



Shell Trading Canada

**General Terms and Conditions for the
Sale and Purchase of Products**

August 15, 2019

PART A - IN RESPECT OF FOB MARINE DELIVERIES	4
1. SAFE BERTH	4
2. QUANTITY AND QUALITY	4
3. NOMINATION	6
4. RISK AND TITLE	8
5. ETA NOTICE	8
6. NOTICE OF READINESS	8
7. LAYTIME	9
8. DEMURRAGE	12
9. POLLUTION COVER	13
10. INTERNATIONAL SHIP AND PORT FACILITY SECURITY CODE	13
11. GENERAL	15
12. INERT GAS SYSTEM	15
13. SPECIFIC PORTS, ANCHORAGES, AND LOCATIONS	15
PART B - IN RESPECT OF CFR, CIF AND DELIVERED MARINE DELIVERIES	16
14. SAFE BERTH	16
15. QUANTITY AND QUALITY	16
16. NOMINATION	19
17. INSURANCE	21
18. RISK AND TITLE	22
19. ETA NOTICE	23
20. NOTICE OF READINESS	23
21. LAYTIME	24
22. DEMURRAGE	27
23. POLLUTION COVER	28
24. AUTOMATED MANIFEST SYSTEM	28
25. TRANSSHIPMENT AND LIGHTERING	29
26. INTERNATIONAL SHIP AND PORT FACILITY SECURITY CODE	29
27. GENERAL	30
28. INERT GAS SYSTEM	30
29. SPECIFIC PORTS, ANCHORAGES, AND LOCATIONS	31
PART C - IN RESPECT OF EX-TANK, INTO TANK, FREE INTO PIPE, EX-PIPE, AND IN-SITU DELIVERIES	32
30. QUANTITY AND QUALITY	32
31. NOMINATION	33
32. RISK AND TITLE	33
33. PIPELINE ALLOCATION	34
PART D - IN RESPECT OF DELIVERIES FCA INTO AND DAP FROM TANK TRUCKS AND RAILCARS	35
34. QUANTITY AND QUALITY	35
35. NOMINATION	36
36. RISK AND TITLE	36
37. LAYTIME, DEMURRAGE AND DETENTION	36
38. DEVIATION	37
PART E - APPLICABLE TO EACH OF PARTS A, B, C AND D	38
39. SPECIFICATIONS	38
40. TEMPERATURE CORRECTION	38

41. NATURAL GAS LIQUIDS (“NGLS”)	38
42. PRICE.....	38
43. PAYMENT	40
44. LATE PAYMENT INTEREST.....	42
45. ADEQUATE ASSURANCE.....	42
46. FINANCIAL RESPONSIBILITY.....	42
47. BREACH OF PERFORMANCE AND EVENTS OF DEFAULT	42
48. TAXES, FEES, AND OTHER CHARGES.....	45
49. CUSTOMS REPORTING.....	46
50. DUTY DRAWBACK	46
51. WARRANTIES	46
52. QUANTITY AND QUALITY CLAIMS	47
53. FORCE MAJEURE.....	47
54. NEW AND CHANGED REGULATIONS	48
55. ASSIGNMENT.....	49
56. REGULATION, EVALUATION, AUTHORIZATION AND RESTRICTION OF CHEMICAL SUBSTANCES	49
57. COMPLIANCE WITH LAWS AND REGULATIONS	50
58. SAFETY DATA SHEETS.....	51
59. NOTICES.....	51
60. GOVERNING LAW AND DISPUTE RESOLUTION	51
61. LIMITATION OF LIABILITY.....	52
62. WAIVER	52
63. SURVIVABILITY	52
65. SEVERABILITY	52
66. NO THIRD PARTY BENEFICIARY	53
67. DATA PRIVACY, RECORDING, RETENTION AND MONITORING OF COMMUNICATIONS.....	53
68. TRADE CONTROLS AND BOYCOTTS, EXPORT COMPLIANCE, AND ANTI-CORRUPTION	53
69. ENTIRE AGREEMENT - MODIFICATION - CONFLICT	54
70. LANGUAGE	54
71. TDG REGULATIONS.....	55
72. DEFINITIONS	55
PART F - ATTACHMENTS	60
ATTACHMENT A - SELLER’S LETTER OF INDEMNITY FORMAT	60

PART A - In respect of FOB Marine deliveries

1. Safe Berth

- 1.1. Subject to compliance by the Buyer's nominated Vessel with all other requirements of the Load Port at the time in question, the Seller shall provide or shall cause to be provided, free of charge to the Buyer, a Berth or Berths which the nominated Vessel accepted by Seller can safely reach and leave, and at which she can lie and load always safely afloat. Notwithstanding the foregoing, all duties and other charges, including, without limitation, those incurred for tugs, pilots, mooring masters, and other port costs, due in respect of the Vessel at the Load Port, shall be paid by Buyer, except for those specified in Section 1.5 below.
- 1.2. The Seller shall at all material times and at no expense to the Buyer provide and maintain or cause to be provided and maintained, in good working order, all necessary flexible hoses, connections, pipelines, and tankage facilities necessary for the loading of the Buyer's Vessel.
- 1.3. Seller shall not be deemed to warrant the safety of any channel, fairway, anchorage, or other waterway used in approaching or departing from the Berth designated by Seller. Seller shall not be liable for:
 - 1.3.1. Any loss, damage, injury, or delay to the Vessel resulting from the use of such waterways; or
 - 1.3.2. Any damage to the Buyer's Vessel caused by other Vessels passing in the waterway.
- 1.4. Notwithstanding Section 1.1 above, if the Berth specified in the Confirmation requires the Buyer's Vessel to be loaded from a floating storage facility, lighter or other Vessel by means of ship-to-ship transfer, such Berth shall be subject to the Buyer's ship or Load Port vetting procedures and the Buyer may, on any reasonable ground, without liability, and within a reasonable time period, refuse the use of such facility for the purpose of loading its nominated Vessel. Any ship-to-ship or lightering operations shall be carried out in accordance with the procedures set out in the ICS/OCIMF Ship-to-Ship transfer guides. Once a Berth has been vetted by Buyer, it may only be changed as a result of significant changes (e.g. incidents).
- 1.5. Berth Shifting: When Berth shifting is required for the convenience of Seller, Seller will pay all pilot, tug, and port expenses incurred in shifting the Vessel and time consumed therefor shall count as used Laytime. When shifting is required due to Buyer, the Vessel or its equipment, Buyer will pay all expenses incurred in shifting the Vessel.

2. Quantity and Quality

- 2.1. All measurements shall represent one hundred percent volume with the volumes corrected from the actual temperature to 15 degrees Celsius by use as endorsed in API 2540 Petroleum Measurement Standards MPMS Chapter 11.1 or the latest revision to those standards.

PART A - In respect of FOB Marine deliveries

- 2.2. The quantity shall be based on proven meters (if available) at the Load Port. If loaded by-passing a meter, it must be gauged by a Shell approved 3rd party inspection survey gauger. If proven meters are unavailable, shoretank(s) downgauged measurements at the Load Port shall be used except when shoretank(s) (i) are active, or (ii) are in the critical zone, or (iii) are unable to be measured manually, or (iv) reference height and observed height vary by more than one-fourth (1/4) inch, or (v) the observed height changes by more than one-fourth (1/4) inch between the open and close measurement, or (vi) liquid level is not greater than one-eighth (1/8) inch above the datum plate, in which case measurement shall be conducted according to the following procedures:
- 2.2.1. Tankers and Ocean-Going Barges: Quantity shall be based on the Vessel's loaded figure, adjusted for OBQ, with a valid load VEF (if available) applied.
- 2.2.2. Inland Barges: Quantity shall be based on proven meters (if available) at the Discharge Port. If proven meters are unavailable, static shoretank(s) upgauged measurements at the Discharge Port, adjusted for OBQ and ROB shall be used. If discharge occurs at a Discharge Port not operated by Seller or Buyer, subject to the approval of the Discharge Port, an independent inspector who is mutually acceptable to the parties shall be appointed to validate the gauges. If static shoretank upgauged measurement is unavailable at the Discharge Port, then quantity shall be based on an average of the barge(s) loaded and discharged figures, adjusted for OBQ and ROB, with a valid load VEF (if available) applied.
- 2.3. Quality determination shall be in accordance with the test results run on a volumetrically correct composite of samples drawn from inline sampler, at the Load Port. If inline sampler is not available, shoretank(s) at the Load Port shall be used. If shoretank(s) is not available, a volumetrically correct Vessel compartment composite sample obtained at the Load Port shall be used.
- 2.4. With respect to quantity and quality at the Load Port, either party may appoint a mutually acceptable independent inspector at the Load Port, subject to any necessary prior agreement of the Load Port operator having been obtained. Such appointment shall be notified in writing to the other party. Unless otherwise provided for in the Confirmation, both parties shall share all inspection charges equally and the independent inspector's report shall be made available to both parties.
- 2.5. Results of the measurements set forth in this Section shall be issued in the form of the certificates of quantity with respect to the Product loaded. Also, the Seller will make available to the Buyer a certificate of analysis demonstrating compliance to the agreed upon applicable quality standard, if any.
- 2.6. Except in cases of manifest error or fraud, the certificates of quantity and quality 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 Section 43 below, but shall be without prejudice to the rights of either party to file a claim for quantity and/or quality.

PART A - In respect of FOB Marine deliveries

- 2.7. In addition to the independent inspector appointed pursuant to this Section or should the parties fail to mutually agree upon an independent inspector, either party may, at its own expense, appoint a representative, acceptable to the Load Port, to witness the loading of each cargo. Any delays resulting in demurrage at the Load Port due to either party's appointed representative shall be for the account of the party appointing said representative causing the delay.

3. Nomination

- 3.1. Buyer shall nominate every Vessel used in cargo operations (including loading, discharging, or lightering), as well as, when known, the primary towing vessel engaged in the transport by directly towing astern, alongside, or pushing ahead of an associated barge which is acceptable to Seller, and such acceptance shall not be unreasonably withheld. For the avoidance of doubt, Seller shall be entitled to reject Buyer's nominated Vessel, and/or refuse to accept loading any nominated Vessel on any reasonable ground, including but not limited to, where the Vessel is not approved by Seller's internal ship vetting system or alternatively is determined by such internal ship vetting system to be unacceptable under the Seller's ship vetting policy or that of any of Seller's Suppliers.
- 3.2. Where practicable under a Confirmation, Buyer shall nominate a Vessel pursuant to the following requirements:
- 3.2.1. Tanker Nominations: At least seven (7) days before the first day of the agreed Loading Date Range.
- 3.2.2. Ocean-Going Barge and Inland Barge Nominations: At least three (3) days before the first day of the agreed Loading Date Range.
- 3.3. If the parties enter into a Transaction later than any of the applicable dates for notification, then Buyer shall nominate a Vessel as soon as practicable following the Agreement date.
- 3.4. All nominations shall be in writing (e-mail acceptable) and Buyer shall include, to the extent known (except with respect to the primary towing vessel engaged in the transport by directly towing astern, alongside, or pushing ahead of an associated barge, in which case the information identified in Sections 3.4.4, 3.4.5 and 3.4.8 are not required for such vessel):
- 3.4.1. Contract Reference;
- 3.4.2. Vessel Name;
- 3.4.3. Load Port;
- 3.4.4. Product Grade;
- 3.4.5. Quantity;
- 3.4.6. Agreed Loading Date Range;
- 3.4.7. Vessel ETA at the Load Port;

PART A - In respect of FOB Marine deliveries

- 3.4.8. Independent inspector;
 - 3.4.9. Comments / Instructions (as applicable);
 - 3.4.10. Physical non-commercially sensitive details of any cargo on board or to be laden on board if loading a part cargo; and
 - 3.4.11. Confirmation that the Vessel complies with the requirements of Section 10
- 3.5. Seller shall communicate its acceptance or rejection of any Vessel nomination within one (1) Banking Day after receipt of such nomination.
- 3.6. Vessel Substitution. Buyer may, or if necessary to perform its obligations hereunder must, with Seller's prior agreement, substitute, in accordance with the nomination procedures in this Section, any nominated Vessel, with another Vessel acceptable to Seller, which is similar in all material respects to the Vessel so replaced and the size of the substitute Vessel and the quantity to be loaded shall not, without the prior written consent of Seller, differ materially from the size of the Vessel previously named and the quantity specified in the nomination. Said nomination shall not alter any existing terms under this Agreement beyond the Vessel used to fulfill the obligations of this Agreement.
- 3.7. Despite any prior acceptance, Seller shall have the right to revoke its acceptance of Buyer's Vessel nomination, at any time after Seller's initial acceptance (but prior to passing of risk and title hereunder) on any reasonable ground, in the event that, at any time after such acceptance, (i) the Vessel is involved in any incident, (ii) if information regarding such Vessel becomes available to Seller which indicates that the information relied upon by the Seller in previously accepting the Vessel was materially incorrect or incomplete, or (iii) if such Vessel cannot meet the requirements of Part E Section 57.
- 3.8. In case of rejection, Buyer shall promptly nominate a Vessel acceptable to Seller and Buyer shall not, unless otherwise provided in Section 53 below, be relieved of its responsibility to perform the agreed loading.
- 3.9. Buyer shall narrow (wholly within the original Loading Date Range) the agreed Loading Date Range to a three (3) day Loading Date Range by providing Seller written notice (e-mail acceptable) five (5) days before the first day of the narrowed Loading Date Range.
- 3.10. Regulations at the Load Port. All applicable governmental, local and port authority rules and regulations, and terminal rules and regulations in force at the Load Port (including without limitation all restrictions at the Load Port with respect to maximum draft, length, deadweight, displacement, age, flag and the like, and the procedures relevant to health, safety and Vessel operations) shall apply to Buyer's Vessel. Seller shall provide all information regarding restrictions at the Load Port and such other Load Port requirements that are readily available to it, upon the Buyer's written request. Notwithstanding anything to the contrary contained in this Section, if any Vessel nominated by Buyer does not comply with the foregoing provisions or any of

PART A - In respect of FOB Marine deliveries

them, Seller or Seller's Supplier(s) may refuse to berth, load, or continue to load the Vessel in question.

3.11. Changes in procedures. This Section 3 shall be subject to modification, by written notice from the Seller to the Buyer, to take account of changes in the nomination and/or other procedure applicable from time to time at the Load Port.

3.12. Liability. The Seller shall not be liable for the consequences of rejection or delay (including but not limited to demurrage) of the Vessel or other restriction suffered in respect of the Vessel by virtue of the application of any regulations or other requirements of this Section 3, and the Buyer shall be liable for any costs or damages incurred by the Seller arising out of any such rejection of, delay to or restriction of the Vessel.

4. Risk and Title

4.1. Title to and risk of loss or damage to any Product delivered under this Agreement shall be transferred from Seller to Buyer at the Load Port as the Product passes the Vessel's permanent hose connection.

5. ETA Notice

5.1. Buyer shall arrange for its Vessel to notify the Load Port, with a copy to the Seller, via telex, letter, telegram, e-mail, or telecopy/fax of the Vessel's ETA pursuant to the following schedule:

5.1.1. Tankers and Ocean-Going Barges:

5.1.1.1. Where practicable, no later than seventy-two (72) hours prior to the Vessel's arrival at the Load Port. The Load Port shall be further notified forty-eight (48), twenty-four (24), and six (6) hours in advance of the Vessel's arrival at the Load Port.

5.1.2. Inland Barges:

5.1.2.1. Where practicable, no later than forty-eight (48) hours prior to the Vessel's arrival at the Load Port. The Load Port shall be further notified twenty-four (24) and six (6) hours in advance of the Vessel's arrival at the Load Port. After the six (6) hour notice is given, when a scheduled arrival time changes by more than two (2) hours, all reasonable efforts shall be made to notify the Load Port of such change.

5.2. Any delays arising from the failure to adhere to these ETA notices shall not count as used Laytime or demurrage if the Vessel is on demurrage.

6. Notice of Readiness

6.1. After the Vessel has arrived at the customary anchorage or other place of waiting, is otherwise in all respects ready to receive cargo, and has received all necessary and required clearances, including as applicable, but not limited to, from the Coast Guard, Port Authorities, CBSA, and/or other authorized regulatory, governmental, or security agency or body as applicable (unless such procedures are customarily carried out only after the Vessel is All Fast alongside), the master or his agent shall

PART A - In respect of FOB Marine deliveries

give to Seller or Seller's Supplier and/or other parties, where necessary, notice by letter, email, telegraph, telex, rapifax, wireless, radio telephone, or telephone that the Vessel is ready in all respects to load the cargo, Berth or no Berth. Any NOR issued without having satisfied the requirements of this Section shall be null and void.

6.2. By no later than 23:59 hours local time on the last day of the agreed Loading Date Range, the Vessel nominated by Buyer hereunder shall arrive at the Load Port (or the usual waiting place), complete all formalities, in all respects be ready to commence loading the Product deliverable hereunder, and NOR shall be tendered.

7. Laytime

7.1. Laytime Allowance:

7.1.1. Unless otherwise specified in a Confirmation, the Laytime allowance shall be:

7.1.1.1. Tankers: Thirty-six (36) hours, pro rata for part cargo.

7.1.1.2. Ocean-Going Barges and Inland Barges:

7.1.1.2.1. Voyage Chartered: Where the single voyage charter party specifies a Laytime allowance per hour or a specific Laytime allowance for load, then such Laytime allowance shall apply, pro rata for part cargo, otherwise the Laytime allowance shall be one-half (1/2) of the total Laytime allowance as provided in the single voyage charter party, pro rata for part cargo.

7.1.1.2.2. Time Chartered, Demise Chartered, or Buyer Owned:

Vessel Type	Barrel Volume	Laytime Allowance
Inland Barges (Lube Oil)	n/a	24 hours
Inland Barges (Other)	n/a	3,000 barrels per hour + 3 free hours
Ocean- Going Barges	Up to 39,999	12 hours
	40,000 - 49,999	13 hours
	50,000 - 59,999	15 hours
	60,000 - 67,999	16 hours
	68,000 - 74,999	17 hours
	75,000 - 95,999	19 hours
	96,000 - 118,999	20 hours
	119,000 - 144,999	21 hours
	145,000 - 154,999	23 hours
	155,000 - 164,999	25 hours

PART A - In respect of FOB Marine deliveries

Vessel Type	Barrel Volume	Laytime Allowance
	165,000 - 174,999	27 hours
	175,000 - 184,999	30 hours
	185,000 - 199,999	32 hours
	200,000 and above	36 hours

7.1.2. If the Vessel is loading or discharging any part cargo for other parties at the same Berth, then any time used by the Vessel waiting at, or for, such Berth, and in loading, which would otherwise count as used Laytime or demurrage if the Vessel is on demurrage, shall be pro-rated in the proportion that Seller's cargo bears to the total cargo worked by the Vessel at such Berth. If, however, used Laytime or demurrage, if the Vessel is on demurrage, is solely attributable to the other parties' cargo operations, then such time shall not count in calculating used Laytime or demurrage if the Vessel is on demurrage.

7.1.3. Laytime allowance shall be no less than a minimum of twelve (12) hours.

7.2. Laytime Commencement:

7.2.1. Tankers and Ocean-Going Barges:

7.2.1.1. If the Vessel arrives before the agreed Loading Date Range and tenders NOR, Laytime shall not commence until 06:01 hours on the first day of the agreed Loading Date Range, unless Seller elects to accept the Vessel earlier, in which case Laytime shall begin when the Vessel is All Fast.

7.2.1.2. If the Vessel arrives within the agreed Loading Date Range and tenders NOR, Laytime shall commence six (6) hours after the Vessel's NOR being tendered or when the Vessel is All Fast, whichever occurs first.

7.2.1.3. If the Vessel arrives after the last day of the agreed Loading Date Range and tenders NOR, and is accepted by Seller in its sole and absolute discretion, then, without prejudice to any of Seller's other rights, Laytime shall commence when the Vessel is All Fast.

7.2.2. Inland Barges:

7.2.2.1. If the Vessel arrives before the agreed Loading Date Range and tenders NOR, Laytime shall not commence until 00:01 hours on the first day of the agreed Loading Date Range, unless Seller elects to accept the Vessel earlier, in which case Laytime shall begin when the Vessel is All Fast.

7.2.2.2. If the Vessel arrives within the agreed Loading Date Range and tenders NOR, Laytime shall commence upon the Vessel's NOR being tendered, Berth or no Berth, or when the Vessel is All Fast, whichever occurs first.

PART A - In respect of FOB Marine deliveries

- 7.2.2.3. If the Vessel arrives after the last day of the agreed Loading Date Range, tenders NOR, and is accepted by Seller in its sole and absolute discretion, then, without prejudice to any of Seller's other rights, Laytime shall commence when the Vessel is All Fast.
- 7.3. Time consumed due to any of the following shall not count as used Laytime, or if the Vessel is on demurrage, for demurrage:
- 7.3.1. On an inward passage including, but not limited to, awaiting daylight, ice, moderation of weather or sea state, tide, tugs, or pilot, and moving from an anchorage or other waiting place until the Vessel is All Fast;
 - 7.3.2. Any delay due to the Vessel's equipment or condition, breakdown, or any other causes attributable to the Vessel including failure to comply with the requirements of the Load Port with respect to equipment on board;
 - 7.3.3. Any delay due to prohibition of loading at any time by the owner or operator of the Vessel or by the port authorities, unless the prohibition is caused by Seller or Seller's Supplier's facility's failure to comply with applicable laws, rules, and regulations;
 - 7.3.4. Any delay due to the Vessel bunkering, provisioning, discharging or shifting of slops, ballast, or contaminated cargo, unless this is carried out concurrent with loading or other normal cargo operations such that no loss of time is involved;
 - 7.3.5. Any delay due to the Vessel's incompatibility with the configuration of the berthing or other port facilities, including time consumed in making up connections to remedy any incompatibility;
 - 7.3.6. Any delay due to pollution or threat thereof caused by any defect in the Vessel or any act or omission to act by the master or crew of the Vessel;
 - 7.3.7. Any delay due to the Vessel's violation of the operating or safety rules and/or regulations of the Load Port, and/or noncompliance with: (i) federal, state or provincial laws, (ii) Coast Guard regulations, (iii) any other applicable regulations, (iv) or failure to obtain or maintain required certification;
 - 7.3.8. Any delays caused by strike, lockout, stoppage or restraint of labor of master, officers or crew of the Vessel, or of tugboats or pilots;
 - 7.3.9. Any delay awaiting customs or immigration clearance, other required governmental or port clearance, or free pratique, if applicable; and
 - 7.3.10. Any other delay attributable to the Vessel, the Buyer or agents of the Buyer.
- 7.4. Any delay, not first caused by the negligence of Seller or Seller's Supplier(s), that is the result of fire, explosion, destruction of tankage, pipelines, refineries or terminal and any kind of installations, civil unrest, act of war, riot, acts of piracy, acts of sabotage, boycotts, strikes, lock-outs, stoppage or restraint of labor, breakdown of machinery or equipment in or about the facilities of Seller or Seller's Supplier, adverse weather and/or sea conditions, earthquakes, tidal waves, destruction by

PART A - In respect of FOB Marine deliveries

lightning, or other Acts of God, or other delays not reasonably within the control of either party (and except as otherwise provided in this Agreement), shall be paid for at one-half (1/2) the rate otherwise provided for demurrage.

7.5. Laytime shall cease after all Product has been loaded and:

7.5.1. Tankers and Ocean-Going Barges: When the hoses have been disconnected from the Vessel. However, Laytime will recommence two (2) hours after disconnection of hoses if the Vessel is delayed in its departure due to Seller's or Seller's Supplier's not providing any and/or all of the necessary documents and/or clearances to allow the Vessel to depart. Used Laytime shall continue until such documents and/or clearances have been provided to the Vessel by Seller or Seller's Supplier(s).

7.5.2. Inland Barges: When the hoses have been disconnected from the Vessel and the Vessel has been released by Seller or Seller's Supplier(s).

7.6. Where the parties agree in a Confirmation that the location for loading is a public dock, then any delay caused solely by berth congestion shall not count as used Laytime, and Laytime shall not commence until Vessel is All Fast at the dock.

7.7. A declaration of Force Majeure shall not relieve the Seller from the obligation to pay any delays or demurrage under this Agreement incurred while waiting for a Berth.

8. Demurrage

8.1. Demurrage Rate: For all time that used Laytime exceeds the Laytime allowance, Seller shall pay demurrage, at the rate and in the same currency specified in a Confirmation, or where no rate is specified in a Confirmation, as follows:

8.1.1. for single voyage chartered Vessels, the demurrage rate shall be based on the demurrage rate specified in the single voyage charter party for the Vessel performing the voyage in question.

8.1.2. for Buyer owned, time chartered, or demise chartered Vessels, or where Buyer is unable to substantiate the single voyage demurrage rate per this Section, the parties shall mutually agree upon the applicable rate. If a dispute arises between the parties as to the applicable rate, then the rate shall be established as follows:

8.1.2.1. Tankers: The single voyage market level current in London, on the date loading commenced for the voyage concerned, for a Vessel of similar type and summer deadweight and service to that of the Vessel actually involved. Such single voyage market level shall be expressed in percentage points of Worldscale (as amended from time to time), or such other freight scale as may be issued in replacement of Worldscale, and applied to the demurrage rate appropriate to the size of the Vessel concerned provided for in the aforementioned freight scale. In absence of agreement between Buyer and Seller, the market level is to be determined by the London Tanker Brokers' Panel as being representative of a current

PART A - In respect of FOB Marine deliveries

market rate for a similar Vessel performing a similar voyage, with costs for obtaining such demurrage rate split between the parties.

8.1.2.2. Ocean-Going Barges and Inland Barges: The parties shall appoint a mutually agreed upon ship broker who shall establish the applicable demurrage rate with costs for obtaining such demurrage rate split between the parties.

8.2. For demurrage purposes, all Inland Barges or tows operating as a unit shall be considered collectively as one unit.

8.2.1. In respect of tows, Seller will not be liable for tug demurrage during delays of berthing or loading where the Load Port has notified the Vessel's master that the tug would not be required at the Load Port for that time period.

8.3. Demurrage Claims: Demurrage claims must be submitted in writing (e-mail acceptable) with full customary supporting documentation no later than ninety (90) calendar days after the completion of loading date. IF A DEMURRAGE CLAIM AND ITS SUPPORTING DOCUMENTATION IS PROVIDED LATER THAN NINETY (90) CALENDAR DAYS AFTER THE COMPLETION OF LOADING DATE, THE CLAIM WILL BE DEEMED TO HAVE BEEN WAIVED.

9. Pollution Cover

9.1. Where delivery is to a Tanker:

9.1.1. Except in the case of delivery of LPG's, each Tanker shall be owned by, or demise chartered by, a member of the International Tanker Owners Pollution Federation Limited ("ITOPF").

9.1.2. The Tanker shall carry on board certificate(s) as required pursuant to the 1992 Civil Liability Convention for Oil Pollution Damage or any Protocols thereto ("CLC") and the Oil Pollution Act 1990, as applicable; and

9.1.3. The Tanker shall have in place insurance cover for oil pollution no less in scope and amounts than the highest available under the rules of P. & I. Clubs entered into the International Group of P. & I. Clubs.

9.1.4. The Vessel Owner is a member of or provides appropriate Oil Spill Response Organization coverage for any region in which the Vessel is operated.

9.2. Where delivery is to an Ocean-Going Barge or Inland Barge, Buyer shall exercise reasonable efforts to ensure that the barge owner has marine insurance in place for such barge, in an amount that meets or exceeds the minimum insurance requirements as required by applicable law or regulation for a barge of that size, transporting that Product.

9.3. If Buyer's Vessel does not meet any of the above requirements, Seller or Seller's Supplier(s) may refuse to berth or load or continue loading such Vessel.

10. International Ship and Port Facility Security Code

10.1. This Section shall apply:

PART A - In respect of FOB Marine deliveries

- 10.1.1. to all Load Ports not located within Canada, and
- 10.1.2. any other Load Port and/or Vessel used that is subject to the International Ship and Port Facility Security Code as codified under 46 U.S.C., Chapter 701, including as amended from time to time ("ISPS") or the U.S. Maritime Transportation Security Act 2002 ("MTSA").
- 10.2. Buyer shall procure that the Vessel shall comply with the requirements of the International Ship and Port Facility Security Code and the relevant amendments to Chapter XI of SOLAS ("ISPS Code") and where the Load Port is within the USA and U.S. territories or waters, with the MTSA.
- 10.3. The Vessel shall, when required, submit a Declaration of Security ("DoS") to the appropriate authorities prior to its arrival at the Load Port.
- 10.4. Notwithstanding any prior acceptance of the Vessel by Seller, if, at any time prior to the passing of risk and title the Vessel ceases to comply with the requirements of the ISPS Code or MTSA, then:
 - 10.4.1. Seller shall have the right not to berth such nominated Vessel at the Load Port and any demurrage resulting shall be for the account of Buyer, and
 - 10.4.2. Buyer shall be obliged to substitute such nominated Vessel with a Vessel complying with the requirements of the ISPS Code and MTSA as applicable.
- 10.5. Seller shall procure that the Load Port/terminal/installation shall comply with the requirements of the ISPS Code and if located within the USA and U.S. territories or waters, with the MTSA.
- 10.6. Any costs or expenses in respect of the Vessel, including demurrage or any additional charge, fee or duty levied on the Vessel at the Load Port and actually incurred by Buyer resulting directly from the failure of the Load Port/terminal/installation to comply with the ISPS Code and if located within the USA and U.S. territories or waters, with the MTSA, shall be for the account of Seller, including but not limited to the time required or costs incurred by the Vessel in taking any action or any special or additional security measures required by the ISPS Code or MTSA.
- 10.7. Save where the Vessel has failed to comply with the requirements of the ISPS Code and within the USA and U.S. territories or waters, with the MTSA, Seller shall be responsible for any demurrage actually incurred by Buyer arising from delay to the Vessel at the Load Port resulting directly from the Vessel being required by the port facility, or any relevant authority, to take any action or any special or additional security measures, or to undergo additional inspections by virtue of the Vessel's previous ports of call.
- 10.8. If the Load Port/terminal/installation is not operated by Seller or one of its Affiliates, Seller's liability to Buyer under this Agreement for any demurrage, costs, losses or expenses incurred by the Vessel, the charterers, or the Vessel owners resulting from the failure of the Load Port/terminal/installation to comply with the ISPS Code, or if

PART A - In respect of FOB Marine deliveries

located within the USA and U.S. territories or waters, with the MTSA, shall be limited to the payment of demurrage and costs actually incurred by Buyer in accordance with the provisions of this Section.

11. General

- 11.1. Buyer shall exercise reasonable efforts to ensure that while at the Terminal, the Vessel owner conducts Vessel operations in accordance with the applicable provisions of the latest edition of the International Safety Guide for Oil Tankers & Terminals ("ISGOTT").

12. Inert Gas System

- 12.1. The vessel's inert gas system (if any) shall comply with Regulation 62, Chapter II-2 of the 1974 Safety of Life at Sea Convention as modified by the Protocol of 1978, and any subsequent amendments, and Owners warrant that such system shall be operated (subject to the provisions of Part II clause 2), during loading, throughout the voyage and during discharge, and in accordance with the guidance given in the IMO publication "Inert Gas System (1983)". Should the inert gas system fail, Section 8 (Emergency Procedures) of the said IMO publication shall be strictly adhered to and time lost as a consequence of such failure shall not count against laytime or, if the vessel is on demurrage, for demurrage.

13. Specific Ports, Anchorages, and Locations

- 13.1. St-Lawrence River Ports: Any Vessel which must make passage to any port along the St-Lawrence River shall announce to the Load Port the Vessel's arrival at Les Escoumins, QC. The NOR given upon arrival at the Load Port's Berth or, the nearest customary anchorage or waiting place for the Load Port to which it is destined if the Berth is not available upon its arrival shall be used for Laytime and demurrage purposes.

PART B - In respect of CFR, CIF and Delivered Marine deliveries

14. Safe Berth

- 14.1. Subject to compliance by the Seller's nominated Vessel with all other requirements of the Discharge Port at the time in question, Buyer shall provide or shall cause to be provided, free of charge, a Berth which the nominated Vessel accepted by Buyer can safely reach and leave and at which she can lie and discharge always safely afloat. All duties and other charges, including, without limitation, those incurred for tugs, pilots, mooring masters, and other port costs, due in respect of the Vessel at the Discharge Port, shall be paid by Buyer, except for those specified in Worldscale as being for owners' account and which are not specified in Worldscale as being reimbursable by charterer to owner.
- 14.2. The Buyer shall at all material times and at no expense to the Seller provide and maintain or cause to be provided and maintained, in good working order, all necessary flexible hoses, connections, pipelines, tankage facilities necessary for the discharging of the Seller's Vessel.
- 14.3. Buyer shall not be deemed to warrant the safety of any channel, fairway, anchorage, or other waterway used in approaching or departing from the Discharge Port designated by Buyer. Buyer shall not be liable for:
 - 14.3.1. Any loss, damage, injury, or delay to Seller's Vessel resulting from the use of such waterways; or
 - 14.3.2 Any damage to the Seller's Vessel caused by other Vessels passing in the waterway.
- 14.4. Berth Shifting: When berth shifting is required for the convenience of Buyer, Buyer will pay all pilot, tug, and port expenses incurred in shifting the Vessel and time consumed therefor shall count as used Laytime. When shifting is required due to Seller, the Vessel or its equipment, Seller will pay all expenses incurred in shifting the Vessel.

15. Quantity and Quality

- 15.1. Quantity measurement and quality sampling and testing shall demonstrate compliance to the latest applicable product specification standard published by EI, API, ASTM, and/or CGSB or any other recognized international standards. The applicable standards and any additional or specific requirements shall be documented and agreed upon between the parties. All measurements shall represent one hundred percent volume with the volumes corrected from the actual temperature to 15 degrees Celsius by use as endorsed in API 2540 Petroleum Measurement Standards MPMS Chapter 11.1 or the latest revision to those standards.
- 15.2. CFR / CIF:

PART B - In respect of CFR, CIF and Delivered Marine deliveries

- 15.2.1. The quantity shall be based on proven meters (if available) at the Load Port. If loaded by-passing a meter, it must be gauged by a Shell approved 3rd party inspection survey gauger. If proven meters are unavailable, shoretank(s) downgauge measurements at the Load Port shall be used except when shoretank(s) (i) are active, or (ii) are in the critical zone, or (iii) are unable to be measured manually, or (iv) reference height and observed height vary by more than one-fourth (1/4) inch, or (v) the observed height changes by more than one-fourth (1/4) inch between the open and close measurement, or (vi) liquid level is not greater than one-eighth (1/8) inch above the datum plate, in which case measurement shall be conducted according to the following procedures:
- 15.2.1.1. Tankers and Ocean-Going Barges: Quantity shall be based on the Vessel's loaded figure, adjusted for OBQ, with a valid load VEF (if available) applied.
- 15.2.1.2. Inland Barges: Quantity shall be based on proven meters (if available) at the Discharge Port. If proven meters are unavailable, static shoretank(s) upgauge measurements at the Discharge Port, adjusted for OBQ and ROB shall be used. If discharge occurs at a Discharge Port not operated by Seller or Buyer, subject to the approval of the Discharge Port, an independent inspector who is mutually acceptable to the parties shall be appointed to validate the gauges. If static shoretank upgauge measurement is unavailable at the Discharge Port, then quantity shall be based on an average of the barge(s) loaded and discharged figures, adjusted for OBQ and ROB, with a valid load VEF (if available) applied.
- 15.2.2. Quality determination shall be in accordance with the test results run on a volumetrically correct composite of samples drawn from inline sampler at the Load Port. If inline sampler is not available, shoretank(s) at the Load Port shall be used. If shoretank(s) is not available, a volumetrically correct Vessel compartment composite sample obtained at the Load Port shall be used.
- 15.2.3. With respect to quantity and quality at the Load Port, either party may appoint a mutually acceptable independent inspector at the Load Port, subject to any necessary prior agreement of the Load Port operator having been obtained. Such appointment shall be notified in writing to the other party. Unless otherwise provided for in the Confirmation, both parties shall share all inspection charges equally and the independent inspector's report shall be made available to both parties.
- 15.2.4. Results of the measurements set forth in this Section shall be issued in the form of the certificates of quantity with respect to the Product loaded. Also, the Seller will make available to the Buyer a certificate of analysis demonstrating compliance to the agreed upon applicable quality standard, if any.
- 15.2.5. Except in cases of manifest error or fraud, the certificates of quantity and quality 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

PART B - In respect of CFR, CIF and Delivered Marine deliveries

full in accordance with Section 43 below, but shall be without prejudice to the rights of either party to file a claim for quantity and/or quality.

15.2.6. In addition to the independent inspector appointed pursuant to this Section or should the parties fail to mutually agree upon an independent inspector, either party may, at its own expense, appoint a representative, acceptable to the Load Port, to witness the loading of each cargo. Any delays resulting in demurrage at the Load Port due to either party's appointed representative shall be for the account of the party appointing said representative causing the delay.

15.3. Delivered:

15.3.1. The quantity shall be based on proven meters (if available) at the Discharge Port. If discharged by-passing a meter, it must be gauged by a Shell approved 3rd party inspection survey gauger. If proven meters are unavailable, shoretank(s) upgauge measurements at the Discharge Port shall be used except when shoretank(s) (i) are active, or (ii) are in the critical zone, or (iii) are unable to be measured manually, or (iv) reference height and observed height vary by more than one-fourth (1/4) inch, or (v) the observed height changes by more than one-fourth (1/4) inch between the open and close measurement, or (vi) liquid level is not greater than one-eighth (1/8) inch above the datum plate, in which case measurement shall be conducted according to the following procedures:

15.3.1.1. Tankers and Ocean-Going Barges: Quantity shall be based on the Vessel's delivered figure, adjusted for ROB, with a valid discharge VEF (if available) applied.

15.3.1.2. Inland Barges: Quantity shall be based on proven meter (if available) at the Load Port. If proven meters are unavailable, static shoretank(s) downgauge measurements at the Load Port, adjusted for OBQ and ROB shall be used. If static shoretank measurement is unavailable at the Load Port, then quantity shall be based on an average of the barge(s) loaded and discharged figures, adjusted for OBQ and ROB, with a valid load VEF (if available) applied.

15.3.2. Quality determination shall be in accordance with the test results run on a volumetrically correct composite of samples drawn from the Vessel's tanks at the Discharge Port.

15.3.3. With respect to quantity and quality at the Discharge Port, either party may appoint a mutually acceptable independent inspector at the Discharge Port, subject to any necessary prior agreement of the Discharge Port operator having been obtained. Such appointment shall be notified in writing to the other party. Unless otherwise provided for in the Confirmation, both parties shall share all inspection charges equally and the independent inspector's report shall be made available to both parties.

PART B - In respect of CFR, CIF and Delivered Marine deliveries

- 15.3.4. Results of the measurements set forth in this Section shall be issued in the form of the certificates of quantity with respect to the Product loaded. The independent inspector shall make available to the Seller and Buyer a certificate of analysis demonstrating compliance to the agreed upon applicable quality standard.
- 15.3.5. Except in cases of manifest error or fraud, the certificates of quantity and quality 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 Section 43 below, but shall be without prejudice to the rights of either party to file a claim for quantity and/or quality.
- 15.3.6. In addition to the independent inspector appointed pursuant to this Section, either party may, at its own expense, appoint a representative, acceptable to the Discharge Port, to witness the discharging of each cargo. Any delays resulting in demurrage at the Discharge Port due to either party's appointed representative shall be for the account of the party appointing said representative causing the delay.

16. Nomination

- 16.1. Seller shall nominate every Vessel used in cargo operations (including loading, discharging, or lightering), as well as, when known, the primary towing vessel engaged in the transport by directly towing astern, alongside, or pushing ahead of an associated barge which is acceptable to Buyer, and such acceptance shall not be unreasonably withheld. For the avoidance of doubt, Buyer shall be entitled to reject Seller's nominated Vessel on any reasonable ground, including but not limited to, where the Vessel is not approved by Buyer's internal ship vetting system or alternatively is determined by such internal ship vetting system to be unacceptable under the Buyer's ship vetting policy or that of any of Buyer's Receivers and/or does not comply with the Buyer's port clearance requirements.
- 16.2. Where practicable under a Confirmation, Seller shall nominate a Vessel pursuant to the following requirements:
- 16.2.1. Tanker Nominations:
- 16.2.1.1. CFR / CIF: At least seven (7) days before the first day of the agreed Loading Date Range.
- 16.2.1.2. Delivered: At least seven (7) days before the first day of the agreed Arrival Date Range.
- 16.2.2. Ocean-Going Barge and Inland Barge Nominations:
- 16.2.2.1. CFR / CIF: At least three (3) days before the first day of the agreed Loading Date Range.
- 16.2.2.2. Delivered: At least three (3) days before the first day of the agreed Arrival Date Range.

PART B - In respect of CFR, CIF and Delivered Marine deliveries

- 16.3. If the parties enter into a Transaction later than any of the applicable dates for notification, then Seller shall nominate a Vessel as soon as practicable following the Agreement date.
- 16.4. All nominations shall be in writing (e-mail acceptable) and Seller shall include, to the extent known (except with respect to the primary towing vessel engaged in the transport by directly towing astern, alongside, or pushing ahead of an associated barge, in which case the information identified in Sections 16.4.4, 16.4.5, 16.4.8 and 15.5.11 below are not required for such vessel):
 - 16.4.1. Contract Reference
 - 16.4.2. Vessel Name
 - 16.4.3. Load Port or Discharge Port (as applicable)
 - 16.4.4. Product Grade
 - 16.4.5. Quantity
 - 16.4.6. Agreed Loading Date Range or Arrival Date Range (as applicable)
 - 16.4.7. Vessel ETA at Load Port or Discharge Port (as applicable)
 - 16.4.8. Independent inspector
 - 16.4.9. Product specifications (as applicable)
 - 16.4.10. Comments and/or Instructions (as applicable)
 - 16.4.11. Physical non-commercially sensitive details of any other cargo on board or to be laden on board if delivery is of a part cargo; and
 - 16.4.12. Confirmation that the Vessel complies with the requirements of Section 26.
- 16.5. Buyer shall communicate its acceptance or rejection of any Vessel nomination within one (1) Banking Day after receipt of such nomination.
- 16.6. Vessel Substitution. Seller may, or if necessary to perform its obligations hereunder must, with Buyer's prior agreement, substitute, in accordance with the nomination procedures in this Section, any nominated Vessel, with another Vessel acceptable to Buyer, which is similar in all material respects to the Vessel so replaced and the size of the substitute Vessel and the quantity to be loaded shall not, without the prior written consent of Buyer, differ materially from the size of the Vessel previously named and the quantity specified in the nomination. Said nomination shall not alter any existing terms under this Agreement beyond the Vessel used to fulfill the obligations of this Agreement.
- 16.7. Despite any prior acceptance, Buyer shall have the right to revoke its acceptance of Seller's Vessel nomination, which right shall only be used on a reasonable basis, at any time after Buyer's initial acceptance (but prior to passing of risk and title hereunder) in the event that, at any time after such acceptance: (i) the Vessel is

PART B - In respect of CFR, CIF and Delivered Marine deliveries

involved in any incident, (ii) if more recent information regarding such Vessel becomes available to Buyer which indicates that the information relied upon by the Buyer in previously accepting the Vessel was materially incorrect or incomplete, or (iii) if such Vessel cannot meet the requirements of Part E, Section 57.

- 16.8. In case of rejection, Seller shall promptly nominate a Vessel acceptable to Buyer and Seller shall not, unless otherwise provided in Section 53 below, be relieved of its responsibility to perform the agreed loading or discharging (as applicable).
- 16.9. Seller shall narrow (wholly within the original Loading Date Range or Arrival Date Range, as applicable):
- 16.9.1. For CFR / CIF: The agreed Loading Date Range to a three (3) day Loading Date Range or Arrival Date Range (as applicable) by providing Buyer written notice (e-mail acceptable) five (5) days before the first day of the narrowed Loading Date Range or Arrival Date Range (as applicable).
- 16.9.2. For Delivered: The agreed Arrival Date Range to a three (3) day Arrival Date Range by providing Buyer written notice (e-mail acceptable) five (5) days before the first day of the narrowed Arrival Date Range.
- 16.10. Regulations at the Discharge Port. All applicable governmental, local and port authority rules and regulations, and terminal rules and regulations in force at the Discharge Port (including without limitation all restrictions at the Discharge Port with respect to maximum draft, length, deadweight, displacement, age, flag and the like, and the procedures relevant to health, safety and Vessel operations) shall apply to Seller's Vessel. Notwithstanding anything to the contrary contained in this Section, if any Vessel nominated by Seller does not comply with the foregoing provisions or any of them, Buyer or Buyer's Receiver(s) may refuse to berth, discharge, or continue to discharge the Vessel in question.

17. Insurance

- 17.1. CFR: In respect of any CFR sale, the responsibility for procuring insurance shall rest with Buyer.
- 17.2. CIF: In respect of any CIF sale, Seller shall procure insurance for the benefit of Buyer which shall cover the period from the time when the risk passes in accordance with the terms of this Agreement, until the Product passes the Vessel's permanent hose connection at the Discharge Port, and shall be covered by the same terms and conditions as a standard marine insurance policy MAR with Institute Cargo Clauses (A), Institute War Clauses (Cargo) and Institute Strikes Clauses (Cargo) attached. Claims for leakage and/or shortage shall be subject to a deductible of one-half of one percent (0.5%), which figure shall be deemed to include ordinary loss.
- 17.3. Delivered: In respect of any Delivered sale, the responsibility for procuring insurance shall rest with Seller.
- 17.4. War Risk Insurance:

PART B - In respect of CFR, CIF and Delivered Marine deliveries

- 17.4.1. If, and so long as, voyages to any of the Load Ports or Discharge Ports for this Agreement, or any sea areas through which the Vessel has to travel in performance of this Agreement, incur any additional insurance or war risk insurance premiums for:
- 17.4.1.1. CFR: the Vessel's hull and machinery, then any and all costs of such additional insurance and/or additional premiums, as well as crew war bonuses or any other bonuses relating to the shipment of Product(s) will be paid by Buyer to Seller in addition to the price stipulated in this Agreement.
 - 17.4.1.2. CIF / Delivered: either the Vessel's hull and machinery or cargo or both, then any and all costs of such additional insurance and/or additional premiums, as well as crew war bonuses or any other bonuses relating to the shipment of Product(s) will be paid by Buyer to Seller in addition to the price stipulated in this Agreement.
- 17.4.2. Seller reserves the right to refuse at any time to direct any Vessel to undertake or to complete such a voyage to the intended Discharge Port if such Vessel is required in performance of this Agreement:
- 17.4.2.1. To transit or to proceed to or to remain in waters so that the Vessel concerned would be involved in a breach of Institute Warranties or, in Seller's opinion, risk to its safety or risk of ice damage; or
 - 17.4.2.2. To transit or to proceed to or to remain in waters where there is war (de facto or de jure) or threat thereof; or
 - 17.4.2.3. Prior to the commencement of loading to direct any Vessel to undertake a voyage to the intended destination if such Vessel is required in performance of the terms of this Agreement to transit waters which, in Seller's reasonably held opinion, would involve abnormal delay.
- 17.4.3. If Seller agrees to direct a Vessel to undertake or to complete a voyage as referred to in this Section, then Buyer undertakes to reimburse Seller in addition to the price for each supply of Product as provided in this Agreement, for the costs to Seller of any additional insurance premiums (including those under this Section) and any other sums that Seller is required to pay to the Vessel owners, including but not limited to, any sums in respect of any amounts deductible under the Vessel owner's insurance and any other costs and/or expenses incurred by Seller.

18. Risk and Title

- 18.1. CFR / CIF: Title to and risk of loss or damage to any Product delivered under this Agreement shall be transferred from Seller to Buyer at the Load Port as the Product passes the Vessel's permanent hose connection.
- 18.2. Delivered: Title to and risk of loss or damage to any Product delivered under this Agreement shall be transferred from Seller to Buyer at the Discharge Port as the Product passes the Vessel's permanent hose connection.

PART B - In respect of CFR, CIF and Delivered Marine deliveries

19. ETA Notice

19.1. Seller shall arrange for its Vessel to notify the Discharge Port, with a copy to the Buyer, via telex, letter, telegram, e-mail, or telecopy/fax of the Vessel's ETA pursuant to the following schedule:

19.1.1. Tankers and Ocean-Going Barges:

19.1.1.1. Where practicable, no later than seventy-two (72) hours prior to the Vessel's arrival at the Discharge Port. The Discharge Port shall be further notified forty-eight (48), twenty-four (24), and six (6) hours in advance of the Vessel's arrival at the Discharge Port.

19.1.2. Inland Barges:

19.1.2.1. Where practicable, no later than forty-eight (48) hours prior to the Vessel's arrival at the Discharge Port. The Discharge Port shall be further notified twenty-four (24) and six (6) hours in advance of the Vessel's arrival at the Discharge Port. After the six (6) hour notice, when a scheduled arrival time changes by more than two (2) hours, all reasonable efforts shall be made to notify the Discharge Port of such change.

19.2. Any delays arising from the failure to adhere to these ETA notices shall not count as used Laytime or demurrage if the Vessel is on demurrage.

19.3. CFR / CIF: As soon as practicable after loading has been completed, Seller shall notify Buyer of the actual quantity loaded and the latest ETA of the Vessel at the Discharge Port.

20. Notice of Readiness

20.1. After the Vessel has arrived at the customary anchorage or other place of waiting, is otherwise in all respects ready to deliver cargo, and has received all necessary and required clearances, including as applicable, but not limited to, from the Coast Guard, Port Authorities, CBSA, and/or other authorized regulatory, governmental, or security agency or body as applicable (unless such procedures are customarily carried out only after the Vessel is All Fast alongside), the master or his agent shall give to Buyer and/or other parties, where necessary, notice by letter, email, telegraph, telex, rapifax, wireless, radio telephone, or telephone that the Vessel is ready in all respects to discharge the cargo, Berth or no Berth. Any NOR issued without having satisfied the requirements of this Section shall be null and void.

20.2. Except for CFR/CIF deliveries where an agreed Loading Date Range is provided, or where an agreed Arrival Date Range is given for demurrage purposes only, by no later than 23:59 hours local time on the last day of the agreed Arrival Date Range, the Vessel nominated by Seller hereunder shall arrive at the Discharge Port (or the usual waiting place), complete all formalities, in all respects be ready to commence discharging the Product deliverable hereunder, and NOR shall be tendered.

PART B - In respect of CFR, CIF and Delivered Marine deliveries

21. Laytime

21.1. Laytime Allowance:

21.1.1. Unless specified otherwise in a Confirmation, the Laytime allowance shall be:

21.1.1.1. Tankers: Thirty-six (36) hours, pro rata for part cargo.

21.1.1.2. Ocean-Going Barges and Inland Barges:

21.1.1.2.1. Voyage Chartered: Where the single voyage charter party specifies a Laytime allowance per hour or a specific Laytime allowance for discharge, then such Laytime allowance shall apply, pro rata for part cargo, otherwise the Laytime allowance shall be one-half (1/2) of the total Laytime allowance as provided in the single voyage charter party, pro rata for part cargo.

21.1.1.3. Time Chartered, Demise Chartered, or Seller owned:

Vessel Type	Barrel Volume	Laytime Allowance
Inland Barges (Lube Oil)	n/a	24 hours
Inland Barges (Other)	n/a	2,500 barrels per hour + 3 free hours
Ocean- Going Barges	Up to 39,999	12 hours
	40,000 - 49,999	13 hours
	50,000 - 59,999	15 hours
	60,000 - 67,999	16 hours
	68,000 - 74,999	17 hours
	75,000 - 95,999	19 hours
	96,000 - 118,999	20 hours
	119,000 - 144,999	21 hours
	145,000 - 154,999	23 hours
	155,000 - 164,999	25 hours
	165,000 - 174,999	27 hours
	175,000 - 184,999	30 hours
185,000 - 199,999	32 hours	
200,000 and above	36 hours	

21.1.2. If the Vessel is loading or discharging any part cargo for other parties at the same berth, then any time used by the Vessel waiting at or for such berth and in discharging which would otherwise count as used Laytime or demurrage if

PART B - In respect of CFR, CIF and Delivered Marine deliveries

the Vessel is on demurrage, shall be pro-rated in the proportion that Buyer's cargo bears to the total cargo worked by the Vessel at such berth. If, however, used Laytime or demurrage, if the Vessel is on demurrage, is solely attributable to the other parties' cargo operations, then such time shall not count in calculating used Laytime or demurrage if the Vessel is on demurrage.

21.1.3. Laytime allowance shall be no less than a minimum of twelve (12) hours.

21.2. Laytime Commencement:

21.2.1. Tankers and Ocean-Going Barges:

21.2.1.1. If the Vessel arrives before the agreed Arrival Date Range and tenders NOR, Laytime shall not commence until 06:01 hours on the first day of the agreed Arrival Date Range, unless Buyer elects to accept the Vessel earlier, in which case Laytime shall begin when the Vessel is All Fast.

21.2.1.2. If the Vessel arrives within the agreed Arrival Date Range and tenders NOR, Laytime shall commence six (6) hours after the Vessel's NOR being tendered or when the Vessel is All Fast, whichever occurs first.

21.2.1.3. If the Vessel arrives after the last day of the agreed Arrival Date Range and tenders NOR, and is accepted by Buyer in its sole and absolute discretion, then, without prejudice to any of Buyer's other rights, Laytime shall commence when the Vessel is All Fast.

21.2.2. Inland Barges:

21.2.2.1. If the Vessel arrives before the agreed Arrival Date Range and tenders NOR, Laytime shall not commence until 00:01 hours on the first day of the agreed Arrival Date Range, unless Buyer elects to accept the Vessel earlier, in which case Laytime shall begin when the Vessel is All Fast.

21.2.2.2. If the Vessel arrives within the agreed Arrival Date Range and tenders NOR, Laytime shall commence upon the Vessel's NOR being tendered, Berth or no Berth, or when the Vessel is All Fast, whichever occurs first.

21.2.2.3. If the Vessel arrives after the last day of the agreed Arrival Date Range, tenders NOR, and is accepted by Buyer in its sole and absolute discretion, then, without prejudice to any of Buyer's other rights, Laytime shall commence when the Vessel is All Fast.

21.3. Time consumed due to any of the following shall not count as used Laytime or if the Vessel is on demurrage, for demurrage:

21.3.1. On an inward passage including, but not limited to, awaiting daylight, ice, moderation of weather or sea state, tide, tugs, or pilot, and moving from an anchorage or other waiting place until the Vessel is All Fast;

PART B - In respect of CFR, CIF and Delivered Marine deliveries

- 21.3.2. Any delay due to the Vessel's equipment or condition, breakdown, or any other causes attributable to the Vessel including failure to comply with the requirements of the Discharge Port with respect to equipment on board;
 - 21.3.3. Any delay due to prohibition of discharging at any time by the owner or operator of the Vessel or by the port authorities, unless the prohibition is caused by Buyer or Buyer's Receiver's facility's failure to comply with applicable laws, rules, and regulations;
 - 21.3.4. Any delay due to the Vessel bunkering, provisioning, discharging or shifting of slops, ballast, or contaminated cargo, unless this is carried out concurrent with discharging or other normal cargo operations such that no loss of time is involved;
 - 21.3.5. Any delay due to the Vessel's incompatibility with the configuration of the berthing or other port facilities, including time consumed in making up connections to remedy any incompatibility;
 - 21.3.6. Any delay due to pollution or threat thereof caused by any defect in the Vessel or any act or omission to act by the master or crew of the Vessel;
 - 21.3.7. Any delay due to the Vessel's violation of the operating or safety rules and/or regulations of the Discharge Port, noncompliance with: (i) federal, state or provincial laws, (ii) Coast Guard regulations, (iii) any other applicable regulations, (iv) or failure to obtain or maintain required certification;
 - 21.3.8. Any delays caused by strike, lockout, stoppage or restraint of labor of master, officers or crew of the Vessel or of tugboats or pilots;
 - 21.3.9. Any delay awaiting customs or immigration clearance, other required governmental or port clearances, or free pratique, if applicable; and
 - 21.3.10. Any other delay attributable to the Vessel, the Seller or agents of the Seller.
- 21.4. Any delay, not first caused by the negligence of Buyer or Buyer's Receiver(s), that is the result of fire, explosion, destruction of tankage, pipelines, refineries or terminal and any kind of installations, civil unrest, act of war, acts of piracy, acts of sabotage, boycotts, riot, strikes, lockouts, stoppage or restraint of labor, breakdown of machinery or equipment in or about the facilities of Buyer or Buyer's Receiver, earthquakes, tidal waves, destruction by lightning, adverse weather and/or sea conditions Act of God, or other delays not reasonably within the control of either party (and except as otherwise provided in this Agreement) shall be paid for at one-half (1/2) the rate otherwise provided for demurrage.
- 21.5. Laytime shall cease after all Product has been discharged and:
- 21.5.1. Tankers and Ocean-Going Barges: When the hoses have been disconnected from the Vessel. However, Laytime will recommence two (2) hours after disconnection of hoses if the Vessel is delayed in its departure due to Buyer's or Buyer's Receiver's not providing any and/or all of the necessary documents

PART B - In respect of CFR, CIF and Delivered Marine deliveries

and/or clearances to allow the Vessel to depart. Used Laytime shall continue until such documents and/or clearances have been provided to the Vessel by Buyer or Buyer's Receiver(s).

21.5.2. Inland Barges: When the hoses have been disconnected from the Vessel and the Vessel has been released by Buyer or Buyer's Receiver(s).

21.6. Where the parties agree in a Confirmation that the location for discharging is a public dock, then any delay caused solely by berth congestion shall not count as used Laytime, and Laytime shall not commence until Vessel is All Fast at the dock.

21.7. A declaration of Force Majeure shall not relieve from the obligation to pay any delays or demurrage under this Agreement incurred while waiting for a Berth.

22. Demurrage

22.1. Demurrage Rate: For all time that used Laytime exceeds the Laytime allowance, Buyer shall pay demurrage, at the rate specified in a Confirmation, or where no rate is specified in a Confirmation as follows:

22.1.1. for single voyage chartered Vessels, the demurrage rate shall be based on the demurrage rate specified in the single voyage charter party for the Vessel performing the voyage in question.

22.1.2. for Seller owned, time chartered, or demise chartered Vessels, or where Seller is unable to substantiate the single voyage demurrage rate per this Section, the parties shall mutually agree upon the applicable rate. If a dispute arises between the parties as to the applicable rate, then the rate shall be established as follows:

22.1.2.1. Tankers: The single voyage market level current in London on the date of loading commenced for the voyage concerned for a Vessel of similar type and summer deadweight and service to that actually involved. Such single voyage market level shall be expressed in percentage points of Worldscale (as amended from time to time), or such other freight scale as may be issued in replacement of Worldscale and applied to the demurrage rate appropriate to the size of the Vessel concerned provided for in the aforementioned freight scale. In absence of agreement between Buyer and Seller, the market level is to be determined by the London Tanker Brokers' Panel as being representative of a current market rate for a similar Vessel performing a similar voyage with costs for obtaining such demurrage rate split between the parties.

22.1.2.2. Ocean-Going Barges and Inland Barges: The parties shall appoint a mutually agreed upon ship broker who shall establish the applicable demurrage rate with costs for obtaining such demurrage rate split between the parties.

22.2. For demurrage purposes, all Inland Barges or tows operating as a unit shall be considered collectively as one unit.

PART B - In respect of CFR, CIF and Delivered Marine deliveries

22.2.1. In respect of tows, Buyer will not be liable for tug demurrage during delays of berthing or discharging where the Discharge Port has notified the Vessel's master that the tug would not be required at the Discharge Port for that time period.

22.3. Demurrage Claims: Demurrage claims must be submitted in writing (e-mail acceptable) with full customary supporting documentation no later than ninety (90) calendar days after the completion of discharging date. IF A DEMURRAGE CLAIM AND ITS SUPPORTING DOCUMENTATION IS PROVIDED LATER THAN NINETY (90) CALENDAR DAYS AFTER THE COMPLETION OF DISCHARGING DATE, THE CLAIM WILL BE DEEMED TO HAVE BEEN WAIVED.

23. Pollution Cover

23.1. Where delivery is by a Tanker:

23.1.1. Except in the case of delivery of LPG's, each Tanker shall be owned by or demise chartered by a member of the International Tanker Owners Pollution Federation Limited ("ITOPF").

23.1.2. The Tanker shall carry on board certificate(s) as required pursuant to the 1992 Civil Liability Convention for Oil Pollution Damage or any Protocols thereto ("CLC") and the Oil Pollution Act 1990, as applicable; and;

23.1.3. The Tanker shall have in place insurance cover for oil pollution no less in scope and amounts than the highest available under the rules of P. & I. Clubs entered into the International Group of P. & I. Clubs.

23.1.4. The Vessel's owner is a member of or provides appropriate Oil Spill Response Organization coverage for any region in which the Vessel is operated.

23.2. Where delivery is by an Ocean-Going Barge or Inland Barge, Seller shall exercise reasonable efforts to ensure that the barge owner has in place for the applicable barge, marine insurance in an amount that meets or exceeds the minimum insurance requirements as required by applicable law or regulation for a barge of that size, transporting that Product.

23.3. If Seller's Vessel does not meet any of the above requirements Buyer or Buyer's Receiver(s) may refuse to berth or discharge or continue discharging such Vessel.

24. Automated Manifest System

24.1. Where the Discharge Port is located within the USA or U.S. Territories, Seller shall exercise reasonable efforts to ensure that the Vessel is aware of the requirements of the CBP ruling issued on December 5th, 2003 under Federal Register Part II Department of Homeland Security, 19 CFR Parts 4 and 103, and will comply fully with these requirements for entering U.S. ports (including for avoidance of doubt, the requirements of the CBP approved data interchange system).

24.2. In the event the Discharge Port is changed at Buyer's request such that, despite Seller exercising all reasonable efforts pursuant to Section 24.1 above, Seller's nominated Vessel is unable to comply with the notification period required by the

PART B - In respect of CFR, CIF and Delivered Marine deliveries

CBP ruling issued on December 5th 2003 under Federal Register Part II Department of Homeland Security 19 CFR Parts 4 and 103, (including for avoidance of doubt the requirements of the CBP approved data interchange system).

- 24.3. Any delay directly resulting from such non-compliance shall be for Buyer's account.
- 24.4. Seller shall not be liable for failure of performance directly resulting from such non-compliance.

25. Transshipment and Lightering

- 25.1. Seller shall not Transship Product prior to delivering the Product without prior disclosure to Buyer; and
- 25.2. Should Seller decide to Transship the Product prior to delivering it into Canada or the United States, Seller shall disclose its intent to Transship to Buyer at the time of this Agreement and must provide Buyer all documents as requested by the CBP or CBSA to support the validation to Seller's certificate of origin. Failure to disclose this information or to provide the required documents in a timely manner for importation purposes, shall constitute a material breach of this Agreement entitling Buyer to immediately cancel this Agreement. In such event, Seller agrees to compensate Buyer for all costs associated with the cancellation of this Agreement including but not limited to replacement costs for a substituted cargo from another seller.
- 25.3. Any Lightering, Vessel-to-Vessel ("Transshipment") or barging operations at sea or inside port limits shall always be performed at a location considered safe and acceptable to the Vessel's owners and/or master. In addition, the Vessel procured by the Lightering party shall be subject to the other party's acceptance, which shall not be unreasonably withheld and the Vessel owner's prior acceptance. All Lightering/Transshipment shall conform to standards not less than those set out in the latest edition of the International Chamber of Shipping/Oil Companies International Marine Forum ship-to-ship transfer guide (Petroleum).

26. International Ship and Port Facility Security Code

- 26.1. This Section shall apply:
 - 26.1.1. to all Discharge Ports not located within Canada, and
 - 26.1.2. any other Discharge Port and/or Vessel used that is subject to the International Ship and Port Facility Security Code or the MTSA.
- 26.2. Seller shall procure that the Vessel shall comply with the requirements of the ISPS Code, and where the Discharge Port is within the USA and U.S. territories or waters, with the MTSA as codified under 46 U.S.C., Chapter 701, including as may be amended from time to time.
- 26.3. The Vessel shall when required submit a Declaration of Security to the appropriate authorities prior to its arrival at the Discharge Port.

PART B - In respect of CFR, CIF and Delivered Marine deliveries

- 26.4. Notwithstanding any prior acceptance of the Vessel by Buyer, if, at any time prior to the arrival of the Vessel at the Discharge Port the Vessel ceases to comply with the requirements of the ISPS Code or MTSA, then:
- 26.4.1. Buyer shall have the right not to berth such nominated Vessel at the Discharge Port and any demurrage resulting shall not be for the account of Buyer; and
- 26.4.2. Seller shall be obliged to substitute such nominated Vessel with a Vessel complying with the requirements of the ISPS Code and MTSA. If title and risk to the cargo on board the Vessel subsequently substituted has already passed to Buyer, such title and risk shall be deemed to have reverted to Seller.
- 26.5. Buyer shall procure that the Discharge Port/terminal/installation shall comply with the requirements of the ISPS Code and if located within the USA and U.S. territories or waters, with the MTSA.
- 26.6. Any costs or expenses in respect of the Vessel including demurrage or any additional charge, fee or duty levied on the Vessel at the Discharge Port and actually incurred by Seller resulting directly from the failure of the Discharge Port/terminal/installation to comply with the ISPS Code and if located within the USA and U.S. territories, with the MTSA shall be for the account of Buyer, including but not limited to the time required or costs incurred by the Vessel in taking any action or any special or additional security measures required by the ISPS Code or MTSA.
- 26.7. Save where the Vessel has failed to comply with the requirements of the ISPS Code and within the USA and U.S. territories or waters, with the MTSA, Buyer shall be responsible for any demurrage actually incurred by Seller arising from delay to the Vessel at the Discharge Port resulting directly from the Vessel being required by the port facility or any relevant authority to take any action or any special or additional security measures or undergo additional inspections.
- 26.8. If the Discharge Port/terminal/installation is not operated by Buyer or an Affiliate of Buyer, Buyer's liability to Seller under this Agreement for any costs, losses or expenses incurred by the Vessel, the charterers or the Vessel owners resulting from the failure of the Discharge Port/terminal/installation to comply with the ISPS Code or if located within the USA and U.S. territories or waters, with the MTSA, shall be limited to the payment of demurrage and costs actually incurred by Seller in accordance with the provisions of this Section.

27. General

- 27.1. Seller shall exercise reasonable efforts to ensure that while at the Terminal, the Vessel owner conducts Vessel operations in accordance with the applicable provisions of the latest edition of the International Safety Guide for Oil Tankers & Terminals ("ISGOTT").

28. Inert Gas System

- 28.1. The vessel's inert gas system (if any) shall comply with Regulation 62, Chapter II-2 of the 1974 Safety of Life at Sea Convention as modified by the Protocol of 1978, and any subsequent amendments, and Owners warrant that such system shall be operated (subject to the provisions of Part II clause 2), during loading, throughout

PART B - In respect of CFR, CIF and Delivered Marine deliveries

the voyage and during discharge, and in accordance with the guidance given in the IMO publication "Inert Gas System (1983)". Should the inert gas system fail, Section 8 (Emergency Procedures) of the said IMO publication shall be strictly adhered to and time lost as a consequence of such failure shall not count against laytime or, if the vessel is on demurrage, for demurrage.

29. Specific Ports, Anchorages, and Locations

- 29.1. St-Lawrence River Ports: Any Vessel which must make passage to any port along the St-Lawrence River shall announce to the Discharge Port the Vessel's arrival at Les Escoumins, QC. The NOR given upon arrival at the Discharge Port's Berth or, the nearest customary anchorage or waiting place for the Discharge Port to which it is destined if the Berth is not available upon its arrival shall be used for Laytime and demurrage purposes.

PART C - In Respect of Ex-Tank, Into Tank, Free into Pipe, Ex-Pipe, and In-Situ Deliveries

30. Quantity and Quality

- 30.1. Quantity measurement and quality sampling and testing shall demonstrate compliance to the latest applicable product specification standard published by EI, API, ASTM, and/or CGSB or any other recognized international standards. The applicable standards and any additional or specific requirements shall be documented and agreed upon between the parties. All measurements shall represent one hundred percent volume with the volumes corrected from the actual temperature to 15 degrees Celsius by use as endorsed in API 2540 Petroleum Measurement Standards MPMS Chapter 11.1 or the latest revision to those standards.
- 30.2. Quantity and quality shall be determined in accordance with the following procedures:
- 30.2.1. Ex-tank: Quantity shall be as per Seller's proven meters (if available). If proven meters are unavailable, Seller's tank downgauge measurement shall be used, except when shoretank(s) (i) are active, or (ii) are in the critical zone, or (iii) are unable to be measured manually, or (iv) the reference height and observed height vary by more than one-fourth (1/4) inch, or (v) the observed height changes by more than one-fourth (1/4) inch between the open and close measurement, or (vi) liquid level is not greater than one-eighth (1/8) inch above the datum plate, in which case Buyer's shoretank upgauge measurement shall be used. Quality shall be as per the volumetrically correct composite of samples drawn from Seller's tank(s).
- 30.2.2. Into tank: Quantity shall be as per Buyer's proven meters (if available). If proven meters are unavailable, Buyer's tank upgauge measurement shall be used, except when Buyer's shoretank(s) (i) are active, or (ii) are in the critical zone, or (iii) are unable to be measured manually, or (iv) the reference height and observed height vary by more than one-fourth (1/4) inch, or (v) the observed height changes by more than one-fourth (1/4) inch between the open and close measurement, or (vi) liquid level is not greater than one-eighth (1/8) inch above the datum plate, in which case Seller's shoretank downgauge measurement shall be used. Quality shall be as per the volumetrically correct composite of samples drawn from Seller's tank(s).
- 30.2.3. Free into pipe and ex-pipe: Quantity shall be as per the pipeline company's meters and quality shall be as per the pipeline specifications.
- 30.2.4. In Situ (by way of book transfer): Quantity shall be as mutually agreed per the book transfer letter. Quality shall be as per the independent inspection report of the applicable transfer tank.

PART C - In Respect of Ex-Tank, Into Tank, Free into Pipe, Ex-Pipe, and In-Situ Deliveries

- 30.3. Either party may appoint an independent inspector at the storage facility(ies) or pipeline facility(ies), subject to the prior agreement of the storage / pipeline company having been obtained where necessary. Such appointment shall be notified in writing to the other party. All charges in respect thereof shall be for the account of the party requiring the independent inspection and the duties of such inspector shall be considered solely as a service to the party requiring the inspection. Where both parties require an independent inspection, then Buyer and Seller shall jointly agree upon and appoint an independent inspector. All charges in respect thereof shall be shared between the parties and the inspector's report shall be made available to both parties.
- 30.3.1. Where an independent inspection takes place, excluding inspections where the independent inspector only witnesses the measurement, results of the measurements set forth in this Section shall be issued in the form of the certificates of quantity. The independent inspector shall make available to the Seller and Buyer a certificate of analysis demonstrating compliance to the agreed upon applicable quality standard.
- 30.3.2. Where no independent inspection takes place, quantity and quality determination(s) shall be made by the terminal/pipeline company and measurement shall be by terminal/pipeline (as applicable) meter tickets or other applicable documents.
- 30.4. Except in cases of manifest error or fraud, the certificates of quantity and quality or meter 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 Section 43 below, but shall be without prejudice to the rights of either party to file a claim for quantity and/or quality.

31. Nomination

- 31.1. Nominations shall be made in accordance with the standard operating procedures of the relevant pipeline/storage company(ies).

32. Risk and Title

- 32.1. Title to and risk of loss or damage to any Product delivered under this Agreement shall be transferred from Seller to Buyer as follows, where delivery is:
- 32.1.1. Ex-tank: As the Product passes the outlet flange of Seller's storage tank from which the Product is being delivered; or
- 32.1.2. Into tank: As the Product passes the inlet flange of Buyer's storage tank to which the Product is being delivered; or
- 32.1.3. Free into pipe: As the Product passes the inlet flange of Buyer's receiving pipeline system; or
- 32.1.4. Ex-pipe: As the Product passes the outlet flange of Seller's delivering pipeline system; or

PART C - In Respect of Ex-Tank, Into Tank, Free into Pipe, Ex-Pipe, and In-Situ Deliveries

32.1.5. In situ (by way of book transfer): At such time and day and in such tank(s) as shall either be specified in a Confirmation or as agreed between the parties prior to such transfer being effected and, where applicable, confirmed by the owner/operator of such tank(s).

33. Pipeline Allocation

33.1. Where delivery is free into pipe or ex-pipe and if the pipeline company allocates line space and Seller fails to deliver the agreed volume, or Seller delivers a volume outside the pipeline company's permitted tolerance, then the damages recoverable by Buyer shall include any penalties or fees assessed by the pipeline company and actually paid by Buyer as a direct result of Seller's failure to deliver the agreed volume, in accordance with the pipeline company's rules and regulations for the shortfall in volume shipped and shall be without prejudice to any of Buyer's other rights under this Agreement.

PART D - In Respect of Deliveries FCA into and DAP from Tank Trucks and Railcars

34. Quantity and Quality

- 34.1. Quantity measurement and quality sampling and testing shall demonstrate compliance to the latest applicable product specification standard published by EI, API, ASTM, and/or CGSB or any other recognized international standards. The applicable standards and any additional or specific requirements shall be documented and agreed upon between the parties. All measurements shall represent one hundred percent volume with the volumes corrected from the actual temperature to 15 degrees Celsius by use as endorsed in API 2540 Petroleum Measurement Standards MPMS Chapter 11.1 or the latest revision to those standards.
- 34.2. Quantity shall be determined in accordance with the following procedures: Certified meter ticket at the loading terminal. If certified meter ticket at the loading terminal is not available, then quantity measurement shall be by certified weight scale at the loading terminal.
- 34.3. Quality shall be determined in accordance with the following procedures:
 - 34.3.1. Test results run on a volumetrically correct composite of samples from in line sampler shall be used. If inline sampler is not available, then samples drawn from Seller's tank(s) at the loading terminal shall be used.
 - 34.3.2. Either party may appoint an independent inspector at the loading terminal, subject to the prior agreement of the loading terminal having been obtained where necessary. Such appointment shall be notified in writing to the other party. All charges in respect thereof shall be for the account of the party requiring the independent inspection and the duties of such inspector shall be considered solely as a service to the party requiring the inspection. Where both parties require an independent inspection, then Buyer and Seller shall jointly agree upon and appoint an independent inspector. All charges in respect thereof shall be shared between the parties and the inspector's report shall be made available to both parties.
 - 34.3.3. Where no independent inspection takes place, or where the independent inspector only witnesses the quantity measurement, quality determination(s) shall be made by the loading terminal.
- 34.4. Results of the measurements set forth in this Section 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) and the seller will make available to the buyer a certificate of analysis demonstrating compliance to the agreed upon applicable quality standard.

PART D - In Respect of Deliveries FCA into and DAP from Tank Trucks and Railcars

- 34.5. 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 Section 43 below, but shall be without prejudice to the rights of either party to file a claim for quantity and/or quality.

35. Nomination

- 35.1. Nominations shall be made in accordance with the standard operating procedures at the loading terminal.
- 35.2. FCA into tank truck or railcar: Tank trucks or railcars presented by Buyer for loading shall be fit, clean, and in all respects ready to load the Product.
- 35.3. DAP from tank truck or railcar: Tank trucks or railcars presented by Seller for discharge shall be fit and in all respects ready to discharge the Product.

36. Risk and Title

- 36.1. Title to and risk of loss or damage to any Product delivered under this Agreement shall be transferred from Seller to Buyer as follows, where delivery is:
- 36.1.1. FCA into tank truck or railcar: At the loading terminal as the Product passes the inlet flange of the tank truck or railcar.
- 36.1.2. DAP from tank truck: At the receiving terminal as the Product passes the outlet flange of the tank truck.
- 36.1.3. DAP from railcar: At the moment that the locomotive used to transfer the railcars from the loading terminal to the agreed delivery point/frontier is uncoupled from such railcars at the agreed delivery point/frontier sidings.

37. Laytime, Demurrage and Detention

- 37.1. Laytime, demurrage and detention for tank trucks shall be determined as follows:
- 37.1.1. Unless specified in a Confirmation, the Laytime allowance shall be one (1) hour. Laytime shall begin when the tank truck is constructively placed at load or discharge (as applicable) and shall cease when the final release of the tank truck has been granted at load or discharge (as applicable). For all time that used Laytime exceeds the Laytime allowance, the party causing the delay shall pay all demurrage and detention charges at the applicable tariff and/or lease rate.
- 37.2. Demurrage and detention for railcars shall be determined as follows:
- 37.2.1. FCA into railcar: For the purpose of detention, time shall start when the railcars are constructively placed at the disposal of Seller. Seller shall be responsible for demurrage 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 made available at the loading terminal for collection by, or on behalf of, Buyer.

PART D - In Respect of Deliveries FCA into and DAP from Tank Trucks and Railcars

37.2.2. DAP from railcar: For the purpose of detention, time shall start when the railcars are constructively placed at the disposal of Buyer. Buyer shall be responsible for demurrage 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 made available at the receiving terminal for collection by, or on behalf of, Seller.

37.2.3. The demurrage charges shall be as per the applicable railroad tariff and the detention charges shall be as per the railcar lease rate. Detention charges shall not apply to the first seven (7) days of delay.

37.3. Demurrage claims must be submitted in writing (e-mail acceptable) with such customary supporting documentation, as may reasonably be requested, including, without limitation, the commercial invoice, no later than ninety (90) calendar days after the completion of delivery of the Product. IF A DEMURRAGE CLAIM AND ITS SUPPORTING DOCUMENTATION IS PROVIDED LATER THAN NINETY (90) CALENDAR DAYS AFTER THE COMPLETION OF DELIVERY OF THE PRODUCT, THE CLAIM WILL BE DEEMED TO HAVE BEEN WAIVED.

38. Deviation

38.1. 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.

PART E - Applicable to each of Parts A, B, C and D

39. Specifications

- 39.1. Product shall meet the specifications provided in a Confirmation. Buyer reserves the right to sample and test the product to confirm compliance to the agreed specifications and standards. Unless otherwise agreed by the Parties, the Product hereunder shall not contain any additives.

40. Temperature Correction

- 40.1. All quantities of delivered Products shall be corrected for temperature to 15 degrees Celsius.

41. Natural Gas Liquids (“NGLs”)

- 41.1. Odorization. Unless otherwise provided, to the extent required by applicable law, Seller shall odorize all shipments of NGLs. Seller shall have no further responsibility to monitor the NGLs or take any other action after delivery thereof to Buyer to ensure that said NGLs remain properly odorized after delivery to Buyer. Buyer will either monitor and maintain the odorant at or above proper levels as required by applicable law, or notify its buyer(s) of the odorant fade risk. If unodorized NGLs are to be delivered hereunder, then Buyer will not use such NGLs for fuel or knowingly resell it for fuel without adding an odorizing agent in accordance with standard industry practice or as required by governmental agencies having proper jurisdiction.
- 41.2. Wet Deliveries. For NGL Transactions, delivery shall occur on the last day of the month, except where delivery is specified in a Confirmation as “wet” in which case delivery shall occur on a day mutually agreed by both parties.

42. Price

- 42.1. Prices shall be rounded as follows:

42.1.1. Product pricing in Barrels: Rounded to the nearest third decimal place. If:

42.1.1.1. The fourth decimal place is five (5) or greater than five (5) then the third decimal place shall be rounded up to the next digit.

42.1.1.2. The fourth decimal place is less than five (5) then the third decimal place will be unchanged.

42.1.2. Product pricing in Gallons or Litres: Rounded to the nearest fourth decimal place. If:

42.1.2.1. The fifth decimal place is five (5) or greater than five (5) then the fourth decimal place shall be rounded up to the next digit.

42.1.2.2. The fifth decimal place is less than five (5) then the fourth decimal place will be unchanged.

- 42.2. EFP Balancing: When a Transaction involves the Exchange of Futures for Physical (“EFP”), the volumes sold and purchased by the parties in a Transaction under this Agreement are intended to be equal. If the actual volume shipped differs from the number of contracts sold

PART E - Applicable to each of Parts A, B, C and D

or bought under an EFP by an amount greater than five-hundred (500) Barrels, then the parties will balance the difference to the nearest one-thousand (1,000) Barrels by posting within the current month's New York Mercantile Exchange ("NYMEX") contract an additional EFP for the amount. If the current month's NYMEX contract has expired at the time that the differing delivery occurs, the parties may post an additional EFP in the then current NYMEX month's contract at a price plus or minus a differential to be agreed to by the parties which represents the difference in settlement price of the expired NYMEX contract and the current month's contract price for the first three of the last four NYMEX trading days of the expired NYMEX contract on the day the additional EFP is posted.

42.3. Cessation of Price Index Publication. If an index used to calculate a price set forth in this Agreement, and any adjustment thereto ("Original Index"), ceases to be published or is not published for any period applicable to calculation of such price, the following procedure shall apply:

42.3.1. The parties shall in good faith meet and agree on a replacement index within ten (10) Banking 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.

42.3.2. If the parties are not able to agree upon a replacement index within the ten (10) Banking Day period in accordance with Section 42.3.1, then:

42.3.2.1. The dispute shall be settled by binding arbitration in accordance with Section 60 of this Part E.

42.3.2.2. Notwithstanding the foregoing, to assist the arbitrator(s) in such determination, both as to a provisional replacement index and/or a final replacement index, each party shall submit either one proposed alternate index, or one alternative basis for calculating the price, and the arbitrator shall select as the basis for the decision rendered the proposal which in the view of the arbitrator represents the closest replacement for the Original Index.

42.3.2.3. The parties shall also attempt to reach agreement on a provisional replacement index within the same ten (10) Banking Day period in Section 42.3.1, which shall be used for provisional invoices until a final determination is made by the arbitrator(s) as described above. The provisional replacement index shall be without prejudice to either party in the arbitration and shall not be disclosed to the arbitrator. If no agreement on a provisional replacement index is reached between the parties within said ten (10) Banking Day period, either party may ask the arbitrator(s) determined above to set a provisional replacement index based on a written submission from both sides within ten (10) Banking Days after the appointment of the arbitrator.

42.3.2.4. Once the arbitrator(s) have reached a final decision on the final replacement index, the price paid under this Agreement shall be adjusted using the final 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 final replacement index and price. The arbitrator(s) shall order

PART E - Applicable to each of Parts A, B, C and D

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) Banking Days of receipt of the corrected invoice.

43. Payment

- 43.1. Payment shall be made in U.S. Dollars by electronic funds transfer, in full, without discount, withholding, setoff or counterclaim (except as otherwise provided herein).
- 43.2. Payment shall be made on presentation of and in accordance with Seller's commercial invoice and the following documents:
 - 43.2.1. FOB, CFR and CIF Marine deliveries:
 - 43.2.1.1. Domestic deliveries: The certificates of quantity and quality as issued in accordance with this Agreement showing the quantity and quality of Product loaded.
 - 43.2.1.2. International deliveries: A full set of clean original bills of lading properly issued or endorsed to the order of Buyer and other shipping documents. If any or all of the required documents are not available at the time payment is due, Buyer shall pay against Seller's commercial invoice and Letter of Indemnity in Seller's standard format (See Attachment A) in lieu of the missing documents (facsimile copy acceptable).
 - 43.2.2. Delivered Marine deliveries: The certificates of quantity and quality as issued in accordance with this Agreement showing the quantity and quality of Product discharged.
 - 43.2.3. Ex-Tank, Into Tank, In Situ (Book), Free into pipe, or ex-pipe deliveries: The certificates of quantity and quality, pipeline meter ticket(s), terminal operator's records for the transfer, or other supporting documents as applicable. In the case of a book transfer, Seller's written notification to Buyer (e-mail acceptable) stating book transfer volume and date, and on Buyer's acceptance of book transfer, quantity shall be exact barrels per Agreement quantity (without quantity tolerance, if any) specified in a Confirmation. Payment for book transfers (except LPG book transfers) shall be made on the effective date of the book transfer, provided that the invoice is received in Buyer's office by 4pm Buyer's local time on the day prior to the effective date of the book transfer. Invoices received after 4pm Buyer's local time shall be deemed received at 9am Buyer's local time on the next Banking Day.
 - 43.2.4. FCA into and delivered from tank truck and railcar deliveries: Bills of lading, weight ticket or meter ticket (as applicable).
- 43.3. Where the due date for payment falls on a Saturday or on a weekday other than Monday, which is not a Banking Day, then any such payment shall be made on the preceding Banking Day. Where the last day for payment falls on a Sunday or a Monday, which is not a Banking Day, then any such payment shall be made on the following Banking Day.
- 43.4. Except as otherwise provided herein, the payment of any other costs, expenses or charges, which arise and are due under the terms of this Agreement from one party to the other, shall

PART E - Applicable to each of Parts A, B, C and D

be made against presentation of one party's invoice by the party from whom payment is due on or by the date specified on the invoice.

- 43.5. If, less than five (5) Banking Days prior to the due date, Seller requests payment to be made to a bank account which is different than that which has previously been used for settlement, then Buyer has the right to delay payment without incurring interest for up to five (5) Banking Days immediately following the date of notice of such change if and to the extent such delay is necessary to establish the validity and legal effect of the requested change.
- 43.6. If for any reason payment terms are not specified in a Confirmation, the parties agree that the payment due date shall be as per Seller's invoice.
- 43.7. All U.S. Dollar amounts shall be rounded to the nearest cent (whereby half cents shall be rounded upward).
- 43.8. If the invoiced party, in good faith, disputes the amount of any such invoice or any part thereof, such invoiced party will pay such amount as it concedes to be correct; provided, however, if the invoiced party disputes the amount due it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed. In the event the parties are unable to resolve such dispute, the dispute shall be settled by binding arbitration in accordance with Section 60 of this Part E..
- 43.9. Notwithstanding anything to the contrary in this Agreement, if required by Seller, pursuant to Section 46 below, or as a result of an Event of Default, Buyer shall make advance payment in U.S. Dollars by electronic funds transfer to Seller for Products purchased by Buyer pursuant to one or more Transactions under this Agreement ("Prepayment"). Specifically, for each Transaction pursuant to which Seller is obligated to deliver Products to Buyer and for which Seller requires Buyer to make a Prepayment, Seller shall issue an invoice to Buyer and Buyer shall make the Prepayment to Seller by the date specified on Seller's invoice ("Prepayment Due Date"). All Prepayments shall be in an amount equal to the price (or estimated price if the price is based on an index and is not known at the time the invoice is issued) multiplied by the total quantity (or estimated quantity if the actual quantity is not known at the time the invoice is issued) of Products to be purchased for each outstanding Transaction for which Prepayment is required (each a "Prepayment Amount"). Each Prepayment Amount shall be paid by electronic funds transfer, in same day funds (without setoff, counterclaim or deduction), to the account specified by Seller. If, pursuant to a Transaction, the actual quantity of Products delivered differs from the contract quantity or the price differs from the estimated price upon which Prepayment was made or other amounts are owing by or to Buyer (including, without limitation, other charges related to the Transaction(s) or amounts arising from any overpayments or underpayments for prior periods), the party owing such amounts shall pay such amounts owing by it within two (2) Banking Days of receipt of request by the party to whom the payment is owed. In the event Buyer fails to timely make the Prepayment, Seller shall have the right to immediately withhold or suspend delivery of Products until such time as the required payment is received. Such suspension of delivery of Products shall not relieve Buyer of its obligation to purchase Products pursuant to any Transaction and shall be in addition to, and not in replacement of, any other right or remedy available to Seller under this Agreement.

PART E - Applicable to each of Parts A, B, C and D

44. Late Payment Interest

- 44.1. Unless otherwise agreed by the parties in writing, if either party fails to timely pay any amount due under this Agreement by the due date, the amount not paid shall bear simple interest commencing on the day immediately after the date on which it became due up to and including the date of payment, at the rate calculated as an annual rate (365/366 day year basis as applicable), equal to two percent (2%) above the Toronto-Dominion Bank prime interest rate, or the maximum amount allowed by law, whichever is less, in effect on the day payment was due.
- 44.2. Under no circumstances shall this interest be construed as an agreement by Seller to provide extended credit and the charging of interest shall be without prejudice and in addition to any rights and remedies which Seller may have under this Agreement or otherwise.

45. Adequate Assurance

- 45.1. Seller may, within Seller's full discretion, at any time request and Buyer shall, no later than one (1) Banking Days after request by Seller, provide Adequate Assurance of Performance. After such request, and in the event that title has not already been transferred, Seller may withhold performance until such Adequate Assurance of Performance shall have been received by it. Any cost, expense, or charges associated with any letter of credit procured pursuant to this Section shall be for the account of Buyer.

46. Financial Responsibility

- 46.1. Notwithstanding anything to the contrary in this Agreement, if in the reasonable opinion of a party (the "Secured Party") at any time the reliability or the financial responsibility of the other party ("Posting Party") (or of any guarantor or other person furnishing security in support of Posting Party) is or becomes impaired or unsatisfactory, Adequate Assurance of Performance shall be given by Posting Party to Secured Party on demand by Secured Party in respect of each or any cargo or any portion thereof and/or Seller may require Prepayments under Section 43.9; provided, however, that if Seller requests both Adequate Assurance of Performance and Prepayments, then Seller's request for Adequate Assurance of Performance shall be limited to assurances for amounts in excess of the Prepayment Amount then due. In any event, any amounts of Adequate Assurance of Performance specified in such demand shall thereby become immediately due and payable. After such demand, and in the event that title has not already been transferred, Secured Party may withhold performance until such Adequate Assurance of Performance shall have been received by it. Any cost, expense, or charges associated with any letter of credit procured pursuant to this Section shall be for the account of the party providing the letter of credit.

47. Breach of Performance and Events of Default

- 47.1. Failure to Deliver or Take Delivery. Unless excused by Force Majeure or the other party's failure to perform, if a party fails to deliver or take delivery of any of the quantity of the Product as required in a particular Transaction during the applicable delivery period (the "Failing Party"), the non-Failing party's exclusive remedy for the Failing Party's failure to deliver or take delivery of the Product shall be as set forth below:

- 47.1.1. Seller Failure to Deliver. If Seller is the Failing Party, then Buyer shall have the right to terminate the Transaction, in which case Seller shall pay Buyer within five (5)

PART E - Applicable to each of Parts A, B, C and D

Banking Days of receipt of Buyer's invoice an amount equal to the positive difference, if any, between (i) the Market Value and (ii) the Contract Value.

- 47.1.2. Buyer Failure to Take Delivery. If Buyer is the Failing Party, then Seller shall have the right to terminate the Transaction, in which case Buyer shall pay to Seller within five (5) Banking Days of receipt of Seller's invoice an amount equal to the positive difference, if any, between (i) the Contract Value and (ii) the Market Value.
- 47.1.3. Demurrage. As demurrage is a separate obligation from the obligation to take or deliver Product, the obligation to pay demurrage under this Agreement, if any is due, shall continue and not be extinguished by the payments under Sections 47.1.1 and 47.1.2 above.
- 47.2. An event of default ("Event of Default") shall occur with respect to a party (the "Defaulting Party") when:
- 47.2.1. such party fails to (i) pay an invoice for Product, or (ii) provide Adequate Assurance of Performance when due, and/or (iii) make Prepayments when required pursuant to Section 43.9, and such failure is not cured within two (2) Banking Days after receipt of written notice of such failure;
- 47.2.2. such party, or its guarantor, (i) makes a general assignment for the benefit of its creditors or a proposal under the *Companies' Creditors Arrangement Act* (Canada) or a similar statute of Canada or any province thereof or any other jurisdiction, or (ii) commences a proceeding under applicable bankruptcy law, or other law for the relief of debtors or commits an act of bankruptcy under the *Bankruptcy and Insolvency Act* (Canada);
- 47.2.3. such party, or its guarantor, files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or readjustment of debts;
- 47.2.4. such party, or its guarantor, has a trustee, custodian, conservator, receiver or similar official appointed for it, or for a substantial part of its property;
- 47.2.5. such party, or its guarantor, becomes insolvent or is unable to pay its debts as they become due; or
- 47.2.6. such party, or its guarantor, becomes subject to any involuntary bankruptcy, reorganization, debt arrangement, or other proceeding under any applicable bankruptcy, insolvency or other similar law for the relief of debtors or any dissolution or liquidation proceeding is instituted against the party or its guarantor.
- 47.3. If an Event of Default occurs and is continuing, the non-defaulting party (the "Non-Defaulting Party") may, without limiting any other rights and remedies that may be available to the Non-Defaulting Party under this Agreement or otherwise, (i) offset all or any portion of any amounts owed by the Defaulting Party to the Non-Defaulting Party against any amounts owed by the Non-Defaulting Party to the Defaulting Party under this Agreement or otherwise, (ii) apply any payments made but not yet applied, or any Adequate Assurance of Performance posted under this Agreement by the Defaulting Party against any amounts

PART E - Applicable to each of Parts A, B, C and D

that are owed under this Agreement to the Non-Defaulting Party, (iii) if the Non-Defaulting Party is Seller, suspend deliveries until all amounts due for all previous deliveries to the Defaulting Party have been paid in full; provided, however, to the extent the Non-Defaulting Party sustains damages related to the suspension of deliveries of Product(s), the Defaulting Party shall pay such damages to the Non-Defaulting Party, (iv) require Prepayments under Section 43.9, if the Defaulting Party is Buyer, and/or (v) designate an Early Termination Date in the manner described in Section 47.4.

47.4. If an Event of Default occurs, the Non-Defaulting Party may, by written notice to the Defaulting Party, terminate all transactions between the parties for the purchase and sale of Products, whether governed by these GTCs or otherwise (the "Terminated Transactions"), as of a date designated in the notice that is no earlier than the day such notice is effective and no later than twenty (20) days after such notice is effective as an early termination date ("Early Termination Date"). If an Early Termination Date has been designated, the Non-Defaulting Party shall in good faith calculate the Settlement Amount of the Terminated Transaction or all Terminated Transactions, as the case may be, as of the Early Termination Date (or as soon thereafter as reasonably practicable). The Non-Defaulting Party shall aggregate all amounts due between the parties into a single net amount (the "Termination Payment") by aggregating or setting off, as appropriate, (i) the Settlement Amount for each Terminated Transaction, (ii) all Unpaid Amounts owed to the Non-Defaulting Party, and (iii) all Unpaid Amounts owed to the Defaulting Party; provided, however, if the net of the Settlement Amounts for all such Terminated Transaction(s) would be an amount owing to the Defaulting Party, then such net amount shall be zero for purposes of determining the Termination Payment. The Non-Defaulting Party shall notify the Defaulting Party in writing of the amount of the Termination Payment due from the Defaulting Party, along with reasonable detail regarding the calculation of such amount. The Defaulting Party shall pay the Termination Payment to the Non-Defaulting Party within two (2) Banking Days after receipt of such notice, with interest (as provided in Section 44.1) from the Early Termination Date until paid. If an Early Termination Date is designated, the Non-Defaulting Party shall be entitled, in its sole discretion, to set-off any amount payable by the Non-Defaulting Party or any of its Affiliates to the Defaulting Party under this Agreement or otherwise, against any amounts payable by the Defaulting Party to the Non-Defaulting Party or any of its Affiliates under this Agreement or otherwise. The Non-Defaulting Party shall also be entitled to apply any Adequate Assurance of Performance posted by the Defaulting Party or its Affiliates to the Non-Defaulting Party or any of its Affiliates against any amounts owed to the Non-Defaulting Party by the Defaulting Party under this Agreement or otherwise. If an obligation is unascertained, the Non-Defaulting Party may in good faith estimate that obligation and set-off in respect of the estimate, subject to the Non-Defaulting Party accounting to the Defaulting Party when the obligation is ascertained. The Parties acknowledge and agree that this Agreement is an Eligible Financial Contract as defined in *Bankruptcy and Insolvency Act* (Canada).

47.5. For purposes hereof:

47.5.1. "Settlement Amount" for a Terminated Transaction means the amount by which such Market Value differs from the Contract Value (it being understood that (i) in the event the Market Value of a Terminated Transaction exceeds the Contract Value for the Terminated Transaction, the difference in value shall be due from Seller to Buyer, and

PART E - Applicable to each of Parts A, B, C and D

(ii) in the event that the Market Value of a Terminated Transaction is less than the Contract Value, the difference in value shall be due from Buyer to Seller);

47.5.2. “Unpaid Amounts” means any unpaid amounts due and payable under this Agreement and all Terminated Transactions, whether due prior to or after any Early Termination Date (but excluding any Settlement Amounts), including but not limited to attorneys’ fees and other expenses payable, as well as any other amounts due and payable by the Defaulting Party to the Non-Defaulting Party under this Agreement;

47.5.3. “Contract Value” means the volume of Product(s) remaining to be purchased under (i) the Terminated Transaction, or (ii) a Transaction where a party has failed to perform under 47.1 above, multiplied by the applicable Price(s) specified in the Confirmation for the Terminated Transaction; and

47.5.4. “Market Value” means (i) as determined by the Non-Defaulting Party in a commercially reasonable manner, the volume of Product(s) remaining to be purchased under the Terminated Transaction multiplied by the market price on the Early Termination Date for an equivalent transaction at the delivery location, or (ii), as determined by the non-Failing Party in a commercially reasonable manner, the volume of Product(s) which the Failing Party failed to take or deliver as applicable under Section 47.1 above multiplied by the market price on the date of the failure for an equivalent transaction at the delivery location. To ascertain the market price, the Non-Defaulting Party or non-Failing Party, as the case may be, may consider, among other valuations, quotations from leading dealers in swap contracts or physical trading markets, similar sales or purchases and any other bona fide third-party offers, all adjusted for the length of the term, relevant due date or delivery dates, broker fees, volume and differences in transportation costs. A party shall not be required to enter into a replacement transaction in order to determine the Market Value of a Terminated Transaction.

47.6. Except as otherwise provided herein, all rights, including setoff rights, under this Section 47 shall be in addition to any other rights and remedies to which any party is otherwise entitled (whether under this Agreement, by operation of law, contract, normal business practice, or otherwise).

48. Taxes, Fees, and Other Charges

48.1. For Transactions within Canada the following provisions shall apply, as applicable:

48.1.1. Except as provided below, Seller shall pay all taxes, fees, and other charges which may be levied or assessed or otherwise applicable upon the possession, manufacture, sale, and transportation of the Product prior to its delivery to Buyer; and if Buyer is required by law to pay any of those taxes, fees, and other charges, Seller shall promptly reimburse Buyer for them. Buyer shall pay or reimburse Seller for (1) any federal or provincial excise tax on gasoline, gasoline blend stocks, additives, diesel fuel, aviation fuel, and special motor fuels, now in effect or hereafter levied, and (2) any taxes, fees, or other charges now in effect or which may be hereafter levied, assessed, or imposed on or with respect to the possession, manufacture, removal, sale, transportation, or delivery of the Product at and after delivery to Buyer, including, but not limited to Goods and Services Tax /Harmonized Sales Tax (“GST/HST”),

PART E - Applicable to each of Parts A, B, C and D

Excise Tax, Provincial Sales Tax ("PST"), Quebec Sales Tax ("QST"), or environmental levies. Buyer shall furnish Seller with satisfactory tax exemption certificates where exemption is claimed.

- 48.1.2. When one Party makes payments to be reimbursed by the other Party, the paying Party shall use its best efforts to verify the correctness of the charges and to pay only the minimum amount due. There shall be no reimbursement for penalties or interest which are incurred as the result of the paying Party's negligence.
 - 48.1.3. Each Party is responsible for payment of its federal, provincial, and local taxes and provincial franchise, license, and similar taxes required for the maintenance of business existence.
 - 48.1.4. Each Party is responsible for obtaining the proper licenses in the jurisdictions where the transactions under this Agreement take place. Should any unexpected taxes, fees, and other charges, including penalty or interest occur because of one Party's failure to obtain such licenses, the Party who fails to obtain the required licenses agrees to bear all the costs associated with this failure and shall indemnify the other Party from the additional costs.
- 48.2. Each Party represents and warrants to the other that it is a registrant and will continue to be a registrant in accordance with the provisions of the *Excise Tax Act* (Canada) for the term of this Agreement. Any GST/HST due to the taxing authority in respect of Product supplied under this Agreement will not form any component of the price of Product under this Agreement. The Parties' respective GST/HST registration numbers, unless changed by notice to the other Party from a Party, which has changed its number are as follows:

Shell Trading Canada: GST# 833532781RT0001

49. Customs Reporting

- 49.1. Where Buyer is the importer of record, Seller shall provide Buyer, in a timely manner for importation purposes, (i) a copy of a valid proof of origin, in line with CBSA Memorandum D11-4-2 and covers Certificates, or any other origin statements/documents as required by law for filing/reporting and preferential duty treatment sought (if any), (ii) a copy of the applicable bills of lading, load reports, and gauger/inspection reports, and (iii) any information necessary for Buyer to comply with the additive reporting requirements applicable to Buyer's importation of the Product into Canada.

50. Duty Drawback

- 50.1. Nothing herein shall limit either party's right to claim duty drawback on any of its imports.

51. Warranties

- 51.1. Seller warrants that at the time title in the Product delivered under this Agreement passes to Buyer, Seller has the right to sell the said Product to Buyer and Seller has unencumbered title to the said Product.
- 51.2. EXCEPT AS OTHERWISE SET FORTH HEREIN, SELLER MAKES NO OTHER WARRANTIES OR REPRESENTATIONS OF ANY KIND CONCERNING THE PRODUCTS, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

PART E - Applicable to each of Parts A, B, C and D

52. Quantity and Quality Claims

52.1. In respect of Marine deliveries, a claim for any quantity discrepancy shall be allowed only where:

52.1.1. For Tankers and Ocean-Going Barges:

52.1.1.1. the difference between:

52.1.1.1.1. the Load Port shore quantity and the Vessel received quantity (with VEF applied) is greater than 0.2% (for FOB, CFR and CIF); or

52.1.1.1.2. the Discharge Port shore quantity and Vessel delivered quantity (with VEF applied) is greater than 0.2% (for Delivered); and

52.1.1.2. the cumulative difference between the Bill of Lading quantity and the outturn quantity for the voyage is greater than 0.3%.

52.1.2. For Inland Barges:

52.1.2.1. the difference between:

52.1.2.1.1. the Load Port shore quantity and the Vessel received quantity (with VEF applied) is greater than 0.3% (for FOB, CFR, and CIF); or

52.1.2.1.2. the difference between the Discharge Port shore quantity and Vessel delivered quantity (with VEF applied) is greater than 0.3% (for Delivered); and

52.1.2.2. the cumulative difference between the Bill of Lading quantity and the outturn quantity for the voyage is greater than 0.3%.

52.2. Any claim relating to quantity and/or quality of Product delivered under this Agreement must be submitted in writing (e-mail acceptable) with full customary supporting documentation no later than ninety (90) calendar days after the completion of delivery date. IF A CLAIM RELATING TO QUANTITY AND/OR QUALITY AND ITS SUPPORTING DOCUMENTATION IS PROVIDED LATER THAN NINETY (90) CALENDAR DAYS AFTER THE COMPLETION OF DELIVERY DATE, THE CLAIM WILL BE DEEMED TO HAVE BEEN WAIVED.

53. Force Majeure

53.1. Neither party shall be liable to the other if it is rendered unable, by an event of Force Majeure, to perform in whole or in part any obligation or condition of this Agreement, for so long as the event of Force Majeure exists and to the extent that performance is prevented, curtailed, impeded, or hindered by the event of Force Majeure; provided, however, that the party unable to perform shall use all commercially reasonable efforts to avoid or remove the event of Force Majeure. The obligation to use all commercially reasonable efforts to avoid or remove the event of Force Majeure shall not require settlement of strikes, lockouts, or other labor disputes. During the period that performance by one of the parties of a part or whole of its obligations has been suspended by reason of an event of Force Majeure, the other party likewise may suspend the performance of all or a part of its obligations to the extent that such suspension is commercially reasonable. The party claiming Force Majeure

PART E - Applicable to each of Parts A, B, C and D

shall use commercially reasonable efforts to immediately communicate the event to the other party and, as soon as reasonably possible, notify the other party in writing with reasonably full particulars of the event, the expected duration of the event and the volumes of Product to be affected by the suspension or curtailment of performance under this Agreement. If the Force Majeure event is forecast to (or actually) last(s) thirty (30) days or more, the party not claiming Force Majeure shall have the right to terminate this Agreement by giving written notice. Excuse from performing due to an event of Force Majeure shall not operate to extend the term of this Agreement nor obligate either party to make up deliveries or receipts, as the case may be.

- 53.2. "Force Majeure" means: Acts of God; strikes; lockouts; boycotts; picketing; labor or other industrial disturbance; acts of a public enemy; fires; acts of terrorism or threat thereof; explosions; material breakage of or material accidents to refinery equipment, lines of pipe, storage tanks, docks; wars (declared or undeclared); blockades; insurrections; riots; epidemics; landslides; earthquakes; storms; lightning; floods; extreme cold or freezing; extreme heat; washouts; arrests and restraints of governments and people; compliance with any federal, state, provincial, or local law, or with any regulation, order, or rule of domestic or international governmental agencies, or authorities or representatives of any domestic or international government acting under claim or color of authority; including compliance with any permitting regulations, the commandeering or requisitioning by U.S. civil or military authorities of any raw or component materials, crude oil, products, or facilities including, but not limited to, producing, manufacturing, transportation, and delivery facilities, and perils of navigation, even when occasioned by negligence, malfeasance, default, or errors in judgment of the pilot, master, mariners or other servants of the ship's owner; civil disturbances; or any cause whatsoever beyond the reasonable control of either party, whether similar to or dissimilar from the causes listed above.
- 53.3. Notwithstanding the provisions of this Section, nothing contained in this Agreement shall relieve either party of the obligation to pay in full any amounts due under the Agreement, including Buyer's obligation to pay in full the purchase price or any other amounts due for the Products actually delivered and accepted hereunder.
- 53.4. Seller's ability to supply Product under this Agreement is dependent on continued availability of necessary raw materials and petroleum products from its usual and anticipated suppliers and continued availability of energy supplies. If raw materials, petroleum products, or energy supplies are not readily available in sufficient quantities due to a declaration of Force Majeure by Seller's Supplier, to permit Seller to meet its total commitments for Product, then Seller shall have the right to allocate, in a fair and reasonable manner, among its customers whose contracts are directly affected by the Force Majeure event, and its own requirements, the Product(s) that is available.

54. New and Changed Regulations

- 54.1. It is understood by the parties that each party is entering into this Agreement in reliance on the laws, rules, regulations, decrees, agreements, concessions and arrangements (hereinafter called "Regulations") in effect on the date hereof with governments, government instrumentalities or public authorities affecting the Product sold/purchased hereunder including, but without limitation to the generality of the foregoing, those relating to the production, acquisition, gathering, manufacturing, transportation, storage, trading or delivery thereof, insofar as such Regulations affect the parties.

PART E - Applicable to each of Parts A, B, C and D

54.2. In the event that at any time and from time to time during the term of this Agreement any Regulations are changed or new Regulations become effective, whether by law, decree or regulation or by response to the insistence or request of any governmental or public authority or any person purporting to act therefore, and the material effect of such changed or new Regulations (i) is not covered by any other provision of this Agreement, and (ii) has a material adverse economic effect upon either party, the affected party shall have the option to request renegotiation of the prices or other pertinent terms provided for in this Agreement. The said option may be exercised by the affected party at any time after such changed or new Regulation is promulgated, by written notice of desire to renegotiate, such notice to contain the new prices or terms desired by the affected party. If the parties do not agree upon new prices or terms within thirty (30) days after affected party gives such notice, affected party shall have the right to terminate this Agreement at the end of the said thirty (30) day period. Any Product lifted during such thirty (30) day period shall be sold and purchased at the price and on the terms applying hereunder without any adjustment in respect of the new or changed Regulations concerned. A termination pursuant to this Section shall not be treated as an Event of Default.

55. Assignment

55.1. This Agreement shall extend to and be binding upon the successors and assigns of the parties, but neither this Agreement nor any part, including any rights, interests or obligations hereunder, shall be assigned or transferred by either party or by operation of law, merger or otherwise without the prior written consent of the other party, which shall not be unreasonably withheld. Any assignment or transfer made by either party without the other party's written consent need not be recognized by and shall not be binding upon the other party. Upon the making of any such assignment, unless otherwise agreed by the parties, the assignor shall remain bound to perform or procure performance of the said obligations (as so accepted) by the assignee. For the purpose of this Agreement, a merger constitutes an assignment subject to this provision.

55.2. Each Party represents, warrants, and covenants that in connection with this Agreement and the business resulting therefrom, only a Party shall make payments to the other Party, except with that other Party's written consent.

56. Regulation, Evaluation, Authorization and Restriction of Chemical Substances

56.1. The provisions of this Section 56 shall apply only in respect of deliveries of the Product under the Agreement where either the Load Port or Discharge Port is located within the European Economic Area ("EEA"). "REACH" means Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Regulation, Evaluation, Authorization and Restriction of Chemical substances.

56.2. The Seller and the Buyer each agree and undertake to the other that they will comply with those obligations under REACH which are applicable to the sale of the Product under the Agreement and its physical introduction into the EEA.

56.3. The Seller shall provide the following information ("Substance Identifier") to the Buyer for each chemical substance contained in or comprising the Product at the relevant time:

56.3.1. a Chemical Abstracts Service ("CAS") registry number and/or the European Commission ("EC") number, which includes European Inventory of Existing Chemical

PART E - Applicable to each of Parts A, B, C and D

Substances (“EINECS”), European List of Notified Chemical Substances (“ELINCS”), “no-longer polymers” list (“NLP”) or any other appropriate identifier number as defined by REACH; or

56.3.2. if the Seller is unable to provide the Buyer with any of the information described in 52.3.1 above, then the Seller shall provide the Buyer with the information necessary for the Buyer to ascertain the CAS or EC number.

56.4. The Seller shall provide the Substance Identifier to the Buyer:

56.4.1. at the time of loading for FOB, CFR, CIF, and FCA deliveries;

56.4.2. at the time of transfer for Ex-Tank, Into Tank, In Situ, and free into pipe deliveries;

56.4.3. by the time of discharge for Delivered deliveries; or

56.4.4. by the time the Product reaches the agreed delivery point in the case of Delivered deliveries.

56.5. Where the Seller is not an Importer (as defined by REACH), nor an EEA manufacturer, and is not subject to obligations under REACH in respect of the Product sold under this Agreement, the following shall apply:

56.5.1. in providing the Buyer with Substance Identifiers pursuant to its obligations under Section 56.3.1, regardless of their source, it provides no warranty or representation as to the accuracy or completeness of such Substance Identifiers; and

56.5.2. notwithstanding any other provision to the contrary in this Agreement, it accepts no liability for loss, damage, delay or expense incurred by the Buyer for whatever reason arising from its reliance on the accuracy of the Substance Identifiers provided and the existence of a valid (pre) registration of the Substances to be imported into the EEA.

57. Compliance with Laws and Regulations

57.1. Each Party shall comply with all Applicable Laws. “Applicable Laws” means any and all applicable laws, including all statutes, codes, ordinances, decrees, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards (including judgments, orders, decisions, rulings or awards of any governmental entity); rules, all effective federal, state, provincial and local regulations, laws, executive orders, and/or rules, municipal by-laws, authorities and other regulatory bodies; and regulatory approvals, permits and licenses, and general principles of common and civil law and equity, which are applicable to the person, property or circumstances concerned, including, but not limited to, the Canadian Environmental Protection Act, 1999, the Hazardous Products Act (Canada), volatility requirements, requirements for oxygenated and reformulated gasoline, and low sulfur requirements. 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 party hereto.

PART E - Applicable to each of Parts A, B, C and D

58. Safety Data Sheets

- 58.1. Seller shall furnish Buyer with Safety Data Sheets that provide warnings and safety and health information concerning the Product. Buyer shall be responsible for further distribution of said Safety Data Sheets as necessary.
- 58.2. Nothing herein shall relieve Buyer of its duties in relation to the safe and proper evaluation, storage, use, transport and disposal of the Product sold hereunder.

59. Notices

- 59.1. Except as otherwise provided, all notices, consents, and other communications under this Agreement required to be in writing shall be deemed to have been duly given (i) when delivered in person, (ii) when received by fax, (iii) when received by the addressee if sent by courier with service receipt requested, (iv) five (5) Banking Days after being placed in the mail, by first class postage, or registered or certified mail, return receipt requested, (v) by e-mail only in instances specifically provided for herein shall be deemed duly given immediately (with receipt confirmed) or (vi) when sent by any other means as the parties may agree from time to time, in each case to the appropriate address as designated by the parties.
- 59.2. All notices under this Agreement received after 17:00 hours receiving party's local time, shall be deemed received 09:00 hours receiving party's local time the following Banking Day.

60. Governing Law and Dispute Resolution

- 60.1. THIS AGREEMENT AND ALL DISPUTES RELATED THERETO SHALL BE GOVERNED BY, INTERPRETED, CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAW OF THE PROVINCE OF ALBERTA AND THE LAWS OF CANADA APPLICABLE THEREIN.
- 60.2. 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, shall be finally and exclusively resolved by arbitration under the rules of the ADR Institute of Canada ("ADR") (the "Rules"), which 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 U.S. 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.

PART E - Applicable to each of Parts A, B, C and D

60.3. Without derogating from the specific time limits set out in Section 8.3 and Section 22.3 (submission of demurrage claims) and Section 52.2 (complaint of quantity discrepancy or of variation of quality), and any other provisions requiring compliance within a given period including those mentioned in relevant tax and customs laws and regulations, all of which shall remain in full force and effect, any claim arising under the Agreement and any dispute under Section 60 shall be commenced within two (2) years of the date on which the Product was delivered or, in the case of a total loss, of the date upon which the Product should have been delivered, failing which the claim shall be time barred and any liability or alleged liability of the other party shall be extinguished.

60.4. The UN Convention on Contracts for the International Sale of Goods (1980) shall not apply.

61. Limitation of Liability

61.1. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER WHETHER UNDER THIS AGREEMENT OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT FOR LOSS OF PROFITS OR INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES. THE LIMITATION CONTAINED IN THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT. The provisions of this Section 61.1 shall continue and apply notwithstanding the termination or expiration of the Agreement for any reason whatsoever.

62. Waiver

62.1. No waiver by either party of any breach of any of the covenants or conditions under this Agreement shall be construed as a waiver of any succeeding breach of the same or any other covenant or condition.

63. Survivability

63.1. If for any reason the Agreement shall be terminated then such termination shall be without prejudice to any rights, obligations or liabilities of either party which have accrued at the date of termination but have not been performed or discharged, and any parts of the Agreement having any relevance thereto or any bearing thereon shall, notwithstanding the termination of the Agreement for any reason, continue in force and effect.

64. Interpretation

64.1. Clause, Section and sub-section headings contained herein are for convenience of reference only and shall not affect the interpretation thereof. Except where the context otherwise requires, words denoting the singular include the plural and vice versa; words denoting any gender include all genders; and words denoting persons include firms and corporations and vice versa. The word "or" is not exclusive. The word "include" and its derivatives shall not be construed as terms of limitation. Unless otherwise expressly stated, the words "hereof", "herein" and "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular provision of this Agreement. The words "will" and "shall" are expressions of command, not merely expressions of future intent or expectation.

65. Severability

65.1. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, all other provisions of this Agreement will nevertheless remain in full force and effect.

PART E - Applicable to each of Parts A, B, C and D

66. No Third Party Beneficiary

- 66.1. Except as may be specifically provided in the Confirmation, no term of the Agreement is intended to, or does, confer a benefit or remedy on any third party.

67. Data Privacy, Recording, Retention and Monitoring of Communications

- 67.1. 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.
- 67.2. 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:
- 67.2.1. record and retain electronic transmissions (including telephone conversations, e-mail and instant messaging between the parties' respective representatives in connection with the Agreement or other commercial matters between the parties) on central and local databases for their respective legitimate purposes; and
- 67.2.2. 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.

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

- 68.1. 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 Product 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 Product, 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.
- 68.2. Export Compliance. If Product 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 Product 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.
- 68.3. Anti-Corruption. Each Party represents and warrants that in connection with this Agreement and the business resulting therefrom: (i) it is aware of Anti-Corruption Laws and will comply with those laws; (ii) whether directly or indirectly, it has not made, offered, authorized, or

PART E - Applicable to each of Parts A, B, C and D

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 violate Anti-Corruption Laws; (iii) it has maintained and will maintain adequate internal controls and procedures, 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; (iv) it will, to its knowledge, retain such books and records for the longer of the period required by applicable law or a Party's own retention policies, whichever is longer; (v) in the event a Party becomes aware it has breached an obligation in this paragraph, it will immediately notify the other Party, subject to the preservation of legal privilege; (vi) it has taken reasonable measures to require any subcontractors, agents, or any other third-parties subject to its control to comply with the provisions of this Section; (vii) 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); (viii) only a Party (and not its Affiliates or a third party) shall make payments to the other Party without the prior written consent of the other Party; (ix) subject to antitrust law and the preservation of legal privilege, on reasonable notice each Party, at its own expense, shall have a right to audit the other Party's relevant books and records with respect to compliance with this paragraph; and (x) 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.

68.4. 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 68 for Trade Controls and Boycotts, Export Compliance, and Anti-Corruption.

69. Entire Agreement - Modification - Conflict

69.1. This Agreement comprises the entire agreement and supersedes all prior communications between the parties and any broker confirmation concerning the subject matter or in consideration hereof. This Agreement shall not be modified, amended or supplemented unless mutually agreed by the parties, which agreement must be evidenced in writing. These GTCs shall apply except insofar as any such Section is inconsistent with any of the specific terms in a Confirmation, in which case, the Confirmation shall govern. For the avoidance of doubt, any repetition in a Confirmation of any Section or any part of such Section of these GTCs shall be for emphasis only and shall not by reason of such repetition exclude any other part of such Section or any other Section or any part thereof of the said GTCs.

70. Language

70.1. Both parties herein expressly acknowledge that they have agreed that this agreement (contract) and all notices, correspondence or other documents ancillary thereto be drafted in the English language only.

70.2. Les deux parties aux présentes reconnaissent expressément qu'elles ont convenu que la présente convention (le présent contrat) et toute correspondance, tout avis et tous documents y étant accessoires soient rédigés en langue anglaise seulement.

PART E - Applicable to each of Parts A, B, C and D

71. TDG Regulations

- 71.1. 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 Product 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 Product, then the following provisions shall apply:
- 71.2. 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;
- 71.3. 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
- 71.4. Buyer agrees that the Seller shall not be liable to the Buyer for any failure or refusal to designate the Third Party as consignor.

72. Definitions

- 72.1. "Adequate Assurance of Performance" means: (i) at the option of the party providing the Adequate Assurance, either (a) an irrevocable stand-by letter of credit in a form and for a commercially-reasonable amount acceptable to the Secured Party issued or confirmed by a Qualified Institution acceptable to the Secured Party, or (b) cash in a commercially-reasonable amount acceptable to the Secured Party; or (ii) another form of assurance mutually agreed by the parties;
- 72.2. "Affiliate" means, in relation to any person, an entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the entity or person;
- 72.3. "Agreement" means these GTCs (including, where applicable, the Attachments attached hereto) together with a Confirmation;
- 72.4. "All Fast" shall mean that the Vessel is completely secured to the Berth and that the gangway is down and secured;

PART E - Applicable to each of Parts A, B, C and D

- 72.5. "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.
- 72.6. "API" shall mean the American Petroleum Institute;
- 72.7. "Arrival Date Range" shall be the time period provided in a Confirmation, or as further narrowed by agreement between the parties, within which Seller's Vessel shall tender NOR at the Discharge Port and be ready to discharge Product. For purposes of CFR and CIF Marine deliveries, the parties may agree by specifying in a Confirmation or other writing that the Arrival Date Range at the Discharge Port is given for the sole purpose of calculating Laytime and demurrage, and shall not be construed as establishing a guaranteed date of arrival or delivery at the Discharge Port;
- 72.8. "ASTM" shall mean ASTM International;
- 72.9. "Banking Day" means a day other than a Saturday or Sunday when federal banks are open for business in Toronto, Ontario;
- 72.10. "Barrel" means forty-two (42) U.S. Gallons at sixty degrees (60°) Fahrenheit and is equivalent to 158.9873 Litres;
- 72.11. "Barge" means any vessel used for the marine transportation of cargo that is generally unmanned and unpowered, and pushed or towed by other vessels
- 72.12. "Berth" means a berth, dock, anchorage, submarine line, single point or single berth mooring facility, offshore location, alongside Vessels or lighters or any other loading or discharge place as may be indicated by the party in question;
- 72.13. "Buyer's Receiver" shall mean the terminal, pipeline, or other facility, or other body, person or company, to whom the Product will be discharged;
- 72.14. "CBP" shall mean the U.S. Bureau of Customs and Border Protection;
- 72.15. "CBSA" shall mean the Canada Border Services Agency;
- 72.16. "Confirmation" means a confirmation setting forth the trade details of a Transaction between the parties, either: (i) in the form of an electronic confirmation and matched by the agreed upon electronic confirmation matching system, or (ii) absent the ability to confirm a Transaction through an electronic confirmation matching system, by written confirmation;
- 72.17. "CFR" shall mean cost and freight;
- 72.18. "CI" shall mean Carbon Intensity as determined by a relevant regulatory body
- 72.19. "CIF" shall mean cost, insurance, and freight;
- 72.20. "CGSB" shall mean the Canadian Government Standards Board;

PART E - Applicable to each of Parts A, B, C and D

- 72.21. "Cubic Metre" or "m3" is 6.29287 barrels at 15 degrees Celsius;
- 72.22. "DAP" shall mean delivered at place;
- 72.23. "Delivered" shall include delivered outturn and ex-ship marine deliveries;
- 72.24. "Discharge Port" means the port or terminal at which the Product to be delivered hereunder is or will be discharged or, where the context requires, the operator, authority or governing body of such port or terminal;
- 72.25. "EI" shall mean Energy Institute;
- 72.26. "ETA," in the case of FOB marine deliveries, means the estimated time of arrival of the Vessel at the Load Port and, in the case of CFR, CIF and Delivered marine deliveries means the estimated time of arrival of the Vessel at the Discharge Port;
- 72.27. "EU" means European Union;
- 72.28. "EU qualified" means that the Product is or will be in free circulation within the EU and not subject to any import duties; "non-EU qualified" means Product that does not fall within the meaning of EU qualified;
- 72.29. "FCA" shall mean free carrier;
- 72.30. "FOB" shall mean free on board;
- 72.31. "Gallon" shall mean one (1) U.S. liquid gallon containing two hundred and thirty-one (231) cubic inches when the liquid is at a temperature of sixty degrees (60°) Fahrenheit and at the vapor pressure of the liquid being tested;
- 72.32. "GTCs" shall mean these General Terms and Conditions for the Sale and Purchase of Products – August 1, 2019;
- 72.33. "Inland Barge" shall mean a barge, restricted to operations in the inland waterways or local coastline areas;
- 72.34. "Laytime" shall consist of the time allowed to Seller for loading or Buyer for discharge (as applicable), day or night, Saturdays, Sundays, and holidays included;
- 72.35. "Letter of Indemnity" shall be as contained in Attachment A of these GTCs;
- 72.36. "Lightering" shall mean the discharge or unloading of a cargo from a larger Vessel to a smaller Vessel for purposes of further transportation;
- 72.37. "Litre" has the meaning provided in the *Weights and Measures Act* Canada;
- 72.38. "Load Port" means the port or terminal at which the Product to be delivered hereunder is or will be loaded or, where the context requires, the operator, authority or governing body of such port or terminal;
- 72.39. "Loading Date Range" shall be the time period provided in a Confirmation, or as further narrowed by agreement between the parties, within which Buyer's Vessel shall tender NOR

PART E - Applicable to each of Parts A, B, C and D

at the Load Port and be ready to load Product and within which Seller shall make Product available for loading;

- 72.40. "LPG" means liquefied petroleum gas;
- 72.41. "Marine" shall mean deliveries by waterborne Vessel;
- 72.42. "Metric Ton" shall mean 2,204.62 pounds;
- 72.43. "NOR" means when the Vessel is in all respects ready to load or discharge, as applicable, the valid notice of readiness to load or discharge, as the case may be, as given by the master of the Vessel (or his/her representative) to the Load Port or to the Discharge Port as applicable;
- 72.44. "OBQ" shall mean on board quantity;
- 72.45. "Ocean-Going Barge" shall mean a barge permitted to operate in offshore waters;
- 72.46. "Product" means any commodity or commodities bought or sold between the parties as identified in a particular Confirmation;
- 72.47. "Qualified Institution" means: (i) the U.S. or Canada office of a commercial bank or trust company (which is not an Affiliate of either party) organized under the laws of the U.S. or Canada (or any state, province or political subdivision thereof), or (ii) the U.S. or Canada branch of a foreign bank (which is not an Affiliate of either party), in each case having assets of at least ten billion U.S. Dollars (\$10,000,000,000), and having a credit rating of at least A- by Standard's & Poor's and at least A3 by Moody's;
- 72.48. "RBOB" shall mean reformulated blendstock for oxygenated blending;
- 72.49. "REACH" means Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Regulation, Evaluation, Authorization and Restriction of Chemical substances (REACH);
- 72.50. "ROB" shall mean remaining on board;
- 72.51. "Seller's Supplier" shall mean the terminal, pipeline, or other facility, from which Product will be loaded and/or any body, person, or company being a direct or indirect source of supply for Seller;
- 72.52. "Tanker" shall mean any self-propelled vessel capable of carrying bulk Product;
- 72.53. "Ton" shall mean a "Metric Ton"
- 72.54. "Transaction" means any purchase or sale of Product between the parties that is evidenced by a Confirmation that incorporates the GTCs;
- 72.55. "TDG Regulations" means the Transportation of Dangerous Goods Regulations made pursuant to the Transportation of Dangerous Goods Act (Canada);
- 72.56. "Transship" and "Transshipment" shall mean the transfer of a cargo outside the territorial waters of Canada or the United States from one Vessel for further transportation on the

PART E - Applicable to each of Parts A, B, C and D

same Vessel or a different ship or conveyance where a Discharge Port under this Agreement is located within the Canada or the United States;

- 72.57. "Vessel" means a Tanker, Ocean-Going Barge, or any other barge;
- 72.58. "VEF" means Vessel experience factor;
- 72.59. "Worldscale" shall mean the New Worldwide Tanker Nominal Freight Scale as current on the day of commencement of loading of the Vessel in question.

PART F - Attachments

Attachment A - Seller's Letter of Indemnity format

LETTER OF INDEMNITY

In consideration of your paying for the cargo of {VOLUME} U.S. Barrels/Metric Tons of {TYPE OF PRODUCT} which sailed from {PORT} on {VESSEL} on {BILL OF LADING DATE} loaded with the cargo when the full set of Bills of Lading and Original Shipping documents for the cargo have not been delivered to you at the time payment is due under our contract dated {CONTRACT DATE}

We hereby warrant to you that at the time property passed as specified under the terms of the contract we had the right to sell the cargo to you, and we had unencumbered title to the cargo.

We hereby undertake to indemnify you and hold you harmless against any claim made against you by anyone as a result of breach by us of any of our warranties as set out above; and all loss, costs (including, but not limited to, costs as between attorney or solicitor and own client), damages, and expenses which you may suffer, incur, or be put to which are not too remote as a result of our failure to deliver the above document(s) in accordance with the contract.

This indemnity shall be limited in value to 200% CIF or FOB value of the cargo based on agreed delivery method, and shall expire at the earlier of (i) on delivery by us of the aforesaid document(s) and their acceptance by you; or (ii) at 24.00 hours on the day 36 calendar months after the date of discharge unless before that time Sellers have received written notice from Buyers that: a) some person is making a claim in connection with the warranties set out above or, b) legal proceedings have been commenced against Buyers for the same reason. When Sellers have received such notice, then this indemnity shall continue in force until such claim or legal proceedings are settled.

This indemnity shall be governed by and construed in accordance with the laws of the Province of Alberta and all disputes, controversies, or claims arising out of or in relation to this indemnity or the breach, termination, or validity hereof shall be subject to the exclusive jurisdiction of the Alberta Courts.

Signed: {NAME} {POSITION}

Company: