



Shell Trading Canada
Crude Oil General Terms and Conditions
Dated March 1, 2019

1. Application

These Crude Oil General Terms and Conditions (“GTCs”) together with the specific terms of a given transaction (“Specific Terms”) referencing the GTCs shall govern the agreement for the sale and purchase of crude oil, condensate and other liquid hydrocarbons (“Crude Oil”) between Buyer and Seller (“Agreement”). If the GTCs are inconsistent with the Specific Terms, the latter will prevail to the extent of the inconsistency. These GTCs do not apply to marine Agreements for Crude Oil.

2. Quality

The quality of Crude Oil to be delivered hereunder shall not be contaminated by chemicals foreign to crude oil including, but not limited to, lead and chlorinated and oxygenated hydrocarbons or contain substances deleterious to Buyer’s Crude Oil transportation or handling arrangements. Crude Oil shall not contain levels of basic sediment and water or other impurities higher than those specified by the Buyer or by carrier receiving Crude Oil. Quality shall be determined in the manner customary at the facility at delivery. Buyer may, without prejudice to any other remedy available to Buyer, refuse to accept delivery of Crude Oil that fails to meet the quality standards described herein.

3. Measurement

All measurement of Crude Oil volumes received and delivered hereunder shall be adjusted to 15° Celsius by use of API MPMS Chapter 11.1 Petroleum Measurement Standards, as updated, and shall not include the volume of sediment and water, as determined in the manner customary at the facility. The applicable carrier’s records, including the results of gauging, metering and testing, shall be final and conclusive evidence of the volumes delivered. Any conversions of volumes of Crude Oil shall be calculated at standard reference conditions at 6.29287 barrels per cubic metre, except for Heavy Crude Oil which shall be made at 6.2898105 barrels per cubic metre. “Heavy Crude Oil” means Crude Oil having a density of at least 904 kilograms per cubic meter.

4. Claims

Any claim relating to quantity and/or quality of Crude Oil must be submitted in writing (e-mail acceptable) as soon as reasonably practicable. If a party fails to provide such notice or claim within one year of delivery, then such party’s claim shall be time barred and any liability or alleged liability of the other party in connection with such claim shall be extinguished.

5. Delivery, Title, Risk of Loss & Ratability

Title to the Crude Oil and the risk of loss shall pass from Seller to Buyer upon delivery. Delivery shall be effected as follows:

- (i) Where delivery is at a lease/unit location, delivery of the Crude Oil to the Buyer shall be effected as the Crude Oil passes the last permanent delivery flange and/or meter connecting the Seller’s lease/unit storage tanks or processing facilities to the Buyer’s carrier.
- (ii) Where delivery is at a location other than a lease/unit location, delivery of the Crude Oil to the Buyer shall be effected as the Crude Oil passes the last permanent delivery flange and/or meter connecting the Seller’s carrier (or other storage or delivery facility designated by the Seller, as applicable) to the Buyer’s carrier.
- (iii) If delivery is by in-line or in-tank transfer, delivery of the Crude Oil to the Buyer shall be effected at the particular pipeline point or storage tank facility designated in this Agreement as specified in the pipeline or storage tank facility documentation authorizing the transfer of title for the specified quantity at such location or, in the absence of such documentation, upon the date of transfer shown in the title transfer documentation provided to such pipeline or storage facility operator.

For pricing purposes only unless otherwise stated in the Specific Terms, the volume of Crude Oil delivered in a calendar month shall be deemed delivered daily in quantities pro-rated equally over the number of days of such month.

6. Warranty

Seller warrants that it has title to, and the exclusive right to sell and deliver, the Crude Oil sold and delivered to Buyer. Seller warrants that the Crude Oil is free from all liens and encumbrances.

Except as expressly set forth in this Agreement, Seller makes no other warranties, express or implied, including without limitation any implied warranty of merchantability or fitness for any particular purpose.

7. Regulatory Information

Each party agrees to provide the other party with any information the other party needs to comply with any regulatory filing requirement. The receiving party agrees to keep such information strictly confidential and to disclose such information only to the relevant regulatory authority.

8. Payment

- 8.1. Subject to any provisions to the contrary herein, payment for Crude Oil delivered in one calendar month shall be made, without discount, withholding, offsetting or counterclaim, on the 25th day of the calendar month following delivery. If the payment date falls on a Saturday or a weekday other than a Monday which is not a Business day, then payment shall be made on the preceding Business Day. If the payment date falls on a Sunday or a Monday that is not a Business Day, then payment shall be made on the next Business Day. “**Business Day**” means a weekday on which commercial banks are open for business in Calgary, Alberta. Any payment hereunder not paid when due shall accrue interest calculated daily from the due date until paid at the prime rate charged by the Toronto-Dominion Bank plus 2% per annum.
- 8.2. This Section 8.2 shall only apply if the parties have not executed a separate agreement to provide for the net settlement of amounts owed for Crude Oil:
- (i) Purpose. The parties are selling to and buying from each other various quantities of Crude Oil at stated prices, or are exchanging with each other various quantities of Crude Oil at stated differentials under existing Agreements. With respect to deliveries of Crude Oil under the Agreements, the parties agree to engage in net settlement arrangements (the “**Net Settlement Arrangement**”) for the purpose of making payments (and thereby settling the parties’ respective accounts) for the existing or future purchase and sale of Crude Oil.
 - (ii) Procedure. For each calendar month in which sales or exchange transactions occur (a “**Transaction Month**”), each party shall determine the sales price for the Crude Oil sold to the other party and the exchange differentials, if any, due from such other party under the Agreements according to the respective pricing provisions contained therein, to determine the total amount owed by such other party. The parties shall continue to issue invoices to each other in the normal course of business. In addition, after the receipt of all invoices and at least three Business Days before the 25th day of the month following the Transaction Month, each party shall (a) issue a statement showing all invoice amounts for both parties and the difference resulting after offsetting the total amount each party owes to the other party (the “**Net Settlement Amount**”), and (b) confer by telephone and compare and confirm the Net Settlement Amount. The Net Settlement Amount shall be paid by the party hereto owing the greater amount by paying such difference to the party hereto owing the lesser amount in accordance with this Agreement.
 - (iii) Disputed or Unverified Amounts. If any invoice or portion of an invoice is disputed in good faith or cannot be timely verified and approved for payment, such invoice or portion of such invoice shall not be held for payment under the Net Settlement Arrangement, provided that an invoice that is partially verified or disputed shall be included in the Net Settlement Arrangement to the extent that it is verified or undisputed. Notwithstanding the foregoing, each party agrees to use every reasonable effort to achieve the objective of timely verification of invoices in order to permit payment of such invoices pursuant to the terms of this Agreement in the month following the Transaction Month and no dispute or lack of verification shall excuse participation in the Net Settlement Arrangement.
 - (iv) Effect on Other Agreements. Except as expressly provided herein, existing Agreements between the parties hereto shall continue in effect and shall not otherwise be affected by this Section 8.2. Notwithstanding the provisions hereof, nothing in this Agreement shall have the effect of amending or modifying the pre-payment provisions or the liquidation provisions under this Agreement or any existing or future agreement between the parties.
- 8.3. Cessation of Price Index Publication. If an index used to calculate a price set forth in this Agreement (“**Original Index**”) ceases to be published or is not published for any period applicable to calculation of such price, the following procedure shall apply:
- (i) The parties shall in good faith meet and agree on a replacement index within ten (10) Business Days after the date the Original Index ceases to be published. Such replacement index will be as comparable as possible to the Original Index specified in this Agreement.
 - (ii) If the parties are not able to agree upon a replacement index within the ten (10) Business Day period in accordance with Section 8.3(i), then the dispute shall be settled by binding arbitration with one (1) arbitrator in accordance with Section 19 below. Each party shall submit a proposed replacement index to the arbitrator and the arbitrator shall determine which proposed replacement index represents the closest replacement for the Original Index. Once the arbitrator has reached a final decision on the replacement index, then the price paid under this Agreement shall be adjusted using such replacement index, and all invoices for deliveries made subsequent to the date the Original Index ceased to be published shall be promptly corrected and reissued using the replacement index. The arbitrator shall order the relevant adjustment under the corrected invoices and the party that owes money to the other shall pay said amount to the party owed within ten (10) Business Days of receipt of the corrected invoice.

8.4. Change of Banking Information. Any time a party sends notice of changed banking information or an invoice containing changed banking information, the paying party may, prior to making any payment then due, require that the other party provide email or fax confirmation of the new banking information as well as the paying party's account opening information (such as "Know Your Customer"). The other party shall provide such information in a timely manner and payment shall not be due until one (1) Business Day after the paying party has completed its account opening process.

9. Taxes

The price for Crude Oil does not include any amounts payable by Buyer for Goods and Services Tax or Harmonized Sales Tax (individually or collectively, "GST") imposed pursuant to the Excise Tax Act ("ETA") or any similar or replacement value added or sales or use tax enacted under successor legislation, or any provincial sales tax ("PST") imposed by a province. Buyer shall pay to Seller the amount of GST and PST payable for the purchase of Crude Oil in addition to all other amounts payable under this Agreement. Seller shall hold the GST and PST paid by Buyer and shall remit such GST and PST as required by law. Buyer and Seller shall provide each other with the information required to make such GST or PST remittance or claim any corresponding input tax credits including, without limitation, GST and PST registration numbers.

Where Buyer is registered for GST under the ETA and Buyer provides Seller with a written declaration that Buyer intends to: (i) export the Crude Oil from Canada by means of pipeline; (ii) export the Crude Oil as soon as is reasonably possible after Seller delivers such Crude Oil to Buyer having regard to the circumstances surrounding the export and, where applicable, normal business practice; (iii) not have acquired such Crude Oil for consumption or use in Canada or for supply in Canada before export of such Crude Oil; (iv) ensure that, after such Crude Oil is delivered and before export, such Crude Oil is not further processed, transformed or altered in Canada (except to the extent reasonably necessary or incidental to its transportation), then such Crude Oil shall be "zero-rated" within the meaning of the ETA unless Seller knows or has reason to believe that such circumstances will prevail.

Where Buyer is not registered for GST under the ETA and the Crude Oil is to be exported by pipeline, or the Crude Oil is to be exported from Canada other than by pipeline, and the Buyer (i) exports the Crude Oil as soon as is reasonably possible after Seller delivers such Crude Oil to Buyer having regard to the circumstances surrounding the export and, where applicable, normal business practice; (ii) has not acquired such Crude Oil for consumption or use in Canada or for supply in Canada before export of such Crude Oil; (iii) ensures that, after such Crude Oil is delivered and before export, such Crude Oil is not further processed, transformed or altered in Canada (except to the extent reasonably necessary or incidental to its transportation); (iv) maintains on file and provide to Seller evidence satisfactory to the Minister of National Revenue of the export of such Crude Oil by Buyer; and (v) complies with any other requirements prescribed by ETA for zero-rated export of such Crude Oil, then such Crude Oil shall be "zero-rated" within the meaning of the ETA.

Buyer shall indemnify Seller for any GST, penalties, interest and all other damages and costs of any nature arising from breach of the declarations, covenants, representations and warranties contained in this Section 9, or otherwise, from application of GST to Crude Oil declared, covenanted, represented and warranted by Buyer to be acquired for export from Canada.

In the event that any amount becomes payable pursuant to this Agreement as a result of a breach, modification or termination of this Agreement, the amount payable shall be increased by any applicable taxes including GST and PST remittable by the recipient in respect of that amount.

10. Limitation of Liability

Except as expressly set out herein, neither party shall be liable to compensate or indemnify the other party for any indirect, consequential or punitive losses or damages.

11. Eligible Financial Contract

The parties intend that this Agreement be construed as (i) an "eligible financial contract" for the purposes of and within the meaning of the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) and the *Winding-up and Restructuring Act* (Canada) and (ii) to the extent that the Agreement or a party is subject to the application of the United States Bankruptcy Code, a "forward contract" for the purposes of and within the meaning of the United States bankruptcy and insolvency laws.

12. Performance Assurance

If, in the reasonable opinion of a party, it has grounds for insecurity regarding the ability of the other party to pay or perform any obligation under the Agreement, such party may demand in writing Performance Assurance. "Performance Assurance" means, at the option of the party providing the Performance Assurance, either (i) an irrevocable stand-by letter of credit in a form and for a commercially reasonable amount acceptable to the demanding party opened or confirmed by an institution reasonably acceptable to the demanding party; or (ii) cash or prepayment in immediately available funds in a commercially reasonable amount acceptable to the demanding party. Performance Assurance must be provided within two Business Days following receipt of written demand. Where the Performance Assurance provided is in the form of cash, the providing party hereby assigns, pledges and transfers to the demanding party, and grants to the demanding party a security interest in all estate, right, title and interest of the providing party in the cash deposited, held by or pledged or granted to the demanding party hereunder.

13. Apportionment

If the applicable carrier apportions its facilities or its acceptance of Crude Oil among parties tendering Crude Oil for transportation, the quantity of Crude Oil required to be delivered and accepted under this Agreement may be reduced by up to the same proportion as the carrier apportionment. Such reduction shall be deemed to be accepted by the parties.

14. Force Majeure

Subject to the provisions of this Section, a party (“**declaring party**”) is relieved of its obligations hereunder (except payment obligations) to the extent and for the time that its performance is delayed or prevented by a Force Majeure event.

“**Force Majeure**” means an event (except financial) that is beyond the reasonable control of the declaring party and includes, but is not limited to, the following: failure in the nature of Force Majeure of Seller’s supplier to deliver or Buyer’s recipient to take; Carrier Force Majeure; an act of any government or other authority or statutory undertaking; extreme weather conditions; storms; floods; fires; earthquakes; civil disturbances; sabotage; war; acts of public enemies; blockades; insurrections; riots; epidemics; strikes, lockouts or other labour disruptions; inability to obtain or the curtailment of electric power, water or fuel; breakdowns or failure of pipe, plant, machinery or equipment. The declaring party shall notify the other party in writing of the occurrence of the Force Majeure event within a reasonable time after the occurrence of the Force Majeure event. Such notice shall include all reasonable full particulars regarding such Force Majeure event such as the nature, extent, effect and likely duration of the Force Majeure event.

For the avoidance of doubt, if Seller has an obligation to deliver Crude Oil of a type only produced at the Scotford Upgrader, and there is a Force Majeure event at the Scotford Upgrader or connecting carriers that prevents delivery of this type of Crude Oil to the relevant delivery point from the Scotford Upgrader, then Seller shall be relieved of its obligations hereunder to deliver such Crude Oil to Buyer for the duration of the applicable Force Majeure event.

15. Non-Performance Penalty

The parties acknowledge that each party may be shipping Crude Oil subject to applicable carrier’s tariffs and agree that this Agreement is subject to the relevant tariff and the force majeure events defined therein (“**Carrier Force Majeure**”). If a party is unable to deliver or take delivery of, as the case may be, the quantities of Crude Oil hereunder and such failure is excused by a Carrier Force Majeure event, that party shall provide the other party with immediate notice. If immediate notice is not provided such that the other party is unable to comply with the tariff and incurs a non-performance penalty (“**Penalty**”), then the party shall indemnify the other party for the Penalty incurred and all dispute, claim or demand whatsoever with respect to the Penalty. Where the other party is Seller, Buyer may set off the amount of Penalty against future payments owing by Buyer to Seller.

Except in the case of Carrier Force Majeure, if Seller is unable to deliver the contracted quantity of Crude Oil in a specified month, Seller shall indemnify Buyer for any resulting non-performance penalties Buyer incurs under Buyer’s carrier’s tariff. If Seller is unable to so deliver during a period of apportionment, Buyer may in its sole discretion purchase Crude Oil from a source other than Seller to satisfy Buyer’s carrier nomination and Seller shall pay Buyer the difference in value between the contracted Price herein and the price paid to the other source. If Buyer is unable to receive the contracted quantity of Crude Oil in a specified month, Buyer shall indemnify Seller for any resulting non-performance penalties Seller incurs under Seller’s carrier’s tariff. The indemnifying party shall promptly reimburse the other party upon receipt of that party’s invoice and supporting documentation.

16. Default & Termination

16.1. For the purposes of this Section, the following capitalized terms have the following meanings:

- (i) “**Contract Value**” is the present value of the remaining deliverable volume, as at the Early Termination Date, at the contracted price. The interest rate used for present-value calculations will be the prime rate published by the Toronto-Dominion Bank plus two percent.
- (ii) “**Close Out Value**” is the difference between the Market Value and the Contract Value of the transactions under this Agreement as at the Early Termination Date, adjusted for any reasonable costs or expenses incurred by the non-defaulting party in entering into replacement transactions.
- (iii) “**Event of Default**” is each of the following events to which a party is the subject: (i) fails to pay any amount when due under this Agreement or other agreement and such failure continues for 3 Business Days after written notice of such default to the defaulting party; (ii) fails to provide Performance Assurance in accordance with this Agreement; (iii) fails to perform any material obligation (except payment) under this Agreement and such failure continues for 5 Business Days after written notice of such default; (iv) merges or becomes consolidated with any other entity or transfers, by any means all or substantially all of its assets to another entity and the creditworthiness of the resulting, surviving or transferee entity is materially weaker than that of the non-performing party immediately prior to such action as reasonably determined by the non-defaulting party; or (v) is subject of an Insolvency Event.
- (iv) “**Insolvency Event**” is each of the following events to which a party is subject: (i) is dissolved; (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) is the subject of a bankruptcy, insolvency or other similar proceeding; (v) otherwise becomes bankrupt or insolvent (however evidenced); (vi) causes or is subject to any event with respect to which, under the applicable laws of any

jurisdiction, has an analogous effect to any of the events specified in the above Section; or (vii) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

- (v) “**Market Value**” is the present value of the remaining delivery obligations under a transaction as of the Early Termination Date and is calculated using the following formula: remaining deliverable volume multiplied by the arithmetic average of two price quotes from separate arms length third parties for the supply or purchase, as applicable, of the relevant Crude Oil under a replacement transaction on substantially the same terms and conditions and for the same or near-same remaining term of the transaction as at the Early Termination Date. The interest rate used for present-value calculations will be the prime rate published by the Toronto-Dominion Bank plus two percent.
 - (vi) “**Termination Amount**” means the netted amount of the Unpaid Amount and the Close Out Value, as calculated pursuant to this Section.
- 16.2. Upon and during the continuance of an Event of Default, the non-defaulting party may, in addition to any other remedies available hereunder or at law: (i) immediately suspend its performance of its obligations hereunder; (ii) apply the proceeds from or otherwise realize upon any Performance Assurance provided by the defaulting party; (iii) offset all or a portion of any amounts owed by the defaulting party to the non-defaulting party under this Agreement or any other contract between the parties against any amounts owed by the non-defaulting party to the defaulting party under this Agreement or any other contract between the parties; and/or (iv) by written notice to the defaulting party, designate a day no earlier than the day such notice is effective and no later than twenty (20) calendar days after such notice is effective as an early termination date (“**Early Termination Date**”) to terminate this Agreement or all agreements between the parties for the purchase and sale of Crude Oil. On the Early Termination Date, this Agreement and, if so designated in the Early Termination Date notice, all other agreements between the parties for the purchase and sale of Crude Oil, shall be terminated.
- 16.3. Upon the occurrence of an Insolvency Event, the non-defaulting party may, upon written notice (the date of such notice shall be the “**Early Termination Date**” for purposes of this Agreement), terminate this Agreement and all other agreements between the parties for the purchase and sale of Crude Oil.
- 16.4. Upon the (a) designation of an Early Termination Date in accordance with Section 16.2; or (b) occurrence of an Insolvency Event, the non-defaulting party may, in a commercially reasonable manner, calculate and net the following, the netted amount being “**Termination Amount**”:
- (i) any amounts that are owed to and by each party under all agreements terminated as of the Early Termination Date (whether or not due and payable) for all Crude Oil delivered and received by the parties as between themselves up to the Early Termination Date for which payment has not already been received (collectively, the “**Unpaid Amounts**”), and
 - (ii) the Close Out Value of all such terminated agreements.

In calculating the above, however, where the Close Out Value would be an amount owing to the defaulting party, the Close Out Value will be deemed to be zero. The party owing the Termination Amount must pay such amount on or before the 3rd Business Day following receipt of notice of the Termination Amount by the defaulting party.

- 16.5. After calculation of a Termination Amount in accordance with Section 16.4, if the defaulting party would be owed the Termination Amount, the non-defaulting party shall be entitled, at its option and in its sole discretion, to set off against such Termination Amount any amounts due and owing by the defaulting party to the non-defaulting party under any other agreements, instruments or undertakings between the parties. After calculation of a Termination Amount in accordance with Section 16.4, if the non-defaulting party is owed the Termination Amount and the defaulting party fails to timely pay such Termination Amount, then the non-defaulting party shall be entitled, at its option and in its sole discretion, to set off against such Termination Amount any amounts due and owing by the non-defaulting party to the defaulting party under any other agreements, instruments or undertakings between the parties. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

17. Set-Off

Upon an Event of Default, the non-defaulting party may, at its sole discretion and without limitation to any other rights or remedies available to it, use the Performance Assurance in satisfaction of the defaulting party’s payment obligations when due in accordance hereunder without further notice or demand and may set off its, or its affiliate’s, payment obligations to the defaulting party against the defaulting party’s payment obligations to the non-defaulting party, or to its affiliate, whether any of the foregoing obligations arise under this Agreement.

18. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of Alberta and the laws of Canada applicable therein. The parties each irrevocably submits to the exclusive jurisdiction of the courts of the Province of Alberta over any claim or matter arising hereunder or in connection with this Agreement, subject to Section 19.

19. Disputes

Any dispute, controversy or claim arising out of or in connection with this Agreement, whether in tort, contract, under statute or otherwise, including any question regarding its existence, validity, interpretation, breach or termination, and including any non-contractual claim (a “**Dispute**”), and all issues regarding the arbitrability of a Dispute, shall be finally and exclusively resolved by arbitration under the rules (the “**Rules**”) of the ADR Institute of Canada (“**ADR**”), which Rules are deemed to be incorporated by reference into this Agreement. The arbitral tribunal (the “**Tribunal**”) shall consist of three arbitrators, unless the amount in controversy is less than one-hundred thousand dollars (\$100,000), in which case the Tribunal shall consist of one arbitrator, in any case to be appointed in accordance with the Rules. The seat of the arbitration shall be Calgary, Alberta. The language of the arbitration shall be English. The appointing authority shall be ADR. Any award rendered by the Tribunal shall be given in writing and shall be final and binding on both parties. The parties undertake to carry out the award without delay. Judgment upon any award and/or order may be entered in any court having jurisdiction thereof. All aspects of the arbitration shall be kept confidential. Save to the extent required by law or pursuant to any proceedings to enforce or challenge an award, no aspect of the proceedings, documentation, or any (partial or final) award or order or any other matter connected with the arbitration shall be disclosed to any other person by either party or its counsel, agents, corporate parents, affiliates or subsidiaries without the prior written consent of the other party.

20. Trade Controls and Boycotts, Export Compliance, and Anti-Corruption

- 20.1. **Trade Controls and Boycotts.** Each party shall comply with all Canadian laws, regulations, rules and requirements that relate to foreign trade controls, export and re-export controls, embargoes or international boycotts of any type (“**Trade Control Laws**”). Nothing shall be shipped to, transshipped through, or otherwise transferred to, directly or indirectly, any country, entity or individual, or for any end use, that is prohibited under Trade Control Laws, or that is prohibited by sanctions imposed by Canada or the United Nations (including Trade Control Laws or sanctions imposed after this Agreement is entered into but before Crude Oil is delivered). At any time, the Seller may require the Buyer to provide any relevant documents for the purpose of verifying the final destination of the Crude Oil, and the Buyer shall provide such documents upon request. Notwithstanding anything to the contrary herein, nothing in the Agreement is intended, and nothing herein should be interpreted or construed, to induce or require either party hereto to act in any manner (including failing to take any actions in connection with a transaction) which is inconsistent with, penalized or prohibited under Trade Control Laws.
- 20.2. **Export Compliance.** If Crude Oil sold by Seller to Buyer under this Agreement is to be exported by Buyer from Canada, then unless otherwise provided in the Specific Terms: (1) Buyer and its authorized Canadian agent, if applicable, shall obtain all licenses, permits or approvals and comply with all applicable laws, regulations, governmental rules and requirements for export of the Crude Oil from Canada and shall prepare and file any export related filings and pay any export-related duties, taxes or other fees; (2) if Buyer is a Canadian entity, the Buyer shall be the Canadian Principle Party in Interest; and (3) Upon request from Seller, Buyer shall promptly provide Seller a copy of any export documentation or filing submitted.
- 20.3. **Anti-Corruption.** Each party represents, warrants, and covenants that in connection with this Agreement and the business resulting therefrom: (i) it is aware of and will comply with Anti-Corruption Laws; (ii) whether directly or indirectly, it has not made, offered, authorized, or accepted and will not make, offer, authorize, or accept any payment, gift, promise, or other advantage, to or for the use or benefit of any government official or any other person where that payment, gift, promise, or other advantage would comprise a facilitation payment or otherwise violate the Anti-Corruption Laws; (iii) it has maintained and will maintain adequate written policies and procedures to comply with Anti-Corruption Laws or, alternatively, has made itself aware of and shall adhere to the Shell General Business Principles and the Shell Code of Conduct (www.shell.com/about-us/our-values); (iv) it has maintained and will maintain adequate internal controls, including but not limited to using reasonable efforts to ensure that all transactions are accurately recorded and reported in its books and records to reflect truly the activities to which they pertain, such as the purpose of each transaction, with whom it was entered into, for whom it was undertaken, or what was exchanged; (v) it will, to its knowledge retain such books and records for the period required by Applicable Law or a party’s own retention policies, whichever is longer; (vi) in the event a party becomes aware it has breached an obligation in this paragraph, it will promptly notify the other party, subject to the preservation of legal privilege; (vii) it has used and will use reasonable efforts to require any subcontractors, agents, or any other third parties to also comply with the foregoing requirements in this paragraph; (viii) it will provide information (which unless publicly available will include documentary evidence) in support of the other/requesting party’s ongoing Know Your Customer process requirements, about its ownership, officers, and corporate structure (including any changes thereto); and (ix) only a party (and not its affiliates or a third party) shall make payments to the other party, except with that other party’s prior written consent. Subject to the preservation of legal privilege, during the term of the Agreement and for seven (7) years thereafter and on reasonable notice, each party shall have a right, at its expense, and the other party shall take reasonable steps to enable this right, to audit the other party’s relevant books and records with respect to compliance with this paragraph. Nothing in this Agreement shall require a party to perform any part of this Agreement or take any actions if, by doing so, the party would not comply with the Anti-Corruption Laws. The obligations in this Section shall survive the termination or expiry of this Agreement. For purposes of this Section 20, “**Anti-Corruption Laws**” means (a) the United States Foreign Corrupt Practices Act of 1977; (b) the United Kingdom Bribery Act 2010; and (c) all applicable national, regional, provincial, state, municipal or local laws and regulations that prohibit tax evasion, money laundering or otherwise dealing in the proceeds of crime or the bribery of, or the providing of unlawful gratuities, facilitation payments, or other benefits to, any government official or any other person.

- 20.4. Violations and Remedies. Either party may terminate the Agreement upon written notice to the other at any time if in its reasonable judgment the other is in breach of any representation, warranty, undertaking or obligation under this Section 20 for Trade Controls and Boycotts, Export Compliance, and Anti-Corruption. **Further, each party shall indemnify and hold harmless the other party from and against any claims, liabilities, losses, costs, damages, fines and/or penalties arising from the indemnifying party's breach of this Section 20 for Trade Controls and Boycotts, Export Compliance, and Anti-Corruption.**

21. TDG Regulations

Buyer and Seller agree to comply with all *Transportation of Dangerous Goods (Clear Language) Regulations* made pursuant to the *Transportation of Dangerous Goods Act, 1992* (Canada) (the “**TDG Regulations**”), notwithstanding that the Seller may have prepared any documents required thereunder. Buyer shall assume the role of consignor under the TDG Regulations for all purposes thereunder, except in respect of Seller-operated facilities where Crude Oil is loaded onto rail cars, in which case the Seller shall assume for all purposes under the TDG Regulations the role of consignor. If the Seller provides, or arranges for a party other than Seller or Buyer (a “**Third Party**”) to provide, printed bills of lading or transaction receipts (“**Transportation Documents**”), then the Seller makes no representation or warranty that Transportation Documents provided by or on behalf of the Seller or a Third Party comply with the TDG Regulations and the Buyer shall be solely responsible for ensuring that Transportation Documents comply with the TDG Regulations. If the Buyer arranges for a Third Party to take delivery of Crude Oil, then the following provisions shall apply:

- (i) Buyer shall notify and obtain, if applicable, any required consents from the Third Party with respect to its designation as consignor on any documents required under the TDG Regulations and its consignor responsibilities under the TDG Regulations;
- (ii) Buyer shall first notify and provide to the Seller, in writing, the Third Party's name, address, 24 hour number and any other information requested by the Seller from time to time, and, as applicable, the Buyer's written confirmation that the Third Party has been notified of, and, if required, consented to, its designation as consignor on any documents required under the TDG Regulations and its associated responsibilities under the TDG Regulations, notwithstanding that the Seller may have prepared any documents required thereunder; and
- (iii) Buyer agrees that the Seller shall not be liable to the Buyer for any failure or refusal to designate the Third Party as consignor.

22. Safety Data Sheets

Seller shall provide its Safety Data Sheet (“**SDS**”) to Buyer. Buyer acknowledges that it is familiar with the Crude Oil and is sophisticated and knowledgeable of the hazards and risks associated with the Crude Oil. Buyer shall read the SDS and any supplementary SDS or written warning(s) which Seller may provide to Buyer from time to time. Each party acknowledges that it will comply with all safety and health related governmental requirements concerning the Crude Oil, including its handling, transportation, storage and use. The parties acknowledge that the SDS for any Crude Oil sold by Shell Trading Canada hereunder is made available at <http://www.epc.shell.com>

23. Miscellaneous

- 23.1. Amendments: Any variations or amendments to this Agreement to be effective must be agreed to in writing by the parties.
- 23.2. Assignment: The Agreement shall not be assigned or transferred, in whole or in part, without the prior written consent of the other party, which consent may not be unreasonably withheld.
- 23.3. Compliance with Laws: The terms, provisions and activities undertaken pursuant to this Agreement shall be subject to, and each party shall comply with all Applicable Laws. “**Applicable Laws**” means statutes, judgments and order of courts of competent jurisdiction; rules, regulations and orders issued by government agencies, authorities and other regulatory bodies; and regulatory approvals, permits and licenses, which are applicable to the person, property or circumstances concerned. If at any time a provision hereof violates any Applicable Laws, such provision shall be voided and the remainder of the Agreement shall continue in full force and effect unless terminated by either party upon giving written notice to the other.
- 23.4. Crown Prerogative: If this Agreement involves the exportation of Crude Oil and extends for a period of 1 month or longer, then the parties agree that Seller may be relieved of its obligations to sell Crude Oil hereunder to the extent that authorized exports are restricted by or under an act of Parliament or a prerogative of the Crown.
- 23.5. Cumulative Rights: Any exercise by the non-defaulting party under this Agreement is without prejudice to any other rights or remedies available to it under this Agreement or otherwise.
- 23.6. Currency Exchange Rate: Any currency conversion required pursuant to this Agreement shall done using the average of the daily WM/Reuters 12 noon EST FX Benchmark exchange rates for the applicable month of delivery, as published by Thomson Reuters based on the Canadian holiday calendar, expressed to five (5) decimal places for the appropriate period.
- 23.7. Data Privacy: The parties may provide each other with information regarding an identifiable individual, the processing and transfer of which will be in accordance with applicable data protection laws.

- 23.8. Electronic data interchange: Electronic data interchange systems shall be deemed to be acceptable and satisfactory documentation for invoicing, proof of delivery and as a requirement for payment where the specific terms of this Agreement call for payment upon receipt of formal, hard copy documents or in any other case. Buyer expressly acknowledges that by accepting the GTCs that it will pay for Crude Oil delivered as stipulated in this Agreement upon receipt of information electronically, by facsimile or by any other commercially reasonable means.
- 23.9. English Language: The parties declare that it is their express wish that the Agreement be drawn up in English and that all documents relating to, contemplated by or resulting from the Agreement be drawn up in English. Les parties déclarent qu'il est leur volonté expresse que ce contrat soit rédigé en anglais et que tous documents s'y rattachant ou ayant trait ou suite au présent contrat soient rédigés en anglais.
- 23.10. Further Assurances: Each party shall provide information; do and perform all acts and things; and execute and deliver all assurances as may be necessary to give full effect to all the provisions of this Agreement.
- 23.11. Industry Practice: Any terminology and practice referred to but not specifically described herein shall be construed in accordance with the accepted oil industry terminology and practice.
- 23.12. Lease Purchases: For Lease Purchases only, Buyer reserves the right, at its sole discretion, to adjust the Price in the event of volumetric differences and/or remarketing of apportioned volumes. "**Lease Purchases**" means any volumes purchased by Shell Trading Canada upstream of the major trading locations including Edmonton, Hardisty, Kerrobert, Regina and Cromer, as applicable.
- 23.13. Rail Terms: For Crude Oil transactions involving railcars only, the terms in Appendix A attached hereto shall also apply.
- 23.14. Notices: Any notice required hereunder shall be in writing, addressed to the other party as set out in the Specific Terms and may be delivered personally, by facsimile, electronic transmission, courier or registered mail. Either party may change its address for notices from time to time on written notice to the other party. Any notice will be effective when received.
- 23.15. No Third-Party Beneficiary: The provisions of this Agreement are for the benefit of the parties, their successors and assigns, and will not be construed as conferring any rights to any third-party.
- 23.16. Price Rounding: The final price will be calculated without rounding and will be displayed on the invoice up to six (6) decimal places. In calculating the final price, the calculation shall use two (2) decimals places for NYMEX WTI month average, two (2) decimals for blended index, and six (6) decimals for WADF (Weighted Average Differential Factor) and five (5) for FX (Foreign Exchange) rate.
- 23.17. Recording of Communications: Each party hereby acknowledges to the other party and consents that such other party may from time to time and without further notice and to the extent permitted by law: (i) record and retain electronic transmissions (including telephone conversations, e-mail, and instant messaging between the parties' respective representatives in connection with the Agreement) on central and local databases for their respective legitimate purposes; and (ii) monitor electronic transmissions through their internal and external networks for purposes of security and compliance with applicable laws, regulations and internal policies for their other legitimate business purposes.
- 23.18. Severability: The invalidity or unenforceability of any provision of the Agreement shall not affect the validity or enforceability of any other provision of the Agreement.
- 23.19. Status of Parties: Neither party is acting as a fiduciary for or an advisor to the other party in respect of this Agreement or any transaction hereunder.
- 23.20. Entirety of Agreement: The Specific Terms and these GTCs contain the entire Agreement of the parties; there are no other promises, representations or warranties. Any conflict between the Specific Terms and these GTCs shall be resolved in favor of the Specific Terms.
- 23.21. Survivability: The termination or expiration of this Agreement shall be without prejudice to any rights, obligations or liabilities of either party which have accrued as of the termination or expiration hereof but have not been performed or discharged, and any provisions which expressly or implicitly survive termination, and any parts of the Agreement having any relevance thereto or any bearing thereon shall, notwithstanding the termination or expiration of the Agreement, continue in force and effect.
- 23.22. Waiver: No waiver by either party of a breach of an obligation hereunder shall be construed as a waiver of any other breach, whether of the same or different nature, current or future.

APPENDIX A – RAIL TERMS

1. Quantity and Quality

- 1.1. It is agreed that after a railcar delivery, minimum settling period of four (4) hours shall be allowed prior to gauging the Terminal tank.
- 1.2. Where a party requires an independent inspection to determine quality, the inspection shall be made by an independent inspector who is mutually acceptable to both Seller and Buyer, and the party or parties (as applicable) requiring an independent inspection shall appoint the independent inspector with the inspection charges for the account of the party requiring such independent inspection. In the case where both Parties require an independent inspection, the parties shall share all inspection charges equally, and the independent inspector's report shall be made available to both parties.
- 1.3. Where no independent inspection takes place, or where the independent inspector only witnesses the measurement, quality determination(s) shall be made by the terminal personnel.
- 1.4. Results of the measurements shall be issued in the form of the certificates of quantity and/or quality; meter tickets or weight tickets (as applicable) with respect to the Product delivered and shall be issued by the independent inspector. Where no independent inspection occurs, measurement shall be by terminal meter tickets or weight tickets (as applicable).
- 1.5. Except in cases of manifest error or fraud, the certificates of quantity and quality, meter tickets or weight tickets (as applicable) issued pursuant to this Section shall be conclusive and binding on both parties for invoicing purposes, and Buyer shall be obliged to make payment in full in accordance with this Agreement, but shall be without prejudice to the rights of either party to file a claim for quantity and/or quality.

2. Nomination

- 2.1. Nominations shall be made in accordance with the standard operating procedures at the Terminal.
- 2.2. FCA into railcar – If Crude Oil is purchased and sold hereunder on an FCA into railcars basis:
 - 2.2.1. The railcars presented by Buyer for loading shall be fit, clean, and in all respects ready to load the Crude Oil.
 - 2.2.2. Buyer will:
 - 2.2.2.1. Visually inspect any railcars to reasonably determine that hatches, valves, fittings and placards are in proper order, and detain railcars which do not comply with railroad requirements or applicable Department of Transportation, Federal Railroad Administration or other applicable regulations.
 - 2.2.2.2. Seal each loaded and unloaded railcar in accordance with applicable regulations and prepare for shipment as required.
 - 2.2.3. Seller, acting in a commercially reasonable manner, has the right to refuse a Railcar if it is not fit for loading (due to, but not limited to, a leaky or damaged railcar) or if the railroad carrier ("Carrier") or Terminal operator rejects the railcar.
- 2.3. DAP from railcar – If Crude Oil is purchased and sold hereunder on a DAP from railcar basis:
 - 2.3.1. The railcars presented by Seller for discharge shall be fit and in all respects ready to discharge the Crude Oil.
 - 2.3.2. Seller will:
 - 2.3.2.1. Visually inspect any railcars to reasonably determine that hatches, valves, fittings and placards are in proper order, and detain railcars which do not comply with railroad requirements or applicable Department of Transportation, Federal Railroad Administration or other applicable regulations;
 - 2.3.2.2. Seal each loaded and unloaded railcar in accordance with applicable regulations and prepare for shipment as required.

2.3.3. Buyer, acting in a commercially reasonable manner, has the right to refuse a railcar if it is not fit for discharge (due to, but not limited to, a leaky or damaged railcar) or if the Carrier or Terminal operator rejects the railcar.

2.4. The Carrier shall be given safe and reasonable access to the Terminal.

3. Railcar Demurrage and Detention

3.1. If a Manifest Train is used

3.1.1. FCA – If Crude Oil is purchased and sold hereunder on an FCA into railcar basis, for the purpose of detention and always subject to the provisions of 2.2.3, time shall start when the railcars are actively or constructively placed, whichever is earlier, at the disposal of Seller. Seller shall be responsible for actual demurrage incurred (as evidenced by an invoice from the Carrier) and detention charges (as applicable) to the extent it delays the railcars loading. For the purpose of detention, time shall end when all loaded railcars are fit for transport and made available at the loading terminal for collection by, or on behalf of, Buyer.

3.1.2. DAP - If Crude Oil is purchased and sold hereunder on a DAP from railcar basis, for the purpose of detention and always subject to the provisions of 2.3.3, time shall start when the railcars are actively or constructively placed, whichever is earlier, at the disposal of Buyer. Buyer shall be responsible for actual demurrage incurred (as evidenced by an invoice from the Carrier) and detention charges (as applicable) to the extent it delays the railcars discharge. For the purpose of detention, time shall end when all empty railcars are fit for transport and made available at the receiving terminal for collection by, or on behalf of, Seller.

3.1.3. The demurrage charges shall be as per the applicable railroad tariff. The detention charges shall be \$100 per car per day. Detention charges shall not apply to the first five (5) days of delay.

3.2. If a Unit train is used

3.2.1. FCA – If Crude Oil is purchased and sold hereunder on an FCA into railcar basis, for the purpose of detention and always subject to the provisions of 2.2.3, time shall start when the railcars are actively or constructively placed, whichever is earlier, at the disposal of Seller. Seller shall be responsible for actual demurrage charges incurred (as evidenced by an invoice from the Carrier) and detention charges (as applicable) to the extent it delays the railcars loading. For the purpose of detention, time shall end when all loaded railcars are fit for transport and made available at the loading terminal for collection by, or on behalf of, Buyer.

3.2.2. DAP – If Crude Oil is purchased and sold hereunder on a DAP from railcar basis, for the purpose of detention and always subject to the provisions of 2.3.3, time shall start when the railcars are actively or constructively placed, whichever is earlier, at the disposal of Buyer. Buyer shall be responsible for actual demurrage incurred (as evidenced by an invoice from the Carrier) and detention charges (as applicable) to the extent it delays the railcars discharge. For the purpose of detention, time shall end when all empty railcars are fir for transport and made available at the receiving Terminal for collection by, or on behalf of, Seller.

3.2.3. The demurrage charges shall be as per the applicable railroad tariff. Demurrage charges shall not apply to the first 24 hours of delay. The detention charges shall be \$100 per railcar per day. Detention charges shall not apply to the first 24 hours of delay.

3.3. Any claim for demurrage or detention charges must be made no later than 90 days of loading or unloading of the Crude Oil.

4. Deviation

If the Crude Oil is purchased and sold hereunder on a DAP from railcar basis, Buyer will not divert Seller's railcars or consign them to any other routing or to any other destination than that set out in the bill of lading instructions without obtaining prior written consent of Seller (e-mail acceptable). All diversion charges, additional freight charges and any other costs or expenses incurred, sustained or paid by Seller resulting from such diversion shall be for the account of Buyer.