

- I. General – These Marine Provisions are part of the Agreement which includes the Confirmation, the MXE General Terms and Conditions for Purchases and Sales (“General Terms”) and these Marine Provisions. In the event of any conflict between the terms and conditions contained in any Confirmation and the Marine Provisions, the Confirmation shall govern and control. In the event of any conflict between the terms and conditions in these Marine Provisions and the General Terms, the General Terms shall govern and control.
- II. Definitions – As used in these Marine Provisions:
  1. All definitions as set out in the General Terms are incorporated herein.
  2. “Agreement” means the entire agreement between the parties, including Confirmation, the General Terms, and the Marine Provisions.
  3. “All Fast” means that the Vessel is safely secured to the dock and that the gangway is down and secured.
  4. “COC” means Certificate of Compliance.
  5. “Customary Anchorage” means the recognized anchorage for or within the designated port of the Delivery Point that is specified in the Confirmation.
  6. “Delivery Window” means the period during which the Vessel nominated under this Agreement is to present itself at the Delivery Point, as established by the Confirmation and is within the contract delivery date range set forth in the Agreement.
  7. “ISPS Code” means the International Code for Security of Ships and Port Facilities, as set forth in Title 33, Code of Federal Regulations chapter I (subchapter H) and relevant amendments to Chapter XI-2 of the International Convention for the Safety of Life at Sea, 1973 (SOLAS), as such may be amended from time to time.
  8. “Laydays” refers to the Delivery Window at the load port specified in the Confirmation of this Agreement or subsequent individual delivery/receipt periods nominated and accepted in writing between scheduling contacts to this Agreement.
  9. “Marine Incident” means any incident or event that delays the Vessel for a period of three (3) or more hours, including spills, personal injury, fire, grounding, allision, collision, security issue, vessel seizure, or significant media or governmental inquiry, but does not include delays during normal Vessel operations.
  10. “Maritime Security Regulations” means, collectively, the ISPS Code and the MTSA, if and when such are applicable.
  11. “MTSA” means the US Maritime Transportation Security Act of 2002, as codified under Title 46 US Code, chapter 701, as such may be amended from time to time.
  12. “Terminal” refers to the refinery or terminal facility delivering or receiving the Product referred to in the Confirmation.
  13. “Terminal Party” means the party taking delivery from, or making delivery to a Vessel.
  14. “Vessel Party” means the party taking delivery on, or making delivery from, a Vessel.

III. Nominations and Pre-Arrival Conditions

1. Vessel Nomination. Not less than seven (7) days before a Vessel arrival at the Terminal, the Vessel Party shall nominate for acceptance the Vessel(s) which will perform under the Agreement and shall furnish, as required, data about the Vessel's dimensions, equipment, winches and lines as well as whether lightering is contemplated (for Vessel Party's account) in order for the Vessel to reach a safe arrival draft, and such other data or documents that the Terminal Party may reasonably require. If a Vessel is nominated less than seven (7) days before a Vessel's arrival at the Terminal, then laytime shall commence when the Vessel commences loading or discharging.
2. Vessel Acceptance. All Vessels nominated by the Vessel Party and each Vessel to be used in connection with the loading, discharging, or lightering of the Product under the Agreement shall meet all applicable Vessel requirements of the Terminal receiving or delivering such Product, including (i) safety instructions and mooring equipment requirements, (ii) restrictions with respect to Vessel characteristics, such as maximum draft, length, deadweight, displacement, age, and flag, and (iii) restrictions with respect to Vessel operations, such as bunkering or receiving provisions, stores or equipment. Vessel Party shall be responsible for compliance with the foregoing; all delays and attendant costs relating to failure to comply with the foregoing in this paragraph are for Vessel Party's account. If the Vessel does not comply with the requirements of the Terminal, then the Terminal or Terminal Party may reject, expel or refuse to berth, load or discharge the Vessel. All attendant delays, damages and expenses are for Vessel Party's account. It is the responsibility and duty of the Vessel to contact the Terminal to obtain any and all requirements related to berthing or docking at such facilities and to comply with such requirements. At the request of the Terminal or the Terminal Party, the nominated Vessel shall promptly complete a vessel questionnaire provided by such Terminals or such Terminal Party. Acceptance of any Vessel by such Terminals shall not constitute a continuing acceptance of such Vessel for any subsequent loading, discharging, or lightering. Unless otherwise agreed to by the Parties, all deliveries and loadings of the Product in accordance with the terms and conditions of the Agreement shall only involve a single voyage. The Vessel Party represents and warrants that (a) the nominated Vessel is, in all respects, eligible under and in compliance with all Applicable Law, including the Maritime Security Regulations, with respect to entering, docking, hoteling, loading, and unloading at or within the designated port or other places specified in the Agreement, and (b) at all times the Vessel shall have on board and readily available for inspection all certificates, security plans, declarations, records, and other documents required by Applicable Law for such service.
3. Vessel Substitution. Once a nominated Vessel is accepted by the Terminal and Terminal Party in order to receive or deliver the Product, the use of any other Vessel(s), including lighters, carrying the Product under the Agreement shall only be permitted by prior, written mutual agreement, and all expense, risk of loss, or liability associated with such activity or activities shall be for the Vessel Party's account. Any written permission or consent of or by such Terminals or Terminal Party allowing the use of such other Vessel(s) shall not be unreasonably withheld, delayed, or conditioned. Notwithstanding anything to the contrary express or implied elsewhere herein, Terminal Party shall have the right: i) to reject any nomination made on any

reasonable ground; and/or ii) to refuse to accept for loading, on any reasonable ground, any Vessel nominated; and/or iii) to reject the Vessel in question, notwithstanding any prior acceptance of such Vessel (whether named in the Confirmation or nominated or substituted), on any reasonable ground if such Vessel is involved in any Marine Incident or casualty, or suffers a breakdown en route that results in a delay in the Vessel's scheduled arrival beyond the Delivery Window, or suffers a breakdown en route that results in the failure of a material Vessel component, system, or equipment.

4. ETAs. Upon acceptance of the Vessel nomination by the Terminal Party under the Agreement, either the Vessel or Vessel Party shall immediately advise the Terminal, Terminal Party and other Party(ies) to the Agreement of the Vessel's current position/location in terms of latitude and longitude, operational status, and ETA, by letter, telegram, electronic mail, or any other means deemed necessary or appropriate under Applicable Law, including the Maritime Security Regulations. The ETA shall be further promptly updated by telex, facsimile, letter, telegram, or electronic means as follows: i) upon leaving the last port, terminal, or lightering site before sailing to the Terminal or lightering site, or at least seven (7) days in advance of tendering NOR, whichever is less; ii) at seventy-two (72), forty-eight (48), twenty-four (24), and twelve (12) hours before the Vessel's expected arrival at the Terminal or lightering site specified in the Agreement; and iii) the Vessel shall promptly notify the Terminal and Terminal Party of the new ETA if the ETA changes by plus or minus two (2) hours or more following the twelve (12) hour arrival notice. Failure to comply with these ETA notifications may result in delays in the acceptance of the NOR by the Terminal.
5. Pre-Arrival Information. Not later than forty-eight (48) hours before the Vessel's arrival at the Terminal, or as required by any Terminal, the Vessel Party shall furnish, as reasonably requested by the Terminal Party or Terminal, additional data in writing, about the Vessel's dimensions, seaworthiness, equipment, and certificates, as well as the nature and estimated duration of the Vessel's anticipated cargo handling and other operations at the Terminal.
6. Terminal Regulations. Vessel must comply at all times with the applicable terminal regulations, *provided that* in the event of any conflict between the terms of the Agreement and the applicable terminal regulations, the latter will take precedence. Copies of such regulations are available from the Terminal on request.

#### IV. Post-Arrival Events and Conditions

1. Laydays. The laydays in the Confirmation constitute the Delivery Window for the Vessel to tender a valid notice of readiness ("NOR") to the Terminal. If the Vessel tenders NOR within the laydays, it is understood that loading may not be completed before the laydays expires.
2. Non-Compliance with Terminal Regulations or Breakdown of Vessel Safety or Environmental Systems. Failure of a Vessel to comply with the Terminal's regulations, or deficiency in a Vessel's safety or environmental systems, shall entitle the Terminal or Terminal Party to order the Vessel to vacate her berth, with all expenses and time lost during the ensuing delay until the Vessel has reberthed, to be for the account of the Vessel Party.

3. Inert Gas System. All Vessels fitted with an IGS, regardless of the cargo aboard or the Product to be loaded will not be permitted to berth or, if already berthed, to carry out cargo operations at the Terminal unless the IGS is fully operational. Any delay as a result of the Vessel not complying with this Section shall not count as used laytime or as time on demurrage.
4. Vessel Connection Construction. Vessel Party warrants that all piping, valves, spools, reducers and other fittings comprising that portion of the Vessel's manifold system outboard of the last fixed rigid support to the Vessel's deck and used in the transfer of cargo, bunkers or ballast, will be made of steel or nodular iron. The fixed rigid support for the manifold system must be designed to prevent both lateral and vertical movement of the manifold. Vessel Party further warrants that no more than one reducer or spool piece (each ANSI standard) will be used between the Vessel's manifold valve and the terminal hose or loading arm connection.

V. Terminal-Related Conditions.

1. Berth Availability and Charges. The Terminal Party does not warrant the safety, draft, or clearance of any berth, port, or place; or public channels, fairways, approaches thereto, anchorages ; or other publicly-maintained areas, either inside or outside the port area, where the Vessel may be directed. The Terminal Party shall not be liable for any loss, damage, injury, or delay to the Vessel resulting from the use of private or public waterways. If hold-in tugs are required for the Vessel, any charges for such hold-in tugs shall be for the Vessel's Account.. The Terminal Party shall provide a berth for the Vessel free of a wharfage fee for normal cargo transfer. The Vessel shall vacate her berth promptly after hoses are disconnected.
2. Vacating of Berth. a) The Terminal may order any Vessel to vacate its berth at such facilities as deemed reasonably necessary. For the purposes of this Section "reasonably necessary" includes the following circumstances: i) the Vessel has entered the Terminal, or docked/hotelled at the Terminal, in violation of any Applicable Law and/or requirement of the Terminal, ii) severe weather dictates the need to vacate the berth; or iii) it appears that the Vessel will not be able to complete loading or discharging of the Product within twenty-four (24) hours (pro rata for part Product) of the Vessel's arrival in berth, provided, however, that the Vessel shall not be required to vacate a berth as a result of the inability to complete loading or discharging operations under this clause unless 1) that berth is needed to accommodate another Vessel, or 2) the Vessel, its crew, or the Department of Homeland Security, US Coast Guard, or any other law enforcement authority or agency having proper jurisdiction over the designated Terminal mandates that the Vessel vacate such berth. b) Upon disconnecting the hoses, used laytime shall cease. After tendering NOR to recommence loading or discharging at the Terminal in accordance with the Agreement, the Vessel shall be re-berthed in order of rotation, unless otherwise agreed by the Terminal, and used laytime shall resume upon the Vessel's reconnection of hoses. Under any such circumstances, the delays encountered and expenses incurred for vacating the berth or re-berthing within the applicable Terminal shall be for the Vessel Party's account.
3. Shifting of Vessels. In addition to the Terminal Party's remedies elsewhere in these Marine Provisions, the Terminal Party may, at its option, warp or shift the Vessel within a berth or between berths, as well as to and from the anchorage. Expenses and

time lost during such activities shall be for the Terminal Party's account. Except as otherwise provided in this subclause, all expenses and time during any warping or shifting of the Vessel shall be for the Vessel Party's account.

4. Ballasting and Cargo Slops. If the Terminal has ballast water facilities, it may receive Vessel's ballast water and/or cargo slops up to the maximum capacity available, with all time used during deballasting and offloading slops (unless concurrent with cargo handling) and any charges for this service to be for the Vessel's Party's account. Any delay in waiting for such facilities shall be for Vessel Party's account. If the Vessel must shift to and/or from such facilities, all time used by the Vessel in shifting, as well as the shifting expenses shall be for Vessel Party's account. Expense and time used whenever a Vessel is taking on ballast (unless concurrent with cargo handling) shall be for the account of the Vessel Party. The title to cargo slops shall pass to the Terminal Party at the first permanent flange on shore. Vessel Party warrants that the cargo slops do not contain any Vessel-generated waste.
5. Foreign Cargo Slops. If the Terminal has ability to receive Foreign Cargo slops, the terminal may receive slops from the Vessel. The Terminal and Terminal Party shall be notified at least five (5) business days in advance of discharge when a Vessel has foreign cargo slops on board which Vessel desires to discharge. Notification shall include the contents of the cargo slop material (what it is), country of origin, estimated value of the cargo slops, and an estimated quantity of the cargo slops. If these slops are from finished products, the notification must also identify what additive(s), if any, is in the slop and the Material Safety Data Sheet(s) for the additive(s) must be provided. If advance notification is not received by Terminal Party, any time lost in discharging the cargo slops from the Vessel because of a delay in clearing the cargo slops through U.S. Customs, shall be for Vessel Party's account. All expenses, including but not limited to Customs fees, associated with the clearing of foreign cargo slops through U.S. Customs, the testing of the cargo slops materials, and the removal and proper disposal of the cargo slops shall also be for the account of the Vessel Party. Vessel Party warrants that the cargo slops do not contain any Vessel-generated waste.
6. Vessel Generated Waste. If the Terminal has the ability to receive Vessel Generated Waste, the Terminal may receive Vessel Generated Waste and fees associated with the testing, removal or reception of Vessel-generated waste, including fuel and lube oil sludge and oil bilge water, shall be for the account of the Vessel Party. Any waiting for reception facilities at a Terminal for Vessel-generated waste shall be for Vessel Party's account. If the Vessel must shift to and/or from such facilities, all time consumed by the Vessel shifting, as well as shifting expenses such as for tugs, mooring, and pilots, shall be for Vessel Party's account. Vessel Party shall retain title to the waste material until it is tested and commingled with terminal waste or, alternatively, delivered to a waste disposal company possessing a valid permit.
7. Pollution Control Representative. Terminal Party may, at its option, place Pollution Control Representatives ("PCRs") on board the Vessel to observe loading and/or discharging of Cargo and related operations during the period after the Vessel has arrived at a loading or discharge port. In addition, Terminal Party may, at its option, place a PCR on any Vessel(s) involved in a ship-to-ship loading/discharge operation. PCRs will advise the Master about avoidance of pollution, unsafe act, or violation of terminal regulations. The PCRs will not, however, under any circumstances, order or direct the taking of any particular action or interfere in any way with the Master's

exercise of his or her authority. The responsibility and liability for any pollution, unsafe act or violation of terminal regulations remains with the Vessel Party, the Vessel(s), and their Master(s).

8. Hoses and Simultaneous Cargo Handling.

- i. Hoses and cargo arms furnished by the Terminal shall be connected and disconnected shoreside by the personnel for such facilities. Such equipment used aboard the Vessel shall be connected and disconnected by the Vessel's personnel. Unless the requirements of the Terminal provide otherwise, or at the option of such facilities, the connection and disconnection of hoses and/or cargo arms may be performed by the Vessel, at the Terminal's risk and expense. Flanges for the hose connections shall be at the Vessel's dockside rail. Crossover hoses between Inland Barges shall be furnished and connected by the Inland Barge at its risk and expense.
- ii. Vessel's cargo hoses, including marine vapor recovery ("MVR") and offshore manifold crossover hoses (or jumpers), must be tested annually and be in service in accordance with the Vessel's flag and classification society's requirements. Documentation of annual hydrostatic testing and service age is required to be aboard the Vessel and must be made available to the Terminal Party on request. Any lost time due to verification and compliance shall be for the account of the Vessel Party.
- iii. If more than one Product is to be worked for the Vessel Party's account, then the Vessel shall endeavor to load and discharge multiple grades simultaneously, provided shore facilities permit same. Time lost due to Vessel failure to load and discharge multiple grades simultaneously, will not count as laytime or time on demurrage.

9. Damage to Terminal Party Property. Vessel Party agrees to indemnify the Terminal Party for any damage sustained by wharves, berths, docks, tugs, or Vessels owned or maintained by the Terminal Party, or for which the Terminal Party is responsible, arising out of the negligent or improper operation of the Vessel or any other waterborne craft ordered by, or being operated for the account of the Vessel Party.

10. Shore Lines. If requested by the Vessel Party at least three (3) business days prior to the Vessel's arrival, the Terminal Party shall use best efforts to perform a line press or line displacement prior to discharge to assure full shore lines.

11. Stowaways. The Vessel Party shall be liable and responsible for any and all costs or damages incurred by the Terminal Party due to a stowaway that enters the United States aboard a Vessel servicing the Terminal Party. The Vessel Party shall be responsible for all costs associated with security of the Terminal due to a stowaway, as well as the cost to apprehend, detain, and deport any stowaway.

VI. Notice of Readiness, Lightering, and Calculation of Laytime.

1. Notice of Readiness ("NOR").

- i. If the Vessel is ordered to anchor, fleet or otherwise await berthing instructions, an NOR shall only be considered valid from the time such Vessel is anchored at the Customary Anchorage, fleet or layberth, and in accordance with the provisions of this Section. After the Vessel has arrived at the Customary Anchorage, fleet, layberth or other place of waiting as

required by the Terminal, and is in all respects ready to proceed to the berth to commence loading or discharging the Product in accordance with terms of the Agreement, the master, captain, master's agent, or barge representative shall promptly give the Terminal and the other Parties hereto an NOR by electronic mail, facsimile, letter, telegraph, any form of wireless radio or satellite communication available, or telephone. If an NOR is given verbally, confirmation in writing shall be made within twelve (12) hours after any such verbal notification is given. For voyages to or from the US, an NOR tendered before the Vessel holds a valid COC is ineffective and does not constitute Vessel readiness for loading or discharging the Cargo. Even if a valid COC exists, if the Vessel is delayed as a result of an annual COC examination, the NOR tender is ineffective until the examination is complete, unless the USCG grants the Vessel a waiver to commence loading or discharging the Product prior to COC examination.

ii. If immediately prior to giving NOR, the Vessel is discharging or loading other Product in a berth at the Terminal, or waiting at a layberth there, NOR may be given at such berth, but time used in shifting from such berth to the anchorage or to the loading berth shall not count as laytime or time on demurrage.

2. Laytime. Total laytime shall consist of the time allowed to provide adequate berth and to prepare for loading or discharging plus the time allowed for loading, day or night, Saturdays, Sundays and Holidays, included.
3. Tows, Inland Barge(s).
  - i.
    - If the Tow arrives prior to the commencement of the applicable Laydays, laytime shall commence at 0001 hours, local time, on the commencement date of such Laydays, or All Fast, whichever occurs first, unless specifically agreed and documented by the Parties in advance of docking at the Terminal.
    - If the Vessel gives NOR within the layday window at the Terminal, laytime commences upon arrival at the fleeting area or when the Vessel is All Fast to the dock, whichever is earlier.
    - If the Vessel arrives after the end of the applicable Laydays, laytime shall commence when the Tow is All Fast to the dock that is associated with the Terminal.
    - Laytime shall cease when the Vessel hoses are disconnected from the designated Terminal.
  - ii. Allowed laytime for loading or discharging shall never be less than twelve hours.
  - iii. Allowed laytime shall be calculated based on the tables below Laytime and corresponding minimum load / discharge rates (provided shore facilities permit) for Tows and Inland Barges shall be calculated at the following minimum rates:

LOADING	DISCHARGING
Barrels/Hour	Barrels/Hour
3,000 BPH + 3 free hours	2,500 BPH + 3 free hours

4. Tankers.
- i. Laytime shall not commence at the Terminal prior to 0600 hours, local time, on the first layday in the Confirmation, except that if the Vessel is berthed prior to the first layday with the Terminal Party's consent, laytime commences when Vessel is All Fast.
  - ii. If the Vessel gives NOR within the layday window at the Terminal, laytime commences six (6) hours later or when the Vessel is All Fast, whichever is earlier. Unless otherwise stipulated in these Marine Provisions, at all other ports, laytime commences at NOR.
  - iii. If the tanker arrives after the end of the applicable Laydays, laytime shall commence when the tanker is All Fast to the dock that is associated with the Terminal.
  - iv. Thirty-six (36) running hours shall be permitted to the Terminal Party as laytime at the Terminal, for a full cargo.
  - v. Vessel Party warrants that the Vessel is capable of (i) receiving its entire cargo at a the Terminal at a rate not less than 10,000 BPH or no more than twenty-four (24) hours of pumping time; or (ii) discharging its entire cargo at the Terminal within no more than twenty-four (24) hours or prorata in the case of a part cargo or maintaining 100 psi at the ship's rail during discharge. In the event the Vessel fails to meet the aforementioned criteria, any time consumed in receiving or pumping cargo shall not count as laytime or time on demurrage.
5. Part Cargo Apportionment. Whenever this Agreement covers Product which is among other cargoes to be loaded or discharged by the Vessel at the same port, and the Vessel is waiting to berth or is waiting in berth for cargo handling to commence or re-commence, or is diverted on account of ice or other risks for which diversion is authorized, then laytime and time on demurrage shall be apportioned on the basis of the ratio of the tonnage of this cargo to the total tonnage of all such affected cargoes. All time used solely for loading or discharge of the other cargoes shall be excluded from laytime and time on demurrage under this Agreement. Whenever this Product and other cargo(es) are being loaded or discharged simultaneously, laytime and time on demurrage during periods of concurrent cargo handling shall be apportioned based on the ratio of the tonnage of this Product to the total tonnage of all such cargoes subject to concurrent cargo handling.
6. Loading Into and Discharging From Other Vessels Ordered by the Terminal Party. In the event loading into or discharging from other Vessels of part of the Product is ordered by the Terminal Party, one or more times, anchored, adrift, or underway, at a Terminal in or near a port or at a customary lightering position or anchorage for a port, or otherwise at sea within 100 miles of a port where a Terminal ashore is located, the place of such operations shall not count as a separate port or separate berth,



regardless of the origin or destination of the other Vessels. Laytime for the place of such operations shall commence upon receipt of NOR there and continue until hoses are disconnected. After such operations have been completed, laytime or time on demurrage will recommence six (6) hours after NOR is tendered at the Customary Anchorage for cargo handling of the balance of the Cargo at the Terminal, or when the Vessel is All Fast to the dock there, whichever is earlier.

7. Shared Delays (Excluding Lightering). Unless otherwise excluded, one-half of laytime or time on demurrage shall count for any time lost due to a force majeure event as described in the General Terms, weather (including, but not limited to fog, storms or ice) and/or sea conditions, acts of God, torts of third parties, fire, explosion or strike, lockout, restraint of labor, or breakdown of machinery or equipment in or about the installation, facility, terminal, or plant of charterer, supplier, shipper or consignee of the Cargo.
8. Laytime Exclusions. Time shall not count as laytime nor time on demurrage if Vessel is on demurrage if lost:
  - i. due to inability of the Vessel's facilities to safely receive or deliver Product within the time allowed;
  - ii. due to the Vessel requiring separate and/or additional shore tank gauges for any reason or the Vessel's failure to comply with terminal regulations, or interruption of transfer operations as a result of Vessel Party requests for line fill checks by comparing intermediate ship and shore gauges;
  - iii. due to prohibition of Product transfer at any time by the Vessel, or the Vessel Party or port authorities, unless such prohibition is caused by the Terminal Party's failure to comply with applicable laws or regulations;
  - iv. due to Vessel Party's failure to have required documentation;
  - v. awaiting customs and immigration clearance and pratique;
  - vi. by strike, lockout, stoppage or restraint of labor of the Master, officers and crew of the Vessel or towboat or pilots;
  - vii. during any delay for which the Vessel Party, the Vessel, her Master or crew is responsible;
  - viii. due to the arrest or attachment of the Vessel;
  - ix. in ballasting or deballasting, cleaning of tanks, pumps, pipelines, bunkering or for any other purposes of Vessel only, unless same is carried out concurrent with loading or discharging such that no loss of time is involved;
  - x. in reaching a berth due to conditions not reasonably within the Terminal Party's control, including but not limited to channel blockage, awaiting daylight, pilots, tugs, and/or tide;
  - xi. in passage from a lightering place to customary anchorage or berth and in shifting from the customary anchorage to the berth;
  - xii. as a result of a boycott arising in connection with the business of Vessel or Vessel Party, the terms or conditions of employment of Vessel or Vessel Party's servants, or employment, trades, or cargoes of the Vessel;
  - xiii. due to restraint or interference in the Vessel's operation by any governmental

authority in connection with the ownership, registration, or obligations of the Vessel Party or the Vessel, or in connection with stowaways or with smuggling or other prohibited activities of the Vessel's or Vessel Party's servants;

- xiv. due to Product or cargo contamination or damage caused by unseaworthiness of the Vessel or negligence of Vessel Party's servants;
- xv. due to the Vessel's violation of the Maritime Security Regulations;
- xvi. due to any delay caused by Vessel Party's failure to comply with financial or credit responsibilities arising out of or under the Agreement;
- xvii. due to Vessel's unclean tanks, or inability to maintain its heating or pumping warranties, or the need for Vessel repairs; or
- xviii. due to locking or malfunctioning of locks and floodgates.
- xix. In addition, if as a result of such causes and events the Vessel loses her turn to berth, laytime and demurrage shall be suspended until it is alongside a lighter or berths All Fast to the dock. If such causes or events occur while the Vessel is in berth, extra expenses thereby incurred by the Terminal Party in connection with the Vessel remaining at the berth shall be for Vessel Party's account and the Terminal Party shall also have the option to order the Vessel out of berth, with the cost of unberthing and reberthing for this purpose to be for Vessel Party's account. Time lost in between berthings shall not count as laytime or time on demurrage.

- 9. Berth Queue. Barges are expected to use barge berths rather than ocean tanker dock berths, if the Terminal has special barge berths. The Terminal Party reserves the right to take one or more later arriving Vessels out of sequence, in the Terminal Party's discretion.
- 10. Public Docks. Unless otherwise specified in the Confirmation, if the Delivery Point as set out in the Confirmation is listed as a "public dock" on the current version of the "LEAP Public Dock List" published by Leadership for Energy Automated Processing, then this clause applies. That is, 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. Terminal Party will not be responsible for any delays or demurrage whatsoever incurred while waiting for or proceeding to a berth.

VII. Demurrage.

- 1. Rate Determination. Demurrage shall be payable by the Terminal Party for each running hour and pro rata for each part of an hour, for all time that used laytime exceeds the allowed laytime at the following demurrage rates unless otherwise specified in the Confirmation:
  - i. For demurrage purposes, all inland barges or tows operating as a unit shall be considered collectively as one barge or tow, provided the motor vessel remains with the barges. In all other cases, demurrage shall apply separately for each barge.
  - ii. For a chartered Vessel (i.e., Spot, Voyage, Time, COA, or Consecutive Voyage Charter), the rate shall be based on the rate specified in the Vessel Party's transportation contract, i.e., the demurrage or daily hire rate, *provided*

*that* under no circumstances will the Terminal Party be responsible for the payment of demurrage in excess of the demurrage or daily hire rate actually incurred by the Vessel Party.

- iii. For a Vessel owned or bareboat chartered by the Vessel Party, the rate shall be mutually agreed between the parties and must be set out in the Confirmation. Absent the mutual agreement of the parties, the rate will be determined by an average of two broker rate assessment of the market for a similar Vessel performing a spot voyage, provided that the brokers are in the relevant trade: each party to appoint a broker.
2. Documentation and Filing of Demurrage Claims. Demurrage claims shall be accompanied by a copy of the Vessel's pumping logs signed by the Master, a copy of the charter party, agent's port log, NOR document, laytime statement, Vessel owner's invoice (where applicable) as well as such other supporting data as may be reasonably requested by the Terminal Party. Any demurrage claim by the Vessel Party must be in writing, and actually received by the Terminal Party with all supporting documentation, within ninety (90) days from the time of completion of loading or discharging, defined as the disconnection of hoses. IF THE SUPPORTING DOCUMENTATION IS NOT PROVIDED WITHIN THE SPECIFIED TIME, THE CLAIM WILL BE DEEMED TO BE WAIVED. THE TERMINAL PARTY SHALL NOT BE OBLIGATED TO PAY DEMURRAGE IN EXCESS OF THE AMOUNT ACTUALLY INCURRED BY THE VESSEL PARTY. DOCUMENTS WILL BE PROVIDED TO THE TERMINAL PARTY THAT CONFIRM ACTUAL DEMURRAGE PAID (WHERE APPLICABLE) BY THE VESSEL PARTY. NOTWITHSTANDING ANY PROVISION CONTAINED HEREIN TO THE CONTRARY, NO CLAIMS FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OF ANY NATURE SHALL BE MADE BY EITHER PARTY RELATING TO DEMURRAGE. All demurrage claims must be submitted to [Demurrage@Metroplexenergy.com](mailto:Demurrage@Metroplexenergy.com) to be considered valid.
3. Undisputed demurrage claims will be due to the Vessel Party to this Agreement no later than ninety (90) calendar days from receipt of invoice and supporting documents. Demurrage charges shall be presumed to be valid if not disputed in writing by the Terminal Party to this Agreement within sixty (60) calendar days from receipt of invoice and supporting documentation. FAILURE TO DISPUTE A CLAIM AND TO PROVIDE SUPPORTING DOCUMENTATION FOR SUCH DISPUTE WITHIN THE SPECIFIED TIME SHALL BE CONSIDERED A WAIVER OF ANY DISPUTE AS TO THE AMOUNT OF THE DEMURRAGE CLAIM AND WILL REQUIRE FULL AND TIMELY PAYMENT OF THE DEMURRAGE CLAIM BY THE TERMINAL PARTY. This provision of the Agreement between the parties does not affect any rights, defenses, liabilities or duties of the parties as to third parties. The fact that the Terminal Party has not collected demurrage from a third party shall not be an excuse or defense to a claim for payment by the Vessel Party.
4. Notwithstanding the above, where the Terminal is a foreign load port, Vessel Party shall only be entitled to recover demurrage from Terminal Party to the extent that Terminal Party is able to recover such demurrage from Terminal Party's supplier or terminal operator. Terminal Party shall not be obligated to pay any amounts in excess of the amount that it so recovers and in no event shall Terminal Party be liable for payment of demurrage hereunder in excess of the amount that is actually paid to the Vessel by Vessel Party for demurrage related to the

cargo delivered by Terminal Party. Terminal Party shall, however, endeavor in good faith to recover from Terminal Party's supplier any demurrage for which Vessel Party has presented a demurrage claim in accordance with this section.

VIII. Insurance/Pollution Prevention/Legal Compliance/Lightering.

1. Pollution Prevention and Responsibility. In the event an escape or discharge of Product or cargo or bunkers from the Vessel causes or threatens to cause pollution damage, the Vessel will promptly take whatever measures are necessary to prevent or mitigate such damage. The Vessel Party hereby authorizes the Terminal Party, at the Terminal Party's option, upon notice to the Vessel Party, to undertake such measures as are reasonably necessary to prevent or mitigate the pollution damage. The Terminal Party shall keep the Vessel Party advised of the nature and results of any such measures taken, and if time permits, the nature of the measures intended to be taken. Any of the aforementioned measures shall be at the Vessel Party's time and expense, provided that if the Terminal caused or contributed to such escape or discharge, the expense of the aforementioned measures shall be borne by the Terminal Party in proportion to its negligence in causing or contributing to the escape or discharge. If the Vessel Party considers said measures should be discontinued, the Vessel Party shall so notify the Terminal Party and thereafter the Terminal Party shall have no right to continue said measures at the Vessel Party's expense. This provision shall be applicable only between the parties hereto and shall not affect any liability of the Vessel and the Vessel Party to third parties, including, but not limited to governments.
2. The Vessel Party warrants that throughout the Vessel's service under this Agreement, the Vessel shall have on board certificates issued pursuant to Section 1016(a) of the Oil Pollution Act 1990 and Section 108(a) of the Comprehensive Environmental Response, Compensation, and Liability Act 1980, as amended in accordance with Part 138 of Coast Guard Regulations 33 CFR. The Vessel Party further warrants that while in U.S. waters, the Vessel shall comply with the U.S. Federal Water Pollution Control Act, as amended, and shall have secured and carry onboard the Vessel a current U.S. Coast Guard Certificate of Financial Responsibility (Water Pollution). Vessels shall also have onboard any other Federal and/or state Proof of Financial Responsibility Certificate which may be required at the Terminal. All expenses, and time lost during any period when this warranty has been breached, shall be for Vessel Party's account.
3. Vessel Party shall warrant that any Vessel nominated or substituted shall be owned or demised chartered by a member of the International Tankers Owners Pollution Federation Ltd. ("ITOPF"). To the extent applicable, Vessel Party warrants that it shall ensure that the Vessel nominated or substituted carries on board a certificate of insurance as described in the Civil Liability Convention for Oil Pollution Damage. Vessel Party shall endeavor to ensure that any Vessel nominated shall comply with the International Safety Management (ISM) code which came into effect on July 1, 1998.
4. U.S. Coast Guard Compliance. The Vessel Party warrants that, throughout the cargo transfer operation, the Vessel shall fully comply, or hold authorized waivers for non-compliance, with all applicable U.S. Coast Guard regulations in effect as of the date

Vessel berths. All expenses and time lost during any period when this warranty has been breached shall be for Vessel Party's account.

5. Environmental Compliance.

- i. The Vessel Party warrants that the Vessel shall comply with all applicable environmental laws and regulations covering water, air, and land pollution while at the Terminal. If the Vessel fails to comply with such laws and regulations, the Vessel may be required to vacate the berth and even to proceed to sea. All expenses and time lost during any period when this warranty has been breached and until the Vessel re-berths shall be for Vessel Party's account; provided that after the Terminal Party has actually received the Vessel's NOR for reberthing, she will be assigned the next berth.
- ii. The Vessel Party is responsible for providing safety equipment to the crew of the Vessel when the cargo contains high sulfur or is otherwise dangerous to health.

6. Insurance.

Tankers:

The Vessel Party warrants that throughout Vessel's service under this Agreement, the Vessel shall have full and valid Protection and Indemnity Insurance from a P&I Club that is a member of the International Group of P&I Clubs. The P&I Insurance shall be for Vessel Owner's account and at no cost to the Terminal Party. The P&I Insurance must include coverage of the Vessel against liability for pollution for an amount not less than U.S.\$1,000,000,000 per incident. If requested at any time during the term of this Agreement, the Vessel Party shall promptly furnish to the Terminal Party reasonable evidence of such P&I Insurance. The warranty set forth above is an essential part of this Agreement, and the obligations of the Terminal Party under this Agreement are conditioned on the truth and performance of such warranty. Any breach of the above warranty shall entitle the Terminal Party to terminate this Agreement without limiting its right to recover damages.

Barges (including Tow):

The Vessel Party warrants that throughout Vessel's service under this Agreement, the Vessel shall have full pollution and collision insurance coverage for Vessel Owner's account and at no cost to the Terminal Party. The insurance must include coverage of the Vessel against liability for pollution and collision for an amount not less than U.S. \$200,000,000 per incident. If requested at any time during the term of this Agreement, the Vessel Party shall promptly furnish to the Terminal Party reasonable evidence of such insurance.

All Vessels. The warranties set forth above are an essential part of this Agreement, and the obligations of the Terminal Party under this Agreement are conditioned on the truth and performance of such warranties. Any breach of the above warranties shall entitle the Terminal Party to terminate this Agreement without limiting its right to recover damages.

7. Drug and Alcohol. The Vessel Party warrants that any Vessel (not otherwise subject to U.S. Department of Transportation Drug and Alcohol Regulations) which is

nominated to the Terminal Party shall be operating under a drug and alcohol policy that meets or exceeds the standards in the Oil Companies International Marine Forum (“OCIMF”) then current Guidelines.

8. Carrier Alpha Code. Vessel Party warrants that the bill of lading issuer shall have and use a standard carrier alpha code required by the U.S. Customs regulations. Any delay, expense or other consequence whatsoever of any failure to comply with the subject regulations shall be for the Vessel’s account, and the Vessel Party will indemnify Terminal Party for any loss, expense, cost, penalty or fine incurred by Terminal Party, attributable to such failure.
9. U.S. Customs Compliance. The Vessel Party warrants that the Vessel shall fully comply or hold waivers for noncompliance with all applicable U.S. Customs regulations in effect as of the date Vessel berths. The Vessel Party shall provide all required Customs information to the Terminal Party at least three (3) business days prior to Vessel arrival.
10. Dispute Resolution Clause.
  - i. Marine Claims will be governed by the general maritime law of the United States as applied in the State of New York, without application of that state’s conflict of laws principles and precedents.
  - ii. Marine Claims shall be resolved pursuant to arbitration as provided herein notwithstanding anything in the General Terms to the contrary.
  - iii. For Marine Claims where the total amount claimed by either Party does not exceed U.S. \$300,000 (exclusive of interest on the sum claimed, costs of the arbitration, and legal expenses), the dispute shall be presented to a sole arbitrator. The arbitrator shall be a person conversant in marine matters and notwithstanding the Rules of the Society of Maritime Arbitrators, Inc. (SMA), may be attorney and need not be a member of the SMA. The arbitration is to be otherwise governed by the "Shortened Arbitration Procedure" of the SMA Rules, as defined in the SMA's current Rules for such procedure. The sole arbitrator’s decision shall be final and binding, and for the purpose of enforcing any award, the award may be made a rule of the Court.
  - iv. For Marine Claims where the total amount claimed by either Party exceeds U.S.\$300,000, such arbitration shall be referred to three (3) persons in New York City, New York, one (1) to be appointed by each of the Parties hereto and the third, who shall be the Chair, by the two (2) so chosen. Their decision, or that of any two of them, shall be final and binding, and for the purpose of enforcing any award, the award may be made a rule of the Court. The arbitrators shall be persons conversant in marine matters and notwithstanding the SMA Rules, may be attorneys and need not be members of the SMA. All arbitrations shall be otherwise governed by the Rules of the SMA. Judgment upon any arbitration award may be entered by any court of competent jurisdiction.
  - v. The panel or sole arbitrator hearing the Marine Claim shall have the authority to provide in any award for the allocation of the costs of arbitration, including reasonable attorneys’ fees and arbitrators’ fees notwithstanding any limitations in the applicable SMA Rules.

- vi. Any demand for arbitration under this clause must be made no later than one (1) year after the date on which the alleged Marine Claim has arisen.

11. AMS Clause.

- i. Where the discharge port is located within the USA or US Territories, Vessel Party shall exercise reasonable efforts to ensure that the Vessel is aware of the requirements of the U.S. Bureau of Customs and Border Protection ruling issued on December 5, 2003, under Federal Register Part II Department of Homeland Security 19 CFR Parts 4 and 103.31 and will comply fully with these requirements for entering U.S. ports (including for avoidance of doubt the requirements of the “Automated Manifest System”).
- ii. If the discharge port is changed at Terminal Party’s request such that, despite Vessel Party’s obligation to make the Vessel aware pursuant to (i.) above, Vessel Party’s nominated Vessel is unable to comply with the notification period required by the U.S. Bureau of Customs and Border Protection ruling issued on December 5, 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 “Automated Manifest System”).
- iii. Any delay directly resulting from such non compliance shall be for the Terminal Party’s account.
- iv. Vessel Party shall not be liable for failure of performance directly resulting from such non compliance.

12. ISPS.

- i. Vessel Party shall ensure that the Vessel complies with the requirements of the International Code for the Security of Ships and of Port Facilities and the relevant amendments to Chapter XI of SOLAS (ISPS Code) and where the load or discharge port (as applicable) is within the USA and US Territories or waters, with the Maritime Transportation Security Act 2002 and any implementing regulations (MTSA).
- ii. The Vessel Party shall ensure the vessel, when required submits a Declaration of Security (DoS) to the appropriate authorities prior to arrival at the Terminal.
- iii. Notwithstanding any prior acceptance of the Vessel by the Terminal Party, if at any time prior to the arrival of the Vessel at the load or discharge port (as applicable) the Vessel ceases to comply with the requirements of the ISPS Code or MTSA Terminal Party shall have the right not to berth such nominated Vessel at the load or discharge port (as applicable) and the subsequent delays are solely for the Vessel Party’s account.
- iv. Terminal Party shall ensure that the port, terminal, or installation shall comply with the requirements of the ISPS Code and if applicable, MTSA.
- v. Any costs or expenses in respect of the Vessel including any additional charge, fee or duty levied on the Vessel at the Terminal and actually incurred by the Vessel Party resulting directly from the failure of the load or discharge port, terminal, or installation (as applicable) to comply with the ISPS Code, and if located within the USA and US Territories with the MTSA, shall be

for the account of the Terminal Party, including but not limited to the time required or costs incurred by the Vessel in taking any action or any special or additional security measure required by the ISPS Code or MTSA.

- vi. Any costs or expenses in respect of the Vessel including used laytime, demurrage, or any additional charge, fee or duty levied on the Vessel at the Terminal and actually incurred by the Vessel Party resulting directly from the failure of the Vessel or Vessel Party (as applicable) to comply with the ISPS Code, and if located within the USA and US Territories with the MTSA, shall be for the account of the Vessel Party, including but not limited to the time required or costs incurred by the Vessel in taking any action or any special or additional security measure required by the ISPS Code or MTSA.

13. Lightering

- i. Any partial or full lightering, at sea or at a place outside a designated port, shall be conducted in accordance with the latest OCIMF guidelines for ship-to-ship transfers and, if applicable, with port authority approval.
- ii. Any lightering Vessel required by either Buyer or Seller shall be subject to the prior written approval of the other Party.
- iii. The Party requiring lightering, under the Agreement is responsible for all expenses related to the lightering. Unless lightering is performed at Vessel's request or as a result of any fault that is attributable to the Vessel, any time used for lightering shall count as used laytime or as time on demurrage, if on demurrage.
- iv. The lightering point shall not be considered a second discharge berth or port under the terms of the Agreement. No deductions shall be considered for weather or shifting within the lightering area.
- v. If the Vessel tenders NOR prior to the commencement of the applicable Laydays, laytime shall commence at 0001 hours, local time, at the specified location on the commencement date of such Laydays or All Fast, whichever occurs first, unless otherwise specifically agreed and documented by the parties to the Agreement in advance of docking.
- vi. If the Vessel tenders NOR within the applicable Laydays, laytime shall commence upon tender of NOR.
- vii. If the Vessel tenders NOR after the end of the Laydays (if not cancelled), laytime shall commence at All Fast alongside the lightering Vessel.
- viii. Laytime shall cease when all applicable lightering equipment and fenders have been removed.
- ix. The Vessel shall be permitted thirty-six (36) Running Hours as allowed laytime for either loading or discharging a full Cargo.
- x. In the event of a partial delivery of Cargo, allowed laytime shall be based on thirty-six (36) hours and allocated pro rata by dividing the Cargo Quantity delivered by the mother Vessel's full Cargo volume which shall be determined by the bill of lading. If the bill of lading is not available, then the total NSV outturn volume shall be used. In any case, the minimum allowed



laytime for a partial delivery of Cargo shall never be less than twelve (12) hours.