



**NON-CRUDE OIL PRODUCTS MARINE PROVISIONS**

**May 1, 2013**

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- I) **General** - Except where specifically provided otherwise in the "Confirmation," these Marine Provisions shall govern as to the matters covered herein.
- II) **Definitions** - Capitalized terms used, but not defined herein, shall have the meaning set forth in the General Terms and Conditions. As used in these Marine Provisions:
- 1) "All Fast" means at such time as the Vessel is completely moored at the Cargo Custody Transfer Point with the gangway, if it is to be utilized, down and secured.
  - 2) "Cargo" means any Product(s) described in the Contract.
  - 3) "Cargo Custody Transfer Point" means the Delivery Location designated in the Confirmation where custody of the Cargo is transferred from Terminal Party to Vessel Party or Vessel Party to Terminal Party.
  - 4) "COC" means Certificate of Compliance.
  - 5) "COI" means United States Coast Guard Certificate of Inspection or similar documentation for other flag or port states.
  - 6) "Confirmation" means the specific transaction terms and conditions of the Contract including but not limited to provisions relating to quantity, quality, term, delivery and price and which manifests a contract for sale of a Cargo.
  - 7) "Contract" means and includes the following documents in connection with each Transaction involving waterborne delivery of Cargo entered into by and between Buyer and Seller to which these Marine Provisions are attached: (A) the Confirmation (including amendments thereto); (B) these Marine Provisions; and (C) the General Terms and Conditions (then latest edition).
  - 8) "Controlled Tonnage" means Vessels that are owned/operated or bareboat or time chartered by a Party.
  - 9) "Customary Anchorage" means a recognized anchorage within the designated port for a Cargo Custody Transfer Point.
  - 10) "Delivery Window" means the Delivery Period set out in the Confirmation or the scheduler's nomination which designates the time period during which the Vessel is to endeavor to tender NOR at the Cargo Custody Transfer Point, or as near thereto as she may safely get, as established by the Contract.
  - 11) "ETA" means estimated time of arrival.
  - 12) "General Terms and Conditions" means the General Terms and Conditions of Phillips 66 Company for the applicable Product as in effect or modified from time to time.
  - 13) "IGS" means an inert gas system.
  - 14) "IIC" means an independent inspection company.
  - 15) "Inland Vessel" means a United States Coast Guard-approved or American Bureau of Shipping inspected-tow and/or tank barge and/or a tug that is restricted to operations in the inland waterways of the United States.
  - 16) "Lightering" or "Ship to Ship operations" means the process of transferring cargo between vessels.
  - 17) "Marine Claims" means any dispute or claim arising under these Marine Provisions, including but not limited to demurrage claims disputes.
  - 18) "Non-Controlled Tonnage" means any Vessel that is not Controlled Tonnage of a Party, such as spot or voyage chartered Vessels.
  - 19) "NOR" means Notice of Readiness.

- 20) "Ocean-Going Barge" means a United States Coast Guard-approved or American Bureau of Shipping-inspected tank barge that has an ABS Load Line Certification and is certified to operate in offshore waters.
- 21) "Ocean-Going Vessel" means an Ocean Tanker or Ocean-Going Barge.
- 22) "Ocean Tanker" means any ship, tanker or combination carrier that is certified to operate in offshore waters.
- 23) "OCIMF" means the Oil Companies International Marine Forum.
- 24) "Open Period for Berthing" means a window for berthing, which either has not already been assigned by the Terminal to some other vessel, or for which some other vessel cannot claim priority on the basis that her NOR was given earlier than the NOR of the Vessel performing under the Contract.
- 25) "Security Regulations" means, collectively, the International Ships and Port Facility Security Code and the U.S. Maritime Transportation Security Act of 2002.
- 26) "Service Vessel" means the maneuvering or Lightering vessel, which will receive the cargo from the Ship to be Lightered, and transport its cargo to its discharge berth.
- 27) "Ship to be Lightered" means the Vessel which will deliver the cargo to the Service Vessel.
- 28) "TVE" means Tank Vessel Examination.
- 29) "Terminal" means any refinery or terminal facility delivering Cargo to or receiving Cargo from a Vessel.
- 30) "Terminal Party" means the Party taking delivery from, or making delivery to, a Vessel at a Terminal.
- 31) "Tow" means an Inland Vessel or an Ocean-Going Barge.
- 32) "Vessel" includes any Ocean-Going Vessel or Inland Vessel.
- 33) "Vessel Owner" means the Vessel Party if the Vessel Party is the owner/operator of the Vessel. If the Vessel Party is not the owner/operator of the Vessel, then "Vessel Owner" means the then current owner/operator of the Vessel.
- 34) "Vessel Party" means the Party nominating a Vessel to perform under the Contract.
- 35) "Vessel Vetting" is the technical risk assessment and evaluation process prior to Vessel acceptance/rejection by the Vessel Party and/or the Terminal.

### **III) Vessel Requirements**

- A) Phillips 66 Vessel Vetting: Each Vessel to be nominated under these provisions shall always be of an acceptable condition that complies with the P66 Marine Vetting and Audit Criteria Summary for Vessel Operators, and each Party involved in the Transaction, including the Terminal(s), reserves the right to inspect (or not to inspect) and accept the Vessel(s) nominated for use, including vessels used in Lightering operations and the company utilized for lighterage support, except in the case of Transactions where both of the following conditions exist: a) FOB Transactions where P66 is Seller or DES Transactions where P66 is Buyer AND b) where the Delivery Location is a third party terminal where P66 leases tankage (unless specifically otherwise required by contractual agreement). The Vessel(s) so nominated must be accepted in all respects and by P66 Marine Vetting before officially tendering its valid NOR. The acceptance or rejection of the Vessel will not be unreasonably withheld and shall be communicated to the other Party within twenty-four (24) hours (1 business day) after receipt of nomination and all required vetting data or in the case tugs/towboats and/or barges shall be done within a timely manner. An acceptance of a Vessel will not constitute a continuing acceptance of the Vessel for any subsequent loading or discharging operations. Further, P66 reserves the right to rescind a Vessel acceptance on any reasonable ground if such Vessel is involved in any incident or if more recent information regarding the Vessel's status or similar becomes available at any time after a Vessel is accepted but prior to tender. The Seller/Terminal Party reserves the right, but not the duty, to have a representative(s) attend onboard the Vessel at any loading and/or discharging location at their expense and the Master, Vessel Owner, operators, managers and/or agents shall cooperate to facilitate the

attendance. Note: The P66 Marine Vetting and Audit Criteria Summary for Vessel Operators document is accessible through the P66 link at [www.SIS3.com](http://www.SIS3.com). Vessels not meeting the requirements in this Article III may be rejected by Terminal Party at Terminal Party's sole, but reasonably applied, discretion and neither review nor failure to review these requirements shall be deemed to waive or diminish Terminal Party's rights or Vessel Party's obligations herein.

- B) Vessel Regulatory Compliance. The Vessel Party shall exercise due diligence to ensure that, throughout the Cargo transfer operation, the Vessel shall fully comply, or hold authorized waivers for non-compliance, with all applicable flag or port state or other regulations (ex. United States Coast Guard regulations) in effect as of the date Vessel berths. All expenses and time lost during any period when this warranty has been breached shall be for Vessel Party's account.
- C) Environmental Compliance.
- i. The Vessel Party shall exercise due diligence to ensure that the Vessel shall comply with all applicable local, state and federal environmental laws and regulations covering water, air and land pollution while at the place(s) of the Cargo Custody Transfer Point. If the Vessel fails to comply with such laws and regulations, the Vessel may be required to vacate her berth and proceed to the Customary Anchorage or waiting place. All expenses and time lost during any period when this warranty has been breached and until the Vessel reberths and is found to be in compliance with the aforementioned laws and regulations shall be for Vessel Party's account.
  - ii. The Vessel Party must have current hydrogen sulfide (H<sub>2</sub>S) and benzene policies and procedures for handling excessive levels of H<sub>2</sub>S and benzene. It must be recognized that petroleum products have the potential to contain H<sub>2</sub>S and/or benzene.
- D) Oil Pollution Responsibility Certificate. The Vessel Party shall exercise due diligence to ensure that the Vessel complies with the U.S. Federal Water Pollution Control Act, as amended, the U.S. Federal Oil Pollution Control Act of 1990 (OPA 1990), and regulations issued pursuant thereto effective during the term of the Contract, and has secured and carried onboard the Vessel a current U.S. Coast Guard Certificate of Financial Responsibility (COFR) (Water Pollution). The Vessel Party shall exercise due diligence to ensure that a Vessel also have onboard any other applicable local, state or federal Proof of Financial Responsibility Certificate that may be required at the Cargo Custody Transfer Point.
- E) Insurance. This provision shall be applicable only between Parties and shall not affect any liability of the Vessel to third parties, including but not limited to governments.
- i. For Ocean-Going Vessels, the Vessel Party shall exercise due diligence to ensure that throughout the Vessel's service under the Contract, the Vessel shall:
    1. be entered in a P&I club, being a member of the International Group of P&I Clubs and have in place insurance cover for oil pollution for the greater of the maximum on offer through the International Group of P&I Clubs or 1 billion U.S. dollars; and
    2. carry hull & machinery insurance at least equal to the "agreed" value of the Vessel.
  - ii. For Inland Vessels, the Vessel Party shall exercise due diligence to ensure that throughout the Vessel's service under the Contract, the Vessel shall:
    1. have protection & indemnity insurance, including pollution liability insurance, procured from a P&I Club in the International Group of P&I clubs, WQIS, or another insurer(s) with a minimum rating by A.M. Best Company of A minus to be reasonably approved by Terminal Party with a minimum of 100 million U.S. dollars per incident; and
    2. carry hull & machinery insurance at least equal to the "agreed" value of the Vessel.
  - iii. All such insurance shall be at no cost to the Terminal Party. Upon request of the Terminal Party, the Vessel Party shall promptly furnish to the Terminal Party reasonable evidence of required insurance.
  - iv. To the extent applicable, all Ocean-Going Vessels shall carry on board a valid certificate of insurance as described in the 1969 Civil Liability Convention for Oil Pollution Damage or the International Convention of Civil Liability for Oil Pollution Damage 1992.
  - v. The Vessel Owner representations and warranties set forth above are an essential part of the Contract, and the obligations of the Terminal Party under the Contract are conditional on the truth and performance of such representations warranties. Any breach of the above representations and warranties shall entitle the Terminal Party to terminate the Contract and/or to recover any damages allowable in law, admiralty or equity.
- F) Vessel Connection Construction. Vessel Party shall exercise due diligence to ensure that all piping, valves, spools, reducers and other fittings comprising that portion of the Vessel's manifold system outboard of the last fixed rigid support to the Vessel's deck and used in the transfer of Cargo, bunkers or

ballast, will be made of steel or nodular iron. The fixed rigid support for the manifold system must be designed to prevent both lateral and vertical movement of the manifold. Further, Vessel Party shall exercise due diligence to ensure that no more than one reducer or spool piece (each in compliance with the American National Standards Institute "ANSI" standard) will be used between the Vessel's manifold valve and the Terminal hose or loading arm connection and this cantilever length should not exceed the standard for the size of the manifold piping.

- G) Carrier Alpha Code. Where bills of lading are issued, the Vessel Party shall exercise due diligence to ensure that the Bill of Lading issuer shall have and use a standard carrier alpha code (SCAC) required by the U.S. Customs regulations.
- H) U.S. Customs and Border Protection Compliance. The Vessel Party shall exercise due diligence to ensure that the Vessel shall fully comply or hold waivers for non-compliance with all applicable U.S. Customs regulations in effect as of the date Vessel berths. The Vessel Party shall provide all required Customs information to the U.S. Customs and/or the Terminal Party prior to Vessel arrival. Without limitation, Vessel Party shall exercise due diligence to ensure that the Vessel shall comply with all obligations imposed upon her or the Vessel Owner under the Security Regulations. Terminal Party shall exercise due diligence to ensure that the discharge Terminal shall comply with any obligations imposed upon it or the Vessel Owner under the Security Regulations.
- I) Drug and Alcohol.
  - i. Vessel Party shall exercise due diligence to ensure that the Vessel Owner of a US flag Vessels has in force a drug and alcohol policy that meets or exceeds the standards set forth by the U.S. Coast Guard Regulations, and any other applicable federal, state or local laws, and that such a policy includes: pre-hire, random/unannounced, and post-incident testing adequate to act as an effective abuse deterrent. Vessel Party shall exercise due diligence to ensure that this policy will remain in effect during the term of the Contract with regard to the applicable Vessel(s), and the Vessel Party shall require the Vessel Owner to exercise due diligence to ensure that such a policy is complied with.
  - ii. Vessel Party shall exercise due diligence to ensure that Vessel Owner of a non US flag Vessel has in force a drug and alcohol policy that meets or exceeds the standards set forth by their flag state and also meets or exceeds the Standards set in the most recent edition of the "Guidelines for the Control of Drugs and Alcohol on Board Ship" as published by the OCIMF. Vessel Party shall exercise due diligence to ensure that this policy will remain in effect during the term of the Contract with regard to the applicable Vessel(s), and the Vessel Party shall require the Vessel Owner to exercise due diligence to ensure that such a policy is complied with, unless not permitted by the Flag state.

#### **IV) Nominations and Pre-Arrival Conditions**

- A) Vessel Nomination. Unless otherwise agreed in writing, not less than four (4) days before a Tow's arrival at the Cargo Custody Transfer Point, nor less than seven (7) days before arrival of any other type of Vessel at the Cargo Custody Transfer Point, the Vessel Party shall nominate for acceptance by the Terminal Party a suitable Vessel which is proposed to perform under the Contract. Provided however, that if upon execution of the Contract there is less than four (4) days before a Tow's arrival at the Cargo Custody Transfer Point or less than seven (7) days before arrival of any other type of Vessel at the Cargo Custody Transfer Point, then the Vessel Party shall, as soon as reasonably practicable, nominate for acceptance by the Terminal Party a suitable Vessel which is proposed to perform under the Contract. The Vessel Party shall furnish, as required by the Terminal Party, data about the Vessel's dimensions, equipment, winches and lines, and such other data or documents as the Terminal Party may reasonably require.
- B) Vessel Substitution. If a Vessel nomination is rejected by the Terminal Party, the Vessel Party must promptly nominate another, suitable Vessel for acceptance by the Terminal Party. If a Vessel nomination is accepted by the Terminal Party, the Vessel Party may substitute another suitable Vessel by nominating it for acceptance by the Terminal Party. Unless otherwise agreed in writing, nomination of a substitute Vessel shall be made not later than four (4) days before the Vessel's arrival at the Cargo Custody Transfer Point or four (4) days before the first day of the Delivery Window, whichever is earlier. A Vessel nomination that has been accepted by the Terminal Party is not superseded until the Terminal Party has accepted a substitute Vessel nomination. Tug substitution must be done within twenty-four (24) hours notice and only after Vessel clearance as above. However, a twelve (12) hour notice period will be considered by the Terminal Party for inland and cross harbor movements. Tugs must be of the similar size, capacity, capability and costs. Terminal Party will have the option to approve or reject any substitute.

- i. ETAs.
  1. At no time shall the ETA constitute an agreement to alter the Delivery Window in the Contract or in the scheduler's nomination, if different.
  2. Unless otherwise agreed in writing, the Vessel Party shall give notice in writing to the Terminal Party of the Vessel's ETA at the Cargo Custody Transfer Point. When applicable, such notice must be received by the Terminal Party at least four (4) days in advance of such arrival by a Tow, and at least seven (7) days in advance of such arrival by any other Vessel. When applicable, such notice shall be actually received by the Terminal Party 72, 48, 24 and 6 hours before Vessel's expected arrival at the Cargo Custody Transfer Point.
  3. The Vessel Party shall promptly notify the Terminal Party in writing about a new ETA if the ETA advances or recedes by two (2) hours or more after the twenty-four (24) hour ETA notice has been given.
- ii. Pre-Arrival Information. The Vessel Party shall furnish, as reasonably requested by the Terminal Party, additional data in writing, about the Vessel's dimensions, seaworthiness, equipment, and certificates, as well as the nature and estimated duration of the Vessel's anticipated Cargo handling and other operations at the Cargo Custody Transfer Point, such information to be actually received by the Terminal Party not later than forty-eight (48) hours, if reasonably possible, before the Vessel's arrival at the Cargo Custody Transfer Point.
- iii. Terminal Regulations. If the Cargo Custody Transfer Point is a marine Terminal, a Vessel must comply at all times with the applicable Terminal regulations. Copies of such regulations should be requested of the Terminal.

#### **V) Priority in Berthing**

- A) Subject to subparagraph B. of this Paragraph V., priority in berthing shall be given to a Vessel that tenders NOR within her agreed Delivery Window over a Vessel that tenders NOR outside her agreed Delivery Window.
- B) Vessels will be accorded priority in berthing in the order in which each Vessel's valid NOR is received by the Terminal, provided NOR is tendered within the agreed Delivery Window. The Terminal Party reserves the right to berth Vessels consistent with its operating and Terminal requirements.

#### **VI) Vessel at the Berth/Cargo Transfer Operations**

- A) Non-Compliance with Terminal Regulations or Breakdown of Vessel Safety or Environmental Systems. The Terminal Party may instruct the Vessel to vacate her berth if (i) it appears that the Vessel will not, because of disability or any other cause on the part of the Vessel, be able to complete loading or discharge within the "allowed laytime"; (ii) if the Vessel fails to comply with the Terminal's regulations or (iii) there is a deficiency in the Vessel's safety, mooring, or environmental systems, processes or management. Allowed laytime is the number of hours that the Terminal is permitted for all activities associated with loading or discharging a Vessel without paying demurrage. Used laytime is the number of running hours between the beginning of laytime and the ending of laytime less certain exclusions. Upon receipt of instructions from the Terminal Party that the Vessel is to vacate the berth, laytime or demurrage shall cease. The Vessel, after tendering NOR to recommence loading or discharging, shall be reberthed in accordance with Terminal Party's assignment. Laytime or demurrage will only resume counting upon the recommencement of Cargo operations. If the Vessel does not vacate the berth following said instructions, the Vessel Party agrees to reimburse the Terminal Party for any consequential demurrage claims received from other parties.
- B) Pollution Prevention and Responsibility. In the event an escape or discharge of Cargo or bunkers, or risk of escape or discharge of Cargo or bunkers occurs from the Vessel and causes or threatens to cause pollution damage, the Vessel Party will, or will ensure that the Vessel will, promptly take whatever measures it determines are necessary to prevent or mitigate such damage. Any of the aforementioned measures shall be at the Vessel Party's time and expense, provided that if the Terminal caused or contributed to such escape or discharge, the expense of the aforementioned measures shall be borne by the Terminal Party in proportion to its negligence or willful misconduct in causing or contributing to the escape or discharge. This provision shall be applicable only between the Parties hereto and shall not affect any liability of either Party to third parties, including, but not limited to, governmental agencies.

- C) Inert Gas System. Unless the Terminal prohibits Vessels from arriving with Cargo tanks inerted, all Vessels fitted with an IGS will not be permitted to tender NOR or berth or discharge of any Cargo unless the IGS is fully operational and all Cargo tanks are inerted with an oxygen level at or below eight (8) percent. For a Vessel intending to handle Cargoes that could be adversely affected by inert gas, the Vessel Party may request from the Terminal Party an exemption from this clause, this request to be made at least three (3) Business Days prior to the Vessel's arrival at the Cargo Custody Transfer Point. Such exemption request shall not be unreasonably withheld. All measurement equipment, procedures, calculations, and practices performed while Vessel is inerted shall conform to the most current API Manual of Petroleum Measurement Standards (MPMS), to the satisfaction of the IIC. Should the IGS fail after the Vessel has berthed, Cargo handling shall be terminated immediately and the Terminal notified, and the Vessel may be ordered to vacate the berth until her IGS is fully operational and tanks are inerted to the requisite pre-arrival condition. Temporary or substitute equipment or procedures to correct IGS malfunctions may not be used without the Terminal Party's approval. All expenses during IGS failure and between berthings in connection with IGS failure are for Vessel Party's account. Laytime or demurrage shall cease counting upon the stoppage of Cargo operations as a result of IGS failure and will only resume counting upon the recommencement of Cargo operations.
- D) Shifting of Vessels. Unless otherwise provided in the Contract including Paragraph VI(1) hereof, all expenses and time during any shifting of the Vessel shall be for the Vessel Party's account unless done at the request of the Terminal Party. The Terminal Party may otherwise, at its option, shift the Vessel within a berth or between berths, as well as to and from the anchorage, and any expenses and time lost during such activities shall be for the Terminal Party's account.
- E) Ballasting and Cargo Slops.
- i. If the Cargo Custody Transfer Point has ballast water and/or slops handling facilities, the Vessel may discharge ballast water and/or Cargo slops up to the maximum capacity available. Unless concurrent with Cargo handling, all time used during ballasting, deballasting or offloading slops, any charges for these services, and any delay due to waiting for service facilities shall be for the Vessel Party's account. If the Vessel must shift to and/or from such facilities, all time used by the Vessel in shifting as well as the shifting expenses shall be for Vessel Party's account. Title to Cargo slops shall pass to the Terminal Party at the first permanent flange on shore. Vessel Party shall exercise due diligence to ensure that the Cargo slops do not contain any Vessel-generated waste. The Terminal Party reserves the right to lab test the slop tank contents prior to acceptance, provided that any resulting costs of delay, including demurrage, shall be for the Terminal Party's account.
  - ii. Vessel Party will or will cause Vessel to minimize the loading of ballast into Cargo tanks previously containing crude oil (dirty ballasting) at discharge Terminal. When ballasting is conducted simultaneously with discharge operations, Vessel will maintain at least double valve segregation. During dirty ballast operations, vapor balancing must be utilized between dirty ballast loading compartments and discharging Cargo compartments, thereby eliminating emission of Cargo vapors to the atmosphere. All delays, losses and expenses incurred due to Vessel's non-compliance with this provision will be for Vessel Party's account.
- F) Special Provisions for Foreign Cargo Slops. Terminal Party shall be notified at least three (3) Business Days in advance of discharge when a Vessel desires to discharge foreign Cargo slops. Such notification shall include identity, description, or chemical properties of components; country of origin; estimated value; and estimated quantity. If advance notification is not received by Terminal Party, any time lost in discharging Cargo slops from the Vessel because of a delay in securing government clearance shall be for Vessel Party's account. Additionally, regardless as to when notification of the Vessel's desire to discharge foreign Cargo slops was received, all expenses, including but not limited to customs fees, chemical analysis, removal and proper disposal of Cargo slops shall be for the account of the Vessel Party.
- G) Vessel-Generated Waste. Fees associated with the testing, removal or reception of Vessel-generated waste, including fuel and lube oil sludge and oil bilge water, shall be for the account of the Vessel Party. Any waiting for reception facilities at a Terminal for Vessel-generated waste shall be for Vessel Party's account. If the Vessel must shift to and/or from such facilities, all time consumed by the Vessel shifting as well as shifting expenses for tugs, mooring line handlers, and pilots shall be for Vessel Party's account. The Vessel Party shall retain title to the waste material until it is tested and commingled with Terminal waste or, alternatively, delivered to a waste disposal company possessing a valid permit.

## VII) Terminal-Related Conditions

### A) Safe Berth Availability and Charges.

- i. The Terminal Party shall exercise due diligence to provide a safe berth to which the Vessel may proceed to, lie at, and depart always safely afloat. However, if the Vessel cannot, in the Terminal Party's sole opinion, maintain its moor safely at the dock, then the Terminal Party at its sole discretion may order hold-in tugs, and the cost of such tugs shall be for Vessel Party's account. The Terminal Party shall provide a safe berth for the Vessel free of wharfage fees for normal Cargo transfer. The Terminal Party shall be entitled to charge a wharfage fee for Vessels that cause or otherwise contribute to unreasonable delays or expenses while in port. Dockage and service fees, including mooring, booming, fresh water, steam and oily slops receipts will be charged to the Vessel Party. In addition, all duties and other charges on the Vessel, including, without limitation, those incurred for tugs and pilots, and other port costs shall be for the Vessel Party's account.
- ii. Notwithstanding anything contained in this clause or the Contract, the Terminal Party does not warrant the safety or draft of public channels, fairways, approaches thereto, anchorages or other publicly-maintained areas either inside or outside the port area where the Vessel may be directed. Terminal Party shall not be liable for (i) any loss, damage, injury or delay to Vessel resulting from the use of such waterways not caused by the Terminal Party's fault or negligence or willful misconduct or which could have been avoided by the exercise of reasonable care on the part of the Vessel or her Master, or (ii) any damage to Vessels at the Terminal caused by other vessels passing in the waterway.

### B) Representative. Terminal Party and Terminal may, at their option, place a representative or representatives on board the Vessel to observe loading and/or discharging of Cargo and related operations during the period after the Vessel has arrived at the port wherein the Cargo Custody Transfer Point is located. In addition, Terminal Party and Terminal may, at their option, place a representative or representatives on any Vessel involved in a Lightering operation. The representatives will advise the Vessel Master(s) or Mooring Master about avoidance of pollution, unsafe acts, or violation of Terminal regulations. Terminal Party's or Terminal's representative will not however, under any circumstances order or direct the Vessel, her officers or crew to take any particular action, or interfere in any way with the Master's exercise of his authority. The responsibility and liability for any pollution, unsafe acts, or violation of Terminal requirements remains with the Vessel and her Master.

### C) Hoses and Simultaneous Discharge.

- i. Hoses between a Vessel and the shore flanges shall be furnished by the Terminal Party, unless otherwise specified by the Terminal. Flanges for hose connections should be at or near the Vessel's dockside rail and should comply with OCIMF recommendations. Crossover hoses between barges, or hoses at crossover offshore manifolds of Vessels (i.e., "jumpers"), shall be furnished and connected by the Vessel at the risk and expense of the Vessel Party.
- ii. Vessel's Cargo hoses, including marine vapor recovery ("MVR") and offshore manifold crossover hoses (or jumpers), must be tested annually and be in service for less than five years. Documentation of annual hydrostatic testing and service age must be aboard the Vessel and available to the Terminal Party on request. Any delay arising from Vessel's failure to provide aforementioned complete and up to date documentation shall not count as used laytime or as time on demurrage.
- iii. If requested by the Terminal Party, Vessel shall load or discharge Terminal Party's grades simultaneously whenever the Cargo Custody Transfer Point allows. Any delay arising from Vessel's failure to work Terminal Party's grades simultaneously shall not count as laytime or as time on demurrage.

### D) Damage to Terminal Party's Property. Vessel Party shall be liable for any damage sustained by wharves, berths, docks, tugs, or vessels owned or maintained by the Terminal Party, or for which the Terminal Party is responsible, arising out of the negligent or improper operation of the Vessel or any other waterborne craft ordered by, or being operated for the account of, the Vessel Party. The Vessel Party will indemnify the Terminal Party for any such damages. Nothing in these Marine Provisions or the Contract shall prejudice or deprive the Parties of their rights or limitation or exclusion of liability under applicable laws or regulation.

### E) Shore Lines. If requested by the Vessel Party at least three (3) Business Days prior to the Vessel's arrival, the Terminal Party shall use best efforts to perform a line press or line displacement prior to load or discharge to determine status of shorelines and ensure accuracy of Cargo measurement.

- F) In-Harbor Lightering. In-harbor Lightering shall not be permitted without prior approval of the Terminal Party and the P66 Marine Vetting team. In-harbor Lightering shall be performed at Vessel Party's sole expense, time and risk. Terminal Party's approval shall not relieve Vessel Party of the obligation to indemnify and hold the Terminal Party harmless for any loss or liability arising from or attributable to Vessel Party's fault or negligence or willful misconduct.

**VIII) Inland Vessels**

A) Notice of Readiness.

- i. After the Vessel has arrived at the customary waiting area or other place of waiting as required by the shore facilities for the designated Cargo Custody Transfer Point, and is in all respects ready to proceed to the berth to commence loading or discharging the Cargo in accordance with the terms of the Contract, the Captain or Barge representative shall promptly give such shore facilities and the Parties hereto notice, berth or no berth via electronic mail, fax, letter, telegraph, wireless radio or satellite communication available, radio telephone or telephone. Unless otherwise agreed, the customary waiting areas for the following Cargo Custody Transfer Points shall be deemed to be as indicated below and all other customary waiting areas and Cargo Custody Transfer Points shall be provided upon request.

Cargo Custody Transfer Point	Designated Area for NOR
Alliance Refinery / Belle Chasse, LA	Alliance Staging Area
Lake Charles Refinery	Calcasieu Ship Channel and Intracoastal Waterway Intersection

- ii. If, immediately prior to giving NOR, at hoses off, the Vessel is discharging or loading another cargo in a berth at the port wherein the Cargo Custody Transfer Point is located, or waiting at a layberth there, NOR may be tendered at such berth, but time used in shifting from such berth to the anchorage or to the loading or discharging berth shall not count as laytime or time on demurrage.

B) Allowed Laytime

- i. If not otherwise specified in the Contract or scheduler's nomination, allowed laytime for an Inland Vessel shall be calculated basis the Cargo volume as follows: **2500 Bbls / Hour + 3 free hours**
- ii. CIF/CFR/FOB receipts/deliveries of asphalt product shall receive twelve (12) hours allowed laytime per utilized barge.
- iii. In no event shall allowed laytime be less than twelve (12) hours, which includes three (3) hours of free time.

C) Laytime Counting.

- i. If an Inland Vessel tenders NOR prior to the commencement of the Delivery Window, laytime shall commence at 0001 hours local time on the first day of the Delivery Window or upon All Fast, whichever occurs first, except in instances where the Vessel is berthed prior to such date with the Terminal Party's consent, laytime shall commence when All Fast.
- ii. If an Inland Vessel tenders NOR within the Delivery Window, then laytime shall commence upon NOR, berth or no berth, or upon All Fast, whichever occurs first.
- iii. If an Inland Vessel tenders NOR after the Delivery Window expires, then laytime shall commence upon All Fast.
- iv. Laytime shall cease when the Inland Vessel is released by the Terminal and/or the IIC.
- v. If more than one barge is utilized, barges will be expected to load or discharge simultaneously.
1. If the Cargo Custody Transfer Point requires barges to berth individually, time consumed in shifting the barges shall count as used laytime or as time on demurrage.
  2. If the Tow requires barges to berth individually, time consumed in shifting the barges, from hoses off to All Fast, shall not count as used laytime or as time on demurrage.

D) Pumping Warranties.

- i. Inland Vessels will maintain an average of 100 psi at the Vessels manifold or maintain a pumping rate of 2500 barrels per hour.
- ii. Any time consumed due to the inability of the Vessel to discharge the Cargo throughout the bulk of the discharge, within the specified warranties listed above, shall not count as laytime or time on demurrage.

## **IX) Ocean-Going Barges**

### **A) Notice of Readiness.**

- i. After the Vessel has arrived at the Customary Anchorage or other place of waiting as required by the shore facilities for the designated Cargo Custody Transfer Point, and is in all respects ready to proceed to the berth to commence loading or discharging the Cargo in accordance with the terms of the Contract, the Captain, or Barge representative shall promptly give such shore facilities and the Parties hereto notice, berth or no berth, via electronic mail, fax, letter, telegraph, wireless radio or satellite communication available, radio telephone or telephone. Unless otherwise agreed, the Customary Anchorages for the following Cargo Custody Transfer Points shall be deemed to be as indicated and all other Customary Anchorages and Cargo Custody Transfer Points shall be provided upon request:

Cargo Custody Transfer Point	Designated Area for NOR
Bayway Refinery / Linden, NJ	Stapleton / Bay Ridge / Gravesend Bay
Port Jefferson Terminal / PJ, NY	Off Port Jefferson
Riverhead Terminal / Riverhead, NY	Off Riverhead
Lake Charles Refinery	Calcasieu Ship Channel and Intracoastal Waterway intersection

- ii. NOR may not be tendered until the Ocean-Going Barge has a current and valid TVE, COC, and COI.
- iii. If, immediately prior to giving NOR, at hoses off, the Vessel is discharging or loading another cargo in a berth at the port wherein the Cargo Custody Transfer Point is located, or waiting at a layberth there, NOR may be tendered at such berth, but time used in shifting from such berth to the anchorage or to the loading or discharging berth shall not count as laytime or time on demurrage.

### **B) Allowed Laytime.**

- i. Unless otherwise provided in the Contract or scheduler's nomination, laytime shall be the number of hours as specified in the table below at the Cargo Custody Transfer Point(s).

Cargo Quantity	Laytime
UP to 29,999 barrels	15 hours
30,000 to 39,999 barrels	16 hours
40,000 to 49,999 barrels	17 hours
50,000 - 59,999 barrels	18 hours
60,000 - 69,999 barrels	19 hours
70,000 - 79,999 barrels	20 hours
80,000 - 89,999 barrels	21 hours
90,000 - 99,999 barrels	22 hours
100,000 - 109,999 barrels	23 hours
110,000 - 119,999 barrels	24 hours
120,000 - 129,999 barrels	25 hours
130,000 - 139,999 barrels	26 hours
140,000 - 149,999 barrels	27 hours
150,000 - 179,999 barrels	30 hours
180,000 or more	36 hours

### **C) Laytime Counting.**

- i. If an Ocean-Going Barge tenders NOR prior to the commencement of the Delivery Window, then laytime shall commence at 0001 on the first day of the agreed Delivery Window, except in instances where the Vessel is berthed prior to such date with the Terminal Party's consent, then laytime shall commence when All Fast.
- ii. If an Ocean-Going Barge tenders NOR within the agreed Delivery Window, then laytime shall commence, berth or no berth, after tender of NOR, or when All Fast, whichever occurs first.
- iii. If an Ocean-Going Barge tenders NOR after the Delivery Window expires, then laytime shall commence only when All Fast.
- iv. Laytime shall cease when the Vessel is released by the Terminal and/or the IIC.

### **D) Pumping Warranties**

- i. Ocean-Going Barges will maintain an average of 100 psi at Vessels manifold or discharge its entire Cargo within twenty-four (24) hours.

- ii. Any time consumed due to the inability of the Vessel to discharge the Cargo throughout the bulk of the discharge, within the specified warranties listed above, shall not count as laytime or time on demurrage.

**X) Ocean Tanker**

**A) Notice of Readiness.**

- i. After the Vessel has arrived at the Customary Anchorage or other place of waiting as required by the designated Shore Facilities, and is in all respects ready to proceed to the berth to commence loading or discharging the Cargo in accordance with the terms of the Contract, the Master, Captain, Master's Agent or Tanker representative shall promptly give such Shore Facilities and the Parties hereto notice, berth or no berth, via electronic mail, fax, letter, telegraph, wireless radio or satellite communication available, radio telephone or telephone. Unless otherwise agreed, the Customary Anchorages for the following Cargo Custody Transfer Points shall be deemed to be as indicated and all other Customary Anchorages and Cargo Custody Transfer Points shall be provided upon request:

Cargo Custody Transfer Point	Anchorage
Bayway Refinery / Linden, NJ	Stapleton/Bay Ridge/Gravesend Bay
Port Jefferson Terminal/PJ, NY	Off Port Jefferson
Riverhead Terminal/Riverhead, NY	Off Riverhead

- ii. If NOR is tendered orally by an Ocean Tanker, confirmation in writing shall be made within twelve (12) hours when required.
- iii. NOR may not be tendered until the Ocean Tanker has a current and valid TVE, COC, and COI.
- iv. If, immediately prior to giving NOR, at hoses off, the Vessel is discharging or loading another cargo in a berth at the port wherein the Cargo Custody Transfer Point is located, or waiting at a layberth there, NOR may be tendered at such berth, but time used in shifting from such berth to the anchorage or to the loading or discharging berth shall not count as laytime or time on demurrage.

**B) Allowed Laytime.**

- i. Unless otherwise provided in the Contract or scheduler's nomination, thirty-six (36) running hours shall be permitted to the Terminal Party as laytime at the Cargo Custody Transfer Point(s) for a full cargo or pro rata thereof for part cargo based on the total barrels of cargo carried by the Ocean Tanker on that voyage. However, the minimum laytime will be (15) hours for a part cargo.

**C) Laytime Counting.**

- i. If an Ocean Tanker tenders NOR prior to the agreed Delivery Window, then laytime shall commence at 0600 on the first day of the agreed Delivery Window, except in instances where the Vessel is berthed prior to such date, with the Terminal Party's consent, laytime shall commence when All Fast.
- ii. If an Ocean Tanker tenders NOR within the agreed Delivery Window, then laytime shall commence, berth or nor berth, six (6) hours after the tender of NOR, or when All Fast, whichever occurs first.
- iii. If an Ocean Tanker tenders NOR after Delivery Window expires, then laytime shall commence when All Fast.
- iv. Laytime shall run until the cargo hoses have been finally disconnected upon completion of loading or discharging, provided always that if the Vessel is detained solely for the purposes of awaiting Cargo documents at load port for more than three 3 hours beyond the final disconnection of cargo hoses, laytime shall recommence after such three 3 hours and terminate upon completion of Cargo documentation. If after completion of loading the Vessel is required to proceed to an anchorage for the Vessel Party's purposes, then the time spent moving from the berth to the anchorage shall not count as part of the three 3 hours referred to above or as laytime.

**D) Pumping Warranties.**

- i. Ocean Tankers will maintain an average of 100 psi at Vessels manifold or discharge its entire cargo within twenty-four (24) hours.
- ii. Any time consumed due to the inability of the Vessel to discharge the Cargo throughout the bulk of the discharge, within the specified warranties listed above, shall not count as laytime or time on demurrage.

## **XI) Deviation**

If Buyer elects to change Delivery Location or adds additional ports, it will be subject to the governing charter party restrictions, if any, and all cost will be for Buyers account, including additional steaming time at the demurrage rate plus bunkers, additional expenses at the port, and port time from end of sea passage until start of sea passage at the demurrage rate.

## **XII) Interim Ports**

Buyer shall pay for any interim load/discharge port(s) at cost. Time for additional steaming, which exceeds direct route from first load port to furthest discharge port, shall be paid at the demurrage rate plus bunkers consumed, plus actual port costs. Time used at each additional port shall be paid at the demurrage rate beginning at end of sea passage and ending at start of sea passage.

## **XIII) Global Lightering or Ship to Ship Transfer**

- A) If Lightering is performed at any customary Lightering anchorage designated by the local port authority, time used in such Lightering to count as used laytime. Such anchorage shall not be considered as a second discharge port or second discharge berth and running time from such anchorage to berth shall not count as laytime, or time on demurrage if the allowed laytime has expired. Laytime at anchorage (whether or not the Vessel is on demurrage) shall begin after receipt of NOR by Vessel Owner.
- B) Any and all expenses incurred at lighterage anchorage, except Vessel Party's items if Buyer is not Vessel Party, are to be for Buyer's account, including but not limited to deviation to and from said lighterage area, if any, and all port costs at lighterage area providing acceptable supporting documentation provided.
- C) Laytime and demurrage shall cease when all booms, fenders, hoses, reducers, and all unmooring operations have been completed and workboat or Service Vessel(s) have been separated.
- D) All Lightering and Ship to Ship operations shall be performed according to OCIMF guidelines.
- E) Communication Information.
  - i. Notices: Where applicable, Vessel is to advise ETA to Lightering area 5-4-3-2-1 days prior to arrival via telex, telephone, fax or email as per port state (ex. United States Coast Guard) requirements and OCIMF STS Transfer Petroleum latest edition and shall also give notice to the Terminal Party at the same time.
  - ii. NOR to be tendered at the Customary Anchorage or designated Lightering zone as specified by the local port authority. NOR's will be considered invalid if not met with this requirement. Vessel should be anchored and ready to load upon arrival to this Lightering zone.

## **XIV) Shared Delays (Excluding Lightering)**

- A) Laytime shall be reduced to one-half for the following conditions:
  - i. Delays due to weather and/or sea conditions shall include, but not be limited to lightning, ice, fog, frost, storm, wind, waves and/or swells;
  - ii. Daylight restrictions, channel blockage and/or port closures associated with the shore facilities for the designated Cargo Custody Transfer Point;
  - iii. Breakdown or failure of equipment or machinery in or about the shore facilities for the designated Cargo Custody Transfer Point;
  - iv. Any delay for which laytime/demurrage consequences are not specifically allocated in this or any other clause of these Marine Provisions and are beyond the reasonable control of the Vessel or Terminal Party.

## **XV) Laytime Exclusions**

- A) Time shall not count as laytime or time on demurrage if lost or spent due to:
  - i. Inward passage from a Lightering or waiting area to the Customary Anchorage or berth, even if Lightering has taken place; or proceeding from the Customary Anchorage to the berth, such time commencing at the earlier of pilot on board or anchor aweigh and ending at All Fast.
  - ii. Awaiting pilots, tugs, or tides.

- iii. Inability of the Vessel to discharge or receive Cargo safely or have the IGS working properly, if applicable.
- iv. The Vessel requiring separate and/or additional shore tank gauges for any reason, or the Vessel's failure to comply with Terminal regulations.
- v. Prohibitions of Cargo transfer at any time by the Vessel, or the Vessel Party or port authorities, unless such prohibition is caused by the Terminal Party's failure to comply with applicable laws or regulations.
- vi. Vessel Party's failure to have required documentation on board.
- vii. Awaiting customs or immigration clearance, or free pratique.
- viii. Strike, lockout, fire, explosion, torts of third parties, stoppage or restraint of labor of the Master, officers and crew of the Vessel or towboat or pilots.
- ix. Any delay for which the Vessel Party, the Vessel (including breakdown or inefficiency of the Vessel), her Master or crew is responsible, including without limitation, any delays occasioned by any failure of the Vessel to meet the requirements of these Marine Provisions or the Contract.
- x. Bunkering, ballasting, deballasting, or discharging slops unless concurrent with loading or discharging of Cargo.
- xi. A result of a labor boycott arising in connection with the business of the Vessel or Vessel Party, the terms or conditions of employment of the Vessel or Vessel Party's servants, or employment, trades, or Cargoes of the Vessel.
- xii. Restraint or interference in the Vessel's operation by any governmental authority in connection with the ownership, registration, or obligations of the Vessel Party or the Vessel, or in connection with stowaways or with smuggling or other prohibited activities of the Vessel's or Vessel Party's servants.
- xiii. Cargo contamination or damage caused by unseaworthiness or negligence or willful misconduct of the Vessel or, servants of the Vessel or Vessel Party.
- xiv. The Vessel's unclean tanks, or inability to maintain heating or pumping warranties, or the need for Vessel repairs.
- xv. Any delay caused by the Vessel Party's failure to comply with financial and/or credit responsibilities to the Contract.

**XVI) Cargo Sampling and Analysis**

- A) If the quality of the Cargo is called into question (for example, quality as determined by independent certified laboratory is evaluated as not meeting the applicable specifications for the Cargo loaded or to be loaded as specified in the sale/purchase agreement), any delays, including but not limited to, re-sampling and/or analysis, shall be for the account:
  - i. of the Seller, should the Cargo in question fail to meet the applicable specifications as per the Contract;
  - ii. of the Buyer, should the Cargo in question be in compliance with the applicable specifications as per the Contract.

**XVII) Demurrage**

- A) Rate Determination. Demurrage shall be payable by the Terminal Party for all laytime that exceeds allowed laytime at the following demurrage rates:
  - i. For Controlled Tonnage:
    - 1. The demurrage rate will be as stipulated in the Contract or scheduler's nomination.
    - 2. Should the demurrage rate not have been stipulated within the Contract or scheduler's nomination, then the daily hire rate for the Vessel applies.
  - ii. For Non-Controlled Tonnage:
    - 1. The demurrage rate will be the demurrage rate or daily hire rate included in the charter party for the Vessel.
- B) Demurrage Claims on Ocean Tankers shall be accompanied by:
  - i. A laytime statement,
  - ii. Vessel Owner's demurrage calculations if applicable,
  - iii. Vessel Owner's invoice if applicable,
  - iv. Copy of the Vessel's NOR document(s),
  - v. Vessel's Statement of Facts (SOF) and agent's SOF if applicable,

- vi. Vessel pumping logs if the claim is for a discharge,
- vii. Charter party if applicable,
- viii. Bill of Lading if the claim is for a pro rata portion,
- ix. Letters of Protest (if applicable) signed by or on behalf of Master and Terminal,
- x. Such other supporting documentation as reasonably may be requested by the Terminal Party.

C) Demurrage Claims on Inland Vessels and Ocean-Going Barges shall be accompanied by:

- i. A laytime statement,
- ii. Pumping logs or pumping documentation in the barge logs if the claim is for a discharge and only if needed to verify compliance with the pumping warranty,
- iii. Vessel Owner's demurrage calculations if applicable,
- iv. Vessel Owner's invoice if applicable,
- v. Barge logs with NOR,
- vi. Such other supporting documentation as reasonably may be requested by the Terminal Party.

D) Demurrage Claims Processing.

Demurrage claims must be submitted electronically by email before 1200 noon on the last Business Day prior to the ninety (90) day time bar, such time period commencing upon completion of loading/discharge. The demurrage claim will be deemed waived and extinguished in its entirety if not submitted electronically via the manner noted below along with reasonable supporting documentation within the allowed time bar.

For demurrage claims to P66, demurrage claims must be submitted to:

**AmericasDemurrageClaims@p66.com.**

In no instance will P66 ever be liable for demurrage in excess of that amount paid to the Vessel Owner.

E) The agreed demurrage amount shall be paid within 30 days of the settled demurrage claim.

F) Public Dock Clause.

Vessels loading or discharging at a public dock are accepted on a first come, first served basis. Therefore, laytime at a public dock commences only when the Vessel is All Fast at the nominated berth.

G) New York Arbitration.

Marine Claims shall be resolved pursuant to arbitration as provided herein notwithstanding anything in the General Terms and Conditions to the contrary. For Marine Claims where the total amount claimed by either Party does not exceed U.S. \$300,000 (exclusive of interest on the sum claimed, costs of the arbitration, and legal expenses), the dispute is to be governed by the "Shortened Arbitration Procedure" of the Society of Maritime Arbitrators, Inc. (SMA) of New York, as defined in the SMA's current Rules for such procedure.

For Marine Claims where the total amount claimed by either Party exceeds U.S.\$300,000, such arbitration shall be referred to three (3) persons in New York City, New York, one (1) to be appointed by each of the Parties hereto and the third, who shall be the Chair, by the two (2) so chosen. Their decision, or that of any two of them, shall be final and binding, and for the purpose of enforcing any award, the Contract may be made a rule of the Court. The arbitrators shall be persons conversant in marine matters and may be attorneys and need not be members of the SMA. All arbitrations shall be governed by the Rules of the SMA. Judgment upon any arbitration award may be entered by any court of competent jurisdiction.

Any Party may bring a legal action to compel arbitration of any claim to which this arbitration clause applies in any court of competent jurisdiction.

The panel or single arbitrator hearing the Marine Claim shall have the authority to provide in any award for the allocation of the costs of arbitration, including reasonable attorneys' fees, and arbitrators' fees.

## **XVIII) Miscellaneous**

- A) Compliance with Law. Vessel Party and Terminal Party shall be in full compliance with all applicable governmental laws, regulations, and orders, and shall maintain records that demonstrate compliance with the applicable regulations and standards. Vessel Party and Terminal Party shall have the right to inspect and copy any and all such records of the other Party at any reasonable time or times during normal business hours. This provision shall survive termination of the Contract for a period of two (2) years.
- B) Interpretation. Irrespective of anything in the Contract to the contrary, these Marine Provisions and any other document constituting a part of the Contract shall not be interpreted or applied so as to require either Party to do, or refrain from doing, anything that would constitute a violation of or result in a loss of economic benefit under, any applicable laws or regulations, including without limitation, United States anti-boycott laws or regulations.
- C) In the case of any conflict in the various provisions of the Contract, terms shall prevail in the following order: the Confirmation, the scheduler's nomination, these Marine Provisions and the General Terms and Conditions except that with respect to narrowing or revising the Delivery Window, the scheduler's nomination shall prevail in all cases.
- D) The Section and Paragraph headings are for convenience only and shall not be interpreted in any way to limit or change the subject matter of the Contract.