



Phillips 66 Company
Specialty Petroleum Coke 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) “Business Day” means a day on which U.S. Federal Reserve member banks in New York City are open for business.
- (c) “Buyer” means the Party obligated to buy Product under the terms of a Transaction.
- (d) “Confirmation” means any writing evidencing the Transaction, which may be sent by facsimile, email or any other mutually acceptable electronic means.
- (e) “Day” and “Month” mean a calendar day and a calendar month respectively.
- (f) “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.
- (g) “Metric Ton” means 2,204.6226 pounds avoirdupois.
- (h) “Parties” shall mean Buyer and Seller collectively. “Party” means either Buyer or Seller, individually. For the purposes of Section 19, the term Party or Parties includes all others for whose actions a Party may be held accountable.
- (i) “Phillips 66” means Phillips 66 Company and “Counterparty” means the other Party to a Transaction.
- (j) “Product” means calcined specialty petroleum coke and/or green specialty petroleum coke.
- (k) “Seller” means the Party obligated to sell Product under a Transaction.

- (l) “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.
- (m) “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.
- (n) “Transaction” means the agreement for the purchase or sale of Product, which may be evidenced by a Confirmation and shall be governed by these General Terms and Conditions.
- (o) “Ton” means a short ton of 2,000 pounds avoirdupois.
- (p) “U.S.” means United States of America, and every reference to money or price pertains to U.S. currency.
- (q) “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,” “Carriage Paid To” or “CPT,” “Ex Works” or “EXW” 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.
- 2.3 FOB Delivery: Seller shall deliver Product (a) FOB in Buyer’s Vessel at the designated load port or (b) FOB into Buyer’s railcars or trucks at the designated loading facility as specified in the applicable Confirmation. Delivery shall be deemed complete and title and risk of loss shall pass from Seller to Buyer as Product enters Buyer’s transportation equipment at the point and time of loading. Any loss or damage to Product during loading, if caused by the Vessel or her officers or crew, shall be for the account of Buyer. Any loss or damage to any property of Seller, Seller’s Supplier or Terminal Operator, or any oil pollution caused by the Vessel or her officers or crew, shall be allocated according to fault or according to liability as imposed by Regulation.
- 2.4 CFR and CIF Deliveries: Delivery shall be made to Buyer at the discharge port or receiving facility as specified in the applicable Confirmation at Seller’s expense. Delivery shall be deemed complete and title to and risk of loss of Product shall pass from Seller to Buyer at the point and time of loading.
- 2.5 EXW Deliveries: Delivery shall be deemed complete and title to and risk of loss of Product shall pass from Seller to Buyer at the point and time of loading. In the case of delivery into shipping containers, delivery shall be deemed complete and title to and risk of loss of Product shall pass from Seller to Buyer as the Product passes the outlet of the container loading hopper at the Terminal. In the case of delivery of Product packaged in supersacks, delivery and risk of loss of Product shall pass from Seller to Buyer as the supersacks cross into Buyer’s transportation equipment.
- 2.6 CPT Deliveries: Seller shall deliver Product into Seller’s railcars or trucks at the designated loading facility as specified in the applicable Confirmation. Delivery shall be deemed complete and title and risk of loss shall pass from Seller to Buyer as Product enters Seller’s transportation equipment at the point and time of loading. Seller shall arrange to transport Buyer’s Product to the designated destination port or facility.
- 2.7 “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.
- 2.8 “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”.

3. CONTAINER DELIVERY

- 3.1 Product may be loaded into containers loose or packaged in supersacks, as specified in the Confirmation. Buyer shall be solely responsible for the procurement of containers for loading, the transportation of such containers to the Terminal and the transportation of such containers from the Terminal. All containers will be inspected by an independent third party selected by Seller prior to loading. Containers which do not meet appropriate standards may be rejected by Seller and not allowed to receive Product.
- 3.2 Seller shall request that the Terminal Operator load Product into containers provided by Buyer. All loading will be observed by an independent third-party inspector selected by Seller. Seller will pay the costs of inspections at the Terminal.
- 3.3 Seller will provide Buyer with a bill of lading, a certificate of analysis and an invoice for the Product lifted. Buyer agrees to pay a loading charge per metric ton of Product, in addition to the price for such Product. Such loading charge will be identified on the Confirmation and included as a line item on Seller’s invoice to Buyer.
- 3.4 Buyer acknowledges that (a) all loading arrangements must be scheduled with the Terminal Operator; (b) such scheduling (and therefore availability of Product for loading) depends upon the scheduling of other activities at the Terminal; and (c) Seller is not able to direct the actions of the Terminal Operator to provide preference to Buyer.
- 3.5 Terminal Operator shall have final discretion on the quantity loaded per container subject to its prevailing interests.

4. QUANTITY AND QUALITY DETERMINATION

- 4.1 Seller does not warrant that any particular Product will have the physical characteristics identified “as typical” in these General Terms and Conditions or any Transaction.
- 4.2 Quantity: The quantity of Product delivered hereunder shall be determined from measurements taken at the point and time of loading or unloading, as the case may be. All measurements (including draft surveys) and sampling equipment, procedures, calculations, and practices shall be performed according to the most current International measurement, sampling and analysis standards (American Petroleum Institute (API), Energy Institute Hydrocarbon Management (EI HM), International Organization for Standardization (ISO), National Institute of Standards and Technology (NIST) and ASTM International f/k/a American Society for Testing and Materials (ASTM)). Each commercial Party shall have the right to witness the measurement and sampling processes, provided adequate

notification is given to interested parties. The quantity of Product delivered shall be determined by a mutually appointed Independent Inspection Company (“IIC”) (i) by draft survey weights for shipments by Vessel; (ii) by certified truck or hopper weigh scales for shipments by truck; and (iii) by certified railroad or hopper weigh scales for shipments by railcars. 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 personnel 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. Unless otherwise agreed in the applicable Confirmation, the Parties shall equally share the costs of IICs. Seller shall bear the cost of weighing the Product delivered into Buyer's railcars and trucks

- 4.3 Quality: The quality of Product delivered hereunder shall be determined from samples taken at the time and point designated on the Confirmation. The quality of Product shall be determined on the entire amount of a delivery, taken as a whole. An individual delivery may be made up of multiple “batches” of production, and the quality of the delivery shall be the weighted average of any such “batches”. Seller shall use the test methods specified in the Confirmation for the Product to determine the quality measurements. The quality as determined by the Seller or appointed IIC, as the case may be, from such samples taken shall be deemed correct and final and binding on all Parties save fraud or manifest error.
- 4.4 Insurance: For Product delivered on a CIF basis, Seller shall obtain cargo insurance such that the Buyer or any other Party having an insurable interest in the cargo shall be entitled to claim directly from the insurer and Seller shall provide Buyer with the insurance policy or other evidence of insurance coverage. Unless otherwise agreed, the insurance shall cover “all risks” of contamination and “all risks” of physical loss or damage to the cargo from any external cause as per Institute Cargo Clauses-A (Institute of London Underwriters) or Bulk Oil Clauses SP-13C, including shortage and/or leakage in excess of 0.50 percent of the bill of lading quantity to the extent covered in Institute Cargo Clauses-A or Bulk Oil Clauses SP-13C. If required by Buyer, Seller shall provide at Buyer's expense, war, strikes, riots and civil commotions risk insurances, if procurable. The insurance shall cover the period of time from when risk passes at the load port until the Product reaches its final destination, subject to policy terms and conditions. If, and so long as, voyages to any of the ports of loading or discharge under these General Terms and Conditions or any sea areas through which the Vessel has to travel incur additional insurance or war risk insurance premiums (if applicable) in excess of those prevailing on the date of the applicable Confirmation for Vessel's hull and machinery or cargo, or both, the cost of such additional insurance shall be paid by Buyer to seller in addition to the price stipulated in the applicable Confirmation.

5. 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, as the case may be, shall be deemed to be the bill of lading date or documented delivery times as noted on tank truck(s) or tank car(s) ticketing/reporting. Laytime and demurrage claims, if any, shall be submitted in reasonable detail within 90 Days from the completion of loading/discharge.

6. PAYMENT

6.1. Unless otherwise specified in a Confirmation, Buyer shall pay Seller's invoices in full with immediately available U.S. dollars, within 30 Days from bill of lading date, without any adjustments, discounts or setoffs. Buyer shall include, in the wire transfer details, the invoice number(s) and a statement that payment is for the purchase of Product.

6.2 All payments shall be made by wire transfer of immediately available funds (or any other mutually acceptable means) in U.S. Dollars to Seller at such address or depository as Seller may designate in writing.

Any invoice that is received by a Party after 12:00 pm Central Prevailing Time shall be deemed to have been received on the following Business Day. If the payment due date falls on a Day that is not a Business Day, payment shall be made to Seller on the next Business Day after such payment due date.

6.4 All U.S. Dollar amounts shall be rounded to the nearest cent.

6.5 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.

6.6 For CIF or CFR Vessel Delivered Sales, Payment shall be made to Seller against 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 the form set herein in Section 6.7.

6.7 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] Metric Tons or Tons of Petroleum Product that 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:

7. CREDIT

7.1 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.

7.2 If at any time Counterparty exceeds the credit line then in effect as from time to time established by Phillips 66 or if Phillips 66 has reasonable grounds for insecurity, Phillips 66 may immediately require the Counterparty to provide Performance Assurance.

“Performance Assurance” shall mean at Phillips 66’s option: (a) a prepayment for the applicable Transaction(s), (b) cash collateral in an amount acceptable to Phillips 66, or (c) an irrevocable standby letter of credit in Phillips 66’s favor in an amount acceptable to Phillips 66 and in a form and substance specified by Phillips 66 and issued or confirmed by a bank acceptable to Phillips 66 (an “L/C”). Counterparty grants to Phillips 66 a continuing first priority security interest in, lien on and right of setoff against all Performance Assurance in the form of cash transferred by Counterparty to Phillips 66. All bank charges attendant to an L/C shall be for the account of Counterparty. Delivery of the L/C, shall be made within two Business Days of such request by Phillips 66, but all other Performance Assurances shall be provided by the close of business on the Business Day following demand. Phillips 66 may immediately suspend deliveries or receipts to or from Counterparty pending receipt of any Performance Assurance. Any demurrage resulting from delays to a Vessel pending receipt by Phillips 66 of required Performance Assurance shall be for account of Counterparty. 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.

- 7.3 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.

8. 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.

9. FORCE MAJEURE

- 9.1 Except for an obligation to make payments hereunder for Product received or pursuant to Section 11, 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 therefor, 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 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 or railroads 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.

9.2 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 11.2; or (iv) the loss or failure of Seller's Product supply or depletion of reserves, except, in either case, as provided in Section 9.1.

9.3 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 other Party of termination of the events of force majeure and the date when performance is expected to resume

10. DELIVERY AND RECEIPT FAILURES

Unless otherwise stated in a Confirmation, in the event that Seller shall fail to deliver the full contract quantity of Product or any portion thereof, or Buyer shall fail to receive the full contract quantity of Product or any portion thereof, the non-performing Party shall not be liable to the other for any damages resulting from such failure, and performing Party shall not have a claim remedies arising from such failure, including remedies specified in the Uniform Commercial Code, as adopted by the State of New York.

11. DEFAULT

11.1 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, 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 7.2; (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 or agreements and calculate its Termination Payment, as defined in Section 11.2 below, for each such Transaction;
- (ii) if the Defaulting Party is Buyer and Seller has delivered Product to Buyer under a Transaction, the Seller may take possession of the Product 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.

11.2 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.

- 11.3 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.
- 11.4 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.
- 11.5 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.

- 11.6 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).

12. GOVERNING LAW AND DISPUTE RESOLUTION

- 12.1 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.
- 12.2 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.
- 12.3 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.

13. TAXES

- 13.1 Seller shall pay, reimburse, indemnify, defend and hold harmless Buyer for any and all applicable Taxes with respect to the Product delivered hereunder, the Taxable incident of which occurs before the transfer of title to the Product 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 under these General Terms and Conditions, or (ii) resulting from the creation of a permanent establishment, trade or business or presence by Buyer (or any Affiliate thereof).

- 13.2 Buyer shall pay, reimburse, indemnify, defend and hold harmless Seller for: (a) any and all applicable Taxes with respect to the Product delivered hereunder, the Taxable incident of which occurs at or after transfer of title to the Product, (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.
- 13.3 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.
- 13.4 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.

14. SAFETY DATA SHEETS

The Safety Data Sheets ("SDS") and labels for Product delivered hereunder contain information regarding health risks and recommendations for the safe use and handling of Product, and can be obtained at www.phillips66.com/customers/sds. Buyer acknowledges and represents that it has obtained and will read such Safety Data Sheets, the labels, or warnings and will seek clarification of any information contained in them to the extent necessary to enable Buyer, in its judgment, to understand the information contained in them. 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.

15. INDEMNITY AND LIMITATION OF LIABILITY

15.1 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.

15.2 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.

16. COMPLIANCE WITH LAW

16.1 Product sold hereunder shall be produced and delivered in full compliance with all applicable regulations.

16.2 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. To the extent that the exercise of such audit rights would require the disclosure of competitively sensitive or other information, the disclosure of which may reasonably be deemed to violate or be evidence of a violation of antitrust or competition or other laws, the parties shall mutually agree on protocols/restrictions/conditions as may be reasonably necessary to ensure compliance with such laws. This provision shall survive termination of the Transaction for a period equal to the remainder of the Audit Period.

16.3 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.

17. NEW OR CHANGED REGULATIONS

- 17.1 It is understood by the Parties that Seller 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 Seller or Seller’s Supplier.
- 17.2 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 therefor, 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 Seller that increases Seller’s cost of production of Product, Seller shall have the option to request negotiation of the prices or other pertinent terms hereunder. Such option may be exercised by Seller 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 Seller.
- 17.3 If the Parties do not agree upon new prices or terms satisfactory to both within 30 Days after Seller gives such notice, Seller 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.

18. AUDIT

In addition to provisions set forth in Section 16.2, Seller and Buyer shall maintain records that demonstrate compliance with the performance of the Transactions for the Audit Period. Seller and Buyer shall have the right to request to receive copies of the relevant records of the other Party

during the Audit Period. To the extent that the exercise of such audit rights would require the disclosure of competitively sensitive or other information, the disclosure of which may reasonably be deemed to violate or be evidence of a violation of antitrust or competition or other laws, the parties shall mutually agree on protocols/restrictions/conditions as may be reasonably necessary to ensure compliance with such laws. This provision shall survive termination of the Transaction for a period equal to the remainder of the Audit Period, upon the conclusion of the Audit Period, all statements, invoices and charges shall be conclusive and final.

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

- 19.1 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.
- 19.2 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.
- 19.3 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.
- 19.4 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.

19.5 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.

19.6 In the event of a conflict between this section and any other provision, the terms of this Section 19 shall prevail.

20. 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.

21. REPRESENTATIONS AND WARRANTIES

21.1 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 Transactions 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.

21.2 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.

22. MISCELLANEOUS

22.1 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.

- 22.2 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.
- 22.3 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.
- 22.4 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.
- 22.5 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.
- 22.6 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.
- 22.7 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.

22.8 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.

22.9 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. 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.

23. ATTACHMENTS/ADDENDA

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

- (a) Dodd-Frank Schedule
- (b) Marine Provisions applicable to bulk cargoes, if delivery is to be made by waterborne transportation, unless otherwise specified in a Confirmation
- (c) Rail Provisions, if delivery is to be made by rail transportation

All addenda are available at <http://www.phillips66.com/customers/comm-terms>.