

Tariff No. 1.3
(replacing Tariff No. 1.2)

CAMINO REAL GATHERING COMPANY, L.L.C.
(P-5 No. 127345)

Tariff Containing
RULES AND REGULATIONS

Governing

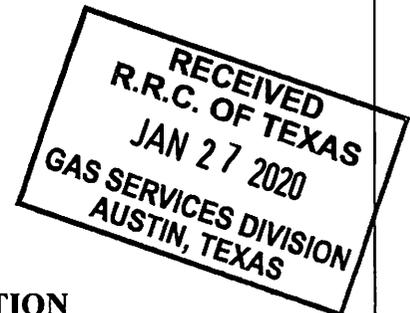
THE GATHERING AND TRANSPORTATION

of

CRUDE PETROLEUM

ON THE CAMINO REAL OIL GATHERING SYSTEM
(T-4 No. 08604)

WITHIN THE STATE OF TEXAS



GENERAL APPLICATION

These Rules and Regulations (this “Rules and Regulations Tariff”) are promulgated by Camino Real Gathering Company, L.L.C., a Delaware limited liability company (“Gatherer”), for the Camino Real Oil Gathering System located in La Salle County, Texas and owned and operated by Gatherer. Such gathering system (including all related pumping, metering, treatment, storage, and terminal equipment and facilities owned by Gatherer) as configured from time to time is called the “Gathering System.”

Carrier will accept and gather and transport Crude Petroleum offered for transportation on the Gathering System as provided in this Rules and Regulations Tariff and other tariffs making reference to this Rules and Regulations Tariff, all as in effect from time to time. To the extent that specific rules and regulations in effect from time to time under other tariffs making reference to this Rules and Regulations Tariff conflict with the general rules and regulations in this Rules and Regulations Tariff, such specific rules and regulations in the other tariffs shall supersede the general rules and regulations in this Rules and Regulations Tariff.

This Rules and Regulations Tariff shall apply only to those tariffs which specifically incorporate this Rules and Regulations Tariff by reference; such reference includes supplements to this Rules and Regulations Tariff and successive issues thereof.

The provision published herein will, if effective, not result in an effect on the quality of the human environment.

EFFECTIVE FEBRUARY 1, 2020

Issued By:

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Pursuant to paragraph (20) of § 3.71 of Title 16 of the Texas Administrative Code, the provisions of paragraphs (1) through (19) of such § 3.71 are hereby incorporated into this Rules and Regulations Tariff. In the event of any conflict between the provisions of such paragraphs and the rules set forth below, the rules set forth below will control.

By entering into a Transportation Agreement, Shipper agrees to the following tariff provisions:

| Section | Subject | Rules and Regulations |
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| 1. | ABBREVIATIONS AND DEFINITIONS; RULES OF CONSTRUCTION | |
| 1.1. | Abbreviations and Definitions | <p>[C]“50+ Degree Shipper” has the meaning set forth in Section 0.</p> <p>[C]“60+ Degree Shipper” has the meaning set forth in Section 0.</p> <p>“ACT” means an automatic custody transfer unit (together with associated measurement, sampling, and testing equipment) measuring Crude Petroleum delivered from the Gathering System at a Delivery Point.</p> <p>[C]“Adjustment Factor” has the meaning set forth in Section 0.</p> <p>“Affiliate” means any Person that, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with another Person. For purposes of this definition, the term “control” (including its derivatives and similar terms) means possessing the power to direct or cause the direction of the management and policies of a Person, whether through ownership, by contract, or otherwise. Any Person shall be deemed to be an Affiliate of any specified Person or entity if such Person or entity directly or indirectly owns 50% or more of the voting securities of the specified Person, if the specified Person directly or indirectly owns 50% or more of the voting securities of such Person, or if 50% or more of the voting securities of the specified Person and such Person are directly or indirectly under common control.</p> <p>“Aggregate Net Billable Volume” has the meaning set forth in Section 4.2.</p> <p>“Anchor Shipper” means a Shipper who offers to enter into to a Transportation Agreement for Gathering Services to commence not later than July 15, 2012 for a term of at least 11 years and for a Daily Reserved Capacity of at least 8,000 Barrels.</p> <p>“API” means The American Petroleum Institute.</p> <p>[C]“Applicable 50+ Degree Adjustment per Barrel” has the meaning set forth in Section 0.</p> <p>[C]“Applicable 60+ Degree Adjustment per Barrel” has the</p> |

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| | <p>meaning set forth in Section 0.</p> <p>[C]“Applicable Gravity” has the meaning set forth in Section 0.</p> <p>“Applicable Law” means any statute, law, ordinance, executive order, rule, or regulation (including a regulation that has been formally promulgated in a rule making proceeding but, pending final adoption, is in proposed or temporary form having force of law); treaty, guideline or notice having force of law; or approval, permit, license, franchise, judgment, order, decree, injunction or writ of any Governmental Authority applicable to a specified Person or specified property, as in effect from time to time.</p> <p>“Applicable Sulfur Content” has the meaning set forth in Section [W]02 2.3.1.</p> <p>“Barrel” means 42 gallons of 231 cubic inches per gallon at 60 degrees Fahrenheit.</p> <p>“Business Day” means Any Day other than a Saturday, Sunday or other Day on which banks in Houston, Texas are required to be closed.</p> <p>“Cash-Out Price” means a price per Barrel for the Month equal to the weighted average of the price(s) such Shipper received for the sale of its Crude Petroleum at the involved Delivery Point (or, if the transaction does not involve a particular Delivery Point, at all Delivery Points) in such Month.</p> <p>“Claims” means losses, costs, expenses, claims (including personal injury or property damage claims), demands, damages, causes of action, penalties, liabilities (including strict liability), fines, interest and all costs and expenses related thereto, including reasonable attorneys’ fees and costs of court related thereto.</p> <p>[C]“Commercial Adjustment” has the meaning set forth in Section 0.</p> <p>“Common Stream” means the intermixed and commingled stream of Crude Petroleum moving through the Gathering System and associated facilities at a particular time.</p> <p>“Crude Petroleum” means the direct product of oil wells or the liquid product of gas wells including condensate or a mixture of the direct product of oil or gas wells and the indirect petroleum products broken out during normal production and field separation (but specifically not including products of NGL processing or crude refining).</p> <p>“Day” means a period commencing at 7:00 a.m. Central Prevailing Time on a calendar day and ending at 7:00 a.m.</p> |
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| | | <p>Central Prevailing Time on the following calendar day.</p> <p>“Delivery Point” means points of interconnection maintained between the Gathering System and Shipper facilities or third party facilities from time to time for the delivery of Crude Petroleum from the Gathering System. The point of delivery by Gatherer is the outlet flange of the ACT at the Delivery Point.</p> <p>“Encumbered Product” has the meaning set forth in Section 3.2.</p> <p>“Excess Linefill” has the meaning set forth in Section 3.5.</p> <p>[C]“Flint Hills Posting” has the meaning set forth in Section 0.</p> <p>“Force Majeure” has the meaning set forth in Section 9.1.</p> <p>“Gatherer” has the meaning set forth in the General Application Section.</p> <p>“Gathering Services” means Gatherer’s receipt, transportation, storage and delivery of Crude Petroleum, together with related terminal services, under the Transportation Agreements.</p> <p>“Gathering System” has the meaning set forth in the General Application Section.</p> <p>“Governmental Authority” means any federal, state, foreign, tribal, local or municipal governmental body; and any governmental, regulatory or administrative agency, commission, body, agency, instrumentality or other authority exercising or entitled to exercise any executive, judicial, legislative, administrative, regulatory or taxing authority or power, including any court or other tribunal.</p> <p>[C]“Gravity Adjustment” has the meaning set forth in Section 0.</p> <p>“Greenhouse Levy” means any additional cost, expense or Tax (other than a Tax based upon Gatherer’s income or revenues and real or personal property or other ad valorem Tax imposed on the property constituting the Gathering System) incurred by Gatherer with respect to its performance under this Agreement or with respect to its ownership, operation or use the Gathering System under any Applicable Law adopted after the Effective Date or the action of any Regulatory Authority taken after the Effective Date enacted for the purpose of controlling or imposing a cost on the emission of greenhouse gases. This provision will have no application unless one of the bases for the application of such Applicable Law or regulatory action to Gatherer is that Gatherer is in the business of the transportation of Crude Petroleum.</p> <p>“High Gravity Deduction” has the meaning set forth in Section 4.2.</p> |
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| | | <p>“Indemnified Parties” means Gatherer, its Affiliates, and its and their respective equity holders, officers, directors, employees, agents, lenders, and representatives.</p> <p>[C]“Initial Gravity Adjustment” has the meaning set forth in Section 0.</p> <p>“Interruptible Shipper” means any Shipper other than a Shipper in its capacity as an Anchor Shipper.</p> <p>“LACT” means a lease automatic custody transfer unit (together with associated measurement, sampling, and testing equipment) measuring Crude Petroleum delivered into the Gathering System at a Receipt Point.</p> <p>“Linefill” means a volume of Crude Petroleum maintained in the Gathering System (i) to enable the safe and efficient operation of the Gathering System at pressures and pump speeds determined by Gatherer from time to time, and (ii) to be used to fill the bottom of each Storage Facility tank in order to float tank roofs to working levels.</p> <p>“Month” means a period beginning at the beginning of the first Day of a calendar month and ending at the beginning of the first Day of the next succeeding calendar month.</p> <p>“Net Billable Volume” has the meaning set forth in Section 4.2.</p> <p>“Net Deliverable Volume” has the meaning set forth in Section 4.2.</p> <p>“Nomination” means a written communication from a Shipper to Gatherer, pursuant to and in accordance with this Rules and Regulations Tariff, requesting that Gatherer receive, transport and deliver for such Shipper in a given Month a stated volume of Crude Petroleum.</p> <p>“Parcel Sulfur Content” has the meaning set forth in Section [W]02-2.3.1.</p> <p>“Person” means any individual, corporation, partnership, limited liability company, other business organization of any kind, association, trust, or governmental entity, agency, or instrumentality.</p> <p>“Pipeline Loss Allowance” has the meaning set forth in Section 4.2.</p> <p>“Pro Rata Share” has the meaning set forth in Section 3.5.</p> <p>“Receipt Point” means points of interconnection maintained between the Gathering System and Shipper facilities or third party facilities from time to time for the receipt of Crude</p> |
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| | <p>Petroleum into the Gathering System. The point of receipt by Gatherer is the inlet flange of the LACT at the Receipt Point.</p> <p>“Regulatory Authorities” means any Governmental Authority having regulatory jurisdiction over Gatherer, the Gathering System, or the Gathering Services and any court with jurisdiction over an appeal therefrom.</p> <p>“Replacement Shipper of Record” has the meaning set forth in Section 5.2.</p> <p>“Rules and Regulations Tariff” means the most recent version of this tariff covering the Gathering System on file with the Texas Railroad Commission, as more fully described in the General Application Section, and as amended from time to time.</p> <p>“Shipper” means a Person who contracts with Gatherer for Gathering Services on the Gathering System.</p> <p>“Shipper Parties” means a Shipper, its Affiliates, and its and their respective equity holders, co-venturers, lessors, contractors, officers, directors, employees, agents, lenders, and representatives.</p> <p>[C]“Shipper’s Negative Gravity Differential” has the meaning set forth in Section 0.</p> <p>“Shipper’s Negative Sulfur Differential” has the meaning set forth in Section [W]02-2.3.1.</p> <p>“Shipper’s Positive Gravity Differential” has the meaning set forth in Section 0.</p> <p>“Shipper’s Positive Sulfur Differential” has the meaning set forth in Section [W]02-2.3.1.</p> <p>“Shipper’s per Barrel Adjustment Factor” has the meaning set forth in Section 0.</p> <p>“Shipper’s per Barrel Sulfur Adjustment Factor” has the meaning set forth in Section [W]02 2.3.1.</p> <p>“Shipper’s Share” has the meaning set forth in Section 0.</p> <p>“Specifications” has the meaning set forth in Section 2.1.</p> <p>“Storage Facilities” means the Gatherer-owned and operated storage facilities presently contemplated to consist of 2 approximately 10,000 Barrel Crude Petroleum storage tanks and 2 approximately 20,000 Barrel Crude Petroleum storage tanks and related facilities located at or near the Storey Delivery Point.</p> <p>“Sulfur Adjustment” has the meaning set forth in Section 0.</p> <p>“Sulfur Adjustment Factor” has the meaning set forth in Section</p> |
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| | | <p>[W]02 <u>2.3.1.</u></p> <p>“Taxes” means any or all current or future taxes, fees, levies, charges, assessments and/or other impositions (including excise, gross production, severance, sales, use, environmental, ad valorem and other property taxes) levied, charged, imposed, assessed or collected by any Governmental Authority. “Taxes” includes any liability for the payment of any amounts described above as a result of being a Person required to withhold or collect Taxes imposed on another Person, any liability for the payment of any amount described above as a result of being a transferee of, or successor in interest to, any Person or as a result of an express or implied obligation to indemnify any Person, and any and all interest, penalties, additions to tax or additional amounts imposed in connection with or with respect to any amount described above.</p> <p>[C]“Total Gravity” has the meaning set forth in Section 0.</p> <p>“Transportation Agreement” means an agreement between Gatherer and a Shipper for the receipt, transportation, and delivery of Crude Petroleum on the Gathering System.</p> <p>[C]“Weighted Average Gravity per Barrel” has the meaning set forth in Section 0.</p> <p>[C]“Weighted Average Gravity per Barrel of the Common Stream” has the meaning set forth in Section 0.</p> <p>“Weighted Average Sulfur per Barrel” has the meaning set forth in Section [W]02 <u>2.3.1.</u></p> <p>“Weighted Average Sulfur per Barrel of the Common Stream” has the meaning set forth in Section [W]02 <u>2.3.1.</u></p> |
| <p>1.2.</p> | <p>Rules of Construction</p> | <p>As used in this Rules and Regulations Tariff, in any tariff making reference to this Rules and Regulations Tariff, to such other tariff, or in any Transportation Agreement, the plural includes the singular, the singular includes the plural, and “including” has the inclusive meaning of “including without limitation.” The words “hereof”, “herein”, “hereby”, “hereunder”, and other similar terms refer to this Rules and Regulations Tariff and to the Transportation Agreement (as applicable) as a whole and not exclusively to any particular provision thereof. All pronouns and any variations thereof will be deemed to refer to masculine, feminine, or neuter, singular, or plural, as the identity of the Person or Persons may require. Unless otherwise expressly provided, any agreement, instrument, or Applicable Law defined or referred to means such agreement or instrument or Applicable Law as from time to time amended, modified, or supplemented,</p> |

| | | including (in the case of agreements or instruments) by waiver or consent and (in the case of Applicable Law) by succession of comparable successor law and includes (in the case of agreements or instruments) references to all attachments thereto and instruments incorporated therein. | | | | | | | | | | | | | | | |
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| 2. | QUALITY | | | | | | | | | | | | | | | | |
| 2.1. | Specifications | <p>Crude Petroleum tendered for receipt into the Gathering System must meet or exceed the following requirements (the “Specifications”):</p> <p>In addition to the requirements of the specific provisions contained herein or a Shipper’s Transportation Agreement, Crude Petroleum tendered by such Shipper must be free of contamination by any substances which would materially and adversely affect the quality of Crude Petroleum in the Gathering System or cause harm to other Shippers, to users of the contaminated Crude Petroleum, to the safety or health of other persons, to Gatherer or to the Gathering System. Crude Petroleum must satisfy the quality requirements of any third party purchaser at any Delivery Point or any pipeline transporting Crude Petroleum from any Delivery Point.</p> <p>The quality of all Crude Petroleum tendered by a Shipper during a Month for Gathering Service hereunder must meet the following specifications:</p> <table border="0" data-bbox="779 1228 1396 1585"> <thead> <tr> <th style="text-align: center;">Line No.</th> <th style="text-align: center;">Characteristic</th> <th style="text-align: center;">Specification</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1.</td> <td>Maximum Product Delivery Temperature</td> <td style="text-align: center;">120° F</td> </tr> <tr> <td style="text-align: center;">2.</td> <td>Maximum BS&W</td> <td style="text-align: center;">1%</td> </tr> <tr> <td style="text-align: center;">3.</td> <td>Maximum Hydrogen Sulfide (H2S) Content in Vapor Space</td> <td style="text-align: center;">10 ppm</td> </tr> <tr> <td style="text-align: center;">[N]4.</td> <td>[N]API Gravity</td> <td style="text-align: center;">[N]38-50 Degrees API Gravity</td> </tr> </tbody> </table> <p>The volume-weighted average quality of all Crude Petroleum tendered by a Shipper during a Month for Gathering Services hereunder must meet the following specifications:</p> | Line No. | Characteristic | Specification | 1. | Maximum Product Delivery Temperature | 120° F | 2. | Maximum BS&W | 1% | 3. | Maximum Hydrogen Sulfide (H2S) Content in Vapor Space | 10 ppm | [N]4. | [N]API Gravity | [N]38-50 Degrees API Gravity |
| Line No. | Characteristic | Specification | | | | | | | | | | | | | | | |
| 1. | Maximum Product Delivery Temperature | 120° F | | | | | | | | | | | | | | | |
| 2. | Maximum BS&W | 1% | | | | | | | | | | | | | | | |
| 3. | Maximum Hydrogen Sulfide (H2S) Content in Vapor Space | 10 ppm | | | | | | | | | | | | | | | |
| [N]4. | [N]API Gravity | [N]38-50 Degrees API Gravity | | | | | | | | | | | | | | | |

| | | Line No. | Characteristic | Specification |
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| | | 4. | Maximum Product Pour Point | 35° F – Winter 55° F - Summer |
| | | 5. | Storage Facilities – Maximum True Vapor Pressure | 10 |
| | | 6. | Sulfur | 0.50% by weight |
| 2.2. | Refusal of Non-Conforming Crude Petroleum | <p>If Gatherer determines that a Shipper has tendered or delivered into the Gathering System Crude Petroleum that fails to meet the Specifications or other requirements contained herein, Gatherer may refuse to accept delivery of such Shipper's Crude Petroleum until such time as the quality of such Crude Petroleum meets the Specifications and other requirements. Gatherer reserves the right to reject any Crude Petroleum if Gatherer determines, in its sole discretion, the quality, API gravity, viscosity, and other characteristics of such Crude Petroleum are such that it will not be readily susceptible to transportation through Gatherer's existing Gathering System, such Crude Petroleum will adversely and materially affect or degrade the quality, API gravity, viscosity, and other characteristics of the Common Stream or cause material disadvantage to other Shippers (possibly including material degradation of the sale price of such Shipper's Crude Petroleum) or to Gatherer, or such Crude Petroleum does not meet the requirements established in this Rules and Regulations Tariff or any other applicable tariff. Gatherer may, but shall have no obligation to, determine the quality of each Shipper's Crude Petroleum, and Gatherer is not responsible for monitoring receipts or deliveries for contaminants. Further, Gatherer reserves the right to dispose of any contaminated Crude Petroleum present in the Gathering System. Disposal thereof may be made in any reasonable manner including but not limited to commercial sales or disposal in an oil and gas waste facility, and any liabilities or costs associated with the disposal of any Crude Petroleum shall be borne by the involved Shipper.</p> | | |
| 2.3 | Quality Bank Program | <p>The purpose of the quality bank program is to mitigate material increases or decreases in the value of each Shipper's Crude Petroleum due to commingling with the Common Stream. The quality bank charges to each Shipper, and amounts credited to each Shipper by the quality bank, depend on the quality of the Common Stream and the quality of each Shipper's Crude Petroleum. Each Shipper shall be required, as a condition of tendering its Crude Petroleum, to participate in the quality bank</p> | | |

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| | | <p>program.</p> <p>Under the quality bank program, [W]API gravity and sulfur shall be the quality parameters used to determine the relative value of each Shipper's Crude Petroleum and the relative value of the Common Stream. API gravity is subject to two separate adjustments: (a) the initial adjustment as set forth in Section 0 (the "Initial Gravity Adjustment"), plus (b) the second adjustment as set forth in Section 0 (the "Commercial Adjustment"). Sulfur content is subject to the adjustment as set forth in Section [W]0-2.3.1 (the "Sulfur Adjustment").</p> |
| <p>[C]2.3.1</p> | <p>Initial Gravity Adjustment</p> | <p>For each Shipper, all quantities of Crude Petroleum delivered into the Gathering System by such Shipper in a Month at all Receipt Points shall be considered as follows:</p> <p>Step 1: For each such quantity measured at any Receipt Point during such Month, the actual API gravity for such quantity shall be referred to as the "Applicable Gravity".</p> <p>Step 2: Multiply the Applicable Gravity times the number of Barrels in that quantity to determine the "Total Gravity" of such quantity.</p> <p>Step 3: Sum the resulting Total Gravity on all such separate quantities delivered by such Shipper in that Month at all Receipt Points.</p> <p>Step 4: Divide the aggregate Total Gravity resulting from Step 3 by the total Barrels in all such quantities, to yield the "Weighted Average Gravity per Barrel" for such Shipper for such Month.</p> <p>For the Common Stream, all quantities of Crude Petroleum delivered into the Gathering System by all Shippers in such Month at all Receipt Points shall be considered as follows:</p> <p>Step 1: Multiply each Shipper's Weighted Average Gravity per Barrel by the total of all Barrels received from such Shipper in that Month.</p> <p>Step 2: Sum the results from Step 1 for all Shippers.</p> <p>Step 3: Divide that total by the total of all Barrels received from all Shippers in such Month to yield the "Weighted Average Gravity per Barrel of the Common Stream" for such Month.</p> <p>Applicable Barrels shall be the net Barrels at 60 degrees Fahrenheit (with no deduction for losses borne by Shippers), and the gravities shall be the gravities as recorded by Gatherer at points where it customarily records gravities and quantities at or near the Receipt Points, corrected to 60 degrees Fahrenheit.</p> |

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| | | <p>Adjustment between Shippers shall be computed monthly as follows:</p> <ul style="list-style-type: none"> (a) Compute the Weighted Average Gravity per Barrel of the Barrels received from each Shipper during each Month, in the method set out above. (b) Compute the Weighted Average Gravity per Barrel of the Common Stream received during such Month, in the method set out above. (c) If the Weighted Average Gravity per Barrel of the Common Stream as determined under clause (b) is equal to or below 45.0 degrees for such Month, no charge or credit will be made for such Month under this Section 0. (d) If the Weighted Average Gravity per Barrel of the Common Stream as determined under clause (b) is greater than 45.0 degrees for such Month and if the Weighted Average Gravity per Barrel of a Shipper as so determined under clause (a) is greater than the Weighted Average Gravity per Barrel of the Common Stream as determined under clause (b), then the Shipper shall be charged an amount calculated as follows: <p>Shipper's Weighted Average Gravity per Barrel minus the Weighted Average Gravity per Barrel of the Common Stream equals "Shipper's Negative Gravity Differential." Shipper's Negative Gravity Differential (expressed as a positive number) shall be multiplied by the Gravity Adjustment (as defined below) to yield "Shipper's per Barrel Adjustment Factor." Shipper's per Barrel Adjustment Factor shall be multiplied by the number of Barrels received from such Shipper in such Month to yield the amount that such Shipper shall be charged under this Initial Gravity Adjustment.</p> <p>The "Gravity Adjustment" means the "Adjustment Factor" posted for such Month in relation to the Flint Hills Resources, L.P. Crude Oil Postings ("Flint Hills Posting") under the heading "Texas," for the "Eagle Ford West" (listed in December 2011 as Gravity</p> |
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| | | <p>Adjustment Scale "N", which currently is set at \$0.03 per tenth of a degree per Barrel).</p> <p>(e) If the Weighted Average Gravity per Barrel of the Common Stream as determined under clause (b) is greater than 45.0 degrees for such Month and if the Weighted Average Gravity per Barrel of a Shipper as so determined under clause (a) is less than the Weighted Average Gravity per Barrel of the Common Stream as determined under clause (b), then such Shipper shall be given a credit calculated as follows:</p> <p>The Weighted Average Gravity per Barrel of the Common Stream minus such Shipper's Weighted Average Gravity per Barrel equals "Shipper's Positive Gravity Differential." Shipper's Positive Gravity Differential (expressed as a positive number) shall be multiplied by the Gravity Adjustment to yield "Shipper's per Barrel Adjustment Factor." Shipper's per Barrel Adjustment Factor shall be multiplied by the number of Barrels received from such Shipper in such Month to yield the amount that such Shipper shall be credited and paid under this Initial Gravity Adjustment.</p> <p>These calculations shall be made for each Month, and the algebraic sum of the adjustments for the System shall be zero ± One Dollar. If Shipper shall have a credit, the clearinghouse shall remit the amount thereof after receipt by the clearinghouse of the sums from those Shippers having charges as calculated above.</p> <p>In addition to the adjustment under this Section 0, the Commercial Adjustment may apply to a Shipper's quantities as per Section 0.</p> |
| <p>[W] <u>2.3.2</u> <u>2.3.1</u></p> | <p>Sulfur Adjustment</p> | <p>Each Shipper's "Weighted Average Sulfur per Barrel" of quantities that have different sulfur content shall be obtained for a Month in the following manner:</p> <p>For each Shipper, all quantities of Crude Petroleum delivered into the Gathering System by such Shipper in such Month at all Receipt Points shall be considered as follows:</p> <p>Step 1: For each such quantity measured at any Receipt Point during such Month, the actual per barrel sulfur content for such quantity shall be referred to as the "Applicable Sulfur Content."</p> <p>Step 2: Multiply the Applicable Sulfur Content by the number of</p> |

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| | | <p>Barrels in that particular quantity delivered by such Shipper to determine the “Parcel Sulfur Content” of such quantity.</p> <p>Step 3: Sum the resulting Parcel Sulfur Contents on all such quantities (i.e., parcels) delivered by such Shipper in that Month.</p> <p>Step 4: Divide that sum by the total Barrels delivered by such Shipper at all Receipt Points in such Month to yield such Shipper’s Weighted Average Sulfur per Barrel.</p> <p><u>For the Common Stream</u>, all quantities of Crude Petroleum delivered into the Gathering System by all Shippers in such Month at all Receipt Points shall be considered as follows:</p> <p>Step 1: Multiply each Shipper’s Weighted Average Sulfur per Barrel by the total of all Barrels received from such Shipper in that Month.</p> <p>Step 2: Sum the results from all Shippers.</p> <p>Step 3: Divide that total by the total of all Barrels received from all Shippers in such Month to yield the “Weighted Average Sulfur per Barrel of the Common Stream.”</p> <p>Applicable Barrels shall be the net Barrels at 60 degrees Fahrenheit (with no deduction for losses borne by Shippers), and the sulfur content shall be the sulfur content as recorded by a competent laboratory for samples obtained by Gatherer at points where it customarily measures and samples receipts for custody transfer.</p> <p>Adjustment between Shippers shall be computed monthly as follows:</p> <ul style="list-style-type: none"> (a) Compute the Weighted Average Sulfur per Barrel of the Barrels received from each Shipper during each Month, in the method set out above. (b) Compute the Weighted Average Sulfur per Barrel of the Common Stream received during such Month, in the method set out above. (c) If the Weighted Average Sulfur per Barrel of the Common Stream as determined under clause 2.3.1(b) is equal to or below 0.30% for such Month, no charge or credit will be made for such Month under this Section 2.3.1. (d) If the Weighted Average Sulfur per Barrel of the Common Stream as determined under clause (b) is greater than 0.30% for such Month and if |
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| | | <p>the Weighted Average Sulfur per Barrel of a Shipper as so determined under clause (a) above is greater than the Weighted Average Sulfur per Barrel of the Common Stream as determined under clause (b), then such Shipper shall be charged an amount calculated as follows:</p> <p>Shipper's Weighted Average Sulfur per Barrel minus the Weighted Average Sulfur per Barrel of the Common Stream equals "Shipper's Negative Sulfur Differential." Shipper's Negative Sulfur Differential (expressed as a positive number) shall be multiplied by the Sulfur Adjustment Factor (as defined below) to yield "Shipper's per Barrel Sulfur Adjustment Factor." Shipper's per Barrel Sulfur Adjustment Factor shall be multiplied by the number of Barrels received from such Shipper in such Month to yield the amount that such Shipper shall be charged under this Sulfur Adjustment.</p> <p>The "Sulfur Adjustment Factor" means \$0.02 per one hundredth percent.</p> <p>(e) If the Weighted Average Sulfur per Barrel of the Common Stream as determined under clause 2.3.1(b) is greater than 0.30% for such Month and if the Weighted Average Sulfur per Barrel of a Shipper as so determined under clause (a) above is less than the Weighted Average Sulfur per Barrel of the Common Stream, then such Shipper shall be given a credit calculated as follows:</p> <p>The Weighted Average Sulfur per Barrel of the Common Stream minus such Shipper's Weighted Average Sulfur per Barrel equals "Shipper's Positive Sulfur Differential." Shipper's Positive Sulfur Differential (expressed as a positive number) shall be multiplied by the Sulfur Adjustment Factor to yield "Shipper's per Barrel Sulfur Adjustment Factor." Shipper's per Barrel Sulfur Adjustment Factor shall be multiplied by the number of Barrels received from such Shipper in such Month to yield the amount that such Shipper shall be credited and paid under</p> |
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| | | <p>this Sulfur Adjustment.</p> <p>These calculations shall be made for each Month and the algebraic sum of the adjustments for the System shall be zero ± One Dollar. If Shipper shall have a credit, the clearinghouse shall remit the amount thereof after receipt by the clearinghouse of the sums from those Shippers having charges as calculated above.</p> |
| <p>[C]2.3.3</p> | <p>Commercial Adjustment</p> | <p>Each Shipper will have an obligation to manage the composition of Crude Petroleum tendered by it during a Month for delivery into the Gathering System so that such Shipper's Weighted Average Gravity per Barrel in such Month will not exceed 45.0 degrees. The purpose of this Section 0 is to provide further financial adjustments among Shippers (in addition to the charges and credits under Section 0) where the Weighted Average Gravity per Barrel of the Common Stream in a Month exceeds 50.0 degrees.</p> <p>(a) The amount of the adjustment under this Section 0 will be derived by using Flint Hills Postings.</p> <p>The "Applicable 50+ Degree Adjustment per Barrel" will be calculated to be the result of subtracting the monthly "EDQ" of (a) the Flint Hills Posting under the heading "TEXAS" as listed for "Texas Eagle Ford West Light" from (b) the Flint Hills Posting under the heading "TEXAS" as listed for "Eagle Ford West" for the applicable Month (this difference of the EDQ's in November 2011 being \$4.25 per Barrel).</p> <p>The "Applicable 60+ Degree Adjustment per Barrel" will be calculated to be the result of subtracting the monthly "EDQ" of (x) the Flint Hills Posting under the heading "TEXAS" as listed for "Eagle Ford West Condensate" from (y) the Flint Hills Posting under the heading "TEXAS" as listed for "Eagle Ford West Light" for the applicable Month (this difference of the EDQ'S in November 2011 being \$5.00 per Barrel).</p> <p>If for the Month the Weighted Average Gravity per Barrel of the Common Stream is between</p> |

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| | | <p>50.0 degrees and 60.0 degrees and every Shipper's Weighted Average Gravity per Barrel is between 50.0 degrees and 60.0 degrees, the bank will default to zero dollars for such Month for purposes of this Section 0 (as such, no payments would be due from or to any Shipper under this Section 0).</p> <p>If for the Month the Weighted Average Gravity per Barrel of the Common Stream is above 60.0 degrees and every Shipper's Weighted Average Gravity per Barrel is above 60.0 degrees, the bank will default to zero dollars for such Month for purposes of this Section 0 (as such, no payments would be due from or to any Shipper under this Section 0).</p> <p>(b) If the adjustment under this Section 0 is applicable for a Month, this Subpart (b) shall govern the amount of the adjustment that will be charged to a Shipper whose Weighted Average Gravity per Barrel for that Month is equal to or exceeds 50.0 degrees (a "50+ Degree Shipper"). The amount of the adjustment will be calculated on a pro rata basis of the sum of the volume for that Month of all such 50+ Degree Shippers. A 50+ Degree Shipper's pro rata basis will be calculated in the following manner: divide the 50+ Degree Shipper's volume for that Month by the sum of the volume for that Month from all 50+ Degree Shippers, multiply by the Applicable 50+ Degree Adjustment per Barrel referenced in Subpart (a) above for that Month, and multiply the result by the sum of the volumes for that Month from Shippers whose Weighted Average Gravity per Barrel does not exceed 49.9 degrees in that Month.</p> <p>(c) Each Shipper whose Weighted Average Gravity per Barrel for that Month does not exceed 49.9 degrees will receive their share of the adjustment assessed in that Month against the 50+ Degree Shippers in Subpart (b) above. The Shipper's basis will be calculated in the following manner: the Shipper's volume for</p> |
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| | | <p>that Month multiplied by the Applicable 50+ Degree Adjustment per Barrel referenced in Subpart (a) above for that Month.</p> <p>(d) — In addition to the adjustments in (b), if the adjustment is applicable under this Section 0 for a Month, this subpart (d) shall govern the amount of the adjustment that will be paid by a Shipper whose Weighted Average Gravity per Barrel for that Month is equal to or exceeds 60 degrees (a “60+ Degree Shipper”). The amount of the adjustment will be calculated on a pro rata basis of the sum of the volume for that Month of all such 60+ Degree Shippers. A 60+ Degree Shipper’s pro rata basis will be calculated in the following manner: divide the 60+ Degree Shipper’s volume for that Month by the sum of the volume for that Month from all 60+ Degree Shippers, multiply by the Applicable 60 Degree Adjustment per Barrel referenced in subpart (a) above for that Month, and multiply the result by the sum of the volumes for that Month from Shippers whose Weighted Average Gravity per Barrel does not exceed 59.9 degrees in that Month. The payment under this subpart (d) is in addition to the payment a 60+ Degree Shipper would have to make under subpart (b) as a 50+ Degree Shipper.</p> <p>(e) — Each Shipper whose Weighted Average Gravity per Barrel for a Month does not exceed 59.9 degrees will receive their share of the adjustment assessed against the 60+ Degree Shippers in Subpart (d) above for that Month. The Shipper’s basis will be calculated in the following manner: the Shipper’s volume for that Month multiplied by the Applicable 60 Degree Adjustment per Barrel referenced in subpart (a) above for that Month.</p> <p>(f) — The calculations under this Section 0 shall be made for each calendar month and the algebraic sum of the adjustments for the System shall be zero ± One Dollar. If a Shipper shall have a net debit balance the balance shall be remitted by</p> |
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| | | ACH or Wire Transfer to the clearinghouse within 15 days from receipt of statement of such debit. If Shipper shall have a credit, the clearinghouse shall remit the amount thereof within 15 days after receipt by the clearinghouse of the sums from those shippers having charges as calculated above. |
| [C]2.3.4 | Postings | If the Flint Hills Resources, L.P. postings referenced under Section 0 are no longer available, Gatherer and the Anchor Shippers will agree on a replacement posting that reasonably reflects the adjustment factors and price differentials for similar crude oil based upon API gravity. |
| [W] 2.3.5 2.3.2 | Measurement of Quality Bank Adjustments | Each Shipper's total volume, including any volume delivered by Shipper's Replacement Shipper of Record during a Month, will be used to determine quality bank adjustments. Therefore, the Shipper will be invoiced or credited as applicable for all of Shipper volumes. |
| 2.4 | Additional Liability for Non-Conforming Deliveries by Shipper | In addition to the application of other provisions of this Rules and Regulations Tariff or the Transportation Agreement (but without duplication of remedy) in the event that a Shipper delivers Crude Petroleum that fails in any way to comply with the Specifications and other requirements herein, then such Shipper is liable to the Indemnified Parties for all Claims arising out of the receipt, gathering, transportation, treatment or storage by Gatherer of such Shipper's non-conforming Crude Petroleum (but not with respect to some other Shipper's non-conforming Crude Petroleum), including but not limited to, damages, costs and expenses of disposal, costs and expenses necessary to clean, repair or return any facilities to service, and Claims by other Shippers or other third parties including Regulatory Authorities. Each Shipper will indemnify, defend, release and hold harmless the Indemnified Parties from and against any such Claims arising out of the receipt, gathering, transportation, treatment or storage by Gatherer of such Shipper's non-conforming Crude Petroleum, except to the extent of the gross negligence or willful misconduct of Gatherer. |
| 2.5 | Limitations on Amendment | Gatherer agrees that, except as otherwise provided in this paragraph, it will not amend the provisions of Section 2.1 hereof relating to the quality specifications [W] or the provisions of Section 0 hereof relating to the quality bank program without the written consent of Anchor Shippers then holding at least 60 percent of all [W]Daily Reserved Capacity on the Gathering |

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| | | <p>System, <u>or as otherwise agreed to by the parties in the Transportation Agreement</u>. No amendment to the provisions relating to the quality specifications [W]or the quality bank program made as a result of action of a Regulatory Authority will be subject to the foregoing consent requirement unless such action was pursuant to a proceeding initiated by Gatherer for the purpose of requesting such amendment.</p> |
| <p>3.</p> | <p>NOMINATION AND SCHEDULING, INTERRUPTION, AND BALANCING</p> | |
| <p>3.1.</p> | <p>Nomination Procedures</p> | <p>Not later than the [N] 15th [W]25th Day of each Month, each Shipper shall submit to Gatherer a Nomination specifying estimated Crude Petroleum volumes to be tendered by such Shipper for receipt into the Gathering System at each Receipt Point during such Month and Crude Petroleum volumes to be delivered to or for the account of such Shipper from the Gathering System at each Delivery Point during such Month. The Nomination shall include information describing the monthly API gravity, as reasonably estimated by such Shipper, of the receipts of Crude Petroleum at each Receipt Point together with reasonable and known information about any changes in API gravity expected during the Month and such additional information as may be required by Gatherer to schedule each shipment. Gatherer may, at its sole discretion, refuse to schedule the receipt or delivery of, or refuse to accept or deliver, a Shipper's Crude Petroleum until such Shipper has provided Gatherer with all such nomination information.</p> |
| <p>3.2.</p> | <p>Gatherer's Scheduling</p> | <p>Gatherer will schedule the receipt, transportation, and delivery of a Shipper's Crude Petroleum subject to the following:</p> <ul style="list-style-type: none"> (a) Gatherer will have no obligation to schedule deliveries by a Shipper into the Gathering System for a Day unless the volume of Crude Petroleum nominated for all such deliveries by that Shipper for that Day totals at least 2,000 Barrels. Additionally, Gatherer will schedule shipments for a Shipper subject to the limitations of, and in accordance with, the volume limitations and maximum daily delivery quantities set forth in, such Shipper's Transportation Agreement. (b) Except to the extent of balancing in-kind as per the balancing provisions herein, Gatherer will have no obligation to schedule deliveries for a Shipper from the Gathering System for a Month in excess of all deliveries by such Shipper into the Gathering System scheduled for such Month. Gatherer is not obligated to take receipt of a |

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| | | <p>Shipper's Crude Petroleum unless such Shipper provides Delivery Points for the Crude Petroleum.</p> <p>(c) Gatherer will have no obligation to schedule receipt of or accept Crude Petroleum in a quantity that does not satisfy the minimum receipt quantity provisions, if any, specified in this Rules and Regulations Tariff or Shipper's Transportation Agreement from time to time.</p> <p>(d) Gatherer may schedule receipts of Crude Petroleum from a given Shipper as Gatherer in its reasonable discretion determines is reasonably beneficial to control the API gravity and to control or protect the quality of such Shipper's Crude Petroleum at particular times or as otherwise needed for pipeline operations.</p> <p>(e) Gatherer shall have the right to reject, in whole or in part, any Nomination with respect to Crude Petroleum which may be involved in litigation, the title of which may be in dispute, or which may be involved in an action to establish or enforce a lien claim (any such Crude Petroleum being called herein "Encumbered Product"), and Gatherer shall have the right to require satisfactory evidence of a Shipper's marketable title thereto or financial assurance as described in Section 8.</p> |
| <p>3.3.</p> | <p>Balancing</p> | <p>If during any Month the aggregate volume of Crude Petroleum delivered from the Gathering System to or for the account of a Shipper differs from the aggregate volume of Crude Petroleum received into the Gathering System from such Shipper (after deductions and adjustments under Section 4.2 that go to the computation of such Shipper's Net Deliverable Volume and after accounting for sales and purchases of Linefill sold to Gatherer), Gatherer may in one or more subsequent Months limit receipts or deliveries for such Shipper so as to bring such cumulative deliveries to or for the account of such Shipper into balance with cumulative receipts from such Shipper. If such an imbalance still exists at the termination of a Transportation Agreement, Gatherer shall cash-out such imbalance by charging such Shipper, or by paying such Shipper, the imbalance volume in Barrels multiplied by the Cash-Out Price. In any Month during which Gatherer has apportioned limited capacity as per Section 5.1, if a Shipper fails to deliver to Gatherer at least 95% of its scheduled deliveries into the Gathering System for such Month, Gatherer may charge such Shipper an amount (if not otherwise paid by such Shipper) up to the applicable tariff rate for Gathering Services multiplied by the scheduled volume not</p> |

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| | | <p>received by Gatherer; <i>provided, however</i>, that with respect to Anchor Shippers this sentence (and this extra fee) shall not apply to an Anchor Shipper's Daily Reserved Capacity, but this sentence (and this extra fee, when applicable) shall apply to such Anchor Shipper's Excess Volumes, if any.</p> |
| <p>3.4.</p> | <p>Interruptions</p> | <p>Gatherer may interrupt all or any portion of Gathering Service to Interruptible Shippers, giving prompt written notice to each such Shipper. In the event that more than one Interruptible Shipper is scheduled to receive Gathering Service during a period of interruption, interruptions will be made to Gathering Service for all Interruptible Shippers on a pro-rata basis in proportion to each Interruptible Shipper's scheduled volumes for that period.</p> <p>Gatherer may interrupt all or any portion of Gathering Service to Anchor Shippers and Interruptible Shippers for the purpose of performing inspections, pigging, maintenance, testing, alterations, modifications, expansions, connections, repairs or replacements, but such interruption shall be for only such time as may be reasonable. Gatherer may also interrupt all of any portion of Gathering Service to Anchor Shippers and Interruptible Shippers in response to safety or environmental issues, upon termination of such Shipper's Transportation Agreement, while Gathering Service is suspended during a Shipper's default, in response to a Force Majeure event, or pursuant to actions of Regulatory Authorities.</p> |
| <p>3.5.</p> | <p>Linefill</p> | <p>Prior to delivery of nominated volumes, each Shipper shall provide to Gatherer, at no cost to Gatherer, such Shipper's Pro Rata Share of such quantities of Crude Petroleum as Gatherer may reasonably request from time to time to be used as Linefill. At the option of Gatherer, each Shipper shall sell such Shipper's Pro Rata Share of volumes of Crude Petroleum to Gatherer for use as Linefill for the Gathering System as Gatherer may request, at a market price per Barrel for the Month in which such purchase option is exercised, as reasonably agreed upon by Gatherer and the involved Shipper. Title to Linefill provided by a Shipper (other than the volumes purchased by Gatherer) shall remain in that Shipper; <i>provided, however</i>, a Shipper may sell (to any Person) Linefill that such Shipper had provided to Gatherer under this Tariff, so long as such Shipper remains solely and fully responsible to Gatherer to maintain its Pro Rata Share of Linefill, and for all nominations and other communications and for all obligations under its Transportation Agreement and this Tariff as fully as if such Shipper continued to own such Linefill while in the Gathering System. Gatherer shall incur no liability with respect to any sale(s) of a Shipper's</p> |

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| | | <p>Linefill or for any losses or damages accruing to any party involved in any such sale(s). Further, any such sale(s) of Linefill shall be confirmed in writing to Gatherer by both the Shipper and its counterparty or transferee. Upon another Shipper contracting with Gatherer for shipping on the Gathering System and providing its requested Linefill pursuant to this Section, Gatherer shall return a portion of Linefill (“Excess Linefill”) to existing Shippers that previously had provided Linefill in order that (after such adjustment) each Shipper shall have provided its Pro Rata Share of Linefill; <i>provided, however</i>, that Gatherer shall not be required to rebalance any Shipper’s Pro Rata Share of Linefill (i) more often than once every 6 Months, or (ii) if the relative swing in a Shipper’s Pro Rata Share is less than 7,500 Barrels; <i>and provided further</i>, that in such case, such Excess Linefill provided by a Shipper (other than the volumes purchased by Gatherer) shall be either (i) returned to that Shipper at the Delivery Points nominated by that Shipper, or (ii) at Gatherer’s option, purchased by Gatherer at a market price per Barrel for the Month in which such adjustment is made. Other than a return by Gatherer of Excess Linefill as provided above, Shipper may withdraw its Linefill only after (i) its shipments have ceased and it has notified Gatherer, in writing, of the discontinuance of shipments on the Gathering System and (ii) Shipper’s balances have been reconciled between Shipper and Gatherer. Gatherer, at its discretion, may require advance payment of transportation charges on the volumes to be cleared from the Gathering System, and any unpaid accounts receivable, before final delivery will be made. Gatherer shall have a reasonable period of time from receipt of a Shipper’s written notice to withdraw Linefill in order to complete administrative and operational requirements incidental to Shipper’s withdrawal of its Linefill. “Pro Rata Share” shall mean, (i) with respect to Shipper’s initial delivery of volumes into the Gathering System, such Shipper’s pro rata share of Linefill, considering such Shipper’s nomination for the first month of Gathering Services under its Transportation Agreement as compared to the total of all volumes nominated by all Shippers for that Month, (ii) with respect to Shipper’s continuing delivery of volumes after its initial delivery of volumes, such Shipper’s pro rata share of Linefill, considering the actual volumes shipped by such Shipper since the last Linefill adjustment as compared to the total of all volumes actually shipped by all Shippers since the last Linefill adjustment.</p> |
| 3.6. | Line Losses | Gatherer shall not be responsible for any shrinkage resulting |

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| | | from mixing Crude Petroleum of various API gravities and compositions, and Gatherer shall make such deductions as set forth in Section 4.2, including the High Gravity Deduction and the Pipeline Loss Allowance as set forth in Section 4.2. Gatherer shall not be responsible for losses of Crude Petroleum except to the extent of Gatherer's negligence. |
| 3.7. | No Maintenance of Identity | Gatherer shall not be liable to any Shipper for changes in API gravity or quality of a Shipper's Crude Petroleum which may occur from commingling or intermixing such Shipper's Crude Petroleum with other Crude Petroleum in the Gathering System. Gatherer is not obligated to redeliver to a Shipper the identical Crude Petroleum delivered into the Gathering System by such Shipper. Gatherer will deliver Crude Petroleum from Gatherer's Common Stream. [W] Except to the extent provided in Section 0 (Quality Bank) Gatherer shall have no responsibility in or for any revaluation or settlements which may be deemed appropriate among Shippers because of any mixing or commingling of Crude Petroleum shipments between the receipt and redelivery of such shipments by Gatherer. |
| 3.8. | No Manipulation | A Shipper will not deliberately deliver at any Receipt Point or take delivery at any Delivery Point of volumes of Crude Petroleum which materially differ from such Shipper's volumes scheduled by Gatherer for receipt and delivery at such Receipt and Delivery Points (adjusted, in the case of deliveries from the Gathering System, to such Shipper's Net Deliverable Volume). |
| 3.9. | Origin and Destination Facilities | Gatherer will accept Crude Petroleum into the Gathering System only at established Receipt Points and through LACTs, and deliver the Crude Petroleum from the Gathering System only at established Delivery Points and through ACTs; provided, however, that if a LACT or ACT is temporarily out of service the parties to the involved Transportation Agreement may agree to base shipments on any commercially reasonable method mutually agreed between such parties. Each Shipper will maintain facilities necessary to ensure that its Crude Petroleum will be delivered into the Gathering System at pressures and pumping rates required by Gatherer from time to time. Gatherer will accept Crude Petroleum into the Gathering System from a Shipper only while, in Gatherer's judgment, the necessary and appropriate facilities are in operation at the specified Receipt Points and Delivery Points. Without limitation of the foregoing, Shipper will provide, at no cost to Gatherer, electrical service connections and electricity to power the charge pump, LACT, mainline pump for its oil delivered into the Gathering System, and measurement, radio, and methanol injection equipment at |

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| | | each Receipt Point for such Shipper, in each case, to the extent such equipment is owned or operated by Gatherer. Gatherer may require the installation and operation of equipment and facilities necessary in Gatherer's reasonable judgment for the use by a Shipper of any Receipt Point or Delivery Point, and at Gatherer's request, Shipper will enter into an interconnection agreement with Gatherer addressing the respective responsibilities of the parties for the construction, operation, maintenance, and cost of such equipment and facilities. |
| 3.10. | Rights-of-Way | Subject to any consent rights or restrictions in the applicable oil and gas leases, easements or right-of-way agreements, to the maximum extent that Shipper may lawfully do so and provided no breach of any third party agreements, including leases, easements or right-of-way agreements, would result as Shipper reasonably determines, Shipper will assign rights held by Shipper, and will assign any subsequent rights acquired by Shipper, to Gatherer to the extent of a non-exclusive easement and right-of-way upon lands covered by Shipper's leases, easements or right-of-way agreements that are necessary to Gatherer for the purpose of installing, using, maintaining, servicing, inspecting, repairing, operating, replacing, disconnecting and removing Gatherer's facilities. Any property of Gatherer placed in or upon such easement(s) shall remain the personal property of Gatherer and may be disconnected and removed by Gatherer at any time for any reason. Shipper shall at its expense, to the maximum extent that it may lawfully do so, maintain and provide all such easements, rights-of-way, lease roads and other access facilities upon its leases as may reasonably be deemed necessary by Gatherer for its performance of Shipper's transportation agreement. |
| 3.11. | Evidence of Receipt and Delivery | Gatherer will document Crude Petroleum received from or delivered to a Shipper, in each instance, by tickets based on appropriate records of volumes, temperature, basic sediment and water, and any other data essential to the determination of quantity and quality, all as determined by the applicable LACTs, ACTs, API gravity or quality tests, and except as provided in Section 4.4 with respect to metering errors such Shipper will be bound by the information in such records for all computations hereunder. |
| 3.12. | Communications | All communications concerning Nominations, schedules, receipts and deliveries, balancing, and other matters pertaining to volumes shipped during a month will be provided by means and in a format reasonably specified by Gatherer from time to time and at addresses specified by the Gatherer and a Shipper for |

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| | | that purpose from time to time. |
| 3.13. | Additives and Tank Vapors | Gatherer reserves the right to require, approve or reject the injection of corrosion inhibitors, viscosity or pour point depressants or other additives in Crude Petroleum to be delivered into the Gathering System. All tank vapors from the Gathering System will be retained by Gatherer. |
| 4. | MEASUREMENT | |
| 4.1. | Gauging and Testing | Crude Petroleum gathered hereunder shall be measured and tested by LACTs at the Receipt Points or by ACTs at the Delivery Points, installed and operated in accordance with the latest revision of API Manual of Petroleum Measurement Standards, Chapter 6.1. Quantities shall be determined by dynamic or static measurement methods in accordance with appropriate API standards, latest revision, and shall serve as the conclusive measurement of the Crude Petroleum, subject to Section 4.2 on corrections, adjustments, and deductions. Crude Petroleum tendered for delivery shall be tested for basic or foreign sediment and water and other impurities and gauged or metered by the LACT units. A Shipper may be present at the measurement and testing, but the measurement and testing by Gatherer is final regardless of whether such Shipper is present. Gatherer will provide Shipper's designated field representative at least 7 days advance written notice of scheduled test by email. Gatherer reserves the right to test and measure and/or witness the testing and measurement of all deliveries from Gatherer's system. Measurement and testing of all Crude Petroleum shall be in accordance with generally accepted industry and API standard practices and procedures and with those of pipelines and purchasers receiving Crude Petroleum at Delivery Points. Each Party has the right to place check meters or test equipment at any of the other Party's measurement points, to be installed and maintained by such Party in conformity with any technical requirements the other Party may reasonably impose. |
| 4.2. | Measurement Adjustments | Gatherer shall make the following deductions, corrections and adjustments to the volume of Crude Petroleum received into the Gathering System at each Receipt Point as determined pursuant to Section 4.1 (Gauging and Testing): To determine a Shipper's " Net Billable Volume " at each Receipt Point for a Month, Gatherer shall: (a) adjust the unadjusted metered volume of Shipper's deliveries at such Receipt Point by meter factors based on a monthly meter |

| | | <p>calibration;</p> <p>(b) without duplication of the adjustment in clause (a) immediately above, adjust volumes net of the deductions in clause (a) immediately above for temperature from observed degrees Fahrenheit to 60 degrees Fahrenheit and for pressure to 14.696 psia;</p> <p>(c) deduct from the metered volumes adjusted under clauses (a) and (b) immediately above the actual amount of suspended basic or foreign sediment, water, and other impurities as ascertained by centrifuge or other tests agreed upon;</p> <p>(d) deduct 0.20% of the net volume after the deductions and adjustments under clauses (a), (b), and (c) immediately above (the “Pipeline Loss Allowance”) to cover losses incident to pipeline transportation, including evaporation, interface losses, and other normal losses during transportation;</p> <p>(e) deduct from volumes net of the deductions and adjustments in clauses (a), (b), (c), and (d) immediately above, an amount (the “High Gravity Deduction”) to cover the shrinkage resulting from the mixture thereof in Gatherer’s facilities. Such High Gravity Deduction shall be determined in accordance with the following table:</p> <table data-bbox="747 1344 1299 1659"> <thead> <tr> <th>API GRAVITY, Degrees</th> <th>% DEDUCTION</th> </tr> </thead> <tbody> <tr> <td>0 through 44.9</td> <td>0.00%</td> </tr> <tr> <td>45.0 through 54.9</td> <td>0.50%</td> </tr> <tr> <td>55.0 through 64.9</td> <td>1.00%</td> </tr> <tr> <td>65.0 through 74.9</td> <td>1.50%</td> </tr> <tr> <td>75.0 through 84.9</td> <td>5.00%</td> </tr> <tr> <td>85.0 and above</td> <td>20.00%</td> </tr> </tbody> </table> <p>The API Gravity examples shown in the above table do not imply that Gatherer will or must accept API Gravities as high as those shown in the table.</p> <p>A Shipper’s “Aggregate Net Billable Volume” for a Month will be the sum of the Shipper’s Net Billable Volumes determined for</p> | API GRAVITY, Degrees | % DEDUCTION | 0 through 44.9 | 0.00% | 45.0 through 54.9 | 0.50% | 55.0 through 64.9 | 1.00% | 65.0 through 74.9 | 1.50% | 75.0 through 84.9 | 5.00% | 85.0 and above | 20.00% |
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| API GRAVITY, Degrees | % DEDUCTION | | | | | | | | | | | | | | | |
| 0 through 44.9 | 0.00% | | | | | | | | | | | | | | | |
| 45.0 through 54.9 | 0.50% | | | | | | | | | | | | | | | |
| 55.0 through 64.9 | 1.00% | | | | | | | | | | | | | | | |
| 65.0 through 74.9 | 1.50% | | | | | | | | | | | | | | | |
| 75.0 through 84.9 | 5.00% | | | | | | | | | | | | | | | |
| 85.0 and above | 20.00% | | | | | | | | | | | | | | | |

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| | | <p>all Receipt Points for that Month.</p> <p>To determine a Shipper's "Net Deliverable Volume" for a Month, Gatherer shall:</p> <ul style="list-style-type: none"> (a) deduct from such Shipper's Aggregate Net Billable Volume such Shipper's allocated share of Line Losses; and (b) deduct from such Shipper's Aggregate Net Billable Volume any loss of Crude Petroleum as a result of the condition of, or such Shipper's maintenance or operation of, equipment or facilities owned by such Shipper or its contractors, or as a result of Shipper's operation of Gatherer's equipment or facilities, in each case downstream of the point of measurement under Section 4.1 (Gauging and Testing) associated with a Receipt Point (including mainline pumps at batteries). |
| 4.3. | Volume Determined for Billing and Delivery | A Shipper's obligation to pay a Volumetric Charge (as defined in a Transportation Agreement), if any, during a Month will be based on such Shipper's Aggregate Net Billable Volume in excess of its Daily Reserved Capacity, if any, multiplied by the number of days in such Month. Gatherer will only be obligated to deliver to such Shipper its Net Deliverable Volumes. |
| 4.4. | Meters | Any custody or check meters used for measurement hereunder shall be calibrated once per Month. If a Shipper or Gatherer believes that a meter may have a measurement error not within tolerances specified in the latest API standards, it will immediately notify the other party of that belief. If a party, at any time, desires to observe a calibration of any of the meters, such party will notify the measuring party, and the parties will then cooperate to secure a calibration test and a joint observation of any adjustments. If, upon any test, any such meter is found to have a measurement error within tolerances specified in the latest API standards, previous recordings of such equipment shall not be adjusted by the amount of the error. If, upon any test, any of the measuring party's measurement equipment is found to have a measurement error in excess of tolerances specified in the latest API standards, then previous measurements on that meter shall be corrected for any definitely known period of inaccuracy or, if no such period is definitely known, for the last half of the time since the immediately preceding testing of that meter. Following any test, meters that are found inaccurate shall be adjusted to a condition of accuracy within tolerances specified in the latest API |

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| 5. | APPORTIONMENT | |
| 5.1. | Apportionment | <p>If Gatherer receives Nominations in aggregate volumes that Gatherer reasonably believes will exceed the Gathering System's capacity (including situations where such capacity is restricted due to a Force Majeure event or any other reason), then Gatherer will apportion the volumes scheduled pursuant to such Nominations among all Shippers as follows:</p> <p>(a) Gatherer may first reduce volumes scheduled for each Interruptible Shipper in proportion to each Interruptible Shipper's Nominations. If necessary, Gatherer may so reduce scheduled volumes to zero.</p> <p>(b) If after the application of the above clause, Gatherer reasonably believes that Nominations by Anchor Shippers would exceed the Gathering System's capacity, Gatherer may reduce volumes scheduled for each Anchor Shipper in proportion to each Anchor Shipper's Daily Reserved Capacity set forth in the Transportation Agreements.</p> |
| 5.2. | Assignment of Allocated Capacity | <p>A Shipper's rights to capacity on the Gathering System may not be assigned, conveyed, loaded, transferred to or used in any manner by another Shipper except as an incident of the bona fide disposition of all or a portion of such Shipper's business or as provided below.</p> <p>Shipper's Crude Petroleum in many cases will be delivered for transportation under this Rules and Regulations Tariff by Shipper in which case Shipper shall be "shipper of record" of Shipper's Crude Petroleum on the Gathering System. However, the Parties agree that an Anchor Shipper may from time to time sell some or all of its Crude Petroleum (but only to the extent such was produced from a well in which such Anchor Shipper owns an equity interest) at or prior to a Receipt Point, and in such case such Anchor Shipper has the option of designating in writing such third party purchaser to be a "Replacement Shipper of Record" with respect to a designated shipment of such Shipper's Daily Reserved Capacity. In order to qualify as a Replacement Shipper of Record, however, such third party shall meet the following requirements: (i) satisfy Gatherer's creditworthiness requirements, (ii) confirm in writing that they have accepted all obligations and liabilities under the Anchor Shipper's Transportation Agreement, including this Rules and Regulations Tariff, by a duly authorized representative, and (iii) have committed to the subject portion of the Anchor Shipper's Reserve</p> |

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| | | <p>Capacity for a term of at least 12 Months as a Replacement Shipper of Record beginning the first day of the Month. A Replacement Shipper of Record may not designate another Replacement Shipper of Record for its designated portion of the Shipper’s Daily Reserved Capacity. The qualification of a Replacement Shipper of Record will not relieve Anchor Shipper of any of its responsibilities under its Transportation Service Agreement, including the portion of Daily Reserved Capacity held by the Replacement Shipper of Record. Upon such written notice from such Anchor Shipper to Gatherer, (i) Gatherer initially agrees to look to such Anchor Shipper’s designated Replacement Shipper of Record for the nomination of such portion and for payment of the applicable Reservation Charge or Volumetric Charge on such portion, and Administrative Charge; provided that if such designated Replacement Shipper of Record fails to pay on a timely basis as provided in this Rules and Regulations Tariff, then such Anchor Shipper shall pay the unpaid amount including late charges or other liability within 10 days of Gatherer’s written demand for such payment, (ii) Gatherer agrees that shipments of Shipper’s Crude Petroleum by such Anchor Shipper or by such Replacement Shipper of Record shall be credited toward such Anchor Shipper’s shipments and shall be credited toward fulfilling such Anchor Shipper’s commitment to deliver its Daily Reserved Capacity. In addition, Gatherer may terminate any Replacement Shipper of Record for failure to perform its obligations and may deem disqualified such Replacement Shipper of Record from future designations by Anchor Shipper hereunder.</p> |
| <p>6.</p> | <p>TAXES, INVOICING AND PAYMENT, AND EXAMINATION</p> | |
| <p>6.1.</p> | <p>Taxes</p> | <p>Other than Taxes described in this Section to be paid by Gatherer, a Shipper shall pay or cause to be paid (or reimburse Gatherer for Gatherer’s payment of) (i) all Taxes on or relating to the Crude Petroleum delivered by such Shipper hereunder (but not including Linefill with respect to which Gatherer has taken title), (ii) all Taxes levied or assessed on such Shipper or Gatherer with respect to the sale of any of Shipper’s Crude Petroleum (but not including Linefill with respect to which Gatherer has taken title), (iii) all Taxes levied or assessed against or with respect to any of such Shipper’s properties, facilities, or operations, (iv) all sales or use Taxes levied or assessed on such Shipper with respect to the performance of the Gathering Services hereunder, (v) all other excise or other Taxes (including any tax, fee, or other charge levied against Gatherer for the purpose of creating a fund for the reimbursement of parties or Regulatory Authorities who sustain</p> |

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| | | <p>costs or losses resulting from oil gathering industry operations) levied or assessed on a volumetric basis on such Shipper with respect to the performance of the Gathering Services hereunder or, levied or assessed on a volumetric basis on Gatherer with respect to such performance (to the extent such volumetrically-based Taxes on Gatherer exceed in the aggregate \$0.05 per Barrel for any tax period), and (vi) Greenhouse Levies to the extent attributable or allocable to such Shipper's volumes of Crude Petroleum shipped on the Gathering System. Any Taxes to be borne by a Shipper that arise from or relate to the operation of the Gathering System shall be allocated among all Shippers based on deliveries by each Shipper into the Gathering System, unless a different allocation is determined by Gatherer to be more equitable.</p> <p>Gatherer shall pay all ad valorem Taxes levied or assessed against the Gathering System, all Taxes levied or assessed on Crude Petroleum with respect to which Gatherer takes title under any applicable Transportation Agreement, and all Taxes levied or assessed against Gatherer or any of its Affiliates that are calculated by reference to Gatherer's income or revenues.</p> <p>In addition to charges and other amounts due in a Transportation Agreement, either party may include in (or take credit on) its invoices all Taxes levied or assessed against or paid by such party or any of its Affiliates for which the other party is responsible hereunder.</p> |
| <p>6.2.</p> | <p>Invoicing and Payment</p> | <p>Gatherer will invoice a Shipper monthly during the succeeding Month for the Reservation Charge (as defined in a Transportation Agreement) and any Volumetric Charge (as defined in a Transportation Agreement) accrued during each Month, for charges [W]and credits under the quality provisions maintained by Gatherer, and for other charges for which Shipper is liable under a Transportation Agreement, this Rules and Regulations Tariff, and any other applicable tariffs,. In the case of the Months in which the first Contract Year (as defined in a Transportation Agreement) begins in a Transportation Agreement or in which such Transportation Agreement expires or is terminated, the Reservation Charge (as defined in such Transportation Agreement) will be determined on a daily pro-rata basis and charged only for the portion of each such Month that is included in the Contract Year (as defined in such Transportation Agreement).</p> <p>Such amounts will be invoiced by the 10th Day of each Month, and any such invoice may also include any other amounts owed</p> |

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| | | <p>by a Shipper to Gatherer under the Transportation Agreement and not previously invoiced. Each invoice will set forth separately (i) any Reservation Charge (as defined in such Transportation Agreement), (ii) any Volumetric Charge (as defined in such Transportation Agreement), (iii) the amount of Crude Petroleum received from such Shipper at each Receipt Point, (iv) a computation of such Shipper's Net Billable Volumes and Aggregate Net Billable Volume and Net Deliverable Volume for that Month, (iii) the net volume of Crude Petroleum delivered during that Month from the Gathering System to such Shipper or for such Shipper's account at each Delivery Point, (iv) Gatherer's purchases of Linefill, [W] and (ix) an itemization of any Taxes or other amounts invoiced. [W]and (x) a statement of such Shipper's charges and credits under the quality bank program and other quality control provisions maintained by Gatherer.</p> <p>A Shipper will pay the entire amount of each invoice (including any disputed amount) by ACH debit on or before the 20th Day of each Month. Such Shipper will be assessed a late charge of 1.5% interest per Month (or the highest rate permitted by Applicable Law, whichever is less) for any invoiced amount not paid by the 20th Day of each Month.</p> <p>A Shipper understands that the third party operator of Gatherer's quality bank program may charge such Shipper separate fees or charges (which are to be commercially reasonable) for Shipper's participation in such quality bank program, and such Shipper agrees to pay its proportionate share of such fees and charges, and associated taxes, whether invoiced directly by such third party operator or invoiced through Gatherer.</p> |
| <p>6.3.</p> | <p>Examination Rights</p> | <p>Each of Gatherer and a Shipper will have the right, at its own expense, upon reasonable notice and at reasonable times, to examine and make copies of the relevant portion of the books and records of the other party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment, or computation [W](including those under the quality provisions herein) made under a Transportation Agreement, this Rules and Regulations Tariff, or any other applicable tariffs. In connection with charges, payments, or computations [W]under the quality provisions herein, Gatherer will have the additional right and obligation to disclose information compiled by it concerning the quality and quantity of each Shipper's Crude Petroleum delivered into and from the Gathering System, redacted as the involved Shipper may choose to withhold the names of its working interest owners, royalty owners, sellers, and purchasers and the prices of its transactions with such Persons. This right to examine, audit,</p> |

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| | | and to obtain copies shall not be available with respect to proprietary information or any other information not directly relevant to transactions under a Transportation Agreement, this Rules and Regulations Tariff, or any other applicable tariffs. All invoices and billings shall be conclusively presumed final and accurate and all associated claims for underpayments and overpayments shall be deemed waived unless such invoices or billings are objected to in writing, with adequate explanation and/or documentation, within 2 years after the applicable Month of Crude Petroleum receipts and deliveries. All retroactive adjustments under this Section shall be paid in full by the party owing payment within 30 Days of notice and substantiation of such inaccuracy. |
| 6.4. | Disputed Amounts | If a Shipper, in good faith, disputes the amount of any invoice or other payment required hereunder, such Shipper must provide supporting documentation, acceptable according to industry practice, to support its position with respect to the amount disputed, to which Gatherer will provide a written response within 30 Days, and any amount ultimately found to be refundable or due to such Shipper shall be paid to such Shipper within 10 Business Days of the final resolution of the matter. |
| 7. | TITLE AND LEGAL COMPLIANCE | |
| 7.1. | Title | As between Gatherer and each Shipper, such Shipper shall retain title to its Crude Petroleum (subject to such Shipper's agreements with third parties). Each Shipper represents and warrants to Gatherer that such Shipper has good and marketable title to the Crude Petroleum tendered by it for receipt into the Gathering System or the right to gather and transport (or to cause to be gathered or transported) all Crude Petroleum tendered by it for receipt into the Gathering System. Other than inchoate liens that are not then subject to a lien claim, each Shipper represents and warrants to Gatherer that all Crude Petroleum tendered for receipt into the Gathering System by such Shipper will be free of all liens, encumbrances and adverse claims of any kind. Gatherer shall commingle the Crude Petroleum of all Shippers in a Common Stream, and therefore the molecules that Gatherer redelivers to a Shipper may not be the same molecules that such Shipper had delivered to Gatherer. |
| 7.2. | Indemnification | Each Shipper agrees to indemnify, defend and hold the Indemnified Parties harmless from and against any and all Claims arising from or related to (i) any breach of the representations and warranties made by such Shipper in Section 7.1 (Title), and (ii) |

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| | | liability for or payment of Taxes, royalties, overriding royalties, production payments, and all other payments for interests of third parties in or to any Crude Petroleum tendered by such Shipper for receipt into the Gathering System or with respect to the production, storage, processing, treatment, handling or sale thereof. Gatherer agrees to indemnify, defend and hold such Shipper Parties harmless from and against any and all Claims arising from or related to liability for or payment of Taxes that are the responsibility of Gatherer. |
| 7.3. | Custody | As between Gatherer and each Shipper: (i) such Shipper shall be deemed to have Custody and control of its Crude Petroleum upstream of the Receipt Points and downstream of the Delivery Points; and (ii) Gatherer shall be deemed to have custody and control of such Shipper's Crude Petroleum at and downstream of the Receipt Points and at and upstream of the Delivery Points. |
| 7.4. | Adverse Claims | A Shipper will advise Gatherer in writing if, at the time such Shipper's Crude Petroleum is tendered for delivery into the Gathering System or at any time while such Shipper's Crude Petroleum is in the custody of Gatherer, such Crude Petroleum becomes Encumbered Product. If Encumbered Product is tendered by a Shipper for delivery into the Gathering System, or if Gatherer receives notice from a Shipper as described in the previous sentence, Gatherer has the right to require such Shipper to provide an indemnity bond or other form of satisfactory financial assurance to Gatherer as described in Section 8 to protect the Indemnified Parties against all liability or loss arising as a result of any litigation, dispute, lien or charge. |
| 8. | FINANCIAL ASSURANCE, LIENS, AND NETTING | |
| 8.1. | Credit Information | A Shipper will provide Gatherer with all information that Gatherer requests from time to time related to such Shipper's creditworthiness or ability to perform any of its financial obligations that could arise under its Transportation Agreement. Such information may include current financial statements, filings with the Securities and Exchange Commission or other Regulatory Authorities, reports from credit agencies, lists of all corporate affiliates, bank references, and written certifications by such Shipper's appropriate officers that it has not filed a petition for bankruptcy, dissolution, or liquidation. Gatherer reserves the right to reject tenders of Crude Petroleum from any Shipper that does not comply with such request within 10 days of the Gatherer's written request. |

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| 8.2. | Credit Enhancement | If Gatherer shall have reasonable grounds for insecurity regarding the performance of any obligation by a Shipper whether or not then due (including, the occurrence of a material change in the creditworthiness of such Shipper or any party providing credit support for such Shipper), Gatherer may demand that such Shipper provide sufficient security in a form and amount, for a term, and from a provider, all as reasonably acceptable to Gatherer, including prepayment of charges, cash collateral or a security interest in other property, an irrevocable guaranty, or a standby irrevocable bank letter of credit. |
| 8.3. | Unpaid Charges; Lien For and Sale to Cover | Gatherer will have a first priority lien on all of a Shipper's Crude Petroleum that is in Gatherer's custody to secure the payment of all amounts that may become due from such Shipper under its Transportation Agreement. This lien will be in addition to any lien or security interest otherwise provided by law or contract. If the charges shall remain unpaid for more than 5 days after Gatherer's notice of readiness to deliver a Shipper's Crude Petroleum from the Gathering System, Gatherer may sell such Crude Petroleum at public auction at the general office of Gatherer on any day not a legal holiday. The date for the sale shall be not less than 48 hours after publication of notice in a daily newspaper of general circulation published in the city where the general office of Gatherer is located. Gatherer also shall send notice of such sale to the relevant Shipper under the notice provisions of the Transportation Agreement. The notice shall give the time and place of the sale and the quantity of the Crude Petroleum to be sold. At said sale, Gatherer shall have the right to bid and, if the highest bidder, to become the purchaser. From the proceeds of such sale, Gatherer will pay itself the transportation charges and all other lawful charges, including expenses incident to said sale, and the balance remaining if any, shall be held for whomsoever may be lawfully entitled thereto. If the proceeds are insufficient to fully satisfy all of such Shipper's obligations, such Shipper will remain liable for any deficiency. Such remedies are in addition to, and not in limitation of, any contractual, statutory or common law remedy |
| [C]8.4 | Netting | If Gatherer (or its contractor or clearinghouse) has actually collected all funds from other Shippers pursuant to Section 0 for the applicable Month, if Gatherer (or its contractor or clearinghouse) has failed to remit to Shipper the amount due to Shipper ("Shipper's Share") under Section 0 relating to such collected funds, and if Gatherer has failed to pay Shipper's Share to Shipper within 30 days of Shipper's written demand for such payment, then Shipper may take Shipper's Share from Gatherer |

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| | | <p>via netting, by subtracting Shipper's Share from any fees Shipper may owe to Gatherer under this Rules and Regulations Tariff. If Shipper subsequently receives payment of any funds that Shipper previously netted hereunder, then Shipper shall immediately refund such amount to Gatherer.</p> |
| <p>9.</p> | <p>FORCE MAJEURE</p> | |
| <p>9.1.</p> | <p>Force Majeure</p> | <p>Except as otherwise provided herein, if either Gatherer or a Shipper is rendered unable, wholly or in part, by Force Majeure or any other cause of any kind not reasonably within its control, to perform or comply with any obligation or condition under the applicable Transportation Agreement (other than an obligation to pay money or provide financial assurance, which obligations shall not be affected by this Section 9), such obligation or condition will be suspended during the continuance of the inability so caused and such party will be relieved of liability and will suffer no prejudice for failure to perform the same during such period; provided that affected party shall exercise reasonable efforts to remedy the cause for suspension (other than strikes or lockouts) so far as reasonably practicable with reasonable dispatch. The party suffering any such Force Majeure or any other cause of any kind not reasonably within its control shall give notice and reasonably full particulars to the other party as soon as reasonably practical upon the occurrence of such event. Settlement of strikes and lockouts and measures to address the inability to obtain rights-of-way, easements or property rights for the construction or operation of any necessary facilities on a commercially reasonable basis are wholly within the discretion of the party having the difficulty.</p> <p>The term "Force Majeure" includes, without limitation, the following: acts of God and the public enemy; the elements or threats thereof; weather and actions taken in anticipation of extreme weather, fire, accidents, leaks or breakdowns; strikes and any other industrial, civil, or public disturbance; acts of terrorists; failure of downstream pipelines to install facilities or to take or transport Crude Petroleum; accidents, repairs, maintenance or alteration to lines of pipe or equipment; inability to obtain materials, supplies, permits or labor; any act or omission by parties not controlled by the party having the difficulty; and any other cause, whether of the kind herein enumerated or not, that is not reasonably within the control of the party affected. Should a state of Force Majeure exist with respect to Gatherer's performance for more than 120 consecutive Days that adversely affects or impacts at least 40% of a Shipper's aggregate Daily</p> |

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| | | <p>Reserved Capacity for all Days in that period, such Shipper shall have the right (i) to terminate this Agreement upon written notice to Gatherer at any time before such state of Force Majeure is remedied, or (ii) to extend the Primary Term of this Agreement one day for each day that such Force Majeure event continues. Any such termination shall be effective as of the first day of the next following calendar month that begins at least 30 days after such notice of termination is given. In determining the length of any period of a state of Force Majeure for purposes of the above termination and extension rights, no Day will be counted if for such Shipper's Crude Petroleum scheduled for delivery into the Gathering System on that Day Gatherer provides (for the same Reservation Charge and Volumetric Charges ((as both terms are defined in a Transportation Agreement), as applicable) trucking, alternative pipeline, or other alternative transportation in substantial conformity with the [W]gravity and sulfur quality and balancing provisions of such Shipper's Transportation Agreement and applicable tariffs and otherwise reasonably acceptable to such Shipper.</p> <p>[C]To the extent that, due to a Force Majeure event on and affecting the Gathering System for a continuous period of more than 15 consecutive Days, Gatherer is unable to accept a tender of Crude Petroleum such Shipper has in good faith nominated for delivery into the Gathering System and that Gatherer would have scheduled absent the Force Majeure event, then for each Month thereafter until such Force Majeure event is remedied by Gatherer, the Reservation Charge (if any) shall be reduced by a percentage, the numerator of which is the Barrels of Crude Petroleum nominated in good faith but not scheduled or gathered on account of the Force Majeure event and the denominator of which is such Shipper's aggregate Daily Reserved Capacity for all Days in that period.</p> |
| 10. | TIME LIMITS FOR CLAIMS AGAINST GATHERER | |
| 10.1. | Time Limits for Claims Against Gatherer | <p>Any statement is final as to all parties unless questioned within 2 years after payment thereof has been made. Gatherer must receive written notice of claims for loss, damage, or delay related to Gathering Services within 181 days after the damage, loss, or delay occurred or, in the case of a claim for failure to make delivery of Crude Petroleum from the Gathering System, then within 181 days after a reasonable time for delivery has elapsed. If a Shipper fails to comply with this provision, then such Shipper waives all rights it has to bring an action against Gatherer with respect to such claim and Gatherer will not be liable for such</p> |

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- [C] canceled
- [N] new
- [W] wording change