Axeon Marketing LLC

General Terms and Conditions
for the Sale, Purchase and Exchange of Crude Oil and Refined Products

These General Terms and Conditions for the Sale, Purchase and Exchange of Crude Oil and Refined Products ("General Terms") shall be deemed to be incorporated in any agreements ("Transactions") to purchase or sell crude oil and refined products (collectively referred to as "Products") between Axeon Marketing LLC and another party (each a "Party" and collectively, "Parties"). All terms used in these General Terms and in any Confirmation for a Transaction are defined when they first appear or in Article 21.

ARTICLE 1
Agreement and Transaction Procedures

1.1 Special Provisions. The special provisions (the "Special Provisions") of a particular Transaction, as evidenced by a Confirmation or other sufficient evidence of the Parties' agreement to a Transaction, and these General Terms (and, if applicable, Axeon Marketing LLC's Marine Provisions) shall constitute the Parties' entire agreement as to such Transaction and shall be read and construed together.

1.2 Agreement Formation. The Parties shall be deemed to have entered into a Transaction, and a Transaction shall become effective and binding upon the Parties, from the moment on a particular date (the "Trade Date") when the Parties have agreed upon the economic terms of a Transaction or, if an amended Transaction, when the Parties have agreed to the amendments to the Transaction.

1.3 Confirmation Procedures. Within three (3) Business Days after a Transaction's Trade Date, Seller shall send Buyer a letter confirming the terms of the Transaction, including the economic terms (a "Confirmation"). If Seller does not send its Confirmation to Buyer within three (3) Business Days after the Trade Date, Buyer may send its Confirmation to Seller (in each case, the Party sending a Confirmation, the "Sending Party," and the Party receiving a Confirmation, the "Receiving Party"). The Receiving Party shall confirm its acceptance and agreement to the terms of the Transaction as set forth in Sending Party's Confirmation within two (2) Business Days after its receipt. The failure to send a Confirmation shall not invalidate any Transaction agreed to orally. Absent manifest error, the terms of the Transaction contained in the Sending Party's Confirmation shall be deemed correct and binding on the Parties if the Receiving Party does not object to its contents within two (2) Business Days after its receipt. The Parties shall cooperate in good faith to reach mutual agreement as to any such objections and, if such agreement is reached, the Sending Party promptly shall send the Receiving Party a corrected Confirmation.

1.4 Priority of Terms. The following documents will govern in the following order of priority: (i) the Special Provisions (including any amendments thereto); (ii) the Marine Provisions (if applicable); and (iii) these General Terms. In the event of any inconsistency of terms among the various means that evidence a Transaction, the following priority shall govern to the extent of such inconsistency: (i) a Confirmation executed by the Receiving Party, (ii) a

Confirmation not responded to by the Receiving Party within the time frame specified in Section 1.3, (iii) retrievals of computer or electronic messages and other writings exchanged by the Parties, (iv) the oral agreement as evidenced by a contemporaneous writing prepared by a Party but not exchanged with the other Party and (v) a non-contemporaneous writing prepared by a Party but not exchanged with the other Party.

ARTICLE 2
DELIVERY

2.1 Delivery Method. The Confirmation shall specify the delivery location, the delivery method (Vessel, pipeline, tank truck or book, stock or inventory transfer), whether delivery is to be made by Seller's transportation, Buyer's transportation or common carrier arranged by Seller or Buyer and the delivery location. When appropriate, the Parties also shall specify the applicable Incoterm that shall govern transportation of the Products and the Parties' allocation of their respective duties, costs and risks. The use of any Incoterm in a Confirmation or a Transaction shall be deemed to incorporate the latest version of Incoterms as published by the International Chamber of Commerce.

2.2 Marine Deliveries. If delivery is to be made by Vessel, the Axeon Marketing LLC's Marine Provisions shall govern, with the priority of interpretation as described in Section 1.4.

2.3 Non-Waterborne Nomination Procedures. The delivery period shall be specified in the Confirmation. When delivery is by tank truck, the Party furnishing the trucks shall provide the other Party with one Business Day's notice of the delivery date, the estimated number of trucks to receive or discharge Products and the total quantity to be available for loading or delivery.

2.4 Title and Risk of Loss. Title to and risk of loss of the Products shall pass from Seller to Buyer as appropriate for the delivery method as follows. Upon transfer of title, Buyer shall assume all responsibility for all losses, contamination and damages attributable to handling, transportation, resale and use of the Products.

(a) In the case of FOB, CFR and CIF deliveries by Vessel, when the Products pass the last permanent flange connection between the delivery hose and the hose connection of the Vessel at the loading terminal.

(b) In the case of DES delivery by Vessel, when the Products pass the last permanent flange connection between the cargo discharge manifold of the Vessel and the receiving hose at the discharge terminal.

(c) When delivery is into or out of a pipeline, when the Products pass the downstream flange of the meter measuring the Products upon intake, or the upstream flange of the meter measuring the Products upon discharge.

(d) When delivery is into or out of any storage tank facility, as the Products enter or leave the tank.

(e) When delivery is by rail car, when the Products enter the receiving equipment of a rail car furnished by Buyer or, if Seller furnishes the rail car, when the carrier delivers the rail car furnished by Seller to the Buyer's destination.

(f) When delivery is by tank truck, when the Products enter the receiving equipment of the tank truck furnished by Buyer, or when the Products pass the tank truck's delivery equipment if furnished by Seller.

(g) When delivery is by in-tank or in-line transfer, when the terminal or pipeline executes the transfer order.

(h) When delivery is by book, stock or inventory transfer, upon the effective date of transfer as mutually agreed between the Parties.

2.5 Return of Seller's Rail Cars. Buyer shall unload Seller's rail cars promptly upon arrival and return them to the railroad within a 48-hour period, commencing at 0700 local time on the day following Seller's tender of notice of arrival at the delivery location. Buyer shall reimburse Seller for any railway demurrage at the carrier's contract rate. Seller's rail cars shall not be diverted except with Seller's consent.

ARTICLE 3
QUANTITY AND QUALITY DETERMINATION AND CLAIMS

3.1 Specifications. The Products sold in a Transaction shall conform to the specifications identified in the Confirmation, taking into account any stated tolerances.

3.2 Measurement. The quality and quantity of the Products shall be determined in accordance with the latest established API/ASTM standards for the method of delivery. All volumes shall be temperature corrected to 60ºF in accordance with the latest supplement or amendment to ASTM-IP petroleum measurement tables (ASTM designated D#1250, table 6(b)). Quantities delivered into or from Vessels shall be measured by manual gauging using proven API-approved meters and static terminal tank gauges, or if shore tanks are active, by the Vessel's figures, adjusted with the applicable VEF. Quantities delivered into or from pipelines shall be determined using calibrated pipeline meters (unless pipeline meter readings are not available, in which case storage tank physical gauging shall be used). Quantities delivered into or from tank trucks shall be measured using calibrated meters or, if such meters are unavailable, by using certified calibrated scales or applicable calibration tables.

3.3 Inspection. Each Party may have a representative present at the time of loading, discharge, gauging and measurement. If a Party declines to have a representative present, the results of the other Party's measurements and tests shall be deemed to be correct. Unless otherwise agreed, the Parties shall share inspection costs equally. Certificates of quality and quantity countersigned by an independent inspector shall be final and binding on both Parties absent manifest error or fraud. The Parties shall instruct the independent inspector to obtain and retain appropriate samples of the Products for a period of ninety (90) days from the date of measurement. Representative samples customarily shall be taken from the storage tanks from which delivery is made or by an in-line sampler, except for waterborne cargoes sold DES, in

which case volumetrically correct composite samples shall be taken from the Vessel's tanks upon arrival at the discharge port.

3.4 Quality Claims. Any claim regarding the quality or quantity of any Products delivered shall be waived unless submitted to Seller in writing, together with supporting documentation and reasonable details of the facts on which the claim is based, within sixty (60) days from the date of delivery. The delivery date shall be determined by the bill of lading or other shipping document as appropriate for the delivery method.

ARTICLE 4
EXCHANGES

4.1 Exchange Transactions. The Parties may enter into agreements to sell and deliver to each other equal volumes of like Products at different locations over a fixed period ("Exchange Transactions"). The Confirmation for an Exchange Transaction shall identify the Product, exchange locations, differentials, exchange period and method for reconciliation of imbalances. Unless otherwise provided, the provisions of this Article 4 also shall apply.

4.2 Unit for Unit Basis. Except for quality and transportation differentials, Taxes, governmental fees or other charges specified in a Confirmation, exchanges shall be on a unit for unit basis without the payment of money by one Party to the other Party.

4.3 Imbalances. The volumes of Products delivered or exchanged by each Party shall be kept in approximate balance during the term of the Exchange Transaction. Small imbalances may be carried forward from month to month. If the exchange becomes substantially out of balance, then the Party that has over-delivered Products may cease delivering Products until such time as an approximate balance is restored. Within thirty (30) days of termination of an Exchange Transaction, the Parties shall agree whether to liquidate any remaining imbalances by the under-delivering Party continuing to make deliveries or by cash payment. If not cash-settled, the Parties shall schedule deliveries until the total exchange volumes are as near to equal as the mode of delivery specified in the Confirmation permits and any remaining imbalances shall be book transferred or paid for by the under-delivering Party to the over-delivering Party in cash. Notwithstanding the foregoing, any imbalances less than 5,000 Barrels shall be settled by book transfer or cash. Unless otherwise agreed, cash settlement of imbalances shall be computed by reference to the average low estimated market price over the month in which the Exchange Transaction was terminated or expired for the delivery location where the volume owed was due to be delivered, as published by Platts Oilgram Price Service.

4.4 Monthly Statements. Within five (5) days after the end of each month, each Party shall provide the other Party with an exchange statement and invoice indicating the exchange differentials, Taxes, government fees and other charges for that month. The Parties also shall prepare and agree upon an exchange balance reconciliation for that month. In the event of a conflict between exchange statements, the owing Party shall pay all undisputed amounts upon receipt of the invoice and the Parties shall make good faith efforts to reconcile all areas of disagreement no later than five (5) days from receipt of the statement.

4.5 Other Notices. Each Party shall notify the other Party promptly of any cancellation of its agents' terminal lifting privileges. Each Party shall be responsible for any unauthorized liftings of Products by its agents or former agents until six (6) hours after the other Party's receipt of the notice of cancellation of such agents' terminal lifting privileges.

ARTICLE 5
DISCLAIMER OF WARRANTIES

OTHER THAN THE WARRANTY OF TITLE AND CONFORMANCE OF THE PRODUCTS TO THEIR SPECIFICATIONS UNDER ANY TRANSACTION, SELLER MAKES NO OTHER REPRESENTATION OR WARRANTY, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING ANY REPRESENTATION OR WARRANTY THAT THE PRODUCTS WILL BE FIT, SUITABLE OR MERCHANTABLE FOR A PARTICULAR PURPOSE. SELLER EXPRESSLY DISCLAIMS ANY WARRANTY AGAINST INFRINGEMENT OF ANY PATENT, TRADEMARK OR COPYRIGHT.

ARTICLE 6
BILLING, NETTING AND PAYMENTS

6.1 Invoices and Payment. Promptly after delivery, Seller shall transmit to Buyer an invoice (facsimile or electronic copies acceptable) for the purchase price of the Products and any other amounts due Seller under the Transaction, together with any supporting documents, including but not limited to pipeline meter tickets or documentation evidencing book, stock or inventory transfer, and such other supporting documents as specified in the Confirmation as required for payment. If an invoice is received after 12:00 P.M. CST, such invoice will be deemed received on the next Business Day. Except as provided in Section 6.4, Article 15 or in a separate netting agreement between the Parties, Buyer shall remit payment without offset, counterclaim or deduction of any kind via wire transfer of immediately available (same day) federal funds in U.S. dollars. Buyer shall pay for marine deliveries against receipt of an original Seller's Letter of Indemnity, substantially in the form attached as Annex A, if full original shipping documents are not available. When a payment due date falls on Saturday or a non- Business Day weekday other than Monday, then such payment shall be made and considered due on the Business Day immediately preceding such due date. When the payment due date falls on Sunday or on a Monday that is not a Business Day, then such payment shall be made and considered due on the next Business Day immediately following such due date. Notwithstanding anything else provided herein, if the Parties agree to a book transfer for a Transaction, the due date for any payment for such Transaction will be the effective date of such book transfer.

6.2 Interest. Interest shall accrue on late payments at the Interest Rate from the date that payment is due until the date that payment is actually received by Seller. The payment of interest shall not be construed as Seller's agreement to extend credit to Buyer or to extend the payment due date.

6.3 Disputed Invoices. If Buyer in good faith disputes the amount of Seller's invoice, it shall pay the undisputed portion of the invoice by the due date and inform Seller in writing why it disagrees with the balance of the invoice amount. The Parties shall cooperate in resolving the dispute expeditiously. If the Parties agree that Buyer owes some or all of the disputed

amount, Buyer shall pay such amount, together with interest at the Interest Rate from the original due date, within two (2) Business Days from the date of their agreement.

6.4 Netting and Setoff.

(a) The Parties shall discharge payment obligations that are due to each other under Transactions on the same particular day ("Payment Date") through netting. For each such Payment Date, each Party shall aggregate to a single payment amount all amounts due on that Payment Date by that Party to the other Party, together with any interest, receivables or credits that are due one Party to the other Party but remain unpaid, and notify the other Party of that amount ("Transaction Amount"). The Transaction Amounts notified by each Party shall be netted against each other with any difference (the "Net Payment Amount") paid by the Party owing the greater amount to the other Party. The Parties shall confer with each other by no later than the second Business Day prior to any Payment Date to verify invoice amounts, the Transaction Amounts and the Net Payment Amount. Notice of the Net Payment Amount shall be given to the Party owing such Net Payment Amount no later than one Business Day prior to the Payment Date.

(b) The Net Payment Amount for a particular Payment Date shall be paid on that Payment Date. Each Party reserves all of its rights of setoff, counterclaims, combination of accounts, liens and other remedies and defenses to which it may be entitled, whether by operation of law, in equity, in contract or otherwise.

(c) The Parties shall confer and attempt in good faith to resolve promptly any disputes over any items contained in any statement or invoice or any disputes relating to the determination of the Transaction Amounts or Net Payment Amount. The Parties shall net and make such payments about which there is no dispute. Disputed amounts shall not be included in the determination of the Net Payment Amount and upon resolution of the dispute, the appropriate amounts shall be paid, together with interest at the Interest Rate from the date of the original Payment Date to the date of payment.

6.5 Bookouts. If the Parties enter into two or more Transactions whereby each Party has agreed to sell to the other Party the same Product at the same delivery location during the same delivery period, they may agree to bookout and cancel all or a portion of such Transactions and replace the physical delivery required in such Transactions with a cash settlement. The bookout shall be set forth in a Confirmation that indicates the details of the Transactions being terminated, the settlement amount and the payor. The settlement amount shall be the excess of the larger aggregate amount owed by one Party minus the smaller aggregate amount owed by the other Party. The identified Transactions shall be terminated to the extent specified in the bookout and each Party shall be released from all Liabilities arising from such Transactions to the extent they are terminated, except for the obligation to pay the settlement amount. This Section 6.5 shall apply notwithstanding that either Party may fail to (i) send out a Confirmation in respect of such bookout Transaction, or (ii) make changes on its books as a result of any such bookout Transaction.

6.6 Alternate Price Index. If the price of a Transaction is based on an industry reference index that ceases to be published or is not published for any period applicable to calculation of the Transaction price, the Parties shall cooperate in good faith to select an alternative publication or other reference source that reflects as nearly as possible the same information as published in the original reference index.

ARTICLE 7
FINANCIAL RESPONSIBILITY

7.1 Provision of Financial Information. Either Party (the "Requesting Party") may request that the other Party (the "Providing Party") provide it with information sufficient to enable the Requesting Party to ascertain the Providing Party's or its Guarantor's current financial condition and for the Requesting Party to assure itself of the Providing Party's and its Guarantor's ability to perform their obligations under any Transaction or Guaranty, respectively. The Requesting Party shall agree to abide by any confidentiality obligations that the Providing Party or its Guarantor may reasonably impose.

7.2 Credit. With respect to any Transaction, Seller may in its sole discretion require that Buyer (i) post an irrevocable letter of credit in a form and at a bank acceptable to Seller at least three (3) Business Days prior to the scheduled delivery or book transfer date, (ii) prepay on the earlier of forty-eight (48) hours or one (1) Business Day prior to the scheduled delivery or book transfer date or (iii) provide an acceptable parent company guarantee at least three (3) Business Days prior to the scheduled delivery or book transfer date. Seller shall in good faith endeavor to provide Buyer with two (2) business Days' prior notice of the credit support required under this Section 7.2 when scheduling of delivery of the Products permits.

7.3 Assurances of Performance.

(a) Either Party (the "Requesting Party") may, in its sole discretion and upon notice to the other Party (the "Providing Party") or its Guarantor, require that the Providing Party or its Guarantor provide it with adequate assurances of the ability of the Providing Party or its Guarantor to perform any of its obligations under any Transaction or Guaranty, respectively, in an amount determined in a commercially reasonable manner, if the Requesting Party determines that reasonable grounds for insecurity exist with respect to the Providing Party's or its Guarantor's ability to perform its obligations under the Agreement or a Guaranty, respectively.

(b) Adequate assurance means security in an amount and format and from an entity acceptable to the Requesting Party, each as determined in the Requesting Party's sole discretion, in any of the following forms, as may be acceptable to the Requesting Party in its sole discretion: prepayment, an irrevocable standby or documentary letter of credit issued or confirmed by a bank acceptable to the Requesting Party or a Guaranty. Unless the Requesting Party specifies a later time period, the Providing Party or its Guarantor shall furnish the required security within two (2) Business Days following receipt of the Requesting Party's written demand.

(c) All bank charges relating to any letter of credit and any other fees, commissions, costs and expenses incurred with respect to furnishing security shall be paid by the Providing Party or its Guarantor.

(d) The failure of a Providing Party or its Guarantor to provide adequate assurances pursuant to this Section 7.3 within the time frame specified shall constitute an Event of Default under Article 15.

ARTICLE 8
TAXES

8.1 Tax-Free Transactions. Each Party represents that it is registered with the IRS to engage in tax-free Transactions with respect to taxable fuels. Prior to the scheduled delivery or book, stock or inventory transfer date, Buyer shall provide Seller with appropriate notification, exemption or resale certificates or direct pay permits as may be required or permitted by Applicable Law. Notwithstanding the foregoing, upon receipt of Seller's invoice, Buyer shall reimburse and indemnify Seller for all Taxes, together with all penalties and interest thereon, paid or incurred by Seller with respect to the purchase, storage, exchange, use, transportation, resale, importation or handling of the Products sold to Buyer.

8.2 Ad Valorem Taxes. If any ad valorem or personal property taxes are assessed against Products sold in a Transaction by any Governmental Authority, the Party having title to the Products at the time such tax liability accrues shall be responsible for payment of such taxes.

ARTICLE 9
INSURANCE

Each Party shall obtain its own insurance coverage of risk of loss or contamination of the Products. The mere purchase and existence of insurance does not reduce or release either Party from any liability incurred or assumed under any Transaction.

ARTICLE 10
COMPLIANCE WITH LAWS

10.1 Duty to Comply. In the performance of its duties under these General Terms and any Transaction, each Party shall comply in all material respects with all Applicable Law, including all Environmental Laws. Each Party shall maintain the records required to be maintained by the Environmental Laws and shall make such records available to the other Party upon its request. Each Party also shall immediately notify the other Party in writing of any violation or alleged violation with respect to the Products sold under any Transaction and, upon request, shall provide the other Party with all evidence of environmental inspections or audits by any Governmental Authority with respect to such Products.

10.2 Mobile Sources Compliance. Each Party shall comply with all Applicable Laws relating to or regarding the quality, integrity, testing, distribution and marketing of reformulated gasoline and blendstocks, conventional gasoline, gasoline additives, diesel fuel, No. 2 heating oil and any other motor fuel or fuel product that may be subject to such regulations, including the provisions and requirements of 40 C.F.R. Parts 70 through 80, as they may be revised or

amended from time to time. Seller warrants that all products delivered by it pursuant to a Transaction shall comply with all requirements and standards as may be applicable to such Products when delivered to Buyer based upon the place of the Products' delivery, including any required product transfer documents. Seller shall have in effect and maintain a Quality Assurance Program under 40 C.F.R. Part 80. Each Party shall maintain records that demonstrate compliance with the foregoing Applicable Law.

10.3 Pollution Prevention and Responsibility. Upon the occurrence of any spill or discharge reportable under Applicable Law or other environmental pollution in connection with any transfer, delivery, transportation or receipt of Products, the Parties shall take any action required under Applicable Law, including actions to prevent or mitigate resulting pollution damage. Even if not required by Applicable Law, a Party may take such actions to prevent or mitigate pollution damage as it deems appropriate or is required by any Governmental Authority, in which case such Party shall notify the other Party immediately of any such actions, and shall take such actions in accordance with the national Contingency Plan, any other Applicable law, or as may be directed by the U.S. Coast Guard or any other Governmental Authority. If either Party incurs costs to clean up or contain a spill or discharge or to prevent or mitigate resulting pollution damage, such Party reserves any rights provided by law to recover such costs from the other Party or from any third party. If a third party is legally liable for such costs and expenses, each Party shall cooperate with the other Party for the purpose of obtaining reimbursement from such third party. Each Party also shall cooperate with the other Party for the purpose of obtaining reimbursement from any other applicable entity or source under federal or state law. Each Party acknowledges that (i) no provision under this Agreement is intended to imply that a Party assumes any pollution liability for the benefit of or on behalf of the other Party and (ii) a Party shall not be liable to indemnify the other Party for any Liabilities in connection therewith, except as may be imposed under federal or state law on an owner of oil or voyage charters.

ARTICLE 11
FORCE MAJEURE

11.1 Event of Force Majeure. Neither Party shall be liable to the other Party if it is rendered unable by an event of Force Majeure to perform in whole or in part any obligation or condition of a Transaction for so long as the event of Force Majeure exists and to the extent that performance is hindered by the event of Force Majeure, provided, however, that the Party unable to perform shall use commercially reasonable efforts to avoid or remove the event of Force Majeure. During the period that a Party's performance of its obligations has been suspended in whole or part by reason of an event of Force Majeure, the other Party likewise may suspend the performance of all or part of its obligations to the extent that such suspension is commercially reasonable, except for any payment and indemnification obligations related to Products received prior to such event.

11.2 Notice of Force Majeure. The Party rendered unable to perform shall notify the other Party promptly after learning of the occurrence of a Force Majeure event, including, to the extent feasible, the details and the expected duration of the Force Majeure event and the volume of Products affected. Such Party also shall promptly notify the other Party when the Force Majeure event is terminated.

11.3 Right to Terminate. If a Party's performance of a Transaction is suspended due to an event of Force Majeure in excess of thirty (30) days from the date that notice of such event is given, and so long as such event is continuing, either Party, in its sole discretion, may terminate the Transaction by written notice to the other Party, and neither Party shall have any further liability to the other Party in respect of such Transaction except for the rights and remedies previously accrued.

ARTICLE 12
INDEMNIFICATION

12.1 Right to Indemnification. Each Party (the "Indemnifying Party") shall indemnify and hold the other Party, its Affiliates, and their employees, directors, officers, representatives, agents and contractors (collectively, the "Indemnified Party") harmless from and against any and all Liabilities directly or indirectly arising from the Indemnifying Party's (i) breach of its obligations under a Transaction, (ii) failure to comply with Applicable Law with respect to the sale, transportation, storage, handling or disposal of the Products, unless and to such extent that such liability results from the Indemnified Party's negligence or willful misconduct or (iii) representations, covenants or warranties made under these General Terms which prove to be materially incorrect or misleading when made.

12.2 No Third Party Rights. The Parties' obligations to defend, indemnify and hold each other harmless under the terms of a Transaction shall not vest any rights in any third party, whether a Governmental Authority or private entity, nor shall they be considered an admission of liability or responsibility for any purposes other than those enumerated herein.

12.3 Notice of Claim. The Indemnified Party shall notify the Indemnifying Party as soon as practicable after receiving notice of any claim, demand, suit or proceeding brought against it which may give rise to the Indemnifying Party's obligations under these General Terms (such claim, demand, suit or proceeding, a "Third Party Claim"), and shall furnish to the Indemnifying Party the complete details within its knowledge. Any delay or failure by the Indemnified Party to give notice to the Indemnifying Party shall not relieve the Indemnifying Party of its obligations except to the extent, if any, that the Indemnifying Party shall have been materially prejudiced by reason of such delay or failure.

12.4 Defense. The Indemnified Party shall have the right to assume the defense, at its own expense and by its own counsel, of any Third Party Claim; provided, however, that such counsel is reasonably acceptable to the Indemnified Party. Notwithstanding the Indemnifying Party's appointment of counsel to represent an Indemnified Party, the Indemnified Party shall have the right to employ separate counsel, and the Indemnifying Party shall bear the reasonable fees, costs and expenses of such separate counsel if (i) the use of counsel chosen by the Indemnifying Party to represent the Indemnified Party would present such counsel with a conflict of interest or (ii) the Indemnifying Party shall not have employed counsel to represent the Indemnified Party within a reasonable time after notice of the institution of such Third Party Claim. If requested by the Indemnifying Party, the Indemnified Party agrees to reasonably cooperate with the Indemnifying Party and its counsel in contesting any claim, demand or suit that the Indemnifying Party defends, including, if appropriate, making any counterclaim or cross-

complaint. All costs and expenses incurred in connection with the Indemnified Party's cooperation shall be borne by the Indemnifying Party.

12.5 Settlement. No Third Party Claim may be settled or compromised (i) by the Indemnified Party without the consent of the Indemnifying Party or (ii) by the Indemnifying Party without the consent of the Indemnified Party. Notwithstanding the foregoing, an Indemnifying Party shall not be entitled to assume responsibility for and control of any judicial or administrative proceedings if such proceedings involves an Event of Default by the Indemnifying Party under these General Terms which shall have occurred and be continuing.

12.6 Insurance. The mere purchase and existence of insurance does not reduce or release either Party from any liability incurred or assumed under any Transaction.

ARTICLE 13
EXCHANGE OF FUTURES FOR PHYSICAL

If a Transaction is part of an exchange of futures for physical ("EFP") transaction in accordance with the rules and regulations of the New York Mercantile Exchange ("NYMEX"), then Buyer shall sell and Seller shall buy the number of NYMEX futures contracts for the specified Product and month provided in the terms of the Transaction. The Parties shall agree upon a per gallon price prior to expiration of the futures contract and the scheduled delivery date. If the Parties do not agree to a price, the price shall be the NYMEX settlement price on the day the futures contract terminates trading. The number of futures contracts shall be rounded to the nearest 1000 Barrels, with any imbalance priced at the purchase price specified in the confirmation. The EFP shall be posted immediately upon establishment of the price. If the EFP is not posted within one (1) Business Day of establishment of the price, then the Transaction shall revert back to a "to be priced" Transaction at the basis spread originally agreed upon, and Seller and Buyer shall establish new prices based on the prevailing futures value. Each Party shall comply with all applicable NYMEX rules and regulations then in effect.

ARTICLE 14
SUPPLIER-PURCHASER PROVISION

14.1 The term and volume of any Transaction(s) between the Parties are strictly limited to those specified in the applicable Special Provisions, and the Parties expressly agree that no supplier/purchaser relationship will be established or is intended to be established hereby. The Parties specifically grant to each other express written consent to terminate a Confirmation in accordance with the provisions of any supplier/purchaser relationship that may be created pursuant to any mandatory Product allocation regulations or other applicable government regulations or statutes. The Parties hereby agree to take all steps that may be required to effectuate such termination, including but not limited to the issuance of notice and consents that may be necessary or desirable to effect such termination, and securing the consent of subsequent purchasers.

14.2 If all three of the following conditions exist:

(a) An industry-wide curtailment, shortage or cessation of supply of Products exists;

(b) Seller has a curtailment, shortage or cessation in its existing or contemplated availability of Product to be sold hereunder or in the raw materials used to manufacture Product, irrespective of the cause or foreseeability of such curtailment, shortage or cessation; and

(c) Seller's inability to comply with any or all of its obligations to Buyer and others to whom it then has historical relationships,

then Seller, at its sole discretion but in a fair and commercially reasonable manner may withhold, suspend or reduce sales and deliveries to Buyer and others and shall not be required to make good any shortages resulting therefrom. Seller shall not be obligated to purchase Products in the open or spot market to supplement Seller's existing or contemplated availability of Product in order to invoke this Article.

ARTICLE 15
DEFAULT AND LIQUIDATION

15.1 Event of Default. Notwithstanding any other provision of these General Terms, any Transaction or Other Commodity Agreement, Specified Agreement or Guaranty, an Event of Default shall be deemed to occur when:

(a) Either Party fails to make payment when due under any Transaction or Other Commodity Agreement within one Business Day following receipt of a demand for payment by the other Party.

(b) Either Party fails to provide acceptable security or assurances of its ability to perform in accordance with Article 7 or any Other Commodity Agreement or fails to deliver collateral under any Collateral Annex within one (1) Business Day following receipt of a demand therefore, or such other period as may be specified in the Transaction, Other Commodity Agreement or a Collateral Annex.

(c) Either Party fails to deliver Products as required by a Confirmation or such failure is not cured to the satisfaction of the other Party in its sole discretion, within three (3) Business Days following receipt of notice to such Party that corrective action is needed.

(d) Either Party fails to perform or repudiates any obligation to the other Party under any Transaction or Other Commodity Agreement (other than an event of Default described in Sections 15.1(a), (b) and (c)), or breaches any representations, covenants or warranty in any material respect under any Transaction or Other Commodity Agreement, that, if capable of being cured, is not cured to the satisfaction of the other Party in its sole discretion, within five (5) Business Days following receipt of notice to such Party that corrective action is needed.

(e) In respect of a Party who has provided a Guaranty, its Guarantor (i) fails to satisfy, perform or comply with any obligation in accordance with such Guaranty issued in favor of the other Party if such failure continues after any applicable grace or notice period, (ii) breaches any representation, covenant or warranty or any

representation proves to have been incorrect or misleading in any material respect under a Guaranty issued by a Guarantor in favor of the other Party, which is not cured to the satisfaction of the other Party, in its sole discretion, within any applicable grace or notice period or (iii) repudiates, disclaims, disaffirms or rejects, in whole or in part, any obligation under a Guaranty issued by a Guarantor in favor of the other Party, or challenges the validity of a Guaranty.

(f) Either Party or its Guarantor becomes Bankrupt.

(g) Either Party or its Guarantor consolidates or amalgamates with, merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, (i) the resulting, surviving or transferee entity fails to assume all of the obligations of such Party or Guarantor under any Transaction or Other Commodity Agreement or under any Guaranty made pursuant to any Transaction or Other Commodity Agreement, either by operation of law or by agreement satisfactory to the other Party or otherwise or, (ii) in the reasonable opinion of the other Party, the creditworthiness of the successor, surviving or transferee entity, taking into account any Guaranty, is materially weaker than immediately prior to the consolidation, amalgamation, merger or transfer.

(h) Either Party or its Guarantor (i) defaults under a Specified Agreement and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Agreement or (ii) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery or exchange date of, or any payment on early termination of, a Specified Agreement (or such default continues for at least two (2) Business Days if there is no applicable notice requirement or grace period).

(i) The failure of either Party or any Guarantor to make payment when due or other event of default under one or more agreements or instruments relating to Specified Indebtedness in an aggregate amount (individually or collectively) of not less than $10,000,000, which has resulted in such Specified Indebtedness becoming due and payable under such agreements or instruments before it would otherwise have been due and payable, or defaults in making one or more payments on the due date thereof in an aggregate amount (individually or collectively) of not less than $10,000,000 under such agreements or instruments after giving effect to any applicable notice requirement or grace period).

(j) An assignment by either Party in violation of the provisions of Article 18.

15.2 Remedies. Notwithstanding any other provision of these General Terms, any Transaction, Guaranty or Other Commodity Agreement or Specified Agreement, upon the occurrence of an Event of Default with respect to either Party or its Guarantor (the "Defaulting Party"), the other Party (the "Performing Party") may, in its sole discretion, in addition to all other remedies available to it and without incurring any liability to the Defaulting Party, its Guarantor or to third parties (for demurrage or any other costs arising from delay or otherwise),

the Performing Party may do any one or more of the following: (i) withhold or suspend its Obligations under any Transaction without prior notice to the Defaulting Party, (ii) proceed against the Defaulting Party or its Guarantor or both for damages occasioned by the Defaulting Party's or Guarantor's failure to perform, (iii) upon one (1) Business Day's prior written notice to the Defaulting Party, immediately terminate and liquidate all Transactions between the Parties by calculating Settlement Payments in the manner set forth in Sections 15.3 and 15.4 and (iv) exercise its rights of liquidation and setoff with respect to all Other Commodity Agreements and Specified Agreements as set forth in Section 15.5. Notwithstanding the foregoing, in the case of an Event of Default described in Section 15.1(f), no prior notice shall be required.

15.3 Designation of Early Termination Date. When an Event of Default has occurred and is continuing, the Performing Party may, by notice given to the Defaulting Party, designate a date not earlier than the date of such notice ("Early Termination Date") on which all Transactions shall terminate and the Performing Party shall then determine the Liquidation Amount as of the Termination Determination Date. The Performing Party shall notify the Defaulting Party of the Liquidation Amount due from or due to the Defaulting Party, after taking into account any collateral or margin held by either Party ("Termination Payment"), to be paid as provided in Section 15.4.

15.4 Liquidation Amount. On the Early Termination Date or as soon as reasonably practicable thereafter, the Performing Party shall provide the Defaulting Party with a statement showing, in reasonable detail, the calculation of the Liquidation Amount and the Termination Payment, each as determined under Section 15.3. If the Performing Party owes the Termination Payment to the Defaulting Party, the Performing Party shall pay the Termination Payment once it has reasonably determined all amounts owed by the Defaulting Party to it under all Transactions and Other Commodity Agreements and its right to setoff under Section 15.5. If the Defaulting Party owes the Termination Payment to the Performing Party, the Defaulting Party shall pay the Termination Payment on the first Business Day after it receives the statement.

15.5 Other Commodity Agreements and Specified Agreements. The occurrence of an Early Termination Date or an Event of Default as described in Section 15.1(h) and (i) shall constitute a material breach and an event of default, howsoever described, under all Other Commodity Agreements and Specified Agreements. The Performing Party (or any of its Affiliates or its Guarantor in the case of a Specified Agreement) may, by giving a notice to the Defaulting Party, designate an Early Termination Date for all Other Commodity Agreements or all Specified Agreements or both and, upon such designation, terminate, liquidate and otherwise close out all Other Commodity Agreements or all other Specified Agreements or both. If the Performing Party elects to designate an Early Termination Date under this Section 15.5, the Performing Party shall calculate, in accordance with the terms set forth in such Other Commodity Agreements and Specified Agreements, the amounts, whether positive or negative, due upon early termination under each Other Commodity Agreement and Specified Agreement and shall determine the aggregate sum of such amounts, whether positive or negative ("Other Agreement Termination Amount"). If a specific Other Commodity Agreement or Specified Agreement does not provide a method for determining what is owed upon early termination, then the amount due upon early termination shall be determined pursuant to Section 15.3 as if such Other Commodity Agreement or Specified Agreement were a Transaction. If the Other Agreement Termination Amount is a negative number, and the Performing Party owes a

Termination Payment to the Defaulting Party, the Performing Party shall pay the Defaulting Party the Other Agreement Termination Amount at the time of its payment of the Termination Payment under Section 15.4. If the Other Agreement Termination Amount is a positive number, the Defaulting Party shall pay the Performing Party such Other Agreement Termination Amount on demand, provided, however, that the Performing Party, at its election, may setoff any Termination Payment owed by the Defaulting Party to the Performing Party pursuant to Sections 15.3 and 15.4 against any Other Agreement Termination Amount owed by the Performing Party to the Defaulting Party and may setoff any Other Agreement Termination Amount owed to the Performing Party by the Defaulting Party against any Termination Payment owed by the Performing Party to the Defaulting Party pursuant to Sections 15.3 and 15.4. The Performing Party shall notify the Defaulting Party of any setoff affected under this Section 15.5.

15.6 Remedies Not Exclusive. The Performing Party may enforce any of its remedies under these General Terms, any Other Commodity Agreement or any Specified Agreement. The Performing Party's rights under this Article 15 shall be in addition to, and not in limitation or exclusion of, any other rights of setoff, recoupment, combination of accounts, liens or other right which it may have, whether by agreement, operation of law or otherwise, provided, however, that (i) if the Performing Party elects to exercise its rights under Section 15.3, it shall do so with respect to all Transactions, (ii) if the Performing Party elects to exercise its rights under Section 15.5 in respect of Other Commodity Agreements, it shall do so with respect to all Other Commodity Agreements, and (iii) if the Performing Party elects to exercise its rights under Section 15.5 in respect of Specified Agreements, it shall do so with respect to all Specified Agreements. No delay or failure on the part of a Performing Party to exercise any right or remedy shall constitute an abandonment of such right or remedy and the Performing Party shall be entitled to exercise such right or remedy at any time after an Event of Default has occurred. Each Party shall reimburse the other Party for its costs and expenses, including reasonable attorneys' fees, incurred in connection with the enforcement of, suing for or collecting any amounts payable by it under these General Terms or any Transaction.

ARTICLE 16
REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants to the other Party, as of the date of each Transaction, that:

(a) It is an "Eligible Contract Participant" as defined in Section 1a (12) of the Commodity Exchange Act, as amended.

(b) It is a "forward contract merchant" in respect of each Transaction, and each Transaction is a forward contract for purposes of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.*, as amended from time to time.

(c) It is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing.

(d) It has the corporate, governmental or other legal capacity, authority and power to execute, deliver and perform any Transaction, and has taken all necessary action to duly authorize the foregoing.

(e) The execution, delivery and performance of any Transaction do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or Governmental Authority applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets that would impair a Party's ability to perform its Obligations under any Transaction.

(f) Its obligations under any Transaction constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application regardless of whether enforcement is sought in a proceeding in equity or at law).

(g) There is not pending or, to its knowledge, threatened against it or its Guarantor any action, suit or proceeding at law or in equity or before any court, tribunal, Governmental Authority, official or any arbitrator that is likely to affect the legality, validity or enforceability against it of any Transaction or its ability to perform its Obligations.

(h) It has entered into each Transaction as principal, and not as advisor, agent, broker, or in any other capacity, fiduciary or otherwise, with a full understanding of the material terms and risks of the same, and it is capable of assuming those risks.

(i) In respect of any Transaction, the other Party (i) is acting solely in the capacity of an arm's-length contractual counterparty, (ii) is not acting as a financial advisor or fiduciary or in any similar capacity and (iii) has not given to it any assurance or guarantee as to the expected performance or result.

ARTICLE 17
NOTICES AND COMMUNICATIONS

All notices, communications, or demands shall be in writing, whether or not so stated, and sent by facsimile, delivered by hand or by registered or certified mail, return receipt requested with all postage fully paid, or by overnight courier, in each case addressed to a Party at the address designated by such Party from time to time by giving written notice thereof in accordance with this Article 17. A notice shall be deemed to have been received by a Party (i) if delivered by hand or sent by overnight courier, on the day of delivery if a Business Day, or if not a Business Day, on the immediately following Business Day, (ii) if sent by registered or certified mail, return receipt requested, on the date of receipt, and (iii) if transmitted by facsimile, at the time of transmission. Notices received after 5:00 p.m. local time shall be deemed to be received on the following Business Day.

ARTICLE 18
ASSIGNMENT

18.1 Consent to Assign. Neither Party shall assign its rights or interests or delegate its obligations under a Transaction in whole or in part without the express written consent of the other Party, which shall not be unreasonably withheld, provided, however, that no consent shall be required for transfer of an interest in any Transaction to an Affiliate by assignment, merger or otherwise. The transferor shall remain jointly and severally liable with the transferee for the full performance of the transferor's obligations under a Transaction unless the transferee (i) assumes in writing all of the obligations of the transferor and (ii) provides the other Party with evidence of financial responsibility at least equal to that of the transferor.

18.2 Noncompliance. Any attempted assignment of a Transaction in violation of this Article 18 shall be null and void *ab initio* and the non-assigning Party may, without prejudice to any other rights or remedies it may have hereunder or otherwise, terminate such Transaction effective upon notice to the Party attempting such assignment.

ARTICLE 19
GOVERNING LAW AND JURISDICTION

19.1 CHOICE OF LAW. THE EXISTENCE, VALIDITY, INTERPRETATION AND ENFORCEMENT OF ANY TRANSACTION AND ANY CONTROVERSY OR CLAIM RELATED TO OR ARISING UNDER A TRANSACTION SHALL BE GOVERNED BY, INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT GIVING EFFECT TO ITS CONFLICTS OF LAWS PRINCIPLES.

19.2 Jurisdiction. Each Party irrevocably submits to the exclusive jurisdiction of any federal court of competent jurisdiction situated in Harris County, Texas or, if any federal court declines to exercise or does not have jurisdiction, in any Texas state court in Harris County, Texas and to service of process by certified mail, delivered to the Party at its last designated address. Each Party irrevocably waives, to the fullest extent permitted by applicable law, any objection to the jurisdiction of any such court or to venue therein or any claim of inconvenient forum of such court or of sovereign immunity. **FURTHER, EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY PROCEEDINGS RELATING TO ANY TRANSACTION.**

19.3 U.N. Convention. The United Nations Convention on Contracts for the International Sale of Goods 1980 shall not in any way apply to or govern any Transaction.

19.4 Claim Period. Except when a shorter period is expressly provided, any claim or dispute arising under any Transaction shall be made within one (1) year from the date of the events giving rise to the claim or shall be deemed waived and barred without recourse to litigation.

ARTICLE 20
ISPS COMPLIANCE

20.1 FOB/FCA Transactions. For FOB/FCA sales, Buyer warrants that the Vessel complies with the ISPS Code and the MTSA. Seller warrants that the loading port and loading terminal are in compliance with the ISPS Code and the MTSA.

20.2 DES/DEQ Transactions. For DES/DEQ sales, Seller warrants that the Vessel complies with the ISPS Code and the MTSA. Buyer warrants that the discharge port and discharge terminal are in compliance with the ISPS Code and the MTSA.

20.3 CIF/CFR Transactions. For CIF/CFR sales, Buyer warrants that the discharge port and discharge terminal are in compliance with the ISPS Code and the MTSA. Seller warrants that the Vessel fully complies with the ISPS Code and the MTSA. In addition, upon Seller's breach of warranty, Buyer may give notice to Seller voiding the transfer of title and risk to Buyer retroactively to the time when such transfer occurred. If Buyer does not give such notice, Seller agrees to use best efforts to offload the cargo at a place that Buyer reasonably selects to receive it.

20.4 Generally. In all cases, a Party that breaches any warranty set forth in this Article 20 shall indemnify the other Party against any resulting delays, demurrage, expenses, fines, penalties or other costs (excluding any consequential or indirect damages).

ARTICLE 21
LIMITATION ON DAMAGES

Except for the Parties' indemnification obligations set forth in these General Terms, or unless otherwise expressly provided in a Transaction, the Parties' liability for damages is limited to direct, actual damages only and neither Party shall be liable for specific performance, lost profits or other business interruption damages, or special, consequential, incidental, punitive, exemplary or indirect damages, in tort, contract or otherwise, of any kind, arising out of or in any way connected with the performance, the suspension of performance, the failure to perform, or the termination of a Transaction. Each Party acknowledges the duty to mitigate damages hereunder.

ARTICLE 22
CONFIDENTIALITY

22.1 Confidentiality Obligation. The terms and conditions of this Agreement and any Transaction are confidential and neither Party shall disclose them to any third party except (i) as may be required by court order, Applicable Law or a Governmental Authority or (ii) to such Party's or its Affiliates' employees, auditors, consultants, banks, financial advisors and legal advisors. The confidentiality obligations under this Agreement shall survive termination of this Agreement for a period of one year.

22.2 Notice. In the case of disclosure covered by subclause (i) of Section 22.1, and if the disclosing Party's counsel advises that it is permissible to do so, the disclosing Party shall notify the other Party in writing of any proceeding of which it is aware which may result in

disclosure, and use reasonable efforts to prevent or limit such disclosure. The Parties may exercise all remedies available at law or in equity to enforce or seek relief in connection with the confidentiality obligations contained in this Agreement.

22.3 Structure and Tax Aspects. Notwithstanding anything herein to the contrary, the Parties and their respective employees, representatives and other agents may disclose to any person (except where confidentiality is reasonably necessary to comply with U.S. federal or state securities laws) the structure and tax aspects of any Transaction as necessary to describe or support any U.S. federal income tax benefits that may result from such Transaction and any materials relating to such structure and tax aspects.

ARTICLE 23
MISCELLANEOUS

23.1 No Third Party Beneficiaries. Nothing expressed or implied in these General Terms is intended to create any rights, obligations or benefits in any person other than the Parties and their successors and permitted assigns.

23.2 Entire Agreement. These General Terms and the Transaction into which they are incorporated constitute the entire agreement between the Parties as to such Transaction, and no representations or warranties shall be implied or provisions added in the absence of a written agreement to such effect between the Parties. These General Terms may not be amended or modified unless reduced to writing and executed by the Parties' duly authorized representatives.

23.3 No Waiver. The failure of a Party to assert a right or enforce an obligation of the other Party shall not be deemed a waiver of such right or obligation. The waiver by any Party of a breach of any provision of, or Event of Default under, any Transaction shall not operate or be construed as a waiver of any other breach of that provision or as a waiver of any breach of another provision of, or Event of Default under such Transaction, whether of a like kind or different nature. Each right granted to either Party under these General Terms, or allowed it by law or equity, shall be cumulative and may be exercised from time to time in accordance with these General Terms and applicable law.

23.4 Drawback Credits. The exporter of record shall be entitled to any United States Customs Service drawback credits for exports of eligible Products or other products derived from or containing the Products sold under a Transaction.

23.5 Invalid Provisions. If any Article, Section or provision of these General Terms shall be determined to be null and void, voidable or invalid by a court of competent jurisdiction, then for such period that the same is void or invalid, it shall be deemed to be deleted and the remaining portions of these General Terms shall remain in full force and effect.

23.6 Survival. All payment, confidentiality and indemnification obligations set forth in these General Terms shall survive the completion of delivery of Products under a Transaction as provided herein. A Party's payment obligation shall not be deemed fulfilled for so long as the payment has not been credited in full into the other Party's bank account.

ARTICLE 24
DEFINITIONS

24.1 For purposes of these General Terms and any Transaction, the following terms shall have the meanings indicated below:

"Affiliate" means, in relation to any Party, any entity controlled, directly or indirectly, by such Party, any entity that controls, directly or indirectly, such Party, or any entity directly or indirectly under common control with such Party. For this purpose, "control" of any entity or Party means ownership of a majority of the issued shares or voting power or control in fact of the entity or Party.

"API" means the American Petroleum Institute.

"**Applicable Law"** means any law, statute, regulation, code, ordinance, license, decision, order, writ, injunction, decision, directive, judgment, policy decree and any judicial or administrative interpretations thereof, any agreement, concession or arrangement with any Governmental Authority, any applicable license, permit or compliance requirement applicable to either Party, and any amendments or modification to the foregoing.

"ASTM" means the American Society for Testing and Materials.

"Bankrupt" means that a Party or its Guarantor, if any, (i) is dissolved, other than pursuant to a consolidation, amalgamation or merger, (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due, (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors, (iv) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditor's rights, or a petition is presented for its winding-up or liquidation, (v) has a resolution passed for its winding-up, official management or liquidation, other than pursuant to a consolidation, amalgamation or merger, (vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for all or substantially all of its assets, (vii) has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets, (viii) files an answer or other pleading admitting or failing to contest the allegations of a petition filed against it in any proceeding of the foregoing nature or (ix) takes any other action to authorize any of the actions set forth above.

"Barrel" means forty-two (42) net U.S. gallons, measured at 60° F.

"Breakage Costs" means all out-of-pocket losses and expenses incurred by the Performing Party as a result of termination and liquidation of Transactions and Other Commodity Agreements pursuant to Article 15 (excluding any amounts included in Gain, Loss or Unpaid Amounts), including reasonable attorneys' fees, court costs, collection costs, interest charges and other disbursements and any damages, losses and expenses, including brokerage fees and commissions, incurred in obtaining, maintaining, replacing or liquidating commercially

reasonable hedges or related trading positions relating to the Transactions or Other Commodity Agreements that are being terminated and liquidated, all as determined in a commercially reasonable manner by the Performing Party.

"Business Day" means a 24-hour period ending at 5:00 p.m. EST on a weekday on which banks are open for general commercial business in New York, New York.

"**Buyer"** means the Party purchasing Products from the other Party or receiving Products in an Exchange Transaction.

"**Collateral Annex**" means any agreement between the Parties providing for credit support or the posting of margin or collateral, including any such agreement relating to these General Terms or any Other Commodity Agreement.

"**Confirmation"** means the written documentation that memorializes the material terms of the Parties' oral agreement as to a particular Transaction.

"Default" or an **"Event of Default"** means an occurrence of the events or circumstances described in Article 15.

"Environmental Laws" means any existing or past laws and regulations, policy, judicial or administrative interpretation thereof, or any legally binding requirement that governs or purports to govern the protection of persons, natural resources or the environment (including the protection of ambient air, surface water, groundwater, land surface or subsurface strata, endangered species or wetlands), occupational health and safety and the manufacture, processing, distribution, use, generation, handling, treatment, storage, disposal, transportation, release or management of solid waste, industrial waste or hazardous substances or materials.

"Force Majeure" means any cause or event reasonably beyond the control of a Party, including fires, earthquakes, lightning, floods, explosions, storms, adverse weather, landslides and other acts of natural calamity or acts of God; navigational accidents or maritime peril; Vessel damage or loss; strikes, grievances, actions by or among workers or lock-outs, whether or not such labor difficulty could be settled by acceding to any demands of any such labor group of individuals; accidents at, closing of, or restrictions upon the use of mooring facilities, docks, ports, pipelines, harbors, railroads or other navigational or transportation mechanisms; disruption or breakdown of, explosions or accidents to wells, storage plants, refineries, terminals, machinery or other facilities; acts of war, hostilities (whether declared or undeclared), civil commotion, embargoes, blockades, terrorism, sabotage or acts of the public enemy; any act or omission of any Governmental Authority; good faith compliance with any order, request or directive of any Governmental Authority; curtailment, interference, failure or cessation of supplies reasonably beyond the control of a Party; or any other cause reasonably beyond the control of a Party, whether similar or dissimilar to those above and whether foreseeable or unforeseeable, which, by the exercise of due diligence, such Party could not have been able to avoid or overcome. A Party's inability economically to perform its obligations under any Transaction does not constitute an event of Force Majeure.

"Gain" means, for any Transaction as of the Termination Determination Date, the positive amount, if any, determined by the Performing Party in a commercially reasonable manner, which the Performing Party may determine by obtaining quotations from Third Parties, that the Performing Party would be required to pay to a Third Party to enter into a contract with the Performing Party that had the same terms as the Defaulting Party's Remaining Contract Obligations.

"Governmental Authority" means any foreign or U.S. federal, state, regional, local, or municipal governmental body, agency, instrumentality, authority or entity established or controlled by a government or subdivision thereof, including any legislative, administrative or judicial body, or any person purporting to act therefor.

"Guarantor" means any entity or person executing a Guaranty of any or all of a Party's obligations under any Transaction.

"Guaranty" means any guaranty executed in respect of any or all of a Party's obligations under any Transaction.

"Interest Rate" means the lesser of (i) two (2) percent over the prime rate as published under "Money Rates" in the *Wall Street Journal* in effect at the close of the Business Day on which payment was due and (ii) the maximum rate permitted by law.

"**ISPS Code**" means the International Code for the Security of Ships and of Port Facilities and the relevant 2002 amendments to Chapter XI of the International Convention for the Safety of Life at Sea, 1974.

"Liabilities" means any losses, claims, charges, damages, deficiencies, assessments, interests, penalties, costs and expenses of any kind, including reasonable attorneys' fees and other fees, court costs and other disbursements, directly or indirectly arising out of or related to any suit, proceeding, judgment, settlement or judicial or administrative order commenced by any third party or Governmental Authority.

"Liquidation Amount" means the aggregate of the net Gain or Loss with respect to all terminated Transactions as of the Termination Determination Date, plus any Unpaid Amounts, any Breakage Costs and interest as provided in these General Terms. Interest shall accrue at the Interest Rate (i) in respect of any net Gain or Loss, from and including the Early Termination Date to, but excluding, the date of the Termination Payment and (ii) in respect of any Unpaid Amounts, from and including the date on which such amounts were originally due and payable to the date of the Termination Payment. Interest shall accrue at the Interest Rate in the case of any Loss or Unpaid Amount owing to the Defaulting Party, and be expressed as a negative number. All Gains, Losses, Unpaid Amounts, Breakage Costs and interest shall be aggregated or netted to a single liquidated amount owing from or to the Defaulting Party.

"Loss" means, with respect to any Transaction as of the Termination Determination Date, the amount (expressed as a negative number), if any, determined by the Performing Party in a commercially reasonable manner (which the Performing Party may determine by obtaining quotations from Third Parties), that a Third Party would be willing to pay to the Performing Party

to permit that Third Party to enter into a contract with the Performing Party that had the same terms as the Defaulting Party's Remaining Contract Obligations.

"**MTSA**" means the U.S. Maritime Transportation Security Act of 2002.

"**Obligations**" means a Party's prompt and complete payment and performance of its covenants and obligations required under any Transaction or a Guarantor's prompt and complete payment and performance of its obligations under any Guaranty.

"Other Commodity Agreement" means any agreement between the Parties on or with respect to a commodity other than a Transaction, including a spot or forward contract, option, swap, swap option, cap, floor or collar.

"Remaining Contract Obligations" means, at any time, for a Transaction or Other Commodity Agreement, the rights and obligations of each of the Parties that remain to be performed in respect of all periods after the Early Termination Date, provided, however, the Remaining Contract Obligations shall not include any payment obligation arising in connection with Products delivered or scheduled to be delivered prior to the Early Termination Date, which amounts shall be considered Unpaid Amounts.

"Seller" means the Party selling Products to the other Party or delivering Products in an Exchange Transaction.

"**Specified Agreement**" means any agreement or transaction between the Parties or any of their respective Affiliates or Guarantors, other than a Transaction, Other Commodity Agreement, any agreement or transaction for Specified Indebtedness and any securities repurchase or reverse repurchase agreement or similar transaction.

"**Specified Indebtedness**" means any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money.

"Taxes" means any and all foreign, federal, state and local taxes (other than taxes on income), duties, fees and charges of every description on or applicable to the Products, including all motor fuel, special fuel, diesel, excise, gross receipts, ad valorem, oil company franchise, environmental, spill, and sales and use taxes, however designated, paid or incurred directly or indirectly with respect to the purchase, storage, exchange, use, transportation, resale, importation or handling of the Products.

"Termination Determination Date" means, for purposes of determining the Gain or Loss for any Transaction or Other Commodity Agreement terminated pursuant to Article 15, the Early Termination Date or, if that is not reasonably practicable, the earliest date thereafter that is reasonably practicable.

"Termination Payment" has the meaning in Section 15.3.

"Third Parties" means leading dealers, brokers or industry participants trading the Products, as reasonably selected by the Performing Party.

"Transaction" means an agreement between the Parties to purchase, sell or exchange Products that is governed by these General Terms.

"Unpaid Amounts" means the net unpaid amount owed to the Performing Party or the Defaulting Party (expressed as a negative number) under (i) any Transaction or Other Commodity Agreement in respect of any period ending on or before the Early Termination Date, including Transactions or Other Commodity Agreements for which delivery was made on or before the Early Termination Date but payment therefor has not been made prior to such Early Termination Date or (ii) any Transaction or Other Commodity Agreement that required physical delivery to a Party on or prior to such Early Termination Date and that has not been delivered on or prior to such date (which amount shall equal the fair market value reasonably determined of the Product that was required to be delivered as of the originally scheduled delivery date).

"Vessel" means any inland barge, tow, ocean-going barge or ocean-going vessel or tanker.

24.2 Interpretation. Unless otherwise specified, all references herein are to the Articles, Sections and Annex A of these General Terms. All headings are intended solely for convenience of reference and shall not affect the meaning or interpretation of the provisions hereof. Unless expressly provided otherwise, the word "including" as used herein does not limit the preceding words or terms. The Parties acknowledge that they and their counsel have reviewed these General Terms and that no presumption of contract interpretation or construction shall apply to the advantage or disadvantage of the drafter of these General Terms.

Axeon Marketing LLC
General Terms and Conditions For the Sale and Purchase of Crude Oil and Refined Products

Annex A – Format of Letter of Indemnity

[Date]

To: [Name and Address of Buyer]

[Attn: _____]

We refer to our agreement with you dated _____, 200_, in respect of your purchase from us of _____ net US barrels/metric tons of _____ shipped on board the vessel M/V _____at the port of _____, _____ with bills of lading dated _____, 200_.

To date we are unable to provide you with the original shipping documents required for presentation and payment in respect of this cargo, which consist of _____ ("the Documents").

In consideration of your making payment of the full sale price of USD _____ on the payment due date without presentation of the Documents, we hereby expressly warrant that we have marketable title to the cargo, free and clear of any liens, charges or encumbrances, that we have the full right and authority to transfer such title to you and effect delivery to you, and that we are entitled to receive the Documents from our supplier and transfer them to you.

We further agree to make all reasonable efforts to obtain and surrender the Documents to you as soon as possible and to protect, indemnify and save you harmless from and against any and all damages, costs and expenses (including reasonable legal fees) which you may suffer or incur by reason of our failure to present the Documents to you in accordance with the Agreement, or any action or proceeding brought or threatened against you in connection with questions of title to or the right to possess the Documents, the cargo or the proceeds of either, or any liens, charges or encumbrances asserted on the Documents, the cargo or the proceeds of either, or any other claims arising out of or in connection with the Documents; provided, however, that you give us prompt notice of the assertion of any claim and the opportunity to join in the defense thereof and that you do not settle any such claim without our prior written approval.

This Letter of Indemnity shall be governed by, construed and enforced under the laws of the State of Texas, without giving effect to its conflicts of laws principles. Each Party irrevocably submits to the exclusive jurisdiction of any federal court of competent jurisdiction situated in Harris County, Texas or, if any federal court declines to exercise or does not have jurisdiction, in any Texas state court in Harris County, Texas and to service of process by certified mail, delivered to the Party at its last designated address.

This Letter of Indemnity shall cease to have any effect our presentation to you of the Documents. We ask that you confirm to us by facsimile cancellation of this Letter of Indemnity upon receipt of the Documents.

Axeon Marketing LLC

By: _____

Title: _____

Date: _____