



2014 Edition

General Terms and Conditions

For Petroleum Product Purchases and Sales

Table of Contents

PART I: GENERAL AND DEFINITIONS	1
ARTICLE 1. GENERAL	1
Section 1.1. Applicability	1
Section 1.2. Agreement Formation	1
Section 1.3. Priority of Terms	1
Section 1.4. Use of Incoterms	1
Section 1.5. Rules of Construction	1
ARTICLE 2. DEFINITIONS	2
PART II: TERMS APPLICABLE TO TITLE AND RISK OF LOSS	7
ARTICLE 3. TITLE AND RISK OF LOSS	7
Section 3.1. Vessel Deliveries	7
Section 3.2. Truck and Railcar Deliveries	7
Section 3.3. Pipeline Deliveries	8
Section 3.4. Deliveries Into/Out of Storage Tank	9
Section 3.5. Book, Stock, Inventory Transfer	9
Section 3.6. Bills of Lading and Title and Risk of Loss	9
PART III: MEASUREMENT OF QUALITY AND QUANTITY	10
ARTICLE 4. QUANTITY, QUALITY AND INSPECTION	10
Section 4.1. General Provisions Governing All Delivery Methods	10
Section 4.2. Specific Provisions for Vessel Deliveries	11
Section 4.3. Specific Provisions for Truck and Railcar Deliveries	13
Section 4.4. Specific Provisions for Pipeline Deliveries	13
Section 4.5. Specific Provisions for Stock Transfer	13
Section 4.6. Quality and Quantity Claims	14
PART IV: TERMS APPLICABLE TO ALL DELIVERIES	15
ARTICLE 5. PAYMENT	15
Section 5.1. Payment Terms	15
Section 5.2. Required Documentation	15
Section 5.3. Provisional Invoicing	16
Section 5.4. Split Weekend Clause	16
Section 5.5. Interest	16
Section 5.6. Netting	16
Section 5.7. Facsimiles or PDF Transmission	16

Table of Contents

ARTICLE 6. CREDIT	17
Section 6.1. Financial Responsibility	17
Section 6.2. Letter of Credit	17
ARTICLE 7. REPRESENTATIONS AND WARRANTIES	17
Section 7.1. Title	17
Section 7.2. Product Specifications	17
Section 7.3. Disclaimer of Warranties	18
ARTICLE 8. TAXES; CUSTOMS	18
Section 8.1. Responsibility for Payment	18
Section 8.2. Tax Reimbursement	19
Section 8.3. Property Taxes	19
Section 8.4. Tax Withholding	19
Section 8.5. VAT and Excise Duty – UK and EU Sales	19
Section 8.6. Exemptions	21
Section 8.7. Excise Taxes on Product Delivered on Two Party Exchanges	21
Section 8.8. Duty Drawback	21
Section 8.9. Importer of Record	21
Section 8.10 Certificates of Origin	22
ARTICLE 9. FORCE MAJEURE	22
Section 9.1. Force Majeure Events	22
Section 9.2. Effect of Force Majeure	22
Section 9.3. Notice	23
Section 9.4. Termination	23
ARTICLE 10. ALLOCATION	23
ARTICLE 11. HAZARD WARNING RESPONSIBILITY	23
ARTICLE 12. COMPLIANCE WITH APPLICABLE LAW	24
Section 12.1. Compliance Generally	24
Section 12.2. RBOB	24
Section 12.3. Toluene	24
Section 12.4. REACH Compliance	24
ARTICLE 13. NEW OR CHANGED APPLICABLE LAWS	25
ARTICLE 14. DEFAULT; REMEDIES	25
Section 14.1. Default	25
Section 14.2. Remedies	26
ARTICLE 15. TERMINATION AND LIQUIDATION	26
ARTICLE 16. INDEMNITY	27

ARTICLE 17. CHOICE OF LAW; JURISDICTION	27
ARTICLE 18. LIMITATION OF LIABILITY	27
ARTICLE 19. NOTICES	28
ARTICLE 20. SANCTIONS AND BRIBERY	29
Section 20.1. Sanctions and Destination Restrictions	29
Section 20.2. Anti-Corruption	30
Section 20.3. Compliance with Trade Restrictions	30
ARTICLE 21. MISCELLANEOUS	31
Section 21.1. Assignment	31
Section 21.2. Waiver of Sovereign Immunity	31
Section 21.3. Rights of Third Parties	31
Section 21.4. Deadfreight	31
Section 21.5. No Waiver	31
Section 21.6. Right to Audit Books and Records	31
Section 21.7. Independent Contractor	32
Section 21.8. Survival	32
Section 21.9. Severability	32
Section 21.10. Amendment	32
Section 21.11. Entire Agreement	32
PART V: ADDITIONAL TERMS APPLICABLE TO RENEWABLE FUELS AND RENEWABLE IDENTIFICATION NUMBERS (RINS) PURCHASE AND SALES	33
ARTICLE 22. GENERAL PROVISIONS GOVERNING RENEWABLE FUELS AND RINS	33
ARTICLE 23. REPRESENTATIONS AND WARRANTIES	33
Section 23.1. Representations and Warranties of Seller	33
Section 23.2. Representations and Warranties of Each Party	33
ARTICLE 24. TRANSFER OF RINS	33
ARTICLE 25. PRODUCT COMPLIANCE	34
ARTICLE 26. SELLER'S FAILURE TO INITIATE RINS OR DELIVER VALID RINS	34
ARTICLE 27. CHANGE IN LAW	35
ARTICLE 28. LIMITATION OF LIABILITY – FINES AND PENALTIES	35
Exhibit A	36

PART I: GENERAL AND DEFINITIONS

ARTICLE 1. GENERAL

Section 1.1. Applicability.

These General Terms shall apply to the Special Provisions between Seller and Buyer to which these General Terms are attached or incorporated by reference. The Marine Provisions shall apply to every Transaction involving waterborne transportation or in any other Transaction for which they are incorporated by reference in the Special Provisions. Capitalized terms that are used, but not defined, in these General Terms shall have the meanings ascribed to them in the Marine Provisions (where the Marine Provisions form part of the relevant Agreement), unless the context clearly requires otherwise.

Section 1.2. Agreement Formation.

The Parties shall be deemed to have entered into a Transaction, and a Transaction shall become effective and binding upon the Trade Date.

Section 1.3. Priority of Terms.

If there is a conflict between the Special Provisions and these General Terms or between the Special Provisions and the Marine Provisions (if applicable), the Special Provisions shall govern. If there is a conflict between the Marine Provisions (if applicable) and these General Terms, the Marine Provisions shall govern.

Section 1.4. Use of Incoterms.

Whenever the terms EXW, FCA, CPT, CIP, DAT, DAP, DDP, FAS, FOB, CFR or CIF are used in the Special Provisions, they shall have the meanings given them in the 2010 edition of the Incoterms, subject to any modifications contained elsewhere in the Agreement. Whenever the terms DAF, DES, DEQ or DDU are used in the Special Provisions, they shall have the meanings given them in the 2000 edition of the Incoterms, subject to any modifications contained elsewhere in the Agreement. In the event of any conflict between any Incoterms referenced in the Agreement and the other terms of the Agreement, the other terms of the Agreement shall govern.

Section 1.5. Rules of Construction.

The following rules of construction will govern the interpretation of the Agreement, except where the context clearly requires otherwise: (a) references to “**days**,” “**months**,” and “**years**” will mean calendar days, months and years unless otherwise indicated; (b) the word “**including**” does not limit the preceding word or phrase; (c) any reference in these General Terms to a “**Part**,” “**Article**” or “**Section**” shall be to the corresponding Part, Article or Section of these General Terms, unless the context requires otherwise; (d) Part, Article and Section headings are for convenience of reference only and do not affect interpretation; (e) the words “**hereof**,” “**herein**,” and “**hereunder**” and words of similar meaning refer to the Agreement

as a whole and not to any particular provision of the Agreement; (f) no rule of construction interpreting the Agreement against the drafter will apply; (g) words in the singular include the plural and vice versa; (h) words denoting gender include all genders; and (i) risk of loss includes risk of damage and/or contamination and/or deterioration.

ARTICLE 2. DEFINITIONS

“**Affiliate**” means any entity that, directly or indirectly, controls, is controlled by, or is under common control with the referenced entity, including the referenced entity’s parent. In this definition, “**control**” means the power to direct the management and policies of an entity, directly or indirectly, whether through the ownership of voting securities, by contract, or otherwise.

“**Agreement**” means and includes the following documents in connection with each separate sale/purchase/exchange entered into by and between Buyer and Seller: (A) the Special Provisions (including amendments thereto); (B) the Marine Provisions (if applicable); and (C) these General Terms, and any schedules attached hereto or thereto.

“**Anti-Bribery Laws**” has the meaning specified in Section 20.2 of these General Terms.

“**API**” means American Petroleum Institute.

“**Applicable Law**” shall mean any applicable statute, law, regulation, ordinance, rule, judgment, rule of law, order, decree (including, without limitation, any consent decree), permit, approval, license, requirement, or other governmental restriction or any similar form of decision of, or any provision or condition of any permit, license or other operating authorization issued under any of the foregoing by, or any determination by any Governmental Authority having or asserting jurisdiction over the matter or matters in question, whether now or hereafter (unless otherwise specifically limited herein to those only in effect on the date of the Agreement) in effect and in each case as amended (including without limitation, all of the terms and provisions of the common law of such Governmental Authority), as interpreted and enforced at the time in question.

“**ASTM**” means ASTM International, formerly known as the American Society for Testing and Materials.

“**Barrel**” and “**BBL**” means 42 US Gallons measured at 60 degrees Fahrenheit (60°F) or 15 degrees Celsius (15°C).

“**Business Day**” means a day on which banks are open for general commercial business in New York, New York.

“**Buyer**” means the Party identified as the buyer (or purchaser) of the Product in the Special Provisions. For Product exchanges, whichever Party is receiving delivery of the Product shall be the “Buyer” for that portion of the exchange and shall be the “Seller” with respect to the Product such Party is delivering in exchange.

“**CFR**” means the US Code of Federal Regulations.

“**Credit Support Provider**” means a Guarantor or other Person providing credit support for such Party under the Agreement.

“**Deficient RIN**” has the meaning specified in Article 26 of these General Terms.

“**Delivery Port**” means the marine port or terminal at which the Product is intended to be delivered as specified in the Special Provisions or is actually discharged from the Vessel.

“**Drawback**” means a right under Applicable Law to receive a refund, reduction or waiver, in whole or in part, of any customs duties or similar Taxes assessed upon importation.

“**EMCS**” has the meaning specified in Section 8.5 of these General Terms.

“**EMTS**” means the EPA Moderated Transaction System or any replacement or successor system designated by the EPA.

“**Estimated Price**” has the meaning specified in Section 5.3 of these General Terms.

“**EU**” means the European Union.

“**EPA**” means the US Environmental Protection Agency, and any successor Governmental Authority.

“**Event of Default**” has the meaning specified in Section 14.1 of these General Terms.

“**Force Majeure**” has the meaning specified in Section 9.1 of these General Terms.

“**Forward Contract**” has the meaning specified in Section 15 of these General Terms.

“**Gallon**” means a US gallon of 231 cubic inches at 60 degrees Fahrenheit (60°F) or 15 degrees Celsius (15°C).

“**General Terms**” means these General Terms and Conditions for Petroleum Product Purchases and Sales.

“**Governmental Authority**” means any federal, state, local, foreign government, any provincial, departmental or other political subdivision thereof, or any entity, body or authority exercising executive, legislative, judicial, regulatory, administrative or other governmental functions or any court, department, commission, board, bureau, agency, instrumentality or administrative body of any of the foregoing.

“**Guarantor**” means, with respect to a Party, a third party who has guaranteed one or more obligations of the Party under the Agreement.

“**HM Revenue & Customs**” means Her Majesty’s Revenue and Customs department of the government of the UK, and any successor Governmental Authority.

“**Incoterms**” shall mean the trade terms published by the International Chamber of Commerce.

“**Independent Inspector**” means a duly licensed Person, appointed as mutually agreed by Seller and Buyer, that performs a quantity or quality determination with respect to the Product received or delivered hereunder.

“**Initiate**” means the submission of a sell transaction in EMTS by Seller or Buyer; provided, however, that a Seller shall not be deemed to have submitted any RINs where either Party cancels such transaction in EMTS before the other Party accepts it in EMTS.

“**Interest Rate**” means an annual rate (based on a 360-day year) equal to the lesser of (i) two percent (2%) over the prime rate as published under “Money Rates” in the Wall Street Journal in effect at the close of the Business Day on which payment was due and (ii) the maximum rate permitted by Applicable Law.

“**IRS**” means the US Internal Revenue Service, and any successor Governmental Authority.

“**Liquidating Party**” shall have the meaning specified in Article 15 of these General Terms.

“**Loadport**” means the loading facility (including the berth, dock, anchorage, submarine line, single point or single berth mooring facility, offshore location, alongside Vessels or lighters or any other loading place) at which the Product is intended to be loaded as specified in the Special Provisions.

“**Losses**” has the meaning specified in Article 16 of these General Terms.

“**LPG**” means liquefied petroleum gas.

“**Marine Provisions**” mean the version of Valero Marketing and Supply Company Marine Provisions in effect at the time of the respective delivery under the Agreement.

“**Measurement Tolerance**” shall mean +/- one-eighth (1/8) of an inch measurement of all involved Vessel and shore tanks.

“**NAFTA**” means the North American Free Trade Agreement.

“**OBQ**” means on board quantity.

“**Parties**” means both Seller and Buyer and “**Party**” means either Seller or Buyer, as the context requires.

“**Person**” means an individual, corporation, limited liability company, partnership (general or limited), trust, business trust, unincorporated association, joint venture, joint-stock company, or any other entity of whatever nature.

“**Position holder**” has the meaning specified in Section 8.7 of these General Terms.

“**Product**” means the refined petroleum product, crude oil, condensate, LPG, feedstock, chemical, ethanol, renewable fuel or other substance or material of any nature that is identified in the Special Provisions as being the subject of the sale, purchase, exchange or other transaction between the Parties.

“**Product Transfer Document**” means such document(s) as may be required pursuant to the RFS Program.

“**PTO**” means product transfer order.

“**Qualified Replacement RIN**” means a valid RIN of the same D-Code (as that term is defined in the RFS Program) as that specified in the Special Provisions and generated either in the same year specified in the relevant Special Provisions, or if RINs generated in the year specified in the Special Provisions are not reasonably available in the market or have expired, the then current compliance year.

“**RBOB**” means reformulated blendstock for oxygenate blending.

“**Renewable Fuel**” is as defined under the RFS Program.

“**RFS Program**” means Renewable Fuel Standard Program under the Energy Policy Act of 2005 and the Energy Independence and Security Act of 2007 and implementing regulations, including without limitation, 40 CFR Part 80 Subpart M, as the same may be amended from time to time.

“**RINs**” means Renewable Identification Numbers generated pursuant to the RFS Program.

“**RIN Transfer Date**” shall have the meaning specified in Article 24 of these General Terms.

“**Sanctions Laws**” means all Applicable Laws concerning sanctioned and/or embargoed countries, entities and individuals administered or enforced by the US government, the United Nations Security Council, the EU, Her Majesty’s Treasury, and/or the Canadian government.

“**Seller**” means the Party identified as the seller of the Product in the Special Provisions. For Product exchanges, whichever Party is making delivery of the Product shall be the “Seller” for that portion of the exchange and shall be the “Buyer” with respect to the Product such Party is receiving in exchange.

“**Special Provisions**” means the specific terms for a particular Transaction agreed to between the Parties that incorporate these General Terms to form the Agreement for the Transaction.

“**Taxes**” means any and all foreign, federal, state and local taxes, duties, fees and charges of every description, including all motor fuel, excise, gasoline, aviation fuel, special fuel, diesel, environmental, spill, gross earnings or gross receipts and sales and use taxes, however designated, paid or incurred with respect

to the purchase, storage, exchange, use, manufacture, production, transportation, resale, importation, exportation or handling of the Product; provided, however, that "Taxes" shall not include: (i) any tax imposed on or measured by net profits, gross or net income, or gross receipts (excluding, for the avoidance of doubt, any transaction taxes such as sales, use, gross earnings or gross receipts or similar taxes that are based upon gross receipts, gross earnings or gross revenues received only from the sale of petroleum products, which are included in the definition of "Taxes"); (ii) any tax measured by capital value or net worth, whether denominated as franchise taxes, doing business taxes, capital stock taxes or the like; (iii) business license or franchise taxes or registration fees; or (iv) any ad valorem or personal property taxes.

"Trade Date" means the moment on a particular date when the Parties agree orally or otherwise upon the economic terms of a Transaction or, if an amended Transaction, when the Parties have agreed to amendment(s) to the Transaction.

"Transaction" means an agreement to sell, purchase, or exchange Product between the Parties.

"Typicals" means a quality or characteristic attributed to Product from a particular source, without representation or warranty that any particular cargo or delivery of Product from such source will have that same quality or characteristic.

"UK" means United Kingdom.

"United States Principal Party in Interest" shall have the meaning set forth in the US Foreign Trade Regulations, Part 30 of Title 15 of the CFR.

"US" means United States of America.

"USC" means the United States Code.

"VAT" means value added tax.

"VEF" means vessel experience factor.

"Vessel" has the meaning given such term in the Marine Provisions.

PART II: TERMS APPLICABLE TO TITLE AND RISK OF LOSS

ARTICLE 3. TITLE AND RISK OF LOSS

Section 3.1. Vessel Deliveries.

- a) FOB/CFR/CIF/CPT/CIP Vessel Deliveries. For FOB, CFR, CIF, CPT, or CIP transactions, title to and risk of loss of the Product shall pass from Seller to Buyer as the Product passes the first permanent hose connection of the Vessel. If the Agreement requires CIF or CIP Vessel delivery, Seller shall only be obligated to procure a negotiable insurance certificate for one hundred and ten percent (110%) of the purchase price of the Product.
- b) DES/DDU/DDP/DAP/DAT Vessel Deliveries. For DES, DDU, DDP, DAP or DAT transactions, title to and risk of loss of the Product shall pass from Seller to Buyer as the Product passes from the delivery Vessel's last permanent discharge flange and into the first flange at the Delivery Port.

Section 3.2. Truck and Railcar Deliveries.

- a) Generally. Seller shall make and Buyer shall receive truck and railcar deliveries at such times within the contract delivery window as specified in the Special Provisions. At the time of delivery, Seller shall prepare and furnish Buyer with copies of bills of lading and other shipping papers specified in the Special Provisions.
- b) Deliveries Into Truck or Railcar.
 - i) FCA. For FCA deliveries into truck or railcar, delivery of the Product shall be made to Buyer at the truck or rail loading terminal designated by Seller. Title and risk of loss shall pass from Seller to Buyer as the Product passes the last discharge flange of the loading facility designated by Seller and into Buyer's designated truck or railcar. Notwithstanding anything to the contrary express or implied elsewhere in the Agreement, Seller shall have the right to refuse, on any reasonable ground, to accept any truck or railcar nominated by Buyer. Seller shall not be liable for any loss or damage, direct or indirect, which Buyer may suffer as a result of Seller exercising such right.
 - ii) CPT. For CPT deliveries into truck or railcar, delivery of the Product shall be made to Buyer into Seller's designated truck or railcar at Seller's designated loading facility. Title and risk of loss shall pass from Seller to Buyer as the Product passes the last discharge flange of Seller's loading facility and into Seller's designated truck or railcar.
- c) Deliveries By Truck or Railcar. For deliveries by truck or railcar, delivery of the Product shall be made to Buyer at Buyer's designated truck or railcar delivery point designated in the Special Provisions. For deliveries by truck, title and risk of loss shall pass from Seller to Buyer as the Product passes from

Seller's designated truck into the first intake flange at the delivery point designated in the Special Provisions. For deliveries out of railcar, title and risk of loss shall pass from Seller to Buyer upon arrival of the railcar at the delivery point designated in the Special Provisions.

d) Additional Requirements for Rack Sales.

- i) Buyer shall be solely responsible for ensuring that it or its carrier, as applicable, has entered into all requisite facility access agreements and/or similar agreements required in order for Buyer's (or its carrier's) trucks or railcars to access the loading rack.
- ii) Unless otherwise stated in the Special Provisions, if the Agreement is for recurring liftings at one or more terminals, Buyer shall submit a rack demand forecast by terminal for each month on or before the fifteenth (15th) day of the preceding month. Using the demand forecast as a guide, Buyer shall withdraw Product on a ratable basis throughout each month and, without Seller's consent, may not withdraw more than one hundred and ten percent (110%) of its forecasted volume in any month (unless otherwise stated in the Special Provisions). If Buyer fails to submit such a forecast, Seller may set volume withdrawal limits in accordance with Buyer's historical withdrawals or as otherwise determined by Seller. In addition, Seller may utilize lifting controls to ensure that Buyer withdraws Product on a ratable basis.

e) Other Railcar Provisions.

- i) Demurrage and Detention. For the purpose of railcar demurrage and detention, the time, rates, and payment shall be as specified in the Special Provisions.
- ii) No Diversion. No Party shall divert railcars or consign them to any other routing or to any other destination than that set forth in the bill of lading instructions without obtaining the prior written consent of the other Party. All diversion charges, additional freight charges and any other costs or expenses incurred, sustained or paid from such diversion shall be for the account of the Party that requests the diversion.

Section 3.3. Pipeline Deliveries.

- a) Generally. Nominations for pipeline delivery shall be given during normal business hours in accordance with the applicable pipeline's policies and time constraints.
- b) Into Pipeline. Title and risk of loss shall pass from Seller to Buyer as the Product passes the inlet flange of the receiving pipeline or as the Product otherwise passes the delivery point along the pipeline as specified in the Special Provisions.
- c) Out of Pipeline. Title and risk of loss shall pass from Seller to Buyer as the Product passes the outlet flange of the pipeline or as the Product otherwise passes the delivery point along the pipeline as specified in the Special Provisions.

- d) In-line Pipeline Transfer. For in-line pipeline transfers, title and risk of loss shall pass from Seller to Buyer at the time of transfer on the agreed date, as evidenced by the PTO (or other acceptable transfer documentation) issued by the pipeline operator that reflects the transfer of title on its books and records.

Section 3.4. Deliveries Into/Out of Storage Tank.

Title and risk of loss shall pass from Seller to Buyer (i) in the case of deliveries out of tank (ex-tank transfer), as the Product passes the outlet of the storage tank designated by Seller; and (ii) in the case of deliveries into tank (into-tank transfer), as the Product passes the inlet of the storage tank designated by Buyer.

Section 3.5. Book, Stock, Inventory Transfer.

When delivery of Product is by book, stock, and/or inventory transfer, title and risk of loss of the Product shall pass from Seller to Buyer on the effective date of transfer as specified in the Special Provisions.

Section 3.6. Bills of Lading and Title and Risk of Loss.

It is expressly understood and agreed by the Parties that the passage of title and risk of loss as set forth in this Article 3 is not conditioned on delivery or receipt of bills of lading or other documents referenced in Section 5.2 of these General Terms.

PART III: MEASUREMENT OF QUALITY AND QUANTITY

ARTICLE 4. QUANTITY, QUALITY AND INSPECTION

Section 4.1. General Provisions Governing All Delivery Methods.

Unless otherwise specified in the remaining Sections of this Article 4 of these General Terms or in the Special Provisions, the following general provisions shall govern all measurements of quantity and quality, regardless of delivery method:

- a) Quantity. The quantity of the Product shall be determined in accordance with the latest established API/ASTM standards for the method of delivery. Unless otherwise specified elsewhere in the Agreement, all volumes shall be temperature corrected to 60 degrees Fahrenheit (60°F) or 15 degrees Celsius (15°C) in accordance with the latest supplement or amendment to API Manual of Petroleum Measurement Standards (MPMS) ASTM D-1250. Metering systems shall conform to the API/ASTM standards then in effect relative to meter calibration/accuracy. The Party responsible for the meters and associated temperature probes used for measurement under the Agreement shall ensure that such meters and temperature probes are calibrated and proved according to applicable API/ASTM standards, but in any event, not less frequently than once every six (6) months. If the other Party has reasonable cause, it will have the right to independently certify, at its own expense, the calibration of such meters and temperature probes.
- b) Quality. The quality of the Product shall be determined in accordance with the latest established API/ASTM standards for the method of delivery. If available, the quality of Product shall be determined by an automatic, volumetric in-line sampler that has been certified and proven for the applicable Product per API standards. If an in-line sampler is not available or has not been certified and proven, quality shall be determined, as applicable, pursuant to the following:
 - i) For marine deliveries, a volumetric composite sample of each Vessel tank before discharge (for cargo discharges) or a volumetric composite of each static shore tank before loading (for cargo loadings) shall be used to test for official quality. For lightering, a volumetric composite of the daughter Vessel taken at the time of quantity measurement or alongside a stationary dock shall be used for the official quality. For both marine deliveries and lightering, split samples shall be collected by an Independent Inspector such that Buyer, Seller and Independent Inspector shall receive an approximately equivalent portion of the composite sample(s) collected.
 - ii) For non-waterborne deliveries, a volumetric composite of the static tanks before transfer into the receiving transport, or a volumetric composite of the static receiving tanks after receipt from the delivering transport. The quality of Product delivered by pipeline shall be in accordance with the specifications set forth by the relevant pipeline.
- c) Location of Measurements. Quantity and quality shall be measured at the location where title to and risk of loss of the Product passes from Seller to Buyer.

d) Independent Inspector.

- i) Where the Agreement calls for the use of an Independent Inspector or in any situation in which the Parties elect to use an Independent Inspector, the fees and other charges of such Independent Inspector will be shared equally by the Parties. The Parties shall instruct the Independent Inspector to obtain and retain appropriate samples of the Product for a period of ninety (90) days from the date of measurement.
- ii) Each Party shall have the right to have a representative present at the time of loading, discharge, gauging and measurement of Product purchased or sold under the Agreement. Such representative must comply with any applicable dock, terminal, and/or pipeline facilities' safety procedures or requirements.
- iii) Regardless of whether either Party elects to have a representative present to observe loading, discharge, gauging and/or measurement, the Independent Inspector's certificates of quantity and quality will be binding upon the Parties, absent fraud or manifest error, provided that Buyer's or Seller's samples, if tested by the original Independent Inspector's laboratory (at such Party's request), or an additional Independent Inspector's laboratory, corroborates the Independent Inspector's quality results.

Section 4.2. Specific Provisions for Vessel Deliveries.

Whenever Product is delivered from or into a Vessel, quantity and quality determinations shall be in accordance with the following:

- a) Independent Inspector or Qualified Personnel. The quantities and quality of the Product shall be determined by an Independent Inspector. Notwithstanding the immediately preceding sentence, where Buyer and Seller agree and where use of an Independent Inspector is not required under Applicable Law, the Parties may elect to use qualified personnel of the party that operates the facility where measurements are to be made for measurement of quantity and quality in accordance with the relevant API and other standards set forth above. In such event, either Party shall be entitled to appoint a representative to witness (but not to participate in) the measurement, sampling and analysis process, but the quantity and quality as certified by the measuring party's personnel shall be binding upon the Parties, absent fraud or manifest error.
- b) Official Quantity. In order of preference and performed by the Independent Inspector, the official quantity will be determined by:
 - i) Meters. Meters that have been proven and certified by API procedures and are properly working. The meter owner shall provide proving and certification documents as requested.

- ii) Static Tank Gauges. If meters are not proven and certified per API procedures, or not properly working, then the official quantity shall be determined by static shore tank measurements as determined by the Independent Inspector. If shore tanks are active, in unsuitable condition for custody transfer, or if any other condition exists which may affect the accuracy of measurements (including but not limited to the following: tanks that have less than six inches (6") of liquid level at gauge point; liquid level in the bottom (critical) zone or floating roof in critical zone; excessive water, snow or Product on the floating roof; non-perforated standpipe per API standards; tank leaning or bulging; solidified material; incrustation; or other unsuitable conditions), then Vessel measurements will prevail as the official quantity as outlined below.
- iii) Vessel. The Vessel volume with applicable VEF will apply. An applicable load VEF will apply when a Vessel receives and an applicable discharge VEF will apply when a Vessel delivers. If the Vessel delivered/received volume is less than seventy-five percent (75%) of the Vessel's capacity, then Vessel volume without VEF will apply (unless a valid partial VEF is available and proven).
- c) Free Water. Where measurement is to occur at the time Product is discharged, the free water measurements of the Vessel before discharge shall be deducted from the shore received total calculated volume. If a certified inline sampler is available and proved to have functioned properly during discharge, then free water determined from this certified inline sample will be deducted in lieu of the Vessel's measured free water.
- d) Lightering. If measurement of quantity is to occur at lightering, then the official quantity shall be calculated using daughter Vessel measurements (as measured alongside a stationary berth) less OBQ and adjusted for an applicable VEF. In the event daughter Vessel does not have a VEF or same cannot be determined, then the mother Vessel measurement adjusted for an applicable VEF shall apply.
- e) Line Verification. Line verification shall be performed in accordance with API MPMS Chapter 17.6 and witnessed by the Independent Inspector. If the line displacement method is used, any volume variances less than the Measurement Tolerance shall be deemed as an agreed upon measurement tolerance and shall not be added back to the line verification volume. Any volume variances greater than the Measurement Tolerance shall be added back to the line verification volume. If no line verification is performed, then the official volumes will revert to Vessel measurements as outlined in Section 4.2 of these General Terms.
- f) Sediment and Water. Where applicable based on the type of Product (e.g., crude oil), test methods for determining the amount of sediment and water will be ASTM D-4928/D-4377 water by Karl Fischer and D-473 sediment by extraction. In the event Karl Fischer methods are not suitable for the Product or not available, the D-4006 or D-95 water by distillation method will be used.

- g) Special provisions for CIF and CFR - Part Cargo Lots. Where the Product sold is part of an unsegregated bulk cargo for delivery to Buyer and one or more other parties on a CIF or CFR basis, the quantity determined in accordance with the applicable provisions set forth above shall be adjusted after all deliveries of the cargo have been completed in such a manner as to allocate to Buyer a percentage of the total Loadport quantity that is equal to Buyer's percentage of total outturn quantity at all delivery ports. The independent inspectors' reports from all discharge ports shall be made available to Buyer and the other affected parties of any portion of the cargo.

Section 4.3. Specific Provisions for Truck and Railcar Deliveries.

Seller shall use calibrated and proved meters to measure quantities delivered into truck and railcar, or if such meters are not available, shall use the following (in order of preference): scales located at or near the loading point, manual railcar measurements, or shore tanks located at or near the Loading Port. Buyer shall use calibrated and proved meters to measure quantities delivered out of truck and railcars, or if such meters are not available, shall use the following (in order of preference): scales located at or near the delivery point, manual railcar measurements, or shore tanks located at or near the Delivery Port. Either Party may require the use of an Independent Inspector for measurements, in which case the provisions of Section 4.1 of these General Terms shall also apply. If requested, Buyer or Seller (as applicable) shall provide documentation to verify calibration/proving of applicable meters.

Section 4.4. Specific Provisions for Pipeline Deliveries.

Quantities delivered into pipeline shall be measured by Seller using calibrated and proved pipeline meters if available, but if not available, then by terminal tank gauges. Quantities delivered out of pipelines shall be measured by Buyer using calibrated and proved pipeline meters if available, but if not available, then by terminal tank gauges. Unless otherwise agreed by the Parties, for all deliveries into or out of pipelines where terminal tank gauges must be used for measurement, the terminal operator shall determine the quantity of Product delivered. Where delivery is made to or received by common carrier pipeline, the pipeline's meters will govern the determination of quantity measurement. Either Party may require the use of an Independent Inspector for measurements, in which case the provisions of Section 4.1 of these General Terms shall also apply.

Section 4.5. Specific Provisions for Stock Transfer.

For stock transfers, quantities shall be as mutually agreed according to the Special Provisions or stock transfer letters of the Parties.

Section 4.6. Quality and Quantity Claims.

With the exception of RINs, any claim regarding the quality or quantity of any Product delivered shall be waived unless submitted to Seller in writing, together with supporting documentation and reasonable details of the facts on which the claim is based, within sixty (60) days from the date of delivery. The delivery date shall be determined by the bill of lading or other shipping document as appropriate for the delivery method. Notwithstanding the foregoing, no claim shall be admitted in respect of any deficiency of quantity where the difference between the loaded and discharged quantity is three tenths of a percent (0.3%) of the loaded quantity or less.

PART IV: TERMS APPLICABLE TO ALL DELIVERIES

ARTICLE 5. PAYMENT

Section 5.1. Payment Terms.

Any payments hereunder shall be made to Seller pursuant to the payment terms set forth in the Special Provisions. All payments shall be made in US dollars without offset, discount, deduction, withholding, netting or counterclaim by wire transfer of immediately available funds on or before the payment due date to the bank and account designated by Seller.

Section 5.2. Required Documentation.

In addition to any documentation required by Applicable Law or as expressly provided elsewhere under the Agreement, payment shall be made by Buyer against the presentation of Seller's invoice and the following documents:

- a) FOB/CIF/ CIP/ CPT/CFR /DAP/DAT/DDP/DES – Vessel and Barge (US Domestic Sales): Copies of Independent Inspector's report of loaded quantity and quality.
- b) FOB/CIF/ CIP/ CPT/CFR /DAP/DAT/DDP/DES – Foreign Vessels (International Sales):
 - i) Copies of Independent Inspector's report of loaded quantity and quality;
 - ii) Either one full set (3/3) or 2/3 original bill of lading and an owner/master/agent receipt for 1/3 original bill of lading issued or endorsed to the order of Buyer or its consignee; and
 - iii) In the event the documents referred to in items (i) and (ii) immediately above are not available upon presentation to Buyer on or before the payment due date, Buyer shall pay Seller upon presentation of Seller's invoice (a provisional invoice is acceptable where the provisions of Section 5.3 of these General Terms apply) and Seller's letter of indemnity in the format stipulated in Exhibit A attached to these General Terms, which may be presented in the form of a fax or a .pdf file email attachment.
- c) FCA Railcar/Truck, CPT Railcar/Truck and Delivered Out of Railcar/Truck:
 - i) Railcar/Truck bill of lading (as applicable); and
 - ii) The certificate of quality or Independent Inspector's quality report when specifically required by the Special Provisions.
- d) Pipeline: Pipeline meter ticket or other acceptable transfer documentation evidencing book, stock, or inventory transfer.

e) Book/Stock/Inventory/Tank Transfer:

- i) PTO (or other acceptable transfer documentation) from the terminal; and
- ii) The certificate of quality or Independent Inspector's quality report when specifically required by the Special Provisions.

Section 5.3. Provisional Invoicing.

Where the Parties agree or where it is otherwise not possible or practicable to issue a final invoice prior to the date payment is due, either because pricing cannot be established or because discharge quantities are not then known, Seller shall have the right to issue, and Buyer shall make payment upon, a provisional invoice with a price that is based upon Seller's estimate of the final price (the "**Estimated Price**"). In preparing such estimate, Seller shall take into account such pricing information as is reasonably available at the time and shall assume that outturn quantity will match the bill of lading quantity. As soon as practicable after all relevant information is available, Seller shall submit a final invoice to Buyer and (i) Buyer shall immediately pay to Seller any amount by which the final invoice amount exceeds the Estimated Price, or (ii) Seller shall immediately pay to Buyer any amount by which the Estimated Price received from Buyer exceeds the final invoice amount.

Section 5.4. Split Weekend Clause.

If the payment due date falls on a Sunday, or on a Monday that is not a Business Day, payment shall be made in immediately available funds to Seller on the next Business Day after such payment due date. If the payment due date falls on a Saturday, or on a non-Business Day other than a Monday, payment shall be made in immediately available funds to Seller on the last Business Day prior to such payment due date.

Section 5.5. Interest.

Any amount payable under the Agreement shall, if not paid when due, bear interest from the payment due date until, but excluding, the date payment is received, at the Interest Rate.

Section 5.6. Netting.

With the exception of the netting specifically provided for in Article 15 of these General Terms, neither Party hereto shall have the right to net or set-off any payments due from it hereunder against any payments due or allegedly due to it or any of its Affiliates from the other Party or its Affiliates in connection with any separate transaction, unless and only to the extent the Parties have entered into a separate master netting agreement or similar agreement that expressly provides for such netting of payments.

Section 5.7. Facsimiles or PDF Transmission.

Invoices, certificates of quality and Independent Inspector's reports may be submitted via facsimile or a PDF file email attachment.

ARTICLE 6. CREDIT

Section 6.1. Financial Responsibility.

If sufficient credit for the transactions under the Agreement is not approved by Seller's credit department, within seven (7) days before the first delivery date, or thereafter if sufficient credit has been provided and Buyer either exceeds such credit limit or Seller has reasonable grounds for insecurity as to Buyer's creditworthiness or performance hereunder, Seller may, in its reasonable discretion require Buyer to (i) prepay Seller the full amount according to Seller's invoice for any deliveries of Product by wire transfer of immediately available funds at least two (2) Business Days prior to the delivery date, (ii) post an irrevocable standby letter of credit that meets the requirements of Section 6.2 of these General Terms, or (iii) provide some other form of credit support reasonably acceptable to Seller. In the event the above requirements have not been satisfied within the specified time limits, Seller shall have the option of terminating the Agreement and/or suspending its performance under the Agreement until the other Party provides such payment. Seller's delivery of Product hereunder prior to Buyer making payment or posting the letter of credit as provided above, shall not operate as a waiver of Seller's rights to immediately impose the credit support obligations under this Section or at any future time prevent Seller from promptly exercising any other option, right or remedy that it may have under the terms of the Agreement. The exercise by either Party of any right reserved under this Section shall be without prejudice to any claim for damages or any other right under the Agreement or Applicable Law.

Section 6.2. Letter of Credit.

In the event that Seller requires a letter of credit pursuant to Section 6.1 of these General Terms, payment shall be covered by an irrevocable standby letter of credit to be issued and the original or the electronic operative instrument received by Seller not later than two (2) Business Days prior to each delivery date (or, in the case where a single letter of credit will cover multiple deliveries on the first delivery date), in the form acceptable to Seller and issued by an A-rated bank acceptable to Seller. Such letter of credit shall be opened with sufficient value as reasonably determined by Seller to cover the aggregate volume of Product to be delivered by Seller multiplied by the aggregate value for such Product. All bank charges related to the letter of credit shall be for the account of Buyer. The letter of credit shall not expire until thirty (30) days after the final invoice due date.

ARTICLE 7. REPRESENTATIONS AND WARRANTIES

Section 7.1. Title.

Seller represents and warrants that (i) as of the date of delivery of the Product hereunder, Seller has good title to the Product sold and delivered, free and clear of any liens or encumbrances; and (ii) Seller has full right and authority to transfer such title of such Product to Buyer.

Section 7.2. Product Specifications.

Product sold or transferred under the Agreement shall, at the time that title passes to Buyer, conform to the specifications set forth in the Special Provisions, taking into account any stated tolerances. Whether set

forth in the Special Provisions or elsewhere in the Agreement, no reference to Typical or to time of delivery shall ever form a part of the Product's specifications or operate or be construed as a warranty of any sort. Unless otherwise specified in the Special Provisions, Product delivered by pipeline shall conform to the transporting pipeline's specifications.

Section 7.3. Disclaimer of Warranties.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NOTWITHSTANDING ANY COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE (OR LACK THEREOF) THE PROVISIONS OF SECTION 7.2 OF THESE GENERAL TERMS CONSTITUTE THE SOLE AND EXCLUSIVE OBLIGATIONS OF SELLER WITH RESPECT TO THE SPECIFICATIONS, DESCRIPTION, QUALITY, CONDITION OR FITNESS OF THE PRODUCT, AND, EXCEPT FOR THOSE STATED IN THE AGREEMENT, SELLER MAKES NO OTHER AND EXPRESSLY DISCLAIMS ANY AND ALL OTHER REPRESENTATIONS, GUARANTEES, ASSURANCES, CONDITIONS AND/OR WARRANTIES, EXPRESS OR IMPLIED INCONSISTENT HERewith, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND ANY IMPLIED CONDITIONS OF SATISFACTORY QUALITY OR FITNESS FOR PURPOSES, AS OTHERWISE APPLICABLE.

ARTICLE 8. TAXES; CUSTOMS

Section 8.1. Responsibility for Payment.

- a) Unless otherwise specifically provided in the Agreement: (i) Seller shall be liable for any and all Taxes with respect to the Product delivered hereunder, the taxable incident of which occurs before the transfer of title to the Product to Buyer; (ii) Buyer shall be liable for any and all Taxes with respect to the Product delivered hereunder, the taxable incident of which occurs after transfer of title to the Product to Buyer; and (iii) any and all Taxes the taxable incident of which is the transfer of title, regardless of the character, method of calculation or measure of the levy or assessment, shall be paid by the Party upon which the Tax is imposed by the applicable taxing authority, provided, however, if such Taxes are payable by Seller, Buyer shall promptly reimburse Seller upon demand.

- b) With respect to rack sales of any Product, any and all Taxes, and any and all increases thereon, which are now or hereafter imposed, levied or assessed directly or indirectly by any Governmental Authority on or as a result of the transfer or sale contemplated by the Agreement is strictly for Buyer's account and shall, if collectible or payable by Seller, be paid or reimbursed by Buyer on demand by Seller, and incorporated as an additional charge on Seller's invoice. Buyer specifically agrees to hold Seller harmless from, and indemnify Seller against, any such imposts, including any interest and penalties thereon. If Buyer claims exemption from any of the above imposts, then Buyer must furnish Seller with a properly completed and executed exemption certificate, in the form and within the time limit prescribed by the appropriate taxing authority in lieu of payment or reimbursement of such imposts to Seller.

- c) With respect to any Product imported into the US or a foreign jurisdiction, the importer of record set forth in the Special Provisions shall be responsible for all import arrangements and customs requirements, including all Taxes, duties, fees and related costs in respect of importing the Product.

Section 8.2. Tax Reimbursement.

To the extent a Party (herein referred to as “**Party X**”) is required by Applicable Law or otherwise under the Agreement to pay or remit certain Taxes on behalf of the other Party (herein referred to as “**Party Y**”) or Party X otherwise pays Taxes for which Party Y is liable, Party Y shall reimburse Party X to the extent Party X paid such Taxes. Party Y’s reimbursements of Taxes to Party X shall be grossed up as necessary to return to Party X, after payment of any Taxes thereon, the amount actually paid by Party X. A Party shall not be responsible for any penalties or interest related to the obligations of the other Party in respect of Taxes to the extent such penalties or interest accrue based on the actions or inactions of the other Party.

Section 8.3. Property Taxes.

If any ad valorem, personal property or similar Taxes are assessed against Product sold hereunder, the Party having title to the Product at the time such tax liability is assessed shall be responsible for all administrative compliance and payment of such Taxes.

Section 8.4. Tax Withholding.

- a) Each Party shall provide to the other Party a properly executed IRS Form W-8 or W-9 (or successor form), or such equivalent form as may be appropriate under Applicable Law to enable the recipient to determine if it must withhold any Taxes from payments made by it hereunder. Such forms shall be delivered upon the execution of the Agreement and subsequently if the information in such form becomes materially inaccurate or such form expires or becomes obsolete. Each Party further agrees to promptly deliver to the other Party any other tax form or certificate reasonably requested by the other Party, including certifications of federal and state registration.
- b) Each Party shall use all reasonable efforts to reduce required tax withholding on payments made to the other Party hereunder. Notwithstanding such efforts, if payor reasonably concludes that tax withholdings under Applicable Laws are required with respect to payments made hereunder, it shall withhold the required amount and pay it to the appropriate Governmental Authority, and shall promptly provide the other Party with original receipts or other evidence reasonably required and sufficient to allow the other Party to document such tax withholdings adequately for purposes of claiming foreign tax credits and similar benefits.

Section 8.5. VAT and Excise Duty – UK and EU Sales.

- a) VAT. Where VAT becomes payable under the rules applicable at the Loadport, VAT will be payable by Buyer at the standard rate. Seller shall issue a valid VAT invoice to charge any applicable VAT.

However, for intra-EU movements, VAT will not be payable if prior to completion of loading Buyer has advised Seller in writing of Buyer's VAT registration number valid in a member state of the EU other than that of the country of loading. Buyer shall also confirm that the Product will be discharged in a country other than country of loading and provide to Seller sufficient information to demonstrate under the rules of the relevant tax authority that VAT is not applicable. If excise duty is also payable, VAT will be calculated on the basis of the duty inclusive Product value.

- b) Excise Duty and Intra-EU Movements. Excise duty will be payable at the rate applicable at the Loadport on the bill of lading quantity of Product. However, duty shall not be payable if, in accordance with the rules for Excise Movement and Control System ("EMCS") under Council Directive 2008/118/EEC, Buyer provides one of the following prior to the Vessel loading:
- i) the trader excise number (tax warehouse-keeper registration number and warehousekeeper's address) that Buyer intends to use at the destination location, and the excise warehouse number and address at the destination location; or
 - ii) the registered consignee's name, registration number and address.

For information provided per clause (i) or (ii) immediately above, Seller shall validate such information on the European System for the Exchange of Excise Data (SEED) database. In the event Buyer fails to provide on a timely basis valid information for the Product being sold hereunder, all resulting costs, including but not limited to duty and demurrage charges, shall be for account of Buyer.

Any change of Delivery Port shall be notified to Seller as soon as practicable. In the event the Vessel has already sailed from the Loadport, then any change(s) to the Delivery Port must be advised before the Vessel discharges the Product in order for a "change of delivery" notification to be completed on EMCS by Seller. Any Taxes arising as a result of failure by Buyer to comply with the foregoing shall be for the account of Buyer.

- c) Export Outside the EU. VAT will not be applicable if Buyer intends to export the Product outside of the EU and provides Seller with timely evidence of export as required under the rules applicable at the Loadport.

Where the Product sold under the Agreement is to be exported and discharged outside of the UK or EU, Buyer shall ensure that no part shall be re-landed in the UK or EU. Furthermore, Buyer warrants that any onward receiver of the whole or any part of the Product strictly complies with this undertaking. Buyer covenants and agrees to fully defend, protect, indemnify and hold Seller harmless from and against each and every claim and demand, for any liability, cost, expense, duty, tax or penalty (including but not limited to reasonable legal fees and expenses incurred in defense of Seller), which may be made or asserted by HM Revenue & Customs or any other EU Governmental Authority or EU member state on account of the Product or any part thereof being re-landed in the UK or EU without being discharged first at a port outside the UK or EU. In the event that Buyer fails to timely provide

any information reasonably required by Seller in order to comply with applicable UK or EU laws and regulations governing VAT, excise taxes and customs, all resultant costs including but not limited to VAT and/or other Taxes shall be for the account of Buyer.

Section 8.6. Exemptions.

In the event there is an eligible exemption from the imposition of Taxes under Applicable Law, Buyer will provide Seller with the applicable documentation necessary to perfect the exemption. If Buyer does not furnish such exemption documentation or the Agreement is subject to tax under Applicable Law, upon receipt of Seller's invoice, Buyer shall reimburse and indemnify Seller for all Taxes paid or incurred by Seller, together with all penalties and interest thereon. Buyer's obligation to reimburse Seller includes any Taxes that Seller is assessed due to subsequent discovery of taxability or under audit by any taxing authority until expiration of the relevant statute of limitations.

Section 8.7. Excise Taxes on Product Delivered on Two Party Exchanges.

If Seller is the "**Position holder**" as defined in Federal Tax Regulation § 48.4081-1 (Treas. Reg. § 48.4081-1) or otherwise deemed to be a position holder under other Applicable Law in a terminal where Buyer receives fuels on exchange under the Agreement, Seller shall treat Buyer as the Person that removes the fuel across the terminal rack for purposes of reporting the transaction to the IRS or applicable taxing authority. If Seller delivers fuels on exchange under the Agreement from a terminal where Seller is the Position holder, Seller shall use commercially reasonable efforts to cause the terminal operator of such terminal(s) to treat Buyer as the Person that removes the fuel across the terminal rack for purposes of reporting the transaction to the IRS or applicable taxing authority. Buyer shall be directly liable for payment of all Taxes imposed on the removal of taxable fuels from any terminal rack where Buyer is treated as the Person that removes the fuel across the terminal rack.

Section 8.8. Duty Drawback.

Seller reserves the right to claim, receive and retain Drawbacks on Product it delivers hereunder which subsequently qualify for Drawback treatment under Applicable Law. Buyer shall in a timely fashion upon request by Seller execute proof of exportation, Drawback claim forms, and assignments in favor of Seller to enable Seller to establish its Drawback rights under Applicable Law. Buyer further agrees to cooperate in good faith to provide any other additional information that may be necessary to perfect Seller's Drawback claims.

Section 8.9. Importer of Record.

The importer of record shall be set forth in the Special Provisions and such Party shall be responsible for all import arrangements and customs requirements.

Section 8.10 Certificates of Origin.

Where Seller is designated the exporter of record or, for cargoes exported from the US, the United States Principal Party in Interest (USPPI) of cargoes sold hereunder, Seller will provide Buyer with a standard, chamberized (where applicable) certificate of origin. Seller will also endeavor, on a commercially reasonable basis, to provide Buyer with additional certificates of origin as required under the various special-trade programs and/or free trade agreements to which the US, UK and/or Canada is a signatory or member party (e.g., NAFTA, US-Chile FTA, etc.) where Seller can qualify such Product under such programs' individual rules of origin.

ARTICLE 9. FORCE MAJEURE

Section 9.1. Force Majeure Events.

“**Force Majeure**” means any cause or event reasonably beyond the control of a Party, including (but without limiting the generality of such term): act(s) of God, perils of the sea, fire, delay of the performing vessel arising from breakdown or adverse weather, accidents at, closing of, or restrictions upon the use of mooring facilities, docks, ports, pipelines, harbors, railroads, or other navigational or transportation mechanisms, natural disasters (such as violent storms, cyclones, earthquakes, tidal waves, floods, destruction by lightning), war (declared or undeclared), military operations, blockade, revolution, riots, acts of piracy, acts of sabotage, disruption or breakdown of or explosions or accidents to wells, storage plants, refineries, pipelines, terminals, machinery or other facilities, trade restrictions, strike, lockouts, or a dispute or difference with workers, labor shortage requests, good faith compliance with any orders or actions, whether voluntary or involuntary, of any Government Authority, or by any Person purporting to represent a government, any reduction in, failure or refusal to deliver supplies of Product or the raw materials or energy used to manufacture such Product from Seller's sources of supply, whether lawful or otherwise, or any other cause of a similar nature as described herein not reasonably within the control of the respective Parties.

Section 9.2. Effect of Force Majeure.

Neither Party shall be liable to the other Party if it is delayed, hindered, interfered with, curtailed, prevented or rendered unable by an event of Force Majeure from performing in whole or in part any obligation or condition under the Agreement (except for any payment and indemnification obligations), for so long as the event of Force Majeure exists and to the extent that performance is hindered by the event of Force Majeure; provided, however, that the Party unable to perform shall use commercially reasonable efforts to avoid or remove the event of Force Majeure. Notwithstanding the foregoing, (i) no Party shall be compelled to resolve any strikes, lockouts or other industrial disputes other than as it shall determine to be in its best interests, and (ii) Seller shall not be compelled to purchase supplies or similar product to make good any shortages arising as a result of Force Majeure and the possibilities of purchasing such supplies or similar products shall not be taken into account in determining whether there was a delay, hindrance, interference, curtailment, prevention or inability to perform). During the period that a Party's performance of its obligations under the Agreement has been suspended in whole or part by reason of an event of Force Majeure, the other Party likewise may suspend the performance of all or part of its obligations to the extent that such suspension is commercially reasonable, except for any payment and indemnification obligations arising prior to the occurrence of such Force Majeure event.

Section 9.3. Notice.

If the event of Force Majeure delays, hinders, interferes with, curtails, prevents or renders unable either Party, in whole or in part, to carry out its obligations under the Agreement, such Party must give the other Party notice and reasonable detail in writing as soon as practicable after the occurrence of the causes relied upon, or give notice by telephone and follow such notice with a written confirmation within forty-eight (48) hours.

Section 9.4. Termination.

In the event that the period of total suspension due to a Force Majeure event shall continue in excess of thirty (30) consecutive days from the date that notice of such event is given, and so long as such event is continuing, either Party, in its sole discretion, may terminate such affected transaction by written notice to the other Party, and neither Party shall have any further liability to the other Party in respect of such transaction except for the rights and remedies previously accrued.

ARTICLE 10. ALLOCATION

If Seller does not have sufficient supplies of Product to meet the supply obligations under the Agreement and its other product supply obligations, irrespective of the cause or foreseeability of any shortage, then Seller may allocate its available supplies of Product on any basis which in Seller's sole judgment is fair and reasonable including, but not limited to, an allocation based on historical or planned deliveries. The shortage creating the need to allocate may be based on any of the following non-exclusive causes: an event of Force Majeure; an actual shortage of Product; a partial or total interruption or loss or shortage of transportation facilities or supplies of Product; a shortage in a contemplated source of supply of Product; a general shortage in Seller's product supply system (including the supply system of Seller's Affiliates); or shortage in the raw materials used to manufacture such Product. Seller shall have no obligation to make up any shortage resulting from an allocation hereunder or be compelled to purchase supplies or similar product to make good any shortage. Furthermore, the Agreement shall not be construed in any way to require Seller to purchase Product from an Affiliate of Seller or another third party to supply any or all of the contract volume hereunder.

ARTICLE 11. HAZARD WARNING RESPONSIBILITY

Seller shall provide to Buyer upon request a Material Safety Data Sheet for each Product covered by the Special Provisions. Buyer acknowledges that there may be hazards associated with the loading, unloading, transporting, handling or use of the Product, which may require that warnings be communicated to or other precautionary action taken with all Persons handling, coming into contact with, or in any way concerned with the Product. Buyer assumes as to its employees, independent contractors and subsequent purchasers of the Product all responsibility for all such necessary warnings or other precautionary measures relating to hazards to Person and property associated with the Product and, furthermore, Buyer shall defend (with

counsel acceptable to Seller), indemnify fully and hold harmless Seller and its Affiliates and their respective agents, officers, directors, employees, representatives, successors and assigns from and against any and all Losses arising out of or in any manner related to Buyer's failure to provide necessary warnings or other precautionary measures in connection with the Product. Compliance with any recommendation contained in the Material Safety Data Sheet or other safety information shall not excuse Buyer from complying with Applicable Law.

ARTICLE 12. COMPLIANCE WITH APPLICABLE LAW

Section 12.1. Compliance Generally.

Seller and Buyer each agree to comply fully in the performance of the Agreement with all Applicable Laws.

Section 12.2. RBOB.

In the event RBOB is purchased or sold under the Agreement, the Parties shall comply with all Applicable Laws related to RBOB, including, when applicable, EPA regulations found at 40 C.F.R. §§ 80.65 through 80.89. Specifically, Buyer represents and warrants that it is an EPA registered oxygenate blender or that Buyer is an "intermediate owner" as that term is used in 40 CFR 80.69(a)(5) and will transfer RBOB purchased under the Agreement only to an EPA registered oxygenate blender. Pursuant to 40 CFR 80.69(a)(6), Buyer shall, if an oxygenate blender, or if Buyer is an intermediate owner require the oxygenate blender, to: (a) blend Seller's RBOB with oxygenate in accordance with Seller's written instructions regarding the proper oxygenate type and amount of oxygenate; (b) conduct (and allow Seller to conduct) quality assurance, sampling and testing as required in 40 CFR Part 80; and (c) stop selling any gasoline found to not comply with the standards under which the RBOB was produced or imported.

Section 12.3. Toluene.

Where the Product is toluene, Buyer hereby represents and warrants that Buyer shall not use, sell or otherwise supply, directly or indirectly, the Product in the manufacture, production, formulation or blending of pesticides or pesticide products. Buyer hereby agrees to require substantially the same representation set forth in the preceding sentence from all customers and other parties to whom Buyer sells, provides and/or distributes the Product, or any other Person to Buyer's knowledge that may in the course of doing business, use, maintain or obtain the Product, where such Product was originally purchased from Seller.

Section 12.4. REACH Compliance.

If the Product purchased under the Agreement is to be imported into the EU, then each Party agrees and undertakes to the other in connection with the Agreement that it shall comply with its respective obligations under the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) regulations (EC) No. 1907/2006.

ARTICLE 13. NEW OR CHANGED APPLICABLE LAWS

If at any time after the Agreement is entered into, any Applicable Laws are changed or any new Applicable Laws come into effect at any time during the pendency of the Agreement, and if the impact of such new or changed Applicable Laws will materially and adversely impact Seller, then Seller shall have the option, by written notice to Buyer, to request a good faith renegotiation of the affected provisions of the Agreement so as to eliminate or minimize as much as possible the impact of such new or changed Applicable Laws on Seller. If Buyer fails or refuses to negotiate with Seller in good faith, or if the Parties are unable to agree upon changes to the Agreement, within fifteen (15) days after Buyer's receipt of Seller's notice under this Section, Seller shall have the right to terminate the Agreement immediately at the end of such fifteen (15) day period. Any Product sold prior to such termination shall be sold in accordance with the Agreement without adjustment in regard to such new or changed Applicable Laws.

ARTICLE 14. DEFAULT; REMEDIES

Section 14.1. Default.

A Party shall be in default hereunder (such events hereinafter defined as an **"Event of Default"**) if: (a) such Party fails to make any required payment under the Agreement when due; (b) such Party, or such Party's Credit Support Provider, fails to satisfy the credit support requirements agreed between the Parties pursuant to the Agreement or such credit support expires, terminates, or is no longer in full force and effect for the Agreement (if such failure is not remedied within one (1) Business Day after written notice of such failure is given to the Party); (c) such Party fails to comply with any material term, provision or covenant of the Agreement (other than the preceding clauses (a) and (b) immediately above); (d) such Party, or such Party's Credit Support Provider, is dissolved, other than pursuant to a consolidation, amalgamation or merger; (e) such Party, or such Party's Credit Support Provider, becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (f) such Party, or such Party's Credit Support Provider, makes a general assignment, arrangement or composition with or for the benefit of its creditors; (g) such Party, or such Party's Credit Support Provider, commences, institutes or has instituted or commenced against it a case or proceeding seeking a bankruptcy or judgment of insolvency or seeks or has sought against it any other relief or order for relief under any bankruptcy or insolvency law or other similar law affecting creditor's rights, or a petition is presented for its winding-up or liquidation; (h) such Party, or such Party's Credit Support Provider, has a resolution passed for its winding-up, official management or liquidation, other than pursuant to a consolidation, amalgamation or merger; (i) such Party, or such Party's Credit Support Provider, seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for all or substantially all of its assets; (j) such Party, or such Party's Credit Support Provider, has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets; (k) such Party, or such Party's Credit Support Provider, files an answer or other pleading admitting or failing to contest the allegations of a petition filed against it in any proceeding of the foregoing nature; (l) to the extent the transaction under the Agreement involves RINs, the Initiated RINs accepted by Buyer are or become invalid for purposes of the RFS Program; or (m) such Party's Credit Support Provider, takes any other action to authorize any of the actions set forth above.

Section 14.2. Remedies.

- a) In an Event of Default hereunder, the non-defaulting Party may, without prejudice to any other rights or remedies available to it under Applicable Law (but subject to the limitations on a Party's liability expressly set forth in the Agreement), terminate the Agreement upon notice to the defaulting Party. Such termination shall be without prejudice to the rights and obligations of the Parties that accrued under the Agreement prior to such termination.
- b) Where an Event of Default has occurred with respect to Buyer, Seller may also elect to suspend all deliveries hereunder, and in such event: (i) so long as the Event of Default is continuing, Seller may at any time after suspending delivery elect to terminate the Agreement; and (ii) if Seller later elects to resume deliveries, Seller may elect to treat as canceled any and/or all deliveries that it did not make during the suspension period, and in such event Seller shall have no obligation to make up the quantity of any Product not delivered as a result of the suspension.
- c) Where an Event of Default has occurred with respect to Buyer, Seller may, without prejudice to any other rights or remedies available to it under Applicable Law also elect to exercise any or all remedies available to it under Article 15 of these General Terms, which election and exercise of any such remedies shall be without prejudice to the rights and obligations of the Parties that accrued under the Agreement prior to or after such election and exercise.

ARTICLE 15. TERMINATION AND LIQUIDATION

The Parties acknowledge that the Agreement is a “**Forward Contract**” as defined in the US Bankruptcy Code (11 USC Sec. 101(25)) and the Parties acknowledge they are Forward Contract Merchants as defined in the US Bankruptcy Code (11 USC Sec.101 (26)). If one Party (i) commences a case in bankruptcy or a reorganization or seeks a receivership, or a creditor of such Party commences an involuntary bankruptcy case or a reorganization or seeks a receivership, (ii) becomes insolvent or incapable of paying its debts as they become due, or (iii) makes a general assignment for the benefit of creditors, the other Party (the “**Liquidating Party**”) shall have the immediate right, exercisable in its sole discretion, to liquidate and/or terminate the Agreement and all other forward contracts (as provided by, but not limited to, Section 556 of the Bankruptcy Code) then outstanding between the Parties (whether the Liquidating Party is Seller or Buyer thereunder) by netting and closing out all such contracts at the then current market prices so that each contract being liquidated is terminated except for the settlement payment referred to below. The Liquidating Party shall calculate the difference, if any, between the price specified in each contract so liquidated, and the market price for the relevant commodity as of the date of liquidation (as determined by the Liquidating Party in any commercially reasonable manner), and aggregate or net such settlement payments, as appropriate, to a single liquidated amount. Payment of said settlement payment will be due and payable within one (1) Business Day after reasonable notice of liquidation. The liquidation, netting, and close-out of the Agreement and all other forward contracts is in addition to any other rights and remedies which the other Party may have under Applicable Law.

ARTICLE 16. INDEMNITY

ONCE TITLE TO AND RISK OF LOSS ASSOCIATED WITH THE PRODUCT PASSES TO BUYER AS PROVIDED FOR HEREIN, THEN AS BETWEEN BUYER AND SELLER, BUYER SHALL BE SOLELY RESPONSIBLE AND LIABLE FOR, AND SHALL RELEASE, DEFEND (UPON SELLER'S REQUEST), INDEMNIFY, AND HOLD SELLER, AS WELL AS SELLER'S AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND CONTRACTORS, HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, LOSSES, EXPENSES, COSTS (INCLUDING WITHOUT LIMITATION, COSTS OF DEFENSE AND/OR SETTLEMENT, ATTORNEYS' FEES, PENALTIES AND INTEREST), DAMAGES, CAUSES OF ACTION AND LIABILITY OF EVERY TYPE AND CHARACTER WITHOUT REGARD TO AMOUNT (TOGETHER, "LOSSES") CAUSED BY, RESULTING FROM, OR OTHERWISE ASSOCIATED WITH (A) THE RELEASE, SPILL, OR DISCHARGE OF ANY PRODUCT INTO THE ENVIRONMENT, INCLUDING ANY RELATED LOSS OR DESTRUCTION OF, OR DAMAGE TO, ANY PROPERTY, OR ANY INJURY TO OR DEATH OF ANY INDIVIDUAL OR MARINE LIFE, AND (B) THE REMEDIATION, CLEAN-UP, REMOVAL, OR DISPOSAL OF ANY SUCH PRODUCT, EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF SELLER OR SELLER'S AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR CONTRACTORS. THE PARTIES TO THE AGREEMENT HEREBY EXPRESSLY, INTENTIONALLY, KNOWINGLY AND WILLINGLY WAIVE AND DISCLAIM THE APPLICABILITY OF TEXAS CIVIL PRACTICE & REMEDIES CODE SECTION 82.002 TO THE AGREEMENT AND THE PURCHASES AND SALES MADE HEREUNDER, AND HEREBY RELINQUISH ANY AND ALL RIGHTS WHICH THEY MAY HAVE UNDER THAT STATUTE.

ARTICLE 17. CHOICE OF LAW; JURISDICTION

Except as otherwise provided herein, any controversy, cause of action, dispute or claim arising out of, relating to, or in connection with the Agreement, or the breach, termination or validity thereof, shall be governed by the substantive and procedural laws (excluding any conflict-of-laws rules or principles which may refer the laws of the State of Texas to the laws of another jurisdiction) of the State of Texas. The Parties specifically agree that the sole jurisdiction for any claims shall be in the State or Federal courts having jurisdiction thereof located in Harris County, Texas. For disputes that involve substantive maritime issues and are governed by Valero's Marine Provisions, US general maritime law (where applicable, and excluding any conflict-of-laws rules or principles which may refer to the laws of another jurisdiction) shall govern all substantive and procedural issues, and the exclusive venue for any such dispute shall be the US District Court for the Southern District of Texas.

The United Nations Convention on Contracts for the International Sale of Goods shall not in any way apply to or govern the Agreement or any transaction under the Agreement.

ARTICLE 18. LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE AGREEMENT: (A) NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, LOST PROFITS (WHETHER DIRECT OR INDIRECT), LOST OPPORTUNITIES

OR LOSS OF GOODWILL, OR ANY SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, WHICH ARISE OUT OF OR RELATE TO THE AGREEMENT OR THE PERFORMANCE OR BREACH HEREOF, WHETHER ARISING IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE; AND (B) SELLER'S LIABILITY WITH RESPECT TO THE AGREEMENT OR ANY ACTION WHICH ARISES OUT OF OR RELATES TO THE AGREEMENT OR THE PERFORMANCE OR BREACH HEREOF, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED THE PRICE OF THE PRODUCT (OR PORTION THEREOF) WITH RESPECT TO WHICH SUCH LIABILITY AROSE. NOTHING IN THIS ARTICLE SHALL PRECLUDE OR OTHERWISE IMPAIR SELLER'S ABILITY TO INITIATE LEGAL ACTION AGAINST THE BUYER TO RECOVER THE PURCHASE PRICE OF THE PRODUCT SOLD TO BUYER BY SELLER IN THE EVENT THE BUYER FAILS TO FULLY PAY FOR THE PRODUCT AS AGREED HEREUNDER.

ADDITIONALLY, WITH RESPECT TO ANY CLAIMS RELATING TO SELLER'S FAILURE TO DELIVER THE AGREED QUANTITY OF PRODUCT, SELLER SHALL IN NO EVENT BE LIABLE FOR MORE THAN THE DIFFERENCE BETWEEN THE PRICE SPECIFIED IN THE AGREEMENT AND THE MARKET PRICE OF SUCH PRODUCT MULTIPLIED BY THE QUANTITY NOT DELIVERED. WITH RESPECT TO ANY CLAIMS RELATING TO VARIATION IN QUALITY FROM THE PRODUCT SPECIFICATIONS, SELLER SHALL IN NO EVENT BE LIABLE FOR MORE THAN THE DIFFERENCE BETWEEN THE PRICE SPECIFIED IN THE AGREEMENT AND THE MARKET PRICE OF THE PRODUCT AS ACTUALLY DELIVERED MULTIPLIED BY THE QUANTITY OF SUCH NON-CONFORMING PRODUCT.

Further, and without limiting any shorter time limitations set out in the Agreement with respect to specific matters (such as, but without limitation, time limits for submission of demurrage claims and claims relating to quantity and/or quality), any actions to enforce any rights or obligations under the Agreement must be filed in court against the other Party no later than one (1) year after the date on which the alleged breach of the Agreement occurred failing which, to the fullest extent permitted under Applicable Law, they shall be time barred.

ARTICLE 19. NOTICES

- a) Unless otherwise agreed between the Parties, notification to/from either Party to the other shall be in writing and officially be deemed to be given/received: (i) immediately if in person; (ii) where sent by post within the US to the address specified in the Agreement, on the second (2nd) Business Day after it was posted; (iii) for airmail to the address specified in the Agreement, on the fifth (5th) Business Day after it was posted; (iv) for facsimile where confirmation of transmission is provided and can be verified, if the recipient's confirmation is received prior to 1630 hours local time on a Business Day then that Business Day, but if the confirmation is received later than 1630 hours local time on a Business Day then on the next Business Day after the confirmation was received; (v) for nationally recognized courier service, if delivered prior to 1630 hours local time on a Business Day then that Business Day, but if delivered after 1630 hours local time on a Business Date then receipt is deemed to be on the next Business Day after the confirmation was received.

- b) Email correspondence regarding the performance of the Agreement is acceptable except for notices of assignment, Event of Default, Force Majeure, termination, and legal or arbitration proceedings. Email messages shall be sent to the address specified for those purposes in the Agreement and are deemed to have been received on that Business Day if sent prior to 1630 hours local time on such Business Day, but if delivered after 1630 hours local time on a Business Day then receipt is deemed to be on the next Business Day. Email messages are at the risk of the sender and are only valid if actually received.
- c) Changes to the contacts and addresses specified in the Agreement shall be notified immediately by post or facsimile to the other Party.
- d) Instant messages or electronic “text” messages (such as SMS Format message) are not acceptable means of providing notice.
- e) All references to “local time” in this Article 19 mean local time at the place of receipt.

ARTICLE 20. SANCTIONS AND BRIBERY

Section 20.1. Sanctions and Destination Restrictions.

- a) Sanctions. Buyer and Seller each warrants that its performance under the Agreement will comply with all Sanctions Laws.
- b) Destination Restrictions.
 - i) The Parties agree that the Product purchased and sold under the Agreement shall not, directly or indirectly, be acquired from, sold, transferred or delivered to or through any Person, country or territory in contravention of any Sanctions Laws.
 - ii) Buyer shall, upon the request of Seller, provide Seller with appropriate documentation for the purposes of verifying the final destination and ultimate consignee of any delivery hereunder. Such documentation shall be so provided within thirty (30) days of the date of discharge of the shipment or within such lesser period if necessary to enable Seller to comply with any governmental requirement or request. The obligations of Buyer to comply with such requirement shall not be affected by any sale or disposal of the Product in question by Buyer.
- c) Special Remedies. If Buyer fails, or Seller has reasonable grounds for believing that Buyer will fail, to comply with any of Buyer’s obligations in this Section 20.1, Seller shall have the right (without prejudice to any other rights and/or remedies Seller may have under the Agreement) to terminate the Agreement, suspend further deliveries under the Agreement and/or dispose of any undelivered Product under the Agreement in such manner as Seller deems appropriate.

Section 20.2. Anti-Corruption.

- a) Notwithstanding anything to the contrary herein, Buyer and Seller each agree to comply with, and use reasonable efforts to ensure that any third parties used by them to fulfill the Parties' respective obligations under the Agreement will comply with all Applicable Laws relating to anti-bribery, anti-corruption, and anti-money laundering applicable to any of the Parties or their Affiliates, including the US Foreign Corrupt Practices Act, the UK Bribery Act, the Corruption of Foreign Public Officials Act, and any other applicable country legislation implementing the Organisation for Economic Co-operation and Development's Convention for Combating Bribery of Foreign Public Officials in International Business Transactions (collectively, the "**Anti-Bribery Laws**").
- b) No director, officer, employee or agent of either Party shall give or receive any commission, fee, rebate, kickback, lavish gift or entertainment, or other things of significant cost or value to any director, officer, employee, or agent of the other Party in connection with the Agreement.
- c) Each Party's financial settlements, billings and reports made in connection with the Agreement shall accurately, fairly and in reasonable detail reflect the relevant transactions in each Party's books and accounts.
- d) In connection with the performance of the Agreement, neither Party shall, directly or indirectly, pay, offer, give, promise, or authorize the payment of, any monies or other things of value to any government official or an officer or employee of a government or any department, agency or instrumentality of any government; an officer or employee of a public international organization; any Person acting in an official capacity for or on behalf of any government or department, agency, or instrumentality of such government or of any public international organization; any political party or official thereof or any candidate for political office; or any other Person at the suggestion, request or direction or for the benefit of any of the above-described Persons, or engage in acts or transactions otherwise in violation of the Anti-Bribery Laws.
- e) If either Party fails to comply with any of the provisions of this Section 20.2 (or gives the other Party reasonable grounds to believe it is in breach of the provisions of this Section 20.2), the other Party (without prejudice to any other rights and remedies it may have under the Agreement) shall be entitled to terminate the Agreement.

Section 20.3. Compliance with Trade Restrictions.

Notwithstanding anything to the contrary herein, nothing in the Agreement shall be interpreted or applied so as to induce or require a Party or any of its Affiliates to take, or to refrain from taking, any action in connection with the Agreement that is inconsistent with or would be in violation of US, UK, or Canadian laws, regulations, or requirements applicable to such Party which relate to anti-money laundering, foreign trade or export controls, sanctions, embargoes or international boycotts of any kind.

ARTICLE 21. MISCELLANEOUS

Section 21.1. Assignment.

Neither Party may assign any of its rights, duties, or obligations provided for under the Agreement, in whole or in part, without the prior written consent of the other Party. The above notwithstanding, either Party shall have the right to assign the Agreement to any Affiliate by providing written notice of such assignment to the other Party and so long as the assigning Party expressly remains jointly and severally responsible for the obligations so assigned with the Affiliate assignee. Any purported assignment of the Agreement in violation of this Section 21.1 will be void.

Section 21.2. Waiver of Sovereign Immunity.

Each Party hereby represents and warrants that it is acting solely in its commercial capacity in executing and delivering the Agreement, and in performing its obligations hereunder, and each Party hereby irrevocably waives with respect to all claims, disputes, controversies and other matters of any nature whatsoever that may arise under or in connection with the Agreement all immunity such Party may otherwise have or obtain for itself or its property as a sovereign, quasi-sovereign or state-owned entity (or similar entity) from any and all proceedings (whether legal, equitable, arbitral, administrative or otherwise), attachment of assets, and enforceability of judicial or arbitral awards (be they interim measures or final awards). The provisions of this Section 21.2 shall survive the termination of the Agreement without limitation as to time.

Section 21.3. Rights of Third Parties.

Nothing expressed or implied in the Agreement shall be considered or constructed as conferring any rights, interests, obligations or benefits under the Agreement to a Person other than the Buyer, Seller and their respective successor and permitted assigns.

Section 21.4. Deadfreight.

For CFR, CIF, CPT, CIP, DES, DDU, DDP, DAP or DAT transactions, if Seller incurs any deadfreight as a direct result of meeting the requirements of the Delivery Port nominated by Buyer, such deadfreight shall be for Buyer's account. Any deadfreight incurred solely for Seller's purposes under such transactions shall be for Seller's account.

Section 21.5. No Waiver.

No waiver of any right under the Agreement at any time will serve to waive the same right or any other right at any future date.

Section 21.6. Right to Audit Books and Records.

Each Party and its duly authorized representatives shall have access during customary business hours, subject to such Party's health and safety procedures, to the accounting records and other documents

maintained by the other Party which relate to the Agreement and shall have the right at its own expense to audit such records at any reasonable time after the effective date of the Agreement and within one (1) year after the termination of the Agreement. However, a Party can only conduct one (1) audit per year, and the same year cannot be re-audited. In no event shall the audited party be obligated to disclose legally privileged information.

Section 21.7. Independent Contractor.

In performing their respective services pursuant to the Agreement, Seller and Buyer are acting solely as independent contractors maintaining complete control over their respective employees, facilities, and operations. Neither Seller nor Buyer is authorized to take any action in any way whatsoever for or on behalf of the other.

Section 21.8. Survival.

Cancellation, expiration or termination of the Agreement shall not relieve the Parties of any obligations that, by their very nature, must survive cancellation, expiration or termination, including all payment and indemnification obligations arising under the Agreement prior to the date of cancellation, expiration or termination. A Party's payment obligation shall not be deemed fulfilled until the payment has been credited in full into the Party's bank account.

Section 21.9. Severability.

If a provision of the Agreement (or part thereof) is declared to be illegal, invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement and remainder of such provision shall not be affected and shall continue in full force and effect except to the extent necessary to delete such illegal, invalid, or enforceable provision (or part thereof).

Section 21.10. Amendment.

No amendment to the Agreement will be effective unless agreed to by both Parties and confirmed in writing.

Section 21.11. Entire Agreement.

The Agreement represents the entire agreement of the Parties with respect to the matters contemplated by the Agreement, and no oral statements or prior written matter not specifically incorporated in the Agreement shall be of any force and effect.

PART V: ADDITIONAL TERMS APPLICABLE TO RENEWABLE FUELS AND RENEWABLE IDENTIFICATION NUMBERS (RINS) PURCHASE AND SALES

ARTICLE 22. GENERAL PROVISIONS GOVERNING RENEWABLE FUELS AND RINS

In addition to Parts I through IV of these General Terms, the following provisions in this Part V of these General Terms shall apply to all transactions for the purchase and/or sale of RINs and Renewable Fuel between the Parties to which these General Terms are attached or specifically incorporated by reference.

ARTICLE 23. REPRESENTATIONS AND WARRANTIES

Section 23.1. Representations and Warranties of Seller.

In addition to the representations and warranties set forth in Article 7 and Section 23.2 (immediately below) of these General Terms and unless otherwise stated in the Special Provisions, Seller represents and warrants that, to the best of its knowledge, each RIN Initiated or sold pursuant to the Agreement: (i) was properly purchased or received by Seller pursuant to the RFS Program; (ii) is valid under the RFS Program; (iii) is separated and unassigned; (iv) each RIN Initiated or sold is of the D-Code (as that term is defined in the RFS Program), K-Code (as that term is defined in the RFS Program), and RIN Generation Year (other than where a later year is permitted in accordance with the Agreement) specified in the Special Provisions (if any) and has not been retired; and (v) if the EPA requests Seller to provide information to the EPA, Seller will observe this request in such form and within such period as the EPA may request in order to carry out any of its functions under the RFS Program.

Section 23.2. Representations and Warranties of Each Party.

Each Party represents and warrants to the other Party that: (i) it is a registered user of the EMTS and has completed any registration required by the RFS Program; (ii) the Agreement and such Party's performance under the Agreement are in compliance with all its obligations under the RFS Program as the same may apply to the Agreement and such Party's performance thereunder; (iii) it has entered into the Agreement as principal (and not as advisor, agent, broker or in any other capacity, fiduciary or otherwise), has a full understanding of the material terms and risks of the Agreement, has made its own independent decision to enter into the Agreement and as to whether the Agreement is appropriate or suitable for it based upon its own judgment and upon advice from such advisors as it has deemed necessary, and it is capable of assuming those risks; and (iv) if a Party receives a request from EPA for documents pursuant to EPA's authority under the RFS Program, and the other Party has the documents being requested, the Party that received such EPA request shall notify the other Party in writing and such other Party agrees to cooperate in responding to the EPA's request.

ARTICLE 24. TRANSFER OF RINS

Except as otherwise provided elsewhere in the Agreement, Seller shall transfer to Buyer and Buyer shall acquire from Seller all RINs generated pursuant to the RFS Program for each Gallon of Renewable Fuel sold hereunder, with the value assigned to the specific renewable fuel in accordance with the RFS Program. With respect to the transfer of the RINs under the Agreement, Seller will issue a corresponding Product

Transfer Document, and Seller and Buyer will subsequently effect the transfer of RINs specified in the relevant Product Transfer Document using the EMTS within the time frame set forth in the RFS Program. Title to the RINs shall pass from Seller to the Buyer simultaneously with and in the same manner as title to the Renewable Fuel or if RINs only transaction, title to RINs shall pass from Seller to Buyer upon Buyer's acceptance of the RIN transaction in EMTS (either such title transfer date shall be hereinafter referred to as the "RIN Transfer Date"). Each of the RINs that is transferred along with the RIN Transfer Date will be listed on the Product Transfer Document and, for RINs only transactions, the Seller shall provide all other information required under the RFS Program for separated RINs.

ARTICLE 25. PRODUCT COMPLIANCE

For each delivery of Renewable Fuel, Seller shall provide to Buyer a certificate of analysis, a bill of lading, a delivery ticket, or a loading ticket that certifies that the Renewable Fuel is in compliance with federal and state requirements applicable at the time of delivery. For each delivery of RINs, whether or not sold separately from a Renewable Fuel, Seller and Buyer each shall comply with all applicable provisions of the RFS Program including, but not limited to, those provisions related to generation, separation, transfer, and retirement of RINs.

ARTICLE 26. SELLER'S FAILURE TO INITIATE RINS OR DELIVER VALID RINS

- a) If Initiated RINs accepted by Buyer are or become invalid for purposes of the RFS Program, (each such affected RIN a "**Deficient RIN**"), then, Seller shall, at Seller's sole cost and expense, Initiate Qualified Replacement RINs in a volume equal to the deficient quantity within fifteen (15) Business Days after Seller receives notice (whether from Buyer, from EPA, or from any third party) that the RINs are invalid for purposes of the RFS Program, and shall reimburse Buyer for its direct and actual costs and expenses incurred as a result of Seller's Deficient RINs. If Seller fails to Initiate Qualified Replacement RINs within fifteen (15) Business Days after Seller receives notice, then Buyer may Initiate Qualified Replacement RINs in a volume equal to the Deficient RINs and Seller shall reimburse Buyer for all of its direct and actual costs and expenses incurred in connection with obtaining and transferring a volume of Qualified Replacement RINs.
- b) If, as a result of the Seller's willful misconduct it sells the Buyer Deficient RINs, and such sale results in a Governmental Authority imposing fines and penalties upon Buyer, then notwithstanding anything to the contrary contained herein, Seller will reimburse Buyer for any and all such fines and penalties to the extent the fines and penalties are assessed against Buyer as a direct result of the Deficient RINs.
- c) In the event the provisions of this Article 26 are invoked, Seller and Buyer agree to work together in good faith to pursue an efficient, commercial and practical resolution consistent with the foregoing options (or any combination thereof) in order to cure any default with respect to any Deficient RINs; provided, however, the replacement RINs must be Qualified Replacement RINs unless otherwise mutually agreed.

- d) In the event any Qualified Replacement RINs transferred to the Buyer are or become invalid for purposes of the RFS Program, such Qualified Replacement RINs will be treated as Deficient RINs for purposes of this Article 26.

ARTICLE 27. CHANGE IN LAW

If any Applicable Law, including without limitation the RFS Program, or EPA policy or procedure implementing the RFS Program is enacted, implemented, modified, amended, or revoked so that the implementation of the Agreement becomes impossible, impractical, or inconsistent with the requirements, protocols or procedures under the RFS Program, the Parties shall work in good faith to amend the Agreement to conform to the changed requirements or circumstances in order to maintain the original intent of the Parties under the Agreement. If any Applicable Law, including without limitation the RFS Program, is enacted, implemented, modified, amended, or revoked such that Buyer is no longer an obligated party under the RFS Program or the RFS Program is no longer in effect, Buyer shall have the right to terminate the Agreement with no further obligation upon thirty (30) days' notice to Seller.

ARTICLE 28. LIMITATION OF LIABILITY – FINES AND PENALTIES

EXCEPT AS SET FORTH IN ARTICLE 26(b) OF THESE GENERAL TERMS, NO PARTY SHALL PAY OR BE LIABLE FOR ANY FINES OR PENALTIES ASSESSED BY ANY GOVERNMENTAL AUTHORITY INCLUDING, BUT NOT LIMITED TO, RFS PROGRAM FINES OR PENALTIES.

Exhibit A

DATE: _____
TO: _____
FROM: VALERO MARKETING AND SUPPLY COMPANY
ONE VALERO WAY
SAN ANTONIO, TEXAS 78249

LETTER OF INDEMNITY

DEAR SIRs,

WE REFER TO OUR CONTRACT DATED _____ IN RESPECT OF OUR SALE TO _____ OF A SHIPMENT OF _____ BARRELS OF _____ SHIPPED ON BOARD THE VESSEL _____ AT THE PORT OF _____ (THE "CARGO") WITH BILLS OF LADING DATED _____ .

TO DATE, WE ARE UNABLE TO PROVIDE _____ WITH THE FULL SET OF BILLS OF LADING IN RELATION TO THE ABOVE TRANSACTION, WHICH CONSISTS OF 2/3 ORIGINAL BILLS OF LADING PLUS A MASTERS RECEIPT FOR 1/3 ORIGINAL BILLS OF LADING ENDORSED TO THE ORDER OF _____ .

IN CONSIDERATION OF YOUR PAYING TO US THE FINAL PURCHASE PRICE OF US DOLLARS \$ _____ WE HEREBY WARRANT THAT WE HAVE FULL TITLE FREE AND CLEAR OF ANY LIEN OR ENCUMBRANCE TO SUCH MATERIAL, AND HAVING THE FULL RIGHT AND AUTHORITY, AND IN CONSIDERATION OF SAID PAYMENT, WE HEREWITH TRANSFER SUCH TITLE AND EFFECT DELIVERY OF SUCH MATERIAL TO YOU.

WE FURTHER AGREE TO CONTINUE TO MAKE ALL REASONABLE EFFORTS TO OBTAIN AND SURRENDER TO _____ AS SOON AS POSSIBLE 2/3 ORIGINAL BILLS OF LADING PLUS A MASTERS RECEIPT FOR 1/3 ORIGINAL BILLS OF LADING ISSUED OR DULY ENDORSED TO THE ORDER OF _____ AND IN THE EVENT THAT SAID BILLS OF LADING CANNOT BE OBTAINED THROUGH THE EXERCISE OF ALL SUCH REASONABLE EFFORTS, THEN IN THAT CIRCUMSTANCE, WE AGREE TO PROTECT, INDEMNIFY, AND SAVE YOU HARMLESS FROM AND AGAINST ANY AND ALL DAMAGES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEY FEES) WHICH YOU MAY SUFFER BY REASON OF THE MISSING ORIGINAL BILLS OF LADING PLUS A MASTERS RECEIPT FOR 1/3 ORIGINAL BILLS OF LADING REMAINING OUTSTANDING, INCLUDING BUT NOT LIMITED TO ANY CLAIMS AND DEMANDS WHICH MAY BE MADE BY A HOLDER OR TRANSFEREE OF THE ORIGINAL BILLS OF LADING OR ANY OTHER THIRD PARTY CLAIMING AN INTEREST IN OR LIEN ON THE CARGO OR PROCEEDS THEREOF.

OUR OBLIGATION TO INDEMNIFY YOU IS, OF COURSE, SUBJECT TO THE CONDITIONS THAT YOU GIVE US IMMEDIATE NOTICE OF THE ASSERTION OF ANY CLAIM(S) AND FULL OPPORTUNITY TO CONDUCT DEFENSE THEREOF WITHOUT YOUR APPROVAL. THIS INDEMNITY SHALL IN ALL CASES, INCLUSIVE OF ANY AND ALL DAMAGES, COSTS, EXPENSES AND ATTORNEY FEES, BE LIMITED TO AN AMOUNT NOT EXCEEDING 100% OF THE CIF VALUE OF THE CARGO THAT IS THE SUBJECT OF THIS TRANSACTION.

THIS LETTER OF INDEMNITY SHALL AUTOMATICALLY BECOME NULL AND VOID UPON OUR TENDERING TO _____ THE ORIGINAL BILLS OF LADING PLUS A MASTERS RECEIPT FOR 1/3 ORIGINAL BILLS OF LADING AS ABOVE OR UPON OF THE EXPIRATION OF 24 MONTHS AFTER COMPLETION OF DISCHARGE, WHICHEVER OCCURS FIRST; PROVIDED, THAT NO LEGAL PROCEEDINGS ARISING FROM DELIVERY OF THE CARGO HAVE BEEN INSTITUTED WITHIN SUCH 24 MONTH PERIOD.

THE LETTER OF INDEMNITY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ANY DISPUTES, CONTROVERSIES OR CLAIMS ARISING OUT OF OR IN RELATION TO THIS INDEMNITY OR THE BREACH, TERMINATION OR INVALIDITY THEREOF SHALL BE SUBJECT TO THE EXCLUSIVE JURISDICTION OF THE STATE OR FEDERAL COURTS LOCATED IN HARRIS COUNTY, TEXAS.

