

**Shell Trading (US) Company**

**Marine Provisions for the U.S. Domestic Sale and  
Purchase of Crude and Condensate**

**May 2, 2013**

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## **Marine Provisions for the U.S. Domestic Sale and Purchase of Crude and Condensate**

These Marine Provisions shall apply to sales and purchases of crude and condensate to be delivered within the continental United States (“U.S.”), including inland waterways and coastwise voyages, excluding the non-contiguous states Alaska and Hawaii and excluding the U.S. Territory Puerto Rico. These Marine Provisions shall apply in addition to the following General Provisions:

1. If Buyer and Seller are parties to a Master Trade Agreement, such Master Trade Agreement shall operate as the General Provisions;
2. If Buyer and Seller are parties to a mutual agreement amending The Conoco General Provisions Domestic Crude Oil Agreements effective January 1993 (Conoco 93 General Provisions), such mutual agreement shall operate as the General Provisions;
3. Where no Master Trade Agreement or other mutual agreement amending the Conoco 93 General Provisions exists, the Conoco 93 General Provisions and the 2012 Shell Trading (US) Company (“STUSCO”) Amendments to the Conoco 93 General Provisions (“STUSCO Amendments”) shall operate as the General Provisions.

To the extent these Marine Provisions are in conflict with the applicable trade confirmation, the trade confirmation shall govern; to the extent these Marine Provisions are in conflict with the applicable General Provisions, these Marine Provisions shall govern.

# PART A - In respect of FOB Marine deliveries

## 1. Safe Berth

- 1.1. Seller shall provide or shall cause to be provided, free of charge, 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. 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 1.3 of this Agreement.
- 1.2. Seller shall not be deemed to warrant the safety of any channel, fairway, anchorage, or other waterway used in approaching or departing from the Load Port designated by Seller. Seller shall not be liable for:
  - 1.2.1. Any loss, damage, injury, or delay to the Vessel resulting from the use of such waterways; or
  - 1.2.2. Any damage to Vessels caused by other Vessels passing in the waterway.
- 1.3. 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 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. Quantity measurement and quality sampling and testing shall be conducted in accordance with the most current API or ASTM standards, as applicable.
- 2.2. The quantity shall be based on proven meters (if available) at the Load Port. 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) the roof is not in floatation, or (iv) are unable to be measured manually, 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 with a valid load VEF (if available) applied.
  - 2.2.2. Inland Barges: Quantity shall be based on static shoretank(s) upgauge measurements at the Discharge Port, adjusted for OBQ and ROB.
- 2.3. Quality determination shall be in accordance with the test results run on a volumetrically correct composite of samples drawn from shoretank(s) at the Load Port, or to the extent not available, a volumetrically correct Vessel compartment composite sample obtained at the Load Port.

- 2.4. With respect to quantity and quality at the Load Port an independent inspection shall be carried out at the Load Port by an independent inspector who is mutually acceptable to both Seller and Buyer. Seller and Buyer shall jointly appoint the independent inspector, and both parties shall share all inspection charges equally. 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 and quality with respect to the Product loaded.
- 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 (a) the payment provisions of the parties' Master Trade Agreement or other mutual agreement, if any, as referenced in the trade confirmation; (b) Paragraph F, Payment section of the Conoco 93 General Provisions and Paragraph F, Payment section of the STUSCO Amendments, if applicable; or (c) if contained therein, the payment terms of the applicable trade confirmation. This section 2.6 shall be without prejudice to the rights of either party to file a claim for quantity and/or quality.
- 2.7. In addition to the independent inspector appointed pursuant to this Section, 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 acceptable to Seller, such acceptance shall not be unreasonably withheld. For the avoidance of doubt, Seller shall be entitled to reject Buyer's nominated Vessel if it does not pass Seller's internal safety vetting procedure 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 two (2) days before the first day of the agreed Loading Date Range. For voyages of two (2) days or less: at least one (1) day before the first day of the agreed Loading Date Range.
    - 3.2.1.1. Ocean-Going Barge and Inland Barge Nominations - At least two (2) days before the first day of the agreed Loading Date

Range. For voyages of two (2) days or less: at least one (1) day 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. Contractual Quantity + Agreed Volume Tolerance
  - 3.4.6. Agreed Loading Date Range
  - 3.4.7. Vessel ETA at the Load Port
  - 3.4.8. Independent inspector
  - 3.4.9. Comments / Instructions (as applicable)
- 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 Vessel, with another Vessel acceptable to Seller, which is similar in all material respects to the Vessel so replaced. Said nomination shall not alter any existing terms under this Agreement beyond the Vessel used to fulfill the obligations of said 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, including but not limited to, if such Vessel is involved in any incident or if more recent information regarding such Vessel becomes available to Seller at any time after such prior acceptance.
- 3.8. In case of rejection, Buyer shall promptly nominate a Vessel acceptable to Seller and Buyer shall not, unless otherwise provided in (a) the Force Majeure provisions of the parties' Master Trade Agreement or other mutual agreement, if any, as referenced in the trade confirmation; (b) Paragraph E, Force Majeure section of the Conoco 93 General Provisions or Paragraph E, Force Majeure section of the STUSCO Amendments, if applicable; or (c)

if contained therein, the Force Majeure section of the applicable trade confirmation, 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 shall apply to Buyer's Vessel. 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 them, Seller or Seller's Supplier(s) may refuse to berth, load, or continue to load the Vessel in question.

#### **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 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 twenty four (24) hours prior to the Vessel's arrival at the Load Port. The Load Port shall be further notified 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 twenty four (24) hours prior to the Vessel's arrival at the Load Port. The Load Port shall be further notified six (6) hours in advance of the Vessel's arrival at the Load 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 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. 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 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: 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	Up to 26,999	12 hours
	27,000 and above	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 – 199,999	24 hours
	200,000 – 299,999	30 hours
300,000 and above	36 hours	

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

7.1.3. 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.

- 7.1.4. Multiple Inland Barges. In the case of multiple inland barges being towed by one towboat, all the barges will be expected to load simultaneously. The minimum of twelve (12) hours of Laytime allowance shall apply to the load for all the inland barges associated with one towboat.
- 7.1.4.1 If the designated Load Port requires barges to berth individually, Laytime consumed in shifting the barges shall count as used Laytime or demurrage, if on demurrage.
- 7.1.4.2 If the Tow requires barges to berth individually, time consumed in shifting the barges shall not count as used Laytime or demurrage, if on demurrage.
- 7.2. Time consumed due to any of the following shall not count as used Laytime or if the Vessel is on demurrage, for demurrage:
- 7.2.1. On an inward passage including, but not limited to, awaiting daylight, tide, tugs, or pilot, and moving from an anchorage or other waiting place until the Vessel is All Fast;
- 7.2.2. Any delay due to the Vessel's condition, breakdown, or any other causes attributable to the Vessel;
- 7.2.3. 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;
- 7.2.4. 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;
- 7.2.5. 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;
- 7.2.6. 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;
- 7.2.7. Any delay due to the Vessel's violation of the operating or safety rules and/or regulations of the Load Port, noncompliance with: (i) federal or state laws, (ii) U.S. Coast Guard regulations, (iii) any other applicable regulations, (iv) or failure to obtain or maintain required certification;
- 7.2.8. Any delays caused by strike, lockout, stoppage or restraint of labor of master, officers or crew of the Vessel, or of tugboats or pilots;
- 7.2.9. Any delay awaiting customs or immigration clearance, other required governmental or port clearance, or free pratique, if applicable.

- 7.3. Any delay, not first caused by the negligence of Seller or Seller's Supplier(s), that is the result of fire, explosion, civil unrest, act of war, riot, strike, lockout, 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 or 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.
- 7.4. Laytime Commencement:
- 7.4.1. Tankers and Ocean-Going Barges:
- 7.4.1.1. 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.
- 7.4.1.2. 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.
- 7.4.1.3. 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.
- 7.4.2. Inland Barges:
- 7.4.2.1. 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.
- 7.4.2.2. 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.
- 7.4.2.3. 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.
- 7.5. Laytime shall cease after all Product has been loaded and when the hoses have been disconnected from the Vessel and, in the case of inland barges, when the Vessel has been released by Seller or Seller's Supplier(s).

However, Laytime will recommence two (2) hours after disconnection of hoses if the Vessel is delayed in its departure due to Seller 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).

- 7.6. Where the parties agree in the Confirmation that the public dock clause applies, if loading occurs at a public terminal over which Seller has no control, Vessels are loaded on a first come first serve basis subject to dock availability. Laytime shall not commence until Vessel is All Fast at the dock. Seller will not be responsible for any delays or demurrage 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 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 of this Agreement, 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 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.
- 8.1.2.2. Ocean-Going Barges and Inland Barges: The parties shall appoint a mutually agreed upon barge 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 towboat demurrage during delays of berthing or loading where the Load Port has notified the Vessel's master that the towboat would not be required at the port for that time period.
- 8.3. Demurrage Claims: Demurrage claims must be submitted in writing (e-mail acceptable) with full 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. 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.
- 9.2. Where delivery is to an Ocean-Going Barge or Inland Barge, Buyer 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.
- 9.3. If Buyer's Vessel does not meet any of the above requirements Seller or Seller's Suppliers may refuse to berth or load or continue loading such Vessel.

## **10. Ship and Port Security**

- 10.1. This Section shall apply to any Load Port, Discharge Port and/or Vessel used that is subject to the U.S. Maritime Transportation Security Act 2002 ("MTSA").
- 10.2. Buyer shall procure that the Vessel shall comply with the requirements of the MTSA, as codified under 46 U.S.C., Chapter 701, including as may be amended from time to time.
- 10.3. The Vessel shall when required submit a Declaration of Security to the appropriate authorities prior to 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 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 MTSA.

- 10.5. Seller shall procure that the Load Port/terminal/installation shall comply with the requirements of 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 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 MTSA.
- 10.7. Save where the Vessel has failed to comply with the requirements of 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 undergo additional inspections.
- 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 MTSA shall be limited to the payment of demurrage and costs actually incurred by Buyer in accordance with the provisions of this Section.

**11. Specific Ports, Anchorages, and Locations**

11.1. Mississippi River Ports:

- 11.1.1. Via Southwest Pass - Any Vessel which must make passage to any port along the Mississippi River shall announce to the Load Port the Vessel's arrival at Southwest Pass. 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.
- 11.1.2. Via other than Southwest Pass - The NOR or notice of arrival, as applicable, 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.
- 11.1.3. For clarity, the following locations in and along the Mississippi River are considered the customary anchorage for Vessels destined to the following ports:

Location	Anchorage
Convent, LA	Burnside Anchorage
Geismar, LA	Burnside Anchorage

Gretna, LA	Nine Mile Anchorage
Norco, LA	AMA Anchorage
St. James, LA	Grandview Anchorage
St. Rose, LA	AMA Anchorage

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

### **12. Safe Berth**

- 12.1. 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 Association (NYC) Inc. ("Worldscale") as being for owners' account and which are not specified in Worldscale as being reimbursable by charterer to owner.
- 12.2. 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:
  - 12.2.1. Any loss, damage, injury, or delay to the Vessel resulting from the use of such waterways; or
  - 12.2.2. Any damage to Vessels caused by other Vessels passing in the waterway.
- 12.3. 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 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.

### **13. Quantity and Quality**

- 13.1. Quantity measurement and quality sampling and testing shall be conducted in accordance with the most current API or ASTM standards, as applicable.
- 13.2. CFR / CIF
  - 13.2.1. The quantity shall be based on proven meters (if available) at the Load Port. 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) the roof is not in floatation, or (iv) are unable to be measured manually, in which case measurement shall be conducted according to the following procedures:
    - 13.2.1.1. Tankers and Ocean-Going Barges: Quantity shall be based on the Vessel's loaded figure with a valid load VEF (if available) applied.

- 13.2.1.2. Inland Barges: Quantity shall be based on static shoretank(s) upgauge measurements at the Discharge Port, adjusted for OBQ and ROB.
- 13.2.2. Quality determination shall be in accordance with the test results run on a volumetrically correct composite of samples drawn from shoretank(s) at the Load Port, or to the extent not available, a volumetrically correct Vessel compartment composite sample obtained at the Load Port.
- 13.2.3. With respect to quantity and quality at the Load Port an independent inspection shall be carried out at the Load Port by an independent inspector who is mutually acceptable to both Seller and Buyer. Seller and Buyer shall jointly appoint the independent inspector, and both parties shall share all inspection charges equally. The independent inspector's report shall be made available to both parties.
- 13.2.4. Results of the measurements set forth in this Section shall be issued in the form of the certificates of quantity and quality with respect to the Product loaded. Where this Agreement is entered into after loading has completed and/or the Vessel has sailed, the certificates of quantity and quality issued at the Load Port shall apply.
- 13.2.5. 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 full in accordance with (a) the payment provisions of the parties' Master Trade Agreement or other mutual agreement, if any, as referenced in the trade confirmation; (b) Paragraph F, Payment section of the Conoco 93 General Provisions and Paragraph F, Payment section of the STUSCO Amendments, if applicable; or (c) if contained therein, the payment terms of the applicable trade confirmation. This section 13.2.5 shall be without prejudice to the rights of either party to file a claim for quantity and/or quality.
- 13.2.6. In addition to the independent inspector appointed pursuant to this Section, either party may, at its own expense, appoint a representative, acceptable to the 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.

13.3. Delivered

- 13.3.1. The quantity shall be based on proven meters (if available) at the Discharge Port. 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)

the roof is not in floatation, or (iv) are unable to be measured manually, in which case measurement shall be conducted according to the following procedures:

- 13.3.1.1. Tankers and Ocean-Going Barges: Quantity shall be based on the Vessel's delivered figure with a valid discharge VEF (if available) applied.
- 13.3.1.2. Inland Barges: Quantity shall be based on static shore tank(s) down gauge measurements at the Load Port, adjusted for OBQ and ROB.
- 13.3.2. 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.
- 13.3.3. Quantity and quality determination(s) shall be made by independent inspection at the Discharge Port by an independent inspector who is mutually acceptable to both Seller and Buyer. Seller and Buyer shall jointly appoint the independent inspector, and both parties shall share all inspection charges equally. The independent inspector's report shall be made available to both parties.
- 13.3.4. Results of the measurements set forth in this Section shall be issued in the form of the certificates of quantity and quality with respect to the Product discharged and shall be issued by the independent inspector.
- 13.3.5. 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 (a) the payment provisions of the parties' Master Trade Agreement or other mutual agreement, if any, as referenced in the trade confirmation; (b) Paragraph F, Payment section of the Conoco 93 General Provisions and Paragraph F, Payment section of the STUSCO Amendments, if applicable; or (c) if contained therein, the payment terms of the applicable trade confirmation. This section 13.3.5 shall be without prejudice to the rights of either party to file a claim for quantity and/or quality.
- 13.3.6. 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.

## 14. Nomination

- 14.1. 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, such acceptance shall not be unreasonably withheld. For the avoidance of doubt, Buyer shall be entitled to reject Seller's nominated Vessel if it does not pass Buyer's internal safety vetting procedure or that of any of Buyer's Receivers.
- 14.2. Where practicable under a Confirmation, Seller shall nominate a Vessel pursuant to the following requirements:
  - 14.2.1. Tanker Nominations -
    - 14.2.1.1. CFR / CIF - At least two (2) days before the first day of the agreed Loading Date Range. For voyages of two (2) days or less: at least one (1) day before the first day of the agreed Loading Date Range.
    - 14.2.1.2. Delivered - At least two (2) days before the first day of the agreed Arrival Date Range. For voyages of two (2) days or less: at least one (1) day before the first day of the agreed Arrival Date Range.
  - 14.2.2. Ocean-Going Barge and Inland Barge Nominations -
    - 14.2.2.1. CFR / CIF - At least two (2) days before the first day of the agreed Loading Date Range. For voyages of two (2) days or less: at least one (1) day before the first day of the agreed Loading Date Range.
    - 14.2.2.2. Delivered - At least two (2) days before the first day of the agreed Arrival Date Range. For voyages of two (2) days or less: at least one (1) day before the first day of the agreed Arrival Date Range.
- 14.3. 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.
- 14.4. 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 14.4.4, 14.4.5 and 14.4.8 are not required for such vessel):
  - 14.4.1. Contract Reference
  - 14.4.2. Vessel Name
  - 14.4.3. Load Port / Discharge Port (as applicable)
  - 14.4.4. Product Grade
  - 14.4.5. Contractual Quantity and Volume Tolerance
  - 14.4.6. Agreed Loading Date Range / Arrival Date Range (as applicable)

- 14.4.7. Vessel ETA at Load Port / Discharge Port (as applicable)
- 14.4.8. Independent inspector
- 14.4.9. Comments / Instructions (as applicable)
- 14.5. Buyer shall communicate its acceptance or rejection of any Vessel nomination within one (1) Banking Day after receipt of such nomination.
- 14.6. 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 Vessel, with another Vessel acceptable to Buyer, which is similar in all material respects to the Vessel so replaced. Said nomination shall not alter any existing terms under this Agreement beyond the Vessel used to fulfill the obligations of said Agreement.
- 14.7. Despite any prior acceptance, Buyer shall have the right to revoke its acceptance of Seller's Vessel nomination at any time after Buyer's initial acceptance (but prior to passing of risk and title hereunder) on any reasonable ground, including but not limited to, if such Vessel is involved in any incident or if more recent information regarding such Vessel becomes available to Buyer at any time after such prior acceptance.
- 14.8. In case of rejection, Seller shall promptly nominate a Vessel acceptable to Buyer and Seller shall not, unless otherwise provided in (a) the Force Majeure provisions of the parties' Master Trade Agreement or other mutual agreement, if any, as referenced in the trade confirmation; (b) Paragraph E, Force Majeure section of the Conoco 93 General Provisions or Paragraph E, Force Majeure section of the STUSCO Amendments, if applicable; or (c) if contained therein, the Force Majeure section of the applicable trade confirmation, be relieved of its responsibility to perform the agreed loading or discharging (as applicable).
- 14.9. Seller shall narrow (wholly within the original Loading / Arrival Date Range) the agreed Loading / Arrival Date Range (as applicable) to a three (3) day Loading / Arrival Date Range (as applicable) by providing Buyer written notice (e-mail acceptable) five (5) days before the first day of the narrowed Loading / Arrival Date Range (as applicable).
- 14.10. 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 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.

## 15. Insurance

- 15.1. CFR - In respect of any CFR sale, the responsibility for procuring insurance shall rest with Buyer.
- 15.2. 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.
- 15.3. Delivered - In respect of any Delivered sale, the responsibility for procuring insurance shall rest with Seller.

## 16. Risk and Title

- 16.1. 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.
- 16.2. 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.

## 17. ETA Notice

- 17.1. Seller shall arrange for its Vessel to notify the Discharge Port via telex, letter, telegram, e-mail, or telecopy/fax of the Vessel's ETA pursuant to the following schedule:
  - 17.1.1. Tankers and Ocean-Going Barges:
    - 17.1.1.1. Where practicable, no later than twenty four (24) hours prior to the Vessel's arrival at the Discharge Port. The Discharge Port shall be further notified 6 hours in advance of the Vessel's arrival at the Discharge Port.
  - 17.1.2. Inland Barges:
    - 17.1.2.1. Where practicable, no later than twenty four (24) hours prior to the Vessel's arrival at the Discharge Port. The Discharge Port shall be further notified 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.
- 17.2. 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.

17.3. 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.

**18. Notice of Readiness**

18.1. 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.

**19. Laytime**

19.1. Laytime Allowance:

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

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

19.1.1.2. Ocean-Going Barges and Inland Barges:

19.1.1.2.1. Voyage Chartered: One-half (1/2) of the total Laytime allowance as provided in the single voyage charter party, pro rata for part cargo.

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

Vessel Type	Barrel Volume	Laytime Allowance
Inland Barges	Up to 26,999	12 hours
	27,000 and above	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 – 199,999	24 hours
	200,000 – 299,999	30 hours
300,000 and above	36 hours	

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

- 19.2.2. 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 the Vessel is on demurrage, shall be prorated 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.
- 19.2.3. Multiple Inland Barges. In the case of multiple inland barges being towed by one towboat, all the barges will be expected to load and/or discharge simultaneously. The number of hours of Laytime allowed shall be based on quantity of barrels discharged divided by 2,500 barrels per hour plus three free hours. The minimum of twelve (12) hours of Laytime allowance shall apply to the discharge for all the inland barges associated with one towboat.
  - 19.2.3.1. If the designated Discharge Port requires barges to berth individually, Laytime consumed in shifting the barges shall count as used Laytime or demurrage, if on demurrage.
  - 19.2.3.2. If the Tow requires barges to berth individually, time consumed in shifting the barges shall not count as used Laytime or demurrage, if on demurrage.
- 19.3. Time consumed due to any of the following shall not count as used Laytime or if the Vessel is on demurrage, for demurrage:
  - 19.3.1. On an inward passage including, but not limited to, awaiting daylight, tide, tugs, or pilot, and moving from an anchorage or other waiting place until the Vessel is All Fast;
  - 19.3.2. Any delay due to the Vessel's condition, breakdown, or any other causes attributable to the Vessel;
  - 19.3.3. 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;
  - 19.3.4. Any delay due to the Vessel bunkering, provisioning, discharging or shifting of slops, ballast, or contaminated cargo;
  - 19.3.5. 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;
  - 19.3.6. 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 or state laws, (ii) U.S. Coast Guard regulations, (iii) any other

- applicable regulations, (iv) or failure to obtain or maintain required certification;
- 19.3.7. Any delays caused by strike, lockout, stoppage or restraint of labor of master, officers or crew of the Vessel or of towboats or pilots;
- 19.3.8. Any delay awaiting customs or immigration clearance, other required governmental or port clearances, or free pratique, if applicable.
- 19.4. Any delay, not first caused by the negligence of Buyer or Buyer's Receiver(s), that is the result of fire, explosion, civil unrest, act of war, riot, strike, lockout, stoppage or restraint of labor (other than master, officers, or crew of the Vessel or towboats or pilots), breakdown of machinery or equipment in or about the facilities of Buyer or Buyer's Receiver, adverse weather and/or sea conditions including, but not limited to lightning, ice, fog, flood, storm, hurricane, and/or excessive wind, or Act of God or other delays not reasonably within the control of either party (except as otherwise provided in this Agreement), shall be paid for at one-half (1/2) the rate otherwise provided for demurrage.
- 19.5. Laytime Commencement:
- 19.5.1. Tankers and Ocean-Going Barges:
- 19.5.1.1. 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.
- 19.5.1.2. 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.
- 19.5.1.3. 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.
- 19.5.2. Inland Barges:
- 19.5.2.1. 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.
- 19.5.2.2. 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.

19.5.2.3. 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.

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

19.6.1. On an inward passage including, but not limited to, awaiting daylight, tide, tugs, or pilot, and moving from an anchorage or other waiting place until the Vessel is All Fast;

19.6.2. Any delay due to the Vessel's condition, breakdown, or any other causes attributable to the Vessel;

19.6.3. 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;

19.6.4. 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;

19.6.5. 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;

19.6.6. 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;

19.6.7. 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 or state laws, (ii) U.S. Coast Guard regulations, (iii) any other applicable regulations, (iv) or failure to obtain or maintain required certification;

19.6.8. Any delays caused by strike, lockout, stoppage or restraint of labor of master, officers or crew of the Vessel or of tugboats or pilots;

19.6.9. Any delay awaiting customs or immigration clearance, other required governmental or port clearances, or free pratique, if applicable.

19.7. Any delay, not first caused by the negligence of Buyer or Buyer's Receiver(s), that is the result of fire, explosion, civil unrest, act of war, riot, strike, lockout, stoppage or restraint of labor, breakdown of machinery or equipment in or about the facilities of Buyer or Buyer's Receiver, 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.

- 19.8. Laytime shall cease after all Product has been discharged and 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 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).
- 19.9. Where the parties agree in the Confirmation that the public dock clause applies, if discharging occurs at a public terminal over which Buyer has no control, Vessels are discharged on a first come first serve basis subject to dock availability. Laytime shall not commence until Vessel is All Fast at the dock. Buyer will not be responsible for any delays or demurrage incurred while waiting for a berth.

## 20. Demurrage

- 20.1. 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:
- 20.1.1. 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.
- 20.1.2. for Seller owned, time chartered, or demise chartered Vessels, or where Seller is unable to substantiate the single voyage demurrage rate per this Section of this Agreement, 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:
- 20.1.2.1. Tankers:
- 20.1.2.2. In absence of agreement between Buyer and Seller, 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.
- 20.1.2.3. Ocean-Going Barges and Inland Barges: The parties shall appoint a mutually agreed upon barge broker who shall establish the applicable demurrage rate with costs for obtaining such demurrage rate split between the parties.
- 20.2. For demurrage purposes, all Inland Barges or tows operating as a unit shall be considered collectively as one unit.

- 20.2.1. 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 port for that time period.
- 20.3. Demurrage Claims: Demurrage claims must be submitted in writing (e-mail acceptable) with full 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.

## **21. Pollution Cover**

- 21.1. Where delivery is by a Tanker,:
  - 21.1.1. Each Tanker shall be owned by or demise chartered by a member of the International Tanker Owners Pollution Federation Limited ("ITOPF").
  - 21.1.2. 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;
  - 21.1.3. 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.
- 21.2. 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.
- 21.3. If Seller's Vessel does not meet any of the above requirements Buyer or Buyer's Receivers may refuse to berth or discharge or continue discharging such Vessel.

## **22. Lightering**

- 22.1. Any Lightering 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 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).

### **23. Pumping Warranties**

- 23.1. Vessels shall discharge a full cargo within twenty-four (24) hours or maintain an average of 100 psi at the Vessel's manifold provided that the designated shore facilities are capable of receiving the same.
- 23.2. Any time consumed due to the inability of the Vessel to discharge the cargo throughout the bulk of the discharge, within the specified warranties listed above, shall not count as Laytime or time on demurrage, provided that the designated shore facilities are capable of receiving the same.

### **24. Ship and Port Security**

- 24.1. For CFR/CIF, this Section shall apply to any Load Port, Discharge Port and/or Vessel used that is subject to the U.S. Maritime Transportation Security Act 2002 ("MTSA").
- 24.2. For Delivered, this Section shall apply to any Discharge Port and/or Vessel used that is subject to the U.S. Maritime Transportation Security Act 2002 ("MTSA").
- 24.3. Seller shall procure that the Vessel shall comply with the requirements of the MTSA, as codified under 46 U.S.C., Chapter 701, including as may be amended from time to time.
- 24.4. The Vessel shall when required submit a Declaration of Security to the appropriate authorities prior to arrival at the Discharge Port.
- 24.5. 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 MTSA; then
  - 24.5.1.1. If CFR/CIF, 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
  - 24.5.1.2. If Delivered, 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
  - 24.5.1.3. Seller shall be obliged to substitute such nominated Vessel with a Vessel complying with the requirements of the 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.
- 24.6. Buyer shall procure that the Discharge Port/terminal/installation shall comply with the requirements of the MTSA.
- 24.7. 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 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 MTSA.

- 24.8. Save where the Vessel has failed to comply with the requirements of 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.
- 24.9. 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 MTSA shall be limited to the payment of demurrage and costs actually incurred by Seller in accordance with the provisions of this Section.

**25. Specific Ports, Anchorages, and Locations**

25.1. Mississippi River Ports:

- 25.1.1. Via Southwest Pass - Any Vessel which must make passage to any port along the Mississippi River shall announce to the Discharge Port the Vessel's arrival at Southwest Pass. 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.
- 25.1.2. Via other than Southwest Pass - The NOR or notice of arrival, as applicable, 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.
- 25.1.3. For clarity, the following locations in and along the Mississippi River are considered the customary anchorage for Vessels destined to the following ports:

<b>Location</b>	<b>Anchorage</b>
Convent, LA	Burnside Anchorage
Geismar, LA	Burnside Anchorage
Gretna, LA	Nine Mile Anchorage
Norco, LA	AMA Anchorage
St. James, LA	Grandview Anchorage
St. Rose, LA	AMA Anchorage

## **PART C - Applicable to each of Parts A and B**

### **26. Quantity and Quality Claims**

- 26.1. In respect of Marine deliveries the claiming party may not submit, and no claim shall be allowed, for any deficiency of quantity where:
- 26.1.1. Tankers and Ocean-Going Barges: The difference between the loaded and discharged quantity (with VEF applied) is less than 0.2%.
- 26.1.2. Inland Barges: The difference between the loaded and discharged quantity is less than 0.3%.
- 26.2. Any claim relating to quantity and/or quality of Product delivered under this Agreement must be filed by claiming party no later than ninety (90) days after the completion of delivery date. If a fully documented claim is made later than ninety (90) days after the completion of delivery date, said party will be deemed to have waived its claim.

### **27. Compliance with Laws and Regulations**

- 27.1 Each party shall comply with all effective federal, state and local regulations, laws, executive orders, and/or rules applicable to the Agreement and the Product sold hereunder.

### **28. Governing Law and Jurisdiction**

- 28.1. THIS AGREEMENT, AND ALL DISPUTES ARISING OUT OF OR IN CONNECTION WITH, ASSOCIATED WITH, OR RELATED THERETO SHALL BE GOVERNED BY, INTERPRETED, CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS.
- 28.2. BOTH PARTIES SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF TEXAS AND OF THE UNITED STATES OF AMERICA SITTING IN HOUSTON, TEXAS IN CONNECTION WITH ANY ACTION OR PROCEEDING ARISING OUT OF OR IN CONNECTION WITH, ASSOCIATED WITH, OR RELATED TO, THIS AGREEMENT. THE PARTIES HEREBY WAIVE ANY OBJECTION TO VENUE IN THE FOREGOING JURISDICTION AND ANY OBJECTION TO ANY ACTION OR PROCEEDING ON THE BASIS OF FORUM NON CONVENIENS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH PARTY HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY.

## 29. Definitions

- 29.1. "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;
- 29.2. "Agreement" means these Marine Provisions (including, where applicable, the Attachments attached hereto) together with a Confirmation;
- 29.3. "All Fast" means that the Vessel is completely secured to the berth and that the gangway is down and secured;
- 29.4. "American Tanker Rate Schedule" means the publication of rates by the American Tanker Rate Schedule (ATRS) Committee of the Association of Ship Brokers & Agents (U.S.A.), Inc. as current on the day of commencement of loading of the Vessel in question;
- 29.5. "API" means the American Petroleum Institute;
- 29.6. "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/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;
- 29.7. "ASTM" means ASTM International;
- 29.8. "Banking Day" means a day other than a Saturday or Sunday when federal banks are open for business in New York, NY;
- 29.9. "Barrel" means 42 U.S. Gallons at 60° Fahrenheit;
- 29.10. "Buyer" means the party purchasing Crude or Condensate from Seller as specified in the Confirmation;
- 29.11. "Buyer's Receiver" means the terminal, pipeline, or other facility, or other body, person or company, to whom the Product will be discharged;
- 29.12. "CBP" means the U.S. Bureau of Customs and Border Protection;
- 29.13. "CFR" shall mean cost and freight;
- 29.14. "CIF" shall mean cost, insurance, and freight;
- 29.15. "Coastwise voyages" means a voyage beginning at any point within the U.S. jurisdiction and delivering cargo to any other point within the U.S. jurisdiction including within the 12 nautical mile territorial sea and to or from any structure attached to the seabed within the U.S. Outer Continental Shelf for

- the purposes of exploration, development and production of resources (including offshore marine terminal facilities);
- 29.16. "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;
- 29.17. "Conoco 93 General Provisions" means Conoco General Provisions Domestic Crude Oil Agreements dated January 1 1993;
- 29.18. "Delivered" shall include delivered outturn and ex-ship deliveries;
- 29.19. "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;
- 29.20. "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;
- 29.21. "FOB" shall mean free on board;
- 29.22. "Inland Barge" means a U.S. Coast Guard approved Barge, restricted to operations in the inland waterways or local coastline areas;
- 29.23. "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;
- 29.24. "Letter or Indemnity" shall be as contained in Attachment A of this Agreement;
- 29.25. "Lightering" shall mean the discharge or unloading of a cargo from a larger Vessel to a smaller Vessel for purposes of further transportation;
- 29.26. "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;
- 29.27. "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 at the Load Port and be ready to load Product and within which Seller shall make Product available for loading;
- 29.28. "Marine" means deliveries by waterborne Vessel;
- 29.29. Marine Provisions means these provisions for the U.S. Domestic Sale and Purchase of Crude and Condensate, dated May 2, 2013;
- 29.30. "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;

- 29.31. "OBQ" means on board quantity;
- 29.32. "Ocean-Going Barge" shall mean a U.S. Coast Guard approved barge having ABS Load Line Certification and permitted to operate in offshore waters;
- 29.33. "Product" means oil, crude, crude oil, or condensate bought or sold between the parties as identified in a particular Confirmation;
- 29.34. "ROB" means remaining on board;
- 29.35. "Seller" means the party selling Crude or Condensate to Buyer as specified in the Confirmation;
- 29.36. "Seller's Supplier" means the terminal, pipeline, or other facility, from which Product will be loaded and/or anybody, person, or company being a direct or indirect source of supply for Seller;
- 29.37. STUSCO Amendments means those Amendments to the Conoco General Provisions Domestic Crude Oil Agreements as specified in the trade confirmation;
- 29.38. "Tanker" means any self propelled vessel capable of carrying bulk Product;
- 29.39. "Tow" means any combination of tugs, towboats, or barges with the ability to function as a single unit;
- 29.40. "Transaction" means any purchase or sale of Product between the parties that is evidenced by a Confirmation that incorporates these Marine Provisions;
- 29.41. "Transship" and "Transshipment" means the transfer of a cargo from one Vessel to another for further transportation on the same Vessel or a different ship or conveyance where a Discharge Port under this Agreement is located within the U.S.;
- 29.42. "Vessel" means a tow, Tanker, Ocean-Going Barge, Inland Barge or any other barge, collectively, carrying cargo under these Marine Provisions;
- 29.43. "VEF" means Vessel experience factor;
- 29.44. "Worldscale" shall mean the New Worldwide Tanker Nominal Freight Scale, a unified system of establishing payment of freight as produced by Worldscale Association (NYC) Inc. for the Americas, as current on the day of commencement of loading of the Vessel in question.