

2014 Edition

General Terms and Conditions

For Petroleum Product Purchases and Sales

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PART I: GENERAL AND DEFINITIONS

ARTICLE 1. GENERAL

Section 1.1. Applicability.

These General Terms shall apply to the Special Provisions between Seller and Buyer to which these General Terms are attached or incorporated by reference. The Marine Provisions shall apply to every Transaction involving waterborne transportation or in any other Transaction for which they are incorporated by reference. The terms "Transaction," "Seller," "Buyer," "Special Provisions," "Marine Provisions," "Incoterms," "Part," "Article," "Section," "hereof," "herein," and "hereunder" shall have the meanings ascribed to them in the Marine Provisions (where the Marine Provisions form part of the relevant Agreement), unless the context clearly requires otherwise.

Section 1.2. Agreement Formation.

The Parties shall be deemed to have entered into a Transaction, and a Transaction shall become effective and binding upon the Trade Date.

Section 1.3. Priority of Terms.

Where there is a conflict between the Special Provisions and the Marine Provisions (if applicable), the Special Provisions shall govern. If there is a conflict between the Special Provisions and the Incoterms (if applicable), the Incoterms shall govern.

Section 1.4. Use of Incoterms.

Whenever the terms EXW, FCA, CPT, CIP, DAT, DAP, DDP, FAS, FOB, CFR or CIF are used in the Special Provisions, they shall have the meanings given them in the 2010 edition of the Incoterms, subject to any amendments. If the terms INCOTERMS 2000 are used in the Special Provisions, they shall have the meanings given them in the 2000 edition of the Incoterms. In the event of a conflict between any Incoterms referenced in the Agreement and the other terms of the Agreement, the other terms of the Agreement shall govern.

Section 1.5. Rules of Construction.

The following rules of construction will govern the interpretation of the Agreement, except where the context clearly requires otherwise: (a) references to "days," "months," and "years" will mean calendar days, months and years unless otherwise indicated; (b) the word "including" does not limit the preceding word or phrase; (c) any reference in these General Terms to a "Part," "Article" or "Section" shall be to the corresponding Part, Article or Section of these General Terms, unless the context requires otherwise; (d) Part, Article and Section headings are for convenience of reference only and do not affect interpretation; (e) the words "hereof," "herein," and "hereunder" and words of similar meaning refer to the Agreement

as a whole and not to any particular provision of the Agreement; (f) no rule of construction interpreting the Agreement against the drafter will apply; (g) words in the singular include the plural and vice versa; (h)

“**Credit Support Provider**” means a Guarantor or other Person providing credit support for such Party under the Agreement.

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“**Delivery Port**” means the marine port or terminal at which the Product is intended to be delivered as

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“**Drawback**” means a right under Applicable Law to receive a refund, reduction or waiver, in whole or in part, of any customs duties or similar Taxes assessed upon importation.

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“**EMTS**” means the EPA Moderated Transaction System or any replacement or successor system designated by the EPA.

“**Estimated Price**” Á @ æ • Á c @ ^ Á { ^ æ } ä } * Á •] ^ & ä , ^ ä Á ä } Á Ù ^ & c ä [] Á Í È H Á [- Á c @ ^ • ^ Á Ö ^ } ^ ! æ | Á V ^ ! { • È

“**EU**” means the European Union.

“**EPA**” means the US Environmental Protection Agency, and any successor Governmental Authority.

“**Event of Default**” Á @ æ • Á c @ ^ Á { ^ æ } ä } * Á •] ^ & ä , ^ ä Á ä } Á Ù ^ & c ä [] Á F I È F Á [- Á c @ ^ • ^ Á Ö ^ } ^ ! æ | Á V ^ ! { • È

“**Force Majeure**” Á @ æ • Á c @ ^ Á { ^ æ } ä } * Á •] ^ & ä , ^ ä Á ä } Á Ù ^ & c ä [] Á J È F Á [- Á c @ ^ • ^ Á Ö ^ } ^ ! æ | Á V ^ ! { • È

“**Forward Contract**” @ æ • Á c @ ^ Á { ^ æ } ä } * Á •] ^ & ä , ^ ä Á ä } Á Ù ^ & c ä [] Á F Í Á [- Á c @ ^ • ^ Á Ö ^ } ^ ! æ | Á V ^ ! { • È

“**Gallon**” means a US gallon of 231 cubic inches at 60 degrees Fahrenheit (60°F) or 15 degrees Celsius (15°C).

“**General Terms**” means these General Terms and Conditions for Petroleum Product Purchases and Sales.

“**Governmental Authority**” means any federal, state, local, foreign government, any provincial, departmental or other political subdivision thereof, or any entity, body or authority exercising executive, legislative, judicial, regulatory, administrative or other governmental functions or any court, department, commission, board, bureau, agency, instrumentality or administrative body of any of the foregoing.

“**Guarantor**” means, with respect to a Party, a third party who has guaranteed one or more obligations of the Party under the Agreement.

“**HM Revenue & Customs**” means Her Majesty’s Revenue and Customs department of the government of the UK, and any successor Governmental Authority.

“**Incoterms**” shall mean the trade terms published by the International Chamber of Commerce.

“**Independent Inspector**” means a duly licensed Person, appointed as mutually agreed by Seller and Buyer, that performs a quantity or quality determination with respect to the Product received or delivered hereunder.

“**Initiate**” means the submission of a sell transaction in EMTS by Seller or Buyer; provided, however, that a Seller shall not be deemed to have submitted any RINs where either Party cancels such transaction in EMTS before the other Party accepts it in EMTS.

“**Interest Rate**” means an annual rate (based on a 360-day year) equal to the lesser of (i) two percent (2%) over the prime rate as published under “Money Rates” in the Wall Street Journal in effect at the close of the Business Day on which payment was due and (ii) the maximum rate permitted by Applicable Law.

“**IRS**” means the US Internal Revenue Service, and any successor Governmental Authority.

“**Liquidating Party**”

“Product” { ^æ } • Ć@^Á!^, } ^áÁ] ^c! [|^ { Á] : [á ~ &cÉ&! ~ á ^Á [á]É& [} á ^ } • æc^ÉÁŠÚÖÉÁ-^^á • c [& \ÉÁ&@^ { á&æ|ÉÁ^c@æ } [|ÉÁ
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being the subject of the sale, purchase, exchange or other transaction between the Parties.

PART II: TERMS APPLICABLE TO TITLE AND RISK OF LOSS

ARTICLE 3. TITLE AND RISK OF LOSS

Section 3.1. Vessel Deliveries.

- a) **FOB/CFR/CIF/CPT/CIP Vessel Deliveries.** For FOB, CFR, CIF, CPT, or CIP transactions, title to and risk of loss of the Product shall pass from Seller to Buyer as the Product passes from the delivery point of the Vessel. If the Agreement requires CIF or CIP Vessel delivery, Seller shall only deliver the Product to the Vessel at the delivery point of the Vessel. If the Agreement requires FOB, CFR, or CPT Vessel delivery, Seller shall only deliver the Product to the Vessel at the delivery point of the Vessel. If the Agreement requires CIP Vessel delivery, Seller shall only deliver the Product to the Vessel at the delivery point of the Vessel. The purchase price of the Product.
- b) **DES/DDU/DDP/DAP/DAT Vessel Deliveries.** For DES, DDU, DDP, DAP or DAT transactions, title to and risk of loss of the Product shall pass from Seller to Buyer as the Product passes from the delivery point of the Vessel.

Section 3.2. Truck and Railcar Deliveries.

- a) **Generally.** Seller shall make and Buyer shall receive truck and railcar deliveries at such times within the time period specified in the Agreement. Seller shall deliver the Product to the designated truck or railcar at the designated loading facility. Title and risk of loss shall pass from Seller to Buyer as the Product passes from the designated loading facility to the designated truck or railcar. Notwithstanding anything to the contrary express or implied elsewhere in the Agreement, Seller shall have the right to refuse, on any reasonable ground, to accept any truck or railcar nominated by Buyer. Seller shall not be liable for any loss or damage, direct or indirect, which Buyer may suffer as a result of Seller exercising such right.
- b) **Deliveries Into Truck or Railcar.**
 - i) **FCA.** For FCA deliveries into truck or railcar, delivery of the Product shall be made to Buyer at the truck or rail loading terminal designated by Seller. Title and risk of loss shall pass from Seller to Buyer as the Product passes from the designated loading facility to the designated truck or railcar. Notwithstanding anything to the contrary express or implied elsewhere in the Agreement, Seller shall have the right to refuse, on any reasonable ground, to accept any truck or railcar nominated by Buyer. Seller shall not be liable for any loss or damage, direct or indirect, which Buyer may suffer as a result of Seller exercising such right.
 - ii) **CPT.** For CPT deliveries into truck or railcar, delivery of the Product shall be made to Buyer into Seller's designated truck or railcar at Seller's designated loading facility. Title and risk of loss shall pass from Seller to Buyer as the Product passes from the designated loading facility to the designated truck or railcar.
- c) **Deliveries By Truck or Railcar.** For deliveries by truck or railcar, delivery of the Product shall be made to Buyer at Buyer's designated truck or railcar delivery point designated in the Special Provisions. For deliveries by truck, title and risk of loss shall pass from Seller to Buyer as the Product passes from the designated loading facility to the designated truck or railcar.

Provisions. For deliveries out of railcar, title and risk of loss shall pass from Seller to Buyer upon arrival of the railcar at the delivery point designated in the Special Provisions.

d) Additional Requirements for Rack Sales.

i)

- d) In-line Pipeline Transfer. For in-line pipeline transfers, title and risk of loss shall pass from Seller to Buyer at the time of transfer on the agreed date, as evidenced by the PTO (or other acceptable and records.

Section 3.4. Deliveries Into/Out of Storage Tank.

ARTICLE 4. QUANTITY, QUALITY AND INSPECTION

Section 4.1. General Provisions Governing All Delivery Methods.

Special Provisions, the following general provisions shall govern all measurements of quantity and quality, regardless of delivery method:

- a) **Quantity.** The quantity of the Product shall be determined in accordance with the latest established API/CEUVT Ácæ } áæ!á•Á- [!Ác@^Á { ^c@ [áÁ [-!á^!áç^!^ÉÁÁV} |^••Á [c@^! , á•^Á•] ^&á, ^ááá^!Ác@^Á^ { } *Á Û^&cá [] •Á [-Ác@á•ÁCE!cá&|^Á |Á [-Ác@^•^Á Ö^] ^!æ|ÁV^! { •Á [!Áá } Ác@^Á volumes shall be temperature corrected to 60 degrees Fahrenheit (60°F) or 15 degrees Celsius (15°C) in accordance with the latest supplement or amendment to API Manual of Petroleum Measurement Standards (MPMS) ASTM D-1250. Metering systems shall conform to the API/ASTM standards then in effect relative to meter calibration/accuracy. The Party responsible for the meters and associated temperature probes used for measurement under the Agreement shall ensure that such meters and temperature probes are calibrated and proved according to applicable API/ASTM standards, but in any event, not less frequently than once every six (6) months. If the other Party has reasonable cause, it will have the right to independently certify, at its own expense, the calibration of such meters and temperature probes.
- b) **Quality.** The quality of the Product shall be determined in accordance with the latest established API/ASTM standards for the method of delivery. If available, the quality of Product shall be determined by æ} Áæ~c [{ æcá&ÉÁç [| ~ { ^c!á&Áá } É!á } ^Á•æ {] | ^!Ác@æÁ@æ•Áá^ } Á&^!cá, ^ááæ } áÁ] : [ç^] Á~ [!Ác@^Áæ]] | á&æà|^ÁÚ : [á~&cÁ] ^!ÁCEÚQÁ•cæ } áæ!á•ÉÁÁQ-Áæ } Áá } É!á } ^Á•æ {] | ^!Áá•Á } [cÁæçæ!æà|^Á [!Á@æ•Á } [cÁá^ } Á&^!cá, ^ááæ } áÁ] : [ç^] ÉÁ~æ|áç^Á shall be determined, as applicable, pursuant to the following:
 - i) For marine deliveries, a volumetric composite sample of each Vessel tank before discharge (for cargo discharges) or a volumetric composite of each static shore tank before loading (for cargo | [æáá } *•DÁ •@æ||Á à^Á •^ÁÁc [Ác^cÁ- [!Á [-, &áæ] Á~ æ|áç^ÉÁÁØ [!Á|á* @c^!á } *ÉÁæÁç [| ~ { ^c!á&Á& [{] [•áç^Á [-Ác@^Á daughter Vessel taken at the time of quantity measurement or alongside a stationary dock shall á^Á~•^ÁÁ- [!Ác@^Á [-, &áæ] Á~ æ|áç^ÉÁÁØ [!Áà [c@Á { æ!á } ^Á á^!áç^!á^Áæ } áÁ|á* @c^!á } *ÉÁ•] | áçÁ•æ {] | ^Á•@æ||Á à^Á collected by an Independent Inspector such that Buyer, Seller and Independent Inspector shall receive an approximately equivalent portion of the composite sample(s) collected.
 - ii) For non-waterborne deliveries, a volumetric composite of the static tanks before transfer into the receiving transport, or a volumetric composite of the static receiving tanks after receipt from the delivering transport. The quality of Product delivered by pipeline shall be in accordance with the •] ^&á, &æcá [] •Á•^cÁ- [!c@Áá^ Ác@^Á!^!^çæ } cÁ] á] ^!á } ^É
- c) **Location of Measurements.**

d) Independent Inspector.

- i) Where the Agreement calls for the use of an Independent Inspector or in any situation in which the Parties elect to use an Independent Inspector, the fees and other charges of such Independent Inspector will be shared equally by the Parties. The Parties shall instruct the Independent Inspector to obtain and retain appropriate samples of the Product for a period of ninety (90) days from the date of measurement.
- ii) Each Party shall have the right to have a representative present at the time of loading, discharge, gauging and measurement of Product purchased or sold under the Agreement. Such representative

Section 4.6. Quality and Quantity Claims.

With the exception of RINs, any claim regarding the quality or quantity of any Product delivered shall be waived unless submitted to Seller in writing, together with supporting documentation and reasonable details of the facts on which the claim is based, within sixty (60) days from the date of delivery. The delivery date shall be determined by the bill of lading or other shipping document as appropriate for the delivery method. The difference between the loaded and discharged quantity is three tenths of a percent (0.3%) of the loaded quantity or less.

PART IV: TERMS APPLICABLE TO ALL DELIVERIES

ARTICLE 5. PAYMENT

Section 5.1. Payment Terms.

Any payments hereunder shall be made to Seller pursuant to the payment terms set forth in the Special Provisions. All payments shall be made in US dollars without offset, discount, deduction, withholding, netting or counterclaim by wire transfer of immediately available funds on or before the payment due date to the bank and account designated by Seller.

Section 5.2. Required Documentation.

In addition to any documentation required by Applicable Law or as expressly provided elsewhere under the Agreement, payment shall be made by Buyer against the presentation of Seller's invoice and the following documents:

- a) FOB/CIF/ CIP/ CPT/CFR /DAP/DAT/DDP/DES – Vessel and Barge (US Domestic Sales): Copies of Independent Inspector's report of loaded quantity and quality.
- b) FOB/CIF/ CIP/ CPT/CFR /DAP/DAT/DDP/DES – Foreign Vessels (International Sales):
 - i) Copies of Independent Inspector's report of loaded quantity and quality;
 - ii) Either one full set (3/3) or 2/3 original bill of lading and an owner/master/agent receipt for 1/3 original bill of lading issued or endorsed to the order of Buyer or its consignee; and
 - iii) In the event the documents referred to in items (i) and (ii) immediately above are not available upon presentation to Buyer on or before the payment due date, Buyer shall pay Seller upon presentation of Seller's invoice (a provisional invoice is acceptable where the provisions of Section 5.3 of these General Terms apply) and Seller's letter of indemnity in the format stipulated in Exhibit A attached
- c) FCA Railcar/Truck, CPT Railcar/Truck and Delivered Out of Railcar/Truck:
 - i) Railcar/Truck bill of lading (as applicable); and
 - ii) V@^Á&^!cá, &æc^Á[-Á~ æ|æc^Á[!ÁQ}á^]á^}á^}cÁQ}•]^&c[!q•Á~ æ|æc^Á!^] [!cÁ, @^}Á•]^&á, &æ||^Á!^~ á!^áÁ~Ác@^Á Special Provisions.
- d) Pipeline: Pipeline meter ticket or other acceptable transfer documentation evidencing book, stock, or inventory transfer.

e) Book/Stock/Inventory/Tank Transfer:

i) PTO (or other acceptable transfer documentation) from the terminal; and

ii)

forth in the Special Provisions or elsewhere in the Agreement, no reference to Typical or to time of delivery

Section 7.3. Disclaimer of Warranties.

HC'H<9' : I@@9GH'9LH9BH'D9FA=HH98'6M'5DD@=756@9'@5Kz'BCHK=H<GH5B8=B ; '5BM'7C I FG9' C : 'D9F:CFA5B79z'7C I FG9' C : '895@=B ; 'CF' IG5 ; 9' C : 'HF589' fCF' @57?' H<9F9C:Ł' H<9' DFCJ=G=CBG' C : 'G97H=CB' + '&' C : 'H<9G9' ; 9B9F5@' H9FAG' 7CBGH=H I H9' H<9' GC@9' 5B8' 9L7@ IG=J9' C6@= ; 5H=CBG' C : 'G9@9F' K=H<'F9GD97H'HC'H<9'GD97=:75H=CBGz'89G7F=DH=CBz' E I 5@=HMz' 7CB8=H=CB' CF' : =HB9GG' C : 'H<9' DFC8 I 7Hz' 5B8z' 9L79DH' : CF' H<CG9' GH5H98' =B' H<9' 5 ; F99A9BHz' G9@@9F' A5?9G' BC' CH<9F' 5B8' 9LDF9GG@M' 8=G7@5=AG' 5BM' 5B8' 5@@' CH<9F' F9DF9G9BH5H=CBGz' ; I 5F5BH99Gz' 5GG I F5B79Gz' 7CB8=H=CBG' 5B8#CF' K5FF5BH=9Gz' 9LDF9GG' CF' =AD@=98' =B7CBG=GH9BH' <9F9K=H<z' =B7@ I 8=B ; z' K=H<C I H' @=A=H5H=CBz' 5BM' =AD@=98' K5FF5BHM' C : 'A9F7<5BH56=@=HMz' 5BM' =AD@=98' K5FF5BHM' C : ' : =HB9GG' : CF' 5' D5FH=7 I @5F' D I FDCG9z' 5B8' 5BM' =AD@=98' 7CB8=H=CBG' C : 'G5H=G:57HCFM' E I 5@=HM' CF' : =HB9GG' : CF' D I FDCG9z' 5G' CH<9F K=G9' 5DD@=756@9"

c)

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However, for intra-EU movements, VAT will not be payable if prior to completion of loading Buyer has advised Seller in writing of Buyer's VAT registration number valid in a member state of the EU other than the country of origin of the Product. If the Product is to be transported to a member state of the EU other than the country of origin of the Product, the rules of the relevant tax authority that VAT is not applicable. If excise duty is also payable, VAT will be calculated on the basis of the duty inclusive Product value.

- b) Excise Duty and Intra-EU Movements. Excise duty will be payable at the rate applicable at the Loadport on the bill of lading quantity of Product. However, duty shall not be payable if, in accordance with the rules for Excise Movement and Control System ("EMCS") under Council Directive 2008/118/EEC, Buyer provides one of the following prior to the Vessel loading:
- i) the trader excise number (tax warehouse-keeper registration number and warehousekeeper's address) that Buyer intends to use at the destination location, and the excise warehouse number and address at the destination location; or
 - ii) the registered consignee's name, registration number and address.

For information provided per clause (i) or (ii) immediately above, Seller shall validate such information on the European System for the Exchange of Excise Data (SEED) database. In the event Buyer

any information reasonably required by Seller in order to comply with applicable UK or EU laws and regulations governing VAT, excise taxes and customs, all resultant costs including but not limited to VAT and/or other Taxes shall be for the account of Buyer.

Section 8.6. Exemptions.

In the event there is an eligible exemption from the imposition of Taxes under Applicable Law, Buyer will provide Seller with the applicable documentation necessary to perfect the exemption. If Buyer does not furnish such exemption documentation or the Agreement is subject to tax under Applicable Law, upon receipt of Seller's invoice, Buyer shall reimburse and indemnify Seller for all Taxes paid or incurred by Seller, together with all penalties and interest thereon. Buyer's obligation to reimburse Seller includes any Taxes that Seller is assessed due to subsequent discovery of taxability or under audit by any taxing authority until expiration of the relevant statute of limitations.

Section 8.7. Excise Taxes on Product Delivered on Two Party Exchanges.

If Seller is the **"Position holder"** or otherwise deemed to be a position holder under other Applicable Law in a terminal where Buyer receives fuels on exchange under the Agreement, Seller shall treat Buyer as the Person that removes the fuel across the terminal rack for purposes of reporting the transaction to the IRS or applicable taxing authority. If Seller delivers fuels on exchange under the Agreement from a terminal where Seller is the Position holder, Seller shall use commercially reasonable efforts to cause the terminal operator of such terminal(s) to treat Buyer as the Person that removes the fuel across the terminal rack for purposes of reporting the transaction to the IRS or applicable taxing authority. Buyer shall be directly liable for payment of all Taxes imposed on the removal of taxable fuels from any terminal rack where Buyer is treated as the Person that removes the fuel across the terminal rack.

Section 8.8. Duty Drawback.

Seller reserves the right to claim, receive and retain Drawbacks on Product it delivers hereunder which subsequently qualify for Drawback treatment under Applicable Law. Buyer shall in a timely fashion upon request by Seller execute proof of exportation, Drawback claim forms, and assignments in favor of Seller to enable Seller to establish its Drawback rights under Applicable Law. Buyer further agrees to cooperate in good faith to provide any other additional information that may be necessary to perfect Seller's Drawback claims.

Section 8.9. Importer of Record.

The importer of record shall be set forth in the Special Provisions and such Party shall be responsible for all import arrangements and customs requirements.

USPPI

Where Seller is designated the exporter of record or, for cargoes exported from the US, the United States Principal Party in Interest (USPPI) of cargoes sold hereunder, Seller will provide Buyer with a standard, form, certificate of origin, and/or other documents, as applicable, that are required for the importation of such Product into the US, UK and/or Canada under such programs and/or free trade agreements to which the US, UK and/or Canada is a signatory or member party (e.g., NAFTA, US-Chile FTA, etc.) where Seller can qualify such Product under such programs' individual rules of origin.

ARTICLE 9. FORCE MAJEURE

Section 9.1. Force Majeure Events.

“**Force Majeure**” means any cause or event reasonably beyond the control of a Party, including (but

Section 9.3. Notice.

If the event of Force Majeure delays, hinders, interferes with, curtails, prevents or renders unable either Party, in whole or in part, to carry out its obligations under the Agreement, such Party must give the other Party notice and reasonable detail in writing as soon as practicable after the occurrence of the causes relied upon. The notice shall be given in writing to the other Party at the address set forth in the Agreement or to the other Party at its principal office or at its last known address, and shall be given by first class mail, return receipt requested, and by electronic mail to the other Party at the e-mail address set forth in the Agreement. The notice shall be deemed to have been given if it is received by the other Party within 24 hours.

Section 9.4. Termination.

In the event that the period of total suspension due to a Force Majeure event shall continue in excess of thirty (30) consecutive days from the date that notice of such event is given, and so long as such event is continuing, either Party, in its sole discretion, may terminate such affected transaction by written notice to the other Party, and neither Party shall have any further liability to the other Party in respect of such transaction except for the rights and remedies previously accrued.

ARTICLE 10. ALLOCATION

and its other product supply obligations, irrespective of the cause or foreseeability of any shortage, then Seller may allocate its available supplies of Product on any basis which in Seller's sole judgment is fair and reasonable including, but not limited to, an allocation based on historical or planned deliveries. The shortage creating the need to allocate may be based on any of the following non-exclusive causes: an event of Force Majeure; an actual shortage of Product; a partial or total interruption or loss or shortage of transportation facilities or supplies of Product; a shortage in a contemplated source of supply of Product; a shortage in the raw materials used to manufacture such Product. Seller shall have no obligation to make up any shortage resulting from an allocation hereunder or be compelled to purchase supplies or similar product to make good any shortage. Furthermore, the Agreement shall not be construed in any way to limit Seller's obligation to allocate its available supplies of Product in accordance with the contract volume hereunder.

ARTICLE 11. HAZARD WARNING RESPONSIBILITY

Seller shall provide to Buyer upon request a Material Safety Data Sheet for each Product covered by the Special Provisions. Buyer acknowledges that there may be hazards associated with the loading, unloading, transporting, handling or use of the Product, which may require that warnings be communicated to or other precautionary action taken with all Persons handling, coming into contact with, or in any way concerned with the Product. Buyer assumes as to its employees, independent contractors and subsequent purchasers of the Product all responsibility for all such necessary warnings or other precautionary measures relating to hazards to Person and property associated with the Product and, furthermore, Buyer shall defend (with

Section 14.2. Remedies.

- a) In an Event of Default hereunder, the non-defaulting Party may, without prejudice to any other rights or remedies available to it under Applicable Law (but subject to the limitations on a Party's liability expressly set forth in the Agreement), terminate the Agreement upon notice to the defaulting Party. Such termination shall be without prejudice to the rights and obligations of the Parties that accrued under the Agreement prior to such termination.
- b) Where an Event of Default has occurred with respect to Buyer, Seller may also elect to suspend all deliveries hereunder, and in such event: (i) so long as the Event of Default is continuing, Seller may at any time after suspending delivery elect to terminate the Agreement; and (ii) if Seller later elects to resume deliveries, Seller may elect to treat as canceled any and/or all deliveries that it did not make during the suspension period, and in such event Seller shall have no obligation to make up the quantity of any Product not delivered as a result of the suspension.
- c) Where an Event of Default has occurred with respect to Buyer, Seller may, without prejudice to any other rights or remedies available to it under Applicable Law also elect to exercise any or all remedies available to it under Article 15 of these General Terms, which election and exercise of any such remedies shall be without prejudice to the rights and obligations of the Parties that accrued under the Agreement prior to or after such election and exercise.

ARTICLE 15. TERMINATION AND LIQUIDATION

The Parties acknowledge that the Agreement is a “**Forward Contract**”

ARTICLE 16. INDEMNITY

CB79'H=H@9'HC'5B8'F=G?'C: '@CGG'5GGC7=5H98'K=H<'H<9'DFC8 I 7H'D5GG9G'HC'6 I M9F'5G'DFCJ=898':CF'<9F9=Bz'H<9B'5G'69HK99B'6 I M9F'5B8'G9@@9Fz'6 I M9F'G<5@@'69'GC@9@M'F9GDCBG=6@9'5B8'@=56@9':CFz'5B8'G<5@@'F9@95G9z'89:9B8'f I DCB'G9@@9F@G'F9E I 9GHLz'=-B89AB=:Mz'5B8'<C@8'G9@@9Fz'5G'K9@@'5G'G9@@9F@G'5: :=@=5H9Gz'8=F97HCFGz'C: :=79FGz'9AD@CM99Gz'5;9BHG'5B8'7CBHF57HCFGz'<5FA@9GG':FCA'5B8'5;5-BGH'5BM'5B8'5@@'7@5=AGz'89A5B8Gz'G I =HGz'@CGG9Gz'9LD9BG9Gz'7CGHG'f=B7@ I 8=B; 'K=H<C I H'@=A=H5H=CBz'7CGHG'C: :89:9BG9'5B8#CF'G9HH@9A9BHz'5HHCFB9MGz':99Gz'D9B5@H=9G'5B8'=-BH9F9GHLz'85A5;9Gz'75 I G9G'C: :57H=CB'5B8'@=56=@=HM'C: :9J9FM'HMD9'5B8'7<5F57H9F'K=H<C I H'F9;5F8'HC'5AC I BH'fHC;9H<9Fz'I@CGG9Gz'75 I G98'6Mz'F9G I @H=B; :FCAz'CF'CH<9FK=9G'5GGC7=5H98'K=H<'f5L'H<9'F9@95G9z'GD=@z'CF'8=G7<5F;9'C: :5BM'DFC8 I 7H'=-BHC'H<9'9BJ=FCBA9BHz'=B7@ I 8=B; '5BM'F9@5H98'@CGG'CF'89GHF I 7H=CB'C:z'CF'85A5;9'HCz'5BM'DFCD9FHMz'CF'5BM'=-B> I FM'HC'CF'895H<'C: :5BM'=-B8=J=8 I 5@'CF'A5F=B9'@=:9z'5B8'f6L'H<9'F9A98=5H=CBz'7@95B! I Dz'F9ACJ5@z'CF'8=GDCG5@'C: :5BM'G I 7<'DFC8 I 7H'9L79DH'HC'H<9'9LH9BH'75 I G98'6M'H<9'B9;@=:9B79'CF'K=@@: I @'A=G7CB8 I 7H'C: :G9@@9F'CF'G9@@9F@G'5: :=@=5H9Gz'8=F97HCFGz'C: :=79FGz'9AD@CM99Gz'5;9BHG'CF'7CBHF57HCFG''H<9'D5FH=9G'HC'H<9'5;F99A9BH'<9F96M'9LDF9GG@Mz'=-BH9BH=CB5@@Mz'?BCK=B;@M'5B8'K=@@=B;@M'K5=J9'5B8'8=G7@5=A'H<9'5DD@=756=@=HM'C: :H9L5G'7=J=@'DF57H=79'/'F9A98=9G'7C89'G97H=CB',&'\$\$&'HC'H<9'5;F99A9BH'5B8'H<9'D I F7<5G9G'5B8'G5@9G'A589<9F9 I B89Fz'5B8'<9F96M'F9@=BE I =G<5BM'5B8'5@@'F=:<HG'K<=7<'H<9M'A5M'<5J9' I B89F'H<5H'GH5H I H9''

ARTICLE 17. CHOICE OF LAW; JURISDICTION

Except as otherwise provided herein, any controversy, cause of action, dispute or claim arising out of, relating to, or in connection with the Agreement, or the breach, termination or validity thereof, shall be governed by the laws of the State of Texas to the extent that such laws do not conflict with applicable federal law. The parties may refer the laws of the State of Texas to the laws of another jurisdiction) of the State of Texas. The laws of the State of Texas shall govern all substantive and procedural issues, and the exclusive venue for any such dispute shall be the US District Court for the Southern District of Texas. For disputes that involve substantive maritime issues and are governed by Valero's Marine Provisions, US general maritime law (where applicable, and where applicable, the laws of the State of Texas shall govern all substantive and procedural issues, and the exclusive venue for any such dispute shall be the US District Court for the Southern District of Texas.

The United Nations Convention on Contracts for the International Sale of Goods shall not in any way apply to or govern the Agreement or any transaction under the Agreement.

ARTICLE 18. LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE AGREEMENT: (A) NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, LOST PROFITS (WHETHER DIRECT OR INDIRECT), LOST OPPORTUNITIES

OR LOSS OF GOODWILL, OR ANY SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, WHICH ARISE OUT OF OR RELATE TO THE AGREEMENT OR THE PERFORMANCE OR BREACH HEREOF, WHETHER ARISING IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE; AND (B) SELLER'S LIABILITY WITH RESPECT TO THE AGREEMENT OR ANY ACTION WHICH ARISES OUT OF OR RELATES TO THE AGREEMENT OR THE PERFORMANCE OR BREACH HEREOF, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED THE PRICE OF THE PRODUCT (OR PORTION THEREOF) WITH RESPECT TO WHICH SUCH LIABILITY AROSE. NOTHING IN THIS ARTICLE SHALL PRECLUDE OR OTHERWISE IMPAIR SELLER'S ABILITY TO INITIATE LEGAL ACTION AGAINST THE BUYER TO RECOVER THE PURCHASE PRICE OF THE PRODUCT SOLD TO BUYER BY SELLER IN THE EVENT THE BUYER FAILS TO FULLY PAY FOR THE PRODUCT AS AGREED HEREUNDER.

ADDITIONALLY, WITH RESPECT TO ANY CLAIMS RELATING TO SELLER'S FAILURE TO DELIVER THE AGREED QUANTITY OF PRODUCT, SELLER SHALL IN NO EVENT BE LIABLE FOR MORE THAN THE DIFFERENCE BETWEEN THE PRICE SPECIFIED IN THE AGREEMENT AND THE MARKET PRICE OF SUCH PRODUCT MULTIPLIED BY THE QUANTITY NOT DELIVERED. WITH RESPECT TO ANY CLAIMS RELATING TO VARIATION IN QUALITY FROM THE PRODUCT SPECIFICATIONS, SELLER SHALL IN NO EVENT BE LIABLE FOR MORE THAN THE DIFFERENCE BETWEEN THE PRICE SPECIFIED IN THE AGREEMENT AND THE MARKET PRICE OF THE PRODUCT AS ACTUALLY DELIVERED MULTIPLIED BY THE QUANTITY OF SUCH NON-CONFORMING PRODUCT.

Ø~!c@^!ÉÁæ}áÁ, äc@ [~!c|ä { äcä } *Áæ } ^Á•@ [!c^!Ácä { ^Á|ä { äcäcä []•Á•^cÁ [~!c|ä }Ác@^!ÁcE*!^^ { ^ }cÁ, äc@Á!^• } ^&cÁc [Á•] ^&ä, &Á matters (such as, but without limitation, time limits for submission of demurrage claims and claims relating to quantity and/or quality), any actions to enforce any rights or obligations under the Agreement must be , !^áÁ}Á& [~!c|äæ*æä }•cÁc@^! [c@^!ÁÚæ!c^Á } [Á|æc^!Ác@æ } Á [] ^ÁÇFDÁ ^!æ!æ-c^!Ác@^!Áæc^Á [] Á, @ä&Ác@^!Áæ|!^*^áÁ!^æ&@Á of the Agreement occurred failing which, to the fullest extent permitted under Applicable Law, they shall be time barred.

ARTICLE 19. NOTICES

- a) W|!••Á [c@^! , ä•^!Áæ*!^!áÁ^c, ^^ }Ác@^!ÁÚæ!c^!ÉÁ } [cä, &æcä [] Ác [D-! [[Á^!äc@^!ÁÚæ!c^!Ác@^!Ác@^!Á•@æ|!Á^!Á}Á , !äcä } *Áæ } áÁ [-, &äæ|! ^!Á^!á^! { ^!Ác [Á^!Á^! *áÇ^ } D!^!&áÇ^!ÁKÁÇDÁä { { ^!áæc^! ^!Á-Áä } Á } ^!• [] LÁÇääDÁ , @^!^!Á•^ } cÁ^!Á [] [•cÁ, äc@ä } Ác@^!ÁWÚÁc [Ác@^!Áæää!^!••Á•] ^&ä, ^!áÁ}Ác@^!ÁcE*!^^ { ^ } cÉÁ [] Ác@^!Á•^& [] áÁÇG } áDÁÓ ~•ä } ^!••ÁÖæ^!Áæ-c^!Á äcÁ, æ•Á] [•c^!ÁLÁÇääDÁ- [!Áæ! { æá|Ác [Ác@^!Áæää!^!••Á•] ^&ä, ^!áÁ}Ác@^!ÁcE*!^^ { ^ } cÉÁ [] Ác@^!Á, -c@ÁÇ í c@DÁÓ ~•ä } ^!••Á Öæ^!Áæ-c^!ÁÁcÁ, æ•Á] [•c^!ÁLÁÇääDÁ- [!Á-æ&•ä { ä|Á, @^!^!Á& [] , ! { æcä [] Á [-Ác!æ } • { ä••ä [] Áä•Á! : [Çää^!áÁæ } áÁ&æ } Á^!Á Ç^!á, ^!ÉÁ-Ác@^!Á!^!á } c|•Á& [] , ! { æcä [] Áä•Á!^!&áÇ^!á } !ä!Ác [ÁFîHEÁ@ [~!•Á| [&æ|Ácä { ^!Á [] ÁæÁÓ ~•ä } ^!••ÁÖæ^!Ác@^!Á c@æcÁÓ ~•ä } ^!••ÁÖæ^!ÉÁ^!cÁ-Ác@^!Á& [] , ! { æcä [] Áä•Á!^!&áÇ^!á|æc^!Ác@æ } ÁFîHEÁ@ [~!•Á| [&æ|Ácä { ^!Á [] ÁæÁÓ ~•ä } ^!••Á Öæ^!Ác@^!Á } Ác@^!Á } ^!cÁÓ ~•ä } ^!••ÁÖæ^!Áæ-c^!Ác@^!Á& [] , ! { æcä [] Á, æ•Á!^!&áÇ^!ÁLÁÇääDÁ- [!Á } æcä [] æ|!^!Á!& [* } ä : ^!á courier service, if delivered prior to 1630 hours local time on a Business Day then that Business Day, but if delivered after 1630 hours local time on a Business Date then receipt is deemed to be on the next Ó ~•ä } ^!••ÁÖæ^!Áæ-c^!Ác@^!Á& [] , ! { æcä [] Á, æ•Á!^!&áÇ^!áÈ

b) Email correspondence regarding the performance of the Agreement is acceptable except for notices of assignment, Event of Default, Force Majeure, termination, and legal or arbitration proceedings. Email to have been received on that Business Day if sent prior to 1630 hours local time on such Business Day, but if delivered after 1630 hours s

Section 20.2. Anti-Corruption.

- a) Notwithstanding anything to the contrary herein, Buyer and Seller each agree to comply with, and obligations under the Agreement will comply with all Applicable Laws relating to anti-bribery, anti- and any other applicable country legislation implementing the Organisation for Economic Co-operation and any other applicable country legislation implementing the Organisation for Economic Co-operation Business Transactions (collectively, the “Anti-Bribery Laws”).
- b) In connection with the performance of the Agreement, neither Party shall, directly or indirectly, pay, offer, give, promise, or authorize the payment of, any monies or other things of value to any government or any other person or entity, or to any person or entity acting on behalf of any government or any other person or entity, in order to obtain or retain business or to influence any person or entity in the performance of the Agreement.
- c) Seller shall not, directly or indirectly, pay, offer, give, promise, or authorize the payment of, any monies or other things of value to any person or entity, or to any person or entity acting on behalf of any person or entity, in order to obtain or retain business or to influence any person or entity in the performance of the Agreement.
- d) In connection with the performance of the Agreement, neither Party shall, directly or indirectly, pay, offer, give, promise, or authorize the payment of, any monies or other things of value to any government or any other person or entity, or to any person or entity acting on behalf of any government or any other person or entity, in order to obtain or retain business or to influence any person or entity in the performance of the Agreement.

ARTICLE 21. MISCELLANEOUS

Section 21.1. Assignment.

Neither Party may assign any of its rights, duties, or obligations provided for under the Agreement, in whole or in part, without the prior written consent of the other Party. The above notwithstanding, either Party shall assign its rights, duties, or obligations under the Agreement to another Party and so long as the assigning Party expressly remains jointly and severally responsible for the performance of its obligations under the Agreement, the assignment of this Section 21.1 will be void.

Section 21.2. Waiver of Sovereign Immunity.

Each Party hereby represents and warrants that it is acting solely in its commercial capacity in executing and delivering the Agreement, and in performing its obligations hereunder, and each Party hereby irrevocably waives with respect to all claims, disputes, controversies and other matters of any nature whatsoever that may arise under or in connection with the Agreement all immunity such Party may otherwise have or obtain for itself or its property as a sovereign, quasi-sovereign or state-owned entity (or similar entity) from any and all proceedings (whether legal, equitable, arbitral, administrative or otherwise), attachment of assets, and all other legal proceedings, and the provisions of this Section 21.2 shall survive the termination of the Agreement without limitation as to time.

Section 21.3. Rights of Third Parties.

Nothing expressed or implied in the Agreement shall be considered or constructed as conferring any rights, duties, or obligations on any third party, and the provisions of this Section 21.3 shall survive the termination of the Agreement without limitation as to time.

maintained by the other Party which relate to the Agreement and shall have the right at its own expense to audit such records at any reasonable time after the effective date of the Agreement and within one (1) year after the termination of the Agreement. However, a Party can only conduct one (1) audit per year, and the same year cannot be re-audited. In no event shall the audited party be obligated to disclose legally privileged information.

Section 21.7. Independent Contractor.

In performing their respective services pursuant to the Agreement, Seller and Buyer are acting solely as independent contractors maintaining complete control over their respective employees, facilities, and operations. Neither Seller nor Buyer is authorized to take any action in any way whatsoever for or on behalf of the other.

Section 21.8. Survival.

Cancellation, expiration or termination of the Agreement shall not relieve the Parties of any obligations that, by their very nature, must survive cancellation, expiration or termination, including all payment and

Section 21.9. Severability.

If a provision of the Agreement (or part thereof) is declared to be illegal, invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement and remainder of such provision shall not be affected and shall continue in full force and effect except to the extent necessary to delete such illegal, invalid, or enforceable provision (or part thereof).

Section 21.10. Amendment.

Section 21.11. Entire Agreement.

The Agreement represents the entire agreement of the Parties with respect to the matters contemplated by

Valero shall provide the relevant Product Transfer Document using the EMTS within the time frame set forth in the RFS Program.

d) If any Applicable Law, including without limitation the RFS Program, or EPA policy or procedure implementing the RFS Program becomes impossible, impractical, or inconsistent with the requirements, protocols or procedures under the RFS Program, the Parties shall work in good faith to amend the Agreement to conform to the changed requirements or circumstances in order to maintain the original intent of the Parties under the Agreement. If any Applicable Law, including without limitation the RFS Program, is enacted, implemented, amended, or repealed, and the RFS Program is no longer in effect, Buyer shall have the right to terminate the Agreement with no further obligation upon thirty (30) days' notice to Seller.

ARTICLE 27. CHANGE IN LAW

If any Applicable Law, including without limitation the RFS Program, or EPA policy or procedure implementing the RFS Program becomes impossible, impractical, or inconsistent with the requirements, protocols or procedures under the RFS Program, the Parties shall work in good faith to amend the Agreement to conform to the changed requirements or circumstances in order to maintain the original intent of the Parties under the Agreement. If any Applicable Law, including without limitation the RFS Program, is enacted, implemented, amended, or repealed, and the RFS Program is no longer in effect, Buyer shall have the right to terminate the Agreement with no further obligation upon thirty (30) days' notice to Seller.

ARTICLE 28. LIMITATION OF LIABILITY – FINES AND PENALTIES

EXCEPT AS SET FORTH IN ARTICLE 26(b) OF THESE GENERAL TERMS, NO PARTY SHALL PAY OR BE LIABLE FOR ANY FINES OR PENALTIES ASSESSED BY ANY GOVERNMENTAL AUTHORITY INCLUDING, BUT NOT LIMITED TO, RFS PROGRAM FINES OR PENALTIES.

Exhibit A

DATE: _____
TO: _____
FROM: VALERO MARKETING AND SUPPLY COMPANY
ONE VALERO WAY
SAN ANTONIO, TEXAS 78249

LETTER OF INDEMNITY

DEAR SIRS,

WE REFER TO OUR CONTRACT DATED _____ IN RESPECT OF OUR SALE TO _____ OF A SHIPMENT OF _____ BARRELS OF _____ SHIPPED ON BOARD THE VESSEL _____ AT THE PORT OF _____ (THE "CARGO") WITH BILLS OF LADING DATED _____.

TO DATE, WE ARE UNABLE TO PROVIDE _____ WITH THE FULL SET OF BILLS OF LADING IN RELATION TO THE ABOVE TRANSACTION, WHICH CONSISTS OF 2/3 ORIGINAL BILLS OF LADING PLUS A MASTERS RECEIPT FOR 1/3 ORIGINAL BILLS OF LADING ENDORSED TO THE ORDER OF _____.

IN CONSIDERATION OF YOUR PAYING TO US THE FINAL PURCHASE PRICE OF US DOLLARS \$_____ WE HEREBY WARRANT THAT WE HAVE FULL TITLE FREE AND CLEAR OF ANY LIEN OR ENCUMBRANCE TO SUCH MATERIAL, AND HAVING THE FULL RIGHT AND AUTHORITY, AND IN CONSIDERATION OF SAID PAYMENT, WE HEREWITH TRANSFER SUCH TITLE AND EFFECT DELIVERY OF SUCH MATERIAL TO YOU.

WE FURTHER AGREE TO CONTINUE TO MAKE ALL REASONABLE EFFORTS TO OBTAIN AND SURRENDER TO _____ AS SOON AS POSSIBLE 2/3 ORIGINAL BILLS OF LADING PLUS A MASTERS RECEIPT FOR 1/3 ORIGINAL BILLS OF LADING ISSUED OR DULY ENDORSED TO THE ORDER OF _____ AND IN THE EVENT THAT SAID BILLS OF LADING CANNOT BE OBTAINED THROUGH THE EXERCISE OF ALL SUCH REASONABLE EFFORTS, THEN IN THAT CIRCUMSTANCE, WE AGREE TO PROTECT, INDEMNIFY, AND SAVE YOU HARMLESS FROM AND AGAINST ANY AND ALL DAMAGES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEY FEES) WHICH YOU MAY SUFFER BY REASON OF THE MISSING ORIGINAL BILLS OF LADING PLUS A MASTERS RECEIPT FOR 1/3 ORIGINAL BILLS OF LADING REMAINING OUTSTANDING, INCLUDING BUT NOT LIMITED TO ANY CLAIMS AND DEMANDS WHICH MAY BE MADE BY A HOLDER OR TRANSFEREE OF THE ORIGINAL BILLS OF LADING OR ANY OTHER THIRD PARTY CLAIMING AN INTEREST IN OR LIEN ON THE CARGO OR PROCEEDS THEREOF.

OUR OBLIGATION TO INDEMNIFY YOU IS, OF COURSE, SUBJECT TO THE CONDITIONS THAT YOU GIVE US IMMEDIATE NOTICE OF THE ASSERTION OF ANY CLAIM(S) AND FULL OPPORTUNITY TO CONDUCT DEFENSE THEREOF WITHOUT YOUR APPROVAL. THIS INDEMNITY SHALL IN ALL CASES, INCLUSIVE OF ANY AND ALL DAMAGES, COSTS, EXPENSES AND ATTORNEY FEES, BE LIMITED TO AN AMOUNT NOT EXCEEDING 100% OF THE CIF VALUE OF THE CARGO THAT IS THE SUBJECT OF THIS TRANSACTION.

THIS LETTER OF INDEMNITY SHALL AUTOMATICALLY BECOME NULL AND VOID UPON OUR TENDERING TO _____ THE ORIGINAL BILLS OF LADING PLUS A MASTERS RECEIPT FOR 1/3 ORIGINAL BILLS OF LADING AS ABOVE OR UPON OF THE EXPIRATION OF 24 MONTHS AFTER COMPLETION OF DISCHARGE, WHICHEVER OCCURS FIRST; PROVIDED, THAT NO LEGAL PROCEEDINGS ARISING FROM DELIVERY OF THE CARGO HAVE BEEN INSTITUTED WITHIN SUCH 24 MONTH PERIOD.

THE LETTER OF INDEMNITY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ANY DISPUTES, CONTROVERSIES OR CLAIMS ARISING OUT OF OR IN RELATION TO THIS INDEMNITY OR THE BREACH, TERMINATION OR INVALIDITY THEREOF SHALL BE SUBJECT TO THE EXCLUSIVE JURISDICTION OF THE STATE OR FEDERAL COURTS LOCATED IN HARRIS COUNTY, TEXAS.

