



**Phillips 66 Company
Products Purchase/Sale Agreement
GENERAL TERMS AND CONDITIONS**

1. DEFINITIONS

- (a) “Affiliate” means, in relation to any Party, any entity or person directly or indirectly controlled by the Party, any entity or person that directly or indirectly controls the Party, or any entity or person directly or indirectly under common control with the Party. For this purpose, “control” of any Party, entity or person means ownership of at least 50% of the voting power of the Party, entity or person.
- (b) “API” means American Petroleum Institute. “API MPMS” means API Manual of Petroleum Measurement Standards.
- (c) “ASTM” means ASTM International, f/k/a American Society for Testing and Materials.
- (d) “Barrel” means 42 United States Gallons.
- (e) “Business Day” means a day on which U.S. Federal Reserve member banks in New York City are open for business.
- (f) “Buyer” means the Party obligated to buy Product under the terms of a Transaction.
- (g) “Confirmation” means any writing evidencing the Transaction, which may be sent by facsimile or any other mutually acceptable electronic means.
- (h) “Day” and “Month” mean a calendar day and a calendar month respectively.
- (i) “Delivery Location” and “Delivery Period” each means the location or period specified for delivery of the Product in a Confirmation. In the case that the Confirmation references either a “Loading Window” or a “Discharge Window,” the term “Delivery Period” shall mean either the “Loading Window” or a “Discharge Window,” as applicable.
- (j) “Gallons” means 231 cubic inches of liquid measured at a temperature of 60 degrees Fahrenheit and an absolute pressure of 29.92 inches of mercury.
- (k) “In-Tank Transfer” means the transfer of physical inventory of Product on the books and records of a Terminal Operator where the Buyer and Seller are both terminal customers.
- (l) “Metric Ton” means 2,204.62 pounds, and “Ton” means a long ton of 2,240 pounds.

- (m) “Parties” shall mean Buyer and Seller collectively. “Party” means either Buyer or Seller, individually. For the purposes of Section 18, the term Party or Parties includes all others for whose actions a Party may be held accountable.
- (n) “Phillips 66” means Phillips 66 Company and “Counterparty” means the other Party to a Transaction.
- (o) “Product” means the types and quantities of refined petroleum products which are the subject matter of these General Terms and Conditions.
- (p) “Seller” means the Party obligated to sell Product under a Transaction.
- (q) “Tank-to-Tank Transfer” means a transfer of a position of physical inventory of Product, where, in the case of an ex-tank transfer, the Seller is a terminal customer, and in the case of an into-tank transfer, the Buyer is a terminal customer.
- (r) “Taxes” means any and all federal, state and local, statutory, governmental, impositions, duties, tariffs, levies, fees and charges of every description, including all aviation fuel, special fuel, diesel, excise, environmental, spill, gross earnings, gross receipts, sales and use taxes, in each case, wherever imposed, and all penalties, charges, costs and interest payable in connection with any failure to pay or delay in paying them and any deductions or withholdings of any sort, provided, however, that Taxes shall not include (x) property taxes, which taxes are governed by the state or local law applicable thereto, (y) taxes based on or measured by the income, or net worth of either Party, and (z) fees, imposts or charges of whatsoever nature (including rates, tolls, and dues of every description) in respect of a Vessel entering or leaving the loading or discharge port and approaching and leaving Seller’s or Buyer’s facilities, including charges imposed by fire boats, tugs and escort or other support vessels, the applicable coast guard, linesmen, a pilot, and any other person assisting a Vessel to enter or leave the loading discharge port and approaching and leaving Seller’s or Buyer’s facilities. The term “Taxable” shall be construed accordingly.
- (s) “Terminal Operator” means the entity, (or its personnel) having responsibility for the day-to-day operations of the terminal, pier, wharf or offshore loading platform where title or custody to the Product may transfer.
- (t) “Transaction” means the agreement for the purchase or sale of Products which may be evidenced by a Confirmation and shall be governed by these General Terms and Conditions.
- (u) “U.S.” means United States of America, and every reference to money or price pertains to U.S. currency.
- (v) “Vessel” means a tankship or barge employed for the purpose of transporting Product.

2. TITLE, RISK OF LOSS AND DELIVERY

- 2.1 As of the date of each Transaction, Seller represents and warrants that it has good title free and clear of any liens or encumbrances to Product sold and delivered hereunder, and that Seller has full right and authority to transfer such title and effect delivery of such Product to Buyer. **IN ADDITION TO AND WITHOUT LIMITING ANY OTHER INDEMNIFICATION OBLIGATIONS IN THIS AGREEMENT, SELLER AGREES TO INDEMNIFY, DEFEND AND HOLD BUYER HARMLESS FROM AND AGAINST ANY LOSSES, LIABILITIES, AND DAMAGES (INCLUDING, FOR CLARITY, REASONABLE ATTORNEY'S FEES AND OTHER LEGAL COSTS AND EXPENSES), ARISING FROM ANY CLAIM OR DEMAND BY REASON OF ANY FAILURE OF SUCH TITLE OR BREACH OF THIS WARRANTY.**
- 2.2 "Free on Board" or "FOB," "Cost and Freight" or "CFR," or "C&F," "Cost, Insurance and Freight" or "CIF" shall all have the meaning ascribed to such terms in Incoterms-2020 edition, for waterborne purchases and sales, and the Uniform Commercial Code, as adopted by the State of New York and in effect on the date of the applicable Transaction, for truck and rail deliveries. For FOB, CFR and CIF waterborne purchases and sales, title and risk of loss shall pass from Seller to Buyer as Product passes the Vessel's permanent manifold flange at the load port.
- 2.3 "Delivered at Place" or "DAP" shall have the meaning ascribed to such term in Incoterms-2020 edition. Title and risk of loss of Product shall pass when the goods are placed at the disposal of the Buyer on the arriving means of transport ready for unloading at the named place of destination or at the agreed point within that place, if any such point is agreed.
- 2.4 "Delivered at Place Unloaded" or "DPU" shall have the meaning ascribed to such term in Incoterms-2020 edition. Title and risk of loss of Product shall pass when the goods, once unloaded from the arriving means of transport, are placed at the disposal of the Buyer at a named place of destination or at the agreed point within that place, if any such point is agreed. "Delivered at Terminal" or "DAT" shall have the meaning ascribed to "Delivered at Place Unloaded" or "DPU".
- 2.5 "Delivered Ex-Ship" or "DES" shall have the meaning ascribed to it in Incoterms-2000 edition. Title and risk of loss to the Product shall pass from Seller to Buyer as the Product passes the Vessel's permanent manifold flange at the discharge port.
- 2.6 In the case of pipeline deliveries, title to and risk of loss of Products shall pass from Seller to Buyer at the Delivery Location. In the case of an ex-tank; Tank-To-Tank Transfer, title to and risk of loss of Product shall pass from Seller to Buyer at the outlet tank valve flange on the delivering tank. In the case of an into-tank; Tank-To-Tank Transfer, title to and risk of loss of Product shall pass from Seller to Buyer at the inlet tank valve flange on the receiving tank. In the case of an In-Tank Transfer, title to and risk of loss of Products shall

pass from Seller to Buyer at the time of the transfer, as specified in the operative transfer documentation or on the books and records of the Terminal Operator, as applicable.

3. QUANTITY AND QUALITY DETERMINATION

- 3.1 For marine cargoes or Tank-to-Tank Transfers, as the case may be, the quantity and quality of cargo received or delivered shall be determined by a mutually appointed Independent Inspection Company (“IIC”). Quantity as determined by the IIC shall be final and binding on all Parties and shall be the basis for preparing relevant shipping documents and invoices save fraud and/or manifest error. If, for any reason an IIC is not in attendance or if terminal operating procedures prevail, then quantity as determined by Terminal Operator shall be final and binding on all Parties and shall be the basis for preparing relevant shipping documents and invoices save fraud and/or manifest error. Each Party shall have the right to witness the measurement and sampling processes, provided adequate notification is given to interested parties.

All measurement & sampling equipment, procedures, calculations, and practices (whether performed by IIC or by the Terminal Operator) shall be performed in conformance with the most current International measurement, sampling and analysis standards (API MPMS, The Energy Institute Hydrocarbon Management (EI HM), International Organization for Standardization (ISO), National Institute of Standards and Technology (NIST) and ASTM). Volumes shall be adjusted from observed conditions to standard volumes and weight in accordance with the latest revision of API MPMS Chapter 11 (e.g. Table 6B or 54B, etc. whichever table is applicable to that commodity).

- 3.2 All measurements for marine cargoes or Tank-to-Tank Transfers, as the case may be, shall be determined by one of the following methods in descending order of preference, as applicable:
- (a) Meters. Meters at or near the point of transfer shall determine the quantity of cargo received or delivered. The IIC shall, where possible, verify the accuracy of all relevant metering equipment, including temperature and pressure measurement devices, transmitters and calculations as well as corresponding meter proving and calibration documentation.¹
 - (b) Shore Tanks. If meters are not available or malfunction (i.e. are deemed to be inaccurate), or if verification of meter performance is not possible,

¹ A Shore Line Fullness Verification (“SLFV”) shall be requested by the IIC and performed using any of the approved SLFV Methods in API MPMS Chapter 17.6. If Meters are available, but are not located at or near of the point of transfer, the Parties shall agree on an SLFV procedure consistent with API MPMS 17.6 and/or terminal operating procedures prior to commencement of cargo transfer operations. If a SLFV is performed via the Line Displacement Method, it shall be performed by the Vessel delivering to or receiving from the furthestmost shore tank to be used during each Marine Vessel custody transfer (delivery/loading).

quantity shall be based on shore tank measurements, as determined by the IIC.¹

- (c) Vessel Measurements. (i) In the event meters are not available or if shore tank(s) are active (vs. static) during any part of the transfer, or if the IIC determines shore quantities to be inaccurate or not representative of the volume of cargo transferred, quantity shall be based on the volumes as determined from measurements of the Vessel before and after the transfer and adjusted for the Vessel's Vessel Experience Factor ("VEF") as per API MPMS 17.9- EI HM 49 if the Vessel's VEF is determined to be valid and applicable by the IIC. (ii) Delivered Ex-Ship cargoes involving Lighterage or Ship-to-Ship Transfers ("STS"). In the event that a cargo is lightered from Seller's Vessel (Ship to be Lightered or "STBL"), the quantity of cargo delivered/received shall be determined from the IIC's gauging of the receiving Vessel's (Service Vessel or "SV") tanks and adjusted for the SV's VEF as per API MPMS 17.9- EI HM 49 if the SV's VEF is determined to be valid and applicable by the IIC.
- (d) Agreement between Parties. In the event, the IIC determines that the above custody transfer measurement points are inaccurate or are not representative of the volume(s) of cargo transferred, the Parties shall be notified by the IIC and the Parties shall agree to negotiate in good faith and without prejudice, a new basis for custody transfer volumes.

3.3 Quality determination of all receipts and deliveries for marine cargoes and Tank-to-Tank Transfers, as the case may be, shall be based on a qualified laboratory's analyses performed on representative samples obtained by the following methods in descending order of preference, as applicable:

- (a) In-line Sampler. A representative sample of the cargo delivered or received shall be obtained via flow-proportional in-line sampler that performs according to API MPMS 8.2 and/or corresponding ISO standard (ISO 3171) to comply with regulatory requirements.
- (b) Vessel or Shore Tanks Samples. If a flow-proportional in-line sampler is not available or if it malfunctions (per API MPMS 8.2 and/or corresponding ISO standard (ISO 3171) to comply with regulatory requirements), the Parties shall agree on alternate custody transfer samples sources (shore tanks or marine Vessels).

¹ Consistent with API MPMS 3. 1A/EI HM 4, measurements taken through unslotted standpipes shall not to be used for custody transfer purposes. Consistent with API MPMS 3.1A/EI HM 4, all delivering/receiving shore tanks shall be static and shall have a liquid oil surface at the official point of calibration. All receiving shore tanks shall contain sufficient volumes of oil, prior to commencement of receiving operations, to minimize measurement inaccuracy due to tank bottom movement and/or deformation. Shore tank(s) liquid levels shall not be within their calibrated tank capacity tables floating roof's critical zone(s) either prior to commencement or completion of cargo transfer operations and/or performance of shore tanks custody transfer measurements. Also, see * above.

- 3.4 For pipeline, truck and rail car, quantity as determined by Terminal Operator shall be final and binding on all Parties and will be the basis for preparing relevant shipping documents and invoices save fraud and/or manifest error. Each Party shall have the right to witness the measurement and sampling processes, provided adequate notification is given to interested parties.

All measurement & sampling equipment, procedures, calculations, and practices shall be performed in conformance with the most current International measurement, sampling and testing standards (API MPMS, EI HM, ISO, NIST and ASTM). Volumes shall be adjusted from observed conditions to a standard temperature of 60 degrees Fahrenheit and a pressure of one standard atmosphere (14.696 PSIA) in accordance with the latest revision of API MPMS Chapter 11 (e.g. Table 6B or 54B etc. whichever table is applicable to that commodity).

- 3.5 The quantity determination for pipeline, truck and rail car shall be as follows:

- (a) Pipeline Receipts/Deliveries. Product quantities received from or delivered to pipelines shall be determined by calibrated - custody transfer grade meters. If meters are not available or malfunction (i.e. are deemed to be inaccurate), or if verification of meter performance is not possible, quantity shall be based on shore tank measurements.
- (b) Truck Receipts/Deliveries. Product quantities received from or delivered to tank trucks at truck racks shall be determined by calibrated - custody transfer grade meters. If meters are not available or malfunction (i.e. are deemed to be inaccurate), or if verification of meter performance is not possible, quantity shall be based on terminal tank measurements. In the event meters are not available or if shore tank(s) are active (vs. static) during any part of the transfer quantities shall be based on the weighing trucks on certified weigh scales.
- (c) Rail Car Receipts/Deliveries. Product quantities received from or delivered to rail cars at rail racks shall be determined by calibrated - custody transfer grade meters. If meters are not available or malfunction (i.e. are deemed to be inaccurate), or if verification of meter performance is not possible, quantity shall be based on terminal tank measurements. In the event meters are not available or if shore tank(s) are active (vs. static) during any part of the transfer quantities shall be based on the weighing rail cars on certified weigh scales.
- (d) Agreement between Parties. In the event, the above custody transfer measurement points are inaccurate or are not representative of the volume(s) of cargo transferred, the Parties shall agree to negotiate in good faith and without prejudice, a new basis for custody transfer volumes.

- 3.6 Quality determination pipeline, truck and rail car of all receipts and deliveries shall be based on a qualified laboratory's analyses performed on representative samples obtained by the following methods in descending order of preference:
- (a) In-line Sampler. A representative sample of the cargo delivered or received will be obtained via flow-proportional in-line sampler that performs according to API MPMS 8.2.
 - (b) Terminal Tanks Samples. If a flow-proportional in-line sampler is not available or if it malfunctions (per API MPMS 8.2), volumetric composite samples can be comprised of manual samples performed by Terminal Operator from delivering/receiving terminal tanks or from each of the receiving/delivering tank trucks or rail cars. Manual samples may be obtained via all-level(s) samples (running samples), upper-middle-lower level(s) samples or spot samples at agreed levels consistent with API MPMS 8.1.

4. CLAIMS

Notice of claim as to defect in quantity or quality with respect to any cargo of Product shall be made in writing to Seller immediately after such apparent defect is discovered. Any such notice of claim shall be followed promptly by a formal written claim with all necessary details to properly process such claim. IF NO FORMAL WRITTEN CLAIM IS RECEIVED WITHIN 90 DAYS AFTER DELIVERY OF THE PRODUCT TO THE BUYER, THE CLAIM SHALL BE DEEMED TO HAVE BEEN WAIVED. The date of the completion of loading or completion of delivery shall be deemed to be "hoses off" on the pertinent Vessel's statement of facts or documented delivery time as noted within tank truck(s), tank cars(s), pipeline, Tank-to-Tank and In-Tank Transfer ticketing/reporting. Laytime and demurrage claims, if any, shall be submitted in reasonable detail within 90 Days from the completion of loading/discharge.

5. PAYMENT

- 5.1 The payment due date shall be as specified in the applicable Confirmation. The following documents may be requested for payment, but failure to provide such will not be a basis for withholding payment:
- (a) for Product delivered by waterborne transportation, Seller's invoice and three of three (3/3) properly issued and endorsed clean original bills of lading, certificates of quantity, quality, and origin, or equivalent documents as issued by the loading terminal, or in lieu of temporarily missing documents, Seller's letter of indemnity in form set forth herein in Section 5.6;
 - (b) for Product delivered by pipeline Seller's invoice and a copy of the pipeline meter ticket;

- (c) for Product delivered by barge, truck or rail, Seller's invoice and bills of lading or other equivalent documents as requested by Buyer;
 - (d) For Product delivered by Tank-To-Tank or In-Tank Transfers, Seller's invoice and bills of lading or other equivalent documents as requested by Buyer.
- 5.2 All undisputed payments shall be made by wire transfer of immediately available funds or by Automated Clearing House credit in U.S. dollars to Seller at such address or depository as Seller may designate in writing.
- 5.3 Any invoice that is received by a Party after 12:00 p.m. Central Prevailing Time shall be deemed to have been received on the following Business Day. If the payment due date falls on Day that is not a Business Day, payment shall be made to Seller on the next Business Day after such payment due date.
- 5.4 Rounding conventions shall be as follows: (i) Product pricing in Gallons shall be rounded to the nearest fourth decimal place; (ii) Product pricing in Barrels shall be rounded to the nearest third decimal place; and (iii) all U.S. dollar amounts shall be rounded to the nearest cent.
- 5.5 Any undisputed amount payable for any cargo of Product or otherwise payable by Buyer to Seller hereunder shall, if not paid when due, bear interest from the due date until the date payment is received by Seller at an annual rate (based on a 360-Day year) equal to the rate of two percentage points above the prime rate of interest effective for the payment due date as published in *The Wall Street Journal*, but not more than the maximum rate of interest permitted under applicable law. Buyer shall pay such interest within five Business Days following receipt of Seller's invoice for such interest. If Buyer, in good faith, disputes the accuracy of the amount due in respect of a Transaction, Buyer will timely pay the undisputed amount and provide a written explanation of the nature of the dispute along with supporting documentation acceptable in industry practice. If it is determined that Buyer owes the disputed amount, then Buyer shall pay interest in accordance with this Section on such disputed amount from and including the originally scheduled due date to but excluding the date paid.
- 5.6 Form of Letter of Indemnity:

Any letter of indemnity provided by Seller shall be in the following form:

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

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

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

This indemnity shall terminate on delivery by us of the aforesaid document(s).

This indemnity shall be governed by and construed in accordance with laws of the State of New York and all disputes, controversies, or claims arising out of or in relation to this warranty or the breach, termination, or validity hereof shall be subject to the non-exclusive jurisdiction of the courts of the State of New York and the United States District Court located in the Borough of Manhattan in New York City.

Signed: [NAME] [POSITION]

Company:

6. CREDIT

- 6.1 Phillips 66 shall have the right from time to time to request pertinent financial information from the Counterparty to assure Phillips 66 of the Counterparty's creditworthiness. Phillips 66 financial information may be obtained at www.phillips66.com under the Investors tab.
- 6.2 If at any time (a) either Party has reasonable grounds for insecurity of the payment or performance obligations of the other Party; or (b) if Counterparty exceeds the credit line then in effect as from time to time established by Phillips 66, such Party, or in the case of clause (b) Phillips 66 (in either case "X"), may immediately require the other Party ("Y") to provide Performance Assurance. "Performance Assurance" shall mean, at X's option: (a) a prepayment for the applicable Transaction(s), (b) cash collateral in an amount acceptable to X, or (c) an irrevocable standby letter of credit in X's favor in an amount acceptable to X and in a form and substance specified by X and issued or confirmed by a bank acceptable to X (an "L/C"). Y grants to X a continuing first priority security interest in, lien on and right of setoff against all Performance Assurance in the form of cash transferred by Y to X. All bank charges attendant to an L/C shall be for the account Y. Delivery of the L/C, shall be made within two Business Days of such request by X, but all other Performance Assurances shall be provided by the close of business on the Business Day following demand. X may immediately suspend deliveries or receipts to or from Y pending receipt of any required Performance Assurance. Any demurrage resulting from delays to a Vessel pending receipt by X of required Performance Assurance shall be for account of Y. Counterparty acknowledges that the credit line may be a negative amount and Phillips 66 may require Performance Assurance to be in an amount that is sufficient to cover the anticipated exposure.
- 6.3 In addition to the foregoing, Phillips 66 shall have the right at any time to require Counterparty to deliver a parent company guaranty in the form and substance satisfactory to Phillips 66. Such guaranty shall be of the prompt payment, when due, of any and all

present or future indebtedness of the Counterparty, including any amounts owed for damages resulting from a failure of Counterparty to perform its obligations hereunder or otherwise.

- 6.4 Without limiting any other rights hereunder, Phillips 66 may require that Counterparty enter into a separate agreement pertaining to the margining and collateralization of exposure related to the Transaction or any other transaction between the Parties.

7. CONCURRENT TRANSACTIONS - NETTING OF INVOICES

In the event that the Parties agree to net invoices for amounts that are due each other on the same date, the Parties shall confirm with the exchange of writings, which may be sent by email, prior to the due date of the invoice amounts and any amounts remaining, if any, after net-out. Any remaining balance after net-out shall be paid by the Party owing such amount to the other Party on the date the gross amounts were due. Any such net-out shall be effective upon receipt of the remaining balance due after net-out to the Party owed such balance. The Parties understand and agree that such netting of invoices is expressly limited to amounts owed from purchases and sales from one Party to the other Party and that netting out any other amounts due pursuant to any Transaction, for any reason whatsoever, including but not limited to quality claims and demurrage claims, is strictly prohibited unless otherwise agreed to by the Parties.

8. FORCE MAJEURE

- 8.1 Except for an obligation to make payments hereunder for Product received or pursuant to Sections 9 or 10, a Party shall be excused from the performance of its obligation to deliver or receive Product, to the extent it is unable to perform due to a cause reasonably beyond its control, and which, by the exercise of due diligence, such Party could not have remedied, avoided or overcome. Force majeure may be due to any of the following, provided that such event actually prevents the Party declaring force majeure from performing:

- (a) Compliance with laws, decrees, guidelines, requests, or the like, of any government or person purporting to act therefore, or of international organizations of which the United States is a member;
- (b) Restriction or cessation of production of Product due to the imposition of conditions or requirements by any government or any person purporting to act under the color or claim of any governmental authority which makes it necessary to cease or to reduce the production of the Product;
- (c) Hostilities of war (declared or undeclared), embargoes, blockades, civil unrest, riots or disorders, terrorism, or sabotage;

- (d) Fires, explosions, lightning, maritime peril, collisions, storms, landslides, earthquakes, floods, adverse weather conditions or other acts of nature that affect a broad geographic area;
- (e) Strikes, lockouts, or other labor difficulties (whether or not involving employees of Seller or Buyer);
- (f) Disruption or breakdown of production or transportation facilities, equipment, labor or materials that are necessary to deliver or receive the Product;
- (g) Closing or restrictions on the use of harbors, railroads, or pipelines that are necessary to deliver or receive the Product; and/or
- (h) Any other cause whether or not of the same class or kind, reasonably beyond the control of either Party that prevents or interferes with the performance of the affected Transaction.

8.2 Neither Party shall be entitled to declare an event of force majeure if performance is affected by any or all of the following circumstances: (i) the Party claiming force majeure excuse failed to remedy the condition and to resume the performance of such obligations with reasonable dispatch; (ii) Seller's ability to sell Product at a higher or more advantageous price than the price, agreed to for the specific Transaction, or Buyer's ability to purchase Product at a lower or more advantageous price than the price agreed to for the specific Transaction; (iii) the loss of Buyer's market(s) or Buyer's inability to use or resell Product purchased hereunder, except, in either case, as provided in Section 10.2; or (iv) the loss or failure of Seller's Product supply or depletion of reserves, except, in either case, as provided in Section 8.1.

8.3 In the event that either Party must invoke the provisions in this Section, such Party shall promptly inform the other Party, first verbally and then in writing, describing the underlying circumstances of the particular cause(s) of force majeure, and the expected duration thereof. The Party claiming force majeure will also notify the other Party of termination of the events of force majeure and the date when performance is expected to resume.

8.4 The Party claiming force majeure shall also be liable for any costs of transportation that could not reasonably be prevented, including pipeline imbalance charges, rail detention charges or similar charges.

9. DELIVERY AND RECEIPT FAILURES

9.1 Unless excused by force majeure or the other Party's failure to perform, if Seller fails to deliver or Buyer fails to take delivery of all of the quantity of the Product as required in a

particular Transaction during the applicable Delivery Period (the “Non-Performing Party”), the exclusive remedy for the Non-Performing Party’s failure shall be as follows:

- (a) If Seller is the Non-Performing Party, Seller shall pay Buyer within five Business Days of receipt of notice of the amount due, an amount for each Gallon or Barrel (as applicable) of the Product of such deficiency equal to (1) the market price at which Buyer, acting in a commercially reasonable manner, is able, or absent an actual purchase, would be able to purchase or otherwise take delivery of Product in a quantity and quality comparable to the deficiency at the Delivery Location as determined by Buyer in a commercially reasonable manner, plus (A) costs reasonably incurred by Buyer in purchasing such substitute Product and (B) additional transportation charges, if any, reasonably incurred by Buyer as a result of taking delivery of substitute Product at a location other than the Delivery Location, minus (2) the price agreed to for such Product in the specific Transaction; except that if such difference is zero or negative, then neither Party shall have any obligation to make any deficiency payment to the other.
- (b) If Buyer is the Non-Performing Party, Buyer shall pay Seller within five Business Days of the receipt of notice of the amount due, an amount for each Gallon or Barrel (as applicable) of the Product of such deficiency equal to (1) the price agreed to for the specific Transaction, plus any storage, transportation or other costs reasonably incurred by Seller in reselling the Product, minus (2) the market price at which Seller, acting in a commercially reasonable manner, is able, or absent an actual sale, would be able to sell or otherwise dispose of the Product at the Delivery Location, as determined by Seller in a commercially reasonable manner; except that if such difference is zero or negative, then neither Party shall have any obligation to make any deficiency payment to the other.

9.2. A failure by a Non-Performing Party to pay the damages set forth herein, shall be a failure to pay for the purposes of Section 10.

10. DEFAULT

10.1 If either Party (the “Defaulting Party”) or any guarantor, as applicable, shall (a) with respect to any Transaction or other agreement between the Parties, fail to pay any undisputed amounts due in accordance with the terms of such Transaction or other agreement, and such failure is not cured within two Business Days after receipt of written notice of such failure to pay; (b) breach of any non-payment obligation contained herein or any other agreement between the Parties, other than either an obligation to deliver or receive Product, the sole remedy of which shall be specified in Section 9, or otherwise specified as an Event of Default, if not cured within two Business Days after written notice; (c) fail to provide Performance Assurances in accordance with Section 6.2; (d) fail to comply with any other credit requirement and such failure continues for two Business Days after written notice; (e) make an assignment or any general arrangement for the benefit of creditors; (f) become

bankrupt or insolvent, however evidenced, or be unable to pay its debts as they fall due; (g) file a petition or otherwise commence a proceeding under any bankruptcy, insolvency or similar law, or have any such petition filed or proceeding commenced against it; and/or (h) have a liquidator, administrator, receiver or trustee appointed with respect to it or any substantial portion of its property or assets; (in each case, an “Event of Default”) then the other Party (the “Non-Defaulting Party”) may on written notice to the Defaulting Party (except in the case of default specified in clauses (e-h) above in which case no notice is required):

- (i) designate a Day to terminate all Transactions and calculate its Termination Payment, as such term is defined below, for each such Transaction;
- (ii) if the Defaulting Party is Buyer and Seller has delivered Products to Buyer under a Transaction, the Seller may take possession of the Products and/or collect upon any security provided on behalf of Buyer; and
- (iii) set off or aggregate as appropriate, all other amounts then owing between the Parties hereunder or otherwise, and at the election of the Non-Defaulting Party amounts, if any, owed by the Non-Defaulting Party and/or its Affiliates to the Defaulting Party or by the Defaulting Party to the Non-Defaulting Party and/or its Affiliates, so that all such amounts are aggregated and/or netted to a single liquidated amount payable by one Party to the other.

10.2 The net amount due after such liquidation shall be paid by the close of business on the next Business Day. The “Termination Payment” in respect of each Transaction shall be (a) the amount owed on or before the termination date, whether or not then due, by each Party with respect to all Product delivered and received under the terminated Transactions but not yet paid for; (b) the difference between the Market Value and the Contract Value for each terminated Transaction; (c) any other amounts owed by the Parties; and (d) any other damages, costs or expenses incurred by the Non-Defaulting Party as a result of the early termination of each Transaction being terminated, including, without duplication, any damages, losses and expenses incurred in connection with the liquidation of hedges related to such terminated Transactions. “Market Value” means the amount of the Product remaining to be delivered or purchased under a Transaction multiplied by the market price for an equivalent transaction at the Delivery Location as determined by the Non-Defaulting Party in a commercially reasonable manner. “Contract Value” means the amount of the Product remaining to be delivered or purchased under a Transaction multiplied by the price specified in the Confirmation for the Transaction.

10.3 After an Event of Default, the Non-Defaulting Party (at its election) shall have a general right of setoff with respect to any and all amounts owing between the Parties (whether with respect to a Transaction, any other transaction or otherwise and whether or not then due). The Defaulting Party shall be responsible for any and all costs and expenses (including, without limitation, reasonable attorneys’ fees and disbursements) incurred by the Non-Defaulting Party in connection with an Event of Default.

- 10.4 In addition to the remedies set forth above, immediately upon the occurrence of any event that would give rise to an Event of Default with either or both the lapse of time or the giving of notice, the Non-Defaulting Party may suspend all performance under any or all Transactions.
- 10.5 The Parties intend that: (a) each Transaction shall constitute a “forward contract”; (b) these General Terms and Conditions shall constitute a “master netting agreement”; (c) each Party shall be a “forward contract merchant” and a “master netting agreement participant”; (d) all payments made or to be made by one Party to the other Party pursuant to any transaction and/or these General Terms and Conditions constitute “settlement payments”; and (e) any transfer of credit support, including Performance Assurance, constitutes “margin payments” as such terms are defined in Title 11 of the United States Code, as amended from time to time (the “Bankruptcy Code”). Additionally, each Party’s rights under this Section constitute a “contractual right to liquidate” the Transactions within the meaning of Section 556 of the Bankruptcy Code. All Transactions are entered into in reliance on the fact that the General Terms and Conditions and all Transactions thereunder form a single integrated agreement between the Parties. Upon a Party becoming bankrupt, the other Party shall be entitled to exercise its rights and remedies under these General Terms and Conditions in accordance with the safe harbor provisions of the Bankruptcy Code.
- 10.6 The Non-Defaulting Party’s rights under this Section shall be in addition to, and not in limitation or exclusion of, any other rights which the Non-Defaulting Party may have (whether by agreement, operation of law or otherwise).

11. GOVERNING LAW AND DISPUTE RESOLUTION

- 11.1 These General Terms and Conditions and each Transaction shall be governed by and construed in accordance with the laws of the State of New York without reference to its law on conflicts other than §5-1401 of the New York General Obligations Law, and the Parties hereby submit to the non-exclusive jurisdiction of the courts of the State of New York and the federal courts situated in New York City, Borough of Manhattan, and to service of process by certified mail.
- 11.2 Notwithstanding the forgoing, prior to initiating any litigation, the Parties shall attempt in good faith to resolve any dispute arising out of or relating to any Transaction by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of the affected Transaction. Such negotiation shall be subject to the following process: Either Party may give the other Party written notice of any dispute not resolved in the normal course of business. Such notice shall contain a description of the dispute, a statement of that Party’s position and the name(s) and titles(s) of the executive(s) who will represent that Party in the subsequent negotiation. The receiving Party shall respond back within 15 Days thereafter with its position and the name(s) and title(s) of the executive(s) who will represent it. Within 30 Days after delivery of the original notice, the executives of both Parties shall

meet at a mutually acceptable time and place to negotiate the noticed dispute on a non-binding basis, and such negotiations shall not exceed 15 Days. Any offer, promise or statement made during such negotiation shall be privileged, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation.

- 11.3 The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not in any way apply to, or govern any Transaction hereunder.

12. TAXES

- 12.1 Seller shall pay, reimburse, indemnify, defend and hold harmless Buyer for any and all applicable Taxes, including all taxes assessed on or in connection with production, extraction, processing, manufacture or transport of Product (including, without limitation, assuring that severance taxes, royalties, working interest payments and similar burdens imposed with relation to extraction and production of same are borne by Seller or prior suppliers of same) with respect to the Product(s) delivered hereunder, the Taxable incident of which occurs before the transfer of title to the Product(s) to Buyer. Seller shall not be obligated to indemnify or hold harmless Buyer for any Taxes levied or imposed by any governmental authority in any country and payable by Buyer (i) which do not directly relate to the performance by Buyer of its obligations hereunder; or (ii) resulting from the creation of a permanent establishment, trade or business or presence by Buyer (or any Affiliate thereof).
- 12.2 Buyer shall pay, reimburse, indemnify, defend and hold harmless Seller for: (a) any and all applicable Taxes with respect to the Product(s) delivered hereunder, the Taxable incident of which occurs at or after transfer of title to the Product(s); (b) all federal, state, and local product excise Taxes and fees, including Taxes and fees on carbon dioxide emissions and carbon content; and (c) any applicable environmental (including spill) levies, Taxes, and fees to the extent not otherwise prohibited by law. Buyer shall not be obligated to indemnify or hold harmless Seller for any Taxes levied or imposed by any governmental authority in any country and payable by Seller (i) which does not directly relate to the performance by Seller of its obligations under these General Terms and Conditions; or (ii) resulting from the creation of a permanent establishment, trade or business or presence by Seller (or any Affiliate thereof). If Buyer claims exemption from any Taxes or fees, Buyer shall provide Seller with the appropriately executed exemption certificates.
- 12.3 In the event either Buyer or Seller becomes aware of a potential or actual liability to make any payment of Taxes which might give rise to a claim, it shall give notice of the circumstances to the other Party as soon as reasonably practicable, in order to allow both Parties reasonable opportunity to seek to minimize their liability for such Taxes, acting always in compliance with the laws of the relevant governmental authority. Each Party shall give the other Party such assistance as is reasonable in the circumstances in this regard, and Buyer or Seller (as appropriate) shall not make any payment of such Taxes until the due

date on which such Taxes are due and payable in accordance with the relevant tax regulations unless an early payment could result in a reduction of the liability to such Taxes.

- 12.4 Seller reserves the right to claim, to receive, and to retain drawbacks on imported duty-paid merchandise used in the manufacture of Products it delivers to Buyer, and to the extent Buyer has such rights, Buyer hereby assigns such rights to Seller. Whenever Products are exported, the Buyer shall promptly notify the Seller and shall, on request, execute claim forms in favor of Seller to enable it to establish its drawback rights under custom regulations. When applicable to Phillips 66 produced Products, Buyer shall furnish Seller a copy of the non-negotiable bill of lading for the export of the Products, an assignment of export drawback rights for U.S. Customs and Border Protection and any forms required by governmental authorities covering each batch of Products sold to and exported by Buyer or any of Buyer's subsidiaries or licensees, each fully completed and properly executed by all necessary Parties and endorsed to Seller, where appropriate.

13. SAFETY DATA SHEETS

Seller has provided or shall provide Buyer upon Buyer's request with Seller's Safety Data Sheets ("SDS") for the Product to be delivered hereunder. Nothing herein shall excuse Buyer from complying with all laws, regulations and decrees which may require Buyer to provide its employees, agents, contractors, users and customers who may come into contact with the Product with a copy of the SDS and any other safety information provided to it by Seller, and/or which require Buyer to ensure that the recommendations relating to the handling of the Product are followed. Compliance with any recommendation contained in the SDS or other safety information shall not excuse Buyer from complying with all laws, statutes, regulations or decrees of any state or territory having jurisdiction over Buyer.

14. INDEMNITY AND LIMITATION OF LIABILITY

- 14.1 Seller and Buyer mutually covenant to protect, defend, indemnify and hold each other harmless from and against any and all claims, demands, suits, losses, expenses (including without limitation, costs of defense, attorney's fees and interest), damages, fines, penalties, causes of action and liabilities of every type and character, including but not limited to personal injury or death to any person including employees of either Party or loss or damage to any personal or real property, caused by, arising out of or resulting from the acts or omissions of negligence or willful acts of such indemnifying Party, its officers, employees or agents with respect to the purchase and sale of Product hereunder. In the event the Parties are jointly and/or concurrently negligent, each Party shall indemnify the other Party to the extent of its negligent acts or omissions or willful acts.
- 14.2 EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY SHALL BE LIABLE FOR ANY PROSPECTIVE OR LOST PROFITS OR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES.

15. COMPLIANCE WITH LAW

- 15.1 Product sold hereunder shall be produced and delivered in full compliance with all applicable governmental laws, regulations and orders. Without limitation to the foregoing, Products shall comply, as applicable with Regulations for (i) gasoline and alcohol blends; (i) low sulfur diesel; (iii) reformulated gasoline; and (iv) gasoline additives.
- 15.2 For gasoline and alcohol blends, Seller agrees to provide Buyer for each rack, pipeline and marine delivery either a certificate of analysis, a bill of lading, a delivery ticket or a loading ticket that represents the Product to be in compliance at the time of delivery and correctly stating the maximum Reid Vapor Pressure at the time of delivery.
- 15.3 Seller and Buyer shall maintain records that demonstrate compliance with the applicable Regulations for a period of two years from the date of the last Delivery Period of a Transaction (the "Audit Period"). Seller and Buyer shall have the right to inspect and copy any and all such records of the other Party at any reasonable time or times during normal business hours during the Audit Period. This provision shall survive termination of the Transaction for a period equal to the remainder of the Audit Period.
- 15.4 In accordance with the Federal Trade Commission's requirements for octane certification under the Petroleum Marketing Practices Act, Seller hereby certifies the accuracy of the octane rating(s) of any automotive gasoline(s) described in Confirmation to a Transaction.
- 15.5 For deliveries out of the State of California, Seller must retain documentation to support the delivery of fuel at an out-of-state location for all exemptions or credits. Documentation may include, but is not limited to, contracts, bills of lading, delivery tickets, or meter tickets, or meter readings. The Buyer has the burden and shall provide Seller with the proper substantiation and documentation to support the exemption or credit. Delivery tickets shall be furnished by the Buyer to Seller's Tax Department within seven Days after the end of the Month in which the Products were purchased showing receipt in a location outside the State of California.
- 15.6 The Product sold by Seller to Buyer may contain one or more chemicals known to the State of California to cause cancer, birth defects or reproductive harm. Accordingly, in the event that the Product is sold at retail in California, Buyer shall ensure and shall require its buyer to ensure compliance with the Product warnings required pursuant to California Health and Safety Code section 25495 et seq., colloquially known as "Proposition 65" or "Prop 65," and 27 Cal. Code Reg. sec. 25102 et seq. (and in particular, the notice information required pursuant to California Health and Safety Code section 25600.2(b)(1)-(4)) (collectively, the "CA Regulation"). Upon request, Seller shall provide Buyer with the information sufficient for Buyer to provide the required Product notice information listed in the CA Regulation. Buyer shall indemnify and hold Seller, its parent, subsidiaries, affiliates and co-venturers, and their respective directors, officers, employees, agents and representatives, harmless from and against any fine, penalty, or liability, cost and expense

(including without limitation court costs and attorneys' fees) arising out of any failure by Buyer to observe or comply with the CA Regulation.

16. NEW OR CHANGED REGULATIONS

- 16.1 It is understood by the Parties that each Party is entering into each Transaction in reliance on the laws, rules, regulations, decrees, agreements, concessions and arrangements (hereinafter called "Regulations") in effect on the date hereof with governments, governmental instrumentalities or public authorities affecting the Product sold hereunder including, but without limitation to the generality of the foregoing, those relating to the production, acquisition, gathering, manufacturing, transportation, storage, export, trading or delivery thereof, insofar as such regulations affect either Party or Seller's supplier.
- 16.2 In the event that at any time and from time to time any regulations are changed or new regulations become effective, whether by law, decree or regulation or by response to the insistence or request of any governmental or public authority or any person purporting to act therefore, and the material effect of such changed or new regulations (a) is not covered by any other provision hereunder; and (b) has a material adverse economic effect upon either Party, such Party shall have the option to request re-negotiation of the prices or other pertinent terms hereunder. Such option may be exercised by either Party at any time after such changed or new regulation is promulgated, by written notice of desire to re-negotiate, such notice to contain the new prices or terms desired by such Party.
- 16.3 If the Parties do not agree upon new prices or terms satisfactory to both within 30 Days after either Party gives such notice hereunder, either Party shall have the right to terminate the affected Transaction at the end of the said 30 Day period. Any Product delivered during such 30 Day period shall be sold and purchased at the price and on the terms applying hereunder without any adjustment in respect of the new or changed regulations concerned.

17. AUDIT

In addition to provisions set forth in Section 15.3, during the Audit Period at any reasonable time, but not more than two times per year, each Party shall have the right to audit the books and records of the other Party relating to performance of the Transactions. The audited Party shall fully cooperate with the auditing Party (at the auditing Party's request and expense) to accomplish the audit within a commercially reasonable time period. Either Party may retain outside auditors or inspectors, the costs and fees of which shall be borne by the Party employing the outside auditor or inspector. Notwithstanding anything to the contrary specified herein, in the event of any audit hereunder, (i) each Party agrees to be bound and shall cause any independent auditors or inspectors to be bound by the confidentiality obligations mutually agreed upon by the Parties; and (ii) neither Party shall be required to submit to an audit hereunder unless and until the Parties have executed mutually agreeable confidentiality provisions (negotiated in good faith and subject to each Party's reasonable discretion). Either Party may witness any inspection at its own expense. Each Party shall retain all such books and records during the Audit Period. Unless a claim had been made

during the Audit Period, upon the conclusion of the Audit Period, all statements, invoices and charges shall be conclusive and final.

18. EXPORT COMPLIANCE, SANCTIONS, ANTI-CORRUPTION, AND ANTI-BOYCOTT COMPLIANCE

- 18.1 In the event that the Product subject to these General Terms and Conditions is to be exported, each Party warrants to the other Party that it, and each other person or entity for whose actions such Party may be held accountable, will comply with all applicable laws, regulations, rules and requirements relating to export and re-export control and sanctions, including but not limited to the U.S. Export Administration Regulations, U.S. Treasury Department's Office of Foreign Assets Control regulations, the U.S. International Traffic in Arms Regulations (together, "Export and Sanctions Law"). Nothing shall be shipped to, transshipped through, or sourced from, directly or indirectly, any country, company or individual or for any end-use that is prohibited under Export and Sanctions Law. If either Party or any other person or entity for whose actions such Party may be held accountable is or becomes identified on any government export denial, blocked, debarred, Specially Designated National, or other similar list, the other Party may terminate any Transaction subject to these General Terms and Conditions upon written notice to the other Party at any time. Each Party shall be excused from performance of any obligation under the affected Transaction if such performance is prohibited under Export and Sanctions Law.
- 18.2 Each Party shall comply with all applicable anti-bribery and anti-money laundering laws, rules, and regulations of the United States, United Kingdom, European Union or any member state thereof, the Republic of Singapore, Canada, and any other similar laws in all applicable jurisdictions, including without limitation, the currently effective or successor versions of the U.S. Foreign Corrupt Practices Act, the UK Bribery Act 2010, UK anti-money laundering and anti-terrorism laws and regulations, the Canadian Corruption of Foreign Public Officials Act, and the Singapore Prevention of Corruption Act.
- 18.3 Nothing in these General Terms and Conditions is intended to be, or shall be construed as, an agreement by either Party to take or refrain from taking any action that is or would be prohibited by or penalized under U.S. anti-boycott laws, rules, or regulations.
- 18.4 Neither Party shall directly or indirectly, pay salaries, commissions, or fees, or make payments or rebates to employees or officers of the other Party; or favor employees or officers of the other Party or their designees with gifts or entertainment of unreasonable cost or value or services or goods sold at less than full market value; or enter into business arrangements with employees or officers of the other Party unless such employees or officers are acting as representatives of the other Party. Phillips 66 and its subsidiaries are committed to the highest standard of business ethics and conduct. Expectations of business partners of Phillips 66 and its subsidiaries can be found in the [Phillips 66 Business Partner Principles of Conduct](#), available at www.Phillips66.com.

- 18.5 Either Party may terminate the affected Transactions immediately upon written notice to the other Party if the other Party is in breach of the above clauses or fails to cooperate by providing information demonstrating compliance herewith. Violation of these clauses shall be deemed a material breach of these General Terms and Conditions. Each Party agrees to indemnify the other Party for any fines, penalties, claims, losses, damages, costs (including legal costs), expenses, and liabilities that may arise as a result of the indemnifying Party's breach of its obligations under these clauses.
- 18.6 In the event of a conflict between this section and any other provision, the terms of this Section 18 shall prevail.

19. MARKET DISRUPTION

If the price of the Product specified in a Transaction Confirmation is based upon a specified index and there is a Market Disruption Event, as defined below, each Party has the right to notify the other in writing of such. Thereafter, the Parties shall negotiate in good faith to agree on a replacement price or on a method for determining a replacement price for the affected time period. If with respect to Market Disruption Event described in clause (a) and temporary Market Disruption Events described in clauses (c) and (d), the Parties have not so agreed on or before the second Business Day following the affected Day, then the replacement price shall be determined within the next two following Business Days with each Party obtaining, in good faith and from non-affiliated market participants in the relevant market, up to two quotes for prices of the Product for the affected Day of a similar quality and quantity in the geographical location closest in proximity to the Delivery Location and averaging the quotes received. If either Party fails to provide up to two quotes, then the simple average of all quotes obtained shall determine the replacement price for the affected index price.

For all other Market Disruption Events, if the Parties have not so agreed to a replacement index on or before 30 Days following the Business Day on which the initial written notice was provided, either party has the right to submit the issue to the American Arbitration Association ("AAA") for resolution regardless of the method for dispute resolution specified herein. The arbitration will be held in Houston, TX or such other location as the Parties may agree. The matter will be determined by one arbitrator ("Arbitrator") pursuant to the AAA's Commercial Arbitration Rules in effect as of the date the affected Transaction was entered into. The resulting decision of the Arbitrator shall be the final, binding and non-appealable and the exclusive remedy between the Parties regarding this issue. If the Parties fail to appoint the Arbitrator within 15 Days after the AAA receives the notice of arbitration (the "Arbitration Commencement Date"), each Party shall submit to the AAA a list containing the names of three persons to serve as the Arbitrator, and the AAA will appoint the Arbitrator from the submitted names within 45 Days after the Arbitration Commencement Date or if no names are submitted, the AAA shall appoint the Arbitrator it deems appropriate. Within 60 Days after the Arbitration Commencement Date, each Party shall submit to the Arbitrator in writing its proposed resolution to such dispute and any relevant information. Within 90 Days after the Arbitration Commencement Date, the Arbitrator shall select the resolution proposed by one of

the Parties. If only one Party submits a proposed resolution, the Arbitrator shall select that resolution as its decision.

A “Market Disruption Event” means, with respect to a specified index, any of the following events: (a) the failure of the index to announce or publish information necessary for determining the contract price; (b) the failure of trading to commence or the permanent discontinuation or material suspension of trading on the exchange or market acting as the index; (c) the temporary or permanent discontinuance or unavailability of the index; (d) the temporary or permanent closing of any exchange acting as the index; (e) a material change in the formula for or the method of determining the index has occurred; or (f) either Party believes in good faith that the index is no longer representative of the market price for such Product.

20. REPRESENTATIONS AND WARRANTIES

20.1 Each Party represents and warrants to the other Party that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (b) the execution, delivery and performance under each Transaction is within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contract to which it is a party or any law, rule, regulation, order or the like applicable to it; (c) these General Terms and Conditions and each Transaction constitute its legally valid and binding obligation enforceable against it in accordance with its terms, subject, as to enforceability only, to applicable bankruptcy, moratorium, insolvency or similar laws affecting the rights of creditors generally and to general principles of equity; and (d) it is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt.

20.2 UNLESS OTHERWISE EXPRESSLY STATED IN THE CONFIRMATION OF A TRANSACTION, SELLER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY OR FITNESS OF THE PRODUCTS FOR ANY PARTICULAR PURPOSE, EVEN IF SUCH PURPOSE IS KNOWN TO SELLER.

21. MISCELLANEOUS

21.1 No Transaction shall be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Each assigned Transaction shall be binding upon and shall inure to the benefit of the Parties and their permitted successors and assigns. Notwithstanding the foregoing, Phillips 66 shall have the right to assign any Transactions to a creditworthy Affiliate without the necessity of obtaining the Counterparty’s consent thereto. Such assigned Transactions shall be subject to General Terms and Conditions that are identical to those set forth herein, except that references to Phillips 66 shall be to the assignee.

- 21.2 No waiver by either Party of any breach by the other Party of any of the covenants or conditions of these General Terms and Conditions or any Transaction shall be construed as a waiver of any succeeding breach of the same or of any other covenant or condition hereof.
- 21.3 No statement or agreement, oral or written, made prior to or at the time of entering into a Transaction, shall vary or modify the written terms hereof, and neither Party shall claim any amendment to, modification of, or release from any provisions by mutual agreement unless such agreement is in writing, signed by the other Party. These General Terms and Conditions integrate the entire understanding between the Parties with respect to the subject matter covered and supersedes all prior understandings, drafts, discussions, or statements, whether oral or in writing, expressed or implied, dealing with the same subject matter.
- 21.4 Except as provided in the next sentence, all notices, invoices and other communications by one Party to the other under these General Terms and Conditions and any Transaction shall be in writing and shall be delivered personally, by overnight courier, by certified mail, return receipt requested, by facsimile or e-mail in accordance with the information in the sending Party's records. Communications sent by email shall be sent to a monitored group email. Notwithstanding the foregoing, a notice of an Event of Default may not be sent by e-mail. Notices will be deemed given when received, or in the case of notice sent by facsimile, at the time of transmission if sent during normal business hours, or the following Business Day if sent after normal business hours.
- 21.5 If any conflict exists between the terms and conditions of these General Terms and Conditions and those of the Transactions, the terms and conditions of the Transaction shall control. The section headings are for convenience only and shall not be interpreted in any way to limit or change the subject matter of the General Terms and Conditions.
- 21.6 If any court of competent jurisdiction holds any term or condition herein invalid or unenforceable, the remaining terms and conditions shall remain in full force and effect. The invalidity of any one or more covenants or provisions of these General Terms and Conditions shall not affect the validity of any other provisions hereof or these General Terms and Conditions, and the Transactions thereunder as a whole, and in case of any such invalidity, these General Terms and Conditions shall be construed to the maximum extent possible as if such invalid provision had not been included herein.
- 21.7 Each Party (i) consents to the recording of telephone conversations between the trading, marketing and other relevant personnel of the Parties in connection with any potential Transaction; (ii) agrees to obtain any necessary consent of, and give any necessary notice of such recording to, its relevant personnel; and (iii) agrees, to the extent permitted by applicable law, that recordings may be submitted in evidence in any legal proceedings.
- 21.8 Any Confirmation or other related document, or recording may be scanned and stored electronically, or stored on computer tapes and disks, as may be practicable (the "Imaged

Agreement”). The Imaged Agreement, if introduced as evidence on paper, the Confirmation if introduced as evidence in automated facsimile form, any recording, if introduced as evidence in its original form and as transcribed onto paper, and all computer records of the foregoing, if introduced as evidence in printed format, in any judicial, arbitration, mediation or administrative proceedings, will be admissible as between the Parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither Party shall object to the admissibility of any Imaged Agreement (or photocopies of the transcription of such Imaged Agreement) on the basis that such were not originated or maintained in documentary form under the hearsay rule, the best evidence rule or any other rule of evidence. However, nothing herein shall be construed as a waiver of any other objection to the admissibility of such evidence.

- 21.9 Neither Party shall disclose the terms or conditions of any Transaction to any third party (other than the Party’s employees, lenders, counsel, accountants or advisors that have a need to know such information and have agreed to keep it confidential), except in order to comply with any applicable law, regulation, any exchange or in connection with any court or regulatory proceeding; provided, however each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. Notwithstanding the foregoing, a Party may elect to report a Transaction to a price index publication in which case the Product description, volume, price, delivery point and delivery date may be disclosed but the identity of the counterparty shall remain confidential. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation.

22. ATTACHMENTS/ADDENDA

Incorporated by reference herein, are certain addenda providing further terms and conditions, as applicable.

- (a) Dodd-Frank Schedule;
- (b) Marine Provisions, if delivery is to be made by waterborne transportation;
- (c) Rail Provisions, if delivery is to be made by rail transportation.

In addition, for certain Transactions, additional addenda may be referenced in the Confirmation. All addenda may be found at www.phillips66.com/customers/comm-terms.