

TERMINAL THROUGHPUT AGREEMENT

Entered into between



ROYALE ENERGY TERMINALS

(PROPRIETARY) LIMITED

(Registration No. 2005/000802/07)

("Royale Terminals")

And

(Registration No.)

(and/or "tenant")

1. PARTIES

This agreement is entered into by and between:

- 1.1 Royale Energy Terminals (Pty) Ltd, a company incorporated and existing under the laws of the Republic of South Africa having its principal place of business at Unit A, First Floor, Corobay Corner Building, Corner of Aramist and Corobay Avenues, Waterkloof Glen, Pretoria; and
- 1.2 _____, a company incorporated and existing under the laws of the Republic of South Africa having its principal place of business at _____.

2. DEFINITIONS

- 2.1 “Adverse consequences” means all adverse consequences of whatever description including, but not limited to, all actions, applications, suits, proceedings, hearings, investigations, charges, complaints, claims, demands, interdicts, judgements, orders, decrees, directives, rulings, damages, dues, penalties, fines, costs, reasonable amounts paid in settlement, liabilities, environmental liabilities, obligations, tax, duties, levies, liens, losses, compensation (including compensation paid or payable to any of the employees), expenses and fees, including reasonable fees and expenses of attorneys, counsel, accountants, consultants and experts;
- 2.2 “Affiliate” means with respect to a Party, any corporate entity with legal personality that controls, is controlled by, or is under common control with such Party. An entity will be regarded as being in control of another entity if it owns, directly or indirectly, or is entitled to exercise, directly or indirectly, the votes attaching to at least 50 % (fifty percent) of the equity share capital of the other entity, or if it possesses, directly or indirectly, the power to determine the composition of the majority of the board of directors of the other entity;
- 2.3 “Agreement” means this agreement and any annexure hereto;
- 2.4 “Anti-Bribery Laws” means (i) the “local law” e.g. South African Prevention and Combating of Corrupt Activities Act, 12 of 2004, (ii) the U.S. Foreign Corrupt Practices Act 1977, (iii) the UK Bribery Act 2010, (iv) other public and commercial anti-bribery laws which may apply and (v) international anti-corruption treaties such as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the United Nations Convention against Corruption;
- 2.5 “Applicable Law(s)” means:

- 2.5.1 any statute, regulation, notice, policy, directive, or subordinate legislation (laws, treaties, multi-national conventions and the like having the force of law),
 - 2.5.2 the common law;
 - 2.5.3 any binding court order, judgement or ruling;
 - 2.5.4 any applicable industry code or standard enforceable by law;
 - 2.5.5 any approval, authorisation, permit, certificate, permission issued by any regulator, competent authority or organ of state, or
 - 2.5.6 any applicable direction or order that is given by any regulator, competent authority or organ of state or industry body including SHE Law, to the extent that it applies to the Agreement;
- 2.6 “BFP” means the basic fuel price, which is the official formula, prescribed and used by the South African Government to determine the prices of regulated Petroleum products sold in the South African market. The BFP formula is as described in the document “Working Rules to Administer the Basic Fuels Price Methodology Effective Date: 2 March 2003 (Revised on 28 October 2005)” as further revised in January 2009, as published on the DOE website and as may be amended by DOE from time to time (“the Working Rules”);
- 2.7 “Business Day” means any day other than a Saturday, Sunday or Public Holiday officially gazetted as such in the Republic of South Africa;
- 2.8 “CEF” means CEF (Pty) Limited which is the Government regulator responsible for the monitoring and implementation of product price adjustments for controlled petroleum products;
- 2.9 “Charge” means the fee/amount charged by the Host to the tenant for services to be provided by the host as set out in Appendix (Storage and Handling charges) hereto;
- 2.10 “Competition Act” means the Competition Act No. 89 of 1998, or as amended from time to time;
- 2.11 “Customs and Excise Act”: means the Customs and Excise Act, No. 91 of 1964, as amended from time to time;
- 2.12 "Depot" means the depots owned or leased by either Party from time to time at which the Services are provided from time to time pursuant to this Agreement;
- 2.13 “Depot Manager” means the person nominated by the Party to manage the operation of the Depot;
- 2.14 “EDI” means Electronic Data Interchange;
- 2.15 “Effective Date” means _____, notwithstanding the Signature Date;
- 2.16 “Entitlement Balance” means the quantity of product that a Host or a Tenant has entitlement to at a Depot, where the aggregate of the Entitlement Balances for all companies is equivalent to the physical volume in the tank;

- 2.17 "Force Majeure" has the meaning given to that term in clause 26;
- 2.18 "Goods" means the goods, substances, products and items (including Hazardous Goods regulated by the Applicable Law(s)) or as otherwise indicated on the applicable Data Sheet which shall be stored and handled on the Location;
- 2.19 "Hazardous Goods" means that the Goods which could pose a danger, health, environmental or safety risk;
- 2.20 "Host" means the Party operating the Depot;
- 2.21 "HSSE standards" means Health, Safety, Security and Environment standards;
- 2.22 "Incident" means an event or chain of events, which directly causes, or within a reasonably short time from the occurrence thereof, may cause injury and/or illness and/or loss and/or damage to any person, any property and/or the environment, including any spillage and/or contamination of the products;
- 2.23 "Klerksdorp Depot" means the bulk storage and supply facility owned and operated by the host at 2 – 4 Mahogany Street, Klerksdorp industrial, from which premises the services are to be provided;
- 2.24 "Langlaagte Depot" means the bulk storage and supply facility owned and operated by the host at the corner of Maraisburg Road and Kelvin Street, Industria, Johannesburg, from which premises the services are to be provided;
- 2.25 "Month" means a calendar month;
Month M-2 shall be two months prior to delivery month M
Month M-1 shall be one month prior to delivery month M

Month M shall be the delivery month,

Month M+1 shall be the immediate next month after Month M.
Month M+2 shall be the immediate next month after Month M+1
Month M+3 shall be the immediate next month after Month M+2.
- 2.26 "Non-performing Party" has the meaning given to that term in Force Majeure clause below;
- 2.27 "Oilstar" means the system which Royale Energy Terminals has selected through which it will engage with its South African based suppliers through electronic document interchange;
- 2.28 "Operating Requirements" means the Hosts' standard operational procedures and processes relating to the handling of Product at a Depot from time to time, as advised by the Parties to each other in writing from time to time;
- 2.29 "Party" means either Tenant or Host, as the context may indicate and "Parties" mean the Tenant and the host collectively;
- 2.30 "Price" means the price set out in annexure 1 annexed hereto;

- 2.31 "Prime Rate" means the publicly quoted prime rate of interest of ABSA Bank, per annum, compounded Monthly in arrear and prima facie proven, in the event of there being a dispute in relation thereto and in the absence of manifest error, by a certificate by any general manager of ABSA Bank (whose qualification or authority need not be proven) or, in the absence of the prime rate of interest of ABSA Bank, the publicly quoted prime rate of interest of the largest domestic bank by market capitalization (excluding ABSA Bank) in South Africa
- 2.32 "Product" means the petroleum products stored at a Depot from time to time;
- 2.33 "PoD" means the documentation confirming proof of delivery of product to a Depot bearing the signature of the Host to receive the Product, or confirming receipt of product from a Depot bearing the signature of the Tenant, save in respect of deliveries of Product ex rail tank cars where the PoD shall be in the form of an Intac rail document bearing the description of the Product and the rail tank car number with a freight rail seal impressed on it;
- 2.34 "Royale Energy" means Royale Energy (Proprietary) Limited (Registration No. 2003/011910/07) of Suite 1003-A, 1st Floor, Corobay Corner Building, Corner of Corobay and Aramist Streets, Waterkloof Glen, Pretoria.
- 2.35 "Services" means the provision for replenishment, storage, and uplift of Product by a Tenant;
- 2.36 "Signature Date" means the date of signature of this Agreement by the last Party signing; and
- 2.37 "SHE Requirements" means any specific requirements, as may be specified by Royale Energy Terminals, from time to time, including specific requirements in relation to safety, health, environment, security, emergency response and incident management. It includes relevant site access, security and other Safety, Health and Environmental ("SHE") procedures / requirements/ standards to the extent that Work is performed at a Location;
- 2.38 "VAT" means value-added tax levied in terms of the Value-Added Tax Act, No. 89 of 1991.
- 2.39 "Work" means the storage, handling and distribution of Goods in accordance with this agreement;
- 2.39.1 "Confidential Information" means any confidential information, documentation or data of whatever nature relating to a Party or its subsidiaries which may have been or which may be obtained by or disclosed to the other Party during the course of its relationship with such Party, whether in writing, in electronic form or pursuant to discussions, including without limitation:
- trade secrets, know-how, marketing and advertising strategies, strategic objectives, planning or ideas, research, business

activities, business relationships, products or proposed products, proposals, pricing details, strategies, customer and client details, schematics, software, computer programmes and technology, operating procedures and methodologies, designs, drawings, functional and technical requirements and specifications and any other technical, business, financial or market information or any other information which may reasonably be regarded as being confidential and of a proprietary nature to such Party or any of its subsidiaries or holding companies and;

3. INTERPRETATION

- 3.1 Words importing the singular shall include the plural and vice versa, and words importing the masculine gender shall include female and neuter genders and words importing persons shall include partnerships and bodies corporate.
- 3.2 Use of the word “including” followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the eiusdem generis rule shall not be applied in the interpretation of such general wording or such specific example/s.
- 3.3 The head notes to the clauses in this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 3.4 This Agreement shall be binding on and enforceable by the administrators, permitted assigns or liquidators of the Parties as fully and effectually as if they had signed this Agreement in the first instance and reference to any Party shall be deemed to include such Party's administrators, permitted assigns or liquidators, as the case may be.
- 3.5 If any provision in clause 1 is a substantive provision conferring rights or imposing obligations on any Party, then notwithstanding that such provision is contained in such clauses, effect shall be given thereto as if such provision were a substantive provision in the body of this Agreement.
- 3.6 Where any term is defined within the context of any particular clause in this Agreement, the term so defined shall, unless it appears clearly from the clause in question that such term has limited application to the relevant clause, bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that such term has not been defined in this clause 1.
- 3.7 When any number of days (including Business Days) is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day.

- 3.8 Should the day for the performance of any payment obligation in terms of this Agreement fall on a day, which is not a Business Day, then such obligation shall be performed on the next day, which is a Business Day.
- 3.9 Save where clearly indicated to the contrary, expressions defined in this Agreement shall bear the same meanings in any schedule and/or annexure hereto unless such schedule and/or annexure contains an alternative definition for the expression.
- 3.10 The rule of interpretation that an agreement will be interpreted against the Party responsible for the drafting thereof, and any similar rules of interpretation, shall not apply to this Agreement and the Parties waive any rights they have to rely on such rules.
- 3.11 Any reference to any statute, regulation or other legislation shall be a reference to that statute, regulation or other legislation as at the Effective Date, and as amended or substituted from time to time.

4. RECORDAL

Royale Terminals and _____ agree to enter into this Agreement in order to specify the terms and conditions upon which infrastructure Depots operated by Royale Terminals may be used for replenishment, storage and uplift of bulk fuels by the Tenant.

5. DURATION

This Agreement shall commence on the Effective Date and shall endure indefinitely, provided that either Party may terminate this Agreement upon 2 (TWO) months written notice to the other Party and provided further that in respect of the provision of the work at any particular Depot pursuant to this Agreement. The Tenant may terminate the provision of the work on 3 (three) months written notice to such effect.

6. RELATIONSHIP OF THE PARTIES

The relationship of the Parties shall be governed by the terms of this Agreement and nothing contained herein shall be deemed to constitute a partnership between the Parties, or entitle or authorize either Party to incur liability on behalf of the other. The Parties shall be obliged to obtain competition law compliance training, on an annual basis, so as to ensure that the conduct of the Parties in terms of this Agreement complies with the Competition Act. Parties may come together at any other time to revise terms and definitions if prompted by industry market or regulatory changes.

7. HEALTH SAFETY SECURITY AND ENVIRONMENT

7.1 STANDARDS

The HSSE standards of the Host will be the applicable standard in respect of each Depot, save where the prevailing industry norm is higher, in which case the same will instead be complied with and be preferred and the Host shall make available to the Tenant the relevant HSSE standards.

The Host shall be entitled at its sole discretion to amend and vary the HSSE standards from time to time. In the event that there are any amendments to or variations of the Host's HSSE standards, the Host shall notify the Tenant in writing of such amendment and/or variation and such amendment and/or variation will be available to the Tenant.

In addition, the Parties will adhere to the HSSE standards set out below. Should there be a conflict between any of the HSSE standards of the Host and the HSSE standards set out in this clause, the standards set out below shall prevail.

7.2 VEHICLES

The Tenant shall ensure that all its vehicles are compliant with the HSSE standards in terms of the safe loading pass and in the event that it is not so compliant, the Host shall be entitled to prohibit entry of such vehicle at the Depot. The Party appointing a third party contractor shall ensure that the aforesaid contractor attends regular meetings and workshops in relation to the management and operation of the Depot and HSSE standards, and shall ensure that the third party adheres to the HSSE standards.

7.3 DEPOT AND EQUIPMENT

The Host shall ensure that it will comply with all relevant legal requirements, local oil industry practice and its own HSSE standards.

7.4 OPERATIONS

The Host shall ensure that all operations carried out in fulfilling the handling of bulk fuels are in accordance with all applicable legislative requirements, codes, standards and procedures relating to HSSE or where there is no applicable legislation, its own HSSE standards and procedures.

7.5 PERSONNEL

The Host shall ensure that all its employees, the Tenant's employees, all contractor personnel and authorized agents are fully trained in the

HSSE aspects in regard to the usage of all Depots and equipment. The Host shall maintain records of training and competence and produce such records if required during an inspection or audit.

7.6 INCIDENT REPORTING

In accordance with the incident reporting procedures implemented by the Host at the Depot (as advised by the Host to the Tenant in writing from time to time), any incidents must be reported in the following time frames:

- Fatalities – immediately;
- Lost time injuries – within 24 hours;
- Medical treatment cases – within 24 hours; and
- Spillages – within 24 hours.

7.7 CONTAMINATION AND SPILLAGES

Clean-up costs and other liabilities resulting from the contamination of soil or ground water shall be borne by the Host, except where and to the extent that the contamination results from the wilful default or negligence of the Tenant or its authorized personnel or agents, in which case such cost or other liabilities will be the sole responsibility of the Tenant.

8. OBLIGATIONS OF ROYALE ENERGY TERMINALS

The host shall:

- 8.1 Be responsible for the management and operation of the Depot;
- 8.2 Test Product for quality, measure and receive Product into storage in the Depot;
- 8.3 take all due and reasonable precautions to prevent any Incident or the unauthorised removal of the Goods from the Location.
- 8.4 In the case of any Product stock-out (being an unavailability of Product to the Tenant to which the Tenant is entitled pursuant to the application of the Banking Principle) for a Tenant due to use of this Tenant's stock by the Host and not excused by the Force Majeure provisions of this Agreement, the Host shall be responsible for alternate sourcing of the affected Product and all related costs. Should the Host fail to source the affected Product, the Tenant will be entitled to procure the Product at its cost and recover direct incremental and reasonable costs from the Host on written request;
- 8.5 Be responsible to ensure that the Product does not deteriorate or become contaminated as a result of storage and handling of the Product by the Host;
- 8.6 Ensure that additive doping standards are met and that mandatory reporting takes place at the prescribed schedule;

- 8.7 After a formal handover process by the Tenant to the Host of the additive injection systems on completion of an agreed Management of Change, maintain and repair the additive injection systems in order to minimize downtime; and
- 8.8 No manual additive injection will be allowed.
- 8.9 The Host shall ensure that load rack meters at the Depots meet the requirements of the regulations framed under the Trade Metrology Act No 77 of 1973, as amended.
- 8.10 The Host shall ensure that when working with hazardous goods, that all reasonable precautions are taken before performing any work.

9. OBLIGATIONS OF TENANT

- 9.1 The Tenant shall in respect of each Depot at which it receives the provision of the Services:
 - 9.1.1 Install the additive injection system/s at the Depot at its cost, and follow a formal handover procedure;
 - 9.1.2 Ensure that all drivers and vehicles, either employed by the Tenant, its agents, sub-contractors or distributors comply with and are trained in the Host's Safe Working Procedures and Safe Loading requirements in respect of the Depot concerned applicable from time to time, as notified in writing by the Host to the Tenant from time to time;
 - 9.1.3 Ensure the safety and health of its employees utilizing the Depot and protection of the environment, including compliance with the statutory requirements imposed by, but not limited to, the Occupational Health and Safety Act No.85 of 1993; the Atmospheric Pollution Prevention Act No. 15 of 1973, the Environmental Conservation Act No. 73 of 1989, the National Environmental Management Act No. 107 of 1998, and all other applicable legislation, by-laws and regulations;
 - 9.1.4 Ensure to adhere to the SHE manual of the Host;
 - 9.1.5 Ensure that all of its vehicles and that of its agents, contractors and distributors together with the associated equipment meet all legislative requirements and the HSSE standards of the Host;
 - 9.1.6 Ensure that all drivers and vehicles, either employed by the Tenant, its agents, contractors or distributors are trained in accordance with the HSSE standards of the Host;
 - 9.1.7 Attend safety meetings and participate in emergency drills.
 - 9.1.8 The tenant will ensure that all vehicles collecting its product adheres to the rules and regulations and standards received from Royale Energy Terminals. These includes but are not limited to, permits and licenses.

10. OTHER OBLIGATIONS

10.1 Product quality control

10.1.1 Both Parties will have standard quality procedures at Depots.

10.1.2 If it is suspected that a Product is not to specification, the Host will provide a quality certificate for this product to the Tenant.

10.2 Additives

10.2.1 The Host will be responsible for:

10.2.1.1 The storage and handling of the Tenant's additives and, where applicable, this includes offloading drums;

10.2.1.2 Injecting the additives into the Products as per the Tenant's instructions;

10.2.1.3 Submitting a monthly spreadsheet showing the additive stocks and usage to the Tenant; and

10.2.1.4 Submitting doped fuel samples as required by the Tenant to the Tenant's laboratory at the Tenant's cost.

10.2.2 The tenant shall:

10.2.2.1 Ensure that sufficient additives are available at the Depot at all times;

10.2.2.2 Notify the Depot Owner in writing of the applicable dosage rates; and

10.2.2.3 Provide the Material Safety Data Sheets to the Depot Owner.

10.2.2.4 Notify the Depot Owner of any amendments or variations to Product specifications and the Material Safety Data Sheets within 14 (fourteen) days prior to such amendment or variation.

10.3 New Products

10.3.1 A Tenant introducing a Product not previously stored at a Depot shall only do so with the prior written approval of the Host and shall furthermore before so introducing such Product, provide full details in the form of Material Safety Data Sheets and other relevant documents where applicable in advance to the Host in order for the Host to comply with all legal obligations and other agreed HSSE procedures and codes of practice with particular attention to the Occupational Health and Safety Act No. 85 of 1993.

- 10.3.2 Both Parties agree that such new products are subject to a management of change process covering systems and business processes.

11. MAINTENANCE OF THE LOCATION

- 11.1 Should maintenance be affected at the depot, the tenant will be informed 5 days prior to such maintenance and be informed of the impact of uplifting its products.

12. CONFIDENTIAL INFORMATION

- 12.1 The Receiving Party undertakes not to use the Confidential Information for any purpose other than that for which it is disclosed;
- in accordance with the provisions of this Agreement;
 - and in accordance with applicable data privacy legislation, as amended from time to time.
- 12.1.1 Confidential Information will only be disclosed with the written consent of the Host.
- 12.1.2 The Receiving Party will keep all Confidential Information confidential, not disclose or use the Confidential Information without the prior written consent of the Host.

13. STORAGE AND HANDLING

- 13.1 The Host will store the product purchased by the tenant at the Langlaagte/Klerksdorp premises;
- 13.2 The Tenant shall make payment with regards to storage fees and handling fees as set out in annexure 1;
- 13.3 The tenant shall not exceed the maximum limit of storage which is an amount of ___ million litres.
- 13.4 This amount in 13.3 cannot be exceeded unless agreed to in writing.

14. BRIBERY AND CORRUPTION

- 14.1 Each Party represents that it is familiar with applicable Anti-Bribery Laws.
- 14.2 Each Party represents that the performance under this Agreement will be made in compliance with the Anti-Bribery Laws.
- 14.3 Neither Party shall make any unofficial payment made to a government employee to speed up an administrative process where the outcome is already pre-determined (facilitation payment) in the performance of its obligations in terms of this Agreement.

- 14.4 Each Party warrants that it and its Affiliates have not made, offered, or authorised and will not make, offer, or authorise with respect to the matters which are the subject of this Agreement, any payment, gift, promise or other advantage, whether directly or through any other person or entity, to or for the use or benefit of any officer or employee of the other Party or any Public Official or any political party or political party official or candidate for office, where such payment, gift, promise or advantage would violate the applicable Anti-Bribery Laws.
- 14.5 Each Party agrees to maintain adequate internal controls and to keep accurate and complete records that support the payments due and all transactions under this Agreement and grants the other Party, as may be necessary in order to assess compliance with this Agreement, the right to inspect all relevant books and records, including without limitation financial statements, general ledger, journals and registers, and all supporting business records of the transactions identified on such records relating to this Agreement.
- 14.6 Each Party represents that, to the best of its knowledge and belief, and save as disclosed to the other Party, neither it nor any of its personnel has been investigated (or is being investigated or is subject to a pending or threatened investigation) or is involved in an investigation (as a witness or suspect) in relation to any breach of the Anti-Bribery Laws by any law enforcement, regulatory or other governmental agency or any customer or supplier; or has admitted to; or been found by a court in any jurisdiction to have engaged in, any breach of the Anti-Bribery Laws, or been debarred from bidding for any contract or business; or are Public Officials or persons who might otherwise reasonably be considered likely to assert a corrupt or illegal influence on behalf of the company. Each Party agrees that if, at any time, it becomes aware that any of the representations set out at in this clause is no longer correct, it will notify the other Party of this immediately in writing.
- 14.7 Each Party agrees to notify the other Party immediately upon receipt of any solicitation, demand or other request for anything of value by or on behalf of any Public Official relating to the subject matter of this Agreement.
- 14.8 Each Party further covenants that should it be notified by another Party of its concerns that there has been a violation of an anti-bribery clause, it shall cooperate in good faith with that Party and its representatives in determining whether such violation has occurred, and shall respond promptly and in reasonable detail to any notice from that Party, and shall furnish documentary support for such response upon that Party's request.
- 14.9 Each Party may request that the other Party provide a certification to the effect that neither it nor any of its Affiliates, directors, officers,

agents or other representatives acting on its behalf in connection with the performance under this Agreement have engaged in any transaction or activity in violation of these anti-bribery clauses. Upon request a Party shall deliver such certification within 10 (ten) business days.

- 14.10 Each Party (the "Indemnifying Party") shall be liable for and shall indemnify, defend and hold the other (the "Indemnified Party") harmless to the maximum extent provided in law from and against any claims, losses, costs, fees, payment of interest, fines or other liabilities incurred in connection with or arising from the investigation of, or defence against, any litigation or other judicial, administrative, or other legal proceedings brought against the Indemnified Party by a regulator or governmental enforcement agency as a result of acts or omissions by the Indemnifying Party or its Affiliates, subcontractors or agents in violation of, or alleged to be in violation of, the Anti-Bribery Laws.
- 14.11 Any breach of, or failure to comply with, the provisions in this clause shall be deemed material and shall entitle the non-breaching Party to terminate this Agreement forthwith.
- 14.12 The indemnity contained in this clause shall survive the termination of this Agreement.
- 14.13 Unless otherwise provided for in this Agreement, no Party shall have the right to represent or make decisions on behalf of the other Party.
- 14.14 Unless otherwise provided for in this Agreement, no Party shall have the right to interact with Public Officials with respect to the matters which are the subject of this Agreement without the written consent of the other Party.

15. PRINCIPLES UNDER THE THROUGHPUT MODEL

- 15.1 The Host will operate all Storage and Handling activities at the Depot.
- 15.2 The Host and the Tenant may each replenish product into the Depot.
- 15.3 The Host and the Tenant may each uplift product from the Depot.
- 15.4 The Host and the Tenant will each retain Title to their respective product entitlements stored at the Depot.
- 15.5 The Tenant will assume responsibility for insurance risk for its own volume of product stored at the Depot.
- 15.6 The Host will be accountable for the full loss/gain at the Depot, as measured during the Stock Count cycle.
- 15.7 Storage & Handling charges must be billed based upon a schedule of Uplifts by the Tenant reported by the Host. The charges billed for Storage & Handling are set out in the Annexures.
- 15.8 Tenants will be obliged to have positive stocks at all Depots at all times to ensure availability of product at the Depot for uplifting of such product by Tenant at each Depot. This will also oblige the Host not to go

negative and use Tenant stock except by agreement as this may constrain the Tenant.

- 15.9 In the event that a Party requires Product to be uplifted in excess of its entitlement to such Product at the Depot, it is hereby agreed that in order to accommodate such requirements, the Party needing product shall do an in tank purchase. The in-tank purchase should be done upfront to prevent the Party from going negative. However, where in exceptional cases, a temporary negative position is permitted for operational reasons; this negative position should be corrected within three (3) days, and also before month-end close of accounts.
- 15.10 In the event that the Parties do not agree the Product Entitlement balance, or if there are any un-reconciled volumes or disputes, it will then be assumed that the entitlement balance per the Host ERP is the correct balance for product scheduling purposes.
- 15.11 Subject to the entitlement balance of the Tenant, the Host shall supply the Tenant's requirements of Products from the Depot.
- 15.12 In the event where a stock-out at a Depot occurs due to circumstances beyond the control of the Host or Tenant, or a Force Majeure event, the Host shall notify the Tenant of such stock-out as soon as reasonably possible.

16. PRODUCT RISK AND TRANSFER VOLUME

- 16.1 REPLENISHMENTS BY PIPELINE
 - 16.1.1 Where a Tenant replenishes by Pipeline, the Risk passes from the Tenant at the designated pipeline entry point.
 - 16.1.2 For product movements by Transnet Pipelines, the transfer volume will be the volume confirmed by the Transnet Pipelines docket showing the volume received at the inlet flange.

17. PRODUCT LOSSES

- 17.1 REPLENISHMENT LOSSES
 - All replenishment losses are borne by the Party responsible for arranging or contracting the replenishment transport.
- 17.2 STORAGE LOSSES
 - Tank storage losses and gains are for the Host account.
- 17.3 DELIVERY LOSSES
 - All delivery transport losses and gains are for the Party responsible for arranging or contracting the delivery transport.

18. STOCK ACCOUNTING

18.1 MEASUREMENT

- 18.1.1 All road gantry pick-ups will be at 20° C temperature
- 18.1.2 All metered sales in respect of Customer Own Collections will be processed at 20° C temperature.
- 18.1.3 All non-metered vehicles' (SPD) measurement procedures shall be based on vehicle compliance.
- 18.1.4 The gantry meters through which Product is supplied to the Tenant will be calibrated according to Trade Metrology Act, No 77 of 1973 or applicable SABS code.

18.2 STOCK RECONCILIATION

18.2.1 DAILY

The Host Party must provide an electronic data file and a pdf type report to the Tenant Party specifying the movements of the Tenant for day-1, for each Depot, detailing Product grade, volumes and Method of Transport. This report should be delivered by the Host to the Tenant by 12h00 on the day following the transactions. Transactions for the weekend should be included on the Monday report.

The Host must ensure that all picks up are recoded daily on the report, based on liftings at gantry. There must be accurate and timely recording of transactions for Tenant's account by the Host, and timely corrective actions taken on errant transactions when identified.

18.2.2 ANNUALLY

The annual sign-off for movements must be concluded in time for the Audit Review of both Parties.

19. THROUGHPUT MOVEMENTS

The Parties agree that in consideration for the Throughput Services, the Tenant shall pay the charges to the Host. These charges are Storage & Handling Charges as indicated in Annexure 1.

20. INVOICING

- 20.1 By the 5th (fifth) Business Day of each month, the Host shall issue to the Tenant a tax invoice in respect of the Buy/Sell transactions and Services rendered during the immediately preceding month.

- 20.2 Each Purchase/Sale transaction from the selling Party to the buying Party shall contain the following information:
 - 20.2.1 Depot name;
 - 20.2.2 Product volume, price, and applicable excise duties;
- 20.3 Each Throughput Movement invoice shall contain the following information:
 - 20.3.1 Depot name;
 - 20.3.2 Throughput Volume;
 - 20.3.3 The amount for the service rendered;
 - 20.3.4 The amount of value added tax owing in relation to such Services.

21. PAYMENTS TERMS

- 21.1 The Tenant shall pay the invoiced amounts due on the 7th day of month following the month of delivery.
- 21.2 All payments made by the Tenant to the Host in terms of this Agreement shall be made by electronic funds transfer, free of exchange, deduction or set-off into an account nominated by the Host.
- 21.3 In the event of any payment not being made on due date, the amount due and owing shall bear interest at Prime Rate and shall be calculated from the day that such amount is due until the date of payment.

22. AUDIT

- 22.1 **HOST AUDIT**

The Host will be responsible for auditing of their own Depots. Such audits should be in accordance with the respective Host company requirements, and should cover subjects including HSSE, product quality, procedures, vehicle inspections, and stock reconciliations.
- 22.2 **TENANT AUDIT**

The Host shall allow HSSE and Product Quality audits to be conducted by the Tenant from time to time. The Tenant's internal audit unit may inspect the Depot, and visit Depots accompanied by the Host's internal audit unit, or other such authorized personnel.
- 22.3 **DOCUMENT RETENTION**
 - 22.3.1 The Host agrees to retain all documentation for the duration as required by SARS.
 - 22.3.2 The documentation referred includes all documents where the Parties have replenished or uplifted product from/to the other Party's location, including:
 - 22.3.2.1 Product receipt documentation;

- 22.3.2.2 Product uplift documentation;
- 22.3.2.3 Customer proof of collection documentation;
and
- 22.3.2.4 Services rendered.

23. LIABILITY

23.1 PERFORMANCE

- 23.1.1 The liability of the Host to the Tenant in respect of the performance or non-performance of the Host's duties hereunder shall be limited to the performance or re-performance thereof together with a claim for damages but shall exclude an entitlement to terminate this Agreement other than pursuant to this agreement.
- 23.1.2 Save as may arise pursuant to a breach of an obligation imposed on either Party in terms of this Agreement, no Party shall have any claim for damages against the other pursuant to the terms of this Agreement. Neither Party shall have any liability to the other Party at any time for indirect losses, consequential damages and/or loss of profit and/or loss of market share.
- 23.1.3 Other liabilities relating to the Services and the implementation of this Agreement shall be borne as per the below clauses.

23.2 PROPERTY

- 23.2.1 A Party shall not be liable for any loss or damage to the property of the other Party except where such loss or damage results from the negligence or wilful default of the first-mentioned Party or its authorized personnel or agents.
- 23.2.2 Each Party shall assume responsibility for insurance for loss or damages to its own property and where jointly owned property exists, their portion of such property.

23.3 PERSONNEL

- 23.3.1 Liabilities in respect of claims arising as a result of death, injury or disease to personnel shall be borne:
 - 23.3.1.1 In the case of a Party's own employees or sub-contractors, by that Party; and
 - 23.3.1.2 In the case of other personnel, by the Host or alternatively equally by both Parties.

23.4 THIRD PARTY

Liabilities to any Third Party shall be borne by the Host, however, if the damage / injury is caused by Tenants vehicle or Tenants personnel inside the Depot property then this liability shall be borne by the Tenant.

24. FORCE MAJEURE

- 24.1 "Force Majeure" for the purposes of this Agreement means any event or condition (whether affecting a Party or any other person), which has prevented or delayed or will prevent or delay a Party from performing any obligation hereunder (except obligations to make payments when due, to which obligations in respect of Force Majeure shall not apply), in whole or in part, if such event or condition, and such prevention or delay, is beyond the reasonable control of the Party relying thereon as justification for not performing any such obligation (the "Non-Performing Party") and such event or condition, and such prevention or delay, could not have been prevented or overcome by exercise of reasonable care by the Non-Performing Party.
- 24.2 Such events or conditions shall, provided always that they meet the requirements set forth in this clause, include but shall not be limited to circumstances of the following kind:
- 24.2.1 Acts of government(s), acts of the public or foreign enemy, war declared or undeclared, hostilities (whether or not war has been declared), blockades, embargoes, military action, civil disturbances, public demonstrations, insurrection, riots, acts of terrorism, acts of sabotage, vandalism, aircraft crashes, chemical or biological contamination, nuclear incidents or similar occurrences;
- 24.2.2 Acts of God, landslides, lightning, earthquakes, fires, explosions, storms or storm warnings, floods, extreme weather conditions, washouts, epidemics or similar occurrences;
- 24.2.3 Strikes, boycotts, lockouts, and other similar industrial or labour disputes and disturbances; and
- 24.2.4 Inability to obtain the grant or renewal of any license or approval necessary for operation of the Refinery, the necessity for compliance with any court order, law, statute, ordinance or regulation promulgated by a governmental entity having jurisdiction.
- 24.3 If the Non-Performing Party is prevented, hindered or delayed from performing any of its obligations under this Agreement by reason of Force Majeure, the Non-Performing Party shall be relieved from performance of its obligations under this Agreement to the extent that the Non-Performing Party is unable to deliver or receive the agreed quantities of Products or to perform any of its other obligations under this Agreement. Such obligations of the Non-Performing Party and any corresponding or related obligations of the other Party shall be of no effect, without liability, for a period equal to the duration of the event or condition of Force Majeure, provided that the Non-Performing Party

shall notify the other Party of the nature, extent, effect and the likely duration of the circumstances constituting Force Majeure or expected to constitute Force Majeure as soon as reasonably possible. The non-performing Party will remain responsible for the payment of their account.

- 24.4 As soon as reasonably practical after the end of the event or condition of Force Majeure the Non-Performing Party shall notify the other Party in writing that the event or condition of Force Majeure has ended and shall resume performance of its obligations under this Agreement.
- 24.5 For the avoidance of doubt, neither Party shall be released from any of its obligations or liabilities under this Agreement arising prior to an event or condition of Force Majeure, and this Agreement shall remain in effect for the duration of the event or condition of Force Majeure.
- 24.6 The Non-Performing Party shall use all reasonable efforts to mitigate the impact of Force Majeure and to remedy its inability to perform as quickly as is reasonably possible.

25. GENERAL

25.1 CONDITIONS

- 25.1.1 This Agreement constitutes the whole of the agreement between the Parties hereto relating to the matters dealt with in this Agreement and save to the extent otherwise provided herein no undertaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in this Agreement shall be binding on any of the Parties.
- 25.1.2 No variation, addition, deletion, or agreed cancellation will be of any force or effect unless agreed in writing between the Parties hereto.
- 25.1.3 No waiver of any of the terms and conditions of this Agreement will be binding or effectual for any purpose unless in writing and signed by or on behalf of the Party giving the same. Any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either Party hereto in exercising any right, power or privilege hereunder will constitute or be deemed to be a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
- 25.1.4 Neither this Agreement nor any part, share or interest therein nor any rights or obligations hereunder may be ceded, assigned, or otherwise transferred by either Party without the prior written consent of the other, provided that such consent

shall not be required in the event that the rights and obligations of either Party are ceded, assigned or otherwise transferred to any Affiliate.

25.1.5 Any consent or approval required to be given by any Party in terms of this Agreement will, unless specifically otherwise stated, not be unreasonably withheld or delayed.

25.1.6 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Agreement as at the date of signature of the Party last signing one of the counterparts. The Parties undertake to take whatever steps may be necessary to ensure that both counterparts are duly signed by each of them.

25.2 APPLICABLE LAW & JURISDICTION

25.2.1 This Agreement will in all respects be governed by and construed under the laws of the Republic of South Africa.

25.2.2 Subject to the provisions of this Agreement, the Parties hereto hereby consent and submit to the non-exclusive jurisdiction of the Gauteng North Provincial Division of the High Court of the Republic of South Africa in respect of any dispute arising from or in connection with this Agreement. The Parties agree that any costs awarded will be recoverable in accordance with the High Court tariff, determined on an attorney-and-own-client scale.

25.3 SEVERABILITY

Each provision of this Agreement is severable from the other provisions. Should any provision be found by a Court of competent jurisdiction to be invalid or unenforceable for any reason, the Parties will consult with one another in good faith in order to agree, if possible, an alternative provision in accordance with the intent and tenor of this Agreement. The remaining provisions of this Agreement shall nevertheless remain binding and continue with full force and effect.

25.4 MEDIATION AND ARBITRATION

25.4.1 In the event of any dispute or difference arising between the Parties hereto relating to or arising out of this Agreement, including the validity, implementation, execution, interpretation, rectification, termination or cancellation of this Agreement, the said dispute or difference shall be referred to the Party's Supply Managers for urgent mediation.

25.4.2 If no resolution is reached and recorded in writing within 20 (twenty) Business Days of referral to the Supply Managers, such dispute may on written demand by any Party to the dispute be submitted to arbitration in accordance with the

rules of the Arbitration Foundation of Southern Africa ("AFSA") by an arbitrator or arbitrators appointed by AFSA and agreed to by the Parties, and shall be held in Pretoria.

- 25.4.3 Should the Parties fail to agree on an arbitrator within 10 (ten) Business Days after arbitration has been demanded, the arbitrator shall be nominated at the request of any Party to the dispute by AFSA.
- 25.4.4 The Parties irrevocably agree that the submission to arbitration in terms of this agreement is subject to the Parties' rights of appeal set out hereunder.
- 25.4.5 Any Party to the arbitration may appeal the decision of the arbitrator within a period of 20 (twenty) Business Days after the arbitrator's ruling has been handed down by giving written notice to that effect to the other Party or Parties to the arbitration. The appeal shall be dealt with in accordance with the rules of AFSA by a panel of three arbitrators appointed by AFSA.
- 25.4.6 Nothing herein contained shall be deemed to prevent or prohibit any Party from applying to the appropriate court for urgent relief.
- 25.4.7 The provisions of this clause will continue to be binding on the parties notwithstanding any termination or cancellation of the Agreement.

25.5 EXPERT

- 25.5.1 Whenever under this Agreement any matter is to be referred to an expert, and whenever during the term of the Agreement, the Parties agree that a point of difference between them shall be resolved by an expert, the provisions of this clause shall apply unless modified by any other express provision.
- 25.5.2 The procedure for the appointment of an expert shall be as follows:
 - 25.5.2.1 The Party wishing the appointment to be made shall give notice to that effect to the other Party and with such notice shall give details of the matter which it is proposed shall be resolved by the expert;
 - 25.5.2.2 The Parties shall meet in order to agree upon an expert; and
 - 25.5.2.3 If within 5 (five) Business Days from the service of the said notice the Parties have failed to meet or failed to agree upon an expert, then the matter may forthwith be referred by either Party to the chairman of the South African Petroleum Industry Association ("SAPIA") who shall be

- requested to select an expert within 5 (five) Business Days and in so doing take such independent advice as he thinks fit.
- 25.5.2.4 The expert shall specify the procedure to be adopted by the Parties in the hearing of the dispute.
- 25.5.2.5 The expert shall be entitled to obtain such independent, professional and/or technical advice as he may reasonably require.
- 25.5.2.6 The expert shall give full written reasons for his determination and shall furnish the Parties therewith within 5 (five) Business Days after the conclusion of the hearing.
- 25.5.2.7 The expert shall be deemed not be an arbitrator but shall render his determination as an expert and any law relating to arbitration shall not apply to such expert or his determination or the procedure by which the expert reaches his determination.
- 25.5.2.8 The final determination of the expert shall be conclusive and binding upon the Parties, save in the event of fraud, manifest error, or failure by the expert to disclose any relevant interest.

25.6 COSTS

Save as may be otherwise provided herein, each Party will bear and pay its own costs of and incidental to the negotiation, drafting and preparation of this Agreement.

26. BREACH

- 26.1 If either Party commits any material breach of its obligations and fails to remedy such breach within 14 (fourteen) days of notice being given to it by the other Party requiring the same to be remedied, then the other Party shall be at liberty in every such case by notice in writing to terminate this Agreement without prejudice to the rights of either Party hereto in respect of any breach of any of the terms herein contained, save as provided for above.
- 26.2 Notwithstanding anything to the contrary herein contained and save as provided for above, this Agreement may be terminated by either Party in the event that:
- 26.2.1 A order is made by any Court of competent jurisdiction, whether provisional or final, for the winding up or the judicial management of either Party;

- 26.2.2 Either Party passes a resolution for the voluntary winding up of such Party;
- 26.2.3 Either Party ceases to carry on business or disposes of its business or changes the fundamental nature of its business and/or disposes of the major portion of its assets other than for value;
- 26.2.4 A Party compromises generally with its creditors otherwise than in the course of the re-structuring of its capital or the merger of such Party with a third Party; or

27. EFFECT OF TERMINATION

The termination of this Agreement shall not affect any rights of either Party, which accrued prior to the date of termination.

28. NOTICES AND DOMICILIA

- 28.1 Each of the Parties chooses domicilium citandi et executandi (“domicilium”) for the purposes of the giving of any notice, the payment of any sum, the serving of any process and for any other purposes arising from this Agreement at their respective addresses set forth in clause 1 hereof.
- 28.2 Each of the Parties shall be entitled from time to time, by written notice to the other, to vary its domicilium to any other address within the Republic of South Africa which is not a post office box or poste restante.
- 28.3 Any notice given and any payment made by a Party to any of the others (“the addressee”) which:
 - 28.3.1 Is delivered by hand during the normal business hours of the addressee at the addressee's domicilium for the time being shall be presumed, until the contrary is proved by the addressee to have been received by the addressee at the time of delivery;
 - 28.3.2 Is posted by prepaid registered post from an address within the Republic of South Africa to the addressee at the addressee's domicilium for the time being shall be presumed, until the contrary is proved by the addressee, to have been received by the addressee on the 10th (tenth) day after the date of posting.
- 28.4 Where, in terms of this Agreement any communication is required to be in writing, the term “writing” shall include communications by facsimile or electronic mail. Communications by facsimile shall, unless the contrary is proved by the addressee, be deemed to have been received by the addressee 24 (twenty-four) hours after the time of transmission. Communications by way of electronic mail shall, unless the contrary is

proved by the addressee, be deemed to have been received by the addressee 24 (twenty-four) hours after the time of transmission.

SIGNATURE

FOR: ROYALE ENERGY TERMINALS (PROPRIETARY) LIMITED

DATED AT _____ ON THIS THE ____ DAY OF _____ 20 .

NAME: _____

SIGNATURE: _____

CAPACITY OF SIGNATORY: _____

Who warrants that he is duly authorised thereto

AS WITNESSES:

1. NAME: _____ SIGNATURE: _____

2. NAME: _____ SIGNATURE: _____

FOR: Tenant

DATED AT _____ ON THIS THE ____ DAY OF _____ 20 .

NAME: _____

SIGNATURE: _____

CAPACITY OF SIGNATORY: _____

Who warrants that he is duly authorised thereto

AS WITNESSES:

1. NAME: _____ SIGNATURE: _____

2. NAME: _____ SIGNATURE: _____

ANNEXURE 1 : PRICING

Storage and handling charges: _____

Purchase fee (if applicable): _____