

# TARGA LIQUIDS MARKETING AND TRADE LLC

## GENERAL TERMS AND CONDITIONS

### FOR THE PURCHASE, SALE AND EXCHANGE OF NATURAL GAS LIQUIDS/RAW PRODUCT

These General Terms and Conditions ("GTCs") for the Purchase, Sale and Exchange of Natural Gas Liquids/Raw Product are incorporated into and govern any Transaction between **Targa Liquids Marketing and Trade LLC** ("Targa") and such other party to the Transaction, as designated on the Confirmation for such Transaction incorporating these GTCs ("Counterparty") (Targa and Counterparty, each a "Party," and collectively, the "Parties"). The Parties' respective addresses for notices and contact information for administration of the Transaction, Confirmation, and these GTCs are set forth on the applicable Confirmation. Capitalized terms used in these GTCs are defined where they first appear or in Section 21.

For consideration received, the Parties agree as follows:

1. **Agreement**. These GTCs, together with the Transaction and Confirmation, constitute the Parties' entire agreement as to such Transaction and Confirmation, and shall be read together and construed together as a single integrated agreement (the Transaction, Confirmation and GTCs collectively, the "Agreement").
2. **Transactions and Confirmations**. The Parties will use the following Transaction execution and Confirmation procedures.
  - (a) **Transaction Execution**. Any Transaction may be effectuated by an oral conversation or by any form of text-based paper or electronic transmission between the Parties, with the offer and acceptance constituting the agreement of the Parties. The Parties shall be legally bound from the time they mutually agree to the commercial terms of the Transaction, including, at a minimum, the following terms: (i) Product description, (ii) the delivery location and terms, (iii) quantity, (iv) delivery dates or periods, (v) price or exchange fees, as applicable, and (vi) any other fees, charges or expenses to be paid by either Party.
  - (b) **Confirmations**. Within five (5) Business Days after the Parties enter into a Transaction as contemplated in Section 2(a), Targa shall send a Confirmation to Counterparty; provided that Targa's failure to send a Confirmation within this timeframe will not invalidate the oral or written (paper or electronic) agreement of the Parties. Absent manifest error, the terms of the Transaction contained in Targa's Confirmation shall be deemed correct and binding on the Parties unless Counterparty objects in writing to the contents of the Confirmation within three (3) Business Days after it was received by Counterparty (the "Objection Deadline"). If Counterparty objects to the terms of a Confirmation in writing before the Objection Deadline, the Parties agree to promptly endeavor in good faith to resolve such differences, and if the Parties agree with respect to any changes to the terms of a Confirmation, Targa will promptly send Counterparty a revised Confirmation. The procedures set forth in this Section 2(b) shall apply to any such revised Confirmation(s).
  - (c) **Transaction Evidence**. Each Party hereby consents to the recording of conversations between the Parties with respect to a Transaction without any further notice. Any text-based electronic transmission or Electronic Record shall, when printed, be deemed a "writing" or "in writing" and, when maintained in the ordinary course of business, shall constitute an "original writing." Any electronic signature, including but not limited to a "bit map" or digital signature, attached to or logically associated with a Confirmation or notice under the Agreement shall be deemed to be a "signature" and satisfy any rule or law requiring a signature. Neither Party will contest or assert any defense to the validity or enforceability of an Electronic Record, an electronic signature, or any Transactions entered into in accordance with these GTCs (i) based on any law requiring certain agreements to be in writing or to be signed by such Party,

or (ii) based on any lack of authority of the Party or of any employee or other personnel of the Party to enter into a Transaction.

- (d) **Principles of Construction and Interpretation; Priority of Terms.** In the event of a conflict between the provisions of the documents that comprise the Agreement, the provisions of the documents will take precedence, govern, and control the rights, obligations and duties of the Parties in the following order of priority: (i) the effective Confirmation for the Transaction; (ii) agreement (oral or written) of the Parties regarding the commercial terms of the Transaction, which may be evidenced by the means set forth in Section 2(c); and (iii) these GTCs.

3. **Invoices, Terms of Payment and Audit.**

- (a) **Invoices; Payments.** Unless otherwise specified on the Confirmation and/or agreed to by the Parties in the Transaction, invoices will be prepared by the Delivering Party and transmitted to the Receiving Party from time to time during or within a reasonable time after the month the Product is lifted by Receiving Party or delivered to Receiving Party, as applicable. Unless otherwise specified on the Confirmation and/or agreed to by the Parties in the Transaction, payment is due within five (5) days after receipt of invoice by electronic funds transfer of immediately available funds; provided, however, if the day on which payment is due is not a Business Day, then payment will be due on the next Business Day. Payments must be made to the account specified in the applicable invoice. If the Receiving Party, in good faith, disputes the amount of any such invoice or any part thereof, the Receiving Party will nevertheless pay the full invoiced amount to the Delivering Party on the date that the payment originally was due, and shall notify the Delivering Party of, and provide supporting documentation acceptable in industry practice to support, the amount disputed. The Parties will endeavor to resolve in good faith the amount in dispute. If it is subsequently determined that any disputed amounts were paid by a Party in error, then the Party that received the amounts paid in error will repay the amounts received in error together with interest accrued on such amounts at Interest Rate from the date the disputed amounts were paid in error until the date such amounts are repaid in full. Notwithstanding the foregoing, each Party's obligations to make payments in connection with a Transaction shall be subject to the conditions precedent that (x) no Event of Default with respect to the other Party has occurred and is continuing, and (y) no Early Termination Date has occurred or been effectively designated.

- (b) **Audit.** Each Party and its duly authorized representatives shall have the right, at its own expense, upon reasonable notice and at reasonable times, to examine and audit and to obtain copies of the relevant portion of the records of the other Party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment or computation made pursuant to a Transaction. This right to examine, audit, and to obtain copies shall not be available with respect to proprietary information not directly relevant to the Transaction. All invoices and billings shall be conclusively presumed final and accurate and all associated claims for underpayments or overpayments shall be deemed waived unless such invoices or billings are objected to in writing, with adequate explanation and/or supporting documentation acceptable in industry practice, within two (2) years after the date of such invoice. All retroactive adjustments due as a result of any audit under this Section 3(b) shall be paid in full by the Party owing payment within thirty (30) days of notice and substantiation of such inaccuracy.

4. **Delivery, Title & Risk of Loss.** Unless otherwise set forth in the Confirmation, the Delivering Party will be responsible for all arrangements necessary to deliver Product to the delivery location and the Receiving Party will be responsible for arrangements necessary to receive Product at the delivery location. Title to the Product and risk of loss will pass to the Receiving Party upon delivery, completed as follows:

- (a) When delivery is point of origin, delivery will be deemed to have been completed:
  - (i) To ships or barges, when the Product has passed the vessel's loading flange;
  - (ii) To rail cars, when the Product has passed the rail car's loading connection;
  - (iii) To pipelines, when the Product has passed the outlet flange of the meter measuring the Product for delivery; and
  - (iv) To tank trucks, when the Product enters the tank truck's loading equipment.
- (b) When delivery is point of destination, delivery will be deemed to have been completed:
  - (i) From ships or barges, when the Product has passed the vessel's discharge flange;
  - (ii) From rail cars, when carrier delivers the rail car containing the Product to the destination;
  - (iii) From pipelines, when the Product has passed the inlet flange of the meter measuring the Product for delivery; and
  - (iv) From tank trucks, when the Product has passed the tank truck's delivery equipment.
- (c) When delivery is by an in-line or in-storage Product transfer, delivery will be deemed to have been completed upon transfer of title in keeping with the title transfer procedures of the applicable pipeline carrier and/or storage operator or, in lieu of same, upon the date of transfer shown in the title transfer documentation provided to such operator.

5. **Measurement & Analysis.**

(a) **Measurement.**

- (i) All Product delivered will be measured in the manner customarily utilized at the point of delivery in accordance with one of the alternatives listed below:
  - (A) On all deliveries into or out of rail cars, the quantity will be determined (in the following order of preference and based on equipment available at the point of delivery) by (I) weighing; (II) meters; or (III) gauging of the rail cars and use of official rail car capacity tables.
  - (B) On all deliveries into or out of tank truck equipment, quantities will be determined (in the following order of preference and based on equipment available at the point of delivery) by: (I) weighing; (II) meters; or (III) slip tube or rotary gauging device and applicable tank capacity tables.
  - (C) (I) On all deliveries of Product other than Raw Product into or out of pipelines, quantity will be determined by turbine, Coriolis, or positive displacement pipeline meter in accordance with API Manual of Petroleum Measurement Standards; and (II) On all deliveries of Raw Product into or out of pipelines, quantity and Component composition will be determined in accordance with the pipeline's current measurement and testing procedures and as set forth on the pipeline's monthly statement.
  - (D) On all deliveries into or out of ships or barges, quantity will be determined (in the following order of preference and based on equipment available at the point of delivery) by: (I) gauging and official tank capacity tables or (II) if expressly specified in the Confirmation, by shore meter or shore tank measurements.
- (ii) Metering systems used for quantity determinations will not allow vapor return or will compensate for any vapor return.
- (iii) All quantities will be corrected to 60 degrees Fahrenheit and equilibrium vapor pressure of the Product at 60 degrees Fahrenheit.

- (iv) Volume and compressibility correction factors will be determined from referenced API tables or computer programs used to generate these tables.
- (b) **Sampling & Analysis.** At the Receiving Party's option, excluding deliveries via pipelines, the Receiving Party may obtain samples of the Product from an appropriate location on the rail car, tank truck, barge or ship, as applicable, and/or the loading/unloading facilities connected to such means of transport, at an appropriate time and on a frequency established by the Receiving Party in a manner which obtains representative samples of the Product being delivered. If the Receiving Party elects to obtain such samples of the Product, the Receiving Party will be responsible for arranging for analysis of such samples, by a qualified laboratory or testing organization, all at the Receiving Party's expense.
- (c) **Standards.** Measurement, sampling and analysis will be conducted in accordance with the GPA Standards applicable to the methodology used; including GPA Standards 8182, 8173, 2177 and all other appropriate GPA, API and ASTM standards. All such standards are incorporated herein for all purposes, including all revisions of those standards adopted and in effect during the term of the applicable Transaction.
- (d) **Quality.** All Product delivered in accordance with a Transaction must meet the specifications established for the Transaction for that Product or set forth in the Confirmation and shall not contain any deleterious substances or concentrations of any contaminants that may make it or its Components commercially unacceptable in general industry practice. If no Product specifications are so established for the Transaction or set forth in the Confirmation:
- (i) For Product other than Raw Product, all Product must meet the latest GPA specifications for that Product, and if the latest GPA specifications do not apply to the Product, the Delivering Party will ensure that the Product meets generally accepted industry specifications such that the Product is commercially acceptable.
  - (ii) For Raw Product delivered by pipeline, all Raw Product must meet the quality specifications of the pipeline, and if the pipeline does not have any established specifications, the Delivering Party will ensure that the Raw Product meets generally accepted industry specifications such that the Raw Product is commercially acceptable.
  - (iii) For Raw Product delivered by rail car or tank truck, all Raw Product must meet the more stringent of (A) the quality specifications of the destination pipeline or fractionation facility to which Receiving Party will be delivering the Raw Product, or (B) Targa's quality specifications available at: <https://www.targaresources.com/nql-general-terms-and-conditions>.

If the Delivering Party causes Off-Spec Product to be delivered to the Receiving Party, the Receiving Party may, at its sole discretion and without liability to the Delivering Party, reject such Off-Spec Product, and the Delivering Party shall be liable for (x) costs incurred by the Receiving Party in handling such Off-Spec Product, and (y) with respect to Raw Product that is Off-Spec Product, (1) diminution in value, if any, when compared to Raw Product meeting the applicable specifications and (2) any fees charged or incurred by Receiving Party and its Affiliates as a result of the Raw Product being Off-Spec Product.

- (e) **Inspections.** Unless otherwise specified or provided by the Delivering Party, the Receiving Party must provide gauging, sampling, and testing at no charge to the Delivering Party. Each Party will be entitled to have its representatives present during all loadings, unloadings, tests and measurements involving delivery of Product. Either Party may secure independent inspectors to perform gauging, sampling and testing, in which event such inspector's determinations will be conclusive and binding on the Parties absent manifest error or fraud.

Payment for independent inspector's services will be borne by the Party requesting such services, unless some other arrangement for payment is mutually agreed.

- (f) **Claims.** All claims by the Receiving Party for deficiencies in Product quantity or quality will be made to the Delivering Party in writing within ten (10) days of Product delivery or same will be conclusively deemed waived by the Receiving Party and the Delivering Party will have no liability with respect to same; provided, however, for deliveries by rail car, all claims by the Receiving Party for deficiencies in Product quantity will be made to the Delivering Party in accordance with Attachment A.

6. **Deliveries & Receipts – Operating Procedures.**

- (a) With respect to deliveries of Product by rail cars:

- (i) When the rail cars are owned or leased by the Delivering Party: Receiving Party will be liable to the Delivering Party for rental at the following rates: if the rail car is unloaded and returned to the railroad (i) within five (5) days of arrival, no rental charge, (ii) after five (5), but before ten (10) days of arrival, \$75.00 per day, and (iii) after ten (10) days of arrival, \$125.00 per day. Rail cars shall not be diverted without the Delivering Party's prior written consent.
- (ii) When the rail cars are owned or leased by the Receiving Party and are transporting Product from the point of origin: If wait and loading time, cumulative, at the point of origin exceeds the number of credit days allowed by the applicable railroad operator(s) for any reason (other than the gross negligence or willful misconduct of Delivering Party or its Affiliate), the Receiving Party will be responsible for all excess time and demurrage charges actually incurred by the Delivering Party from such railroad operator(s).

- (b) If delivery of any Product is to be accomplished by waterborne, truck or rail transport via any facility owned or operated by a Party or an Affiliate of such Party, the other Party may be required by the terminal operator to be a party to a written agreement regarding access to and operations at the applicable terminal.

- (c) Delivering Party reserves the sole right (i) to reject any rail cars, trucks, transports, pipelines, barges, vessels, containers or storage presented for loading or unloading which would present an unsafe or potentially unsafe situation, and/or (ii) to refuse to load/unload, transfer, or handle any Product under any conditions it deems unsafe which are caused by drivers, personnel, equipment, and/or procedures.

- (d) If no times and/or quantities to take delivery of Product during the delivery period are specified in the Transaction, the Delivering Party will be required to deliver, and the Receiving Party will be required to take delivery or lift, Product ratably throughout the term of the particular Transaction.

- (e) **Additional Tank Truck Charges.** For Raw Product delivered by tank truck where the Receiving Party is providing transportation from the point of origin, the Receiving Party may assess additional charges by invoicing the Delivering Party for such additional charges from time to time, as follows:

- (i) If wait and loading time, cumulative, at the point of origin exceeds one hour due to any delay other than failure of truck equipment or driver to perform the loading operation in a reasonable and expeditious manner, the Receiving Party may charge the Delivering Party for the greater of (x) any reasonable excess time or demurrage charges actually incurred by the Receiving Party from the transportation provider, or (y) a charge of \$85.00 per hour of excess time, rounded to the nearest quarter-hour.
- (ii) If a tank truck loaded at the point of origin is loaded with less than 7,000 Gallons of Raw Product, the Receiving Party may assess the Delivering Party with a supplemental freight charge equal to the product of (x) the difference between 7,000 Gallons and the actual

volume, in Gallons, loaded into the tank truck, multiplied by (y) the applicable transportation fee (in dollars per Gallon) set forth in the Confirmation.

(iii) Receiving Party may charge the Delivering Party for any reasonable fuel surcharge actually incurred by the Receiving Party from the transportation provider based on the then-current price of motor fuel.

(f) With respect to waterborne deliveries and loadings of Product by Targa to Counterparty at a marine terminal operated by Targa's Affiliate located in Galena Park, Texas ("GPMT"), or other locations: the nomination and confirmation of any laycan with respect to such delivery and loading of Product, the determination of laytime, liability for, and calculation of, demurrage, and the requirements and obligations with respect to Counterparty's vessels, in each case, shall be in accordance with the Agreement, and the applicable Port Manual, which is incorporated into the Agreement by reference. "Port Manual" means (i) Targa's Affiliate's Terminal Port Manual for GPMT, or (ii) the general marine provisions of a Targa Affiliate-operated marine facility, each of which may be amended, supplemented or superseded from time to time by Targa's Affiliate; provided that with respect to demurrage and indemnification, all references in the Port Manual to Targa's Affiliate that operates GPMT or applicable marine facility will also be deemed to refer to Targa.

## 7. **Delivery & Receipt Obligations.**

### (a) **Failure to Lift and/or Receive Product.**

(i) When Targa is the Delivering Party:

(A) If for any reason (including Force Majeure), Counterparty, as the Receiving Party, is unable to receive any portion of the Product volume at the delivery location during the month in which the Product is to be lifted by or delivered to Counterparty ("Delivery Month") (such portion, the "Unreceived Volume"), Targa may, in its sole discretion, (x) place or retain all or a portion of the Unreceived Volume in temporary storage in any storage facility or terminal from which the Unreceived Volume is sourced (the "Storage Facility"), and (y) charge a "Storage Charge" determined by the following formula:

Storage Charge = (i) total accrued Unreceived Volume from current and previous Delivery Month(s) as of the end of the Delivery Month x (ii) 42 Gallons per Barrel x (iii) the Storage Fee

"Storage Fee" means (i) the fee specified in the applicable Confirmation, or (ii) if not specified in such Confirmation, a reasonable fee determined by Targa in its sole discretion, not to exceed 5 cents per Gallon per month.

Targa will not be obligated to store Unreceived Volume in excess of the Storage Threshold.

"Storage Threshold" means (i) the maximum volume of Counterparty's Unreceived Volume, in the aggregate across all Transactions, that Targa will temporarily store in the Storage Facility, as specified in the applicable Confirmation(s), or (ii) if not specified in such Confirmation(s), as determined by Targa in its sole discretion based on, among other things, the logistics capabilities of and storage capacity available in the Storage Facility.

Following each Delivery Month, Targa will send an invoice to Counterparty for any Storage Charge applicable to such Delivery Month and such amount shall be payable pursuant to the terms of Section 3(a). Notwithstanding anything in Section 4 to the contrary, title to any Unreceived Volume temporarily stored under this Section 7(a)(i)(A) will pass from Targa to Counterparty upon placement or retention of such Unreceived Volume in the Storage Facility.

- (B) To the extent Counterparty has accrued Unreceived Volume for any Delivery Month, and if Targa has elected to provide temporary storage of such Unreceived Volume pursuant to Section 7(a)(i)(A), then subject to availability of the Storage Facility, delivery facilities (e.g., truck, rail, or pipeline, as applicable), and the ability of the point of destination to receive Product, such Unreceived Volume will be delivered to Counterparty as the first volume of Product in the subsequent Delivery Month(s) and will not be considered part of the purchased volume for the Delivery Month in which it is delivered to the delivery location.
- (C) If at any time (I) Counterparty's Unreceived Volume that has been placed or retained in storage pursuant to Section 7(a)(i)(A) exceeds the Storage Threshold (any such stored volume in excess of the Storage Threshold, the "Excess Storage Volume"), or (II) Targa has elected not to provide temporary storage of Unreceived Volume during such Delivery Month pursuant to Section 7(a)(i)(A), then Targa may suspend further delivery of Product to Counterparty, and (x) Targa may sell all or a portion of such Excess Storage Volume (in the case of clause (I)) pursuant to Section 7(a)(ii), or (y) any resulting Unreceived Volume (in the case of clause (II)) will be deemed Remaining Volumes, and Targa may sell all or a portion of such Remaining Volumes pursuant to Section 7(a)(iii).
- (ii) Unless otherwise specified in the applicable Confirmation, Targa will have the right (but not the obligation) to sell all or any portion of Counterparty's Excess Storage Volume on terms and at such commercially reasonable prices as Targa deems appropriate under the then existing circumstances. If Targa sells all or a portion of Counterparty's Excess Storage Volume under the terms of this Section 7(a)(ii), then within 60 days after Targa receives the proceeds derived from the sale(s) of such Excess Storage Volume, Targa will remit same to Counterparty less (w) all of Targa's reasonable costs and expenses associated with any such sales, (x) a sales commission equal to two percent (2%) of the gross proceeds of such sales, (y) any additional fees or expenses incurred by the Targa in connection with such Excess Storage Volume, including, but not limited to, any additional storage and/or transportation costs incurred, and (z) any other amounts then due and owing by Counterparty to Targa under this Agreement.
- (iii) Unless otherwise specified in the applicable Confirmation, the Receiving Party's obligation to lift and/or receive Product is firm and subject to interruption only to the extent attributable to Force Majeure. Therefore, should the Receiving Party fail to lift and/or receive Product at the times and in the quantities agreed to in the Transaction, then, subject to Section 7(a)(i) and Section 7(a)(ii), the Delivering Party will have the right, but not the obligation, to sell all or any portion of the volume of Product that the Receiving Party failed to timely lift and/or receive (the "Remaining Volumes") on terms and at such prices as the Delivering Party shall determine in a commercially reasonable manner in light of the then existing circumstances and collect from the Receiving Party the positive difference (if any) between the price established for such Product in the Transaction minus the sum of (A) the Net Price and (B) any amounts previously paid by the Receiving Party to the Delivering Party with regard to the applicable Transaction. "Net Price" means the gross proceeds received by the Delivering Party in connection with the sale of the Remaining Volumes less (x) all of the Delivering Party's reasonable costs and expenses associated with any such sales, (y) a sales commission equal to two percent (2%) of the gross proceeds of such sales, and (z) any additional fees or expenses incurred by the Delivering Party in connection with the Receiving Party's failure to timely lift and/or receive the Remaining Volumes, including, but not limited to, any additional storage and/or transportation costs incurred.
- (b) **Failure to Deliver Product.** Unless otherwise specified in the applicable Confirmation, the Delivering Party's obligation to deliver is firm and subject to interruption only to the extent

attributable to Force Majeure. Therefore, should the Delivering Party fail to deliver Product at the times and in the quantities agreed to in the Transaction, then the Receiving Party will have the right, but not the obligation, to procure all or any portion of the volume of Product that the Delivering Party failed to timely deliver (the "Undelivered Volumes") on terms and at such prices as the Receiving Party shall determine in a commercially reasonable manner in light of the then existing circumstances and to collect from the Delivering Party the positive difference (if any) between the Total Price (defined below) and the price established for such Product in the applicable Transaction. "Total Price" means the gross amount paid by the Receiving Party in connection with the purchase of the Undelivered Volumes plus (x) all of the Receiving Party's reasonable costs and expenses associated with any such purchases, and (y) any additional fees or costs incurred by the Receiving Party in connection with the Delivering Party's failure to timely deliver the Remaining Volumes, including, but not limited to, any additional storage and/or transportation costs incurred.

(c) **Imbalances.**

- (i) With respect to Product that is not Raw Product, Section 7(a)(ii), Section 7(a)(iii), and Section 7(b) are not applicable to imbalances arising under any Transactions due to pipeline or other transportation imbalances or Product Component imbalances, which will be determined between the Parties in good faith. Unless the Parties mutually agree in writing to a monetary settlement, any such imbalances will be resolved on a volumetric basis as soon as practicable, but in no case later than the end of the second month following the month in which the imbalance arose.
- (ii) With respect to Raw Product, Section 7(a)(ii), Section 7(a)(iii), and Section 7(b) are not applicable to imbalances arising under any Transactions due to pipeline or other transportation imbalances. Any Component imbalances with respect to Raw Product arising under any Transactions will be settled in cash by either Party paying the Party owed any Components a price equal to: (A) for purchase or sale Transactions, the price established for such Component for the Transaction, or (B) for exchange Transactions, the OPIS Index. Component imbalances will be determined pursuant to the measurement procedures set forth in Section 5.

8. **Representations and Warranties.**

- (a) **Representations and Warranties of Each Party.** On the date the Parties enter into a Transaction, each Party represents and warrants to the other that: (A) it is duly authorized to enter into the Transaction and to perform its obligations pursuant to the Agreement; (B) the person executing the Confirmation is duly authorized to do so; (C) its obligations under the Agreement constitute its legal, valid and binding obligations, enforceable in accordance with its terms, except as enforceability may be limited by the effect of any applicable bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally and by general principles of equity; (D) the Agreement constitutes a "forward contract" and it is a "forward contract merchant," within the meaning of the United States Bankruptcy Code; and (E) it is acting for its own account, as a principal only, and not as an agent, fiduciary or in any other capacity.

(b) **Product Representations and Warranties.**

- (i) Delivering Party represents and warrants to the Receiving Party as of the date of any Transaction that: (A) Delivering Party has title to the Product delivered and the right to deliver same, and **THE DELIVERING PARTY WILL INDEMNIFY, DEFEND AND HOLD THE RECEIVING PARTY HARMLESS FROM AND AGAINST ANY CLAIMS BY REASON OF ANY FAILURE OF SUCH TITLE OR BREACH OF THIS WARRANTY;** and (B) Product delivered will be delivered in full compliance with all applicable federal and state laws, rules and regulations.



- (ii) Receiving Party represents and warrants to the Delivering Party that: (A) the Receiving Party is knowledgeable and aware that the Product received is a hazardous material and that the Receiving Party is sophisticated and knowledgeable of the hazards and risks associated with such Product, and the handling, receipt, transportation, storage and use of such Product; and (B) Product will be received in full compliance with all applicable federal and state laws, rules, and regulations.
  - (c) **Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH IN THE AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE PRODUCT OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.
9. **Indemnities.** The Parties agree, to the fullest extent permitted by law and regardless of the presence or absence of insurance, as follows:
- (a) **DELIVERING PARTY SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD THE RECEIVING PARTY AND ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE DIRECTORS, OFFICERS, MEMBERS, EMPLOYEES AND AGENTS HARMLESS FROM ANY AND ALL CLAIMS (I) WHICH OCCUR BEFORE DELIVERY OF PRODUCT TO THE RECEIVING PARTY UNDER THE AGREEMENT, OR (II) WHICH ARISE OUT OF THE DELIVERY BY THE DELIVERING PARTY OF ANY OFF-SPEC PRODUCT TO THE RECEIVING PARTY.**
  - (b) **RECEIVING PARTY SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD THE DELIVERING PARTY AND ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE DIRECTORS, OFFICERS, MEMBERS, EMPLOYEES AND AGENTS HARMLESS FROM ANY AND ALL CLAIMS WHICH OCCUR AFTER DELIVERY OF PRODUCT TO THE RECEIVING PARTY UNDER THE AGREEMENT.**
  - (c) **WITH RESPECT TO ANY AND ALL CLAIMS WHICH OCCUR DURING THE DELIVERY OF PRODUCT UNDER THE AGREEMENT, (1) EACH PARTY (THE “INDEMNIFYING PARTY”) SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD THE OTHER PARTY AND ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE DIRECTORS, OFFICERS, MEMBERS, EMPLOYEES AND AGENTS HARMLESS FROM ANY AND ALL CLAIMS ARISING FROM OR CAUSED BY THE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE INDEMNIFYING PARTY OR ANY EMPLOYEE, OFFICER, DIRECTOR, CONTRACTOR, SUBCONTRACTOR OR AGENT OF THE INDEMNIFYING PARTY, AND (2) INDEMNIFYING PARTY’S LIABILITY HEREUNDER SHALL APPLY REGARDLESS OF WHETHER THE OTHER PARTY WAS CONCURRENTLY NEGLIGENT (WHETHER ACTIVELY OR PASSIVELY), IT BEING AGREED BY THE PARTIES THAT IN THIS EVENT, THE PARTIES’ RESPECTIVE LIABILITY OR RESPONSIBILITY FOR SUCH CLAIMS UNDER THIS SECTION 9(C) SHALL BE DETERMINED IN ACCORDANCE WITH THE PRINCIPLES OF COMPARATIVE NEGLIGENCE.**
  - (d) **IF PRODUCT IS DELIVERED ODORIZED, UPON RECEIPT FROM THE DELIVERING PARTY OF DOCUMENTATION OF THE REQUIRED ODORIZATION, THE RECEIVING PARTY WILL INDEMNIFY THE DELIVERING PARTY FROM ANY CLAIMS INVOLVING LACK OF, OR INADEQUATE WARNING MATERIALS, IMPROPER AMOUNTS, USE OR TYPE OF, ODORANT, ODORANT FADING, LACK OF WARNING ON SUPPLEMENTAL WARNING SYSTEMS (SUCH AS GAS DETECTORS) AND IMPROPER TRAINING OR MONITORING OF THE RECEIVING PARTY’S WARNING OR TRAINING PROGRAMS RESPECTING ODORIZATION.**
  - (e) If the Receiving Party desires any Product to be delivered hereunder into tank trucks or rail cars to be unodorized, the Receiving Party must furnish an unstenched Product request to the Delivering Party on a form acceptable to the Delivering Party. As to all unodorized Product, the Receiving Party hereby certifies and represents to the Delivering Party, pursuant to 49 CFR § 173.315(b)(1), that odorization of the Product will be harmful in its use or further processing and/or odorization will serve no useful purpose as a warning agent in such use or further processing; and, as such, the Receiving Party is directing the Delivering Party to not odorize any such deliveries. In reliance on such representation by Receiving Party, Products will not be odorized by the Delivering Party. **TO THE EXTENT THE RECEIVING PARTY’S CERTIFICATION IN THIS SECTION IS INCORRECT OR INACCURATE AND THE PRODUCT SO DELIVERED**

**WAS REQUIRED BY THE CITED REGULATION TO BE ODORIZED, THE RECEIVING PARTY SHALL DEFEND AND INDEMNIFY DELIVERING PARTY FROM AND AGAINST ANY AND ALL CLAIMS ARISING FROM SUCH INACCURACY IN THE ABOVE REPRESENTATION.**

10. **Financial Responsibility.** If either Party ("Party X") has reasonable grounds for insecurity regarding the performance of any obligation under the Agreement (whether or not then due) by the other Party ("Party Y") (including the occurrence of a material change in the creditworthiness of Party Y), then Party X may make written demand for Adequate Assurance of Performance. If Party Y fails to provide Adequate Assurance of Performance within three (3) Business Days of written demand by Party X, in addition to other rights and remedies available to Party X under the Agreement, Party X may suspend deliveries or receipts of Product until Party Y complies with such demand.

11. **Events of Default.** An event of default ("Event of Default") shall mean with respect to a Party (the "Defaulting Party") or, if applicable, the guarantor of such Party, any of the following: (a) the failure by the Defaulting Party or its guarantor, if any, to make, when due, any payment required under the Agreement or any Guaranty, and such failure is not cured within three (3) Business Days after written notice; (b) any representation or warranty made by the Defaulting Party in the Agreement shall prove to have been false or misleading in any material respect; (c) the failure by the Defaulting Party to provide Adequate Assurance of Performance when due, and such failure is not cured within two (2) Business Days after written notice; (d) the breach by the Defaulting Party or its guarantor, if any, of any covenant or obligation set forth in the Agreement or any Guaranty (other than obligations constituting a separate Event of Default under this Section 11), and such failure is not cured within ten (10) Business Days after written notice; or (e) the occurrence of an Insolvency Event.

12. **Remedies upon Default.** If an Event of Default occurs and is continuing, the non-defaulting Party ("Non-Defaulting Party") may, without limiting any other rights and remedies that may be available to the Non-Defaulting Party under the Agreement or otherwise, (a) offset all or any portion of the unpaid balance against monies owed by the Non-Defaulting Party to the Defaulting Party, (b) apply any prepayments made, or Adequate Assurance of Performance posted, by the Defaulting Party to the Non-Defaulting Party against any amounts that are owed to the Non-Defaulting Party, (c) suspend deliveries until all previous deliveries to the Defaulting Party have been paid in full, (d) place the Defaulting Party on a cash delivery basis, (e) charge interest on any portion of the unpaid balance at the Interest Rate, and/or (f) terminate the Agreement pursuant to Section 13. Upon the occurrence of an Event of Default, the Defaulting Party shall reimburse the Non-Defaulting Party, on demand, for actual, reasonable out-of-pocket expenses (with interest accruing at the Interest Rate), including, without limitation, reasonable legal fees and expenses incurred by the Non-Defaulting Party in connection with the enforcement of the Agreement.

13. **Termination upon Default.** If an Event of Default occurs and is continuing, the Non-Defaulting Party may, by written notice to the Defaulting Party, designate a day no earlier than the day such notice is effective and no later than twenty (20) days after such notice is effective as an early termination date ("Early Termination Date"). On the Early Termination Date, the Agreement and all obligations due on or after the Early Termination Date under the Transaction(s) (the "Terminated Transaction(s)") shall be terminated except as provided herein. If an Early Termination Date has been designated, the Non-Defaulting Party shall in good faith calculate the Settlement Amount of the Terminated Transaction(s) as of the Early Termination Date (or as soon thereafter as reasonably practicable). The Non-Defaulting Party shall aggregate all amounts due between the Parties into a single net amount (the "Termination Payment") by aggregating or setting off, as appropriate, (i) the Settlement Amount for the Terminated Transaction(s), (ii) all Unpaid Amounts owed to the Non-Defaulting Party, and (iii) all Unpaid Amounts owed to the Defaulting Party. The Non-Defaulting Party shall notify the Defaulting Party in writing of the amount of the Termination Payment due from the Defaulting Party, along with reasonable detail regarding the calculation of such amount. The Defaulting Party shall pay the Termination Payment to the Non-Defaulting Party within two (2) Business Days after the effective date of such notice, with interest accruing at the Interest Rate from the Early Termination Date until the date the Termination Payment is paid in full. If an Early

Termination Date is designated, the Non-Defaulting Party shall be entitled, in its sole discretion, to set-off any amount payable by the Non-Defaulting Party or any of its Affiliates to the Defaulting Party under the Agreement or otherwise, against any amounts payable by the Defaulting Party to the Non-Defaulting Party or any of its Affiliates under the Agreement or otherwise. The Non-Defaulting Party shall also be entitled to apply any Adequate Assurance of Performance posted by the Defaulting Party to the Non-Defaulting Party or any of its Affiliates against any amounts owed to the Non-Defaulting Party. This Section 13 shall be in addition to any right of setoff or other rights and remedies to which any Party is otherwise entitled (whether under the Agreement by operation of law, contract or otherwise). If an obligation is unascertained, the Non-Defaulting Party may in good faith estimate that obligation and set-off in respect of the estimate, subject to the Non-Defaulting Party accounting to the Defaulting Party when the obligation is ascertained.

14. **Force Majeure.** If either Party is rendered unable, wholly or in part, to perform its obligations under the Agreement (other than to make payments due hereunder) due to Force Majeure, then the affected Party (the "Excused Party") shall give prompt notice, either in writing or orally (followed as soon as practicable with written notice), and full particulars of such Force Majeure to the other Party, and the obligations of the Excused Party shall be suspended for the duration of such inability to perform and such cause shall, so far as possible, be remedied with all reasonable dispatch. Neither the Delivering Party nor the Receiving Party shall be liable for any delay or failure in performance if and to the extent such delay or failure in performance is a result of Force Majeure. Notwithstanding the foregoing, it is understood and agreed that the settlement of strikes or lockouts shall be entirely within the discretion of the Party having the difficulty. Where the Force Majeure involves interruption and unavailability of a Party's means of transporting Product to or from the point of delivery, that Party shall have no obligation to seek alternative means of transportation unless the cost and transit time of such substitute transportation to that Party is materially equivalent to, or less than, the cost and transit time of the interrupted means of transportation.

15. **Taxes.** Delivering Party assumes liability for, and must pay, all taxes assessed on or in connection with any production, extraction, processing, manufacture or transport of the Product prior to their delivery to the delivery point (including, without limitation, all severance taxes, royalties, working interest payments, and similar burdens imposed with relation to extraction and production). Any personal property or similar ad valorem taxes levied or assessed by any governmental authority upon ownership of the Product subject to any Transaction must be paid by the Party having title thereto at the time of such assessment. Other than taxes allocated under this Section 15, the Receiving Party assumes liability for, and must pay, all other taxes, fees or charges, now or hereafter enacted, levied or assessed by any federal, state, local or other governmental authority upon, or as a result of the any Transactions, or the Product which is the subject matter of any Transaction, including all new taxes or increases in existing taxes (but excluding the other Party's net income, excess profits, or corporate franchise taxes) imposed by any governmental authority upon the sale, use, delivery, or receipt of the Product. If either Party is exempt from the payment of any taxes allocated to such Party under the foregoing provisions, such Party must furnish the other Party hereto proper exemption documentation. The Parties acknowledge and agree that a Party's tender of any tax exemption documentation to the other Party shall not relieve the providing Party of its underlying obligations in respect of the applicable taxes. **EACH PARTY WILL INDEMNIFY AND HOLD THE OTHER PARTY HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS BROUGHT BY OR AWARDED TO THIRD PARTIES ARISING OUT OF OR CONNECTED WITH ANY TAXES TO BE PAID BY SUCH PARTY PURSUANT TO THIS SECTION 15.** This indemnity obligation includes payment of reasonable attorney's fees and expenses incurred in defense of such Claims. The Parties will cooperate with each other in defending non-taxable Transactions of the Product pursuant to the Agreement if a Party is audited by or on behalf of a taxing jurisdiction for ad valorem, sales, use, excise, or similar taxes, including, but not limited to, producing existing documentation, generating new reports from existing electronic reporting systems and making employees available at no cost, other than reasonable out-of-pocket expenses, to the other Party. Both Parties will, in furtherance of this cooperation agreement, retain

applicable records for a period of not less than the applicable statute of limitations, including any waivers thereof, executed by either Party for any taxes collected by or reimbursed to such Party.

**16. Limitation of Liability.** NOTWITHSTANDING ANYTHING CONTAINED IN THE AGREEMENT TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, SUFFERED BY SUCH PARTY RESULTING FROM OR ARISING OUT OF THE AGREEMENT, INCLUDING WITHOUT LIMITATION, LOSS OF USE, INCREASED COST OF OPERATIONS, LOSS OF PROFIT OR REVENUE OR BUSINESS INTERRUPTIONS, HOWEVER SAME MAY BE CAUSED AND REGARDLESS OF THE OTHER PARTY'S NEGLIGENCE (REGARDLESS OF WHETHER SUCH NEGLIGENCE IS SOLE, JOINT, CONCURRENT, ACTIVE, OR PASSIVE), FAULT, OR LIABILITY WITHOUT FAULT. THE PRECEDING SENTENCE SHALL NOT BE CONSTRUED AS LIMITING THE OBLIGATION OF EITHER PARTY TO INDEMNIFY THE OTHER PARTY AGAINST THIRD PARTY CLAIMS FOR CONSEQUENTIAL, INDIRECT, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES.

**17. Notices.** Unless otherwise specified, any demand, notice or other communication to be given hereunder will be in writing delivered by personal delivery to the address set forth in the Confirmation, or sent to the mailing or email addresses set forth in the Confirmation. A Party may change the addresses set forth in the Confirmation by providing notice to the other Party of such change. All notices will be provided by (w) personal delivery, (x) priority, registered or certified mail (in each case, postage prepaid and return receipt requested), (y) nationally recognized overnight mail or courier service, or (z) email (provided, however that email will only function as notice under the Agreement if it (i) is sent to the exact email address set forth in the Confirmation for the respective Party and (ii) contains a signed writing transmitted via PDF or other similar electronic medium that would in itself constitute notice pursuant to this Section 17 if transmitted pursuant to other physical media). A notice is deemed effective and delivered: (i) if sent by email, on the Day sent, if sent before 5:00 PM on a Business Day, otherwise on the next Business Day; (ii) if sent by overnight mail or courier, then on the next following Business Day; (iii) if provided via personal delivery, upon the Business Day delivered, if delivered before 5:00 PM, otherwise on the next Business Day; and (iv) if sent by priority, registered or certified mail return receipt requested, on the day evidenced by the return receipt. Notwithstanding the foregoing, in the case of personal delivery, overnight mail or courier, and priority, registered or certified mail return receipt requested, if delivery is refused or avoided by a Party, notice will be deemed effective on the date of attempted delivery.

**18. Governing Law; Jurisdiction; Venue.** The Agreement is subject to the jurisdiction of, governed by and construed in accordance with the laws of the State of Texas, without regard to any conflict of laws rules that may direct the application of the law of any other jurisdiction. Any legal action or proceeding arising out of or relating to the Agreement or the relationship between the Parties will be instituted in state or federal courts located in Houston, Texas, and each Party irrevocably submits to the exclusive jurisdiction of such courts. Each Party hereby irrevocably waives, to the fullest extent permitted by Applicable Law, any objection to the jurisdiction of any such court or to venue therein or any claim of inconvenient forum of such court or of sovereign immunity.

**19. Waiver of Jury Trial.** EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM RELATING TO THE AGREEMENT.

**20. Miscellaneous.**

- (a) **Assignment.** The Agreement will extend to and be binding upon the Parties, and their successors and permitted assigns, but neither Party may assign the Agreement without the prior written consent of the other Party, which such consent will not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, each Party has the right, without the necessity of obtaining the other Party's consent, to (i) transfer, sell, pledge, encumber or assign the Agreement (in its entirety or partially with respect to any particular Transaction(s)) or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements entered into by or on behalf of (directly or indirectly) such Party, (ii)

transfer or assign the Agreement to an Affiliate of such Party, however, if the Affiliate's creditworthiness is less than the assigning Party's creditworthiness, the assigning Party, or its guarantor, shall be required to provide a Guaranty to the non-assigning Party, or (iii) transfer or assign the Agreement to any Person succeeding to all or substantially all of the assets of such Party if such Person's creditworthiness is greater than or equal to the assigning Party's creditworthiness.

- (b) **Confidentiality.** Neither Party shall disclose, directly or indirectly without the prior written consent of the other Party, the terms of any Transaction to a third party (other than the Affiliates, employees, investors, lenders, counsel, accountants and other agents of such Party, or prospective purchasers of all or substantially all of such Party's assets, provided such persons shall have agreed to keep such terms confidential) except in order to comply with any applicable law, order or regulation, including any regulatory agency's reporting requirements, or regulations of an applicable stock exchange. In the event that disclosure is required by a governmental body, stock exchange or applicable law, the Party subject to such requirement may disclose the terms of Transactions to the extent so required, but shall promptly notify the other Party, prior to disclosure, and shall cooperate (consistent with the disclosing Party's legal obligations) with the other Party's efforts to obtain protective orders or similar restraints with respect to such disclosure at the expense of the other Party.
- (c) **No Third Party Beneficiary.** Other than Persons expressly within the scope of any indemnity given in the Agreement, nothing in the Agreement or any documents arising from any Transactions, unless mutually agreed by the Parties in a writing to the contrary, will entitle any Person other than the Parties or such indemnitees, or their successors or permitted assigns, to any Claim, remedy or right of any kind relating to any of the Transactions.
- (d) **Waiver; Amendments, Severability.** Waiver by either Party of the breach of any provision(s) by the other Party shall not be deemed to be a waiver of the breach of any other provision(s) or of any subsequent or continuing breach of such provision(s). No alteration or amendment of the Agreement, or waiver of any of its provisions, shall be binding upon either Party unless the same be in writing and signed by the Party charged or deemed binding upon such Party pursuant to Section 2(b). The invalidity of any one or more covenants or provisions of the Agreement will not affect the validity of any other provisions hereof or the Agreement as a whole, and in case of any such invalidity, the terms of the Agreement shall be construed to the maximum extent possible as if such invalid provision had not been included therein.
- (e) **Survival.** Sections 1, 2(c), 2(d), 4, 8, 9, 11, 12, 13, and 15 through 21, shall survive termination or expiration of the Agreement and any Transaction, in addition to any provisions which by their nature should, or by their express terms do, survive or extend beyond termination or expiration of the Agreement.
- (f) **Prior Agreements Superseded; Entire Agreement; Counterparts.** The Agreement contains the entire agreement between the Parties with respect to the subject matter covered and supersedes all prior understandings, drafts, discussions, or statements, whether oral or in writing, expressed or implied, dealing with the same subject matter. The Confirmation, if signed, may be executed in counterparts (including by PDF or other electronic means), each of which when executed and delivered shall be deemed to constitute one and the same agreement.
- (g) **Imaged Agreements.** The Confirmation or other related documents may be recorded, photocopied and/or stored electronically (the "Imaged Agreement"), and if introduced as evidence in any judicial, arbitration, mediation or administrative proceedings, (i) will be admissible as between the Parties to the same extent and under the same conditions as other business records originated and maintained in documentary form, and (ii) neither Party shall object to the admissibility of the Imaged Agreement on the basis that such were not

originated or maintained in documentary form under the hearsay rule, the best evidence rule or any other rule of evidence.

21. **Definitions.**

"Adequate Assurance of Performance" means sufficient security in the form, amount and for the term reasonably acceptable to the Party demanding the same, including a standby irrevocable letter of credit issued by a Qualified Institution or a prepayment.

"Affiliate" means any Person controlled, directly or indirectly, by the Party, any Person that controls, directly or indirectly, the Party or any Person directly or indirectly under common control with the Party. "Control" shall mean (i) ownership, directly or indirectly, of either the outstanding voting stock of the controlled Person or any other ownership interest in the controlled Person is such interest has, directly or indirectly, the power to direct or cause the direction of the management and policies of such relevant Person or (ii) operational control of the controlled Person pursuant to an operating agreement, management agreement or other contractual rights.

"API" means American Petroleum Institute.

"ASTM" means American Society for Testing and Materials.

"Barrel" means forty-two (42) Gallons.

"Business Day" means any day on which Federal Reserve member banks in Houston, Texas, are open for business.

"Claims" means any claim, demand, cause of action, proceeding, judgment, penalty, fee, cost and expenses (including court costs, any cost or expense of incident investigation and reasonable attorney's fees) or any liability arising from or on account of injury, death or damage.

"Component" means each of the five individual hydrocarbon constituents contained in Raw Product including ethane, propane, isobutane, normal butane and natural gasoline (with natural gasoline including all pentane and heavier hydrocarbon Components).

"Confirmation" means a written document or Electronic Record setting forth the terms of a Transaction as agreed to by the Parties.

"Delivering Party" means the Party delivering any Product with regard to a particular Transaction.

"Electronic Record" means a record created, stored, generated, received, or communicated by electronic means, including but not limited to the use of a mobile device, computer program, electronic data interchange, electronic mail, telex, telecopy, or scanner.

"Force Majeure" shall mean any cause, whether of the kind enumerated herein or otherwise, which is not within the control of the Party claiming suspension and which by the exercise of reasonable diligence such Party is unable to prevent or overcome, and which wholly or partially prevents or delays such Party's performance of any of its obligations under the Agreement, including any of the following which satisfy the foregoing criteria: (i) acts of God; (ii) strikes, lockouts or other industrial disputes or disturbances; (iii) acts of the public enemy, sabotage, wars, blockades, insurrections, riots and other civil disturbances; (iv) cyberattacks or any other cyber event or intrusion whether by malicious code, social engineering or other means, including, but not limited to, a software virus, data breaches, malware, ransomware, breach of firewalls or intrusion detection systems, denial of service or other similar events; (v) epidemics, pandemic or outbreak of infectious disease, including quarantine or other employee restrictions; (vi) brine handling or supply constraints; (vii) storms, landslides, floods, lightning, earthquakes, fires, tornadoes, hurricanes, freezing of wells or lines of pipe, or other weather events that necessitate extraordinary measures and expense to maintain operations, and warnings for any of the foregoing which may necessitate the precautionary shut-down of wells, plants, pipelines, gathering systems, loading facilities, refineries, terminals or any portion thereof, or other related facilities; (viii) arrests and restraints of governments (either federal, state, civil or military); (ix)

explosions, breakage or accidents to equipment, machinery (including computer operated machinery or equipment and any malfunction of its underlying software), plants or any portion thereof, or lines of pipe, or the making of repairs or alterations to any of the foregoing necessitated as a result of a Force Majeure event; (x) inability to secure labor or materials at a reasonable rate after the exercise of reasonable diligence, which are required for a Party's performance hereunder; (xi) electric power shortages or outages; (xii) the necessity to not operate, or to reduce the operation of, equipment to protect the safety of the public and/or environment, or (xiii) the necessity for compliance with any court order, or any law, statute, ordinance, rule, regulation or order promulgated, after the date of the Confirmation, by a governmental authority having or asserting jurisdiction. The term "Force Majeure" shall also include any event of Force Majeure, as defined herein, occurring with respect to the facilities or services of any third party or Affiliate supplier of a Party which prevents such third party or Affiliate supplier from providing any service or equipment, goods, supplies or other items which, in each case, is necessary for such Party's performance of its obligations under the Agreement. Notwithstanding the foregoing, "Force Majeure" shall not include: (i) as to the Receiving Party, loss of market, a downturn in the market price for the Product, failure or inability of the Receiving Party to resell or otherwise dispose of such Product, or any other similar cause or causes; (ii) economic hardship, to include, without limitation, the Delivering Party's ability to sell, or the Receiving Party's ability to purchase, the Product at a more advantageous price; (iii) a governmental authority having competent jurisdiction and disallowing in whole or in part the pass through of costs resulting from the Agreement or imposing a tax on the purchase, transportation or resale of Product; or (iv) economic or political events which prevent or negatively impact either of the Parties or their financial statements, share values (or those of an Affiliate), debt obligations or general operations.

"Gallon" means a U.S. Gallon of 231 cubic inches of liquid corrected for temperature to 60 degrees Fahrenheit and at the equilibrium vapor pressure of the liquid.

"GPA" means the GPA Midstream Association.

"Guaranty" means a guaranty provided on behalf of a Party to secure all payment obligations of such Party to the other Party. The guaranty, if required, shall be in form and substance reasonably satisfactory to the Party receiving the same.

"Insolvency Event" means the Party or its guarantor (i) makes a general assignment for the benefit of its creditors, (ii) commences a proceeding under applicable bankruptcy law or other law for the relief of debtors, (iii) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or readjustment of debts, (iv) has a trustee, custodian, conservator, receiver or similar official appointed for it, or for a substantial part of its property; (v) becomes insolvent or is unable to pay its debts as they become due; or (vi) incurs any involuntary bankruptcy, reorganization, debt arrangement, or proceeding under any applicable bankruptcy, insolvency or other similar law for the relief of debtors or any dissolution or liquidation proceeding is instituted against the Party or its guarantor.

"Interest Rate" means (i) with respect to a Non-Defaulting Party, a per annum rate of interest equal to the prime lending rate published in *The Wall Street Journal* under "Money Rates" and (ii) with respect to a Defaulting Party, a per annum rate of interest equal to two percent (2%) over such prime lending rate; provided, however, in either case the Interest Rate shall not exceed the maximum lawful rate.

"Off-Spec Product" is Product that is contaminated or otherwise fails to meet the applicable specifications under Section 5(d).

"OPIS Index" means the monthly average of the daily high and low prices per Gallon, for the month of delivery, as quoted by the Oil Price Information Service ("OPIS") in the OPIS-LP-Gas Report for "Any Current Month" under "Mont Belvieu Spot Gas Liquids Prices" using (i) the Non-

TET prices for the propane, isobutane, normal butane, and natural gasoline Components; and (ii) the Purity Ethane price for the ethane Component.

"PDF" means portable document format.

"Person" means an individual, corporation, limited liability company, partnership, joint venture, unincorporated organization or any other legal entity.

"Product" means (i) the natural gas liquids product(s) or Component(s) of natural gas liquids, and/or (ii) Raw Product, as applicable, that is the subject of a purchase, sale or exchange Transaction executed by the Parties.

"Qualified Institution" means an entity that (i) is a United States commercial bank or the United States branch of a foreign bank, (ii) has a credit rating of at least A- by Standard & Poor's Financial Services, LLC, a subsidiary of The McGraw-Hill Companies, Inc. or its successor, or at least A3 by Moody's Investors Service, Inc. or its successor, and (iii) has total assets of at least \$10,000,000,000.00.

"Raw Product" means a mixture of liquids hydrocarbons extracted and/or produced from gas.

"Receiving Party" means the Party receiving any Product with regard to a particular Transaction.

"Settlement Amount" of a Transaction, on any date, means the amount, as calculated by the Non-Defaulting Party in a commercially reasonable manner, which the Non-Defaulting Party would pay to or receive from a third party in an arm's-length transaction as consideration for the third party's entry into a new transaction in which: (i) the Non-Defaulting Party holds the same position as it currently holds in the subject Transaction; (ii) the third party holds the same position as the Defaulting Party holds in the subject Transaction; and (iii) the new transaction has economic terms and conditions substantially the same in all respects to the economic terms and conditions of the subject Transaction, except that the date of calculation shall be deemed to be the date of commencement of the new transaction. In making such determination, the Non-Defaulting Party may consider, among other things, quotations from leading dealers in the relevant market.

"Transaction" means a purchase, sale or exchange of a Product for physical delivery to Receiving Party, or its designated agent, incorporating the terms and provisions contained in these GTCs, as evidenced in a Confirmation.

"Unpaid Amounts" means any unpaid amounts due and payable under the Agreement, whether due prior to or after any Early Termination Date (but excluding any Settlement Amounts), including but not limited to reasonable attorneys' fees and other expenses payable pursuant to Section 13.



## **Attachment A**

to General Terms and Conditions for the Purchase, Sale and Exchange of Natural Gas  
Liquids/Raw Product

**This procedure governs the handling of claims by Receiving Party of Product delivered via railcar alleging that the amount of Product in a delivered railcar is less than the net volume set forth on a bill of lading (such claim, a “Shortage Claim”).**

1. **Shortage Claim Content.** A valid Shortage Claim must be made *in writing* (email acceptable) to the notice address set forth in the applicable Confirmation and must contain the following information:
  - a. A copy of the applicable original bill of lading (“B/L”).
  - b. Total volume of Product in the railcar as measured by Receiving Party at Receiving Party’s destination location (“Receiving Party Measured Volume”).
  - c. The alleged Product shortage volume (“Shortage”) (i.e., the difference between the B/L net volume and the Receiving Party Measured Volume). **THE SHORTAGE MUST BE GREATER THAN TWO PERCENT (2%) OF THE B/L NET VOLUME.**
  - d. Date and approximate time of Actual Placement/Constructive Placement (as defined below).
  - e. Any supporting documentation reasonably necessary to process Receiving Party’s Shortage Claim.

**IF ANY OF THE REQUIREMENTS SET FORTH IN SECTION 1.A THROUGH SECTION 1.E IS INCOMPLETE, ERRONEOUS OR OTHERWISE NOT MET, DELIVERING PARTY WILL HAVE NO LIABILITY WITH RESPECT TO RECEIVING PARTY’S SHORTAGE CLAIM AND SUCH CLAIM WILL NOT BE PROCESSED BY DELIVERING PARTY.**

2. **Shortage Claim Timing.**
  - a. Any Shortage Claim must be submitted to Delivering Party within two (2) Business Days of Actual Placement or within ten (10) days of Constructive Placement. “Actual Placement” means the placement of the railcar in an accessible position for loading or unloading at Receiving Party’s location. “Constructive Placement” means the placement of the railcar where such railcar (i) cannot be Actually Placed or delivered to the Receiving Party’s location and (ii) is held by the railroad awaiting disposition instructions, released by rail switching provider, or cleared for release or uncoupled from the locomotive.
  - b. Receiving Party must receive Delivering Party’s permission *in writing* (email acceptable) at the notice address set forth in the Sales Agreement prior to unloading the railcar.

Delivering Party must be given the opportunity to inspect the railcar at Receiving Party’s destination location utilizing a mutually agreed upon third party inspector within two (2) Business Days after Delivering Party receives Receiving Party’s Shortage Claim, with such inspector to be appointed by Delivering Party. Delivering Party may only waive its inspection right by providing Receiving Party with written notice (email acceptable) of such waiver within twenty-four (24) hours of receiving Receiving Party’s Shortage Claim. In lieu of a third party inspection, Delivering Party may require Receiving Party

to provide clear photographs of the (i) railcar gauge and (ii) temperature as measured by a thermometer that meets applicable API measurement standards.

**IF RECEIVING PARTY BREACHES OR FAILS TO TIMELY MEET ANY OF THE REQUIREMENTS SET FORTH IN SECTION 2.A THROUGH SECTION 2.C, RECEIVING PARTY WAIVES ANY AND ALL CLAIMS RELATED TO PRODUCT QUANTITY/SHORTAGE FOR THE APPLICABLE RAILCAR AND DELIVERING PARTY WILL HAVE NO LIABILITY WITH RESPECT TO RECEIVING PARTY'S SHORTAGE CLAIM.**

3. **Shortage Claim Adjustments/Costs.**

- a. In the event Delivering Party accepts Receiving Party's Shortage Claim, as Receiving Party's sole and exclusive remedy for such Shortage Claim, Delivering Party will issue:
  - i. A revised invoice that reduces the original invoiced sales volume by an amount equal to (i) the Shortage *less* the product of (ii) (a) the original B/L net volume for the applicable railcar *multiplied by* (b) 0.02 (such revised volume, the "Corrected Volume"); and
  - ii. A revised B/L reflecting a reduced Product volume equal to the Corrected Volume.
- b. In the event a third party inspection is performed pursuant to Section 2.c and such inspection determines that the Shortage is equal to or less than two percent (2%) of the original B/L net volume, Receiving Party will bear the expense of such inspection. In the event a third party inspection is performed pursuant to Section 2.c and such inspection determines that the Shortage is greater than two percent (2%) of the original B/L net volume, Delivering Party will bear the expense of such inspection.