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**AGREEMENT FOR THE SALE AND  
PURCHASE OF ROYALTY OIL**

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This Agreement is between the State of Alaska (“State”), Flint Hills Resources Alaska, LLC, an Alaska Limited Liability Company (“Buyer”) and Flint Hills Resources, LLC, a Delaware Limited Liability Company (“Guarantor”).

**ARTICLE I  
DEFINITIONS**

As used in this Agreement, the terms listed below shall have the following meanings:

- 1.1 “Affiliate” is defined in Section 22.1
- 1.2 “ANS” means the Alaska North Slope.
- 1.3 “ANS Spot Price” is defined in Section 2.3.
- 1.4 “Assignee” is defined in Section 22.1.
- 1.5 “BP” means BP Exploration (Alaska) Inc. and its successors and assigns.
- 1.6 “Business Day” means any day, or part of a day, during which federally chartered banks are open for business in the place designated in this Agreement for payment.
- 1.7 “Commissioner” means the Commissioner of the Alaska Department of Natural Resources or the Commissioner’s designee.
- 1.8 “CPAI” means ConocoPhillips Alaska, Inc. and its successors and assigns.
- 1.9 “Day” means a period of twenty-four consecutive hours, beginning at 12:01 a.m., Alaska Local Time.
- 1.10 “Day of First Delivery” is defined in Section 2.5.
- 1.11 “ExxonMobil” means ExxonMobil Corporation and its successors and assigns.

- 1.12 “Financial Analyst” is defined in Section 6.3.
- 1.13 “FERC” means Federal Energy Regulatory Commission.
- 1.14 “Force Majeure” is defined in Section 15.2.
- 1.15 "Leases" means the oil and gas leases issued by the State on the Alaska North Slope from which the State takes or may take Royalty Oil in-kind.
- 1.16 "Lessee" means a person owning a working interest in any of the Leases.
- 1.17 “Letter of Credit” is defined in Section 7.1.
- 1.18 “Letter Effective Date” is defined in Section 7.2.
- 1.19 “Line Loss” is defined in Section 2.3.
- 1.20 “Minimum Interstate TAPS Tariff” is defined in Section 2.3.
- 1.21 "Month" means a period beginning at 12:01 a.m., Alaska Local Time, on the first Day of the calendar Month and ending at 12:01 a.m., Alaska Local Time, on the first Day of the following calendar Month.
- 1.22 “Moody’s” means Moody’s Investor's Services, Inc., a subsidiary of Moody’s Corporation, and its successors.
- 1.23 “Notice” means written notice in accordance with Article XVI.
- 1.24 “Notice Effective Date” is defined in Section 16.2.
- 1.25 “Opinion Letter” is defined in Section 6.3.
- 1.26 “Parties” means, collectively, Buyer, Guarantor and State.
- 1.27 “Party” means Buyer, Guarantor or State, individually.
- 1.28 “Person” is defined in AS 01.10.060.
- 1.29 "Point of Delivery" means the transfer point at which the State receives Royalty Oil in-kind from the Lessees.

1.30 “Price” is defined in Section 2.3.

1.31 “Process” is defined in Section 4.1.

1.32 “PSVR Reference Stream” is the blended TAPS stream immediately downstream from the Petro Star Valdez Refinery.

1.33 “Refinery Turnaround” means a period when Buyer, by notice to the State, may reduce the quantity of Sale Oil it nominates and purchases from the State to less than 18,000 barrels per Day because the North Pole refinery reduces the processing of Sale Oil for the purpose of performing planned or unplanned maintenance, repairs or capital improvements to the refinery.

1.34 “Quality Bank” means a system of calculations administered under the authority of the FERC that accounts for the differences in value between the individual tendered streams and the delivered co-mingled stream of TAPS.

1.35 “Quality Bank Adjustment” is defined in Section 2.3.

1.36 “RIV Marine Cost” is defined in Appendix 5.

1.37 "Royalty Oil" means the total volume of crude petroleum oil and other hydrocarbons and associated substances from the Leases, including such substances as crude oil, condensate, natural gas liquids, or return oil from crude oil topping plants, that may be blended with crude oil before the Point of Delivery and tendered as a common stream to the State as Royalty Oil that the State may take in-kind, regardless of whether the State takes the Royalty Oil in-kind.

1.38 "Royalty Settlement Agreement" means any written royalty settlement agreement.

1.39 “Sale Oil” means the oil the State has agreed to sell to the Buyer, and the Buyer has agreed to purchase from the State under this Agreement.

1.40 “Standard and Poor’s” means Standard and Poor’s, a division of McGraw-Hill Companies, Inc., and its successors.

1.41 “TAPS” means the Trans-Alaska Pipeline System

1.42 “Tariff Allowance” is defined in Section 2.3.

1.43 “Term” is defined in Section 9.2.

1.44 “Unit” has the meaning defined in 11 AAC 83.395(7).

1.45 “Unit Agreement” means any unit agreement for a Unit from which the State takes or may take Royalty Oil.

## **ARTICLE II**

### **SALE AND PURCHASE OF ROYALTY OIL**

#### **2.1 Quantity.**

2.1.1 Sale Oil Quantity. The State agrees to sell to Buyer, and Buyer agrees to purchase from the State, an initial Sale Oil quantity of a maximum of 30,000 barrels per Day and a minimum of 18,000 barrels per Day averaged for the Month of Sale Oil delivery, as nominated by Buyer in accordance with Section 2.1.5 and 2.4. The Commissioner may limit the total amount of Sale Oil for any Month to not more than 85 percent of the total Royalty Oil for the Month or not more than 95 percent of the Royalty Oil for the Month from any single Unit.

2.1.2 Monthly Sale Oil Nomination. In accordance with 2.1.1, Buyer shall nominate the quantity of Sale Oil for each Month of Sale Oil delivery by giving Notice of Buyer’s Sale Oil nomination. Except when the additional notice provisions of Section 2.1.7 are invoked by Lessees, Buyer’s nomination shall be effective on the first Day of the Month following expiration of a minimum of one hundred Days after the Notice of Buyer’s nomination.

The State will make commercially reasonable efforts to nominate, in accordance with applicable Unit Agreements, percentages of the State's estimated Royalty Oil volume from one or more Units, at the State's discretion, that will equal the Sale Oil quantity nominated by the Buyer each Month of Sale Oil delivery. Notwithstanding Buyer's Monthly nominations, any time the total commitments for Royalty Oil under all of the State's royalty in kind contracts exceed 85 percent of Royalty Oil in a Month, Buyer agrees that the State may limit its total nomination of Royalty Oil to an amount that does not exceed 85 percent of Royalty Oil in that Month of Sale Oil delivery and may employ the proration provisions of prorate as per 2.1.3. Buyer agrees to accept the volume of Royalty Oil delivered in accordance with the State's nomination. See Appendix 1 for an illustration of the State's nomination procedure for Sale Oil nominated from the Prudhoe Bay Unit for October 2014.

2.1.3 Sale Oil Proration. Notwithstanding Section 2.1.1, Buyer agrees that for any Month of Sale Oil delivery in which the Buyer nominates more than 24,000 barrels per day of Sale Oil, and the sum total of nominations of all purchasers of the State's royalty oil including Buyer exceed 85 percent of the Royalty Oil, the State may prorate the Buyer's Sale Oil nomination in excess of 24,000 barrels per day and may prorate the nomination of other purchasers of the State's Royalty Oil. The State will prorate the Buyer' nomination for the Month of Sale Oil delivery according to the following calculation: the State will first determine if the sum of the total nominations of all of the State's royalty in-kind purchasers exceeds the total Royalty Oil multiplied by 0.85; second, if the total nomination of all the State's royalty in-kind purchasers exceeds the total Royalty Oil multiplied by 0.85, subtract 24,000 barrels per day from the Buyer's nomination and divide the result by the sum of the total nominations of all the State's royalty in-kind purchasers minus 24,000 barrels per day; third, this factor is multiplied by



24,000 barrels per day subtracted from the total Royalty Oil multiplied by 0.85; fourth, this amount is added to 24,000 to equal the Buyer's total nomination for the Month of Sale Oil delivery. An illustration of this calculation appears in Appendix I.

2.1.4 Buyer's Election to Reduce Sale Oil Quantity.

(a) Buyer may elect to reduce the initial Sale Oil quantity by giving Notice. The initial Sale Oil quantity shall remain as stated in Section 2.1.1 for 12 Months after the Day of First Delivery. Notice of a reduction shall be delivered to the State at least six Months before the effective date of the reduction. The Commissioner may approve or deny a request for a reduction in Sale Oil quantity. The reduced maximum quantity shall be 137.5 percent of the reduced minimum quantity. For example, if the reduced minimum quantity is 10,000 barrels per Day, the reduced maximum quantity shall be 13,750 barrels per Day (10,000 times 1.375=13,750).

Buyer may elect additional reductions to the Sale Oil quantity following a reduction to the initial Sale Oil quantity. A reduction cannot be effective until at least 12 Months after the effective date of the most recent reduction in quantity. Notice of an additional reduction under this paragraph (a) shall be delivered to the State at least six Months before the effective date of the additional reduction. The reduced maximum quantity shall be 137.5 percent of the reduced minimum quantity.

(b) Buyer may elect to reduce the Sale Oil quantity to zero barrels of Sale Oil per day for the Month of Delivery by giving Notice. If Buyer nominates zero barrels of Sale Oil for three consecutive Months, this Agreement shall terminate automatically, without Notice or further action by the State or the Buyer, on the last day of the third consecutive Month that the Buyer nominates zero barrels.

(c) Buyer's elections to reduce Sale Oil quantities under this Section 2.1.4 are subject to the provisions of Section 2.1.7.

2.1.5 Increase in Quantity Following Elective Reduction. Following a reduction of Sale Oil quantity under Section 2.1.2, Buyer may request an increase in the Sale Oil quantity to an amount that does not exceed the maximum Sale Oil quantity in Section 2.1.1. The increased maximum quantity must be 137.5 percent of the increased minimum quantity. An increase is not effective until at least 12 Months after the effective date of the most recent change in quantity (*i.e.*, a decrease under Section 2.1.2 or an increase under Section 2.1.3). The Commissioner may approve or deny a request for an increase in Sale Oil quantity.

2.1.6 Temporary Sale Oil Quantity Reduction in Event of Force Majeure. In the event of a Force Majeure under Article XV, Buyer may temporarily reduce the Sale Oil quantity by an amount equal to the reduction in Buyer's requirements that is a direct result of the Force Majeure event. To temporarily reduce the Sale Oil quantity in the event of Force Majeure, Buyer shall include a Notice of temporary reduction in Sale Oil quantity due to Force Majeure under this Section with Notice of Buyer's monthly Sale Oil nominations of Sale Oil. Each notice of temporary reduction due to Force Majeure shall include documentation of the nature of the Force Majeure event and quantification of the direct impact of the Force Majeure on Buyer's Sale Oil requirements for the Month of nomination. Temporary reductions in Sale Oil quantity under this Section shall be effective only to the extent that the State is able, through the State's nomination process set out in Section 2.1.2, to reduce the volume of Royalty Oil that the State receives for the Month of Sale Oil delivery. Buyer shall accept delivery of the total volume of Royalty Oil delivered to the State in accordance with the State's nominations of Royalty Oil.

2.1.7 Additional Notice Provisions. Buyer acknowledges that the Leases from which the State must nominate Royalty Oil require 90 Days' notice to the Lessee prior to decreasing the State's nomination of Royalty Oil to be taken in-kind in any Month. Buyer acknowledges that if a Lessee invokes the Force Majeure provisions of its Royalty Settlement Agreement, the State may be required to give up to 180 Days (*i.e.*, an additional 90 Days) notice to the Lessee prior to decreasing the State's nomination of Royalty Oil to be taken in-kind in any Month. If a Lessee invokes the Force Majeure terms of its Royalty Settlement Agreement as a result of a reduction in Buyer's nomination in the event of Buyer's Force Majeure, Refinery Turnaround, or for any other reason, Buyer's reduced nomination shall not become effective until the end of the additional 90 Day notice period. If a Lessee invokes the Force Majeure terms of its Royalty Settlement Agreement and extends the notice period an additional 90 Days, the State agrees to make commercially reasonable efforts to reduce the volume of its Royalty Oil nominations.

2.1.8 No Guarantee of Sale Oil Quantity. The State shall exercise its rights under the Leases and Royalty Settlement Agreements to request that Royalty Oil be delivered as Sale Oil. The State can deliver Sale Oil only to the extent it receives Royalty Oil from the Lessees. The quantity of Royalty Oil available to the State may vary and may be interrupted from time to time depending on a variety of factors, including the rate of production from the Leases. The State disclaims, and Buyer waives, any guarantee, representation, or warranty, either express or implied, that a specific quantity of the total, daily, monthly, average, or aggregate Royalty Oil will be delivered as Sale Oil.

2.1.9 No Guarantee of Source of Sale Oil. The State will deliver, as Sale Oil, Royalty Oil produced from the Leases and delivered to the State as Royalty Oil in-kind. The

availability to the State of Royalty Oil in-kind in any Month may vary depending on a variety of factors, including the rate of production from the Leases. The State disclaims and Buyer waives, any guarantee, representation, or warranty, either express or implied, that Sale Oil delivered and sold by the State in any Month is from a certain Lease, Unit, or other area.

2.1.10 State's Warranty of Title. The State warrants that it has good and marketable title to the Royalty Oil delivered and sold as Sale Oil.

2.2 Quality.

2.2.1 No Guarantee of Quality of Sale Oil. The Royalty Oil the State delivers to Buyer as Sale Oil shall be of the same quality as the Royalty Oil delivered to the State at the Point of Delivery. The quality of the Royalty Oil delivered to the State may vary from time to time. The State disclaims, and Buyer waives, any guarantee, representation, or warranty, either expressed or implied, of merchantability, fitness for use, or suitability for any particular use or purpose, or otherwise, and of any specific, average, or overall quality or characteristic of Sale Oil. Buyer specifically waives any claim that any liquid hydrocarbons, including such substances as crude oil, condensate, natural gas liquids, or return oil from the crude oil topping plant, delivered with the Sale Oil, are not Sale Oil for purposes of this Agreement.

2.3 Price of the Sale Oil. The price per barrel of Sale Oil delivered from each Unit by the State to the Buyer each Month shall be equal to

ANS Spot Price - \$2.15 - Tariff Allowance + Quality Bank Adjustment - Line Loss.

“ANS Spot Price” means the monthly average of the daily high and low assessments for the Month of Sale Oil delivery for ANS oil traded at the United States West Coast as reported by Platts' Oilgram Price Report, Telerate online data reporting service, and Reuters online data

reporting service. The ANS Spot Price calculation will not include days on which prices are not reported for all three reporting services, such as weekends or holidays. If any of these publications ceases to report daily assessments for ANS oil traded at the United States West Coast, the Parties agree to calculate the ANS Spot Price using the data from the remaining reporting services. If either Buyer or State makes a good faith determination that the ANS Spot Price no longer accurately represents the price for ANS oil traded at the United States West Coast, Buyer and State will attempt in good faith to arrive at a mutually agreeable alternative source to establish, or substitute for, the ANS Spot Price. If Buyer and the State arrive at a mutually agreeable alternative source, that source shall be used to determine the ANS Spot Price beginning the Month following the Month in which any of these publications ceased to report daily assessments for ANS oil traded at the United States West Coast. If Buyer and the State are unable to agree on an alternative source, the State will select the alternative source that most reliably represents the price for ANS oil traded at the United States West Coast based on the best information reasonably available to the State, and that source shall be used to determine the ANS Spot Price beginning the Month following the Month in which any of these publications ceased to report daily assessments for ANS oil traded at the United States West Coast. Any dispute between the Buyer and State concerning the ANS Spot Price under this section shall be administered in accordance with Section 13.1.

The \$2.15 component used in the calculation of the Price of Sale Oil (“RIK Differential”) shall be adjusted by a maximum of  $\pm$  \$0.15 per barrel one time for deliveries of Sale Oil on and after April 1, 2016. The RIK Differential will be adjusted as follows: for each Month from January 2013 through December 2015, calculate the volume-weighted average destination value minus the cost of marine transportation reported each Month on the royalty filings of BP,

ExxonMobil, and CPAI for the Months January 2013 through December 2015; subtract this amount from the difference between the ANS Spot Price and \$2.15 each Month for the same period; calculate the January 2013 through December 2015 average of these monthly differences; add this average to adjust the RIK Differential for deliveries of Sale Oil on and after April 1, 2016, such that the adjusted RIK Differential shall not be more than \$2.30 or less than \$2.00. The adjustment of the new RIK Differential will be based on data provided by BP, ExxonMobil, and CPAI and documented in their royalty filings, including all revisions to that data that are available to the State at the time the State prepares the statement of account for the April 2016 Month of delivery.

“Tariff Allowance” means the sum of (1) the average, weighted by ownership, of the Minimum Interstate TAPS Tariff (Pump Station No. 1 to Valdez Marine Terminal) on file with the Federal Energy Regulatory Commission (“FERC”) for each owner in effect on the Day the Sale Oil is tendered by the State to Buyer; and (2) any tariffs paid by Buyer for shipment of Sale Oil upstream of Pump Station No. 1. “Minimum Interstate TAPS Tariff” means the effective TAPS tariff on file with the FERC for each carrier on a given Day, excluding incentive tariffs. If the Minimum Interstate TAPS Tariff that has been used in the calculation of a Tariff Allowance is changed or subject to a refund order by the FERC, or if Buyer pays a revised amount for tariffs paid by Buyer for shipment of Sale Oil upstream of Pump Station No. 1, the Tariff Allowance will be recalculated using the changed FERC-ordered Minimum Interstate TAPS Tariff or the revised amount for tariffs paid by Buyer for shipment of Sale Oil upstream of Pump Station No.1, the Sale Oil Price will be adjusted accordingly, and the resulting refund to the State (or credit to Buyer) will be made in accordance with Article III. If a FERC-ordered tariff is suspended or enjoined from implementation, the Tariff Allowance shall not be recalculated until

the suspension or injunction is lifted and the FERC order is implemented and goes into effect. If Buyer pays a revised amount for tariffs paid by Buyer for shipment of Sale Oil upstream of Pump Station No.1, the Tariff Allowance shall be recalculated when the revised amount is paid or refund is received by Buyer and applied to Sale Oil that has been delivered to Buyer beginning on the effective date of the revision. Buyer shall at the request of the Commissioner provide the necessary documentation in the form of invoices, etc. from the TAPS and upstream pipeline carriers of revised payments and refunds and any interest paid or received as a consequence of the revised payments.

The “Quality Bank Adjustment” is a per-barrel amount, positive or negative, that accounts for the difference in quality between the oil produced from the units on the North Slope and the co-mingled ANS TAPS stream downstream of the PSVR connection. The Quality Bank Adjustment for a Unit’s stream will be calculated each Month as the difference between the stream value for the PSVR Reference Stream and the stream value at the Point of Delivery. The stream value and PSVR Reference Stream are reported by the TAPS quality bank administrator. If the stream value or the PSVR Reference Stream is recalculated by the Quality Bank administrator, the Quality Bank Adjustment shall be recalculated and the Price shall be adjusted in accordance with Article III to apply to Sale Oil that has been delivered to Buyer beginning on the effective date of the adjustment.

"Line Loss" is a per barrel amount equal to  $(0.0009) \times (\text{ANS Spot Price} - \$2.15 - \text{Tariff Allowance} + \text{Quality Bank Adjustment})$ .

Appendix 2 is an illustrative example of the calculation of the Price of Sale Oil. If there is a conflict between Appendix 2 and Section 2.3, Section 2.3 shall control.

2.4 Delivery of Sale Oil.

2.4.1 Day of First Delivery. The State will make first delivery of the Sale Oil to Buyer at the Point of Delivery on April 1, 2014.

2.4.2 Subsequent Deliveries. After the first delivery, the State shall tender the Sale Oil to Buyer at the Point of Delivery immediately upon the receipt of the Royalty Oil from the Lessees at the Point of Delivery.

2.5 Passage of Title and Risk of Loss. Title to, and risk of loss of, the Sale Oil shall pass from the State to Buyer for all purposes when the State tenders delivery of the Sale Oil to Buyer at the Point of Delivery. Buyer shall bear all risk and responsibility for the Sale Oil after passage of title.

2.6 Indemnification After Passage of Title. Buyer shall indemnify and hold the State harmless from and against any and all claims, costs, damages (including reasonably foreseeable consequential damages), expenses, or causes of action arising from or related to any transaction or event in any way related to the Sale Oil after title has passed to Buyer. If Buyer suffers damages or losses caused by third parties and related to the Sale Oil, the State agrees to cooperate with the Buyer to permit Buyer to attempt to recover such damages or losses. The State will cooperate with the Buyer to permit Buyer to attempt to recover such damages or losses. The State will, on request, assign the State's claims to Buyer and cooperate in Buyer's pursuit of State assigned claims.

2.7 Transportation Arrangements. Buyer shall make all arrangements for transportation of the Sale Oil from the Point of Delivery, to, through and away from the TAPS, and all pipelines upstream from Pump Station No. 1, and shall be responsible for meeting any linefill and storage tank bottom requirements related to transportation of the Sale Oil after



passage of title, except that the State shall be responsible for meeting any linefill requirements for pipelines upstream of Pump Station No. 1. If Buyer provides the necessary data, the State shall meet its linefill requirements by passing title to Sale Oil to Buyer at the Point of Delivery but not invoicing Buyer for the portion of Sale Oil required for linefill until that portion of Sale Oil has been delivered to Buyer at Pump Station No. 1. For purposes of invoicing, Buyer and State agree that the linefill upstream of Pump Station 1 that has not been invoiced will be deemed to be the last barrels injected at the Point of Delivery. On the State's request, Buyer shall provide the State with evidence of the arrangements for transportation of the Sale Oil from the Point of Delivery, through and away from TAPS, and all pipelines upstream from Pump Station No. 1, and evidence of arrangements for resale, exchange, or other disposal of the Sale Oil. Buyer's failure to provide information, evidence, or assurances requested by the State shall, at the State's election and after Notice to Buyer, constitute a material default under this Agreement.

### **ARTICLE III** **INVOICING AND PAYMENT**

3.1 Monthly Invoices. On or before the twentieth calendar Day of each Month after the first Month of delivery of Sale Oil, the State shall send to Buyer, via facsimile transmission or electronic mail, a statement of account with an invoice for the total amount due for the estimated quantity of Sale Oil delivered to Buyer during the immediately preceding Month of Sale Oil delivery and the estimated Price applicable to those deliveries, and the amount of any adjustments for the previous Month. The State will base its estimates on the best information reasonably available to the State. The State shall adjust invoices as provided in Section 3.3.

3.2 Payment of Invoices. Buyer shall pay the total amount of each invoice, including adjustments for previous Months of Sale Oil delivery, in full, on or before the later of (1) the

third Business Day after the date of the statement of account in which the invoice is included; or (2) the twentieth calendar Day of the Month. If the third Business Day after the date of the statement of account or if the twentieth calendar Day of the Month does not fall on a Business Day then the invoiced amount is due on the immediately following Business Day. Any amount that Buyer does not pay in full on or before the payment due date calculated in accordance with this section shall accrue interest as provided in Section 3.5, and become subject to the late payment provisions of Section 3.7, and any other remedies available to the State under this Agreement and at law.

3.3 Adjustments. Buyer acknowledges that any time after an invoice is sent for a Month of Sale Oil delivery, the State may receive more accurate information concerning the ANS Spot Price, actual quantity of Sale Oil delivered to Buyer, line fill, the proper calculation of Tariff Allowance, and Quality Bank Adjustments that affect the Price of the Sale Oil. Buyer agrees that any time such information becomes available to the State, the State shall make adjustments and invoice or credit Buyer the amount of the adjustments in accordance with the process and retroactivity limits described in Section 2.3. The interest that will bear on changes to the Tariff Allowance will equal the interest paid or received by the Buyer to/from the pipeline carriers for the Sale Oil. Retroactive Quality Bank Adjustments will not bear interest.

3.4 Payment of Adjustments. The Buyer shall pay the total amount of each adjustment in full, on or before the later of (1) the third Business Day after the date of the statement of account that includes the adjustment invoice; or (2) the twentieth calendar Day of the Month. If an adjustment is due to Buyer for an overpayment, the State shall credit to Buyer the amount of the overpayment on the following Month's invoice or, if no following Month invoice is provided, the State shall refund to Buyer the amount of the overpayment by the

twentieth calendar Day of the following Month. Any amount the Buyer does not pay in full when due shall bear interest at the rate provided in Section 3.6 and become subject to the late payment provisions of Section 3.7, and any other remedies available to the State under this agreement and at law.

3.5 Adjustments After Termination. Buyer and State agree that the State shall continue to make adjustments after termination of this Agreement, and agree that the provisions of Articles III, shall survive termination of this Agreement for any reason. If following termination of this Agreement an adjustment is determined to be due to Buyer for overpayment in an amount that exceeds the amount of all sums remaining due from Buyer to the State, the State shall credit the overpayment against any sums due from Buyer to the State, and shall refund to Buyer the remaining amount of the adjustment. Any adjustments made after termination must be paid within 30 Days after the date of the invoice.

3.6 Interest. All amounts under this Agreement that Buyer does not pay in full when due, or that the State does not credit Buyer or pay in full when due, shall bear interest from the date payment is due, calculated in accordance with Section 3.4, at the rate provided by Alaska Statute 38.05.135(d) or as that statutory provision may later be amended.

3.7 Late Payment Penalty. In addition to all other remedies available to the State, if Buyer fails to make timely payment in full of any amount due, including adjustments, Buyer shall pay the State as a late payment penalty an amount equal to five percent of the total amount not timely paid, in addition to the amount not timely paid, and interest on the late payment penalty amount and the amount not timely paid as provided in Section 3.4. The Commissioner shall waive imposition of the late payment penalty if the Buyer provides substantial evidence that

the failure to make timely payment was not willful and was not due to a mistake in a chronic pattern of mistakes.

3.8 Disputed Payments. If a dispute arises concerning the amount of an invoice, Buyer agrees to pay in full all amounts when due, pending final resolution of the dispute according to the Dispute Resolution procedures in Article XIII.

3.9 Confidential Information. The State and Buyer agree that the State may invoice Buyer for, and Buyer agrees to pay, amounts that are based upon confidential information held or received by the State. If confidential information is used as the basis for an invoice, upon receipt of a written request from Buyer, the State shall furnish to Buyer a certified statement of the Commissioner to the effect that, based upon the best information available to the State, the invoiced amounts are correct. At the request and expense of Buyer, the Commissioner's certified statement will be based on an audit by an independent third party.

3.10 Manner of Payment. Buyer shall pay all invoices in full within the times specified and without any deduction, set off, or withholding. Buyer shall pay all invoices by either Automated Clearinghouse or by Federal Reserve Wire Transfer (immediate funds available) according to the instructions provided to the Buyer by the Division of Oil and Gas's Royalty Accounting Manager.

Buyer may pay an invoice in such other manner or to such other address the State has specified in an invoice or by Notice. All other payments due shall be paid in the same manner and according to the same time schedule provided in this Article. If payment falls due on a Saturday, Sunday, or federal bank holiday, payment shall be made on the next Business Day.

**ARTICLE IV**  
**IN-STATE PROCESSING**

4.1 In-State Processing. Buyer agrees to use commercially reasonable efforts to process the Sale Oil at its refinery in North Pole, Alaska. "Process" means the manufacture of refined petroleum products.

4.2 Exchange of Crude Oil. Buyer may exchange Sale Oil for other crude oil only as provided in this Article. An exchange of Sale Oil for other crude oil shall not reduce the price Buyer has agreed to pay the State for the Sale Oil. "Exchange" includes: (1) a direct trade of Sale Oil for an equal volume of other crude oil; (2) a direct trade of Sale Oil for other crude oil that involves either cash or volume adjustment, or both, based solely on the differences in quality or location of the crude oils exchanged; (3) sequential transactions in which the Buyer trades Sale Oil to one party and, in exchange receives crude oil for a party other than the party to whom the Buyer traded the Sale Oil; and (4) matching purchases and sales of Sale Oil for other crude oil.

**ARTICLE V**  
**SPECIAL COMMITMENTS**

5.1 Extension of Term. Subject to Buyer making a binding commitment for a large capital project(s) at its refinery at North Pole, Alaska, or binding support of a solution to bring natural gas from the North Slope to interior Alaska, Buyer may request to amend and extend this Agreement for an additional five year term that expires March 31, 2024. The Commissioner may approve or deny a request for an extension of term.

5.2 Wholesale Rack Price Parity. Buyer agrees, at all times while Buyer is purchasing Sale Oil under this Agreement, to maintain the Buyer's wholesale truck rack posted price for gasoline in Fairbanks at a price that does not exceed Buyer's wholesale truck rack

posted price for gasoline in Anchorage on an annual simple average basis within a variation of not more than one-cent per gallon. Buyer makes no guarantee of the price parity for Buyer's wholesale truck rack posted prices for gasoline in Fairbanks and Anchorage on a daily basis. If the annual average variation of the aforementioned posted prices exceeds one cent per gallon, Buyer shall have 90 Days to reduce the variation to below one-cent per gallon, averaged over an all-inclusive timeframe, including the 90-Day period and the previous annual period. This provision shall only apply to gasoline produced by Buyer at its North Pole refinery. This provision shall not apply to gasoline exchanges. An example of the calculations appears in Appendix 4.

**ARTICLE VI**  
**BUYER'S AND GUARANTOR'S REPRESENTATIONS AND OBLIGATIONS**

6.1 Good Standing and Due Authorization of Buyer. Buyer warrants that it is, and shall remain at all times during the term of this Agreement: (1) qualified to do business in Alaska; and (2) in good standing with the State. Buyer warrants that it has all company power and authority necessary, and has performed all company action required, to enter into and fulfill its obligations under this Agreement.

6.2 Good Standing and Due Authorization of Guarantor. Guarantor warrants that it is, and shall remain at all times during the term of this Agreement: (1) qualified to do business in Alaska; and (2) in good standing with the State. Guarantor warrants that it has all company power and authority necessary, and has performed all company action required, to enter into and fulfill its obligations under this Agreement.

6.3 Financial Information. Annually as soon as practicable after March 31 but no later than June 30, Guarantor shall cause a financial analyst (the "Financial Analyst") to submit an opinion to the Commissioner in the form of a letter (the "Opinion Letter") about Guarantor's



current and expected future credit rating by Standard and Poor's and Moody's. The Financial Analyst shall be qualified to render an opinion as to the creditworthiness of the Guarantor and shall be in the business of understanding complex financial matters and financial statements to the extent required to render such opinion. Buyer shall have the right to designate the Financial Analyst, subject to approval by the State. The Financial Analyst shall be a contractor to Guarantor, and Guarantor shall be responsible for entering into any necessary contractual arrangements with the Financial Analyst and paying the fees and expenses of the Financial Analyst.

The contract between Guarantor and the Financial Analyst and each Opinion Letter must recite that the Financial Analyst (1) has been provided a copy of this Agreement, (2) understands the significance of the Opinion Letter in the administration of this Agreement, (3) understands that the State will rely on the Opinion Letter, and (4) understands that the Opinion Letter is for the benefit of the State. The contract between Guarantor and the Financial Analyst shall be subject to approval by the State, and the State shall be given a copy of the contract and all amendments to it.

The Opinion Letter shall (i) identify all documents reviewed in forming the opinion, (ii) identify people interviewed in forming the opinion and discuss the nature of the interview, (iii) state the current long term (and short term, if available) credit ratings of Guarantor by Standard and Poor's and Moody's and (iv) express an opinion whether those ratings are reasonably likely to fall to or below BBB+ (Standard and Poor's) and Baa1 (Moody's) at any time during the following twelve Months. Guarantor shall cause the Financial Analyst to review evidence of the most current ratings by Standard and Poor's and Moody's of Guarantor's long and short term debt, all bank presentations provided to Guarantor's lenders, all reports on Guarantor prepared





by Standard and Poor's or Moody's, any assessment (if available to the Guarantor) of Guarantor's financial condition conducted on behalf of the Port Commission of the Port of Corpus Christi Authority, concerning the Port of Corpus Christi Authority of Nueces County, Texas Solid Waste Disposal Revenue Bonds, all documents filed by Guarantor with the Securities and Exchange Commission, if any, any other documents reasonably necessary to deliver the Opinion Letter, and a complete set of year-to-year comparative, independently audited financial statements, including footnotes, prepared in accordance with generally accepted accounting principles.

Guarantor's contract with the Financial Analyst may require the Financial Analyst to protect the confidentiality of the information supplied to it under Section 6.3. The State may review the information supplied to the Financial Analyst under Section 6.3 by executing a confidentiality agreement with Guarantor but will not take any action that will make the information part of the State's public records.

6.4 Financial Condition. Guarantor warrants (1) that all financial information submitted to the Financial Analyst or reviewed by the State under Section 6.3 is complete and accurate at the time of preparation, and fairly represents Guarantor's financial condition at the time of submission; and (2) that there has been no material change in Guarantor's financial condition, business operations, or properties since the financial information was prepared. Guarantor warrants that the financial statements were prepared in accordance with generally accepted accounting principles. Guarantor and Buyer shall immediately inform the State of any material change in Guarantor's ownership or ownership of Buyer, ownership of parent companies, or financial condition, business operations, agreements, or property that is likely to affect their ability to perform their obligations under this Agreement.

6.5 Absolute Obligations. Buyer’s and Guarantor’s obligations to pay amounts due, provide assurances of performance in accordance with Article VII, accept, and dispose of and pay for Sale Oil, are absolute. These obligations shall not be excused or discharged by the operation of any disability of Buyer or Guarantor, event of Force Majeure, impracticability of performance, change in conditions, termination of this Agreement, or other reason or cause.

6.6 Guaranty. Buyer is an indirect, wholly-owned subsidiary of Guarantor. Buyer does not have public financial statements and does not have debt rated by Moody’s or Standard and Poor’s. The State is not willing to make this Agreement based solely on the credit worthiness of Buyer. Guarantor therefore agrees that it guarantees performance of all of Buyer’s obligations under this Agreement as if Guarantor were the Buyer and legally indistinguishable from Buyer. The State may require Guarantor at any time to satisfy any unsatisfied obligation of Buyer.

**ARTICLE VII**  
**ASSURANCE OF PERFORMANCE**

7.1 Credit Review. If Guarantor fails to timely submit its financial statements and other documents and information required under Article VI such that the Financial Analyst is unable to timely submit the Opinion Letter; or if, in the opinion of the Financial Analyst, Guarantor’s credit ratings have fallen to or below, or are reasonably likely in the twelve Months following the Opinion Letter, to fall to or below (a) “BBB+” (Standard and Poor’s “Long term issuer”), or (b) “Baal” (Moody’s Investor Services “Issuer Ratings/Long Term Obligation Ratings”); or Guarantor is not rated by Standard and Poor’s and Moody’s, Guarantor shall immediately deliver to the State a one year irrevocable stand-by Letter of Credit meeting the requirements of Sections 7.2 through 7.5.

Guarantor shall annually renew and continuously maintain the Letter of Credit in effect until such time as, in the opinion of the Financial Analyst, Guarantor's credit rating is no longer reasonably likely to fall to or remain below (a) "BBB+" (Standard and Poor's "Long term issuer"); or (b) "Baal" (Moody's Investor Services "Issuer Ratings/Long Term Obligation Ratings") at any time during the twelve Months following the Opinion Letter.

7.2 Letter of Credit. In the event that Guarantor is required to deliver a letter of credit to the State in accordance with Section 7.1, the Letter of Credit shall be in a form satisfactory to the Commissioner and shall be in effect on delivery. The Letter of Credit shall be issued for the benefit of the State by a state or national banking institution of the United States that is insured by the Federal Deposit Insurance Corporation and has an aggregate capital and surplus amount of not less than One Hundred Million Dollars (\$100,000,000) ("Issuer"), or other banking institution approved by the Commissioner, such approval not to be unreasonably withheld. The principal face amount of the Letter of Credit shall be an amount reasonably estimated by the Commissioner to be equal to the Price of all Sale Oil to be delivered by the State to Buyer during the 90 Days immediately following delivery of the Letter of Credit to the Commissioner. The Letter of Credit shall not require the State to submit any documentation in support of drafts drawn against it other than a certified statement by the Commissioner and the State's Attorney General that Guarantor is liable to the State for an amount of money equal to the amount of the draft, that the amount of money is due and payable in full, and it has not been timely paid.

7.3 Performance Assurance After Termination. If a Letter of Credit is in effect immediately prior to Termination of the Agreement, the Commissioner may require that, after Termination, the Letter of Credit be maintained in an amount estimated by the Commissioner to be equal to the value of all adjustments which may be made under Article III. As an alternative

to maintaining a Letter of Credit after Termination, and on commercial terms acceptable to the Commissioner, the Guarantor may require that Buyer establish and maintain an interest-bearing escrow account equal to the value of all adjustments that may be made under Article III and with the same payment terms as the Letter of Credit.

7.4 Other Performance Assurance. The Commissioner may allow Guarantor to provide security other than the Letter of Credit if the Commissioner determines other security is adequate to protect the State’s interest.

7.5 Correction of Defects in Letter. Guarantor shall have five Business Days to correct any defect in the Letter of Credit beginning on the Business Day Guarantor first learns of the defect whether through Notice from the State or otherwise. A defect is any failure to comply with the terms and conditions of Article VII.

#### **ARTICLE VIII MEASUREMENTS**

8.1 Measurements. The quantity and quality of Sale Oil the State delivers under this Agreement shall be determined by measurement at the Point of Delivery. Procedures used for metering and measuring the Sale Oil shall be in accordance with the procedures in effect at the Point of Delivery.

#### **ARTICLE IX EFFECTIVE DATE AND TERM**

9.1 Condition Precedent to Effective Date. This Agreement is subject to approval under Alaska Statute 38.06.055 as a condition precedent to becoming effective.

9.2 Effective Date. This Agreement shall become effective and enforceable on the date upon which it is signed by all parties after it is approved under Alaska Statute 38.06.055 (“Effective Date”).

9.3 Term. The Term of this Agreement shall begin on April 1, 2014 and terminate on March 31, 2019 except that the Term of this Agreement may be changed only as provided in Section 2.1.4, Section 5.1, and Article X.

9.4 Continuation of Obligations. The provisions of Article III, Section 6.5, Section 7.3, and Section 9.3, Article X and Article XI shall survive termination of this Agreement for any reason or cause. Termination of this Agreement shall not relieve either Party from any expense, liability, or other obligation or any remedy that has accrued or attached prior to the date of termination. For Sale Oil delivered under this Agreement, termination of this Agreement shall not relieve Buyer of its obligation to pay all production Month invoices, initial adjustments, subsequent adjustments, and interest, and, where applicable, penalties, costs, attorney fees, and any other charges related to the Sale Oil actually delivered.

## **ARTICLE X** **DEFAULT OR TERMINATION**

### 10.1 Default.

10.1.1 Events of Default. The Commissioner may suspend or terminate the State's obligations to tender, deliver and sell Sale Oil to Buyer, and may exercise any one or more of the rights and remedies provided in this Agreement, or at law, if any one or more of the following events of default occur:

(a) Buyer or Guarantor fails to pay in full any sum of money owed under this Agreement within five Business Days after the State gives Buyer Notice that payment is past due;

(b) Within five Business Days after Notice from the State, Buyer or Guarantor fails to provide written assurances satisfactory to the State of Buyer's or Guarantor's intention to perform its obligations under this Agreement and evidence or assurances of

transportation arrangements under Section 2.7;

(c) There is a material change in Buyer's or Guarantor's financial condition, business operations, agreements, or property or ownership that is likely to affect Buyer's or Guarantor's ability to perform its obligations under this Agreement, and within five Business Days after Notice from the State, Buyer or Guarantor is unable or unwilling to provide a Letter meeting the requirements of Sections 7.1 and 7.2;

(d) Buyer or Guarantor fails to perform any of its obligations under this Agreement, and cannot cure the non-performance or the non-performance continues for more than 30 Days after the State has given Notice to Buyer or Guarantor of its non-performance;

(e) Any representation or warranty made by Buyer or Guarantor in this Agreement is found to have been materially false or incorrect when made; or

(f) Guarantor fails, or is unable for any reason (including reasons beyond Guarantor's control), to maintain the Letter required under Article VII, regardless of Guarantor's willingness or ability to perform any other obligations under this Agreement.

10.1.2 Default by Failure or Inability to Pay. Buyer or Guarantor shall immediately provide the State with Notice if Buyer or Guarantor is unable to pay any of its debts when due, makes an arrangement for the benefit of creditors, files a bankruptcy petition, or is otherwise insolvent. Upon Notice from Buyer or Guarantor, or if the State independently determines that Buyer or Guarantor is unable to pay any of its debts when due or is otherwise insolvent, the State's obligations to deliver and sell Sale Oil to Buyer shall automatically and immediately terminate without any requirement of Notice to Buyer or Guarantor or other action by the State. Upon termination of the State's obligations under this Section 10.1.2, Buyer and

Guarantor shall be liable for payment and performance of all their obligations for Sale Oil the State delivered to Buyer before termination and for a minimum of one hundred Days after termination, plus an additional 90 Days if a Lessee invokes the force majeure term of its Royalty Settlement Agreement. Within 30 Days after termination under this Article 10.1.2, the State shall have the right, upon consent of Buyer or Guarantor, to reinstate all of the State's, Buyer's and Guarantor's obligations under this Agreement retroactive to the date of termination.

10.2 State's Remedies. If Buyer or Guarantor defaults under this Agreement, in addition to all other remedies available to the State under this Agreement or at law, the following remedies shall be available to the State:

10.2.1 Buyer's and Guarantor's Obligations Become Due. All monetary obligations Buyer or Guarantor has accrued under this Agreement, even if not yet due and payable, shall immediately be due and payable in full.

10.2.2 State May Dispose of Sale Oil. The State may dispose of some or all of the Sale Oil to third parties. If the State exercises this remedy, regardless whether this Agreement is terminated, Buyer and Guarantor shall be and shall remain liable to the State for the amount of the difference between the Price for the Sale Oil under Article II and the actual price the State receives from disposition of the Sale Oil to third parties.

10.2.3 Indemnification for Loss. Buyer and Guarantor shall hold the State harmless and indemnify it against all its liability, damages, expenses, attorney's fees and costs, and losses directly arising out of Buyer's or Guarantor's default, termination of the State's obligations, and disposal of the Sale Oil to third parties. Additionally, if Buyer or Guarantor defaults in the payment of any monetary amounts due to the State for Sale Oil tendered or delivered under this Agreement, Buyer or Guarantor shall pay the State 100 percent of



reasonable actual costs and attorney fees incurred by the State in pursuing payment of the monetary amounts due, regardless of whether litigation is commenced and regardless of whether legal services are provided by the Attorney General's office or private counsel.

10.2.4 Other Rights and Remedies. The State shall have the right cumulatively to exercise all rights and remedies provided in this Agreement and by law, and obtain all other relief available under law or at equity, including mandatory injunction and specific performance.

10.3 Limitation of Buyer's and Guarantor's Remedies. If Buyer or Guarantor breaches or defaults in any of its obligations under this Agreement, Buyer or Guarantor shall not obtain a temporary restraining order or preliminary injunction preventing the State from disposing of the Sale Oil in accordance with Section 10.2.2.

10.4 Article Survives Termination. This Article survives termination of the Agreement.

## **ARTICLE XI**

### **DISPOSITION OF OIL UPON DEFAULT OR TERMINATION**

11.1 Disposition of Oil Upon Default or Termination. Buyer and Guarantor acknowledge that the State may be required to provide six Months' notice to the Lessees before the State may decrease its in-kind nomination of Royalty Oil in any Month. If this Agreement terminates for default or any other reason after Buyer has nominated or is deemed to have nominated Sale Oil, Buyer shall continue to accept and pay for Sale Oil through the first Day of the Month following expiration of a minimum of 100 Days after the date of termination, if the Commissioner so requires. If, however, the additional notice provisions of Article 2.1.6 are invoked, Buyer shall continue to accept and pay for Sale Oil until the expiration of six Months and ten Days after the Date of default or notice of termination.

11.2 Security for Disposal of Sale Oil. To secure the Buyer's obligations to purchase and dispose of Sale Oil, upon the Commissioner's request, if Buyer refuse to accept or receive Sale Oil under this Agreement, Buyer shall assign or otherwise transfer to the State, or its designee, all or part of Buyer's right to transport the Sale Oil through and away from the TAPS, and all pipelines upstream from Pump Station No. 1, whether such rights are under nominations, leases, contracts, tariffs, charter parties, or other agreements. The State will incur liability or obligations under such assignment or transfer only to the extent the State actually exercises its rights to succeed to Buyer's interests under and obtain the benefits of the assignments.

**ARTICLE XII**  
**NONWAIVER**

12.1 Nonwaiver. The failure of a Party to insist upon strict or a certain performance, or acceptance by a Party of a certain performance or course of performance under this Agreement shall not: (1) constitute a waiver or estoppel of the right to require certain performance or claim breach by similar performance in the future; (2) affect the right of another Party to enforce any provision; or (3) affect the validity of any part of this Agreement.

**ARTICLE XIII**  
**DISPUTE RESOLUTION**

13.1 Dispute Resolution. Any disagreement or dispute about the meaning or application of a word, term, condition, right or obligation in this Agreement shall be decided according to the dispute resolution procedure set forth in this Article. The procedure set for in this Article shall be initiated by a Party by providing written Notice of the disagreement or dispute to the other Parties. No later than sixty Days after a Party provides written Notice, the Parties shall each present any arguments and evidence supporting its view of the disputed term, condition, right or obligation in writing to the Commissioner for consideration. The State,

Buyer, and Guarantor shall not have the right to civil litigation-type discovery or a civil litigation-type trial with the right to call or cross-examine witnesses unless granted by the Commissioner, after request. Within 30 Days after the Parties submit their final arguments and evidence, the Commissioner shall issue a finding interpreting the meaning or application of the disputed word, term, condition, right or obligation and shall set for the basis for the conclusion. The Parties agree to accept the findings of the Commissioner under this Article that are supported by substantial evidence in light of the whole record.

**ARTICLE XIV**  
**SEVERABILITY**

14.1 Severability. If a court decrees any provision of this Agreement to be invalid, all other provisions of this Agreement shall remain valid. If, however, invalidation of a provision impairs a material right or remedy under this Agreement, the Parties will negotiate in good faith to maintain the original intent and benefits of this Agreement. If the Parties cannot restore the original intent and benefits of this Agreement, then either Party may terminate this Agreement by giving Notice.

**ARTICLE XV**  
**FORCE MAJEURE**

15.1 Effect of Force Majeure. Except for Buyer's and Guarantor's obligations to pay amounts due, provide assurance of performance in accordance with Article VII, accept, dispose of, and pay for Sale Oil, no Party shall be liable for failure to perform if performance is substantially prevented by Force Majeure after commercially reasonable efforts to perform. Except, however, if Buyer or Guarantor is prevented by Force Majeure from performing any material obligation for 180 successive days or more, the State shall have the right to terminate this Agreement on 60 Days' Notice. If the State is prevented by Force Majeure from performing

any material obligation for 180 successive days or more, Buyer may terminate this Agreement on 60 Days' Notice. Before a Party exercises the right to terminate this Agreement, the Party may request the other Parties to negotiate in good faith to restore performance.

15.2 Force Majeure. In this Agreement the term "Force Majeure" means an event or condition not within the reasonable control of the Party claiming "Force Majeure."

15.2.1 Force Majeure Events include, but are not limited to, the following events:

i. act of God, fire, lightning, landslide, earthquake, storm, hurricane, hurricane warning, flood, high water, washout, explosion, well blowout, failure of plant, pipe or equipment, or;

ii. strike, lockout, or other industrial disturbance, act of the public enemy, war, military operation, blockade, insurrection, riot, epidemic, arrest or restraint by government of people, terrorist act, civil disturbance, or national emergency;

iii. act, order, or requisition of any governmental agency or acting governmental authority or any governmental proration, regulation, or priority.

15.2.2 Force Majeure events do not include changes in commercial or financial markets affecting the price of crude oil or processed petroleum products.

15.3 Notice and Remedy of Force Majeure. If a Party believes that Force Majeure has occurred, the Party shall immediately provide Notice to the other Parties of its claim of Force Majeure. The Party claiming Force Majeure shall use commercially reasonable diligence to remedy the Force Majeure. Except for Buyer's and Guarantor's absolute obligations to pay amounts due, provide assurances of performance in accordance with Article VII, and accept, dispose of and pay for Sale Oil, the disabled Party's obligations to perform that are affected by

the Force Majeure shall be suspended from the time of Notice to the other Parties until the disability caused by the Force Majeure should have been remedied with reasonable diligence.

**ARTICLE XVI**  
**NOTICE**

16.1 Method of Notice. All notices, consents, requests, demands instructions, approvals, and other communications permitted or required shall be made in writing and delivered by any two of the following methods: (a) personally delivered, (b) delivered and confirmed by facsimile transmission, (c) delivered by overnight courier delivery service, (d) delivered and confirmed by electronic mail, or (e) deposited in the United States mail, first class, postage prepaid, certified or registered, return receipt requested, addressed as follows:

Commissioner of Natural Resources  
550 West 7<sup>th</sup> Avenue, Suite 1400  
Anchorage, Alaska 99501-3650  
Facsimile Number: (907) 269-8918

and

Director, Division of Oil and Gas  
550 West 7th Street, Suite 800  
Anchorage, Alaska 99501-3510  
Facsimile Number: (907) 269-8938

the Buyer:

Flint Hills Resources Alaska, LLC  
4111 E. 37<sup>th</sup> St. N.  
Wichita, KS 67220  
Facsimile Number: (316) 828-8245  
Attention: President  
e-mail: brad.razook@fhr.com

the Guarantor:

Flint Hills Resources, LLC  
4111 E. 37<sup>th</sup> St. N.  
Wichita, KS 67220  
Facsimile Number: (316) 828-8245  
Attention: President  
e-mail: brad.razook@fhr.com

or to any other place within the United States of America designated in writing by the State, Buyer or Guarantor.

16.2 Notice Effective Date. Notice given by personal delivery, or other reputable overnight courier delivery service, or United States mail, first class, postage prepaid, certified or registered, return receipt requested, shall be effective on the date of actual receipt at the appropriate address. Notice given delivered and confirmed by facsimile or electronic mail shall be effective on the date of actual receipt if received during recipient's normal business hours, or at the beginning of the next business Day after receipt if received after recipient's normal business hours. The Notice Effective Date is the effective date of the first of the two Notices received.

16.3 Change of Address. A Party may notify the other Parties of changes in its address by giving Notice.

## **ARTICLE XVII** **RULES AND REGULATIONS**

17.1 Rules and Regulations. This Agreement is subject to the laws of the State of Alaska, and orders, rules and regulations of the United States, the State of Alaska, and any duly constituted agency of the State of Alaska.

## **ARTICLE XVIII** **SOVEREIGN POWER OF THE STATE**

18.1 Sovereign Power of the State. This Agreement shall not be interpreted to limit in any way the State's ability to exercise any sovereign or regulatory powers, whether conferred by constitution, statute or regulation. The State's exercise of any sovereign or regulatory power shall not be deemed to enlarge any of Buyer's or Guarantor's rights, or limit any of Buyer's or Guarantor's obligations or liabilities under this Agreement.

**ARTICLE XIX**  
**APPLICABLE LAW**

19.1 Governing Law. This Agreement, and all matters arising from or related to this Agreement, shall be governed, construed and determined by the laws of the State of Alaska.

19.2 Jurisdiction. Any legal action or proceeding arising out of or related to this Agreement shall be brought in a state court of general jurisdiction sitting in the State of Alaska, and Buyer and Guarantor irrevocably submit to the jurisdiction of that court in any action or proceeding.

19.3 Venue. The Parties agree that the venue for any legal action or proceeding arising out of or related to this Agreement shall be in the Alaska Superior Court sitting in Anchorage, Alaska.

**ARTICLE XX**  
**WARRANTIES**

20.1 Warranties. The purchase and sale of Royalty Oil under this Agreement are subject only to the warranties the State has expressly set forth in this Agreement. The State disclaims and Buyer and Guarantor waive all other warranties, express or implied in law.

**ARTICLE XXI**  
**AMENDMENT**

21.1 Amendment. This Agreement may be supplemented, amended, or modified only by written instrument duly executed by the Parties, and, where required, only on approval under Alaska Statute 38.06.055.

21.2 Legislative Approval. Any material amendment to this Agreement that appreciably reduces the consideration received by the State requires prior approval of the legislature.

**ARTICLE XXII**  
**SUCCESSORS AND ASSIGNS**

22.1 Assignments and Other Transfers. Buyer may freely assign its rights and obligations to an Affiliate formed under the laws of a state in the United States of America. An “Affiliate” shall mean an entity that is directly or indirectly controlled by Guarantor or Guarantor’s permitted assigns, or is directly or indirectly controlled by an entity that directly or indirectly controls Guarantor or Guarantor’s permitted assigns, where control means the right to vote more than fifty percent of the voting interest in the entity.

Buyer and Guarantor may, without consent of the State, collectively assign their rights and obligations under this Agreement to a Person that acquires all or substantially all of the Alaska refining assets of Buyer and Guarantor (the “Assignee”), provided that at least 45 Days before the effective date of the assignment the Assignee provides to the State (a) all of the financial information and warranties Guarantor is required to provide under Article VI and (b) a copy of the form of the assignment, including Assignee’s obligation to assume and discharge all of Buyer’s and Guarantor’s obligations under this Agreement. If, based on the financial information supplied under Article VI, Assignee is required to supply a Letter of Credit under Article VII, the Letter of Credit in the form and amount required by Article VII must be provided to the State at least 30 Days before the effective date of the assignment. No assignment can be made to an Assignee with long term credit ratings of less than BBB (Standard and Poor’s) or Baa3 (Moody’s). From and after the effective date of the Assignment, Buyer and Guarantor shall be relieved of their rights and obligations under this Agreement. No assignment shall be effective until after 45 Days’ Notice to the State.



Buyer and Guarantor may not otherwise assign their rights or obligations under this Agreement without first obtaining the written consent of the Commissioner, which may not be unreasonably withheld.

22.2 Binding on Successors. This Agreement shall be binding upon and inure to the benefit of the legal representative, Parties and their successors, and assigns of the Parties.

### **ARTICLE XXIII** **RECORDS**

23.1 Inspection of Records. The Parties shall each accord to the other and the other's authorized agents, attorneys, and auditors access during reasonable business hours to any and all property, records, books, documents, or indices related to Buyer's, Guarantor's or the State's performance under this Agreement, and which are under possession or control of the Party from which access is sought, so the other Party may inspect, photograph, and make copies of the property, records, books, documents, or indices except: (1) the State shall not be required to disclose any information, data, or records that it is required by state or federal law or regulation, or by agreement with the Person supplying the record, to be held confidential; (2) the State's access to and treatment of Guarantor's financial records shall be limited by Section 6.3; and (3) no party shall be required to produce documents that are protected by the attorney-client privilege. If information the State obtains from Buyer or Guarantor may be held confidential under state or federal law or regulation, Buyer may request in writing that the State hold the information confidential, and the State shall keep the information confidential to the extent and for the term provided by law.

**ARTICLE XXIV**  
**EMPLOYMENT OF ALASKA RESIDENTS**

24.1 Employment of Alaska Residents. Buyer shall comply with all valid federal, state, and local laws in hiring Alaska residents and companies, and shall not discriminate against Alaska residents and companies. Within the constraints of law, Buyer voluntarily agrees to employ Alaska residents and Alaska companies to the extent they are available, willing, and at least as qualified as other candidates for work performed in Alaska in connection with this Agreement. “Alaska resident” means an individual who is physically present in Alaska with the intent to remain in the state indefinitely. An individual may demonstrate an intent to remain in the state by maintaining a residence in the state, possessing a resident fishing, trapping or hunting license, or receiving a permanent fund dividend. “Alaska companies” means companies incorporated in Alaska or whose principal place of business is in Alaska. If a court invalidates any portion of this provision, Buyer agrees to employ Alaska residents and Alaska companies to the extent permitted by law.

**ARTICLE XXV**  
**COUNTERPARTS**

25.1 Counterparts. This Agreement may be executed in multiple counterparts. It is not necessary for the Parties to sign the same counterpart. Each duly executed counterpart shall be deemed to be an original and all executed counterparts taken together shall be considered to be one and the same instrument.

**ARTICLE XXVI**  
**MISCELLANEOUS**

26.1 Agreement Not to Be Construed Against Any Party as Drafter. The Parties recognize that this Agreement is the product of the joint efforts of the Parties and agree that it shall not be construed against any Party as drafter.

26.2 Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties about the subject matter of this transaction and all prior agreements, understandings, and representations, whether oral or written, about this subject matter are merged into and superseded by this written Agreement.

26.3 Headings. The headings throughout this Agreement are for reference purposes only and shall not be construed or considered in interpreting the terms and provisions of this Agreement.

26.4 Authority to Sign. Each Person signing this Agreement warrants that he or she has authority to sign the Agreement.

26.5 Further Assurances. The Parties agree to do such further acts or execute such further documents as may reasonably be required to implement this Agreement.

26.6 Currency. All dollar amounts are U.S. dollars.

**SIGNATURES:**

the State:

THE STATE OF ALASKA

\_\_\_\_\_  
Commissioner  
Department of Natural Resources

Date:

FLINT HILLS RESOURCES ALASKA, LLC

\_\_\_\_\_  
Printed Name:

Title:

Date: