

**Plains Midstream Canada ULC General Terms and Conditions for  
Liquid Petroleum Gas, Natural Gas Condensate, and Natural Gasoline  
Dated May 1, 2017**

The underlying contract, which contains the Agreement date, Product, Parties, terms, prices, location, period, quantity, payment terms and /or any other terms and conditions will be furnished in writing by facsimile, email or other means upon finalization of a transaction, if any, under this Agreement and will be referred to as the "**Specific Provisions**." The Specific Provisions shall incorporate by reference these General Terms and Conditions for Liquid Petroleum Gas, Natural Gas Condensate, and Natural Gasoline (the "**GTCs**"). The Specific Provisions, together with these GTCs will constitute the agreement between the Parties (the "**Agreement**"). In the event of a conflict between these GTCs and such Specific Provisions to which these GTCs are referenced and incorporated, the terms of the Specific Provisions shall control and take precedence over these GTCs.

**1.0 DEFINED TERMS**

Capitalized terms used herein have the meanings attributed to them in the Specific Provisions unless otherwise defined herein. When used in this Agreement, the following terms shall have the following meanings:

"**API**" shall mean the American Petroleum Institute.

"**ASTM**" shall mean the American Society for Testing and Materials.

"**Affiliate**" of any person, (including, without limitation, a partnership), means a person, (including, without limitation, a partnership), which directly or indirectly, controls, is controlled by, or is under **common** control with such person. For the purpose of this definition "control" means control in fact, whether by ownership of sufficient voting securities to elect a majority of the directors of a corporation, by owning a 50% or more partnership interest in an ordinary partnership, by being the general partner of a limited partnership, by contract or otherwise.

"**Business Day**" means any day other than a Saturday, Sunday or a statutory holiday in Calgary, Alberta.

"**Buyer**" shall mean the Buyer of Product as specified in the Specific Provisions.

"**Deficiency Fee**" shall have the meaning specified in the Specific Provisions.

"**Delivery Point**" shall have the meaning specified in the Specific Provisions.

"**Effective Date**" shall have the meaning specified in the Specific Provisions.

"**Force Majeure**" shall have the meaning specified in Section 10 of these GTCs.

"**Initial Term**" shall have the meaning specified in the Specific Provisions.

"**Laws and Regulations**" shall mean all federal, state, Provincial and local laws, rules, regulations, statutes, codes, ordinances, orders, decrees, and/or consent orders applicable to the Parties or the Product that are promulgated from time to time, and are being enforced, by any judicial, regulatory, administrative, governmental or arbitral entity having proper jurisdiction over the subject matter in question, including any amendments and/or substitutions that may come into effect during the term of this Agreement.

"**MSDS**" shall mean a Material Safety Data Sheet for the Product, being a document containing chemical hazard and safe handling information prepared in accordance with the requirements of the Occupational Safety and Health Administration or Health Canada under the Workplace Hazardous Materials Information System ("**WHMIS**" or "**SIMDUT**") or any successor entities or other equivalent U.S. or Canadian government agencies serving the same function.

"**Party**" and or "**Parties**" in the singular shall refer to Buyer or Seller, as the case may be, and in the plural shall refer to Buyer and Seller collectively.

"**Product**" shall have the meaning as specified in the Specific Provisions. Product may include propane, butane, isobutane, natural gasoline, natural gas condensate, propane plus mix, ethane plus mix or other product as agreed to in the Specific Provisions.

"**Seller**" shall mean the Seller of Product as specified in the Specific Provisions.

## 2.0 DELIVERY

- 2.1** When delivery is point of origin, delivery shall be deemed to have occurred:
- 2.1.1** To ships or barges when the Product has passed the vessel's loading flange;
  - 2.1.2** To tank cars when the carrier accepts the same for shipment;
  - 2.1.3** To pipelines when the Product has passed the downstream flange of the meter measuring the Product for delivery; and
  - 2.1.4** To tank trucks when the Product enters the tank truck's loading equipment.
- 2.2** When the delivery is point of destination, delivery shall be deemed to have been completed:
- 2.2.1** From ships or barges when the Product has passed the vessel's discharge flange;
  - 2.2.2** From tank cars when carrier delivers same at the destination;
  - 2.2.3** From pipelines when the Product has passed the upstream flange of the meter measuring the Product for delivery; and
  - 2.2.4** From tank trucks when the Product has passed the tank truck's delivery equipment.
- 2.3** When by an in-line Product transfer, delivery shall be deemed to have been completed upon execution of the order by the pipeline carrier and/or storage operator.
- 2.4** After completion of delivery of Product by the Seller, Seller shall not be liable to Buyer for reductions in quantity or degradation of quality of such Product in the hands of Buyer. Buyer agrees that, after delivery, the handling, care or use of Product shall be at Buyer's sole risk and expense.
- 2.5** Buyer shall comply with the requirements of any terminal or other facility at which Product is delivered to Buyer under the Agreement.
- 2.6** Title to the Product and risk of loss shall pass to Buyer upon delivery at the Delivery Point.
- 2.7** Demurrage: The Parties shall be responsible for demurrage and other fees in accordance with the following provisions.
- 2.7.1** Railway Tank Cars: If Seller's railway tank cars are used by Buyer for transportation, Seller will allow Buyer a period of five (5) days (one day equals twenty four (24) hours), including Saturdays, Sundays and statutory holidays) for off-loading the tank cars commencing at:
    - 2.7.1.1** 7:00 a.m. at the unloading location, of the first morning following notification to Buyer (or Buyer's consignee) by the delivering railroad that a tank car is available for placement; or
    - 2.7.1.2** If notification is not given by the delivering railroad, such time as the tank car is delivered to Buyer's (or the Buyer's consignee's) off-loading facilities.

Upon the expiration of such five (5) day period, Buyer will pay Seller a detention charge until such time as the tank car has been returned to the delivering railroad or otherwise placed in accordance with written instructions for Seller. The detention charge for each day (or part of a day) after the five (5) day period in this Section shall be \$75.00 for the period of April through September, and \$150.00 for the period of October through March. Detention charges under this Agreement will be charged per tank car. Any claim by the Buyer for a reduction of such detention charges must be supported by certified railway arrival and release documents. All diversion charges, additional freight charges and any other costs or expenses incurred, sustained or paid by Seller resulting from such diversion shall be for the account of Buyer. Unless otherwise provided, Buyer shall be responsible for all switching, freight, demurrage, special handling, storage, detention, and additional charges associated with each tank car.
- 2.8** Miscellaneous:
- 2.8.1** Equal Daily Quantities: Except for delivery by truck tanker, for the purpose of invoicing, any Product delivered hereunder shall be deemed to have been delivered in equal daily quantities during the calendar month in which deliveries occur.
  - 2.8.2** Equipment: Equipment supplied by either Party for the transportation of Product shall be in a safe, clean, suitable condition for loading and unloading. Such equipment and the shipment of Product shall be in compliance with all applicable Laws and Regulations. Where either Party provides tank trucks for transportation of Product, that Party's carrier and drivers must be acceptable to the operator of the loading facility, acting reasonably, and must comply with such operator's loading and safety procedures. The operator of the loading facility, acting reasonably, may deny access to any driver or carrier that disregards applicable loading and safety procedures.

- 2.8.3 Pipelines:** When deliveries are made on pipelines, Seller will be responsible for all transportation, loss allowance, physical loss, component balancing losses, movement and scheduling charges and any other fees as invoiced by or through the pipeline.
- 2.8.4 Partial Shipments:** When deliveries are made into railway tank cars or truck tanks, neither Party is obligated to load or ship partially filled tanks or tank cars.
- 2.8.5 Diversion:** The Parties will not divert the other Party's tank cars or consign them to any other routing or to any other destination than that set out in the return billing instructions without obtaining the prior written or faxed consent of the other Party.
- 2.8.6 Geographic Area:** Any shipments in the other Party's tank cars to destinations outside of Canada and the United States will first require the other Party's consent; any shipments in the other Party's tank cars to Hawaii or Alaska require other Party's written prior approval and the other Party may withhold consent for any reason.
- 2.8.7 Return of Tank Cars:** Both Parties shall agree that the other Party's railway tank cars are returned to their point of origin or other mutually agreed location, empty of liquid, in a safe condition, and in the same repair in which received, ordinary wear and tear excepted. It is agreed that the tank cars will not be used for any other purpose after offloading and before being returned and it is specifically understood that at such time, in no event will the tank cars be filled with any quality and specification of Product other than those specified in this Agreement. Seller shall be solely responsible for all charges incurred by Buyer resulting from damage and/or contamination, including but not limited to cleaning, restoring, and repairing such tank cars to safe condition, unless the charges have been incurred because of Buyer's sole negligence.

### **3.0 APPORTIONMENT**

- 3.1 Event of Shortage Not Due to Force Majeure:** Should Buyer, Seller or any carrier at any time during the term of this Agreement be required to apportion its facilities for delivery or acceptance of Product, the quantity of Product required to be delivered or accepted under this Agreement shall be proportionately reduced, based on the ratio of the quantity obligation under this Agreement to the contracted quantity obligations with all other third parties. All shortfalls in Product not delivered due to apportionment or curtailment, but not due to an event of Force Majeure, shall remain subject to any Deficiency Fees specified within the Specific Provisions.
- 3.2 Event of Shortage Due to Force Majeure:** If Seller's shortfall in deliveries was due to an event of Force Majeure, Seller shall promptly provide to Buyer appropriate documentation to support a Force Majeure defence. Buyer or Seller as applicable shall apply to the delivering pipeline or any other entity for relief from any penalties charged by the pipeline or other entity resulting from such event of Force Majeure. Seller would be liable for any applicable non-performance pipeline penalties Buyer incurs in the event of a Seller delivery shortage whether or not due to Force Majeure. Should Seller experience an event of Force Majeure at a gas plant producing Seller's Product, that portion of Product still capable of being delivered shall be proportionately delivered based on the ratio of the quantity obligation under this Agreement to the contracted quantity obligations with all other third parties.

### **4.0 QUANTITY AND QUANTITY MEASUREMENT**

- 4.1 Quantity:** The quantity of Product to be delivered under this Agreement is set forth in the Specific Provisions to which these GTCs are attached.
- 4.2 Measurement:** Seller shall cause Product to be gauged or metered using accurate measuring facilities and techniques which are standard in the industry at the time of measurement. Meters and temperature probes shall be calibrated according to the latest applicable API or ASTM standards. Measurement calibrations shall be reviewed not less frequently than once every six (6) months. The quantity of Product delivered under this Agreement shall be measured at the location where the Product is loaded into the transportation equipment as follows:
- 4.2.1** in the case of delivery into tank car, by means of a magnetic gauge rod (or if not available, a slip tube gauging device) and applicable outage tables;
- 4.2.2** in the case of delivery into tank trucks, by means of a weight scale or metering device (at Seller's option); and
- 4.2.3** in the case of delivery into pipelines, storage facilities or truck terminals by meter or other

mutually accepted method or device.

- 4.3** Witnesses: Measurement of Product may be witnessed by representatives of Buyer and Seller, each for the account of the Party requesting same. If Buyer has no witness present, gauges, tests or measurements conducted by Seller or at Seller's direction shall be deemed to be correct, absent manifest fraud or gross negligence.
- 4.4** Adjustments and Corrections: Adjustments and corrections shall be made to volume and density to correspond to sixty (60) degrees Fahrenheit / fifteen (15) degrees Centigrade.
- 4.5** Accuracy: The signature of the Seller's and Buyer's representatives on the delivery ticket evidencing the measurements shall be considered by all Parties as conclusively establishing the accuracy of such measurements absent manifest fraud, a material calculation error, or the detection of a material API or ASTM procedural problem.
- 4.6** Rail Quantity Shortages: Seller shall not be liable for rail quantity shortages when Buyer has failed to: (1) notify Seller of the alleged shortage by telephone immediately upon discovery (followed by prompt written confirmation); and (2) obtain Seller's permission to unload the shipment.
- 4.7** Rail Quantity Claims: Claims by Buyer for variance in rail quantity may only be made where the variance exceeds one (1) percent of the individual shipment. Such claims must be made within seventy-two (72) hours from point off-loaded and must be accompanied by supporting documentation. Buyer shall give Seller an immediate opportunity to investigate any such variance.

## **5.0 TAXES**

- 5.1** Obligations: Seller shall pay or cause to be paid any and all taxes, assessments and charges imposed by Laws and Regulations in relation to the Product prior to the delivery of the Product to Buyer. Buyer shall pay or cause to be paid any and all taxes, assessments, and charges imposed under Laws and Regulations in relation to the Product upon and after its delivery to Buyer. In the event Seller is legally obligated to collect taxes, assessments or charges from Buyer, Seller shall have full authority to collect from the Buyer.
- 5.2** Prices Exclusive: Buyer acknowledges that the prices contained in this Agreement are exclusive of all taxes, assessments and charges imposed under Laws and Regulations.
- 5.3** Exemption: If Buyer is exempt from any taxes, assessments or charges imposed under Laws and Regulations, Buyer shall furnish Seller with a valid and properly completed resale or exemption certificate in the form prescribed by the appropriate taxing authority. Pursuant to the foregoing sentence, Buyer shall indemnify Seller for any liability or expenses which Seller may incur for payment of taxes, assessments and charges that result from Buyer's failure to:
- 5.3.1** timely provide Seller with an exemption or resale certificate; or
- 5.3.2** provide a valid and properly complete resale or exemption certificate in the form prescribed by the appropriate taxing authority.
- 5.4** Tax Registration and Federal Employer Identification Number: Buyer represents that it holds the applicable tax registration(s) to purchase, exchange, use, resale, transport or handle the Product. Buyer shall furnish Seller with the appropriate registration number(s) for all applicable jurisdictions in which business is conducted. Buyer shall promptly notify Seller of any change in registration status in applicable jurisdictions where business is conducted. Further, Buyer shall furnish its federal employer identification number to Seller upon request. The notifications required by this Section 5.4 must be received by Seller within fifteen (15) days of execution of the Specific Provisions otherwise Seller will invoice Buyer for any applicable taxes.
- 5.5** Value Added Type Tax: If any additional sum of money becomes payable by either Party as a result of a breach, forfeiture, modification or termination of this Agreement, the amount payable shall be increased by any applicable GST which is required to be remitted by the recipient in respect of that payment and shall be paid to the recipient within fifteen (15) days of receipt of notice of such amount.
- 5.6** Indemnities: Seller shall indemnify Buyer against any liability and expense in excess of the amount of any tax due that is incurred by Buyer by reason of Seller's failure to properly remit the tax to the proper government agency. If Seller recovers a refund or credit of any taxes paid to Seller by Buyer with respect to the sale of the Products herein described or of any taxes measured by the price of goods or services or the gross receipts from the sale, then Seller shall refund to Buyer the full amount of the

refund or credit. Buyer shall indemnify Seller against any liability and expense that is incurred by Seller by reason of Buyer's failure to properly pay any taxes owing hereunder.

## **6.0 PAYMENT**

- 6.1 Invoice and Payment:** Unless otherwise provided in the Specific Provisions or these GTCs, payment for Product shall be made by Buyer on the twenty fifth (25<sup>th</sup>) of the month following the month of delivery and will be made via electronic funds transfer unless otherwise directed. All payment backup shall be provided to Seller with Buyer's remittance. If the payment date falls on a Saturday or a non-Monday bank holiday, payment will be due on the preceding business day. If the payment date falls on a Sunday or a Monday bank holiday, payment will be due on the next business day. Payment shall be deemed to be made on the date good funds are credited to Seller's account at Seller's designated bank.
- 6.2 Interest:** If Buyer fails to make any payment when due, Seller shall have the right to:
- 6.2.1** charge interest on the amount overdue at a per annum rate compiled from the due date to the date of payment at an annual rate equal to the lesser of (a) four percentage points above the annual rate of interest published by Bank of Nova Scotia from time to time as its prime rate of interest, and (b) the maximum rate of interest allowed by Laws and Regulations; and
- 6.2.2** to suspend deliveries or terminate this Agreement subject to Section 12.0.
- 6.3 Disputed Amounts:** If any gross amount is not confirmed or is being disputed, then such unconfirmed or disputed amount will not be used for purposes of computing the net balance. If payment is based on a statement provided by Buyer and Seller reasonably disputes the billing item, then within ten (10) days of the date of Buyer's statement, or if payment is based on Seller's invoice and Buyer reasonably disputes a billing item on Seller's invoice then within ten (10) days of the date of Seller's invoice (all subject to Section 4.0 [Quantity and Quantity Measurement] and Section 7.0 [Warranties, Indemnification and Liability Limitation] of these GTCs), then the disputing party shall notify the other party of the item in dispute; otherwise the undisputed amount shall be paid without delay and amounts not paid at or before the time provided in these GTCs will be subject to interest as provided for herein. Such unconfirmed or disputed amount shall be resolved pursuant to the terms and conditions, if any, of the Specific Provisions or otherwise as provided in these GTCs. In the event of a dispute, the Parties shall otherwise proceed with any netting process, if applicable, without accounting for such unconfirmed or disputed amount. No Party shall refuse to participate in the netting process, if applicable, because of a disputed invoice and shall work together in good faith to resolve the dispute.
- 6.4 Offset:** If in respect of any month amounts are due and owing, or past due and owing, under this Agreement, the Parties shall net all such amounts such that the Party owing the greater amount shall make a single payment of the net amount to the other Party in accordance with Section 6.1. In the event that the Parties have executed a separate netting agreement, the terms and conditions therein shall prevail. If either Party defaults in any payment or other material performance under this Agreement, or if any suit, claim, demand, action, or cause of action shall be instituted involving any sums due under this Agreement, then in any of those events, the other Party, at its option, shall have the right to withhold any payments or deliveries of Product due under this Agreement or offset and deduct from any payments or deliveries due under this Agreement.
- 6.5 Lien:** Seller reserves and retains a lien on the Product until the price is fully paid and satisfied.
- 6.6 Financial Assurances:** If at any time during the term of this Agreement, a Party has reasonable grounds for insecurity regarding the payment, performance or enforceability of any obligation of the other Party under this Agreement, the requesting Party may demand and the other Party shall provide security in form and substance acceptable to the requesting Party, acting reasonably, which may include without limitation a standby irrevocable letter of credit, prepayment, performance bond or parental guarantee.

## **7.0 WARRANTIES, INDEMNIFICATION AND LIABILITY LIMITATION**

- 7.1 Seller Warranties:** Seller represents and warrants to Buyer that:
- 7.1.1** Seller has full right and authority to sell and deliver Product to Buyer hereunder, and to receive payment therefor;
- 7.1.2** Product will be acquired by Buyer free and clear of all royalties, liens, charges, encumbrances and adverse claims; and

**7.1.3** Product has been handled and transported to the Delivery Point hereunder in accordance with the Laws and Regulations, and complies with specifications as agreed to between the Parties.

Seller shall indemnify and save harmless Buyer from and against any and all losses ("**Losses**") arising out of any breach of the representations and warranties made in this Section 7.1 (including third party claims or actions to which Buyer is made a party).

- 7.2** Repetition: Each representation and warranty in this Agreement shall be deemed to be repeated by the Party making such representation and warranty on each day during the term of this Agreement.
- 7.3** Refusal to Accept Delivery: In addition to Buyer's other remedies hereunder or at law, Buyer may refuse to accept delivery of any Product tendered in breach of this Section. Subject to confirmation that Seller furnished nonconforming Product accepted by Buyer, Seller will, upon written proof thereof, and provided that such written proof is received within ten (10) calendar days of delivery, replace the nonconforming Product or, at Seller's option, refund the purchase price.
- 7.4** Warranty Disclaimer: EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, BUYER AND SELLER AGREE THAT ALL WARRANTIES IN RESPECT OF QUALITY, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY OF THE PRODUCT, WHETHER EXPRESS OR IMPLIED (INCLUDING WARRANTIES IMPOSED BY STATUTE) ARE HEREBY EXCLUDED AND DISCLAIMED BY SELLER.
- 7.5** Seller Indemnification: Seller shall indemnify and save harmless Buyer from and against any and all losses, costs, damages, liabilities and expenses (including legal fees) which Losses are on account of injury or death of persons (including employees of Buyer and Seller) and/or damage to property directly caused by or attributable to Product or to its transportation, carriage, handling, care, storage, resale, consumption or use prior to delivery hereunder at the Delivery Point, other than Losses caused by the negligence or wilful misconduct of Buyer or its affiliates; provided that where such loss, cost, damage, liability, expense, injury, and/or death is the result of the joint negligence or misconduct of the Parties, or their respective affiliates, the Parties expressly agree to indemnify each other in the proportion to their respective share of such joint negligence or misconduct. Seller shall, on demand by Buyer, furnish an indemnity bond satisfactory to Buyer in the event of any claim being asserted against Buyer in connection with a breach of Seller's representation in Section 7.1.2.
- 7.6** Buyer Indemnification: Buyer shall indemnify and save harmless Seller from and against any Losses on account of injury or death of persons (including employees of Buyer and Seller) and/or damage to property directly caused by or attributable to Product or to its transportation, carriage, handling, care, storage, resale, consumption or use at and after delivery hereunder at the Delivery Point, other than Losses caused by the negligence or wilful misconduct of Seller or its affiliates; provided that where such loss, cost, damage, liability, expense, injury, and/or death is the result of the joint negligence or misconduct of the Parties or their respective affiliates, the Parties expressly agree to indemnify each other in the proportion to their respective share of such joint negligence or misconduct.
- 7.7** LIMITATION OF LIABILITY: NOTWITHSTANDING ANYTHING ELSE IN THESE GTCS AND EXCEPT FOR THIRD PARTY CLAIMS, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR PROSPECTIVE PROFITS OR SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECULATIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF VALUE, LOSS OF PRODUCTION, LOSS OF FINANCIAL ADVANTAGE, LOSS OF PROFIT, OR BUSINESS INTERRUPTIONS), HOWEVER SAME MAY BE CAUSED, BUT SHALL BE LIMITED TO ACTUAL DAMAGES ONLY.
- 7.8** Subrogation: To the extent payment is made by an indemnifying party at any time pursuant to this Agreement, an indemnifying party shall be subrogated to the indemnified party's rights and may receive an assignment of rights of recovery for a loss or cost.

## **8.0 COMPLIANCE WITH LAWS, RULES, REGULATIONS AND ORDERS**

- 8.1** Applicability: This Agreement shall be subject to all Laws and Regulations.
- 8.2** Compliance, Generally: The Parties agree to comply with all Laws and Regulations.
- 8.3** Export Compliance: Buyer is responsible for complying with all U.S./Canadian export requirements, fulfilling all licensing requirements, filing through the Automated Export System ("**AES**") and complying with the export requirements of other participating agencies. Seller shall supply necessary

information to Buyer to enable Buyer or its authorized agent to complete all necessary export documentation, including AES, commercial invoice and pro forma invoice documentation and packing lists. Buyer will not export, re-export, transship, divert or resell Product under this Agreement in violation of U.S./Canadian export Laws and Regulations. The Parties acknowledge that any willful or negligent conduct resulting in a violation of U.S./Canadian export Laws and Regulations may be sanctionable under applicable criminal and civil laws.

**8.4** Import Compliance: The importer of record shall be responsible for compliance with all Laws and Regulations. Both Parties shall exercise commercially reasonable efforts to provide supporting documentation.

## **9.0 SAFE HANDLING AND ODORIZATION**

**9.1** Acknowledgement of Buyer regarding Product: Buyer acknowledges and agrees that Seller has provided to Buyer its current MSDS and Buyer is aware that the Product is a hazardous material and warrants that it is familiar with the properties of and safe handling procedures for the storage, handling, transportation and use of the Product.

**9.2** Acknowledgement of Buyer regarding Propane: Buyer acknowledges and agrees that:

**9.2.1** Buyer knows that the effectiveness of ethyl mercaptan as an odorant for propane may be limited because, for example, chemical reactions, such as oxidation, adsorption or absorption may cause the odor to fade or disappear over time, the odor may be masked by the presence of other odors, people vary in their ability to recognize odors, and propane is heavier than air. Buyer also knows that other odorants exist, but does not want an alternate or additional odorant to be used in propane sold hereunder.

**9.2.2** Buyer understands the properties of odorized propane and the methods for safely using and handling odorized propane, and agrees that Seller is not responsible for ensuring that propane remains properly odorized after its delivery to Buyer.

**9.2.3** Buyer will provide adequate information and warnings about odorant limitations and the safe handling and use of odorized propane to Buyer's employees, agents, contractors and customers, and will require them to further communicate, as is commercially reasonable, the information and warnings to all persons that they may reasonably foresee will be exposed to, handle, or consume propane. The information and warnings will include, among other things, up-to-date versions of propane and odorant safety and warning materials prepared by the National Propane Gas Association (or its equivalent or successor entity), information about the availability of propane gas detectors, and the information contained in the MSDS.

**9.3** Odorized Propane: Unless otherwise provided, all propane sold hereunder shall be stench/odorized to meet minimum odour standards on the date of delivery as set out by the applicable agency or regulatory body. Seller shall have no further responsibility to monitor the propane or to take any other action after delivery thereof to Buyer to ensure that said propane remains properly odorized after delivery to the Buyer, except where Seller failed to properly odorize/stench the propane. Seller does not warrant the level of odorization at the Delivery Point if it is downstream of the loading facility. Further, Seller assumes no responsibility or liability, with respect to odorization or handling of Product delivered hereunder that has been produced at a plant or facility not owned or operated by Seller. Buyer shall either monitor or maintain the odorant at or above proper levels as required by Laws and Regulations or notify its buyer(s) of the odorant fade risk.

**9.4** Unodorized Propane: If unodorized propane is to be delivered hereunder, then Buyer represents and warrants to Seller that Buyer will not use such propane for fuel or knowingly resell it for fuel without adding an odorizing agent.

**9.5** Compliance: Both Parties shall maintain compliance with all safety and health related governmental requirements concerning Product.

## **10.0 FORCE MAJEURE**

**10.1** Force Majeure Events: "Force Majeure" means an event, whether foreseeable or unforeseeable, and beyond the reasonable control of a Party hereto and which, by the exercise of due diligence, could not have been prevented or overcome by that Party, and shall include without limitation:

- 10.1.1 lightning, earthquakes, fires, storms, floods, landslides, washouts, perils of the sea, and other Acts of God;
- 10.1.2 strikes, lockouts, picketing, differences with workers, and other industrial disturbances;
- 10.1.3 acts of public enemies, acts of terrorism, sabotage, arrests and restraints, war, riot, insurrections, blockades, interferences of civil and military authority, or other civil disturbances;
- 10.1.4 government, regulatory, administrative, or judicial actions, restraints, decisions and orders or changes in Laws and Regulations;
- 10.1.5 interruption, shut-downs, breakage or accident to machinery or lines of pipe or process units, breakdown of transportation facilities, pipeline rupture, stoppage or pro-rationing of transportation service by third party transporters only in the event such transporter is claiming an event of Force Majeure under the applicable transportation agreement;
- 10.1.6 fires, explosions, obstructions of, freezing, breakage of or accidents to Product production, gathering or processing facilities.

**10.2** Exceptions to Force Majeure: Force Majeure shall not include:

- 10.2.1 any events caused by lack of finances of the Party claiming the event of Force Majeure;
- 10.2.2 any events caused by the gross negligence of the Party claiming Force Majeure;
- 10.2.3 the availability of a more attractive market;
- 10.2.4 inefficiencies in operations;
- 10.2.5 currency fluctuations, changes in interest rates or banking charges;
- 10.2.6 a loss of Seller's supply of Product, except as provided in Section 10.1; and
- 10.2.7 lack of economically recoverable reserves or changes in drilling or development plans.

**10.3** Effect of Force Majeure:

- 10.3.1 The performance of the obligations of a Party hereto, except as to payment due hereunder (including payment for quantities delivered prior to an event of Force Majeure), may be delayed or suspended at any time while, but only so long as, such Party is hindered in or prevented from performance by Force Majeure.
- 10.3.2 A Party will not be entitled to rely on these Force Majeure provisions unless prompt notice is given to the other Party specifying the cause of the delay or non-performance and unless that Party attempts to rectify such cause as soon as possible.
- 10.3.3 Notwithstanding the foregoing, nothing contained herein shall relieve Buyer of any of its obligations to make payments to Seller under the Agreement by the due dates for payment.

**11.0** **TERM AND TERMINATION**

**11.1** Initial Term: This Agreement shall commence as of the first day of the Initial Term and continue through the last day of the Initial Term unless otherwise terminated pursuant to the provision of this Agreement.

**11.2** Month-to-Month Term: Unless a particular term is specified in the Specific Provisions, this Agreement shall continue on a monthly basis until terminated by either Party delivering to the other thirty (30) days advance written notice of termination prior to the beginning of the month in which the Agreement is to terminate.

**12.0** **SUSPENSION, DEFAULT AND TERMINATION**

**12.1** Seller Suspension of Deliveries and Termination of Agreement: Subject to Section 12.3, Seller may in addition to any other legal remedies it may have, either suspend deliveries under this Agreement or terminate this Agreement if:

- 12.1.1 Buyer fails to take delivery of Product in accordance with the provisions of this Agreement and such failure is not excused by any other provision of this Agreement;
- 12.1.2 A petition is filed with a court having jurisdiction or an order is made or an effective resolution is passed for the dissolution, liquidation or winding up of Buyer or its parent entity;
- 12.1.3 Buyer or its parent entity becomes insolvent or is adjudged bankrupt or makes an assignment for the benefit of its creditors or does not pay or is in Seller's reasonable opinion expected to be unable or unwilling to pay its debts as the same become due;
- 12.1.4 A receiver is appointed or an encumbrancer takes possession of the whole or a significant part of the assets or undertaking of Buyer or its parent entity;



- 12.1.5 Buyer fails to pay when due any amount payable to Seller hereunder;
- 12.1.6 Buyer defaults in the performance of any of its other material obligations under this Agreement;
- 12.1.7 Buyer or its parent entity ceases or threatens to cease to carry on its business or a major part thereof, or a distress, execution or other process is levied or enforced or sued out upon or against any significant part of the property of Buyer or its parent entity, and is not discharged within fourteen (14) calendar days; or
- 12.1.8 Buyer institutes or has instituted against it, a proceeding under any bankruptcy or insolvency law or other similar law affecting creditors' rights, including without limitation, the *Bankruptcy and Insolvency Act* (Canada), the *United States Bankruptcy Code* and the *Companies' Creditors Arrangement Act* (Canada); and, in the case of any such proceeding instituted against it, such proceeding is not dismissed, discharged or stayed within thirty days of the institution thereof;

If, pursuant to the provisions of this Section 12.1, Seller withholds, reduces or suspends deliveries of Product, then Seller shall be under no obligation to make up any quantity of Product that would have been delivered to Buyer without such withholding, reduction or suspension.

- 12.2 Buyer Suspension of Receipt and Termination of Agreement: Subject to Section 12.3, Buyer may, in addition to any other legal remedies it may have, upon giving written notice to Seller terminate this Agreement if:

- 12.2.1 Seller fails to pay when due any amounts payable to Buyer hereunder;
- 12.2.2 A petition is filed with a court having jurisdiction or an order is made or an effective resolution is passed for the dissolution, liquidation or winding up of Seller or its parent entity;
- 12.2.3 Seller or its parent entity becomes insolvent or is adjudged bankrupt or makes an assignment for the benefit of its creditors or does not pay or is in Buyer's reasonable opinion expected to be unable or unwilling to pay its debts as the same become due;
- 12.2.4 Seller defaults in the performance of any of its material obligations under this Agreement;
- 12.2.5 Seller or its parent entity ceases or threatens to cease to carry on its business or a major part thereof, or a distress, execution or other process is levied or enforced or sued out upon or against any significant part of the property of Seller or its parent entity, and is not discharged within fourteen (14) calendar days; or
- 12.2.6 Seller institutes or has instituted against it, a proceeding under any bankruptcy or insolvency law or other similar law affecting creditors' rights, including without limitation, the *Bankruptcy and Insolvency Act* (Canada), the *United States Bankruptcy Code* and the *Companies' Creditors Arrangement Act* Canada; and, in the case of any such proceeding instituted against it, such proceeding is not dismissed, discharged or stayed within thirty days of the institution thereof.

- 12.3 Default: If an event occurs under Sections 12.1.1, 12.1.5 or 12.1.6, 12.2.1 or 12.2.4 (the Party in respect of which the event occurs being the "**Defaulting Party**"), the non-Defaulting Party shall as soon as reasonably possible after discovery of the breach/default, and before pursuing any remedy, give written notice via personal delivery or via a nationally recognized overnight delivery service of the breach/default to the Defaulting Party at the address set forth in the Specific Provisions (the "**Default Notice**"). If personally delivered, the Default Notice shall be deemed to have been received on the day of delivery. When sent by overnight delivery service, the Default Notice shall be deemed to have been received on the next business day after deposit with such overnight delivery service. The Default Notice shall include the following with specificity: the breach/default and a manner in which the defaulting party may cure the breach.

12.3.1 Right to Cure/Remedy: In the event of any failure to pay any amount when due, or the failure to provide financial assurances in accordance with Section 6.6, the Defaulting Party shall have five (5) Business Days after receiving the Default Notice to remit payment to the other Party. In the event of any other default or breach specified above in this Section 12.3, the Defaulting Party shall have twenty (20) Business Days after receiving the Default Notice to cure/remedy the specified breach.

12.3.2 Failure to Cure/Remedy: If the specified breach is not remedied or if substantive action has not been commenced to remedy such breach/default (which action is not thereafter diligently pursued until remedied) within the time period specified in Section 12.3.1 above, the non-Defaulting Party may proceed with one or more of the following options:

- 12.3.2.1 immediately suspend delivery/receipt of the Product or terminate this Agreement

**12.3.2.2** file and pursue an action, suit or other court proceeding against the Defaulting Party for damages; or

**12.3.2.3** seek any other appropriate or applicable remedies available at law or in equity.

**12.4** Setoff/Counterclaims: For purposes of this Agreement, in the event a Party is in default or breach, the non-defaulting Party shall retain its rights under this Agreement including any rights of setoff or counterclaim.

**12.5** Multiple Defaults/Breaches: In the case of a breach by both Parties, the right to cure shall apply regardless as to which party was first to default or breach.

**12.6** Miscellaneous: Any termination of this Agreement shall be without prejudice to the rights and obligations of each Party as accrued at the date of termination.

### **13.0 INSPECTION**

Buyer reserves the right to refuse any delivered Product that does not meet the specifications described within the Specific Provisions and Seller shall be responsible for any and all fees associated with the storage and transportation of such non-conforming Product.

### **14.0 ASSIGNMENT**

Neither Party shall assign this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, both Parties may assign this Agreement without the prior written consent of the other Party if such assignment is to an affiliate of such Party provided that, the assigning Party shall not be relieved of its obligations hereunder until such Party has given notice of such assignment to the other Party. Subject thereto, this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns.

### **15.0 TIMING**

Time is of the essence in this Agreement.

### **16.0 GOVERNING LAW AND JURISDICTION**

Laws of Alberta: This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta without regard to any conflict of laws provisions. Each of the Parties hereto irrevocably and unconditionally consents to submit to the exclusive jurisdiction of the courts located in Alberta, Canada for any actions, suits or proceedings arising out of or relating to this Agreement and the transactions contemplated hereby and further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in such court has been brought in an inconvenient forum. Nothing in this Agreement shall be deemed or operate to preclude the Parties from bringing suit or taking other legal action in any other jurisdiction to realize on property or to enforce a judgment or other court order of the Alberta courts as permitted by Laws and Regulations. Each Party shall do and perform all such acts and things and execute and deliver all such assurances as may be necessary to give full effect to this Agreement.

### **17.0 ENTIRE AGREEMENT; AMENDMENT; WAIVER**

The Parties agree that this Agreement and all annexes, exhibits, and schedules hereto shall constitute the entire agreement between the Parties with respect to the transactions contemplated hereby. Any and all previous agreements and understandings between or among the Parties regarding the transactions contemplated hereby, whether written or oral, are superseded by this Agreement. Any waiver of any provisions of this Agreement must be in writing and signed by an officer or authorized representative of the waiving party in order to be effective and enforceable; no purported oral waiver or amendment of any requirements and/or provisions of this Agreement shall be effective or enforceable; and no waiver or amendment of any requirements and/or provisions of this Agreement based on course of conduct, course of dealing, or course of performance shall be effective or enforceable. Any amendment of any provision of this Agreement must be in writing and signed by an authorized representative of each of the parties in order to be effective. This Agreement constitutes the entire agreement and understanding of the Parties with respect to the specific subject matter and term hereof.

**18.0 HEADINGS**

The headings shown for each section in this Agreement are general descriptions only and not for limitation or alteration of the contents of this Agreement in any way.

**19.0 SEVERABILITY**

If any provision of this Agreement or the application of any such provision shall be held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof or any subsequent application of such provision. In lieu of any such invalid, illegal or unenforceable provision, the Parties hereto intend that there shall be added, as part of this Agreement, a provision as similar in terms to such invalid, illegal or unenforceable provision as may be possible and valid, legal and enforceable.

**20.0 CONFIDENTIALITY**

Except as may be necessary to enforce their respective rights under this Agreement, as otherwise may be necessary to respond in any legal proceeding (including any deposition, interrogatory, subpoena, or civil investigative demand), or to comply with the Laws and Regulations of any governmental authority or similar administrative or regulatory authority, or as otherwise provided in this Agreement, neither Party will disclose to any third party, other than the Party's general partner, parents, and affiliates or its and their respective officers, directors, employees, agents, lenders, auditors and legal advisors, or any prospective purchaser of a Party's interest in this Agreement or all or substantially all of its assets, the terms and conditions of this Agreement. The confidentiality obligations of the parties will survive the expiration or termination of this Agreement for a period of two (2) years.

**21.0 NOTICE**

**21.1** Notice: Except for Default Notices which shall be governed by Section 12.3 hereof, any notice, consent or other communication required or permitted to be given hereunder shall be in writing and shall be given to such Party at its address or facsimile number set forth in the Specific Provisions, or such other address or facsimile number or email as such Party may hereafter specify for the purpose by notice to the other Party, and shall be deemed given when delivered personally or sent by confirmed facsimile or email or overnight mail service, postage prepaid.

**21.2** Notice for Legal Proceedings to Plains: With respect to Plains, if notice is required for legal proceedings, in addition to the correspondence as directed by this Section, a copy shall also be required to be sent to the following by personal delivery or certified mail, return receipt requested, or by email to:

Plains Midstream Canada ULC  
 Attention: Legal Counsel  
 1400 – 607 8 Avenue SW  
 Calgary, Alberta T2P 0A7  
 Email: [notices@plainsmidstream.com](mailto:notices@plainsmidstream.com)

**22.0 AUDIT**

At any time up to (but not after) twelve (12) months following a month in which payment was due hereunder, either Party shall have the one time right, at its sole cost and expense, upon forty-five (45) days prior written notice, to have a third party auditor (subject to both Parties' approval and acting in a commercially reasonable manner), audit on that Party's behalf the relevant non-proprietary and readily accessible books, accounts, and records directly related to any invoice or payment of the other Party in order to verify the accuracy of such invoice.

The auditor shall only be permitted to disclose the actual accurate amounts of any such invoice or payment and all other information that an auditor acquires shall be kept strictly confidential. An auditor may be required to enter into a confidentiality agreement if it is deemed necessary by the Party being audited. Under no circumstances may an auditor disclose third-party information, including, but not limited to third-party customer identities and third-party pricing information, to the Party exercising its right for an audit without the written permission of the Party being audited. The Party being audited will have sole discretion whether to permit such disclosure.

Within ninety (90) days of an audit commencing, audit findings, even if not finalized must be communicated in writing to the Party being audited. Within one-hundred and eighty (180) days of an audit commencing, all final audit findings must be presented to the Party being audited. If the auditor determines that the true amount of any invoice or payment being audited is different than the amount of the invoice delivered, or payment made, by a Party, such invoice or payment shall be adjusted to reflect the true amount. Notwithstanding the foregoing, any claim not filed with the appropriate court of law within twenty four (24) months of the date of the invoice or payment in question shall be waived.

### **23.0 CLAIMS**

Except with respect to quantity claims subject to Sections 4.6 and 4.7 of these GTCs all other claims brought in connection with this Agreement shall be submitted in writing by the claiming Party to the other Party within the later of twelve (12) months of the date of transfer of custody of the Product from Seller to Buyer or upon completion of the Audit.

### **24.0 DRAWBACK**

Seller shall have all right and title to any duty drawback refund unless otherwise agreed to by the Parties. Buyer hereby agrees to cooperate with Seller to produce any reasonable documentation needed for the filing of any drawback claim.

### **25.0 INSURANCE**

Both Parties to this Agreement agree to procure and maintain or cause its agents, contractors and their subcontractors, including, without limitation, trucking agents, contractors and subcontractors, to procure and maintain insurance coverage in compliance with the requirements of the Laws and Regulations of the state or province in which delivery of the Product will occur with respect to the receipt of Product hereunder and/or any activities related thereto. Both Parties acknowledge and agree that neither Party is insuring the Product or property of the other Party; further the insurance required by the preceding sentence, if any, and deductibles associated therewith, shall be carried and paid, as applicable, by each Party as applicable and at its own expense.

### **26.0 PROHIBITED GOVERNMENT LISTS**

The Parties declare that neither they nor any authorized agents, customers or other parties receiving benefit under this Agreement are on any denied entity, unverified, debarred, non-proliferation, specially designated nationals or other restricted lists of the United States Department of Commerce (Bureau of Industry and Security), State Department, Department of Treasury or other entity lists.