

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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In the Matter of the Application of Crimson Pipeline,
LLC, Pursuant to Section 854 of the Public Utilities Code,
for Authority to Acquire Control of San Pablo Bay
Pipeline Company, LLC (PLC-29)

Application No. _____

**APPLICATION OF CRIMSON PIPELINE, LLC, PURSUANT TO SECTION 854 OF
THE PUBLIC UTILITIES CODE, FOR AUTHORITY TO ACQUIRE CONTROL OF
SAN PABLO BAY PIPELINE COMPANY, LLC (PLC-29)**

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Dated: April 12, 2019

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Pursuant to Section 854 of the Public Utilities Code¹ and in accordance with Rules 2.1 and 3.6 of the Commission’s Rules of Practice and Procedure, Crimson Pipeline, LLC (“Crimson Pipeline” or “Buyer”) hereby submit this Application requesting authority and approval from the California Public Utilities Commission (“Commission” or “CPUC”) to acquire control of San Pablo Bay Pipeline Company, LLC (“SPBPC”). Upon authorization of the requested acquisition of control of SPBPC, Crimson Pipeline will adopt the tariffs, rates, terms and conditions of service as tendered by SPBPC and currently on file with the Commission.

I. BACKGROUND

SPBPC owns and operates a 265-mile-long oil pipeline transporting heated crude oil from San Joaquin Valley oil fields to Bay Area refineries, providing public utility service subject to the Commission’s jurisdiction. The pipeline currently transports San Joaquin Valley crude oil for four companies (or their affiliates): Shell (of which SPBPC itself is an affiliate), Tesoro, Valero, and Chevron.

By agreement executed January 29, 2019 between SPBPC’s owners, Equilon Enterprises LLC d/b/a Shell Oil Products US (“Equilon”) and Shell Pipeline Company LP

¹ All statutory references are to the California Public Utilities Code unless otherwise noted.

(“Shell”) (together referred to as “Seller”), and Crimson Pipeline, Seller has agreed to convey its interests in SPBPC to Buyer.² Under the Agreement, upon receipt of the Commission authorizations and approvals requested in this application and satisfaction of other conditions to closing,³ Crimson Pipeline will own and operate SPBPC’s CPUC jurisdictional assets as a pipeline corporation in accordance with Public Utilities Code section 228 and subject to the jurisdiction of this Commission.

By this filing, Crimson Pipeline seeks the required Commission authorization to acquire control of SPBPC. Upon receipt of the requested authorization and acquisition of ownership and control of SPBPC, Crimson Pipeline will be responsible for and committed to the continuing provision of safe and reliable pipeline transportation service by SPBPC.

II. INFORMATION SUBMITTED IN SUPPORT OF REQUESTED AUTHORIZATION

1. Applicant Information Required by Rule 2.1(a)

Crimson Pipeline is a California limited liability company. Its principal place of business is 3760 Kilroy Airport Way, Suite 300, Long Beach, California 90806; its telephone number is (562) 285-4100. Crimson Pipeline is wholly owned by Crimson Midstream Operating, LLC. Crimson Midstream Operating, LLC is wholly owned by Crimson Midstream

² A copy of the Sale and Purchase Agreement (“Agreement”) is included as Exhibit 1 attached to this application.

³ In addition to obtaining Commission authorization, Crimson Pipeline must submit notification forms to the Federal Trade Commission and the U.S. Department of Justice pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. § 18a (“HSR” Act). Applicant must wait a specific period of time while these federal antitrust enforcement agencies review the possible competition implications of the proposed acquisition of SPBPC, and closing the transaction is contingent on the expiration or termination of the applicable waiting period under the HSR Act.

Holdings, LLC. Crimson Midstream Holdings, LLC is privately held, with control exercised by John Grier.⁴

2. Correspondence or Communication Information Required by Rule 2.1(b)

Correspondence and communications concerning this Application should be directed to the representatives of Crimson Pipeline identified as follows:

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Crimson Pipeline L.P.
3760 Kilroy Airport Way, Suite 300
Long Beach, CA 90806
(562) 285-4111 (Office)
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3. Scoping Information Required by Rule 2.1(c)

As required by Public Utilities Code Section 854, the subject application requests the Commission's prior approval for Crimson Pipeline to acquire control of SPBPC. The proceeding should be categorized as "ratesetting." Although this Application does not affect rates, the definitions of "adjudicatory" or "quasi-legislative" as set forth in Rule 1.3(a) and (d) clearly do not apply to this Application. Rule 7.1(e)(2) specifies that when a proceeding does not clearly fit any of the categories, it should be conducted under the ratesetting procedures. In addition, Rule 1.3(e) defines ratesetting proceedings to include "other proceedings" that do not fit clearly into any other category.

⁴In accordance with D. 16-01-039, John Grier continues to exercise control of Crimson California Pipeline LP (PLC-26), a Commission-regulated pipeline, by reason of his control of Crimson Pipeline which is the general partner of Crimson California Pipeline LP.

The principal issue raised by the application is whether acquisition of control of SPBPC by Crimson Pipeline is in the public interest. Crimson Pipeline does not believe that its request for authority to acquire control raises any issue likely to be contested. Consequently, assuming the absence of any protests to its request and no need for hearing, Crimson California requests timely, *ex parte* consideration and approval of its request for authorization to transfer control of its California public utility operations.

Crimson Pipeline proposes the following schedule:

Protests Due	30 days following Daily Calendar Publication of Application Filing
Issuance of Proposed Decision	August 1, 2019
Commission Decision	September 12, 2019

4. Qualification to Transact Business Documents Required by Rule 2.2

The Certificate of Good Standing in California for Crimson Pipeline is included as Exhibit 2 attached hereto.

5. Information Submitted in Compliance with CEQA Required by Rule 2.4

Under the California Environmental Quality Act, the governmental agency responsible for taking discretionary action in reviewing and approving projects is required to consider the environmental effects of the proposed project.⁵ This Application and the transaction for which authority is sought does not fall under the requirement to prepare environmental documents as the activities in question do not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”).⁶

⁵ Cal. Pub. Res. Code § 21080.

⁶ Cal. Pub. Res. Code § 21065.

A project includes activities “which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” As a consequence of the proposed acquisition of control, there will be no change in utility operations. Crimson Pipeline will own and operate the regulated pipeline assets as a common carrier pipeline corporation subject to this Commission’s jurisdiction and provide related pipeline transportation services at the rates and conditions of service set forth in SPBPC’s approved tariffs on file with the Commission. Thus, there is no reasonably foreseeable direct or indirect physical change in the environment that will occur as a result of the subject Application or transaction. Furthermore, the Commission has exempted projects from CEQA review “[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.”⁷

6. Information Required by Commission Rule 3.6(a)-(d):

a. Character of business performed and territory served; description of property

As previously noted, Crimson Pipeline, the applicant herein, is the general partner of Crimson California Pipeline, LP (PLC-29) (“Crimson California”), a pipeline corporation subject to the Commission’s jurisdiction. Crimson California owns and operates various common carrier crude oil pipeline systems acquired pursuant to Commission authorization that are located in southern California, including the following:

(i) the Thums 8-inch pipeline system, which transports crude oil produced in the Long Beach Harbor area to various refineries and terminals in the Los Angeles area;

⁷ 14 Cal. Code of Regs. § 15061(b)(3).

(ii) the Ventura gathering pipeline system, which transports crude oil produced in the Fillmore and Ventura areas to the Crimson Ventura Tank Farm;

(iii) the Ventura 10-inch pipeline system, which transports crude oil from the Crimson Ventura Tank Farm and crude oil produced in the Inglewood area to various refineries in the Los Angeles area.

(iv) the Line 600 pipeline system and the Line 700/East Crude pipeline system and its associated gathering pipelines. The Line 600 pipeline system includes approximately 100 miles of pipe, three tanks with over 200,000 barrels of storage capacity, and a crude oil truck unloading facility. The Line 700 system includes over 30 miles of pipe, one tank with approximately 5,000 barrels of storage capacity, and a crude oil truck unloading facility.

(v) the Inglewood and Northam crude systems, including associated gathering systems, with points of origination in Los Angeles and Orange Counties and having destinations in Los Angeles County.

Crimson California also owns and operates the KLM Pipeline System, a long-haul pipeline system consisting of approximately 295 miles of pipe running from points in the San Joaquin Valley production areas to San Francisco Bay Area refinery connections.

The San Joaquin Valley Pipeline System owned and operated by SPBPC consists of a 265-mile-long oil pipeline transporting heated crude oil from San Joaquin Valley oil fields to Bay Area refineries.

b. Statement of the book cost of SPBPC's CPUC-regulated assets:

As of December 31, 2018, the net book cost of SPBPC's CPUC-regulated assets is \$113,513,214.

c. Reasons of Seller and Buyer for sale and acquisition of SPBPC:

It is Crimson Pipeline's understanding that the Seller is pursuing the sale of SPBPC because the ownership and operation of the Commission-jurisdictional assets is no longer consistent with Seller's strategic objectives.

Crimson Pipeline is entering into the subject transaction and is acquiring SPBPC with the intent to maximize efficiencies, while maintaining operational safety, reliability, and environmental protection. Crimson Pipeline believes that its acquisition of control of SPBPC is in the public interest.

The crude transportation network out of the San Joaquin Valley ("SJV") includes pipelines that flow variously northward and southward. Three major pipelines run to the Bay Area, including two that are the subject of this application: SPBPC's pipeline transporting heated crude oil and Crimson California's KLM system. Crimson Pipeline's control of SPBPC, considered in conjunction with its ownership of the KLM system, will not harm competition but instead will benefit producers and refiners.

As a heated and batched pipeline, SPBPC can transport in a neat (unblended) form the heavy crude that is the majority of SJV production. KLM, however, is neither heated nor batched, so it cannot pump the neat heavy crude. KLM requires that any heated crude be blended with lighter crude before transporting it. The result is a relatively inferior transportation service because refiners in the Bay Area prefer neat heavy crude.

The overriding trend in the San Joaquin Valley is falling production. Much of the active pipeline capacity out of the San Joaquin Valley is unfilled. Both the SPBPC and KLM

pipelines are substantially underutilized.⁸ In addition to concerns related to unused pipeline capacity, declining SJV production presents a further problem for the SPBPC pipeline.

First, to pump heavy crude, SPBPC needs to operate above a critical minimum level of throughput. If the quantity of heavy crude flowing through the pipeline drops below this minimum level, the operator risks a catastrophic and unrecoverable blockage of the pipeline, which would permanently render it useless. This risk can be reduced and the minimum flow level reduced somewhat by adding additional heat. The addition of heat, however, adds to operating costs, and contributes to degradation of the pipeline, requiring further maintenance.

Second, shippers have shifted more SJV crude to Los Angeles over the last two years. Should SPBPC's undercapacity problem worsen, it could become necessary to suspend heated service and require crude blending. Bay Area refiners—in particular, Shell Martinez, Marathon Golden Eagle, and Valero Benicia—would then have to accept inferior blended crude from SJV or increase marine deliveries of heavy crude. The proposed transaction will contribute to solving SPBPC's underutilization problem and help to ensure continued supply of neat heavy crude from SJV to the Bay Area. KLM pipeline capacity is substantially underutilized, but it still transports 30,000 barrels per day. After acquiring control of SPBPC, Crimson intends to maintain crude transportation service to shippers on both systems under the existing SPB and KLM tariffs, including all receipt and delivery points on KLM, but will operationally interconnect the KLM system to the SPB system and move the KLM blended volumes as a batch onto the SPB system. Crimson expects to be able to vacate the KLM pipeline north of Kettleman.

SPBPC and KLM will remain subject to regulation by the Commission. Service on the SPBPC system will continue to be provided subject to the rates, terms and conditions set forth in SPBPC's tariffs as currently approved by and on file with the Commission. Similarly,

⁸ Two-thirds of KLM capacity is unutilized.

service on the KLM system will continue to be provided subject to the rates, terms and conditions set forth in its existing tariff as approved by and on file with the Commission.

7. List of Exhibits

Exhibit 1	Sale and Purchase Agreement
Exhibit 2	Certificate of Good Standing

8. Request for Timely Commission Approval

Crimson Pipeline requests that this application be granted on an *ex parte* basis.

The requested Commission authorization is the final approval required in order to give effect to the proposed transfer of control of SPBPC to Crimson Pipeline. Crimson Pipeline is unaware of any basis upon which any person could be, or could claim to have been, injured or otherwise negatively affected by the transaction proposed herein, or of any other basis upon which this application could be classified as other than noncontroversial. Pipeline operations will be maintained (i) in a manner consistent with existing authorized uses; (ii) in continued compliance with all applicable federal, state, and local laws; and (iii) in accordance with the rates, terms and conditions currently applicable under existing tariffs. Accordingly, *ex parte* treatment of this application is appropriate.

WHEREFORE, Applicant requests that the California Public Utilities Commission issue its decision on a timely *ex parte* basis and authorize and provide for:

- (1) the acquisition by Crimson Pipeline of control of SPBPC; and
- (2) any other relief deemed necessary or appropriate by the Commission.

Respectfully submitted April 12, 2019 at San Francisco, California.

GOODIN, MACBRIDE,
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Email: jsqueri@goodinmacbride.com

By /s/James D. Squeri

James D. Squeri

Attorneys for Crimson Pipeline, LLC

3079/006/X205723.v1

VERIFICATION OF LARRY W. ALEXANDER

I, Larry W. Alexander, declare:

I am an officer of Crimson Pipeline, LLC, a limited liability company, the applicant herein and am authorized to make this verification on its behalf..

The statements in the foregoing document pertaining or relating to Crimson Pipeline, LLC are true of my own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Long Beach, California on this 12th day of April, 2019.



/s/ Larry W. Alexander

Larry W. Alexander

EXHIBIT 1

SALE AND PURCHASE AGREEMENT

By and Between

EQUILON ENTERPRISES LLC
d/b/a
SHELL OIL PRODUCTS US and SHELL PIPELINE COMPANY LP
(Seller)

And
CRIMSON PIPELINE, LLC

(Buyer)

*Sale and Purchase of San Pablo Bay Company, LLC and Related Assets and Southbound
Proprietary Crude Pipelines and Related Assets Located in California*

January 25, 2019

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SCHEDULES

SCHEDULE

DESCRIPTION

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EXHIBITS

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
A	Buyer Guaranty
B	Form of Deed for Owned Real Property
C	Form of Real Property Interest Assignment and Assumption Agreement
D	Form of Bill of Sale for Personal Property
E	Form of Ownership Interest Transfer for SPB Interest
F	Transition Services Agreement

SALE AND PURCHASE AGREEMENT

This SALE AND PURCHASE AGREEMENT (this "**Agreement**") is entered into as of January 25, 2019 (the "**Execution Date**"), by and between **EQUILON ENTERPRISES LLC d/b/a SHELL OIL PRODUCTS US**, a Delaware limited liability company and **SHELL PIPELINE COMPANY LP**, a Delaware limited partnership ("**Seller**"), and **CRIMSON PIPELINE, LLC**, a California limited liability company ("**Buyer**"). Seller and Buyer are referred to individually as a "**Party**," and collectively, as the "**Parties**."

WITNESSETH:

WHEREAS, Seller, directly or through certain of its wholly owned Affiliates, owns or leases certain crude oil pipeline system assets and other related assets located in the San Joaquin Valley, California and more specifically described in Schedule 2.01(a) (the "**Proprietary Pipeline System**");

WHEREAS, Seller, through certain of its wholly owned Affiliates, owns all the issued and outstanding limited liability company interests in San Pablo Bay Pipeline Company LLC, a Delaware limited liability company ("**SPB LLC**"), which limited liability company owns an approximately four-hundred-and-ten-mile northbound crude oil pipeline and other related assets originating in the San Joaquin Valley, California;

WHEREAS, Seller, directly or through certain of its wholly owned Affiliates, desires to sell, assign, transfer, convey and deliver to Buyer, and Buyer desires to purchase, acquire and accept from Seller (or Seller's wholly owned Affiliates, as applicable) the Assets, on the terms and subject to the conditions of this Agreement;

WHEREAS, Seller desires to assign to Buyer, and Buyer desires to assume from Seller, the Assumed Liabilities on the terms and subject to the conditions of this Agreement; and

WHEREAS, concurrently with the execution of this Agreement, Buyer Guarantor has duly executed and delivered the Buyer Guaranty pursuant to which Buyer Guarantor shall guarantee the payment and performance of Buyer's obligations hereunder.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants, conditions and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, the Parties agree as follows:

ARTICLE I DEFINITIONS AND INTERPRETATIONS

1.01 **Definitions**. As used in this Agreement, the following terms shall have the meanings set forth below:

"**1031 Exchange**" has the meaning set forth in Section 13.04.

"**AAA**" means the American Arbitration Association.

“AAA Rules” has the meaning set forth in Section 16.01.

“Affiliate” means, with respect to any specified Person, any other Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such specified Person. For the purposes of this definition, “control” (including, with correlative meanings, the terms controlling, “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise. It is understood that (i) an entity (hereinafter referred to as the “parent entity”) directly “controls” another entity (hereinafter referred to as the “controlled entity”) if the parent entity holds shares or equivalent ownership interest or contractual rights carrying more than fifty percent (50%) of the votes exercisable at a general meeting (or its equivalent) of the controlled entity or the right to appoint a majority of the members of the board of directors (or its equivalent) of the controlled entity, and (ii) a parent entity indirectly “controls” a controlled entity if a series of entities can be specified beginning with the parent entity and ending with the controlled entity such that each entity of the series owns, either directly or through one or more entities in the series, more than a fifty percent (50%) interest in a later entity in the series or otherwise holds (directly or indirectly) the rights with respect to the controlled entity.

“Agreement” has the meaning set forth in the preamble and, for the avoidance of doubt, shall include all Exhibits and Schedules attached hereto.

“Anti-Corruption Laws” means (a) the United States Foreign Corrupt Practices Act of 1977; (b) the United Kingdom Bribery Act 2010; and (c) all applicable national, regional, provincial, state, municipal or local laws and regulations that prohibit tax evasion, money laundering or otherwise dealing in the proceeds of crime or the bribery of, or the providing of unlawful gratuities, facilitation payments, or other benefits to, any government official or any other person.

“Antitrust Authorities” has the meaning set forth in Section 8.01(a).

“Applicable Law” means any applicable statute, law (including common law), ordinance, code (including the Code), rule or regulation promulgated, issued or enacted by any Governmental Authority having jurisdiction and any applicable Judgment or consent of or agreement with any Governmental Authority having jurisdiction.

“Arbitration Notice” has the meaning set forth in Section 16.01.

“Assets” has the meaning set forth in Section 2.01.

“Assignment of SPB Interest” has the meaning set forth in Section 3.02(a)(iv).

“Assumed Liabilities” has the meaning set forth in Section 2.06(a).

“Authorizations” means any and all permits, authorizations, approvals, registrations, certificates, orders, waivers, variances, private letter rulings or other governmental approvals, licenses, consents, or restrictions, in whatever form, relating to compliance with any Applicable

Law, including any HSE Permit, which are necessary to transfer the Assets and to enable Buyer to own, maintain, and operate the Assets substantially in the same manner as they were operated prior to the Closing Date. Authorizations shall not include Easements.

“Base Amount” has the meaning set forth in Section 2.03.

“Bill of Sale, Assignment and Assumption Agreement” has the meaning set forth in Section 3.02(a)(iii).

“Books and Records” means all operating records and data in the possession of the Seller Companies relating to and necessary for the (i) Operations of the (a) the Proprietary Pipeline System (the **“PPS Books and Records”**), and (b) the ownership of the SPB Interest, including the operations of the SPB Assets (the **“SPB Interest Books and Records”**), subject to the applicable Seller Company’s record retention policy, including all books, records, cost and pricing information, accounting records, supplier lists and records, training materials and equipment, training records (including certifications), maintenance and inspection reports, equipment lists, repair notes and archives, and technical drawings. Notwithstanding the preceding sentence, “Books and Records” specifically excludes (i) any of the Seller Companies’ business plans, strategies, supplier lists and records, proprietary training materials and equipment, training records (including certifications) of employees that do not become employees of Buyer or its Affiliates, and contracts and financial records that address or reflect activities outside of the Operations of the Assets; (ii) except for SPB Interest Books and Records, any of the Seller Companies’ or their respective Affiliates’ company minute books and records, Tax Returns, Tax records that relate to a Seller Company’s or its Affiliates’ business generally or other materials that do not pertain to the Assets or ongoing day-to-day operation of the Assets; (iii) personnel or medical records for which an employee’s written consent to the release of such record is not obtained; (iv) hiring exams; (v) any transfer pricing information; and (vi) the proprietary health safety, security and operating procedure information, manuals and summaries: Measurement and Quality Manual, Maintenance Procedure Manual; Health and Safety Procedures Manual, (vii) a Seller Company’s or its Affiliate’s inter-company or intra-company feedstock and product pricing information, internal transfer prices, hedging activity records and PPS Hydrocarbon Inventory valuation procedures and records; (viii) the negotiation or execution of this Agreement; or (ix) materials that are subject to any applicable legal privileges, including attorney work product and attorney-client communications.

“Business Day” means any day other than a Saturday, Sunday, public holiday or other day on which commercial banks in the State of New York are authorized by law to close.

“Business Employee” means an employee of Seller or its Affiliates who participates in the operation or management of the Assets on a regular basis, including any employees involved in the matter set forth in Section 4.13 of the Disclosure Letter.

“Buyer” has the meaning set forth in the preamble.

“Buyer Guarantor” means Crimson Midstream Operating, LLC, a Delaware limited liability company.

“Buyer Guaranty” means the guaranty agreement executed by Buyer Guarantor simultaneously with the execution of this Agreement in the form of Exhibit A, whereby, among other matters, Buyer Guarantor guarantees payment of Buyer’s obligations under this Agreement.

“Buyer Indemnified Parties” has the meaning set forth in Section 12.02.

“Casualty” means a damage or destruction of all or any material portion of the Assets by a Casualty Event for which the associated repair or replacement costs would reasonably be expected to exceed ten million Dollars (\$10,000,000).

“Casualty Event” means any loss, damage or destruction of Assets as a result of any act of God, fire, explosion, collision, earthquake, windstorm, flood or other casualty event or any condemnation by any Governmental Authority, but for the avoidance of doubt excluding any loss, damage or destruction as a result of events that arise in the ordinary course, such as depreciation or ordinary wear and tear.

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. Section 9601 *et seq.*

“Claim” means a dispute, claim, or controversy whether based on contract, tort, strict liability, statute or other legal or equitable theory (including any claim of fraud, misrepresentation or fraudulent inducement or any question of validity or effect of an agreement).

“Claim Notice” has the meaning set forth in Section 12.04.

“Closing” means the closing of the Contemplated Transactions in accordance with the terms and conditions of this Agreement.

“Closing Date” means the time and date established for the Closing pursuant to Section 3.01.

“Closing Date Payment” has the meaning set forth in Section 2.10.

“Closing Documents” means the agreements, documents, instruments and certificates executed and delivered by the Parties or their Affiliates at the Closing pursuant to Section 3.02 and any other agreements, documents, instruments or certificates executed in connection with or as required under this Agreement.

“COBRA” has the meaning set forth in Schedule 9.01.

“Code” means the Internal Revenue Code of 1986, as amended.

“Confidential Information” has the meaning set forth in Section 17.14(a).

“Confidentiality Agreement” means that certain Confidentiality Agreement between Seller and Buyer dated July 18, 2018.

“Consent Decree” means any order, request, directive, settlement or any other similar requirement or demand currently in effect and issued by, or entered into with, any applicable Governmental Authority prior to the Execution Date pursuant to any HSE Law relating to the ownership, operation or use of any of the Assets prior to the Closing; *provided, however*, that the term “Consent Decree” does not include any HSE Law in and of itself.

“Contemplated Transactions” means all the transactions contemplated by this Agreement including: (A) the sale of the Assets to Buyer; (B) the execution and delivery of the Closing Documents; and (C) the performance by the Parties of their respective covenants and obligations under this Agreement.

“Contract” means any contract, agreement, commitment, lease or other obligation or arrangement (whether written or oral) but excluding any Employee Benefit Plan and any Excluded Contract.

“Control Center” means that certain hardware and software inside of a control room located at 150 North Dairy Ashford, Houston, Texas (or any associated backup location) dedicated to the remote control of the Assets.

“Control Center Data” has the meaning set forth in Section 7.11(a).

“Corrective Action” means all activities, whether undertaken pursuant to judicial or administrative order or otherwise, reasonably necessary to comply with applicable HSE Laws in effect and as interpreted as of the Closing Date to investigate, monitor and, if required, clean up, remove, treat, cover, protect from human or environmental exposure or in any other way adjust Hazardous Substances in the environment at, on, under, above or from the PPS Assets.

“Corrective Action Orders” has the meaning set forth in Section 4.14(b).

“Credit Support Arrangements” has the meaning set forth in Section 7.09.

“Data Privacy Agreement” means a separate agreement with terms and conditions on the processing and handling of sensitive data.

“Data Room” means the electronic data room maintained on behalf of Seller for the posting of documents for review by Buyer in connection with the Contemplated Transactions.

“Deductible Amount” has the meaning set forth in Section 12.08.

“De Minimis Amounts” has the meaning set forth in Section 12.08.

“Deed” has the meaning set forth in Section 3.02(a)(i).

“Deposit” has the meaning set forth in Section 2.04(b).

“Disclosure Letter” means the disclosure letter delivered by Seller to Buyer concurrently with the execution of this Agreement setting forth certain disclosures pursuant to and certain exceptions to the representations and warranties of Seller contained in Article IV.

“Dispute” has the meaning set forth in Section 16.01.

“Easements” means easements, licenses that are in the nature of easements (rather than in the nature of leases), rights-of-way, servitudes, surface use agreements, leases (other than Real Property Leases), franchises, Permits, and similar agreements granting the right to use real property for pipelines, utilities or other facilities or services necessary for the ownership, operation or use of the Assets.

“Effective Time” has the meaning set forth in Section 3.03.

“Electing Party” has the meaning set forth in Section 13.04.

“Environmental Condition” means any condition at, on, under, within or migrating the PPS Assets, in each case arising out of the presence or Release of any Hazardous Substances on, at, or underlying the PPS Assets (but excluding any Release of Hazardous Substances that has migrated on-site from property owned or operated by an unrelated third party) and requiring Corrective Action.

“Equipment” means all furnishings, furniture, computer hardware, telecommunications equipment, fittings, machinery, refining process units, tools, spare parts, apparatus, tanks, meters, pumps, engines, compressors, pipes, valves, connections, regulators, sewers, appliances, signs and all other articles of tangible personal property of every kind whatsoever (excluding Improvements), in all cases owned by or leased to a Seller Company, that in the Ordinary Course of Business are located on the Real Property or are used in or held for use by a Seller Company for operation, repair, construction, improvement or maintenance of the Assets.

“Estimated SPB Net Working Capital” has the meaning set forth in Section 2.09(c).

“Execution Date” has the meaning set forth in the preamble.

“Excluded Assets” has the meaning set forth in Section 2.02(a).

“Excluded Contracts” has the meaning set forth in Section 2.02(a)(iv).

“Field Inspector” has the meaning set forth in Section 2.08(b).

“Field Inspector Report” has the meaning set forth in Section 2.08(b).

“Final SPB Net Working Capital” has the meaning set forth in Section 2.09(d).

“Financial Statements” has the meaning set forth in Section 4.17(a).

“Financing” has the meaning set forth in Section 5.08.

“Financing Commitments” has the meaning set forth in Section 5.08.

“Force Majeure Event” means any (1) fire, explosion, casualty or accident; (2) act of God, including epidemic, hurricane, tornado, earthquake, cyclone or flood; (3) war, revolution, civil commotion, act of enemies, blockade, or embargo; or (4) other similar occurrences or acts

beyond the reasonable control of a Party (or, in the case of Seller, an applicable Seller Company), which act or occurrence shall make it impossible for the Party concerned to carry out the obligations of such Party under this Agreement (but lack of financial ability shall not be a Force Majeure Event).

“Fundamental Representations” has the meaning set forth in Section 12.07.

“GAAP” means generally accepted accounting principles in the United States.

“Governmental Authority” means the United States and any foreign, state, county, city or other political subdivision and any department, commission, board, bureau, agency, commission, officer, official, court, tribunal, arbitrator, board or bureau or other instrumentality thereof and any self-regulatory organization, such as a securities exchange.

“Hazardous Substance” means any substance that is listed, defined, or regulated as a “hazardous material,” “hazardous waste,” “solid waste,” “hazardous substance,” “toxic substance,” “contaminant” or “pollutant” or otherwise classified by a Governmental Authority as hazardous or toxic in or pursuant to any HSE Law.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

“HSE Claim” shall mean any administrative, regulatory or judicial action, suit, demand, directive, claim, lien, governmental investigation, proceeding or written notice of noncompliance or violation by or from any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, Corrective Action, governmental response, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from (i) the presence or Release of, or exposure to, any Hazardous Substances; or (ii) the failure to comply with any HSE Laws in effect on or prior to the Closing Date.

“HSE Law” means any and all present or future local, state, and federal laws, principles of common law, statutes, ordinances, regulations, rules, orders, Permits, standards or requirements (including consent decrees, judicial decisions, judgments, injunctions and administrative orders issued or approved thereunder), together with all related amendments and implementing regulations and all common law, pertaining to or regulating pollution, environmental protection, health and safety of persons, pipeline safety, natural resource damages, conservation of resources, wildlife, waste management, the use, storage, generation, production, treatment, release, emission, discharge, remediation, removal, disposal or transport or any other activity related to a toxic or hazardous substance, waste or material (including asbestos, polychlorinated biphenyls, crude petroleum and its fractions or derivatives thereof), or any other environmental matter, including: CERCLA; RCRA; the Toxic Substances Control Act, as amended, 15 U.S.C. Section 2601 et seq.; the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq.; the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. Section 3009(f) et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. Section 11001 et seq.; the Occupational Safety and Health Act of

1970, as amended, 29 U.S.C. Section 651 et seq.; and the Hazardous Liquid Pipeline Safety Act, as amended, 49 U.S.C. Section 60101 et seq., and any state equivalent laws.

“HSE Permit” means any approval, registration, authorization, certificate, certificate of occupancy, consent, license, order, Permit, variance (including applications for renewal or modifications of the foregoing pending as of Closing) or other similar authorization of any applicable Governmental Authority required by HSE Laws in effect on or prior to the Closing for the ownership, operation or use of the PPS Assets as they are operated by an applicable Seller Company as of the Execution Date.

“Improvements” means any and all buildings, structures, fixtures or other improvements owned by or leased to the Seller Companies that are attached or affixed to the Assets, including process units, storage tanks, control houses, office buildings, laboratory facilities, warehouses, boiler houses, power plants, waste water treatment facilities and other similar facilities.

“Incident” shall have the meaning set forth in Section 7.11(a).

“Indemnification Cap” has the meaning set forth in Section 12.08(b)(iii).

“Indemnified Party” shall refer to the Person or Persons indemnified, or entitled to be indemnified, held harmless or defended pursuant to this Agreement, including a Buyer Indemnified Party and a Seller Indemnified Party.

“Indemnifying Party” shall refer to the Party having the obligation to indemnify, defend and hold harmless pursuant to this Agreement.

“Inspector” has the meaning set forth in Section 2.08(c).

“Intellectual Property” means any intellectual or industrial property including, without limitation: (a) patents, trade or service marks, semiconductor topography rights, database rights, rights in know-how, moral rights, copyright, unregistered designs, registered designs, trade secrets, rights in confidential information, any other rights or forms of protection of a similar nature or having equivalent or similar effect in any country, in each case whether or not registered, and any applications for registration of any of the foregoing, and any goodwill in any of the foregoing; and (b) licenses or other rights to use or to grant the use of any of the foregoing or to apply to register or to be the registered proprietor or user of any of the foregoing;

“Interim Period” means the period of time from the Execution Date until the earlier of the Closing or the termination of this Agreement pursuant to the terms and conditions herein.

“Inventory Balance” has the meaning set forth in Section 2.08(d).

“Inventory Deposit” has the meaning set forth in Section 2.08(a).

“Inventory Notice Date” has the meaning set forth in Section 2.08(c).

“Inventory Statement” has the meaning set forth in Section 2.08(c).

“Inventory Value” has the meaning set forth in Section 2.08(c).

“Investigation” has the meaning set forth in Section 7.11(a).

“Judgments” means any judgments, orders, decisions, injunctions, decrees or awards of any federal, state, local or foreign court, arbitrator or administrative or other Governmental Authority having jurisdiction.

“Known” or ***“Knowledge”*** means in the case of Seller, the actual knowledge without independent investigation or inquiry of the individuals listed in Schedule 1.01C and, in the case of Buyer, the actual knowledge without independent investigation or inquiry of the individuals listed in Schedule 1.01D.

“Known Environmental Condition” has the meaning set forth in Section 4.14(c).

“LIBOR” means the rate for any one (1) month loan which appears on Page 3750 of the Dow Jones Market Service (or on any successor or substitute page of such service, or any successor to or substitute for such service, providing rate quotations comparable to those currently provided on such page of such service, for purposes of providing quotations of interest rates applicable to Dollar deposits in the London interbank market) at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of any period for which interest may be due under this Agreement.

“Liens” means any and all liens, mortgages, charges, pledges, security interests, burdens, easements, rights of way, zoning ordinances, mineral exceptions, rights of first offer, rights of first refusal, purchase options or other encumbrances of any nature whatsoever, including those arising under any Contracts.

“Losses” means any and all costs, losses (but excluding lost profits except to the extent awarded to a non-Affiliate third party), liabilities, fines, penalties, obligations (including corrective and remedial obligations), damages (but excluding any indirect, special, punitive, exemplary and consequential damages other than such damages as may be awarded to a non-Affiliate third party), and expenses (including reasonable legal fees and expenses and reasonable fees and expenses of other consultants, in each case as may be incurred in the investigation or defense of any of the same or in asserting any of their respective rights hereunder).

“Material Adverse Effect” means an effect, event, fact, circumstance or development (***“Effects”***) that, individually or in the aggregate, has had, or would reasonably be expected to have an adverse effect on the business, properties, financial condition or results of operations of the Assets, taken as a whole, which exceeds ten percent (10%) of the Purchase Price; *provided, however*, that in no event shall any Effect that results from any of the following be deemed to constitute a Material Adverse Effect: (a) this Agreement or any actions required to be taken in compliance with this Agreement, the Contemplated Transactions, or the pendency or announcement thereof, (b) changes or conditions generally affecting the petroleum refining, fuels marketing, transportation or pipeline industry (including crude oil pricing, refining, fuels marketing, transportation, pipeline, terminalling and trading, generally or regionally), (c) changes in general economic, capital market, regulatory or political conditions in the United States or elsewhere (including interest rate and currency fluctuations), (d) changes or proposed changes in

Applicable Law occurring after the Execution Date, (e) changes or proposed changes in accounting principles or GAAP occurring after the Execution Date, (f) acts of war, insurrection, sabotage or terrorism occurring after the Execution Date, other than such acts that are specifically directed towards the Assets, or (g) the Seller Companies' failure, in and of itself, to meet operational or financial expectations or projections.

"Material Contract" means any Contract associated with and material to the ownership, operation or use of the Assets or the Operations (i) to which a Seller Company is a party or by which the Assets are bound and (ii) (A) that involves payments to or from the Seller Companies in excess of \$500,000 on an annual basis or (B) which may not be terminated on sixty (60) days' or less notice without payment of a penalty in excess of \$500,000.

"Mediation Notice" has the meaning set forth in Section 16.01.

"New Seller Information" has the meaning set forth in Section 6.03(a).

"Obligations" means any duties, responsibilities, liabilities and obligations, costs and expenses of whatever kind and nature, whether vested, absolute or contingent, primary or secondary, direct or indirect, known or unknown, asserted or unasserted, accrued or unaccrued, liquidated or unliquidated, due or to become due, and whether based in common law or statute or arising under Contract or by action of any Government Authority or otherwise.

"OFAC" has the meaning set forth in Section 5.07.

"Operations" means those activities conducted by the Seller Companies in the Ordinary Course of Business of operating the PPS Assets.

"Ordinary Course of Business" means the ordinary course of business in all material respects consistent with the affected Party's current custom and practice (including with respect to quantity and frequency); *provided that*, for purposes of this Agreement, "Ordinary Course of Business" includes all reasonably necessary actions taken in connection with, in contemplation of or in preparation for the sale of the Assets, the Closing and any other Contemplated Transactions.

"Organizational Documents" means the articles of incorporation, certificate of incorporation, charter, bylaws, articles or certificate of formation, regulations, operating or company agreement, certificate of limited partnership, partnership agreement, and all other similar documents, instruments or certificates executed, adopted, or filed in connection with the creation, formation, or organization of a Person, including any amendments thereto.

"Outside Date" has the meaning set forth in Section 15.01.

"Owned Real Property" means PPS Owned Real Property.

"Party" and **"Parties"** has the meaning set forth in the preamble.

"Permits" means any permits, temporary permits to construct or operate, licenses, approvals, registrations, orders, waivers, variances or other authorizations issued or granted by any Governmental Authority. Permits shall not include Easements.

“Permitted Encumbrances” means, with respect to the Assets, any of the following matters:

- (a) such items as set forth in Schedule 1.01E;
- (b) any (i) undetermined or inchoate liens or charges constituting or securing the payment of expenses which were incurred incidental to the operation, repair, construction, improvement or maintenance of the Assets and (ii) materialman's, mechanics', repairman's, employees', contractors', operators' or other similar liens, security interests or charges for liquidated amounts arising in the Ordinary Course of Business incidental to the conduct of the Operations or the operation, repair, construction, improvement or maintenance of the Assets, securing amounts the payment of which is not delinquent and that will be paid by the applicable Seller Company in the ordinary course of Operations or, if delinquent, that are being contested in good faith with any action to foreclose or attach any of the Assets on account thereof properly stayed;
- (c) any Liens for Taxes not yet due and payable or that are being contested by the applicable Seller Company or its Affiliates in good faith with any pending action to foreclose any of the Assets on account thereof properly stayed;
- (d) any Liens created by Applicable Law or which arise from leases, Easements or other real property interests for rental or for compliance with the terms of such leases, Easements or other real property interests, provided all payments by the applicable Seller Company of the debt secured is not delinquent or, if delinquent, is being contested by the applicable Seller Company in good faith in the Ordinary Course of Business with any action to foreclose or attach any of the Assets on account thereof properly stayed;
- (e) all reservations of record of minerals in and under or that may be produced from any of the lands constituting part of the Real Property or on which any of the Assets are located, other than mineral reservations that materially interfere with the Operations;
- (f) any defect that has been cured by the applicable statutes of limitations or statutes for prescription;
- (g) any defect affecting (or the termination or expiration of) any Easement or other real property interest which has been replaced prior to Closing at a Seller Company's sole cost by an Easement or other real property interest constituting part of the Assets covering substantially the same rights to use the land or the portion thereof used by a Seller Company in connection with the Operations;
- (h) rights reserved to or vested in any Governmental Authority to control or regulate any of the Assets or the Operations and all Applicable Laws of such authorities, including any building or zoning ordinances and all HSE Laws;
- (i) the terms and conditions of existing leases, licenses and similar agreements to the extent such constitute Material Contracts;
- (j) the restrictions contained in the Deeds;

(k) the limitations on use of certain parcels of the Real Property for, *inter alia*, residential, agricultural and day care uses, all as more particularly described in the Deeds;

(l) the terms and conditions of any agreement or contract entered into by the Parties in accordance with the terms of this Agreement or the Closing Documents; and

“Person” means any individual, corporation, partnership, association, trust, limited liability company or any other entity or organization, including a Governmental Authority or instrumentality thereof.

“Primarily” means that an asset is currently, or during the past six months has been, used for more than 50% of the time in the operations of a specified business.

“Proceeding” has the meaning set forth in Section 4.08.

“Proprietary Pipeline System” has the meaning set forth in the recitals.

“PPS Assets” means the Assets described in Section 2.01(a).

“PPS Books and Records” has the meaning set forth in “Books and Records.”

“PPS Contracts” has the meaning set forth in Section 2.01(a)(vii).

“PPS Easements” has the meaning set forth in Section 2.01(a)(ii).

“PPS Hydrocarbon Inventory” has the meaning set forth in Section 2.01(a)(iv).

“PPS Leased Real Property” has the meaning set forth in Section 2.01(a)(ii).

“PPS Non-Hydrocarbon Inventory” has the meaning set forth in Section 2.01(a)(v).

“PPS Owned Real Property” has the meaning set forth in Section 2.01(a)(i).

“PPS Personal Property” has the meaning set forth in Section 2.01(a)(vi).

“PPS Permits” has the meaning set forth in Section 2.01(a)(ix).

“Purchase Price” has the meaning set forth in Section 2.03.

“RCRA” means the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901 et seq.

“Real Property” means the real property interests owned or leased by the Seller Companies and relating to the Assets, together with all fixtures, buildings and other structures, facilities or Improvements currently or hereafter permanently affixed thereon prior to the Closing and all Easements, option agreements, and similar land-related agreements or interests relating to the foregoing.

“Real Property Interest Assignment and Assumption Agreement” has the meaning set forth in Section 3.02(a)(ii).

“Real Property Leases” means the PPS Leased Real Property.

“Receiving Party” has the meaning set forth in Section 17.14.

“Regulatory Documentation” has the meaning set forth in Section 7.11(b).

“Release” means any spilling, leaking, seeping, pumping, pouring, emitting, emptying, injecting, discharging, escaping, leaching, dumping, disposing or releasing of a Hazardous Substance into the environment (including the air, soil, surface water, groundwater, sewer, septic system, or waste treatment, storage, or disposal systems) of any kind whatsoever, including the abandonment or discarding of barrels, containers, tanks or other receptacles containing or previously containing a Hazardous Substance.

“Retained Liabilities” has the meaning set forth in Section 2.06(c).

“Retained Offsite Environmental Liabilities” shall mean all Obligations imposed by HSE Laws to the extent related to, arising out of, resulting from, or occurring during:

- (i) a Seller Company’s shipment, transfer or disposal to off-site disposal sites of Hazardous Substances generated as a result of or in connection with the operations of the PPS Assets prior to the Effective Time (it being understood that, with respect to Hazardous Substances generated as a result of a shared responsibility hereunder, each Party will be responsible for its respective share of any shipment, transfer or disposal liability); and
- (ii) any liability for any designated “Superfund” site under CERCLA and state “superfund” laws where a Seller Company is designated as a “Potentially Responsible Party” or “Potentially Liable Party” or similar designations under CERCLA or state “superfund” laws for Hazardous Substances generated at the PPS Assets, unless Buyer is also designated, in which case such Seller Company shall only be responsible for disposal of Hazardous Substances generated at the PPS Assets during such Seller Company’s ownership, operation or use of the PPS Assets.

“Securities Act” has the meaning set forth in Section 4.06(b).

“Seller” has the meaning set forth in the preamble.

“Seller Company” shall mean Seller and each of its Affiliates that own any interest in any of the Assets.

“Seller Indemnified Parties” has the meaning set forth in Section 12.01.

“Software” means computer software including computer programs, applications and databases in any form, including source code and object code, operating systems and specifications, firmware, data, databases, database management code, utilities, graphical user

interfaces, menus, images, icons, forms, methods of processing, software engines, platforms, data formats, internet web sites, web content and links, all versions, updates, corrections, enhancements and modifications thereof, and all related documentation, developer notes, comments and annotations.

“SPB Assets” means the assets owned by SPB LLC as of the Execution Date.

“SPB Interest Books and Records” has the meaning set forth in “Books and Records.”

“SPB Current Assets” means the amount of the current assets of SPB LLC determined in accordance with GAAP and SPB LLC’s past practices (to the extent not inconsistent with GAAP), consistently applied, as of the Effective Time including, without duplication: (i) accounts receivable, (ii) deposits (regardless of classification) and (iii) assets accounted for as other current assets of SPB LLC.

“SPB Current Liabilities” means the amount of the current liabilities of SPB LLC determined in accordance with GAAP and SPB LLC’s past practices (to the extent not inconsistent with GAAP), consistently applied, as of the Effective Time, including, without duplication: (i) accounts payable and (ii) liabilities accounted for as other current liabilities of SPB LLC but specifically excluding any amounts for Retained Liabilities retained by Seller pursuant to Section 2.06(c).

“SPB Interest” has the meaning set forth in Section 2.01(b)(i).

“SPB LLC” has the meaning set forth in the Recitals.

“SPB Net Working Capital” means the sum of (a) the SPB Current Assets; less (b) the SPB Current Liabilities.

“SPB Net Working Capital Statement” has the meaning set forth in Section 2.09(d).

“SPB Challenged Amount” has the meaning set forth in Section 2.09(d).

“SPB Protest Letter” has the meaning set forth in Section 2.09(d).

“Taking” means taken by condemnation or eminent domain or by agreement in lieu thereof with any Person authorized to exercise such rights.

“Tax Allocation” has the meaning set forth in Section 13.03.

“Taxes” means all United States federal, state, local or foreign income, profits, gross receipts, branch profits, windfall profits, license, premium, escheat, environmental, capital stock, severance, real or personal property, *ad valorem*, intangible property, occupation, production, franchise, capital gains, employment, withholding, social security (or similar), disability, registration, stamp, payroll, goods and services, alternative or add-on minimum tax, or any other taxes, charges, fees, imposts, duties, levies, withholdings or other assessments imposed by any governmental entity, including environmental taxes imposed pursuant to Chapter 38 of the Code, and similar state laws, excise taxes, customs duties, utility, property, sales, use, value added,

transfer and fuel taxes, or other like assessment or charge of any kind whatsoever, together with any interest, fines, penalties or additions to tax attributable to or imposed on or in respect thereof imposed by any Governmental Authority, whether or not disputed, and including (i) any obligation to indemnify or otherwise assume or succeed to the Tax liability of any other Person and (ii) all applicable sales, use, excise, business, occupation or other tax, if any, relating to this or any other service, supply or operating agreement.

“Tax Benefit” means, with respect to any Losses subject to indemnity under Article XII, an amount by which the net Tax liability of the Indemnified Party (or a group filing a Tax Return that includes such Indemnified Party) is actually reduced in any Tax period as a result of Losses or the amount of Tax refund that is generated as a result of such Losses, and any related interest received from the applicable Governmental Authority.

“Tax Return” means any return, declaration, report or similar statement required to be filed with respect to any Taxes (including any attached schedules) including any information return, claim for refund, amended return and declaration of estimated Taxes and any amendment thereof.

“Termination Cost” has the meaning set forth on Schedule 9.01.

“Third Party Claim” has the meaning set forth in Section 12.05(a).

“Third Party Property” means improvements, equipment, inventory and any other tangible personal property located on the Real Property as of the Effective Time that are not owned by or leased or rented to a Seller Company.

“Trademarks” means with regard to the Seller Companies and their respective Affiliates: (i) any and all trademarks, trademark registrations, trademark applications, service marks, service mark registrations, service mark applications, trade dress, word marks, word mark registrations, word mark applications and trade names owned by a Seller Company or any Affiliate of the Seller Companies, including the name “Shell”, and the Shell emblem and logos used by or licensed to the Seller Companies in connection with any of the Assets; and (ii) the goodwill of the Assets in connection with which such Trademarks have been used.

“Transition Services Agreement” means the Transition Services Agreement to be entered into by and between Shell Pipeline Company LP and Buyer on the Closing Date, substantially in the form attached hereto as Exhibit F.

“WARN Act” means the Worker Adjustment and Retraining Notification Act, 29 U.S.C. §2101 et seq., and any similar state or local law, including the California Worker Adjustment and Retraining Notification Act, Cal. Labor Code §1400 et seq.

1.02 Interpretation. Unless expressly provided for elsewhere in this Agreement, this Agreement shall be interpreted in accordance with the following provisions:

(a) All references herein to Articles, Sections, Exhibits and Schedules are to Articles and Sections of and Exhibits and Schedules attached to and forming part of this Agreement, unless the contrary is specifically stated;

(b) The headings of the Articles, Sections and subsections of this Agreement and the headings contained in the Exhibits and Schedules hereto are inserted for convenience of reference only and shall not in any way define or affect the meaning, construction, or scope of any of the provisions hereof or thereof;

(c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning. A defined term has its defined meaning throughout this Agreement and each Exhibit and Schedule to this Agreement, regardless of whether it appears before or after the place where it is defined;

(d) In the event of any conflict between the main body of this Agreement and the Exhibits and Schedules hereto, the provisions of the main body of this Agreement shall prevail;

(e) Except where specifically stated otherwise, any reference to any law, statute, regulation, rule, or agreement shall be a reference to the same as amended, supplemented or re-enacted from time to time and, with respect to a law, statute or regulation, shall include any successor thereto and any rules and regulations promulgated thereunder;

(f) Whenever the words "include," "including," or "includes" appear in this Agreement, they shall be read as if followed by the words "without limitation" or words having similar import;

(g) Whenever the context may require, any pronoun used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa;

(h) A reference to any agreement or document (including a reference to this Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document;

(i) A reference to any Party to this Agreement or another agreement or document includes the Party's permitted successors and assigns;

(j) A reference to a writing includes a facsimile transmission or a portable document format (".pdf") or similar transmission of it and any means of reproducing of its words in a tangible and permanently visible form;

(k) The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement and not to any provision of this Agreement;

(l) The term "cost" includes expense and the term "expense" includes cost;

(m) The word "or" will have the inclusive meaning represented by the phrase "and/or";

(n) The phrase "and/or" when used in a conjunctive phrase, means any one or more of the Persons specified in or the existence or occurrence of any one or more of the events, conditions or circumstances set forth in that phrase; *provided, however*, that when used to describe the

obligation of one or more Persons to do any act, it means that the obligation is the obligation of each of the Persons but that it may be satisfied by performance by any one or more of them;

(o) "Shall" and "will" have equal force and effect;

(p) Unless otherwise specified, all references to a specific time of day in this Agreement shall be based upon Pacific Standard Time or Pacific Daylight Savings Time, as applicable on the date in question in Bakersfield, California;

(q) References to "\$" or to "dollars" means the lawful currency of the United States of America;

(r) All references to "day" or "days" means calendar days unless specified as a "Business Day." No action shall be required of the Parties except on a Business Day, and in the event an action is required on a day which is not a Business Day, such action shall be required to be performed on the next succeeding day which is a Business Day;

(s) Time periods within or following which any payment is to be made or an act is to be done shall be calculated by excluding the day on which the time period commences and including the day on which the time period ends and by extending the period to the next Business Day following if the last day of the time period is not a Business Day;

(t) For purposes of Article IV, the words "delivered to," "provided to," "made available to" or words of similar import mean posted to the Data Room or physically delivered to Buyer;

(u) The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by the authorship of any of the provisions of this Agreement.

ARTICLE II **PURCHASE AND SALE OF THE ASSETS**

2.01 Purchase and Sale. Subject to the terms and conditions of this Agreement, on the Closing Date, Seller shall (or shall cause each applicable Seller Company to) sell, assign, transfer, convey and deliver (subject to Section 8.02, as applicable) to Buyer as of the Effective Time, and Buyer shall purchase, acquire and accept from Seller (or each applicable Seller Company) as of the Effective Time the following assets (other than the Excluded Assets) (collectively, the "***Assets***");

(a) **Proprietary Pipeline System Assets**

(i) The real property owned in fee by the Seller Companies that is described as "Proprietary System Owned Real Property" on Schedule 2.01(a)(i) (collectively, the "***PPS Owned Real Property***") together with all of the Seller Companies' right, title and interest in and to all easements, servitudes, rights-of-way, privileges, licenses (written or oral) and appurtenances related thereto and together with all Improvements located thereon;

(ii) The real property that is subject to leasehold estates and the related lease or sublease agreements, licenses that are in the nature of leases (rather than in the nature of Easements) or other similar occupancy agreements respecting real property and buildings, fixtures and real property Improvements under which a Seller Company is the lessee, that are described in Schedule 2.01(a)(ii) (collectively, the “**PPS Leased Real Property**”) together with all Improvements located thereon;

(iii) All Easements, rights of way, licenses agreements permits and other land related grants to use property belonging to third parties and used exclusively in connection with the ownership or the operation of the Proprietary Pipeline System which are set forth in Schedule 2.01(a)(ii).

(iv) RESERVED

(v) All hydrocarbon inventory (including line fill, tank bottoms, and heels) owned by the Seller Companies as of the Effective Time for use with respect to or located within or upon the Proprietary Pipeline System (collectively, the “**PPS Hydrocarbon Inventory**”), including each of the following as of the Effective Time (A) all crude oil owned by the Seller Companies that is in transit to or from the Proprietary Pipeline System including in interconnecting lines and (B) the total contents of all applicable storage tanks regardless of whether above or below the off-take pipe, including bottom sediment and water;

(vi) All non-hydrocarbon inventories owned by the Seller Companies as of the Effective Time for use in the operation of the Proprietary Pipeline System consisting of stores inventories, including maintenance and capital spares, joints, valves and parts that are located (1) at the PPS Owned Real Property or the PPS Leased Real Property and used in the Operations, or (2) at any off-site storage facility and used in the Operations (collectively, the “**PPS Non-Hydrocarbon Inventory**”);

(vii) The Proprietary Pipeline System (including the idled or abandoned segments) and the Equipment and other tangible personal property owned or leased, but excluding any tangible personal property that is leased pursuant to a master services agreement, by the Seller Companies as of the Effective Time and used or held for use in the ownership, operation or use of the Proprietary Pipeline System, including those items set forth in Schedule 2.01(a)(vi) (but excluding hardware and Software located or associated with the Control Center) (collectively, the “**PPS Personal Property**”);

(viii) All assignable or transferable rights and obligations of the Seller Companies under the Contracts set forth in Schedule 2.01(a)(vii) (collectively, the “**PPS Contracts**”);

(ix) To the extent their transfer is permitted under Applicable Law and subject to contracts, permits and right-of-way incapable of transfer, any and all assignable or transferable Permits in favor of the Seller Companies which are necessary and used exclusively in connection with the ownership, operation or use of the Proprietary Pipeline System as it is currently operated by the applicable Seller Company, including those

Permits set forth in Section 2.01(a)(viii) of the Disclosure Letter (collectively, the “**PPS Permits**”);

(x) The PPS Books and Records; subject to those excluded books and records noted in 2.02;

(xi) all Material Contracts listed on Schedule 4.09(a); and

(xii) All of the Seller Companies’ rights to causes of action, lawsuits, judgments, Claims and demands of any nature, related to the Assets described in this Section 2.01(a) and the Assumed Liabilities, in each case, to the extent liabilities related thereto are assumed by Buyer under this Agreement.

(b) SPB LLC Interest

(i) One hundred percent (100%) of the issued and outstanding membership interest in SPB LLC (the “**SPB Interest**”); and

(ii) The SPB Assets, including those assets set forth in Schedule 2.01(b)(ii) (for purposes of clarity, the former PG&E pipeline between Pittsburg, California and Richmond, California, which is approximately 35 miles long, has been sold to Shell California Pipeline Company, LLC and is not owned by SPB LLC); and

(iii) All of the Seller Companies’ rights to causes of action, lawsuits, judgments, Claims and demands of any nature, related to the SPB Interest and the SPB Assets, to the extent liabilities related thereto are assumed by Buyer under this Agreement.

2.02 Excluded Assets.

(a) Without limiting the generality of the foregoing, and to the extent the following are not the SPB Interest or assets or properties owned by SPB LLC (including without limitation the SPB Assets or assets owned by SPB LLC as of the Effective Time) Seller (or an applicable Seller Company) shall retain and not sell, convey, transfer or deliver to Buyer, and Buyer shall not purchase or have any rights in, the following assets and properties (collectively, the “**Excluded Assets**”):

(i) All cash, cash equivalents, cash deposits, bank accounts, certificates of deposit, savings and other similar cash or cash equivalents of every kind, nature, character and description;

(ii) Any accounts receivable and other prepaid expenses or deposits;

(iii) All Intellectual Property of the Seller Companies or of any third party;

(iv) All contracts, agreements and Permits described in Schedule 2.02(a)(iv) (the “**Excluded Contracts**”);

(v) General books and records that comprise a Seller Company's permanent accounting or Tax records;

(vi) Actions, deposits, prepayments, refunds, causes of action, rights of recovery defenses, rights of setoff, counterclaims or rights of recoupment of any kind or nature (including any such item relating to Taxes), in each case relating to the Excluded Assets or the Retained Liabilities, but only to the extent a Seller Company is obligated to indemnify Buyer under this Agreement for any of the foregoing;

(vii) Any Claim, right or interest in or to any refund, rebate, abatement or other recovery of Taxes that are allocated to Seller pursuant to Article XIII or Taxes that are part of the Retained Liabilities;

(viii) All of the Seller Companies' rights to causes of action, lawsuits, judgments, Claims, credits of funds held in escrow to the extent related to the land credit purchase described in Schedule 2.06(c)(iv), and demands of any nature, related to (a) Losses suffered by any Seller Company during such Seller Company's ownership, operation or use of the Assets; (b) Retained Liabilities, and (c) Retained Offsite Environmental Liabilities, in each case, only to the extent a Seller Company is obligated to indemnify Buyer under this Agreement for any of the foregoing;

(ix) All Software and related agreements;

(x) Any claim, right or interest in or to any Trademarks.

2.03 Purchase Price. The aggregate purchase price for the Assets shall be One Hundred Twenty Million Dollars (\$120,000,000) (the "**Base Amount**"); plus (i) the purchase price for the PPS Hydrocarbon Inventory and the PPS Non-Hydrocarbon Inventory which shall be determined and paid pursuant to Section 2.08; plus or minus (ii) the adjustment set forth in Section 2.09 with respect to the SPB Net Working Capital; plus (iii) the additional consideration set forth in Section 8.13, to the extent payable in accordance with the terms set forth therein (such Base Amount, as finally adjusted, the "**Purchase Price**"); plus (iv) the assumption by Buyer of the Assumed Liabilities as more particularly set forth in Section 2.06(a); plus (v) the Termination Costs, as Seller's exclusive remedy for all matters arising out of or relating to the Business Employees.

2.04 Guaranty; Deposit.

(a) Concurrently with the execution of this Agreement Buyer shall deliver the Buyer Guaranty duly executed by Buyer Guarantor.

(b) Concurrently with the execution of this Agreement, Buyer shall pay by wire transfer to Seller fifteen million dollars (\$15,000,000.00) in good and immediately available funds, as a performance deposit (the "**Deposit**"). The Deposit shall be paid by wire transfer to Seller per Seller's wiring instructions to be provided five days prior to the Execution Date.

(c) The Parties' rights and obligations with respect to the Deposit shall be governed by this Agreement. The Deposit is non-refundable except as set forth in this Section 2.04 and Seller will disburse the Deposit in accordance with one of the following provisions, whichever shall apply:

(i) if the Closing occurs, then the amount of the Deposit shall be credited towards the Purchase Price and Seller will retain the Deposit;

(ii) if this Agreement is terminated for any reason other than by Sections 15.01(a), 15.01(b)(i), 15.01(c) or 15.01(d), then Seller shall be entitled to retain the Deposit; and

(iii) if this Agreement is terminated pursuant to Sections 15.01(a), 15.01(b)(i), 15.01(c), or 15.01(d) then Buyer shall be entitled to receive the Deposit and within thirty (30) days after such termination Seller will return the Deposit to Buyer.

2.05 Method of Payment. All amounts to be disbursed or paid pursuant to the terms of this Agreement shall be made in immediately available U.S. funds, by wire transfer (i) to a U.S. bank account designated by Seller or by any other means acceptable to Seller if payable to Seller and (ii) to a U.S. bank account designated by Buyer or by any other means acceptable to Buyer if payable to Buyer.

2.06 Assumed Liabilities and Retained Liabilities.

(a) As of the Effective Time, Buyer shall, without any further action on the part of Buyer or any Seller Company, assume and agree to pay, perform and discharge when due, subject to the other provisions of this Agreement and the Closing Documents, each of the following Obligations (collectively, the “***Assumed Liabilities***”) (provided that the Assumed Liabilities shall not include the Retained Liabilities).

(b) all Obligations related to or arising in connection with the ownership or use of the Assets or the Operations whether arising before, on or after the Effective Time (including, but not limited to the obligations listed in Article XIV), but excluding the Retained Liabilities. Buyer is not assuming (and Seller and each applicable Seller Company shall retain) Obligations for Contracts that by their terms are not assignable to Buyer except that the process described in Section 8.02(b) shall be followed where permitted.

(c) Seller shall (or shall cause each applicable Seller Company to) retain and agree to pay, perform and discharge when due, subject to the other provisions of this Agreement and the Closing Documents, each of the following (collectively, the “***Retained Liabilities***”):

(i) all Obligations of the Seller Companies to the extent arising out of, incurred in connection with or related to the PPS Contracts but only such Obligations for goods or services received by or on behalf of any Seller Company prior to the Effective Time;

(ii) all Obligations of the Seller Companies for Taxes with respect to the Assets for taxable periods ending at or prior to the Effective Time, except to the extent such Taxes are allocated to Buyer pursuant to Article XIII;

(iii) all Obligations relating to the Business Employees that arise from their employment by Seller or an Affiliate of Seller;

(iv) all Obligations relating to the pending lawsuits, Claims or arbitrations set forth in Schedule 2.06(c)(iv), including the defense and costs of defense of SPB LLC with respect to any such lawsuits, Claims, or arbitrations; and

(v) all Obligations related to the matters set forth in Schedule 2.06(c)(v), to the extent such Obligations are retained by Seller pursuant to Schedule 2.06(c)(v);

(vi) all Obligations arising out of or related to any matter set forth on Section 4.13 of the Disclosure Letter; and

(vii) all Obligations arising out of or related to any termination of that certain Master Purchase/Sale Agreement dated March 1, 1996, between Shell Oil Company and Coral Energy Resources, L.P., as amended, supplemented, or confirmed from time-to-time.

2.07 Disclaimer.

EXCEPT FOR (AND WITHOUT LIMITING) THE REPRESENTATIONS AND WARRANTIES EXPRESSLY MADE BY SELLER IN ARTICLE IV (INCLUDING THE RELATED PORTIONS OF THE DISCLOSURE LETTER), BUYER ACKNOWLEDGES AND AGREES THAT IN MAKING ITS DECISION TO ENTER INTO THIS AGREEMENT AND TO CONSUMMATE THE CONTEMPLATED TRANSACTIONS, IT HAS RELIED AND WILL RELY SOLELY UPON ITS OWN INDEPENDENT INVESTIGATION, ANALYSIS, EVALUATION AND VERIFICATION. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IT IS THE EXPLICIT INTENT OF EACH OF THE PARTIES THAT, EXCEPT AS EXPRESSLY PROVIDED IN SELLER'S REPRESENTATIONS AND WARRANTIES IN ARTICLE IV (INCLUDING THE RELATED PORTION OF THE DISCLOSURE LETTER), SELLER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE (WHETHER EXPRESS OR IMPLIED), AT LAW OR IN EQUITY, WITH RESPECT TO ANY SELLER PARTY, THE ASSETS, SPB LLC, THE SPB ASSETS OR THE ASSUMED LIABILITIES, AND EACH SELLER PARTY EXPRESSLY DISCLAIMS ANY SUCH OTHER WARRANTIES (EXPRESS OR IMPLIED), INCLUDING AS TO THEIR (A) TITLE, (B) ABSENCE OF PATENT OR LATENT DEFECTS, (C) SAFETY, (D) STATE OF REPAIR, (E) QUALITY, (F) MERCHANTABILITY, (G) FITNESS FOR BUYER'S INTENDED USE OR PURPOSE OR A PARTICULAR USE OR PURPOSE OR ANY USE OR PURPOSE WHATSOEVER, (H) COMPLIANCE WITH APPLICABLE LAWS, (I) ENVIRONMENTAL OR PHYSICAL CONDITION (SURFACE AND SUBSURFACE), (J) FEDERAL, STATE OR LOCAL INCOME OR OTHER TAX CONSEQUENCES, (K) CONTRACTUAL, ECONOMIC OR FINANCIAL INFORMATION AND DATA, OR FINANCIAL VIABILITY, INCLUDING PRESENT OR FUTURE VALUE OR ANTICIPATED INCOME OR PROFITS. BUYER AGREES TO ACCEPT THE ASSETS "AS IS, WHERE IS," AND "WITH ALL FAULTS", IN THEIR PRESENT CONDITION AND STATE OF REPAIR, AND EXCEPT AS EXPRESSLY PROVIDED IN SELLER'S EXPRESS REPRESENTATIONS AND WARRANTIES IN ARTICLE IV (INCLUDING THE RELATED PORTIONS OF THE DISCLOSURE LETTER), WITHOUT ANY GUARANTEES OR WARRANTIES (WHETHER EXPRESS OR IMPLIED), AT LAW OR IN EQUITY AS TO THE ASSETS, SPB LLC, THE SPB ASSETS OR THE ASSUMED LIABILITIES.

ALL REPRESENTATIONS AND WARRANTIES (WHETHER EXPRESS OR IMPLIED), AT LAW OR IN EQUITY, OTHER THAN THOSE EXPRESSLY SET FORTH HEREIN ARE EXCLUDED. SELLER AND THE OTHER SELLER COMPANIES DISCLAIM ALL LIABILITY AND RESPONSIBILITY FOR ANY OTHER REPRESENTATION, WARRANTY, STATEMENT OR INFORMATION MADE OR COMMUNICATED (WHETHER ORALLY, IN WRITING, ELECTRONICALLY OR BY OR THROUGH ANY OTHER MEDIUM) TO BUYER OR ITS REPRESENTATIVES, INCLUDING WITH RESPECT TO THE SELLER COMPANIES, THE ASSETS, SPB LLC, OR THE ASSUMED LIABILITIES, FURTHER INCLUDING THE QUALITY, ACCURACY OR COMPLETENESS OF ANY FILES, RECORDS, BOOKS AND RECORDS OR OPERATING MANUALS CONVEYED AS PART OF THE ASSETS, AND BUYER'S SUBSEQUENT USE OF SUCH MATERIALS SHALL BE AT BUYER'S OWN RISK AND BUYER RELEASES THE SELLER COMPANIES AND THEIR RESPECTIVE AFFILIATES FROM ANY LOSS, LIABILITY, OR DAMAGE ARISING FROM, ASSOCIATED WITH, OR RELATED TO BUYER'S USE OF SUCH MATERIALS.

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SELLER MAKES NO REPRESENTATION OR WARRANTY REGARDING ANY THIRD-PARTY BENEFICIARY RIGHTS OR OTHER RIGHTS WHICH BUYER MIGHT CLAIM UNDER ANY STUDIES, REPORTS, TESTS OR ANALYSES PREPARED BY ANY THIRD PARTIES FOR THE SELLER OR ANY OF THEIR AFFILIATES, EVEN IF THE SAME WERE MADE AVAILABLE FOR REVIEW BY BUYER OR ITS AGENTS, REPRESENTATIVES OR CONSULTANTS.

BUYER EXPRESSLY ACKNOWLEDGES AND AGREES THAT BUYER SHALL INDEMNIFY, DEFEND AND HOLD THE SELLER INDEMNIFIED PARTIES HARMLESS AGAINST ALL CLAIMS AND LOSSES CAUSED BY BUYER'S CLAIMING OR ATTEMPTING TO EXERCISE ANY RIGHTS (WHETHER AS A THIRD-PARTY BENEFICIARY OR OTHERWISE) UNDER, ANY STUDIES, REPORTS, TESTS OR ANALYSES PREPARED BY ANY THIRD PARTIES FOR THE SELLER OR ANY OF THEIR AFFILIATES.

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BUYER EXPRESSLY ACKNOWLEDGES AND AGREES THAT NONE OF THE DOCUMENTS, INFORMATION OR OTHER MATERIALS PROVIDED TO BUYER AT ANY TIME OR IN ANY FORMAT BY THE SELLER OR ANY OF THEIR AFFILIATES CONSTITUTE LEGAL ADVICE, AND BUYER (i) WAIVES ALL RIGHTS TO ASSERT THAT IT RECEIVED ANY LEGAL ADVICE FROM THE SELLER OR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS, REPRESENTATIVES OR COUNSEL, OR THAT IT HAD ANY SORT OF ATTORNEY-CLIENT RELATIONSHIP WITH ANY OF SUCH PERSONS, AND (ii) AGREES TO INDEMNIFY, DEFEND AND HOLD THE SELLER INDEMNIFIED PARTIES AGAINST ANY SUCH ASSERTION MADE BY OR ON BEHALF OF ANY OF BUYER'S AFFILIATES.

2.08 Hydrocarbon and PPS Non-Hydrocarbon Inventory.

(a) Seller shall make a good faith estimate five (5) Business Days prior to the Closing Date of the estimated value of the PPS Hydrocarbon Inventory and the PPS Non-Hydrocarbon

Inventory as of such date and provide a copy thereof to Buyer setting forth the ownership, types, characteristics and volumes, on a tank, trunk, pipeline, site or other location basis, of all PPS Hydrocarbon Inventory and PPS Non-Hydrocarbon Inventory. Seller shall measure the PPS Hydrocarbon Inventory in accordance with the measurement procedures set forth in Schedule 1.01A and shall value the PPS Hydrocarbon Inventory and the PPS Non-Hydrocarbon Inventory in accordance with the valuation procedures set forth in Schedule 1.01B. Buyer shall be permitted to have representatives present to observe any measurements taken by Seller. At the Closing, the Purchase Price shall be adjusted upward (in accordance with Section 2.10) by an amount (the "**Inventory Deposit**") equal to 100% of such estimated Inventory Value as reasonably estimated by Seller five (5) Business Days prior to the Closing Date.

(b) Representatives of Seller and Buyer shall measure the PPS Hydrocarbon Inventory as of the Effective Time in accordance with the procedures set forth in Schedule 1.01A. Seller shall issue a written report (the "**Field Inspection Report**") to Buyer within ten (10) Business Days after the Closing Date setting forth the volumes and quantities of the PPS Hydrocarbon Inventory as of the Effective Time. Seller and Buyer shall pay their own fees and expenses in connection with the measurement of the PPS Hydrocarbon Inventory and preparation of the Field Inspection Report.

(c) As soon as practicable, but in any event no later than ten (10) days following receipt of the Field Inspection Report, Seller shall cause to be prepared and delivered to Buyer a statement, together with supporting calculations and information (the "**Inventory Statement**") setting forth the volume of the PPS Hydrocarbon Inventory as set forth in the Field Inspection Report as of the Effective Time and the value of the PPS Hydrocarbon Inventory, as determined in accordance with the procedures set forth in Schedule 1.01B, and the Non-Hydrocarbon Inventory (collectively, the "**Inventory Value**"). Buyer shall give Seller notice of its acceptance or objection to the computations in the Inventory Statement (and setting forth in reasonable detail the amounts in dispute and the reasons therefor) no later than twenty (20) days following its receipt of the Inventory Statement (the date of Seller's receipt of such acceptance or rejection, or the expiration of such 20 day period with no notice having been given, shall be (the "**Inventory Notice Date**"). If Buyer fails to give such notice before the end of such twenty (20) day period, then the Inventory Statement will be deemed final and binding upon the Parties. If Buyer gives such notice to Seller of Buyer's objection within such twenty (20) days, and Buyer and Seller are unable to resolve the issues in dispute within seven (7) days after delivery of such notice of objection, each of Buyer's and Seller's positions with respect to the computation of the Inventory Value will be submitted to an independent and qualified party mutually selected by the Parties (the "**Inspector**") such as an accounting firm or independent inspector, for final resolution. If the computation of the Inventory Value is submitted to the Inspector for resolution, (x) each Party will furnish to the Inspector such work papers and other documents and information relating to the disputed issues as the Inspector may request and are available to that Party, and will be afforded the opportunity to present to the Inspector any materials relating to such issues and to discuss the same with the Inspector; (y) the Inspector's determination or computation of the Inventory Value shall be binding and conclusive on the Parties and will be deemed to be the final Inventory Value (and judgment thereupon may be entered in any court having jurisdiction over the Party against which the same is sought to be enforced); and (z) the fees and expenses of the Inspector for such determination will be borne fifty percent (50%) by Seller and fifty percent (50%) by Buyer.

(d) If the sum of the Inventory Value minus the Inventory Deposit (the “*Inventory Balance*”) is greater than zero, then Buyer shall pay to Seller Companies, without offset or deduction, an amount equal to the Inventory Balance by wire transfer of immediately available funds to such account or accounts of Seller Companies, as may be designated by Seller. If the amount of the Inventory Balance is less than zero, then Seller Companies shall pay to Buyer, without offset or deduction, an amount equal to such deficit by wire transfer of immediately available funds to such account or accounts of Buyer, as may be designated by Buyer. All such undisputed amounts shall be paid by the relevant Party to the other Party within five (5) Business Days of the Inventory Notice Date. All disputed amounts shall be paid by the relevant Party to the other Party within five (5) Business Days of the resolution of such disputed amounts. All amounts payable pursuant to this Section 2.08(d) (both disputed and undisputed amounts) shall bear interest from and including the date payment is scheduled to be made to, but excluding, the date of payment at a rate per annum equal to LIBOR plus six percent (6%), not to exceed the maximum rate permitted by Applicable Law. Such interest shall be payable at the same time as the payment to which it relates and shall be calculated based on a year of 365 days and the actual number of days for which it is due.

(e) Each Party agrees that, following the Closing, it shall not take any actions with respect to the accounting books, records, policies and procedures of itself or its Affiliates that would obstruct or prevent the preparation of the Inventory Statement as provided in Section 2.08. From the Closing through the final determination of the Inventory Value in accordance with Section 2.08, (i) Seller shall provide Buyer with access at all reasonable times to the personnel and working papers utilized in determining the Inventory Statement for purposes of confirming Seller’s calculation of same and (ii) Seller and Buyer shall provide one another access at all reasonable times to the personnel, properties, and books and records of the Proprietary Pipeline System for purposes of determining the Inventory Value, including permitting the Parties and their respective advisors to participate in the taking of the physical inventory. The Parties shall cooperate with each other in the preparation of the Inventory Statement, if requested by the other Party.

(f) Buyer and Seller shall each bear its own expenses incurred in connection with the preparation and review of the Inventory Statement.

2.09 SPB Net Working Capital.

(a) If the SPB Net Working Capital as of the Effective Time is a positive amount, then the Base Amount shall be increased in an amount equal to the SPB Net Working Capital, and if the SPB Net Working Capital as of the Effective Time is a negative amount, then the Base Amount shall be reduced in an amount equal to the SPB Net Working Capital, in each case as calculated in accordance with this Section 2.09.

(b) Except as otherwise provided in this Section 2.09, or in the definitions of SPB Current Assets and SPB Current Liabilities, the items included in the components of SPB Current Assets and SPB Current Liabilities shall be determined, and the amounts of such items shall be calculated, in the same manner as the corresponding line items were determined and calculated, and using the same policies, practices, assumptions, procedures, classifications, methods, estimates and judgments as were used in preparing the SPB LLC balance sheet.

(c) At least three (3) Business Days prior to the Closing Date, Seller shall submit in writing to Buyer its good faith estimate of the SPB Net Working Capital as of the Effective Time (the “**Estimated SPB Net Working Capital**”) along with documentation supporting its good faith calculation of the Estimated SPB Net Working Capital and shall reasonably respond to questions and comments from Buyer regarding such submission prior to the Closing Date. The Base Amount payable by Buyer on the Closing Date shall be increased or decreased, as applicable, by the amount of the Estimated SPB Net Working Capital.

(d) Within sixty (60) days after the Closing Date, Seller shall submit to Buyer its written calculation (the “**SPB Net Working Capital Statement**”) of the actual SPB Net Working Capital as of the Effective Time (the “**Final SPB Net Working Capital**”) accompanied by the balance sheet of SPB LLC as of the Effective Time. From the Closing Date through the final determination of the Final SPB Net Working Capital in accordance with this Section 2.09, Buyer shall cause SPB LLC and its employees to provide Seller and its advisors reasonable access during normal business times to the personnel, properties and books and records of SPB LLC for the purpose of determining the Final SPB Net Working Capital. Unless Buyer gives notice to Seller (a “**SPB Protest Letter**”) on or before the thirtieth (30th) day after Buyer’s receipt of the SPB Net Working Capital Statement that Buyer disputes the Final SPB Net Working Capital specified in the SPB Net Working Capital Statement and setting forth in reasonable detail the amounts in dispute and the reasons therefor, then the Final SPB Net Working Capital as specified in the SPB Net Working Capital Statement shall become final and binding on the Parties. Except for the matters specifically set forth in the SPB Protest Letter, Buyer shall be deemed to have agreed to the SPB Net Working Capital Statement in full. If Buyer gives a SPB Protest Letter to Seller on or before such thirtieth (30th) day that it disputes the Final SPB Net Working Capital specified in the SPB Net Working Capital Statement, then Seller and Buyer shall meet by telephone, or at a mutually agreeable location, to discuss in good faith and attempt to reconcile their differences with respect to the amount of the Final SPB Net Working Capital that is being challenged by Buyer (the “**SPB Challenged Amount**”).

(e) If the Parties are unable to mutually resolve the SPB Challenged Amount within twenty (20) days after receipt of the SPB Protest Letter by Seller, then a mutually acceptable independent accounting firm (the “**Arbiter**”) will be engaged by the Parties to determine the SPB Challenged Amount. The Arbiter: (1) will be jointly engaged by Seller and Buyer; (2) will be provided, within the (10) Business Days of accepting the engagement, with a definitive written statement from Seller and Buyer of their respective positions and a copy of the SPB Net Working Capital Statement and the SPB Protest Letter; (3) will be advised in the engagement letter that the Parties accept the Arbiter as the appropriate Person to interpret this Agreement for all purposes relevant to the resolution of the SPB Challenged Amount; (4) will be granted access to all records and personnel of SPB LLC and (5) will have thirty (30) days to carry out a review and prepare a written statement of its decision regarding the SPB Challenged Amount, which shall be binding and final upon Seller and Buyer. In no event shall the Arbiter’s determination be outside of the range of amounts claimed by the respective Parties with respect to those items in dispute. Each Party will be afforded the opportunity to present to the Arbiter any materials such Party deems relevant to the determination. The decision of the Arbiter shall be final and binding upon the Parties except in the event of manifest error (when the relevant part of their determination shall be void and the matter shall be remitted to the Arbiter for correction) and shall be in substitution for and precludes the bringing of any Proceedings, including in any court, in connection with any

dispute under this Section 2.09. The fees and expenses of the Arbiter incurred in resolving the disputed matter shall be shared equally by Seller, on the one hand, and Buyer, on the other hand.

(f) Not later than the fifth (5th) Business Day after the final determination of the Final SPB Net Working Capital is made pursuant to this Section 2.09:

(i) if the Final SPB Net Working Capital is less than the Estimated SPB Net Working Capital, then Seller shall pay to Buyer, by wire transfer of immediately available funds to the account or accounts designated in writing by Buyer prior to such fifth (5th) Business Day, the amount of such difference together with interest thereon from and including the Closing Date to but excluding the date of payment; or

(ii) if the Final SPB Net Working Capital is greater than the Estimated SPB Net Working Capital, then Buyer shall pay to Seller by wire transfer of immediately available funds to the account or accounts designated in writing by Seller prior to such fifth (5th) Business Day, the amount of such difference together with interest thereon from and including the Closing Date to but excluding the date of payment.

(g) All amounts payable pursuant to Section 2.09(f) shall bear interest from and including the Closing Date, but excluding the date of payment at a rate per annum equal to LIBOR plus three percent (3%), not to exceed the maximum rate permitted by Applicable Law. Such interest shall be payable at the same time as the payment to which it relates and shall be calculated based on a year of 365 days and the actual number of days for which due.

2.10 Closing Adjustments. At the Closing, Buyer shall pay to Seller (or Seller's designee), in immediately available funds by wire transfer to an account designated by Seller, an amount (the "**Closing Date Payment**") equal to the Base Amount, as adjusted by the following:

- (a) Decreased by an amount equal to the Deposit;
- (b) Increased by an amount equal to the Inventory Deposit pursuant to Section 2.08(a);
- (c) Increased or decreased, as applicable, by an amount equal to the Estimated SPB Net Working Capital pursuant to Section 2.09(c);
- (d) Increased by an amount equal to any deposits or prepaids made on behalf of the Assets;
- (e) Reduced by an amount equal to the credit, if any, payable pursuant to Section 8.07(d);
- (f) Increased or reduced, as applicable, by an amount, if any, equal to the pro-ration of lease and rental payments pursuant to Section 8.08(a);
- (g) Reduced by an amount, if any, equal to the pro-ration of property Taxes to Seller pursuant to Section 13.02, to the extent the proration can be completed by the Closing Date;

(h) Increased or reduced, as applicable, by any other amounts agreed to in writing by the Parties, including all costs payable by either Party in accordance with Schedule 2.06(c)(v).

ARTICLE III **CLOSING**

3.01 Place and Time.

(a) Subject to the Parties' satisfaction or waiver of the conditions precedent set forth in Article X and Article XI, the Closing shall take place at 10:00 a.m. local time, at the offices of Seller at 150 N. Dairy Ashford, Houston, Texas 77079 on a Business Day on the fifth (5th) Business Day following the satisfaction or waiver of all such conditions that are contemplated by this Agreement to be satisfied or waived at the Closing (other than conditions which, by their nature, are to be satisfied on the Closing Date, but subject to the satisfaction or waiver of such conditions) or on such other date, place or time on or prior to the Outside Date as the Parties may otherwise mutually agree in writing (the "**Closing Date**"); *provided, however*, that, if such fifth (5th) Business Day is not the first day of a calendar month, then the Closing Date shall be the first day of the calendar month next following the month in which such fifth (5th) Business Day occurs. In the event the Closing Date is not a Business Day then the Parties shall, prior to the Closing Date, utilize such procedures and agreements which are mutually agreeable to all Parties to provide for the Closing Date Payment and executed originals of the Closing Documents, and joint written instructions or other assignment documents as are required by the Parties to be held in escrow and to be released as of 12:01 a.m. Pacific Time on the Closing Date.

(b) Upon release of the documents and receipt of payments as contemplated by and in accordance with Section 3.02, the Closing shall be deemed to have occurred and legal title to and beneficial ownership of the Assets shall be deemed to have passed to Buyer as of the Effective Time and all right, title and interest in and to the Closing Date Payment shall be deemed to have passed to the Seller Companies.

(c) Buyer shall assume operational control of the Assets in accordance with the Transition Services Agreement. On the Closing Date, the Seller Companies shall conduct the Operations and the operations of the Assets in all material respects in the ordinary course, in accordance with the Transition Services Agreement, for the benefit of Buyer until Buyer assumes operational control of the Assets as provided in the preceding sentence.

3.02 Transactions and Deliveries at or Prior to Closing.

(a) At the Closing, Seller (or other Seller Companies, as applicable) shall execute and deliver to Buyer the following:

(i) one or more deed(s) for the Owned Real Property substantially in the form attached hereto as Exhibit B (the "**Deeds**"), pursuant to which each applicable Seller Company conveys the Owned Real Property to Buyer;

(ii) one or more assignment and assumption agreement(s), substantially in the form attached hereto as Exhibit C (the "**Real Property Interest Assignment and Assumption Agreement**"), pursuant to which each applicable

Seller Company conveys the Easements, Real Property Leases and other real property rights constituting the Assets (other than the Owned Real Property), and Buyer assumes certain liabilities associated therewith;

(iii) one or more bills of sale, assignment and assumption agreement(s) substantially in the form attached hereto as Exhibit D (the "**Bill of Sale, Assignment and Assumption Agreement**"), pursuant to which each applicable Seller Company conveys the Assets (other than the Assets to be conveyed pursuant to Sections 3.02(a)(i), 3.02(a)(ii) and 3.02(a)(iv)), and Buyer assumes the Assumed Liabilities;

(iv) an assignment of limited liability company interests substantially in the form attached hereto as Exhibit E (the "**Assignment of SPB Interest**"), pursuant to which the applicable Seller Company conveys the SPB Interest, and Buyer accepts the SPB Interest;

(v) a certificate dated as of the Closing Date and signed by an authorized officer of Seller, certifying as to the fulfillment by Seller of the conditions set forth in Sections 10.01 and 10.02;

(vi) a certificate certifying to the adoption of resolutions of each Seller Company authorizing the execution of this Agreement (only in the case of Seller) and the Closing Documents to which it is a party and the consummation of the Contemplated Transactions and the Closing Documents to which it is a party (in each case to the extent required by such Seller Company's Organizational Documents);

(vii) incumbency certificates, duly executed by an authorized officer of each Seller Company attesting to the due appointment and authorization of individuals signing this Agreement (only in the case of Seller), any Closing Document to which it is a party, or any agreement related to the Contemplated Transactions to which it is a party;

(viii) a short form certificate of good standing in respect of each Seller Company and SPB LLC, in each case issued by the Secretary of State of its state of formation;

(ix) a current certificate of Seller's qualification to do business in California;

(x) a certificate of non-foreign status from each Seller Company;

(xi) the Transition Services Agreement;

(xii) a W9 from each Seller Company;

(xiii) the resignations, effective as of the Closing, of each director, officer, and manager of SPB LLC;

(xiv) a certificate enclosing and certifying to the authenticity of the articles of organization and the limited liability company agreement of SPB LLC; and

(xv) any other documents, instruments or agreements contemplated hereby or reasonably necessary or appropriate to consummate the Contemplated Transactions (it being expressly understood by the Parties, however, that such instruments shall not require a Seller Company or any other Person to make any additional representations, warranties or covenants, express or implied, not contained in or as expressly contemplated by this Agreement or the Closing Documents).

(b) At the Closing, Buyer shall deliver to Seller the following:

(i) the Closing Date Payment;

(ii) the Real Property Interest Assignment and Assumption Agreements;

(iii) the Bill of Sale, Assignment and Assumption Agreements;

(iv) the Assignment of SPB Interest;

(v) a certificate dated as of the Closing Date and signed by an authorized officer of Buyer, certifying as to the fulfillment of the conditions set forth in Sections 11.01 and 11.02;

(vi) a certificate certifying to the adoption of resolutions of Buyer, authorizing the execution of this Agreement and the Closing Documents to which it is a party, and the consummation of the Contemplated Transactions to which it is a party (in each case to the extent required by Buyer's Organizational Documents);

(vii) an incumbency certificate, duly executed by authorized officers of Buyer attesting to the due appointment and authorization of individuals signing this Agreement on behalf of Buyer, any related agreement contemplated hereby to which it is a party, or any agreement related to the Contemplated Transactions to which it is a party;

(viii) a certificate of good standing issued by the Secretary of State for the State of California in respect of Buyer;

(ix) current certificates of Buyer's qualification to do business and good standing in California;

(x) the Transition Services Agreement;

(xi) a resale certificate and any other certificates or instruments necessary for the sale and transfer of the PPS Hydrocarbon Inventory without any sales, excise or use Taxes of any Governmental Authority all to be in form reasonably satisfactory to Seller; and

(xii) any other documents, instruments or agreements contemplated hereby or reasonably necessary or appropriate to consummate the Contemplated Transactions (it being expressly understood by the Parties, however, that such instruments shall not require Buyer or any other Person to make any additional representations, warranties or covenants, express or implied, not contained in or as expressly contemplated by this Agreement or the Closing Documents).

(c) At the Closing, Buyer and Seller shall (or, as applicable, Seller shall cause other Seller Companies to) enter into and deliver to each other any other documents, instruments or agreements contemplated hereby or reasonably necessary or appropriate to consummate the Contemplated Transactions.

(d) All of the transactions identified in this Section 3.02 shall occur simultaneously, and none shall be deemed completed until all are completed. Unless otherwise expressly provided for herein, all transfers of assets and liabilities, as well as all other actions related to the Closing, shall be deemed to have occurred at the Effective Time.

3.03 Possession and Control. Except as set forth in the Transition Services Agreement, possession and control of Operations and operations of the SPB Assets, risk of loss, and transfer of title to the Assets from Seller to Buyer shall be effective as of 12:00:01 a.m. Pacific Time on the Closing Date (the "*Effective Time*").

ARTICLE IV **SELLER'S REPRESENTATIONS AND WARRANTIES**

Except for matters set forth in the Disclosure Letter and subject to Section 17.08, Seller hereby represents and warrants to Buyer as follows:

4.01 Organization and Good Standing. Each Seller Company is duly organized and validly existing under the Applicable Laws of the jurisdiction of its formation. Each Seller Company is duly qualified or licensed to conduct business and is in good standing under the Applicable Laws of each jurisdiction where such license or qualification is necessary and required. Each Seller Company has the requisite power and authority to carry on its business and to own or lease and to operate its properties in the places where such business is conducted, and such properties are owned, leased or operated by it.

4.02 Authority. Seller has the authority to execute, deliver and enter into this Agreement and the Closing Documents to which it is a party and to perform its obligations hereunder and thereunder and to consummate the Contemplated Transactions. Each Seller Company has full power and authority to execute and deliver the Closing Documents to which it is a party and to

perform its obligations thereunder, and the execution and delivery of the Closing Documents to be delivered by each Seller Company and the performance of its obligations thereunder have been duly and validly authorized by such action, corporate or otherwise, necessary on behalf of the applicable Seller Company. This Agreement constitutes and, upon delivery, the Closing Documents will constitute, legal, valid and binding agreements of each applicable Seller Company enforceable against each applicable Seller Company in accordance with its respective terms and conditions, except as such enforceability may be limited by general principles of equity and applicable provisions of bankruptcy, insolvency, moratorium, reorganization or similar laws (regardless of whether enforceability is considered in a Proceeding at law or in equity).

4.03 No Breach, Conflict. Except for the HSR Act and other antitrust statutes, rules or regulations applicable to the Contemplated Transactions and consents and waivers that are customarily obtained following the closing in transactions of this nature and subject to obtaining the consents and waivers set forth in Section 4.03 of the Disclosure Letter, the execution, delivery and performance of this Agreement, the Closing Documents and the consummation of the Contemplated Transactions and the compliance by an applicable Seller Company with any of the provisions hereof and thereof does not and will not (i) violate or conflict with any provision of the Organizational Documents of such Seller Company, (ii) violate or conflict with, or result in a breach of, any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in termination of, or accelerate the performance required by, or, except for this Agreement, result in the creation of any Lien upon the Assets owned by it under any of the terms, conditions or provisions of any Material Contract to which such Seller Company is a party, or by which the Assets are otherwise bound, (iii) violate any Applicable Law to which a Seller Company is subject, or by which a Seller Company or its assets or properties may be bound or (iv) require the consent or approval of any Person.

4.04 Real Property.

(a) Subject to Permitted Encumbrances, (i) the Owned Real Property, (ii) the Real Property Leases, and (iii) the Easements, constitute all of the fee and leasehold interests in Real Property used by the Seller Companies in connection with the ownership and operation of the Assets.

(b) To Seller's Knowledge, there are no unexercised options, rights of first offer or rights of first refusal to purchase any portion or interest in the Owned Real Property.

(c) There is no pending, or to Seller's Knowledge, threatened condemnation or eminent domain proceedings against any Seller Company involving a partial or total Taking of any of the Owned Real Property or Real Property Leases.

4.05 Brokers. None of the Seller Companies has retained any broker or finder or incurred any liability or obligation for any brokerage fees, commissions, finder's fees or similar compensation with respect to this Agreement, the Closing Documents or the Contemplated Transactions for which Buyer or any Affiliate of Buyer (or, following the Closing, SPB LLC) will have any liability or obligation.

4.06 Ownership of the Assets.

(a) Except as set forth in Section 4.06 of the Disclosure Letter, and except for the Owned Real Property, the Real Property Leases and the SPB Interest, the Seller Companies have good and valid title to, or a valid leasehold interest in, or otherwise own the rights to possess, use and obtain the benefits of all of the Assets, free and clear of any Liens, other than Permitted Encumbrances.

(b) A wholly owned Affiliate of Seller is the sole record and beneficial owner of the SPB Interest and such Seller Company owns the SPB Interest free and clear of any Liens, other than Liens (i) arising as a direct result of this Agreement, (ii) arising under the Organizational Documents of such Seller Company, and (iii) imposed pursuant to the Securities Act of 1933, as amended (the "Securities Act"), and applicable state securities or "blue sky" laws. At the Closing, the delivery of the SPB Interest to Buyer in accordance with the terms of this Agreement will transfer good and valid title to the SPB Interest free and clear of any Liens, other than the Liens described in clauses (i) through (iii) above.

4.07 Compliance With Laws. To Seller's Knowledge and except as set forth in Section 4.07 of the Disclosure Letter, the Assets are in compliance with all Applicable Laws. Notwithstanding the foregoing, Seller makes no representations or warranties in this Section 4.07 with respect to Taxes, employment related matters or HSE Laws (including HSE Permits), for which the sole and exclusive representations and warranties of Seller are set forth in Sections 4.10, 4.13 and 4.14 as owned and operated by the Seller Companies as of the Execution Date. All such Permits are in full force and effect, and the applicable Seller Company is in material compliance with the Permits.

4.08 Proceedings; Judgment. Except as set forth in Section 4.08 of the Disclosure Letter and except with respect to Tax matters, which are addressed in Section 4.10, and HSE Claims, which are addressed in Section 4.14(f), there are no actions, lawsuits, arbitrations, or other proceedings before any Governmental Authority (each a "Proceeding") pending, or to Seller's Knowledge, threatened in writing against any Seller Company with respect to the Assets, and there are no Judgments that remain unsatisfied (excluding Judgments related to HSE Laws) that are binding on any Seller Company that materially and adversely affect the Assets.

4.09 Contracts and Commitments.

(a) Section 4.09(a) of the Disclosure Letter sets forth a true, correct and complete list of all Material Contracts that exist as of the Execution Date and will exist following the Closing. Seller has delivered to Buyer true and complete copies of all Material Contracts set forth in Section 4.09(a) of the Disclosure Letter.

(b) Except as set forth in Section 4.09(b) of the Disclosure Letter, each Material Contract listed in Section 4.09(a) of the Disclosure Letter is in full force and effect and is a legal, valid and binding obligation of a Seller Company, enforceable against such Seller Company in accordance with its terms (and to Seller's Knowledge, against each counterparty thereto), except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and general principles of equity (regardless of whether enforceability is considered in a Proceeding at law or in equity). Except as set forth in Section 4.09(b) of the Disclosure Letter, the applicable

Seller Company is not, nor, to Seller's Knowledge, is any other party thereto, in default under any of the Material Contracts set forth in Section 4.09 of the Disclosure Letter, and the applicable Seller Company has not received written notice regarding any actual or threatened breach, cancellation or termination of any such Material Contract from any party thereto.

4.10 Taxes. Except as set forth in Section 4.10 of the Disclosure Letter, (i) all Tax Returns required to be filed by or on behalf of a Seller Company related to the Seller Companies' acquisition, ownership, operation or use of the Assets have been duly and timely filed with the appropriate taxing authorities in all jurisdictions in which such Tax Returns are required to be filed (after giving effect to any valid extensions of time in which to make such filings), and all such Tax Returns are true, complete and correct in all respects; (ii) all Taxes payable by or on behalf of a Seller Company (whether or not shown on a Tax Return) related to the Seller Companies' acquisition, ownership, operation or use of the Assets have been fully and timely paid; (iii) no agreement, waiver, or other document or arrangement extending or having the effect of extending the period for assessment or collection of Taxes (including, but not limited to, any applicable statute of limitation) has been executed or filed with the Internal Revenue Service or any other Taxing authority by or on behalf of a Seller Company related to the Seller Companies' acquisition, ownership, operation or use of the Assets; (iv) no claim has ever been made in writing by any Tax authority in a jurisdiction where a Seller Company does not file Tax Returns related to such Seller Company's acquisition, ownership, operation or use of the Assets owned or operated by it that such Seller Company is or may be subject to Tax in that jurisdiction with respect to such Assets; (v) the applicable Seller Companies have complied with all Applicable Laws relating to the payment and withholding of Taxes in connection with any amounts paid or owing to any employee, independent contractor, creditor, stockholder, or other third party, including all information reporting, backup withholding, and maintenance of required records with respect thereto; and (vi) all deficiencies asserted or assessments made as a result of any examinations by the Internal Revenue Service or any other Taxing authority of the Tax Returns of or covering or including a Seller Company and related to such Seller Company's acquisition, ownership, operation or use of the Assets owned or operated by it have been fully paid, and, to Seller's Knowledge, there are no other audits or investigations by any Taxing authority in progress, nor has Seller received any written notice from any Taxing authority that it intends to conduct such an audit or investigation.

4.11 Affiliate Agreements. Except as set forth in Section 4.11 of the Disclosure Letter and except for Contracts for administrative services provided by Shell Oil Company or its Affiliates in the areas of human resources, benefits management, legal, finance, risk and insurance, public and governmental affairs, and other similar administrative functions, no Seller Company is currently a party to any Material Contract with any Affiliate of such Seller Company that provides for the purchase or sale of goods to or from, or the provision of services to or from, the Proprietary Pipeline System, SPB LLC, or the SPB Assets.

4.12 INTENTIONALLY OMITTED.

4.13 Labor Matters. Except as set forth in Section 4.13 of the Disclosure Letter, no Seller Company has received any written Claim of discrimination, written notification of any unfair labor practice charges or written complaints pending before any Governmental Authority having jurisdiction thereof. SPB LLC does not have any employees.

4.14 **HSE Matters.** To Seller's Knowledge:

(a) **HSE Permits.** Section 4.14(a) of the Disclosure Letter sets forth a complete list of the HSE Permits held by the Seller Companies as of the Execution Date in connection with the Assets or necessary for the Operations. The applicable Seller Company has performed all obligations required to be performed by it as of the Execution Date under the HSE Permits set forth in Section 4.14(a) of the Disclosure Letter. Seller is not making any representation or warranty that the HSE Permits set forth in Section 4.14(a) of the Disclosure Letter are all of the HSE Permits which are necessary for the ownership, operation or use of the Assets by Buyer from and after the Effective Time or that any such HSE Permits can be transferred as of the Effective Time or can be maintained by Buyer from and after the Effective Time.

(b) **Corrective Action Orders.** Section 4.14(b) of the Disclosure Letter sets forth a complete list of all Consent Decrees that set forth any requirements as of the Execution Date relating to the PPS Assets (collectively, the "***Corrective Action Orders***"), and Seller has provided or made available to Buyer copies of all material submittals prepared pursuant to the Corrective Action Orders.

(c) **Known Environmental Conditions.** Section 4.14(c) of the Disclosure Letter sets forth a complete list of all Environmental Conditions which are Known to Seller as of the Execution Date to the extent the presence or Release of Hazardous Substances giving rise to such Environmental Condition exist or occurred, as the case may be, on or before the Execution Date (such known conditions being collectively, the "***Known Environmental Conditions***").

(d) **Compliance with HSE Laws.** Each Seller Company is in compliance with all applicable HSE Laws related to the ownership, operation or use of the Assets as owned and operated as of the Execution Date, except (i) with respect to any matter that is a Known Environmental Condition, or (ii) as set forth in Section 4.14(d) of the Disclosure Letter.

(e) **HSE Judgments.** Except as set forth in Section 4.14(e) of the Disclosure Letter and except as provided pursuant to the Corrective Action Orders, no Seller Company and none of the Assets is the subject of any pending Judgment that remains unsatisfied under any HSE Laws requiring any material Corrective Action or the payment of a material monetary fine or penalty or restricting or limiting in any material respect the Operations.

(f) **HSE Claims.** Except as set forth in Section 4.14(f) of the Disclosure Letter, there are no HSE Claims pending or threatened in writing against a Seller Company related to the ownership, operation or use of the Assets.

4.15 **Valid Organization as to SPB LLC.** SPB LLC is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware and is duly qualified or licensed to conduct business as a foreign entity in all states where it is necessary and required to be so qualified or licensed to operate its business as currently conducted. Seller has heretofore made available to Buyer true, correct and complete copies of the Organizational Documents of SPB LLC as currently in effect.

4.16 **Capitalization of SPB LLC.**

(a) Section 4.16(a) of the Disclosure Letter contains a complete and accurate listing of (i) the equity capitalization of SPB LLC and (ii) the applicable Seller Company's ownership in SPB LLC.

(b) Except as set forth in Section 4.16(b) of the Disclosure Letter, SPB LLC is not a party to any written agreement for, and SPB LLC has not granted or issued, or agreed to grant or issue, to any Person any option or right for, the purchase, subscription, allotment or issue of any unissued membership interests, units or other securities of SPB LLC. SPB LLC has no subsidiaries and does not own equity interests in any other Person.

(c) The SPB Interest was issued in compliance with Applicable Laws. The SPB Interest was not issued in violation of the Organizational Documents of SPB LLC or any purchase option, call option, right of first refusal, preemptive right or other similar right.

(d) There are no outstanding or authorized options, warrants, convertible securities or other commitments to which any Seller Company is a party or by which it is bound obligating such Seller Company to issue or sell any membership interests (including any portion of the SPB Interest), or any other equity interest, in SPB LLC. Other than the Organizational Documents of SPB LLC and this Agreement, there are no voting trusts, proxies or other agreements in effect with respect to the voting or transfer of the SPB Interest.

4.17 Financial Statements of SPB LLC.

(a) Section 4.17(a) of the Disclosure Letter sets forth true, correct and complete copies of the following financial statements (collectively, the "*Financial Statements*"):

(i) the audited balance sheet of SPB LLC as of December 31, 2015, together with corresponding statements of operations and of cash flows for the twelve-month period ended December 31, 2015;

(ii) the audited balance sheet of SPB LLC as of December 31, 2016, together with corresponding statements of operations and of cash flows for the twelve-month period ended December 31, 2016; and

(iii) the audited balance sheet of SPB LLC as of December 31, 2017, together with corresponding statements of operations and of cash flows for the twelve-month period ended December 31, 2017;

(b) The Financial Statements have been prepared from the records of SPB LLC and reflect all adjustments necessary for a fair statement, in all material respects, of the financial position of SPB LLC as of the respective dates of the balance sheets included therein and the results of operations and cash flows of SPB LLC for the respective periods set forth therein, all in accordance with GAAP applied on a consistent basis during the respective period covered thereby (except as noted therein) (subject to the absence of footnote disclosures and to normal and recurring year-end adjustments).

(c) Historically, financial statements have not been prepared for SPB LLC as it has not operated as a separate, stand-alone enterprise. The Financial Statements have been prepared from

the historical accounting records of SPB LLC in anticipation of a potential transaction to separate SPB LLC from the other business activities of Seller and its other Affiliates as though SPB LLC had been managed as a separate, stand-alone enterprise for all periods presented. As SPB LLC has been historically managed and financed as part of a larger group, its accounts reflect certain charges for functions provided by Seller and its Affiliates that have been identified as related party transactions. It is possible that the terms of the related party transactions are not the same as the terms that might otherwise result from transactions between unrelated parties. To Seller's Knowledge, all adjustments have been reflected that are necessary for a fair presentation of the financial statements for SPB LLC for their respective dates. The allocations have been made on a reasonable basis and have been consistently applied for each period presented. The Financial Statements may not necessarily reflect the financial position, results of operations or cash flows that SPB LLC might have had in the past, or might have in the future, if it had existed as a separate, stand-alone enterprise.

ARTICLE V

BUYER'S REPRESENTATIONS AND WARRANTIES

Buyer hereby represents and warrants to Seller as follows:

5.01 **Organization and Good Standing.** Buyer is a limited partnership duly organized, validly existing and in good standing under the laws of the State of California. Buyer is duly qualified or licensed to conduct business and is in good standing under the Applicable Laws of each jurisdiction where such license or qualification is necessary and required. Buyer has the requisite power and authority to carry on its business and to own or lease and to operate its properties as and in the places where such business is conducted, and such properties are owned, leased or operated.

5.02 **Authority.** Buyer has full power and authority to execute, deliver and enter into this Agreement and the Closing Documents to which it is a party and to perform its obligations hereunder and thereunder and to consummate the Contemplated Transactions. The execution, delivery and performance of this Agreement, the Closing Documents to which it is a party and the Contemplated Transactions have been duly and validly authorized by all requisite action on behalf of Buyer. This Agreement, and upon delivery, the Closing Documents will constitute legal, valid and binding agreements of Buyer enforceable against Buyer in accordance with their respective terms, except as such enforceability may be limited by general principles of equity and applicable provisions of bankruptcy, insolvency, moratorium, reorganization or similar laws (regardless of whether enforceability is considered in a Proceeding at law or in equity).

5.03 **Consents.** Other than with respect to (i) the HSR Act or any other antitrust statutes, rules or regulations applicable to the Contemplated Transactions, and (ii) as is otherwise contemplated in this Agreement (including Article VIII) and in the Closing Documents, in each of (i) and (ii), no consent, approval of or by, or filing with or notice to any other Person is required to be obtained with respect to Buyer or any of its Affiliates in connection with the execution, delivery or enforceability of this Agreement, the Closing Documents to which it is a party or the consummation of the Contemplated Transactions.

5.04 No Breach, Conflict. Except for the HSR Act and other antitrust statutes, rules or regulations applicable to the Contemplated Transactions, the execution, delivery and performance of this Agreement, the Closing Documents and the consummation of the Contemplated Transactions and the compliance by Buyer with any of the provisions hereof and thereof does not and will not (i) violate or conflict with, or result in a breach of, any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in termination of, or accelerate the performance required by any of the terms, conditions or provisions of the Organizational Documents of Buyer or under any material agreement, instrument or obligation to which Buyer is a party, or by which Buyer or its assets or properties may be bound, or (ii) violate any Applicable Law to which Buyer is subject, or by which Buyer or its assets or properties may be bound.

5.05 Litigation. There are no Proceedings pending, or to Buyer's Knowledge, threatened in writing seeking to restrain or prohibit this Agreement, the Closing Documents or any agreement, instrument or transaction contemplated hereby or thereby, or to obtain damages, a discovery order or other relief in connection with this Agreement, the Closing Documents or the Contemplated Transactions, and there are no Judgments that remain unsatisfied that would reasonably be expected to have a material and adverse impact on the ability of Buyer to consummate the Contemplated Transactions.

5.06 Brokers. Buyer has not retained any broker or finder or incurred any liability or obligation for any brokerage fees, commissions, finders' fees or similar compensation with respect to this Agreement, the Closing Documents or the Contemplated Transactions for which Seller or any Affiliate of Seller will have any liability or obligation.

5.07 OFAC. Neither Buyer nor any of its partners, members, shareholders or other direct or indirect equity owners nor any Person who controls (directly or indirectly through intermediaries) Buyer is identified on (a) the U.S. Department of Treasury's Office of Foreign Assets Controls' ("**OFAC**") List of Specially Designated Nationals and Blocked Persons, (b) the Bureau of Industry and Security of the United States Department of Commerce's "Denied Persons List," "Entity List" or "Unverified List," (c) the Office of Defense Trade Controls of the United States Department of State's "List of Debarred Parties" or (d) any other similar list maintained by OFAC pursuant to any authorizing statute, executive order or regulation.

5.08 Financing. Buyer has delivered to Seller true and complete copies of executed commitment letter(s) (as the same may be amended pursuant to this Section 5.08, the "**Financing Commitments**"), pursuant to which the lender parties thereto have agreed, subject to the terms and conditions thereof, to provide or cause to be provided the debt amounts set forth therein (the "**Financing**"). As of the Execution Date, none of the Financing Commitments have been amended or modified, no such amendment or modification is contemplated, and the respective commitments contained in the Financing Commitments have not been withdrawn or rescinded. The Financing Commitments are in full force and effect and constitute the legal, valid and binding obligation of Buyer, and, to Buyer's Knowledge, the other parties thereto (except to the extent that enforceability may be limited by the applicable bankruptcy, insolvency, moratorium, reorganization or similar Applicable Laws affecting the enforcement of creditors' rights generally or by general principles of equity). There are no conditions precedent related to the funding of the full amount of the Financing other than as set forth in or contemplated by the Financing

Commitments. There are no side letters or other contracts or arrangements (oral or written) related to the Financing (except for customary fee letters and engagement letters, a complete copy of each of which has been provided to Seller, with only the fee amounts and certain other terms (none of which would adversely affect the conditions, amount or availability of the Financing) redacted, relating to the Financing between Buyer and the providers of the Financing) other than the Financing Commitments. To Buyer's Knowledge, no event has occurred that (with or without notice or lapse of time, or both) would constitute a breach or default under the Financing Commitments. Buyer is not aware of any fact or occurrence that makes any of the representations or warranties of Buyer relating to Buyer, in any of the Financing Commitments, inaccurate in any material respect. Buyer has no reason to believe that it will be unable to satisfy on a timely basis any term or condition to be satisfied by it and contained in the Financing Commitments. Buyer has fully paid all commitment fees or other fees required by the terms of the Financing Commitments to be paid on or before the Execution Date. Subject to the terms and conditions of the Financing Commitments and subject to the satisfaction of the conditions contained in Article X, the aggregate proceeds contemplated by the Financing Commitments, together with other financial resources of Buyer including unrestricted cash, cash equivalents and marketable securities (net of any applicable Tax liabilities) of Buyer on the Closing Date, will be sufficient for Buyer to consummate the Contemplated Transactions and to pay all related fees and expenses.

5.09 Purchase the SPB Interest for Investment.

(a) The SPB Interest, when acquired by Buyer at the Closing, will be acquired for Buyer's own account, for investment purposes, and Buyer is not acquiring the SPB Interest with a view to, or to make offers of sales in connection with, any distribution thereof, or to participate or have a direct or indirect participation in any such undertaking, or to participate or have a participation in the direct or indirect underwriting of any such undertaking, in each case within the meaning of the Securities Act, or state securities Applicable Laws.

(b) Buyer understands that (i) the SPB Interest has not been registered under the Securities Act by reason of their issuance in a transaction exempt from the registration and prospectus delivery requirements of the Securities Act and has not been qualified under any state securities Applicable Laws on the grounds that the offering and sale of securities contemplated by this Agreement are exempt from registration thereunder, and (ii) Seller's reliance on such exemptions is predicated on Buyer's representations set forth herein. Buyer understands that the resale of the SPB Interest may be restricted indefinitely, unless a subsequent disposition thereof is registered under the Securities Act and registered under any state securities Applicable Law or is exempt from such registration.

(c) Buyer is an "accredited investor" as that term is defined in Rule 501 of Regulation D promulgated under the Securities Act. Buyer can bear the economic risk of the acquisition of the SPB Interest pursuant to the terms of this Agreement, including a complete loss of Buyer's investment in the SPB Interest.

(d) Buyer can bear the economic risk of its investment in the SPB Interest (including possible complete loss of such investment) for an indefinite period and has such knowledge and experience in financial or business matters that it is capable of evaluating the merits and risks of its acquisition of the SPB Interest.

(e) Buyer, together with its representatives and advisors, is familiar with investments of the nature of the SPB Interest, understands that the purchase of the SPB Interest involves certain risks, and believes that it has adequately investigated SPB LLC (including the SPB Assets), and has substantial knowledge and experience in financial and business matters such that it is capable of evaluating, and has evaluated, the merits and risks inherent in purchasing the SPB Interest. Buyer and its representatives and advisors have been afforded access, to the extent not prohibited by Applicable Law, to such information concerning SPB LLC and have been afforded an opportunity to ask such questions of Seller as Buyer has deemed necessary or desirable to evaluate the merits and risks of the prospective investments in the SPB Interest contemplated herein.

5.10 No Knowledge of Misrepresentations or Omissions. As of the Execution Date, Buyer has no Knowledge that any representation or warranty of Seller in this Agreement is not true and correct in all material respects, and Buyer has no Knowledge of any material errors in, or material omissions from, the Schedules or the Disclosure Letter.

5.11 Independent Decision. Buyer acknowledges that Buyer has made its own independent investigation, analysis, verification and judgment of the commercial potential, condition and usefulness of the Assets, taking into consideration all current Applicable Laws and the likelihood that such laws and requirements will change in the future, and is not relying upon any projections from Seller regarding prospective Operations of the Assets. Buyer has such knowledge and experience in business and financial affairs in general as to be capable of evaluating the merits and risks of purchasing the Assets. Except as expressly provided in this Agreement or the Closing Documents, the Assets sold directly or indirectly by Seller and accepted by Buyer are sold and accepted "as is, where is" and "with all faults" with no representations or warranties whatsoever, express or implied, of the merchantability, fitness for a particular purpose, condition, design, operation, capacity, quality, value or otherwise. Additionally, in no event shall any projection as to the financial condition, financial results, status of assets, projects, availability of feedstock or markets or any other projections made by or on behalf of Seller to Buyer be relied upon by Buyer, and Buyer acknowledges that Seller makes no representation or warranty and specifically disclaims any representation or warranty with regard to same. **BUYER ACKNOWLEDGES THAT THERE ARE NO REPRESENTATIONS OR WARRANTIES RELATED TO THE ASSETS OR SPB LLC OR THE OPERATIONS OF THE ASSETS, EXPRESS OR IMPLIED, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE CLOSING DOCUMENTS.**

Without limiting the generality of the preceding, Buyer acknowledges that, except as provided herein, no representations or warranties are made by or on behalf of any Seller Company with respect to any information, documents or materials made available to Buyer in the Data Room, management presentations or any other form in expectation of the Contemplated Transactions.

ARTICLE VI
COVENANTS AND AGREEMENTS OF SELLER

Seller covenants and agrees as follows:

6.01 Access and Information. Subject to the provisions of Section 17.14 and upon reasonable notice, Seller shall grant, or cause to be granted, to Buyer and its representatives access during normal business hours throughout the Interim Period to the Books and Records and other information relating to the Operations of the Assets (subject to any confidentiality agreements, applicable legal restrictions and any applicable legal privileges). During the Interim Period, Seller shall use commercially reasonable efforts to furnish, or cause to be furnished, to Buyer and its representatives all data and information concerning the Assets and concerning Operations of the Assets that may reasonably be requested by Buyer and shall use all commercially reasonable efforts to make available, or cause to be made available, such personnel of Seller as may reasonably be requested. Further, Seller will use commercially reasonable efforts to assist Buyer with, and will provide Buyer with the information necessary for Buyer to perform, an audit related to SPB LLC's 2018 financial statements, at Buyer's sole risk and expense.

6.02 Conduct of Business.

(a) During the Interim Period, Seller shall conduct (and shall cause the Seller Companies to conduct) the Operations of the Assets in the ordinary course of business consistent with the applicable Seller Company's customary practices including routine maintenance and routine preventive maintenance activities, and capital expenditures and projects as are in the applicable Seller Company's operational plans for such period. Seller shall (and shall cause the Seller Companies to) use commercially reasonable efforts to maintain satisfactory relationships with Business Employees, suppliers, distributors, customers, and others having business relationships with the Assets. Without limiting the generality of the preceding provisions, Seller shall not (and shall cause the Seller Companies not to) during the Interim Period, without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed:

(i) sell, lease, exclusively license to others or otherwise dispose of a material portion of any assets that would constitute Assets if held as of the Effective Time, except for Inventory sold in the ordinary course of business consistent with past practice, or acquire any asset other than in the ordinary course of business, consistent with past practice;

(ii) enter into any settlement of any pending or threatened litigation or any amendment of any existing settlement agreement, where the provisions thereof will materially and adversely impact the Assets, or the ordinary Operations of the Assets as currently conducted by the Seller Companies; or

(iii) consent to the entry of (or amendment to) any decree or order by or enter into (or amend) any other agreements with, any Government Authority that will materially and adversely impact the Assets or the ordinary Operations of the Assets as currently conducted by the Seller Companies.

(b) Notwithstanding any provision to the contrary contained in this Agreement, Buyer acknowledges on behalf of itself and its Affiliates that nothing in this Section 6.02 shall be construed to restrict or limit the Seller Companies' or their respective Affiliates' ability to conduct their own business and operate the Assets as determined by the Seller Companies and their respective Affiliates in their sole and absolute discretion.

(c) During the Interim Period, Seller shall use reasonable efforts (excluding the expenditure of funds) to cure Liens, encumbrances or defects of title within a reasonable time after Buyer delivers to Seller written notice regarding the same, but excluding any Permitted Encumbrances and the liens, encumbrances or defects of title identified in section 4.04 of the Disclosure Letter, where certain of such liens, encumbrances or defects of title are specifically listed on Schedule 1.01(c).

6.03 Disclosure Letter.

(a) Seller may from time to time prior to the Closing, by written notice to Buyer, supplement or amend the Disclosure Letter (including adding new Sections to the Disclosure Letter related to provisions of this Agreement that currently do not contemplate qualification by the Disclosure Letter) with new or updated information with respect to matters that occur or arise after the Execution Date to correct any matter that would constitute a breach of any representation or warranty of Seller in Article IV as of the Closing Date (such new or additional information being "***New Seller Information***"). For purposes herein "New Seller Information" shall not include information that is updated in the ordinary course of business during the Interim Period (e.g., updated lists of Business Employees) and is provided to Buyer prior to the Closing.

(b) For purposes of determining whether Buyer's conditions to closing set forth in Section 10.02 have been fulfilled, the Disclosure Letter shall be deemed to exclude the New Seller Information. If Buyer has a right to terminate this Agreement pursuant to Section 15.01(c)(i), as a result of the conditions set forth in Section 10.02 not being satisfied, but Buyer elects to proceed with the Closing and the Closing does occur, then the New Seller Information shall be deemed to be accepted by Buyer, and Buyer shall be deemed to have waived and not be entitled to make a Claim thereon under this Agreement (including pursuant to Article XII) or otherwise. If, however, Buyer does not have such a right to terminate this Agreement pursuant to 15.01(c)(i) as a result of the conditions set forth in Section 10.02 being satisfied and the Closing does occur, then the New Seller Information shall not be deemed to be accepted or waived by Buyer, and Buyer shall be entitled to make a Claim thereon under this Agreement (including pursuant to Article XII) or otherwise.

6.04 Cooperation with Respect to Financial Statements. During the Interim Period and for six (6) months after the Closing Date, Seller shall (and shall cause each applicable Seller Company to) use commercially reasonable efforts to cooperate as may be reasonably requested by Buyer with respect to preparation, at Buyer's expense, of such other financial information for 2015, 2016 and the time period in 2017 through the Closing Date in such form as may be required pursuant to the requirements of Regulation S-X of the SEC or other applicable U.S. federal securities Applicable Laws relating to Buyer's acquisition of the Assets. Any such cooperation shall be provided at Buyer's expense. No Seller Company nor any of its Affiliates shall have any liability or other Obligation for any information, statements or materials provided to or on behalf

of Buyer pursuant to this Section 6.04. For the avoidance of doubt, no Seller Company will be required to prepare projections, pro forma statements, information memoranda, offering memoranda or similar documents that may be requested by Buyer.

ARTICLE VII

COVENANTS AND AGREEMENTS OF BUYER

Buyer covenants and agrees as follows:

7.01 Confidentiality. Buyer acknowledges that all information provided to any of it and its Affiliates, directors, officers, employees, counsel, auditors, accountants, agents, advisors and other representatives by the Seller Companies and their respective Affiliates and their respective directors, officers, employees, counsel, auditors, accountants, agents, advisors and other representatives is subject to the terms of Section 17.14.

7.02 Notification. From the Execution Date through and including the Closing Date, Buyer shall promptly notify Seller if Buyer obtains Knowledge that any representation or warranty of Seller in the Agreement or any agreement contemplated hereby or information set forth in the Schedules or the Disclosure Letter is not true and correct in all material respects, or if Buyer obtains Knowledge of any material errors in, or omissions from, the Schedules or the Disclosure Letter.

7.03 Pre-Closing Access and Inspections.

(a) During the Interim Period, Buyer shall not contact or communicate with any Business Employees, customers, suppliers or distributors of the Assets except as expressly provided in this Agreement or with Seller's prior written consent.

(b) Any inspection or investigation conducted by Buyer, its agents, consultants, or other authorized representatives prior to the Closing (i) shall be conducted in accordance with Applicable Laws including any applicable HSE Laws and in such manner as not to interfere unreasonably with the Operations, the Assets; and (ii) shall not entitle Buyer to conduct Phase II environmental assessments or any other sampling or testing of soil or ground or surface water at, or under, any real property associated with the Assets, without the prior written consent of Seller, Buyer being limited to the review of the Seller Companies' or their respective Affiliates' records or any other publicly available materials or information with regard to these matters.

(c) Buyer and Seller (or a Seller Company) may meet prior to the Closing to plan for business separation or other transition related activities. If Buyer and Seller (or a Seller Company) conduct any pre-Closing business separation, transition, or other similar activities at the Assets, Buyer bears the risk of injury to any of its employees, agents or representatives during such activities at the Assets or the Operations and shall indemnify, defend and hold the Seller Indemnified Parties harmless for all Losses to the extent caused by, arising from or related to the acts or omissions of Buyer and its employees, agents or representatives in conducting any such activities.

(d) Notwithstanding any provision to the contrary contained in this Agreement, Buyer's obligations under this Section 7.03 shall survive the termination of this Agreement and the consummation of the Contemplated Transactions.

7.04 Post-Closing Access. From and after the Effective Time, Buyer will, and will cause its Affiliates to, afford to Seller and its representatives reasonable access during normal business hours to personnel and to such properties and records that were transferred to Buyer and permission to take from the Assets copies of any books, records or accounts relating to the Assets through and including the Closing Date and, if requested, will furnish to Seller such additional information and cooperate with Seller in such other respects, including making the Business Employees available to Seller at Seller's expense as witnesses or deponents as Seller may reasonably request for each of the following to the extent such matter does not involve a Dispute between Buyer and Seller: (i) financial reporting, (ii) Tax or similar purposes, (iii) purposes of investigating claims, or conducting litigation or administrative proceedings with third parties or Governmental Authorities or (iv) any other proper purpose, provided that Seller shall indemnify, defend and hold the Buyer Indemnified Parties harmless for all Losses to the extent caused by, arising from or related to the acts or omissions of Seller and its representatives from such access. Buyer will, and will cause its Affiliates to, keep and maintain the records that Seller and its representatives have access to pursuant to this Section 7.04, such records to be maintained for a period of ten (10) years from the Closing Date or such longer periods as may be required by Applicable Laws, provided that if Buyer desires to destroy or dispose of such records during such period then Buyer will first offer to Seller in writing at least sixty (60) days before such destruction or disposition to surrender them to Seller and if Seller does not accept such offer within twenty (20) days after receipt of such offer, then Buyer may take such action. Seller's right to post-Closing access to the Assets shall include the right to access Excluded Assets that remain located at the Assets pursuant to Section 2.02.

7.05 Litigation. Except as set forth in Section 7.14 regarding tariff protests, with respect to all litigation and other matters set forth in the Disclosure Letter and any other matters that constitute Retained Liabilities and for so long as a Seller Company is contesting or defending such matter, Buyer shall cooperate to the extent commercially reasonable with such Seller Company and its Affiliates and their respective counsel, at such Seller Company's expense, in their efforts to conduct or resolve such litigation, including by making available to them such documents and witnesses as may be deemed necessary or useful therefor in such Seller Company's sole but reasonable discretion. Notwithstanding anything to the contrary in this Agreement, Seller shall not settle any litigation or other Retained Liabilities in a manner that would cause an adverse financial consequence to Buyer without the written consent of Buyer, which consent shall not be unreasonably withheld, conditioned, or delayed.

7.06 Removal of Trademarks and Signage. No license to any of the Trademarks is granted to Buyer by this Agreement, the Closing Documents, or by the transfer of the Assets (including the indirect transfer of the SPB Assets) to Buyer, and Buyer is precluded from any use and agrees not to make any use of Trademarks on or in connection with the sale of any of its products or services as a means of identity or in any of its communications or in connection with Buyer's operation of the Assets. Buyer acknowledges and agrees with Seller that the Trademarks, and all rights to which and the goodwill represented thereby and pertaining thereto, are being retained by the Seller Companies and their respective Affiliates. Without limiting the generality of the

preceding, Buyer will not be entitled to use the name "Shell" or any variations or derivations thereof (including any logo, trademark or design containing such name) or any logo, service mark, trade name or trademark that constitutes an Excluded Asset. Accordingly, as soon as reasonably practical after the Closing, but in any event within sixty (60) days after the Closing Date with regards to Assets that are visible to the public, and within one hundred eighty (180) days after the Closing Date with regards to Assets that are not visible to the general public, Buyer shall remove or caused to be removed from, or paint or cover over as appropriate, any logo, service mark, trade name or trademark indicating that such assets were owned or operated by a Seller Company or any of its Affiliates (including signs displaying such Seller Company's or its Affiliates' emergency contact telephone number(s) or otherwise using or displaying the name "Shell", in whole or in part. As promptly as practicable after the Closing but in any event within ten (10) days, Buyer shall post Buyer's emergency contact telephone number in place of any Seller Company's or its Affiliates' emergency contact telephone number(s). In the event that Buyer breaches this Section 7.06, Seller shall be entitled to specific performance of this Section 7.06 and to injunctive relief against further violations, as well as any other remedies at law or in equity available to Seller.

7.07 Title Policies; Surveys. Buyer may procure, and shall pay the cost of preparation or the cost of the premium for, surveys, commitments or policies from title insurance companies to provide owner's title insurance policies with respect to the Real Property, provided, however, that Buyer's ability or inability to obtain such surveys or title insurance (and without regard to (i) any exceptions or endorsements contained therein and (ii) any title insurance premium Buyer is required to pay to obtain such title insurance) on such Real Property for any reason shall not cause there to be an adjustment to the Purchase Price and shall not cause the Closing of the transactions contemplated by this Agreement to be delayed. Nothing in this Section 7.07 shall relieve Seller from a remedy Buyer may have from Seller's breach of any representation or warranty contained in Article IV.

7.08 Third Party Property. Buyer shall grant or continue to grant such rights of ingress or egress necessary to allow any third party that holds any Third Party Property to have access to such Third Party Property for the purposes of repairing, maintaining or otherwise utilizing such property, for so long as the Third Party Property lawfully remains on the Real Property.

7.09 Credit Support Arrangements. Prior to the Closing, Buyer shall deliver to the applicable beneficiary or counterparty replacement or substitute guaranties, letters of credit, bonds, security deposits, and other surety obligations and evidence of financial capacity, in each case acceptable to the relevant beneficiary or counterparty, in substitution and replacement of those credit support arrangements set forth in Schedule 7.09 (the "Credit Support Arrangements"), in form and substance acceptable to Seller, and shall cause the release as of the Closing of the Seller Companies and their Affiliates from all Obligations relating to the Credit Support Arrangements. Buyer's efforts in this regard shall include, if necessary, causing the Buyer Guarantor to guarantee the Obligations of SPB LLC. Buyer acknowledges that the Seller Companies and their Affiliates shall have the right to cancel or revoke all guarantees, letters of credit, bonds, security deposits, and other surety obligations and evidence of financial capacity provided by them or on their behalf to secure any post-Closing Obligations of SPB LLC. The provisions of this Section 7.09 shall survive the Closing.

7.10 One-Call; Utilities.

(a) Buyer will no later than thirty (30) calendar days following the Closing Date, contact the utility provider(s) for the Assets and have the billing and contact information for utility services changed from the name of any applicable Seller Company's name to Buyer's name. Buyer shall promptly notify Seller that all such notices have been provided to the applicable utility providers. Buyer shall bear the costs associated with any new utility connections or meters that may be required for Buyer's assumption of utility services.

(b) If Buyer receives invoices for utilities for any period of time prior to the Effective Time, Buyer will promptly forward such invoices to Seller and Seller shall be responsible for payment of such invoices. If any Seller Company receives invoices for utilities for any period of time on or after the Effective Time, Seller shall promptly forward the invoices to Buyer and Buyer shall be responsible for payment of such invoices.

7.11 Books and Records.

(a) To the extent that Buyer is not in possession of all of the Books and Records as of the Closing, Seller shall deliver to Buyer such portion of the Books and Records within sixty (60) days after the Closing, provided, that Books and Records in the possession of Seller's contractors to which Seller has a legal right to obtain from such contractors shall be provided to Buyer upon the earlier of (i) the expiration of the Transition Services Agreement or (ii) within thirty (30) days after termination of the Transition Services Agreement by Buyer if terminated prior to its expiration; provided further, however, that Seller shall retain custody of all data derived, compiled or produced by or on behalf of the Control Center (the "**Control Center Data**") for any applicable record retention period as required by the U.S. Department of Transportation ("**DOT**") or any other Governmental Authority. Seller will deliver the Control Center Data in a readable and useable format to Buyer (i) within thirty (30) days of receiving written notice from Buyer that Buyer is subject to an audit, inquiry or investigation by the DOT or other Governmental Authority (each an "**Investigation**"), or such earlier period if reasonably necessary to comply with an Investigation, and (ii) as soon as is reasonably practicable (and in any event within forty eight (48) hours) of any event giving rise to an Investigation on or related to the Assets ("**Incident**").

(b) Seller shall permit Buyer to review any other documentation, including, without limitation, the proprietary procedure documentation (the "**Regulatory Documentation**"), as is reasonably necessary, as determined by Buyer, in its reasonable discretion, for Buyer to comply, or confirm compliance, with Applicable Law. If Buyer is ordered by a Governmental Authority to provide any Regulatory Documentation to such Governmental Authority, Seller shall deliver a copy of such Regulatory Documentation to Buyer and Buyer shall provide such Regulatory Documentation to such Governmental Authority; provided, however that Buyer shall not make or retain any copy, report, extract, analysis, or other recording of, or which contains, reflects, or is derived from, such Regulatory Documentation. In the event it is necessary for Buyer to have access to the Regulatory Documentation in connection with an Investigation or Incident, Seller shall deliver the Regulatory Documentation to Buyer in accordance with the time period in Section 7.11(a)(i) with respect to an Investigation, and Section 7.11(a)(ii) with respect to an Incident, provided that Buyer shall only use the Regulatory Documentation as reasonably necessary to comply with the Investigation or respond to the Incident.

(c) Notwithstanding the inclusion of the Books and Records in the Assets, Seller shall have the right to copy and retain any copies of any of the Books and Records for which it has, or may have, any business, technical or legal need. To the extent that those Books and Records made available to Buyer before or after the Closing contain proprietary business or technical information of Seller or its Affiliates, Buyer agrees to hold such Books and Records in confidence and limit their use to those related to the Assets. Buyer shall not destroy or otherwise dispose of any of the Books and Records acquired hereunder for a period of five (5) years following the Closing (except as to Tax records for which the period shall be the applicable statute of limitations) except upon thirty (30) days prior written notice to Seller. During such period, Buyer shall make the Books and Records available to Seller or its authorized representatives for any reasonable business, legal or technical need in a manner which does not unreasonably interfere with Buyer's operation of the business.

7.12 **Transition Services.** Seller shall provide transition services to Buyer with respect to the control center operations (including certain local operations, maintenance and administrative services) pursuant to the Transition Services Agreement.

7.13 **Termination of Services.** Subject to any transition services provided by Seller or its Affiliates to Buyer pursuant to Section 7.12 (Transition Services), Seller shall, and shall cause its Affiliates, to (i) terminate all terminal management, cash management and treasury, accounting, tax, insurance, environmental, banking, legal, data network and processing and other services provided by Seller or any of its Affiliates to SPB LLC or in support of the Assets and (ii) settle all related and other intercompany accounts, including in each case any agreements or understandings (written or oral) with respect thereto, in each case without liability.

7.14 **Tariff Protests.** Each Party shall comply with its respective obligations in in Schedule 2.06(c)(v).

ARTICLE VIII **COVENANTS AND AGREEMENTS OF SELLER AND BUYER**

Buyer and Seller covenant and agree as follows:

8.01 Antitrust Approvals.

(a) Within thirty (30) Business Days after Execution Date, or later, if otherwise mutually agreed by the Parties, Buyer and Seller shall file or cause to be filed with the Federal Trade Commission and the United States Department of Justice (collectively, "***Antitrust Authorities***") any notifications required to be filed under the HSR Act applicable to the Contemplated Transactions. Buyer and Seller shall consult with each other as to the appropriate time for filing such notifications and shall agree upon the timing of such filings. Buyer shall pay the filing fees under the HSR Act. Buyer and Seller shall each bear their respective costs (including legal fees) for the preparation of any filing.

(b) Buyer and Seller shall respectively use commercially reasonable efforts to (i) respond promptly to any requests for additional information and documentary materials made by any Antitrust Authority; (ii) make any further filings or submissions that may be necessary, proper or advisable in connection therewith; and (iii) obtain all required antitrust approvals at the earliest possible date so as to enable the Parties to close the Contemplated Transactions. Buyer and Seller shall consult with each other prior to any meetings, by telephone or in person, with the staff of any Antitrust Authority, and each Party shall have the right to have a representative present at any such meeting (subject to the approval of the relevant Antitrust Authority). Buyer and Seller shall give each other reasonable advance notice of any notification, submission or other communication which it proposes to make or submit to any Antitrust Authority and to provide each other with copies of a draft notification, submission or correspondence and any supporting documentation or information reasonably requested by the other Party, provided that no Party shall be required to disclose any Confidential Information under this subsection. Each Party agrees to consider in good faith any comments of the other Parties to any such notification, submission or communication.

(c) Buyer agrees to use its commercially reasonable efforts to resolve in a legal manner each and every impediment under any antitrust law that may be asserted by any Antitrust Authority or any other Person with respect to the Contemplated Transactions. Notwithstanding anything to the contrary in this agreement, in no event will Buyer be required to (and in no event will the Seller without the prior written consent of the Buyer) propose, negotiate, commit to, and effect (by consent decree, hold separate orders, or otherwise) any remedy including the sale, divestiture, disposition, or holding separate of any of its own assets or the Assets to be directly or indirectly acquired in the Contemplated Transactions as are required to be divested in order to avoid the entry of, or to effect the dissolution of, any decree, temporary restraining order, injunction, judgment, or other order in any suit or proceeding. "Commercially reasonable efforts" shall not include defending any Claim asserted before any Governmental Authority that would restrain or prevent the closing of the Contemplated Transactions by the Outside Date.

8.02 Assignments.

(a) With respect to any Contract, Easement or Permit that (1) is intended to be assigned to Buyer hereunder and (2) requires consent for the assignment thereof to Buyer, in each case, as set forth in Section 4.03 of the Disclosure Letter, Seller shall take such actions as are commercially reasonable and necessary, and Buyer shall cooperate with Seller in all commercially reasonable respects, to effect assignment thereof to Buyer as of the Closing Date. It is understood that such actions by Seller shall not include any requirement of the Seller Companies or their Affiliates to expend money, commence any litigation or offer or grant any accommodation (financial or otherwise) to any third party. Seller shall initiate termination procedures on any Contracts requested by Buyer to be effective upon the Closing provided that such terminations do not require the Seller Companies or their Affiliates to expend money or grant any accommodation (financial or otherwise) to the counterparties to such Contracts.

(b) In the event that a Seller Company is unable to obtain the requisite approval for assignment of any such Contract, Easement or Permit, or in the event such Contract, Easement or Permit is required to be amended or supplemented and is not so amended or supplemented as of the Closing Date, and such assignment is reasonably necessary to operate the Assets in the Ordinary Course of Business as conducted by such Seller Company or its Affiliates on an historical

basis for the twelve (12) months prior to the Closing Date without giving rise to a material adverse effect on the Assets, at the written request of Buyer on or before the Closing Date or within thirty (30) days after the Closing Date (except where such action would be unlawful or prohibited by such Contract, Easement or Permit), Seller shall (x) retain any such Contract, Easement or Permit and shall enter into an arrangement with Buyer (including, to the extent appropriate amending the Transition Services Agreement) to provide Buyer with the economic and functional benefits of such Contract, Easement or Permit, provided, that Buyer shall perform the Seller Companies' and their Affiliates' obligations thereunder arising on or after the Closing Date (and indemnify, defend and hold the Seller Companies and their Affiliates harmless against Losses suffered in the event Buyer breaches any obligations thereunder) until such Contract, Easement or Permit is assigned to Buyer or expires at the earliest opportunity in accordance with its terms, or is properly amended or supplemented, and (y) take all commercially reasonable and necessary actions required to assign to Buyer, or amend or supplement, any such Contract, Easement or Permit as soon as practicable after the Closing Date.

(c) Notwithstanding Seller's obligations pursuant to Section 8.02(a), the assignment of any Contract, Easement or Permit to be transferred to Buyer that requires consent for assignment, or amendment or supplement, may be effected after the Closing Date. Except as otherwise provided in this Agreement, the Purchase Price shall not be subject to adjustment, and the Closing of the Contemplated Transactions shall not be delayed, by reason of any inability to obtain consent for assignment of any Contract, Easement or Permit or any such amendment or supplement. Buyer acknowledges that certain consents to the Contemplated Transactions may be required from parties to Contracts, Easements or Permits (written or otherwise) to which any of the Seller Companies or their Affiliates is a party, and such consents may not be obtained (provided that Seller has complied with its obligations under Section 8.02(b)). Except as otherwise provided in this Agreement, Buyer agrees that the Seller Companies and their Affiliates shall not have any liability whatsoever to Buyer arising out of or relating to the failure to obtain any consents that may have been or may be required in connection with the Contemplated Transactions by this Agreement or because of the default, acceleration or termination of any such agreement, contract, license, lease, Easement or Permit as a result thereof (provided that Seller has complied with its obligations under Section 8.02(b)). Buyer further agrees that no representation, warranty or covenant of Seller contained herein shall be breached or deemed breached and no condition of Buyer shall be deemed not to be satisfied as a result of the failure to obtain any consent or as a result of any such default, acceleration or termination or any Claim or Proceeding commenced or threatened by or on behalf of any Persons arising out of or relating to the failure to obtain any consent or any such default, acceleration or termination (provided that Seller have complied with its obligations under Section 8.02(b)).

8.03 Transition Plan. Promptly following the execution of this Agreement, representatives of Buyer and Seller shall meet to develop a transition plan in accordance with the Transition Services Agreement identifying resources, timelines, and other milestones needed for operation of the Assets after the Closing; *provided, however*, that, nothing in this Section 8.03 or such transition plan shall restrict or limit the Seller Companies' or their respective Affiliates' ability to conduct their own business and operate the Assets prior to Closing.

8.04 Other Governmental Approvals. Buyer and Seller shall cooperate with each other and take all reasonable steps necessary to obtain Authorizations for the sale of the Assets from all

applicable Governmental Authorities, including the California Public Utilities Commission, the Office of Oil Spill Prevention and Response of the California Department of Fish and Game, and the Pipeline Safety Division of the Office of the State Fire Marshal. The Parties' obligations shall include each Party's use of reasonable efforts to: (a) prepare and submit to the California Public Utilities Commission an application seeking approval of the Contemplated Transaction; (b) consult and cooperate with the other Parties in connection with any additional submissions to or responses to requests from the California Public Utilities Commission regarding the Contemplated Transaction; and (c) comply, within a reasonable time, with any legally enforceable requests received by a Party or any of its Affiliates for information, documents, or other materials regarding the Contemplated Transaction.

8.05 Other Actions. Buyer and Seller shall otherwise use their respective commercially reasonable efforts to cause (a) the satisfaction of all covenants and agreements in this Article VIII and all conditions precedent in Article X and Article XI, in each case, applicable to it, and (b) the Closing, to occur as soon as reasonably practicable after the Execution Date.

8.06 Collection of Amounts Owed to a Party. In the event any Party receives any funds or other property that belongs to another Party pursuant to the terms of this Agreement then the receiving Party shall receive and hold such funds and property in trust for the benefit of the rightful Party and shall promptly forward such funds and property to the rightful Party. It is the intention of the Parties that, as between the Parties, Seller shall be entitled to all income attributable to the Operations conducted prior to the Effective Time and Buyer shall be entitled to all income attributable to the Operations conducted after the Effective Time. Each Party shall pay to the other Party, promptly after receipt thereof, any amount received by said Party from any third party with respect to rentals, fees or other revenues relating to the Operations and attributable to the ownership period of the other Party; and products delivered, services performed or other obligations performed by the other Party and attributable to the ownership period of such other Party.

8.07 Casualty.

(a) In the event there is an occurrence of a Casualty prior to the Closing Date, Seller shall notify Buyer thereof as soon as reasonably practicable.

(b) In the event a Casualty occurs prior to the Closing Date then, Seller shall elect at its option, to either (i) repair or replace the affected Asset or SPB Asset at Seller's cost prior to the Closing, in which case Buyer's obligation to effect the Closing shall not be affected, but the Closing Date shall be deferred until ten (10) Business Days after repairs or replacement have been completed and the affected Asset has been restored to a similar grade, quality and condition, or (ii) negotiate with Buyer to reduce the Purchase Price by an amount agreed to by Seller and Buyer to reflect the cost to repair or replace the affected Asset(s) or SPB Asset(s) (the "***Repair Costs***"), in which case, the Closing Date shall not be deferred unless Buyer and Seller do not agree to the cost of such repairs or replacements.

(c) If Seller elects to proceed with clause (ii) of Section 8.07(b) and Seller and Buyer agree on the Repair Costs within fifteen (15) days of Buyer's receipt of Seller's notice of Casualty (the "***Repair Negotiation Period***"), Buyer's obligation to effect the Closing shall not be affected

but the Purchase Price shall be reduced by the Repair Costs. If however, the Parties do not agree on the Repair Costs within the Repair Negotiation Period (a "**Repair Cost Dispute**"), either Party may request an engineering company mutually agreed to by the Parties to evaluate the affected Assets and deliver to the Parties its written estimate of the Repair Costs (the "**Third Party Estimate**") within fifteen (15) days after the end of the Repair Negotiation Period.

(i) If the Third-Party Estimate is less than or equal to Five Million Dollars (\$5,000,000), then Buyer's obligation to proceed to Closing in accordance with the terms of this Agreement shall not be affected and the Purchase Price shall be reduced by the Third-Party Estimate.

(ii) If the Third Party Estimate is greater than Five Million Dollars (\$5,000,000), then Buyer's obligation to proceed to Closing in accordance with the terms of this Agreement shall not be affected and the Parties shall submit the Repair Cost Dispute to binding arbitration under the dispute resolution procedures in Article XVI for resolution after Closing with no reduction of the Purchase Price at Closing and a post-Closing adjustment to the Purchase Price equal to the finally-determined Repair Costs.

(d) Any adjustment of the Purchase Price pursuant to clause (ii) of Section 8.07(b) which is necessary to reflect a final determination of Repair Costs after the Closing shall be made as follows: (i) an adjustment in favor of Buyer shall be paid in immediately available funds by Seller to Buyer; and (ii) an adjustment in favor of Seller shall be paid in immediately available funds to the extent the Purchase Price had been reduced pursuant to this Section 8.07. Any such reduction, refund or payment shall be made within ten (10) Business Days after such final determination.

(e) In the event of a Repair Cost Dispute, the Closing Date shall be deferred until (i) ten (10) Business Days after receipt of the Third Party Estimate, or (ii) if Seller elects the option in clause (i) of Section 8.07(b), as provided therein.

8.08 Payment of Certain Expenses Due and Payable After the Closing Date.

(a) The Closing Date Payment shall be increased by the pro-rated amount of all lease and rental payments made by the Seller Companies or their Affiliates prior to the Closing Date in respect of the Assets but that are attributable to periods after the Effective Time. The Closing Date Payment shall be decreased by the pro-rated amount of all lease and rental payments in respect of the Assets to be made by Buyer subsequent to the Effective Time but that are attributable to periods prior to the Effective Time. The Parties shall share information among themselves prior to the Closing Date to identify and pro-rate such amounts.

(b) Buyer shall pay, as and when due, all emissions fees, permit fees and utility bills due and payable after the Effective Time, and Seller shall reimburse Buyer within thirty (30) days after invoice for any amounts under such bills attributable to any period prior to the Effective Time.

(c) If a Party makes any payment to a third party pursuant to any assigned Contract; and such payment is made in respect of work performed, services provided or goods delivered

during a period of time that includes the Effective Time; or the Effective Time intervenes between the making of such payment and the performance of the work or services or delivery of goods, the Parties will allocate the burden of such payment in a manner that reflects the relative benefit of such work performed, services provided or goods delivered to each Party; *provided, however*, it shall be presumed that any work performed, services provided or goods delivered prior to the Effective Time are for the benefit of a Seller Company and any work performed, services provided or goods delivered after the Effective Time are for the benefit of Buyer or its Affiliates.

8.09 Relationship of the Parties. Nothing in this Agreement or the Closing Documents shall be construed to create any joint venture, partnership, agency or other similar fiduciary relationship between the Parties or the parties thereto. Under this Agreement and the Closing Documents the Parties and their respective Affiliates are nothing other than independent contractors for the sale or purchase of specific property, goods or services. The Parties acknowledge that, for purposes of this Agreement and the Closing Documents, none of the Parties or their respective Affiliates shall be considered to be the agent, representative, employee, master, or servant of the others for any purpose. Except as expressly provided in this Agreement, none of the Parties or their respective Affiliates shall have any obligation to manage or operate any of their respective businesses with any duty or standard of care to the other Party or their respective Affiliates, and none of the Parties or their respective Affiliates have any authority, right or power to enter into a contract or commitment, assume any obligation or make any representation or warranty on behalf of the others (except as expressly specified in this Agreement or the Closing Documents). The Parties agree and acknowledge that except as expressly provided herein or in the Closing Documents, none of the Parties or their respective Affiliates shall owe duties, fiduciary or otherwise to the other. The Parties and their respective Affiliates are, and will be after Closing, competitors with the right to pursue any business opportunity for their respective individual benefit and make no representation or warranty regarding the manner in which they will conduct their respective businesses and operations. None of the Parties or their respective Affiliates shall have any obligation to refrain from (i) engaging in the same or similar activities or lines of business as the Parties or their respective Affiliates, (ii) developing or marketing any products or services that compete, directly or indirectly with those Parties or their respective Affiliates, (iii) investing or owning any interest publicly or privately in, or developing a business relationship with, any Person engaged in the same or similar activities or lines of business as, or otherwise in direct or indirect competition with, the Parties or their respective Affiliates, or (iv) doing business with any client or customer of the Parties or their respective Affiliates. None of the Parties or their respective Affiliates shall have any obligation to offer any business opportunity (except as expressly specified in this Agreement or the Closing Documents) and may modify or otherwise change any of their respective businesses or operations at any time. Any decision, act, consent or instruction of any Seller related to this Agreement shall constitute a decision of all Sellers and shall be final, binding and conclusive upon each Seller, and Buyer shall have the right to rely upon any such decision, act, consent or instruction. Each Seller hereby agrees that (notwithstanding any dispute or disagreement among any of the Sellers) in all matters in which any action by any Seller is required or permitted under this Agreement, each Seller shall forever release and waive all Claims against Buyer for relying on actions of any Seller.

8.10 Public Announcements. The Parties shall not issue any press release or public announcement concerning this Agreement or the Contemplated Transactions hereunder without obtaining the prior written approval of the other Party hereto, which approval will not be

unreasonably withheld or delayed, unless, in the sole judgment of Buyer or Seller, as applicable, disclosure is otherwise required by (i) Applicable Laws, or (ii) by the applicable rules of any stock exchange on which Buyer or Seller lists securities, provided, that to the extent required by Applicable Law, the Party intending to make such release shall use commercially reasonable efforts consistent with such Applicable Law to (a) consult in good faith with, and with appropriate notice to, the other Party with respect to the timing and content thereof (including giving due consideration to all reasonable additions, deletions or changes suggested in connection therewith) and (b) provide a copy thereof to the other Party prior to such issuance.

8.11 **Further Assurances.** From time to time, as and when reasonably requested by any Party, each Party shall execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further actions which are consistent with, and customary and necessary for, the consummation of the Contemplated Transactions. Without limiting the generality of the preceding, Seller and Buyer shall contact all third parties which currently have contractual arrangements with a Seller Company and its Affiliates in respect of the Assets, or the Operations and which are anticipated to have commercial arrangements with Buyer following the Closing to establish transition matters to be effective as of the Effective Time.

8.12 **Childhood Lead Poisoning Prevention Fees.** Seller shall retain and agree to pay, perform and discharge when due, payments of California Childhood Lead Poisoning Prevention Fees to the extent assessed and issued to Seller. Buyer shall assume and agree to pay, perform and discharge when due, payments of California Childhood Lead Poisoning Prevention Fees to the extent assessed and issued to Buyer.

8.13 **Additional Consideration.** Seller shall be eligible to receive as additional consideration for the sale of the Assets the following amounts: (a) Ten Million Dollars (\$10,000,000) for SPB LLC if rate increase application Numbers 16-10-020 and 17-10-019 are approved in a final, non-appealable order issued by the CPUC on or before six (6) months after Closing; and (b) Ten Million Dollars (\$10,000,000), if the average throughput in the SPB Assets (excluding volumes moved from the KLM pipeline system to the SPB Assets) during the period beginning at Closing and ending on the first anniversary of Closing is greater than 110,000 barrels per day. Buyer shall pay to Seller the amounts set forth in the immediately preceding sentence thirty (30) days after the same are earned.

ARTICLE IX **EMPLOYEES**

9.01 **Employees and Employee Benefits.** Seller and Buyer agree to the provisions concerning Business Employees and Employee Benefit Plans as set forth in Schedule 9.01.

ARTICLE X **BUYER'S OBLIGATION TO CLOSE**

Buyer's obligation to close the Contemplated Transactions is subject to the fulfillment, or waiver by Buyer, on or prior to the Closing of each of the following:

10.01 Compliance with Agreement. Seller shall have performed and complied in all material respects with all covenants, agreements and conditions required by this Agreement to be performed or complied with by Seller prior to the Closing Date.

10.02 Representations and Warranties. The representations and warranties of Seller made in Article IV (as may be amended by Seller in accordance with Section 6.03) shall be true and correct in all respects on and as of the Closing Date, as though made on and as of the Closing Date (except for those representations and warranties that speak only as of a specific date or time, which need only be true and correct as of such date or time), except where the failure to be so true and correct, individually or in the aggregate, could not result in a Material Adverse Effect.

10.03 Closing Deliverables. The Seller Companies shall be willing and able to enter into, and shall have delivered or caused to be delivered, at the Closing the items set forth in Section 3.02 to which each Seller Company is to be a signatory.

10.04 Litigation. There shall not be any judicial restraining order or injunction, preliminary or otherwise, in effect prohibiting the Closing of the Contemplated Transactions. There shall not be pending or threatened in writing any Proceeding instituted by any Governmental Authority to restrain, prohibit or otherwise interfere with or obtain substantial monetary damages in connection with the consummation of the Contemplated Transactions, or operation of the Assets by Buyer after the Closing Date.

10.05 Governmental Consents. The waiting period (and any extension thereof) applicable to the consummation of the Contemplated Transactions shall have expired or been terminated under the HSR Act and (ii) any mandatory waiting period or required consent under any applicable foreign or state competition or antitrust law or regulation shall have expired or been obtained except where the failure to observe such waiting period or to obtain such a consent would not reasonably be expected to delay or prevent the consummation of the Contemplated Transactions or have a Material Adverse Effect on the expected benefits of the Contemplated Transactions to Seller.

10.06 CPUC Approval. The California Public Utilities Commission shall have issued an order or decision that has become final and non-appealable and is reasonably acceptable to Buyer, which grants Seller any necessary authority to sell the Assets to Buyer and grants Buyer any necessary authority to purchase the Assets from Seller.

10.07 Facilities Operational. All active facilities (including the SPB Assets) owned, leased, or operated by SPB LLC and all active facilities that constitute the Proprietary Pipeline Systems shall be operational in all material respects on the Closing Date.

ARTICLE XI **SELLER'S OBLIGATION TO CLOSE**

Seller's obligation to close the Contemplated Transactions is subject to the fulfillment, or waiver by Seller, on or prior to the Closing of each of the following:

11.01 Compliance with Agreement. Buyer shall have performed and complied in all material respects with all covenants, agreements and conditions required by this Agreement to be performed or complied with by Buyer prior to the Closing Date.

11.02 Representations and Warranties. The representations and warranties of Buyer made in Article V shall be true and correct in all respects on and as of the Closing Date, as though made on and as of the Closing Date (except for those representations and warranties that speak as of a specific date or time, which need only be true and correct as of such date or time), except to the extent where the failure to be so true and correct, individually or in the aggregate, has not had or is not reasonably likely to have a material adverse effect on Seller or Seller's ability to consummate the Contemplated Transactions.

11.03 Closing Deliverables. Buyer shall be willing and able to enter into, and shall have delivered or caused to be delivered, at the Closing the items set forth in Section 3.02 to which Buyer is to be a signatory.

11.04 Litigation. There shall not be any judicial restraining order or injunction, preliminary or otherwise, in effect prohibiting the Closing of the Contemplated Transactions. There shall not be pending or threatened any Proceeding instituted by any Governmental Authority to restrain, prohibit or otherwise interfere with or obtain substantial monetary damages in connection with the consummation of the Contemplated Transactions, or the operation of the Assets by Buyer after the Closing Date.

11.05 Governmental Consents. The waiting period (and any extension thereof) applicable to the consummation of the Contemplated Transactions shall have expired or been terminated under the HSR Act and (ii) any mandatory waiting period or required consent under any applicable foreign or state competition or antitrust law or regulation shall have expired or been obtained except where the failure to observe such waiting period or to obtain such a consent would not reasonably be expected to delay or prevent the consummation of the Contemplated Transactions or have a Material Adverse Effect on the expected benefits of the Contemplated Transactions to Buyer.

11.06 CPUC Approval. The California Public Utilities Commission shall have issued an order or decision that has become final and non-appealable and is reasonably acceptable to Buyer, which grants Seller any necessary authority to sell the Assets to Buyer and grants Buyer any necessary authority to purchase the Assets from Seller.

ARTICLE XII **INDEMNIFICATION**

12.01 Buyer's Indemnification of Seller Companies. Except as otherwise provided herein and subject to the provisions of this Article XII, from and after the Closing, Buyer shall indemnify, defend, save and hold harmless, each Seller Company, its Affiliates, and their respective directors, officers, employees, shareholders, partners, counsel, auditors, accountants, agents (excluding contractors and subcontractors) and other representatives and each of the heirs, executors, successors and permitted assigns of any of the foregoing (collectively, the "***Seller Indemnified***

Parties”), from and against any and all Claims and Losses to the extent caused by, arising from or incurred in connection with or relate to:

(a) Buyer’s breach of any representation or warranty in this Agreement or the Closing Documents; *provided, however*, that Buyer shall not have any liability under this clause (a) for any breach of a representation or warranty contained in this Agreement or the Closing Documents if Seller had Knowledge of such breach at the time of Closing and failed to notify Buyer in writing of such breach prior to the Closing;

(b) Buyer’s breach of or failure to perform any covenant or agreement in this Agreement (excluding Section 2.06(a) which is addressed in subsection (c) below) or the Closing Documents;

(c) the Assumed Liabilities but excluding such Losses to the extent caused by, arising from or incurred in connection with or related to the post-Closing acts or omissions of the Seller Indemnified Parties or their contractors, licensees, or invitees.

BUYER UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT SUCH INDEMNIFICATION MAY INCLUDE AN INDEMNIFICATION OF THE SELLER INDEMNIFIED PARTIES FOR AND AGAINST EACH OF THEIR OWN PRE-CLOSING NEGLIGENCE.

12.02 Seller’s Indemnification of Buyer. Except as otherwise provided herein and subject to the provisions of this Article XII, from and after the Closing, Seller shall indemnify, defend, save and hold harmless, Buyer, its Affiliates and their respective directors, officers, employees, shareholders, partners, counsel, auditors, accountants, agents, advisors and other representatives and each of the heirs, executors, successors and permitted assigns of any of the foregoing (collectively, the “*Buyer Indemnified Parties*”) from and against any and all Claims and Losses to the extent caused by, arising from or incurred in connection with or relate to:

(a) Seller’s breach of any representation or warranty in this Agreement or the Closing Documents; *provided, however*, that Seller shall not have any liability under this clause (c) for any breach of a representation or warranty contained in this Agreement or the Closing Documents if Buyer had Knowledge of such breach at the time of Closing and failed to notify Seller in writing of such breach prior to the Closing;

(b) Seller’s breach of or failure to perform any covenant or agreement in this Agreement (excluding Section 2.06(c) which is addressed in subsection (c) below) or the Closing Documents; and

(c) the Retained Liabilities but excluding such Losses to the extent caused by, arising from or incurred in connection with or relate to the post-Closing acts or omissions of the Buyer Indemnified Parties or their contractors, licensees and invitees.

12.03 Exclusive Remedy. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IF THE CLOSING OCCURS AND EXCEPT (I) AS PROVIDED IN THIS ARTICLE XII OR (II) IN THE CASE OF ACTUAL FRAUD, NO PARTY SHALL HAVE ANY LIABILITY, AND NO PARTY SHALL MAKE ANY CLAIM, FOR ANY

LOSS OR OTHER MATTER (AND THE PARTIES HEREBY WAIVE ANY RIGHT OF CONTRIBUTION AGAINST EACH OTHER AND THEIR RESPECTIVE INDEMNIFIED PARTIES), UNDER, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER CLOSING DOCUMENT WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, ENVIRONMENTAL OR OTHER APPLICABLE LAWS OR OTHERWISE.

12.04 Procedures Relating to Indemnification Between Buyer and Seller. Following the discovery of any facts or conditions that could reasonably be expected to give rise to a Claim or Loss for which indemnification is provided under this Agreement, the Indemnified Party shall, as promptly as reasonably possible thereafter, provide written notice (a "***Claim Notice***") to the Indemnifying Party setting forth the specific facts and circumstances, in reasonable detail, relating to such Claim or Loss and the amount of such Claim or Loss (or a good-faith estimate thereof if the actual amount is not known or not capable of reasonable calculation); *provided, however*, that failure to give such Claim Notice on a timely basis shall not affect the indemnification provided hereunder except to the extent that such Indemnifying Party shall have been actually and materially prejudiced as a result of such failure to provide a Claim Notice. A speculative, prospective, unspecified or possible future Claim shall not be adequate to support a timely indemnification claim. Notwithstanding the foregoing:

(i) a Buyer Indemnified Party shall not be entitled to indemnity hereunder against Seller unless and until (A) such Indemnified Party shall have provided Seller written notice of such claim; and (B) Seller shall have failed to cure such claim, if curable, within thirty (30) days after Seller's receipt of a Claim Notice; and

(ii) a Seller Indemnified Party shall not be entitled to indemnity hereunder against Buyer unless and until (A) such Indemnified Party shall have provided Buyer written notice of such claim; and (B) Buyer shall have failed to cure such claim, if curable, within thirty (30) days after Buyer's receipt of a Claim Notice.

12.05 Procedures Relating to Indemnification for Third Party Claims.

(a) With respect to any indemnification provided for under this Agreement in respect of, arising out of or involving a claim or demand made by any Person against an Indemnified Party (a "***Third Party Claim***"), such Indemnified Party must provide a Claim Notice to the Indemnifying Party of the Third Party Claim as promptly as reasonably practicable after receipt by such Indemnified Party of notice of the Third Party Claim. Thereafter, the Indemnified Party shall promptly deliver to the Indemnifying Party copies of all notices and documents (including court papers) received by the Indemnified Party relating to the Third Party Claim; *provided, however*, that the failure to provide a Claim Notice, or deliver copies of all notices and documents, in a reasonably timely manner shall not affect the indemnification provided hereunder except to the extent the Indemnifying Party shall have been actually and materially prejudiced as a result of such failure.

(b) If a Third Party Claim is made against an Indemnified Party, the Indemnified Party shall permit the Indemnifying Party to participate in the defense thereof (it being understood that the Indemnified Party shall control such defense unless the Indemnifying Party assumes such

defense as provided herein) and, if the Indemnifying Party so chooses and acknowledges its obligation to indemnify the Indemnified Party therefor, to assume the defense thereof with counsel selected by the Indemnifying Party provided that such counsel is reasonably satisfactory to the Indemnified Party. Notwithstanding any acknowledgment made pursuant to the immediately preceding sentence, the Indemnifying Party shall continue to be entitled to assert any limitation on its indemnification responsibility contained in Sections 12.07 and 12.08. Should the Indemnifying Party so elect to assume the defense of such Third Party-Claim, the Indemnifying Party shall not be liable to the Indemnified Party for legal expenses subsequently incurred by the Indemnified Party in connection with the defense thereof provided the Indemnifying Party does not seek to assert any limitation on its indemnification responsibility to the Indemnified Party. If the Indemnifying Party assumes such defense, the Indemnified Party shall have the right to participate in the defense thereof and to employ counsel, at its own expense, separate from the counsel employed by the Indemnifying Party, it being understood, however, that the Indemnifying Party shall control such defense subject to the agreement of the Indemnifying Party and the Indemnified Party to cooperate in the defense of such Third Party Claim as provided below. The Indemnifying Party shall be liable for the fees and expenses of counsel employed by the Indemnified Party for any period during which the Indemnifying Party has not assumed the defense thereof or assumes the defense but asserts any limitation on its obligation to indemnify or defend which reduces its indemnification actions. If the Indemnifying Party chooses to defend any Third-Party Claim, the Parties shall reasonably cooperate in the defense or prosecution of such Third-Party Claim. Such cooperation shall include the retention and (upon the Indemnifying Party's request) the provision to the Indemnifying Party of records and information which are reasonably relevant to such Third-Party Claim and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Whether or not the Indemnifying Party shall have assumed the defense of a Third-Party Claim, the Indemnified Party shall not admit any liability with respect to, or settle, compromise or discharge, or consent to the entry of any judgment with respect to such Third-Party Claim without the Indemnifying Party's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed). The Indemnifying Party shall not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim without the Indemnified Party's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed); *provided, however*, such consent of the Indemnified Party shall not be required in the event of the entry of such judgment or entering into a settlement with respect to such Third Party Claim does not include (i) the admission of any liability or responsibility on behalf of the Indemnified Party, (ii) any financial obligation to be paid by the Indemnified Party or (iii) any sanction or restriction upon the conduct of any business of the Indemnified Party.

12.06 Losses Net of Tax Benefits. The amount of any and all Losses under this Article XII and elsewhere in this Agreement shall be determined net of any Tax Benefit realized by the Indemnified Party arising from the incurrence or payment of such amounts. If the Indemnified Party receives any net Tax Benefit subsequent to an indemnification payment by the Indemnifying Party, then such Indemnified Party shall promptly pay to the Indemnifying Party the amount of such net Tax Benefit.

12.07 Survival. Subject to the limitations and other provisions of this Agreement, (a) the representations and warranties of the Parties contained in this Agreement shall survive the Closing and shall remain in full force and effect for a period of twelve (12) months after the Closing Date

(except for those contained in Sections 4.01 and 5.01 (Organization and Good Standing), Sections 4.02 and 5.02 (Authority), Section 4.06(b) (Ownership of the SPB Interest), Section 4.15, Section 4.16 (Capitalization of SPB LLC), and Sections 4.05 and 5.06 (Brokers), and Section 4.10 (Taxes) (the foregoing representations hereinafter referred to as the “*Fundamental Representations*”), which shall survive the Closing until the thirtieth (30th) day following the expiration of the applicable statute of limitations, and until the resolution of the indemnification Claims received by the Indemnifying Party in accordance with the provisions hereof prior to the expiration of the relevant time period. All covenants and obligations contained in this Agreement that by their terms are to be performed at or prior to the Closing shall terminate one hundred eighty (180) days after the Closing Date, and all covenants and obligations contained in this Agreement that by their terms are to be performed after the Closing shall survive the Closing until performed in accordance with their terms.

A Claim shall be deemed to have been properly brought only upon delivery of a proper Claim Notice to the other Party within the applicable time periods provided above at the notice address set forth in Section 17.01. For the avoidance of doubt, the initial date of delivery of a Claim Notice, and not the expiration of any cure period, shall be deemed to be the date a Claim is made. Any Claim required to be made within an applicable time period provided above that is not so timely made shall be forever barred.

12.08 Limitations on Indemnification.

(a) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY CONTAINED IN THIS AGREEMENT, NO PARTY SHALL BE LIABLE FOR AND NO PARTY SHALL SEEK, AND AN ARBITRATOR APPOINTED UNDER ARTICLE XVI MAY NOT AWARD, PUNITIVE, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, OTHER LAW OR OTHERWISE; *PROVIDED, HOWEVER*, THAT THIS SECTION 12.08(a) SHALL NOT LIMIT A PARTY’S RIGHT TO INDEMNIFICATION UNDER THIS ARTICLE XII FOR ANY SUCH LOSSES TO THE EXTENT SUCH PARTY IS REQUIRED TO PAY SUCH LOSSES TO A THIRD PARTY IN CONNECTION WITH A MATTER FOR WHICH SUCH PARTY IS OTHERWISE ENTITLED TO INDEMNIFICATION UNDER THIS ARTICLE XII.

(b) Notwithstanding any provision to the contrary contained in this Agreement, the following limitations shall apply with regard to Seller’s obligations to indemnify the Buyer Indemnified Parties pursuant to Section 12.02:

(i) No Claim may be made against Seller for indemnification pursuant to Section 12.02(a) with respect to any individual action, occurrence or event subject to the indemnifications thereunder unless (A) such individual action, occurrence or event exceeds \$250,000 related to Assets (individually, each as applicable, the “*De Minimis Amounts*”) (and in such case, no Loss below such De Minimis Amounts be applied to or considered for purposes of calculating the aggregate amount of the Buyer Indemnified Parties’ Losses) or (B) such Claim relates to the breach of a Fundamental Representation by Seller. For purposes of clarity, Seller’s

obligations under Section 7.04, Section 12.02(b) and Section 12.02(c) shall apply starting with the first dollar of Claims and Losses.

(ii) No Claim may be made against Seller for indemnification pursuant to Section 12.02(a) unless the aggregate amount of all Claims and Losses of the Buyer Indemnified Parties with respect to Section 12.02(a) (excluding individual Claims and Losses less than the applicable De Minimis Amounts) shall exceed an amount equal to Two Million Dollars (\$2,000,000) with respect to the Assets (the "**Deductible Amounts**"), after which point Seller shall be obligated only to indemnify the Buyer Indemnified Parties from and against such aggregate Claims and Losses (excluding individual Claims and Losses that are less than the applicable De Minimis Amount) in excess of the applicable Deductible Amount, *provided*, that the Deductible Amounts shall not apply with respect to Losses with respect to a breach of a Fundamental Representation by Seller or with respect to Claims or Losses under Section 7.04, Section 12.02(b) or Section 12.02(c).

(iii) Seller's liability pursuant to Section 12.02(a) shall never exceed, in the aggregate, an amount equal to Ten Million Dollars (\$10,000,000) (the "**Indemnification Cap**"). The limitations on Seller's indemnification obligations set forth in the preceding sentence shall not apply to Losses resulting from any breach or default by Seller of its Fundamental Representations or with respect to Claims or Losses under Section 7.04, Section 12.02(b) or Section 12.02(c); *provided, however*, that Seller's liability to Buyer pursuant to Section 12.02(a) with respect to the Fundamental Representations (except as set forth in Section 12.08(c)), Section 12.02(b) and Section 12.02(c) shall never exceed, in the aggregate, an amount equal to twenty five (25%) percent of the Purchase Price, and Seller's liability with respect to Section 7.04 shall never exceed, in the aggregate, an amount equal to Fifty Million Dollars.

(iv) Any claim for indemnity hereunder shall be limited to the amount of actual out-of-pocket damages sustained by the Indemnified Party.

(c) Notwithstanding anything in this Agreement to the contrary, in the event the transactions contemplated herein are rescinded for any reason, Seller shall promptly (but not later than three (3) Business Days after such rescission occurs) repay to Buyer all amounts that Buyer paid to Seller hereunder (including the Deposit and the Purchase Price).

12.09 Mitigation. The indemnification obligations of an Indemnifying Party shall be appropriately reduced to the extent an Indemnified Party does not use reasonable steps and use commercially reasonable efforts to mitigate any and all Losses, it being understood and agreed that to the extent any Indemnified Party undertakes such mitigation efforts, the costs of such efforts may be included in the calculation of indemnifiable Losses hereunder.

12.10 Subrogation. In the event that an Indemnified Party has a right of recovery against any third party non-insurers with respect to any Losses in connection with which a payment is made to such Indemnified Party by an Indemnifying Party; then (i) such Indemnifying Party shall, to the extent of such payment, be subrogated to all of the rights of recovery of such Indemnified

Party against such third party with respect to such Losses; and (ii) such Indemnified Party shall execute all papers reasonably required and take all commercially reasonable action necessary to secure such rights, including the execution of such documents as are necessary to enable such Indemnifying Party to bring suit to enforce such rights.

12.11 **Tax.** All indemnification payments made under this Agreement shall be treated by the Parties as an adjustment to the Purchase Price for Tax purposes, unless otherwise required by Applicable Law.

ARTICLE XIII **TAXES**

13.01 **Transfer Taxes.** All transfer, stamp, documentary, sales, use, business, occupation, motor fuel, registration, value added, environmental and other similar Taxes (including all applicable real estate transfer Taxes), and any other Taxes assessed or imposed in each case on the transfer or sale of the Assets (including environmental Taxes on any petroleum products transferred) and all costs to record any deeds will be borne by Buyer (regardless of whether such Taxes are levied on Seller or Buyer). Buyer shall be responsible for, and will file, all necessary Tax Returns and other documentation with respect to all such Taxes and remit, upon the request of Seller, copies of the portions of such Tax Returns relevant to this Agreement and any necessary documentation to Seller. Seller agrees to use commercially reasonable efforts to cooperate with Buyer in taking advantage of any applicable exemptions that will eliminate or minimize any otherwise applicable transfer Taxes imposed in connection with the purchase and sale of the Assets.

13.02 **Real Property Taxes.** For purposes of this Agreement, the Seller Companies' pro rata share of all *ad valorem*, real and personal property Taxes arising from the ownership or use of the Assets for the calendar year in which the Effective Time occurs shall be prorated between Buyer and Seller as of the Effective Time regardless of when such *ad valorem*, real and personal property Taxes are actually billed and payable, based on the most recent statement of *ad valorem*, real and personal property Taxes which is available at the time of Closing. The Seller Companies shall be responsible for paying their pro rata share of all such *ad valorem*, real and personal property taxes relating to the period prior to the Effective Time. Buyer shall be responsible for such Taxes relating to the period after the Effective Time. If there are any special or general assessments on the Assets which are payable in installments, Buyer shall be responsible for all installments which fall due subsequent to the Effective Time. To the extent possible, prorations shall be made on and as of the Closing Date; otherwise, the Parties shall make prorations within ninety (90) calendar days following the Closing Date. Buyer shall file, or cause to be filed, all required reports and returns incident to all *ad valorem* Taxes, real property Taxes, personal property Taxes and similar obligations, which reports and returns are due after the Closing Date and shall pay or cause to be paid to the Taxing authorities all such Taxes reflected on such reports or returns even if same are for periods prior to the Closing Date and Seller shall reimburse Buyer within ninety (90) days after invoice for any such Taxes allocable to Seller per this **Section 13.02**.

13.03 **Tax Allocation.** Seller and Buyer shall negotiate in good faith prior to the Closing to agree upon an allocation of the Purchase Price (the "***Tax Allocation***") in the form of **Schedule 13.03**, in accordance with Section 1060 of the Code (and any similar provision of state, local or foreign law, as appropriate). The Parties shall treat and report (and, if necessary, to cause each of their

respective Affiliates to so treat and report) the sale and purchase of the Assets for all federal, state and local Tax purposes in a manner consistent with the Tax Allocation and shall not take any position on their respective Tax Returns that is inconsistent with the Tax Allocation (*provided, however*, that nothing contained herein shall prevent the Parties from settling any proposed deficiency or adjustment by any Taxing authority based upon or arising out of the Tax Allocation, and no Party shall be required to litigate before any court any proposed deficiency or adjustment by any Taxing authority challenging such Tax Allocation). Without limiting the generality of the preceding sentence, the Tax Allocation will be reflected in Form 8594 that will be filed by Seller and Buyer in accordance with Section 1060 of the Code and in any other filings under the Code. The Parties recognize that the Tax Allocation does not include Buyer's acquisition expenses and that Buyer will allocate such expenses appropriately.

13.04 Tax Election. Either Party may elect to structure the conveyance, transfer or assignment of all or an applicable portion of the Assets as a tax-free exchange pursuant to Section 1031 of the Code (a "**1031 Exchange**"), provided that (i) such Party gives notice of such election to the other Party in writing reasonably in advance of the Closing Date, (ii) Buyer shall not be required to take title to any other property and (iii) such structure does not have any adverse effect on the other Party (including, but not limited to, delaying or affecting the Closing Date). If such an exchange is elected by such Party (the "**Electing Party**"), the Parties will use commercially reasonable efforts to execute all necessary 1031 Exchange documents (provided, that any costs and expenses incurred shall be borne by the Electing Party), that shall be in a form mutually acceptable to the Parties. The Electing Party will indemnify (subject to Article XII) the other Party and its Affiliates, employees and agents against Losses that may be sustained by them on account of or in connection with such election to structure the transaction as a 1031 Exchange. Neither Party, by its consent to a 1031 Exchange, shall be responsible in any way for the Electing Party's compliance with such 1031 Exchange.

13.05 Tax Assistance. After the Closing Date, each Party shall provide such assistance as the other Party may from time to time reasonably request in connection with the preparation of Tax Returns required to be filed, any audit or other examination by any taxing authority, any judicial or administrative proceeding relating to liability for Taxes, or any claim for refund in respect of such Taxes or in connection with any litigation and proceedings or liabilities related to the Assets, including making available employees for interviews, litigation preparation and testimony. The requesting Party shall reimburse the assisting Party for the out-of-pocket costs incurred by the assisting Party. Seller and Buyer shall reasonably cooperate with each other in the conduct of any audit or other proceeding related to Taxes involving the Assets and each shall execute and deliver such documents as are necessary to carry out the intent of this Article XIII. Furthermore, Buyer and Seller agree that for a period of five (5) years after the Closing Date or until six (6) months after the expiration of the statute of limitations on assessment or refund, if longer than five (5) years, not to destroy or otherwise dispose of any information provided by Seller to Buyer, in each case insofar as each constitutes or pertains to Tax records, unless such Party shall first offer in writing to surrender such books, records and other data to the other Party and such other Party shall agree in writing to take possession thereof during the thirty (30) day period after such offer is made.

13.06 Operating Taxes. Except as provided in this Article XIII, Buyer shall be liable for and pay all Taxes that arise as result of the sale, rental, lease, storage, use, consumption or operation of the Assets by Buyer after the Effective Time.

13.07 Confidential Tax Information. Except as specifically required pursuant to this Article XIII, notwithstanding anything to the contrary in this Agreement, neither Party shall be required at any time to disclose to the other Party, or to any other Person, absent legal constraint, any Tax return or other confidential Tax information.

13.08 Payments. Any payments made to any party pursuant to this Article XIII shall constitute an adjustment of the Purchase Price for Tax purposes and shall be treated as such by Buyer and Seller on their Tax Returns to the extent permitted by Applicable Law.

ARTICLE XIV **ENVIRONMENTAL MATTERS**

14.01 Environmental Liabilities. The provisions of this Section 14.01 constitute an allocation of responsibility and risk for environmental liabilities as between Seller and Buyer. The rights and remedies in this Section 14.01 and Article XII of the Agreement, as applicable, shall, notwithstanding any other provision to the contrary contained in the Agreement, be the exclusive rights and remedies available to the Parties against each other with respect to environmental liabilities, and the Parties expressly waive and relinquish all other rights and remedies against each other in this regard. For the avoidance of doubt, the preceding provisions shall not limit, diminish or impair any rights of the Parties against subsequent owners or transferees of the Assets.

14.02 Environmental Acknowledgements. Buyer acknowledges and agrees:

(a) that the Assets have been used (including portions of the Assets being used for many decades) for industrial purposes including processes relating to the refining, manufacture, storage, distribution and marketing of petroleum and petroleum-based products and chemicals, and that the soil (including sub-soil) of the Assets and land, air, and water adjacent thereto and drains, sewers, pipes, waters, water courses and groundwater at, under or in the vicinity of the Assets may have been, be, or become contaminated or impacted by oil, petroleum and petroleum-based products and other chemicals or other Hazardous Substances;

(b) Buyer acknowledges that the Assets may contain *inter alia* asbestos in pipe coating, undisplaced petroleum hydrocarbon products in pipelines, coats of lead-based paints, polychlorinated biphenyls ("**PCBs**") in transformers, rectifiers, paints, caulks and other electrical or building materials, mercury in electrical switches and other equipment, and Naturally Occurring Radioactive Material ("**NORM**"). Buyer also expressly understands that special procedures may be required for the remediation, removal, transportation and disposal of such affixed or attached materials. Notwithstanding any provision to the contrary contained in the Agreement, Buyer expressly assumes liability for or in connection with the future abandonment and removal of NORM, lead-based paint, undisplaced petroleum hydrocarbon products, mercury, asbestos or PCBs to the extent contained in or on the Assets.

(c) that, except as set forth in Section 4.14 of the Agreement, Seller gives no representation or warranty as to any HSE Matters whatsoever, the state or condition of soil or groundwater at the Assets, the soil (including sub-soil), or the land, air, or waters adjacent thereto, or any drains, sewers, pipes, waters, water courses or groundwater at, under, adjacent to or in the vicinity of the Assets;

(d) that any Obligation (whenever arising) to investigate or to carry out Corrective Action on the soil (including sub-soil) of the Assets or the land and waters adjacent thereto, or any drains, sewers, pipes, waters, water courses or groundwater at, under, adjacent to or in the vicinity of the Assets (including in respect of ground water or any property in the vicinity to which any contamination may have migrated from or onto the Assets) may give rise to an HSE Liability and that neither Seller nor Seller's Affiliates, including any of their respective representatives, shall have any liability in respect of any such HSE Liabilities or HSE Matters under the Agreement or otherwise;

(e) that, except for in the event of fraud, no HSE Liability or HSE Matter shall give rise to any Claims by Buyer against any Seller Company or their Affiliates based on any legal principle whatsoever;

(f) except as in the event of fraud, not to submit, or to cause Buyer's Affiliates or any other Person to submit, to Seller or Seller's current, former or future Affiliates including any of their respective representatives any Claims relating in any manner to any HSE Liability or HSE Matter arising from, related to, or associated with the Assets; and

(g) not to request, or cause a third party to request, any Governmental Authority to (i) order any Seller Company to investigate HSE Matters or (ii) to issue orders against any Seller Company.

14.03 Assumed HSE Liabilities.

From and after the Closing, Buyer agrees to:

(a) unconditionally, completely, and forever assume, pay, perform, fulfill and discharge when due, with respect to and be liable for and indemnify, defend, save and hold harmless the Seller Indemnified Parties for all HSE Liabilities, whether occurring, existing or arising before, on, or after the Closing Date;

(b) without prejudice to the above, comply with all HSE Laws and to comply with all Obligations to take Corrective Action with respect to any of the Assets, including as required by any Corrective Action Orders;

(c) take any Corrective Action that may be required under HSE Laws; and

(d) unconditionally, completely, and forever release and discharge Seller and its Affiliates from and against, all HSE Liabilities whether occurring before, on, or after the Closing Date.

ARTICLE XV
TERMINATION RIGHTS

15.01 **Termination.** This Agreement may be terminated as follows and in no other manner:

- (a) by mutual written consent of Buyer and Seller;
- (b) by Seller (so long as Seller is not then in material breach of any of its representations, warranties, covenants or agreements contained in this Agreement):
 - (i) if Closing has not occurred or is incapable of occurring as of June 1, 2020, or such later date as the Parties agree in writing (the "***Outside Date***"); or
 - (ii) if there has been a breach of any of Buyer's representations, warranties, covenants conditions or agreements contained in this Agreement that would result in the failure of a condition set forth in Sections 11.01 11.02 or 11.03, and which breach has not been cured or cannot be cured prior to the Outside Date or thirty (30) days following the delivery to Buyer by Seller of a written notice of such breach specifying in detail such breach.
- (c) by Buyer (so long as Buyer is not then in material breach of any of its representations, warranties, covenants or agreements contained in this Agreement):
 - (i) if there has been a breach of any of Seller's representations, warranties, covenants or agreements contained in this Agreement that would result in the failure of a condition set forth in Sections 10.01, 10.02, or 10.03, and which breach has not been cured or cannot be cured prior to the Outside Date or thirty (30) days following the delivery to Seller by Buyer of a written notice of such breach specifying in detail such breach or if Buyer fails to; or
 - (ii) if Closing has not occurred or is incapable of occurring as of the Outside Date.
- (d) if, prior to end of the Outside Date, either Party receives a final, unappealable determination by any Governmental Authority that prevents consummation of this Agreement, then this Agreement will be automatically terminated.
- (e) the Party desiring to terminate this Agreement shall give notice of such termination to the other Party in the manner set forth in Section 17.01.

15.02 **Notice of Termination.** In the event of termination by Buyer or Seller pursuant to Section 15.01, written notice thereof shall forthwith be given to the other Party and the Contemplated Transactions shall be terminated, without further action by any Party. If the Contemplated Transactions are terminated as provided herein:

- (a) Buyer shall return to Seller all documents and copies and other materials received from, or on behalf of, Seller relating to the Contemplated Transactions, whether so obtained before or after the Execution Date; and

(b) all Confidential Information received by Buyer with respect to the Assets and the Assumed Liabilities shall be treated in accordance with the terms and conditions of the Section 17.14, which shall remain in full force and effect notwithstanding the termination of this Agreement.

15.03 Effect of Termination.

(a) If this Agreement is terminated and the Contemplated Transactions are abandoned as described in this Section 15.04, this Agreement shall have no further force and effect, and there shall be no liability on the part of any Party with respect thereto, except for the provisions of:

- (i) Section 2.04 related to the Deposit;
- (ii) Sections 4.05 and 5.06 relating to finder's fees and broker's fees;
- (iii) Section 7.01 relating to the obligation of Buyer to keep confidential certain information and data obtained by it;
- (iv) Section 7.03 relating to indemnification in connection with the matters contemplated thereby;
- (v) this Section 15.04;
- (vi) Article XVI related to mediation and arbitration;
- (vii) Section 17.02 relating to governing law;
- (viii) Section 17.03 relating to publicity;
- (ix) Section 17.07 relating to certain expenses; and
- (x) Section 17.14 related to confidentiality.

Nothing in this Section 15.04 shall be deemed to release any Party from any liability for any breach by such Party prior to the Closing of any representation, warranty, covenant or agreement contained in this Agreement except as expressly provided in Section 15.04(b).

(b) Notwithstanding any provision to the contrary contained in this Agreement in the event Seller is entitled to retain or Buyer is entitled to receive (as the case may be) the Deposit, the Parties agree that such Deposit is retained as liquidated damages (and not a penalty) in full satisfaction of all Claims and Losses related or arising from such breach by the other Party or as compensation for risks associated with this Agreement. The Parties agree that the Deposit shall be a reasonable estimate of the non-receiving Party's Losses in such event and retention of the Deposit shall be the sole and exclusive remedy for any such Claims or Losses (whether framed in tort, contract or otherwise).

15.04 INTENTIONALLY OMITTED.

ARTICLE XVI
MEDIATION/ARBITRATION

16.01 **Dispute Resolution.** Any Claim arising out of or relating to this Agreement, the Closing Documents, or the performance, breach, validity, interpretation, application, or termination thereof (a “***Dispute***”) whether based on contract, tort, statute or other legal or equitable theory (including any Claim of fraud, misrepresentation or fraudulent inducement or any question of validity or effect of this Agreement including this **Section 16.01**) shall be settled by mediation and consultations between the Parties initiated upon the written notice (the “***Mediation Notice***”) of any Party. In the event of failure of such mediation and consultations to settle such Claim in a manner acceptable to all Parties within thirty (30) days following the Mediation Notice, then any such Claim shall be finally resolved by arbitration initiated upon the written notice (the “***Arbitration Notice***”) of any Party. The arbitration shall be conducted in accordance with this Agreement and the then current American Arbitration Association Commercial Arbitration Rules including Procedures for Large, Complex Commercial Disputes and Optional Rules for Emergency Measures of Protection (collectively, the “***AAA Rules***”), and judgment on the award may be entered in any court having jurisdiction thereof.

16.02 **Seat of the Arbitration.**

(a) The seat of the arbitration shall be Houston, Texas or such other major city as mutually agreeable to the Parties.

(b) Upon agreement of the Parties and the arbitrators, pre-hearing conferences and evidentiary hearings may be held in other locations, however the seat of the arbitration will be deemed to remain unchanged and any awards or orders will be deemed to have been made at the seat of the arbitration.

(c) The arbitrator(s) shall decide the issues submitted as arbitrators at law only and the arbitral panel shall base its award, and any interim awards, upon the terms of this Agreement and the substantive laws of the State of Delaware, excluding the conflicts provisions of such law. The arbitral panel is not empowered to and shall not act as *amiable compositeurs* or *ex aequo et bono*.

16.03 **Selection and Appointment of Arbitrator(s).**

(a) In the event that any Party’s Claim or counterclaim equals or exceeds, directly or indirectly, Five Million Dollars (\$5,000,000) (including a Claim for injunctive relief, declaratory relief or other relief that is reasonably expected to have an economic impact on any Party in excess of \$5,000,000), exclusive of interest or attorneys’ fees, the Dispute shall be heard and determined by three (3) arbitrators; otherwise, the Dispute shall be heard and determined by one (1) arbitrator, subject to **Section 16.03(b)**. All arbitrators appointed hereunder shall be independent and impartial.

(b) If one (1) arbitrator shall hear the Dispute, the Parties shall attempt to agree upon a qualified individual to serve as arbitrator. If the Parties are unable to so agree within thirty (30) days of the Arbitration Notice, then the Dispute shall be heard and determined by three (3) arbitrators selected and appointed in accordance with the procedure set forth in **Section 16.03(c)**.

The arbitrator selected shall be qualified by education, training, and experience to hear and determine matters in the nature of the Dispute.

(c) In the event that three (3) arbitrators shall hear the Dispute, the Parties shall, within twenty (20) days after the Arbitration Notice (or after expiration of the initial thirty (30) days if three (3) arbitrators are being appointed pursuant to Section 16.03(b)), each select one person to act as arbitrator. The two arbitrators so selected shall, within twenty (20) days of their appointment, select a third arbitrator who shall serve as the chairperson of the arbitral panel. The arbitrators selected shall be qualified by education, training, and experience to hear and determine matters in the nature of the Dispute.

(d) If there are multiple claimants or multiple respondents in any arbitration having three (3) arbitrators, and such claimants or respondents are unable to agree among themselves on the selection and appointment of an arbitrator within twenty (20) days after the Arbitration Notice, then that arbitrator shall be selected and appointed in accordance with the procedure set forth in Section 16.03(e) of this Agreement.

(e) If a Party fails to appoint an arbitrator as provided herein, or if the arbitrators selected by the Parties are unable or fail to agree upon a third arbitrator within twenty (20) days of their appointment, then that arbitrator shall be selected and appointed pursuant to the selection procedure set forth in the AAA Rules; *provided, however*, that such selection and appointment shall be conducted on an expedited basis and shall be completed within twenty (20) days from failure to appoint or to agree within the periods stated above.

(f) Should an arbitrator die, resign, refuse to act, or become incapable of performing his or her functions as an arbitrator, the AAA may declare a vacancy on the arbitral panel. The vacancy shall be filled by the method by which that arbitrator was originally appointed.

(g) The arbitrator(s) shall be bound by and shall follow the then current ABA/AAA Code of Ethics for Arbitrators in Commercial Disputes.

16.04 Pre-Hearing Procedure and Disposition.

(a) At the request of a Party, the arbitral panel may take such interim measures and make such interim orders as it deems necessary, including measures for the preservation of assets, the conservation of goods, or the sale of perishable goods. The arbitral panel may require appropriate security as a condition of ordering such measures.

(b) At any time after the arbitral panel is constituted and upon motion of any Party, the arbitral panel may hear and determine any preliminary issue of law asserted by a Party to be dispositive, in whole or in part, of any claim or defense, pursuant to such procedures as the arbitral panel deems appropriate.

(c) At any time after the arbitral panel is constituted and upon motion of any Party, the arbitral panel may summarily determine and dismiss, in whole or in part, any Claim or issue in dispute (i) if the Party asserting it has failed to state a Claim as a matter of law, or (b) if the pleadings and evidence show that no genuine issue of material fact exists with respect to any

element of the Claim or defense and that the moving Party is entitled to disposition of the claim or defense as a matter of law.

(d) If the arbitral panel deems it appropriate, keeping in mind the expedited nature of arbitration proceedings, the arbitral proceedings may be bifurcated according to Claims or issues, and claims or issues may be heard and determined separately as may be appropriate.

16.05 Discovery.

(a) The Parties shall promptly exchange copies of all exhibits and witness lists, and, if requested by a Party, to produce other relevant documents, to answer up to ten (10) interrogatories (including subparts), to respond to up to ten (10) requests for admissions (which shall be deemed admitted if not denied) and to produce for deposition and, if requested, at the hearing all witnesses that such Party has listed. Any additional discovery shall only occur by agreement of the Parties or as ordered by the arbitral panel upon a finding of good cause.

(b) The arbitral panel shall take into account applicable principles of legal privilege and related protections, such as those involving the confidentiality of communications between a lawyer and a client and the work product of a lawyer, and no Party or witness may be required to waive any privilege recognized at law. The arbitral panel shall issue orders as reasonably necessary to protect the confidentiality of proprietary information, trade secrets, and other sensitive information disclosed.

16.06 Awards and Relief.

(a) All awards shall be in writing, shall state the reasoning upon which the award rests and shall be final and binding on the Parties. Any award shall be made and signed by at least a majority of the arbitrators.

(b) The Parties hereby waive any claim to exemplary, punitive, or similar damages in excess of compensatory damages, attorneys' fees, costs, and expenses of arbitration, and the arbitral panel is not empowered to and shall not award exemplary, punitive, or similar damages in excess of compensatory damages and attorneys' fees, costs, and expenses of arbitration.

(c) The arbitral panel is expressly empowered to grant any remedy or relief not expressly prohibited herein available under Applicable Law, including specific performance of this Agreement to the extent allowed by Applicable Law, declaration of the validity, meaning, and effect of this Agreement and the rights or duties of the Parties hereunder, and, to the extent allowed by Applicable Law, prohibiting or mandating actions by a Party with respect to the performance of this Agreement or matters arising out of or in connection therewith.

(d) In its award, the arbitral panel may apportion the costs of arbitration between or among the Parties in such manner as it deems reasonable, taking into account the circumstances of the case, the conduct of the Parties during the proceedings, and the result of the arbitration, including requiring one Party to bear all or the majority of such costs.

(e) In the event that any Party fails or refuses to participate in arbitration as provided herein, the arbitral panel is authorized to determine whether the failure to participate in the

arbitration was due to the bad faith of a Party, and if so may award to the other Party or Parties all costs associated with the arbitration, including attorneys' fees and costs, arbitrator's fees, and administrative fees.

(f) Unless otherwise ordered by the arbitral panel as part of its award, each Party shall bear its own costs and expenses and the costs of arbitration, and the fees and expenses of the arbitrators and of any expert or other assistance engaged by the arbitral panel shall be borne by the Parties to the arbitration in equal shares.

16.07 Effect of Failure to Participate or to Pay Advances of Costs and Fees.

(a) The failure or refusal of any Party, having been given due notice thereof, to participate at any stage of the dispute resolution proceedings shall not prevent the proceedings from continuing, nor shall such failure or refusal impair the validity of the award or cause the award to be void or voidable, nor shall it be a basis for challenge of the validity or enforceability of the award or of the arbitration proceedings.

(b) If any Party fails to timely pay an advance on fees and costs ordered by the arbitral panel or the AAA within twenty (20) days after the date set for such deposit, that Party shall be deemed to be in default. The arbitral panel or the AAA shall then determine whether the funds on deposit are sufficient to satisfy the anticipated estimated expenses for the proceeding to continue on an expedited basis without the participation of the defaulting Party. If so, the proceeding will continue without the participation of the defaulting Party, and the Panel may enter an award on default. Prior to entering an award on default, the arbitral panel shall require the non-defaulting Party to produce such evidence and legal argument in support of its contentions as the arbitral panel may deem appropriate. The arbitral panel may receive such evidence and argument without the defaulting Party's presence or participation. If the funds on deposit are deemed insufficient to satisfy the estimated costs of continuing as provided herein, the non-defaulting Party may make all or part of the requested deposit in an amount sufficient to allow the proceeding to continue without the participation of the defaulting Party. If the non-defaulting Party chooses not to make the requested deposit, the arbitral panel may suspend or terminate the proceedings.

16.08 Adherence to Time Limits.

(a) In accepting appointment, the arbitrator(s) shall commit that their schedules permit them to devote the reasonably necessary time and attention to the arbitration proceedings and to resolving the Dispute within the time periods set by this Agreement and by the AAA Rules.

(b) Any time limits set out in this dispute resolution agreement or in the AAA Rules may be modified upon written agreement of the Parties and the arbitral panel or by order of the arbitral panel.

(c) Any failure of the arbitral panel to satisfy such time limits or to render a final award within the time specified shall not impair the validity of the award or cause the award to be void or voidable, nor shall it be a basis for challenge of the validity or enforceability of the award or of the arbitration proceedings.

16.09 Interim Measures from the Courts in Aid of Arbitration.

(a) At any time after submission of a written notice of arbitration, any Party may request a court of competent jurisdiction to grant interim measures of protection: (a) to preserve the status quo pending resolution of the Dispute; (b) to prevent the destruction of documents and other information or things related to the Dispute; (c) to prevent the transfer, dissipation, or hiding of assets; and/or (d) to aid the arbitral proceedings and the award. A request for such interim measures to a judicial authority shall not be deemed incompatible with or a waiver of a Party's right to arbitrate a Dispute.

(b) The Parties agree that a court at the seat of the arbitration at the request of a Party, or the arbitral Panel with the consent of all Parties, may consolidate two or more arbitral proceedings among the Parties if common questions of law or fact exist.

16.10 Consent to Jurisdiction. The Parties hereby consent to the non-exclusive jurisdiction of the state and federal courts of Harris County, Texas for the enforcement of any award rendered by the arbitral panel.

16.11 Confidentiality. Unless the Parties agree otherwise, the Parties, the arbitrator(s), and the AAA shall treat the dispute resolution proceedings provided for herein, any related disclosures, and the decisions of the arbitral panel, as confidential, except in connection with judicial proceedings ancillary to the dispute resolution proceedings, such as a judicial challenge to, or enforcement of, the arbitral award, and unless otherwise required by law to protect a legal right of a Party.

16.12 Survival. The terms of this Article XVI shall survive the termination or expiration of this Agreement.

ARTICLE XVII **MISCELLANEOUS**

17.01 Notices.

(a) All notices or other communications required or permitted to be given hereunder shall be in writing and shall be delivered by hand or sent by facsimile or other similar means of electronic communication (with a transmission confirmation), or sent, postage prepaid, by registered, certified or express mail, or reputable overnight courier service as follows:

If to Buyer:
Crimson Pipeline, LLC
1801 California Street, Suite 3600
Denver, Colorado 80202
Attention: John Grier

With a copy (which shall not constitute notice) to:
Lewis, Bess, Williams & Weese P.C.
1801 California Street, Suite 3400
Denver, Colorado 80202

Attention: Robert G. Lewis

If to Seller:

Shell Oil Products
One Shell Plaza
150 N. Dairy Ashford BLDG A-5 floor
Houston, Texas 77079
Attn: Steve Ledbetter
Email: steve.ledbetter@shell.com

With a copy (which shall not constitute notice) to:

Shell Oil Company
150 N. Dairy Ashford Bldg F, 690N
Houston, Texas 77079
Attn: Associate General Counsel – Head of Legal US
Email: hector.pineda@shell.com

Any Party may change the address to which such communications are to be directed to it by giving written notice to the other in the manner above.

(b) Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or sending by other means of recorded electronic communication, *provided* that such day in either event is a Business Day and the communication is so delivered, faxed, emailed or sent before 4:30 p.m. on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day. Any such communication sent by mail shall be deemed to have been given and made and to have been received upon the earlier of the third (3rd) Business Day after deposit in the mail and the date of delivery as shown by the return receipt therefor; *provided, however* that no such communication shall be mailed during any actual or apprehended disruption of postal services. Any such communication given or made in any other manner shall be deemed to have been given or made and to have been received only upon actual receipt.

17.02 Governing Law; Submission to Jurisdiction.

(a) This Agreement and the Closing Documents (unless expressly provided otherwise therein) and the obligations of the Parties hereunder and thereunder shall be governed by and construed and enforced in accordance with the substantive laws of the State of Delaware, without regard to rules on choice of law.

(b) Except with regard to real property matters, which may be properly venued and brought in the federal or state courts located in California, and subject to and without limiting the provisions of Article XVI, any action to enforce this Agreement or the Closing Documents (unless expressly provided otherwise therein) may be properly venued in, and shall be brought in, the

federal or state courts located in Houston, Texas. Each Party agrees that it shall irrevocably submit to the jurisdiction of such courts for purposes of actions to enforce the terms of this Agreement and the Closing Documents (unless expressly provided otherwise therein) and to service of process by certified mail, delivered to the applicable Party at the address indicated herein. Each Party hereby irrevocably waives (on its own behalf and on behalf of its other Indemnified Parties), to the fullest extent permitted by Applicable Law, any objection to personal jurisdiction, whether on grounds of venue, residence or domicile. The Parties agree that a final judgment in any such claim shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by Applicable Law.

(c) TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, EACH PARTY HEREBY IRREVOCABLY WAIVES AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE) ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING IN WHOLE OR IN PART UNDER, RELATED TO, BASED ON, OR IN CONNECTION WITH, THIS AGREEMENT, THE CLOSING DOCUMENTS OR THE SUBJECT MATTER HEREOF, WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN TORT OR CONTRACT OR OTHERWISE. ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 17.02(c) WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

17.03 Publicity. Buyer and Seller agree that, from the Execution Date through and including the Closing Date, no public release or announcement concerning the Contemplated Transactions shall be issued or made by any Party without the prior consent of the other Party (which consent shall not be unreasonably withheld, conditioned or delayed), except as such release or announcement may be required by Applicable Law, prior contractual obligations or the rules or regulations of any securities exchange, whether in the United States or elsewhere, (or upon advice of counsel such release or announcement is appropriate or desirable under or in light of such contractual obligations, laws and regulations), in which case the Party making the release or announcement shall allow each other Party reasonable time to comment on such release or announcement in advance of such issuance. Notwithstanding the foregoing, Buyer and Seller shall cooperate to prepare a joint press release to be issued on the Closing Date and, upon the request of either Buyer or Seller, at the time of the signing of this Agreement. Buyer and Seller agree to keep the terms of this Agreement confidential, except to the extent required by Applicable Law or prior contractual obligation or for financial reporting purposes and except that the Parties may disclose such terms to their respective Affiliates, counsel, auditors, accountants, agents, advisors and other representatives as necessary in connection with the ordinary conduct of their respective businesses (so long as such Persons agree to keep the terms of this Agreement confidential).

17.04 Entire Agreement. This Agreement, the Schedules, the Disclosure Letter and Exhibits and the Closing Documents set forth the entire agreement and understanding of the Parties in respect to the Contemplated Transactions and supersede all prior agreements, arrangements and undertakings, whether written or oral, relating to the subject matter hereof (including the Confidentiality Agreement which shall not continue in effect).

17.05 Assignment. This Agreement and the Closing Documents any rights and obligations hereunder or thereunder shall not be assignable or transferable by Buyer or Seller without the prior written consent of the other Party and any purported assignment without such consent shall be void and without effect. Without limiting the generality of the preceding, the indemnification Obligations of Seller and Buyer pursuant to this Agreement and the Closing Documents shall not be transferable or assignable in whole or in part without the other Party's prior written consent and any purported or attempted transfer or assignment by an Indemnifying Party shall be null and void without the prior written consent of the Indemnified Party. Notwithstanding anything to the contrary in this Section, either Party may assign or transfer any or all of its rights hereunder: (a) to any subsidiary, provided that such assigning Party agrees to remain liable for the obligations assigned or transferred; or (b) to any qualified intermediary to complete a 1031 Exchange as contemplated in Section 13.04.

17.06 Amendment and Waiver. This Agreement may be amended, modified, superseded or canceled, and any of the terms, covenants, representations, warranties or conditions hereof may be waived, only by a written instrument executed by the Parties, or, in the case of a waiver, by or on behalf of the Party waiving compliance. The failure of any Party at any time or times to require performance of any provision hereof shall in no manner affect the right at a later time to enforce the same. No waiver by any Party of any condition, or of any breach of any term, covenant, representation or warranty contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term, covenant representation or warranty.

17.07 Expenses. Whether or not the Contemplated Transactions are consummated, and except as otherwise specifically provided in this Agreement, all costs and expenses incurred in connection with this Agreement and the Contemplated Transactions, including legal, due diligence, accounting and investment banking fees and expenses, shall be paid by the Party incurring such costs or expenses.

17.08 Schedules and Disclosure Letter. Matters listed once on the Schedules or the Disclosure Letter shall be deemed disclosed with reference to all sections of the Schedules or the Disclosure Letter (including any disclosures made in amendments made pursuant to Section 6.03) to the extent the applicability of such information is readily apparent. The listing (or inclusion of a copy) of a document or other item in the Disclosure Letter shall be adequate to disclose an exception to a representation or warranty made herein if the nature and relevance of such exception is readily apparent from the listing (or inclusion of a copy) of such document. The inclusion of information in the Schedules to this Agreement or the Disclosure Letter shall not be construed as an admission that such information is material to the Assets, the Assumed Liabilities or Seller. In addition, matters reflected in the Schedules or the Disclosure Letter are not necessarily limited to matters required by this Agreement to be reflected in such Schedules or the Disclosure Letter. Such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature.

17.09 Legal Representation. Buyer and Seller acknowledge that each of them has been represented by counsel in connection with this Agreement and the Contemplated Transactions. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed

ambiguities in this Agreement against the Party that drafted it has no application and is expressly waived.

17.10 **Severability**. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be valid and effective under Applicable Law, but if any provision of this Agreement or the application of any such provision to any Person or circumstance 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.

17.11 **No Third-Party Beneficiaries**. Except as provided with respect to indemnification for Indemnified Parties as set forth in Article XII and elsewhere in this Agreement, nothing in this Agreement shall confer any rights upon any Person other than the Parties and their respective permitted successors and assigns.

17.12 **Binding Effect**. Subject to the provisions hereof restricting assignment, this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

17.13 **Time of Essence**. Time is of the essence regarding all dates and time periods set forth or referred to in this Agreement.

17.14 **Confidentiality**.

(a) Each of Seller and Buyer (on behalf of themselves and each of their respective Affiliates) acknowledges that the information and material, in whatever form, including this Agreement and the Closing Documents (collectively, the “***Confidential Information***”) disclosed or made available to it by, and relating to, the other (and its Affiliates) prior to the Effective Time is confidential. Each of Seller and Buyer (on behalf of themselves and each of their respective Affiliates) further agrees that it shall use commercially reasonable efforts not to make or permit disclosure of the Confidential Information to any Person, other than their Affiliates and their respective stockholders, members or owners, officers, employees, advisers and representatives (including collective bargaining representatives, or any Governmental Authority with the authority to approve the transfer, to whom such disclosure is necessary or convenient for the completion of the Contemplated Transactions (including compliance with the terms and condition of any Material Contract), and except in an arbitration proceeding as described in Article XVI or as may be required by Applicable Law or a court of competent jurisdiction. Each of Seller and Buyer (and their respective Affiliates) shall appropriately notify each officer, employee, adviser and representative to whom any such disclosure is made that such disclosure is made in confidence and shall be kept in confidence and shall not be used in any capacity except for the operations of the Assets. During the Interim Period, Seller and Buyer will cooperate in establishing “clean teams” where required or advisable in order to facilitate the review of Confidential Information that is competitively sensitive and that may be reasonably necessary for due diligence, transition, or integration purposes.

(b) Each of Seller and Buyer (and their respective Affiliates) agrees to use diligent efforts in accordance with customary and reasonable commercial practice, and at least with the

same degree of skill and care that it would manifest in protection of its own confidential information, to protect the Confidential Information.

(c) Each of the Parties (on behalf of themselves and each of their respective Affiliate) agrees to notify the other Party promptly, if it becomes aware of the unauthorized possession or use of the Confidential Information (or any part thereof) by any third Person, including any of its officers, employees, advisers or representatives. Each of Seller and Buyer (and their respective Affiliates) agrees to cooperate with the other Party in connection with the other Party's efforts to terminate or prevent such unauthorized possession or use of its Confidential Information.

(d) Each of Seller and Buyer (on behalf of themselves and each of their respective Affiliate) acknowledges that the other will suffer injury for which the other will not have an adequate remedy at law, in the event of a breach of the provisions of this Section 17.14, and that the other shall be entitled to injunctive relief as is reasonably necessary to prevent or curtail such breach, whether actual or threatened; provided, that, in no event (including a willful breach of this Agreement by Seller or Buyer, respectively) shall Seller or Buyer (or their respective Affiliates) be prevented from exercising all of the rights granted to it hereunder.

(e) Notwithstanding any provision to the contrary contained in this Agreement, the obligations of each of Seller and Buyer (and their respective Affiliates) to maintain the confidentiality of the Confidential Information (each in such capacity a "**Receiving Party**") shall not apply to any portion of the Confidential Information that:

(i) is or becomes generally available to the public through no fault of the Receiving Party, including information in the public domain;

(ii) the Receiving Party receives from a third party without any requirement to keep such information secret;

(iii) the Receiving Party can prove was in its possession without any obligation of secrecy at the time of its disclosure; or

(iv) the Receiving Party develops independently of and without reference to or use of the Confidential Information.

(f) Buyer shall not use the Confidential Information prior to the Closing for any other purpose other than the evaluation of the Contemplated Transactions.

(g) In the event of any inconsistency between the provisions of this Section 17.14 and the confidentiality provisions of any Closing Document, the provisions of any Closing Document shall control with respect to any matters addressed by such Closing Document.

(h) In the event this Agreement is terminated for any reason, at the request of Seller, Buyer shall within twenty (20) days after receiving such request return to Seller all written Confidential Information, including all photocopies of the same.

(i) The provisions of this Section 17.14 shall remain in force for a period of five (5) years from the later of the Execution Date or the Closing Date. The terms of this Section 17.14 shall survive the termination or expiration of this Agreement.

(j) The Confidentiality Agreement shall terminate and be of no further force or effect as of the Execution Date.

(k) If the Closing occurs, Seller agrees to treat information it possesses concerning the historical operation of the Assets as Confidential Information.

(l) Seller and Buyer do not intend for any obligations of confidentiality contained herein to limit disclosure of the transaction in any way that would cause it to be treated as a "confidential transaction" under Treasury Regulation 1.6011-4(b)(3).

17.15 Electronic Signatures. Notwithstanding the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7001 *et. seq.*), the Uniform Electronic Transactions Act, or any other Applicable Law relating to or enabling the creation, execution, delivery, or recordation of any Contract or signature by electronic means, and notwithstanding any course of conduct engaged in by the Parties, no Party shall be deemed to have executed this Agreement or other document contemplated thereby (including any amendment or other change thereto) unless and until such Party shall have executed this Agreement or other document on paper by a handwritten original signature or any other symbol executed or adopted by a Party with current intention to authenticate this Agreement or such other document contemplated. Delivery of a copy of this Agreement or such other document bearing an original signature by facsimile transmission (whether directly from one facsimile device to another by means of a dial-up connection or whether mediated by the worldwide web), by electronic mail in "portable document format" ("pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall have the same effect as physical delivery of the paper document bearing the original signature. "Originally signed" or "original signature" means or refers to a signature that has not been mechanically or electronically reproduced.

17.16 Counterparts. This Agreement may be executed simultaneously in one or more counterparts (including by means of signature pages delivered by facsimile transmission or electronic mail), all of which shall be considered one and the same agreement and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to the other Party. Facsimile or scanned and emailed transmission of any signed original document or retransmission of any signed facsimile or scanned and emailed transmission will be deemed the same as delivery of an original. At the request of any Party, the Parties will confirm facsimile or scanned and emailed transmission by signing a duplicate original document.

17.17 Anti-Corruption. Each Party represents, warrants, and covenants that in connection with this Agreement: (i) it is aware of and will comply with Anti-Corruption Laws; (ii) it has not made, offered, authorized, or accepted any payment, gift, promise, or other advantage, to or for the use or benefit of any government official or any other person where that payment, gift, promise, or other advantage would comprise a facilitation payment or otherwise violate the Anti-Corruption Laws; (iii) it has maintained adequate written policies and procedures to comply with applicable national, regional, provincial, state, municipal or local laws and regulations that prohibit tax

evasion, money laundering or otherwise dealing in the proceeds of crime or the bribery of, or the providing of unlawful gratuities, facilitation payments, or other benefits to, any government official or any other person or, alternatively, has made itself aware of and shall adhere to the Shell General Business Principles and the Shell Code of Conduct (www.shell.com/about-us/our-values); (iv) it has maintained adequate internal controls, including but not limited to using commercially reasonable efforts to ensure that all transactions are accurately recorded and reported in its books and records to reflect truly the activities to which they pertain, such as the purpose of each transaction, with whom it was entered into, for whom it was undertaken, or what was exchanged; (v) it will retain such books and records for the period required by Applicable Law or a Party's own retention policies, whichever is longer; (vi) in the event a Party becomes aware it has breached an obligation in this paragraph, it will promptly notify the other Party, subject to the preservation of legal privilege; (vii) it has taken reasonable measures to require any subcontractors, agents, or any other third parties to also comply with the foregoing requirements in this paragraph; and (viii) only a Party shall make payments to the other Party, except with that other Party's written consent. Subject to the preservation of legal privilege, for seven (7) years after the date of this Agreement and on reasonable notice, each Party shall have a right, and the other Party shall take all reasonable steps to enable this right, to audit the other Party's relevant books and records with respect to compliance with this paragraph. Without limitation to any other available remedies, where a Party (the "**First Party**") fails, or its subcontractors, agents, or other third parties fail, to comply with the Anti-Corruption Laws in connection with this Agreement or the business resulting therefrom, the other Party (the "**Second Party**"), acting in good faith, shall have a right to notify the First Party in writing of such failure to comply and, if the written notice contains reasonable detail about the failure to comply then, if the failure is incapable of being cured or, if capable of cure and the First Party does not cure the failure to comply within sixty (60) calendar days following receipt of the written notice, the Second Party shall have the right to terminate the Agreement on further written notice to the First Party. Nothing in this Agreement shall require a Party to perform any part of this Agreement or take any actions if, by doing so, the Party would not comply with the Anti-Corruption Laws.


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IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers or representatives of Buyer and Seller as of the day and year first above written.

SELLER:

EQUILON ENTERPRISES LLC

d/b/a Shell Oil Products US, a Delaware limited liability company

By: 
Name: Edward Hymes
Title: Vice President Portfolio

SHELL PIPELINE COMPANY, LP

By: 
Name: Steven Ledbetter
Title: Vice President

BUYER:

CRIMSON PIPELINE, LLC

By: 
Name: John D. Grier
Title: Chief Executive Officer

EXHIBIT 2

State of California

Secretary of State

CERTIFICATE OF STATUS

ENTITY NAME: CRIMSON PIPELINE, LLC

FILE NUMBER: 201604710211
FORMATION DATE: 02/11/2016
TYPE: DOMESTIC LIMITED LIABILITY COMPANY
JURISDICTION: CALIFORNIA
STATUS: ACTIVE (GOOD STANDING)

I, ALEX PADILLA, Secretary of State of the State of California, hereby certify:

The records of this office indicate the entity is authorized to exercise all of its powers, rights and privileges in the State of California.

No information is available from this office regarding the financial condition, business activities or practices of the entity.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of February 14, 2019.

ALEX PADILLA
Secretary of State

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