

# Access Agreement

## (LL Terminals Killdeer Facility)

THIS ACCESS AGREEMENT (this "Agreement") is made this day of \_\_\_\_\_, 201\_\_, by and between LL Terminals, LLC, a Kansas limited liability company, having an office at 717 – 17th Street, Suite 1825, Denver, CO 80202 (email for notices: [notices@boemidstream.com](mailto:notices@boemidstream.com)) ("Operator") and \_\_\_\_\_, a \_\_\_\_\_, having an office at \_\_\_\_\_ (email for notices: \_\_\_\_\_ with a copy to \_\_\_\_\_) ("Carrier").

WHEREAS, Carrier has been hired by one or more customers of the Facility (as defined below) to deliver crude oil to the Facility;

WHEREAS, the execution and delivery of this agreement is a condition to Carrier accessing the Facility for such purpose;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereto agree, with the intent to be legally bound, to the following terms and conditions.

1. Operator hereby grants permission to Carrier to enter Operator's the truck unloading and throughput facility located near Killdeer, ND (the "Facility"), at times agreed with Carrier and the relevant shipper, for the sole purpose of accessing Operator's truck unloading station located at the Facility with transport trucks to deliver and unload crude oil. Operator may exclude any Representative (as that term is hereinafter defined) of Carrier from the Facility who, in Operator's sole opinion, poses a risk to persons, property or the environment. The access rights granted herein to Carrier are non-exclusive.
2. The term of this Agreement shall begin on the date hereof and end upon written notice by one party to the other of its termination.
3. Operator reserves and hereby retains the right, at any time as reasonably necessary, to curtail, interrupt, disturb or interfere with Carrier's access to and operations at the Facility, to maintain the integrity or safety of the Facility grounds and the equipment therein.
4. Carrier, when exercising its access rights in accordance with this Agreement shall conduct their activities so as to keep the Facility free and clear of all trash and debris and shall instruct and be responsible for Carrier Representatives doing the same. Operator, at its election may perform all necessary cleanups caused by Carrier at Carrier's expense.
5. Carrier agrees to comply with all applicable laws and regulations, and any other Facility policies, rules and instructions applicable to Carrier, and its equipment and operations, which may be provided to Carrier or posted at the Facility from time to time (collectively, all of the foregoing in this Section 5, the "Rules"). Operator shall have the right to amend the Rules at any time. Any such amendments shall become effective immediately upon posting or delivery of the same to Carrier.
6. Carrier represents and warrants it shall send to the Facility only employees, agents and subcontractors that are properly licensed and have been instructed in the Rules, including the characteristics and safe handling of the products to be unloaded. Carrier shall be responsible for the errors and omissions of all of the aforesaid personnel.
7. TO THE EXTENT PERMITTED BY LAW: (A) CARRIER AGREES THAT OPERATOR, ITS AFFILIATES AND IT AND THEIR RESPECTIVE AGENTS, EMPLOYEES, AND PARTNERS (EACH, A "OPERATOR PARTY" AND, COLLECTIVELY, THE "OPERATOR PARTIES") SHALL NOT BE LIABLE FOR ANY LOSS, COST, DAMAGE, EXPENSE, CLAIM, SUIT OR

OTHER LIABILITY OF ANY KIND (EACH, A "LOSS" AND, COLLECTIVELY, THE "LOSSES") ARISING OUT OF ANY BREACH BY CARRIER OF THIS AGREEMENT OR ARISING OUT OF CARRIER'S OPERATIONS AT THE FACILITY, INCLUDING, WITHOUT LIMITATION, RELATING TO THE PERSON OR PROPERTY OF CARRIER OR CARRIER'S EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, AGENTS OR REPRESENTATIVES (EACH, A "CARRIER REPRESENTATIVE" AND, COLLECTIVELY, "CARRIER REPRESENTATIVES"), EXCEPT TO THE EXTENT ANY SUCH LOSS IS CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF AN OPERATOR PARTY; AND (B) CARRIER, FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS, HEREBY AGREES TO INDEMNIFY, DEFEND AND HOLD EACH OPERATOR PARTY HARMLESS FROM AND AGAINST ANY AND ALL LOSSES ARISING OUT CARRIER'S OPERATIONS AT THE FACILITY, EXCEPT TO THE EXTENT SUCH ANY SUCH LOSS IS CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF AN OPERATOR PARTY.

8. FOR THE AVOIDANCE OF DOUBT AND WITHOUT LIMITING SECTION 7 ABOVE: (A) CARRIER AGREES, IN CONNECTION WITH CARRIER'S OPERATIONS ON AND ACROSS THE FACILITY, TO ASSUME ALL RESPONSIBILITY FOR COMPLIANCE WITH APPLICABLE ENFORCEMENT REQUIREMENTS, OR ANY GOVERNMENTAL OR OTHER REGULATORY AUTHORITY, RELATING TO THE POLLUTION, CONTAMINATION OR PREVENTION THEREOF, ACTUAL OR THREATENED, OF ANY SOIL, WATER OR AIR, IN ANY MANNER, ARISING FROM CARRIER'S OR ANY CARRIER REPRESENTATIVE'S OPERATIONS AT THE FACILITY, INCLUDING, BUT NOT LIMITED TO, ANY SPILLS OF CRUDE OIL THAT OCCUR DUE TO THE NEGLIGENCE OR MISCONDUCT OF CARRIER OR ANY CARRIER REPRESENTATIVE, OR THE USE OF ANY EQUIPMENT AT THE FACILITY BY CARRIER OR ANY CARRIER REPRESENTATIVE OR THE EXERCISE OF ANY OF THE RIGHTS GRANTED OR PERFORMANCE OF ANY OF THE OBLIGATIONS SET FORTH HEREIN BY CARRIER, EXCEPT TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN OPERATOR PARTY; AND (B) CARRIER AGREES TO INDEMNIFY, DEFEND AND HOLD EACH OPERATOR PARTY HARMLESS FROM AND AGAINST ANY AND ALL LOSSES IN ANY MANNER ARISING FROM ANY ACTUAL OR THREATENED POLLUTION OR CONTAMINATION OF SOIL, WATER OR AIR AND/OR NOISE POLLUTION, WHERE SUCH ACTUAL OR THREATENED POLLUTION OR CONTAMINATION, IN ANY MANNER, RESULTS FROM: (I) CARRIER'S OR ANY CARRIER REPRESENTATIVE'S OPERATIONS AT THE FACILITY OR USE OF ANY EQUIPMENT LOCATED AT THE FACILITY; (II) CARRIER'S OR ANY CARRIER REPRESENTATIVE'S EXERCISE OF ANY RIGHTS UNDER THIS AGREEMENT; OR (III) THE PERFORMANCE OF ANY OF THE OBLIGATIONS SET FORTH IN THIS AGREEMENT BY CARRIER OR ANY CARRIER REPRESENTATIVES, EXCEPT TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN OPERATOR PARTY.
9. Operator shall have the right to enjoy the Facility to the fullest extent, not inconsistent herewith. This Agreement is subject to all public and private rights to which Operator's rights and interest are subject and Operator makes no warranties or representations as to title to the Facility or prior encumbrances.
10. Carrier agrees to furnish, pay for and maintain during the term of this Agreement the following minimum insurance coverage's and limits (and such additional coverage's and limits as may be required by law): (a) workers' compensation insurance, including all such insurance as may be required by applicable state and Federal workers' compensation acts and such other acts as may be applicable to the activities of Carrier or any Carrier Representative, or Operator or any Operator Representative, as applicable, under this Agreement; (b) employers liability insurance with a limit of not less than \$1,000,000.00 per accident; (c) commercial general liability insurance for bodily

injury, property damage, and personal injury liability, on an occurrence form with a combined single limit of not less than \$1,000,000.00 per occurrence, \$2,000,000 aggregate annual, including contractual liability for the obligations assumed in this contract, products and completed operations, (d) business auto liability insurance for bodily injury and property damage with a combined single limit of \$1,000,000.00 per occurrence for owned, hired, or otherwise operated non-owned vehicles, in the form of a motor carrier or trucker's policy that contains MCS 90 coverage, and (e) umbrella or excess liability insurance for \$5,000,000 per occurrence and aggregate. The obligation to carry the insurance required by this Section 10 shall not limit or modify in any way any other obligations assumed by any party under this Agreement. Neither party shall be under any duty to advise the other party in the event that the insurance of the other party is not in compliance with this Agreement. ACCEPTANCE OF ANY INSURANCE CERTIFICATE SHALL NOT CONSTITUTE ACCEPTANCE OF THE ADEQUACY OF COVERAGE, COMPLIANCE WITH THE REQUIREMENTS OF THIS AGREEMENT, OR AN AMENDMENT TO THIS AGREEMENT.

11. Carrier shall, in addition to and without limitation of the requirements of anything contained herein, cause the insurance policies described in Section 10 (a), (b), (c), and (d), (e) to include Operator as an additional insured as to the liabilities assumed by Carrier herein and provide a waiver of subrogation in favor of the Operator. All insurance required hereunder and provided by Carrier shall be primary to any other insurance coverage of Operator, or its related insureds and shall apply and be in full force and effect regardless of other insurance. Carrier shall provide the Operator with certificates of insurance and evidence of additional insured endorsement within thirty (30) days from the effective date of this Agreement.
12. Carrier shall not discharge any products upon the Facility. In the event of any leakage or spillage caused by Carrier, Carrier will notify Operator immediately, and shall immediately begin "clean up", as directed by Operator including as may be required to satisfy relevant governmental agencies. Any notifications of regulatory agencies shall be sole province of Operator unless Carrier is required by law to make its own notification, in which case Carrier shall coordinate such notification in advance with Operator to the extent permissible.
13. Notices hereunder shall be sent by email, overnight courier or US Mail and shall be addressed to Operator or Carrier at the addresses noted hereinbefore, or as hereafter amended in writing. The date of postmark shall be the date of notice.
14. This Agreement shall be binding upon and inure to the benefit of Operator, Carrier and their respective successors and assigns. Carrier may not assign this Agreement nor grant any rights hereunder, without the express prior written consent of Operator, which consent shall not be unreasonably withheld.
15. This Agreement is governed by and shall be construed in accordance with the laws of North Dakota.

*[Signatures on Next Page]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year first written above.

OPERATOR:  
**LL Terminals, LLC**

CARRIER:  
\_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_