

## REFINED FUELS BULK CONFIRMATIONS GENERAL TERMS AND CONDITIONS

### TERMS:

#### 1. Payment:

- a. Seller shall transmit to Buyer (by regular mail, facsimile or other acceptable means) a statement setting forth the total quantity of product that was scheduled or that Buyer was obligated to purchase and any other charges due Seller. Unless otherwise specifically provided for in the Transaction terms and conditions above, payment shall be due in accordance with the following:
  - i. For Product delivered via rail or truck, 10 (ten) business days from the bill of lading date, and
  - ii. For Product delivered via pipeline, 2 (two) business days after receipt of invoice, and
  - iii. For Product delivered via in-tank transfer or product transfer order, 3 (three) business days after receipt of invoice, and
  - iv. For Product delivered via barge/vessel 3 (three) business days after receipt of invoice, provided that any invoices received after 12:00 p.m. Central Prevailing Time shall not be deemed effectively received until the following business day.
- b. Overdue payments shall accrue interest at the interest rate from, and including, the due date to, but excluding, the date of payment. "Interest Rate" shall mean, for any date, two percent (2%) over the per annum rate of interest equal to the U.S. prime lending rate as may from time to time be published in The Wall Street Journal under "money rates"; provided, however, that the interest rate shall never exceed the maximum lawful rate permitted by applicable law. If Buyer, in good faith, disputes a statement, Buyer shall provide a written explanation of the basis for the dispute and pay the portion of such statement conceded to be correct no later than the due date. If any amount withheld under dispute by Buyer is ultimately determined to be due to Seller, it shall be paid within two (2) business days of such determination, along with interest accrued at the interest rate until the date paid. Inadvertent overpayments shall be returned by seller upon request or deducted by seller from subsequent payments. With regard to option transactions, payment of premiums will be made as agreed to orally or as specified in a confirmation.
- c. If Buyer and Seller are each required to pay an amount in respect of purchases/sales for the same commodities and due on the same day, then such amounts with respect to each Party shall upon mutual agreement of the Parties be aggregated and the Parties shall discharge their obligations to pay through netting, in which case the Party, if any, owing the greater aggregate amount shall pay to the other Party the difference between the amounts owed.

#### 2. Non-Performance:

- a. Notwithstanding anything to the contrary contained herein, and in addition to any other provision hereof or any other agreement between the Parties, in the event (each, a "Default") either Party ("the Defaulting Party") (i) makes a general assignment or any arrangement for the benefit of creditors, (ii) become bankrupt or insolvent, however evidenced, or be unable to pay its debts as they fall due, (iii) files a petition or otherwise commence a proceeding under any bankruptcy, insolvency, reorganization or similar law, or have any such petition filed or proceeding commenced against it, (iv) has a liquidator, administrator, receiver, trustee, conservator, or similar official appointed with respect to it or any substantial portion of its property or assets, (v) fails to pay or perform, when due, any obligation to the other Party (the "Non-Defaulting Party"), including the failure to provide any margin or other security it was obligated to provide), whether under this Transaction or otherwise, (vi) fails to provide adequate assurance of its ability to perform all of its outstanding obligations to the Non-Defaulting Party under this Transaction or otherwise, within a period not to exceed 48 hours (but at least one business day) of a demand therefor when the Non-Defaulting Party has reasonable grounds for insecurity, or (vii) has its obligations hereunder guaranteed and such guarantor is the subject of any of the Defaults described in (i) through (iv) above, fails to pay or perform any such obligation to the Non-Defaulting Party or challenges the validity or enforceability of, or attempts to revoke, its guaranty, or such guaranty ceases to be in effect with respect to any transaction theretofore entered into, contracted for or committed to, or ceases to be the legal, valid and binding obligation of such guarantor, enforceable in accordance with its terms (except as enforcement may be limited by bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally); then in any such event of Default the Non-Defaulting Party shall (in addition to any other rights or remedies available to it, whether at law or in equity, by contract or otherwise) have the right, upon 24 hours notice to the Defaulting Party (except that no such notice shall be required with respect to any Default specified in clauses (i) through (iv) above), to liquidate and terminate all transactions then outstanding between the Parties (except to the extent that in the good faith opinion of the Non-Defaulting Party certain of such transactions may not be closed out and liquidated under applicable law) at any time and from time to time, and shall calculate, in a commercially reasonable manner, a Settlement Amount (as defined below) for each transaction as of the time of its termination or as soon thereafter as is reasonably practicable and shall net such Settlement Amounts in the manner provided for in section 1.3.
- b. "Settlement Amount" shall mean, with respect to a transaction the losses and cost (or gains), expressed in U.S. dollars, which the Non-Defaulting Party incurs as a result of a liquidation pursuant to section 1.1 including, but not limited to, losses and costs (or gains) based upon the then current replacement value of such transaction (taking into account any portion of the Contract Quantity already delivered as of the liquidation), together with, at the Non-Defaulting Party's option, but without duplication, all losses and costs which such Party incurs as a result of maintaining, terminating, obtaining or re-establishing any hedge or related trading positions. The Settlement Amount shall be due to or from the Non-Defaulting Party as appropriate. In calculating a Settlement Amount, the Non-Defaulting Party shall discount to present value (in a commercially reasonable manner based on rates for the applicable period) any amount which would otherwise have been due at a later date and shall add interest (at a rate determined in the same manner) to any amount due prior to the date of the calculation.
- c. The Non-Defaulting Party shall set off (i) all such Settlement Amounts that are due to the Defaulting Party, plus any margin then held by the Non-Defaulting Party, plus (at the Non-Defaulting Party's election) any or all other amounts due to the Defaulting Party under this Transaction, against (ii) all such Settlement Amounts that are due to the Non-Defaulting Party, plus any margin then held by the Defaulting Party, plus (at the Non-

- Defaulting Party's election) any or all other amounts due to the Non-Defaulting Party under this Transaction, so that all such amounts shall be netted to a single liquidated amount payable by one Party to the other. The Party with the net payment obligation shall pay such amount to the other Party within one business day of demand therefor.
- d. If a Default occurs, the Non-Defaulting Party (at its election) may set off any or all amounts which the Defaulting Party owes to it (whether under this Transaction or otherwise and whether or not then due) against any or all amounts which it owes to the Defaulting Party (whether under this Transaction or otherwise and whether or not then due), provided that any amount not then due which is included in such setoff shall be discounted to present value as at the time of setoff (to take account of the period between the date of setoff and the date on which such amount would have otherwise been due).
  - e. After the occurrence of a Default, the Defaulting Party shall be responsible for all reasonable costs and expenses actually incurred by the Non-Defaulting party in connection with such Default or the exercise of its rights hereunder, including, reasonable attorneys' fees and disbursements, plus scheduling, imbalance or similar fees, charges or penalties imposed by any third party providing transmission/transportation services to the Non-Defaulting party to or from the Delivery Point in connection with the transaction.
3. Taxes:
- a. The prices identified in this Confirmation do not include federal, state or municipal commodity transaction sales (prepaid or otherwise), use, excise, value added, motor fuel excise, petroleum business, petroleum testing fee or business transfer taxes chargeable in respect of the sale of the Product to Buyer. Any like tax, duty, charge, levy or fee (collectively, "Taxes"), now or hereafter levied on the Product sold hereunder or required to be paid, or collected by Seller by reason of the delivery, sale or use of the Product, shall be paid by Buyer at the same time and on the same conditions as payment of any other sum pursuant to the terms of the Transaction in addition to the prices specified herein. Each Party, upon written request of the other, shall provide a certificate of exemption or other reasonably satisfactory evidence of exemption if such Party claims to be exempt from Taxes. The Parties shall use reasonable efforts to obtain and cooperate in obtaining any exemption from or reduction of any Taxes.
4. General Terms and Conditions, Amendments:
- a. The ConocoPhillips Product Purchase/Sale Agreement General Terms and Conditions effective May 1, 2004 (the "Conoco Provisions for Refined Products") shall apply as amended herein. In the event of a conflict between the terms of the Conoco Provisions for Refined Products and the terms of this Confirmation, the terms of this Confirmation shall prevail.  
Amendments to the Conoco Provisions for Refined Products:
    - i. Section 7.1 is deleted in its entirety
    - ii. Section 8.4 is amended by deleting the phrase "from its usual and anticipated suppliers and"
    - iii. Section 8.6 is deleted in its entirety
    - iv. Section 9.1 is deleted in its entirety
    - v. Section 10 is deleted in its entirety
    - vi. Section 11 is deleted in its entirety
    - vii. Section 17 is deleted in its entirety
5. Miscellaneous:
- a. This Confirmation shall be governed by and construed in accordance with the internal laws of the State of New York without regard to principles of conflicts of laws. Except as otherwise provided for herein, the provisions of the Uniform Commercial Code of the State of New York shall be deemed to apply to this Transaction. The United Nations Convention on Contracts for the International Sale of Goods shall not apply hereto.
  - b. The Parties hereby agree that this Transaction constitutes a "forward contract" and that the Parties are "forward contract merchants" within the meaning of the United States Bankruptcy Code.
  - c. No delay or failure on the part of a Party to exercise any right or remedy shall constitute an abandonment of any such right. No waiver of any Default shall constitute a waiver of any later Default and all such waivers must be in writing to be effective. All of the remedies set forth herein shall be without prejudice and in addition to any and all other rights to which any Party is at any time otherwise entitled (whether by operation of law or in equity, under contract or otherwise.)
  - d. This Transaction together with all other physically-settled refined products transactions between us form a single agreement between NGL CRUDE and Counterparty.
  - e. For good order's sake, please note that the Confirmation of this Transaction will be issued solely by the Parties. Any correspondence regarding this Transaction initiated by the broker is purely for the sake of confirming involvement in this Transaction and the broker's commission rate.
  - f. This Confirmation and the Conoco Provisions for Refined Products (as amended herein) together are the agreement of the Parties. No additional or conflicting terms set forth in a Confirmation issued by the Counterparty shall be binding on the Parties. Please confirm that the terms stated herein accurately reflect the agreement between you and NGL CRUDE by returning an executed copy of this Confirmation by facsimile to NGL CRUDE at (402) 221 – 0463. If you do not execute and return this Confirmation by 5:00 p.m. Central Standard (or Daylight) Time on the second (2nd) Business Day following your receipt hereof, the terms stated herein shall be: (i) deemed properly offered by NGL CRUDE and accepted by Counterparty; (ii) deemed the proper and correct commercial terms for this Transaction; and (iii) the complete basis under which Seller shall sell and Buyer shall purchase, receive and pay for Product during the Period of Delivery.