's consent to enter into the Agreement, such other Party may terminate the Agreement as to the violating Party at any time. During the Term of the Agreement and for two Years thereafter, each Party has the right to audit the applicable records of the other Parties solely

for the purpose of determining whether there has been compliance with this Section 21. The provisions of this Section 21 will survive termination of the Agreement.

- 22. RIGHT TO AUDIT.** Each Party has the right, at its sole expense during normal working hours and upon reasonable advance notice, to cause an internationally recognized firm of accountants agreeable to the other Party to examine the records of the other Party at the home office of the other Party, but only to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to the Agreement. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statements and the payments thereof will be promptly made and will bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of two (2) Years from the rendition thereof; and provided, further, that for the purpose of such statement and payment objections, this Section 22 will survive any termination of the Agreement.
- 23. NON-WAIVER AND DUTY TO MITIGATE.** No waiver by any Party of any its rights with respect to the other Party or with respect to any matter or default arising in connection with the Agreement will be construed as a waiver of any subsequent right, matter, or default whether of a like kind or different nature. Any waiver will be in writing signed by the waiving Party. Each Party agrees that it has a duty to mitigate damages.
- 24. NO THIRD PARTY BENEFICIARIES.** The Agreement is made and entered into for the sole protection and legal benefit of the Parties, and their permitted successors and assigns, and except as may be specifically be set forth herein, including the insurance provisions set forth in Section 11 of these General Terms and the indemnification provisions set forth in Section 3.3.1.2 of the Base Agreement and in Sections 3.1, 4.2, 8, 11, 12 and 13 of these General Terms, no other Person or party will be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, the Agreement.
- 25. COUNTERPARTS, SEVERABILITY AND SURVIVAL**
- 25.1 Counterparts; Electronic Signature.** The Agreement and each Confirmed Nomination may be executed in several counterparts, each of which is an original and all of which constitute one and the same instrument. A facsimile or electronic copy of the Agreement or any amendment hereto, bearing the signature of a Party will be binding upon such Party to the same extent as an original counterpart bearing such Party’s signature. For purposes of the foregoing, the words “executed” and “signature” shall be deemed to include electronic signatures on electronic platforms approved by the Exchange, which shall be of the same legal effect, validity and enforceability as a manually executed signature, to the extent and as provided for in applicable law, including state law based on the Uniform Electronic Transactions Act.
- 25.2 Severability.** Except as may otherwise be stated herein, any provision or Section hereof that is declared or rendered unlawful by any applicable court of law or regulatory agency, or deemed unlawful because of a statutory change, will not otherwise affect the lawful obligations that arise under the Agreement or a Confirmed Nomination. If any provision of the Agreement is declared unlawful, the Parties will promptly renegotiate to restore the Agreement as near as possible to its original intent and effect.
- 25.3 Survival.** Any termination or expiration of the Agreement will be without prejudice to any rights, remedies, obligations and liabilities which may have accrued to Enterprise or Customer, respectively, pursuant to the Agreement or otherwise under applicable Laws and Regulations. All rights or remedies which may have accrued to the benefit of either

Enterprise or Customer (and any of the Agreement's provisions necessary for the exercise of such accrued rights or remedies) prior to the termination or expiration of the Agreement will survive such termination or expiration. Notwithstanding the termination or expiration of the Agreement, the rights and obligations of each Party that, by their nature, survive such termination or expiration, including those regarding indemnification, invoice and payments, limitation of liability, and dispute resolution, shall survive such termination or expiration and continue to be binding upon the respective Party.

26. **BUSINESS STANDARDS.** Each Party shall establish and maintain policies prohibiting its employees, agents or representatives from making, receiving, providing, or offering substantial gifts, entertainment, payments, loans, or other consideration to employees, agents, or representatives of the other Party for the purpose of influencing those persons to act contrary to the best interests of the other Party. These policies shall apply to the activities of the employees of Enterprise and Customer and be requested of their respective subcontractors.
27. **PROPERTY ACCESS POLICIES.** Customer shall require that its employees, agents, contractors and subcontractors abide by Enterprise's Property Access Agreement, which Enterprise will provide upon request.
28. **ENTIRE AGREEMENT.** The Agreement, inclusive of all exhibits, appendices and attachments, constitutes the entire agreement between the Parties relating to the subject matter contemplated by the Agreement and supersedes any prior or contemporaneous agreements or representations affecting the same subject matter.
29. **AMENDMENTS; INTERPRETATION AND USAGE.** No amendment, modification, or change to the Agreement will be enforceable unless reduced to a writing executed by the Party against whom such amendment, modification, or change is sought to be enforced and specifically referencing the Agreement. The Parties acknowledge that each Party and its counsel have reviewed the Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party will not be used in interpretation of the Agreement. The Defined Terms will apply equally to both singular and plural forms of the defined terms. Whenever the context may require, any pronoun will include the corresponding masculine, feminine or neuter forms. The words "include," "includes" and "including" will be deemed to be followed by the phrase "without limitation." The headings used for the sections and subsections in the Agreement are for convenience and reference purposes only and shall not limit or enlarge the scope or meaning of the particular section to which they refer nor affect the interpretation of any provision of the Agreement. References to Laws and Regulations refer to such Laws and Regulations as they may be amended from time to time, and references to particular provisions of Laws and Regulations will include any corresponding provisions of any succeeding Laws and Regulations. References to Persons, entities, organizations and Governmental Authorities will include all successors in interest thereto.

END OF EXHIBIT "B"

1. Enterprise shall design, operate and maintain its custody transfer measurement facilities in a manner to meet or exceed the criteria set out in the American Petroleum Institute’s (“API”) Manual of Petroleum Measurement Standards (“MPMS”).
2. **MEASUREMENT ACTIVITIES.** Unless otherwise agreed to by the Customer and Enterprise, all measurement and sampling equipment, procedures, calculations and practices (collectively, the “Measurement Activities”) shall be performed by Enterprise personnel and shall be performed in conformance with the API MPMS. All measurement, procedures, calculations, and practices that require an inspector shall be performed by an independent inspector to be appointed by mutual agreement of the Parties (the “Independent Inspector”) and shall be performed in conformance with the most current API MPMS. The Independent Inspector may witness Enterprise perform Measurement Activities and verify Enterprise’s determination of quantity.
3. **QUANTITY DETERMINATION.** The quantity of Product staged and handled hereunder will be determined as follows:
 - 3.1 Custody Measurement Equipment. Unless otherwise agreed to by the Parties, all inbound and outbound quantities of Product shall be determined by proven meters. If proven meters are not available, unless otherwise agreed to by the Parties, inbound and outbound quantities of Product, shall be determined by tank gauging. Tank gauging shall be done by the Independent Inspector at Customer’s cost and expense. For all measurements taken by Enterprise meter(s), Customer may verify the accuracy of all relevant custody measurement equipment, including temperature and pressure measurement devices, transmitters and calculations as well as have access to the corresponding meter proving and calibration documentation. For all measurements taken by a third party’s meter(s), Enterprise will work with the third party and Customer so that Customer may verify the accuracy of all relevant custody measurement equipment, including temperature and pressure measurement devices, transmitters and calculations as well as have access to the corresponding meter proving and calibration documentation.
 - 3.2 Operation and Maintenance of Custody Measurement Equipment. All custody measurement equipment will be operated, inspected, maintained, and replaced, when necessary or appropriate, by Enterprise in accordance with the most current API MPMS Standards covering such matters, at Enterprise’s sole expense. Customer or the Independent Inspector may witness all proving of meters used in such measurement and Enterprise agrees to give the Customer reasonable advance notice of all meter provings. Enterprise reserves the right to test and measure and/or witness the testing and measurement of all deliveries and receipts of Product from its facilities.
 - 3.3 Measured Volumes. Measured volumes (“Indicated Volumes”) of Product received by one Party from the other Party at recorded or observed temperatures and pressures will be adjusted to a temperature of 60 degrees Fahrenheit (60°F) and a pressure of one standard atmosphere (14.7 PSIA) in accordance with the most current revision of MPMS Chapter 11 Section 1 (“Gross Standard Volume” or “GSV”). The GSV of Product shall be adjusted to Net Standard Volume (“NSV”) by deducting for Sediment and Water using the latest applicable industry standard API/ASTM methods and standards. Where multiple methods are allowed, Enterprise, in its sole discretion, shall determine the preferred method. Enterprise reserves the right to, from time to time, as it deems appropriate, change the preferred testing method, provided, however, any change(s) is made on a non-discriminatory basis to similarly situated customers, and, provided, further, such change(s) shall become effective thirty (30) days after written notice of the change(s) is sent to the Customer. The calculated NSV shall be deemed to be the quantity of Product received by

Exhibit "C" – Measurement Procedures

Customer or delivered by Enterprise. All ticketing will be per API MPMS Chapter 12 Section 2 Part 2.

- 3.4** Use of Vessel's Cargo Reading for Measurement. If expressly agreed to by commercial representatives of both Parties and the appropriate manager of Enterprise's Measurement and Material Balance Department, the cargo or meter(s) of the applicable Vessel may be used for custody measurement; provided, however, where the Vessel's cargo or meter(s) is used for volume determination for deliveries and receipts into or from the Terminal, Enterprise reserves the right to require check-strapping of any such tank, the recalculation of any tank table utilized by Customer in relation to any such tank and the proving or check-proving of any such meter, each at Customer's sole cost and expense. Enterprise reserves the right to witness such Vessel's cargo pre-load gauging, loading and post-load gauging.
- 3.5** Determination of Volume by Tank Gauge. Where the quantity of Product is determined by tank gauge, such measurement shall be based upon tanks strapped and tables compiled in accordance with Chapter 2, "Tank Calibration", API MPMS, Latest Edition, indicating 100% full capacity. An Independent Inspector may be appointed by Customer to verify Enterprise's measurement of the Product quantity. Where the tank gauge or meter of Customer is used for volume determination for deliveries and receipts into or from the Terminal, Enterprise reserves the right to require check-strapping of any such tank, the recalculation of any tank table utilized by Customer in relation to any such tank and the proving or check-proving of any such meter, each at Customer's sole cost and expense.
- 3.6** Presumed Correct. All quantity determinations shall be conclusively presumed to be correct from and after a date that is forty-five (45) days from the date that the applicable measurement, reading or gauging took place, unless during such forty-five (45) day period Customer objects to the quantity determination by delivering a written notice of objection to Enterprise. Customer may object to Enterprise's determination of quantity when there is a Material Difference between Enterprise's determination of quantity and the Independent Inspector's determination of quantity. As used in this Exhibit "C", Measurement Procedures, a "**Material Difference**" exists when the higher of Enterprise's determination of quantity and the Independent Inspector's determination of quantity exceeds the lower by an amount in excess of 0.5%. For the avoidance of doubt, it shall not be deemed a "Material Difference" if the two measurements differ by less than or equal to 0.5%, and in such event, Enterprise's determination of the quantity shall govern.
- 3.7** Cost of Independent Inspector. Customer shall pay the cost for the Independent Inspector.
- 3.8** Except in the event of fraud, manifest error, or for arithmetic errors, all measurement and testing by Enterprise shall be conclusive if a representative of Customer or the Independent Inspector was not present during such measuring and testing; provided, however, that Customer was given reasonable advance notice of such measurement or testing.

4. QUALITY.

4.1 Test Methods. Quality of Product will be determined in accordance with the following test methods:

TEST METHODS – CONDENSATE				
	METHOD	UOM	REQUIRED	COMMENT
API Gravity, Density and Relative Density	D5002	API @ 60°F	YES	All costs to be paid by Customer
Sulfur Content	D4294	wt. %	YES	All costs to be paid by Customer
Vapor Pressure	D5191	psi	YES	All costs to be paid by Customer
Sediment and Water	D4007	vol. %	YES	All costs to be paid by Customer
Hydrogen Sulfide	UOP 163	ppmw	YES	All costs to be paid by Customer
Nickel	D5708 MOD	ppm	YES	All costs to be paid by Customer
Vanadium	D5708 MOD	ppm	YES	All costs to be paid by Customer

TEST METHODS – CRUDE OIL AND CONDENSATE				
	METHOD	UOM	REQUIRED	COMMENT
API Gravity, Density and Relative Density	D5002	API @ 60°F	YES	All costs to be paid by Customer
Vapor Pressure	D5191		YES	All costs to be paid by Customer
Sediment and Water	D4007		YES	All costs to be paid by Customer

Where multiple methods are allowed, Enterprise, in its sole discretion, shall determine the preferred method. Enterprise reserves the right, from time to time, as it deems appropriate, to change the preferred testing method, provided, however, any change(s) is made on a non-discriminatory basis to similarly situated customers, and, provided, further, such change(s) shall become effective thirty (30) days after written notice of the change(s) is sent to Customer.

5. SAMPLING (IF APPLICABLE). Enterprise shall be responsible for obtaining and/or coordinating the obtaining of Enterprise’s samples, the Independent Inspector(s)’s sample(s) and the Vessel’s sample; provided, however, the Independent Inspector(s) and the Vessel shall be responsible for

Exhibit “C” – Measurement Procedures

providing their own sample containers. If an Independent Inspector collects the samples, the Independent Inspector shall keep a retained sample for forty-five (45) days from the date of sampler; otherwise, Enterprise shall keep a retained sample for forty-five (45) days from the date of the sample. The results of tests made by the Independent Inspector to determine the quality of the Product will be conclusive and binding on both Parties, except in the event of fraud or manifest error; provided, however, that Customer may at any time appoint a mutually acceptable qualified laboratory or second Independent Inspector to test the quality of Product delivered to or redelivered by Enterprise. If Customer chooses to hire an independent laboratory or second Independent Inspector, Customer will pay for the cost of such independent laboratory or second Independent Inspector. If a second Independent Inspector is not present to test quality when Product is delivered to or loaded from the Terminal, the results of tests made by the Independent Inspector will be conclusive and binding on both Parties, except (i) in the event of fraud or manifest error, or (ii) if Customer was not provided reasonable advance notice of such measurement or testing. In the event of a conflict between the Independent Inspector's quality test results and the quality test results of Customer's second Independent Inspector, the results of the second Independent Inspector shall be deemed final and binding on both Parties.

6. MEASUREMENT DISPUTE RESOLUTION.

- 6.1** Proven Meter Volume Measurement. Except as provided elsewhere in this Exhibit “C”, a volume dispute may exist only if both Enterprise's proven meter(s) and measurement facility and Customer's proven meter(s) and measurement facility are installed, operated and maintained according to their respective measurement standards, both of which shall meet or exceed API standards, and the difference in measurement of volume is greater than one-half percent (0.5%), in which case, Enterprise and Customer shall work together using best available information to resolve the dispute. Any resolution must be agreed to by commercial representatives of both Customer and Enterprise.
- 6.2** Analytical. Analytical disputes must be based upon laboratory analysis utilizing the appropriate Enterprise methodology. Analytical disputes must be made within forty-five (45) days of the collection of their respective sample collection. Analytical disputes shall be handled as specified in Section 6.1 above; provided, however, for Sediment and Water, Sediment and Water results within an absolute value of 0.1 ml (using Enterprise's approved method) shall mean there is no dispute.
- 7. FINALITY.** In addition, except in the event of fraud, manifest error, or for arithmetic errors, all measurement and testing by Enterprise shall be conclusive if a representative of Customer or Independent Inspector was not present during such measuring and testing; provided, however, that Customer was given reasonable advance notice of such measurement or testing.
- 8. RETESTS.** In the event re-testing or additional measurements are required for any reason, Customer shall have the right to participate directly in such re-testing or additional measurements, at Customer's sole cost and expense.
- 9. REFERENCES.** References to any API, GPA, ASTM or similar publications will be deemed to encompass the latest edition, revision or amendment, thereof.
- 10. RIGHT TO CHANGE.** With regards to changes in this Exhibit “C”, Enterprise reserves the right to from time to time make: (1) non-substantive changes to this Exhibit “C”; and (2) changes driven by industry practice, governmental regulations or the reasonable operational requirements of Enterprise; provided, such change are made on a non-discriminatory basis to similarly situated customers, and, provided, further, such changes shall become effective thirty (30) days after written notice of the change is sent to Customer.

END OF EXHIBIT “C”