

## TERMINAL AGREEMENT - BARSTOW

THIS AGREEMENT, made and entered into the \_\_\_\_ day of \_\_\_\_\_, by and between **CALNEV PIPE LINE LLC**, a Delaware limited liability company (hereinafter, "Calnev"), and **«COMPANY»**, (hereinafter, "Customer") whose address is \_\_\_\_\_.

### RECITALS:

- A. Calnev operates a terminal at Barstow, California consisting of product storage tanks, truck loading racks, piping, vapor recovery (if applicable), and other facilities for the purpose of receiving, storing, handling, and loading of liquid petroleum products into tank trucks and trailers, such terminal being hereinafter referred to as the "Barstow Terminal".
- B. Customer desires to have petroleum products defined in Appendix A (hereinafter, "Product"), received by Calnev at the Barstow Terminal, stored, handled, and loaded into Customer's provided tank trucks and trailers at the Barstow Terminal.
- C. The provisions of this Agreement are intended by Calnev and Customer to be supplementary to and consistent with Cal. P.U.C. No. 10, Calnev Pipe Line Company Local Pipeline Tariff No. 2-H, or, upon cancellation of such tariff, superseding tariffs as may become effective from time to time. Calnev's effective tariff provisions shall be controlling in event of a conflict between any term of this Agreement and Calnev's effective tariff.

NOW, THEREFORE, it is agreed as follows:

### 1. TERMINAL FACILITIES

During the term hereof, Calnev shall provide and maintain at its Barstow Terminal, storage for Customer's Product. Such storage shall be provided in tanks designated by Calnev, at Calnev's sole discretion. Calnev shall also provide and maintain a truck loading rack facility. At all times during the term of this Agreement and any extensions thereof, Calnev shall, at its expense, keep and maintain said storage facilities in usable condition, allowing for normal repair and maintenance activities.

### 2. TERM

The initial term of this Agreement is for a period from \_\_\_\_ through December 31, \_\_\_\_, and then from year to year thereafter unless and until one party shall give the other party notice of termination at least ninety (90) days in advance of the annual anniversary date of this agreement. When this Agreement is terminated, Customer shall withdraw all Products from the Barstow Terminal within sixty (60) days of termination, or Calnev will remove Customer's Product at the Customer's expense.

If the Customer does not withdraw all Product within 60 (sixty) days of termination, Calnev may remove the Product at the Customer's expense. Calnev will have the right to sell the Product at Calnev's discretion. Customer will be reimbursed by Calnev according to fair market value, less Calnev selling expenses in addition to an overhead charge of 15% of the fair market value of the Product.

In order to assign the responsibility for removal of Product from the Terminal, Customer must inform the Calnev Barstow Terminal Manager, in writing, of the name of the Carrier that will be used to remove the remaining Product from the Terminal, and such Carrier must complete the Carrier Terminal Access Agreement, and all parts thereof, as set forth in Appendix D, prior to removal of the Product.

### **3. RATES AND PAYMENT**

Rates for terminal services shall be consistent with Cal. P.U.C. No. 10, Calnev Pipe Line Company Local Pipeline Tariff No. 2-H, or upon cancellation of such tariff, superseding tariffs as may become effective from time to time. Accessory Services or charges covered under this agreement are detailed in Appendix B.

Calnev shall submit an invoice to Customer showing the total barrels of Customer's Product received and delivered for which Calnev provided terminal services. Rules governing non-payment of said invoice shall be consistent with Cal. P.U.C. No. 10, Calnev Pipe Line Company Local Pipeline Tariff No. 2-H, Item 100 or upon cancellation of such tariff, superseding tariffs as may become effective from time to time.

All accessory charges are detailed in Appendix B (except for charges governed under Cal. P.U.C. No. 10, Calnev Pipe Line Company Local Pipeline Tariff No. 2-H or superseding tariffs). All charges (except for charges governed under Cal. P.U.C. No. 10, Calnev Pipe Line Company Local Pipeline Tariff No. 2-H, or superseding tariffs) will be annually escalated by the percentage increase change in the "Producer Price Index - Finished Goods" as published by the Bureau of Labor Statistics, U.S. Department of Labor ("PPI").

Starting on the first annual anniversary date of this agreement and continuing on each anniversary date thereafter, the multiplier ("Escalation Factor") for use in escalating the charges shall be determined by calculating the difference between the PPI's for the first month of any term and the last month of any term, and then dividing that difference into the PPI for the first month of such term. Example: Assume that the anniversary date of the contract is July 1, 1993, and that the PPI for July 1992 is 110.6 and the PPI for June 1993 is 116.0; the difference is 5.4, which when divided by 110.6 equals 0.049 rounded to three decimal places, which is used as the Escalation Factor.

#### **4. PROCEDURE**

(a) To the extent reasonable and practicable and when not prohibited by conditions or events beyond the control of Calnev, Calnev agrees to maintain the loading rack available for loading and shipping for Customer's account for twenty-four (24) hours a day, seven (7) days a week, including weekends and holidays. Customer shall provide and arrange for timely arrival of Customer's designated tank trucks and trailers. All loading of tank trucks and trailers shall be undertaken by drivers designated by Customer, and certified and approved by Calnev. Cardlock devices will be made available by Calnev for each meter spot, and cards provided to Customer and or Customer's designated carrier. Product withdrawal, truck dispatching, and Customer's internal accounting procedures shall be the sole responsibility of Customer.

(b) Customer expressly assumes all liability, including, but not limited to, liability for payment without offset as hereinabove provided, for all Product withdrawn by cards provided to Customer and their designated carriers, as provided in Appendix D of this Agreement. All compartment seals shall be provided by Customer. Calnev shall provide Customer with transaction reports through the mail, Monday through Friday (not including holidays) and a summary report at month end. If Customer would like to receive daily facsimile transmissions (Monday through Friday, not including holidays), Customer will be charged a monthly fee in accordance with Appendix B, Section 4 - Communication Charges. Customer generated bills of lading will be delivered by Customer to Calnev immediately after all Customer withdrawals.

(c) Tank truck drivers shall be responsible to perform truck loading operations. Each driver shall obtain a rack driver access card from Calnev as provided in the Carrier Terminal Access Agreement in Appendix D. It is the responsibility of the Customer or his designated carrier, provided Customer has assigned that responsibility to such Carrier in accordance with the provisions of Section 2 of this agreement, to ensure that the tank vehicle is in compliance with all applicable Department of Transportation regulations.

#### **5. MEASUREMENTS**

All measurements of Product pursuant to this Agreement shall be taken by Calnev and shall be based on United States gallons of 231 cubic inches, 42 gallons to the barrel, corrected to 60 degrees Fahrenheit, as per Table 6B ASTM 1250, or superseding issues. The quantities of Customer's Product received by Calnev at the Barstow Terminal shall be measured by meters, but in the event of an inbound meter failure, or operational inability to use the inbound meter, said quantities shall be measured by tank gauges. The quantities of Customer's Product loaded into tank trucks and trailers shall likewise be measured by meters. In the event of an outbound meter failure, or operational inability to use the outbound meter, said quantities shall be measured by tank truck sealed outage markers or charts. All meters and other gauging equipment owned or operated by Calnev shall be kept and maintained in good repair at Calnev's expense. Such equipment may be inspected, upon request, at reasonable times by an authorized representative of Customer. Customer shall have the

right to participate with Calnev in any measurement or calibration, but in the absence of such participation, the measurements or calibrations taken by Calnev shall be binding on both parties.

## **6. TITLE AND ASSESSMENTS**

Title to all Customer's Product received at the Barstow Terminal shall remain with Customer, and Customer shall be solely responsible for the payment of all property taxes, fees, or other charges and assessments of any kind which may be assessed or placed upon such Product. In addition, Customer shall pay all property taxes assessed against any property or equipment placed or installed upon the facilities by Customer. Custody of Products hereunder shall remain with Calnev from the time of delivery into Calnev tankage until Product passes through the outbound flange at the point of delivery.

Calnev will change title of Product between Customers upon receiving written notification of requested change by the current title holder. This written request is to be sent (facsimile transmission will also be accepted) to the Calnev Product Movement Supervisor at the Calnev Colton Terminal. See Appendix C for a Title Transfer Form to be used when completing such a transaction.

## **7. PRODUCT LIABILITY**

Calnev, its agents, servants, and employees shall at all times use reasonable care to preserve and to protect Customer's Product from damage or loss while such Product is in the custody of Calnev at the Barstow Terminal. Calnev's liability for the loss of Customer's Product is as set forth in Section 9 of this Agreement. Calnev's liability for damage to Customer's Product, while such Product is in the custody of Calnev at the Barstow Terminal, shall not exceed, under Section 104.7204 of the California Revised Statutes, an amount equal to the appropriate month's average Los Angeles prices reported on the PADD 4/5 report on the last Thursday of the closing month of this agreement as published in the Oil Price Information Service, or an equivalent publication that is mutually acceptable.

Notwithstanding anything to the contrary herein, Calnev will be liable hereunder only for loss or damage to Customer's Product and not for any special or consequential damages. Moreover, it is expressly agreed and understood that no liability shall accrue to Calnev under this Agreement as a result of the commingling of tankage, except as loss or damage to Customer's Product may occur due to Calnev's negligence. Calnev shall have no liability to Customer unless a written claim is delivered to Calnev by Customer within nine months after Product delivery. Customer shall make no deductions from any invoice presented by Calnev pending the resolution of any claim.

Calnev shall not be liable as an insurer of Customer's Product. If Customer desires to protect its Product against losses other than as herein expressly provided, Customer may, at its discretion, secure insurance or other suitable protection at its own expense. If Customer carries any insurance on Customer's Product, the Customer's insurance carrier shall endorse the policy to waive subrogation against Calnev. Copies of such endorsement shall be furnished to Calnev upon request.

## **8. RIGHT TO KNOW**

Calnev may have an obligation to furnish Product name and constituents of Products to governmental authorities and employees or others handling or exposed to the Products in connection with Right to Know laws of worker exposure regulations. Calnev may also have an obligation under applicable laws and regulations to furnish this information to the general public.

Customer agrees to furnish the common or chemical name of all Products, additives, and constituents of same to Calnev prior to Customer's Product entering the terminal so that Calnev can comply with such laws and regulations. Customer shall have the responsibility for filing and pursuing any exemption from disclosure pursuant to such laws and regulations which Customer may desire.

## **9. PRODUCT ACCOUNTING**

- (a) As soon as reasonably possible after the end of each calendar year or portion thereof, during or immediately following the term of this Agreement, Calnev shall account to Customer for all of Customer's product received at the Barstow Terminal pursuant to this Agreement during said calendar year. Subject to (b) below, Calnev shall be liable to Shipper, for all losses between the quantities of Shipper's product received at the Barstow Terminal and the quantities of product withdrawn from the Barstow Terminal by Shipper during such calendar year.
- (b) At the end of each month, but no later than the tenth working day after the end of the month, Calnev shall provide a summary of each grade and product receipts, deliveries and closing inventory. Product gain or loss shall be determined in the following manner: opening tank inventory plus stock receipts into tank, plus additive volumes injected upstream of the loading rack meter, less the sum of withdrawals through meters and closing tank inventory, equals gain or loss.
  - (i) If the monthly book inventory versus physical inventory results in a gain, that gain will be allocated back to Customer.
  - (ii) Except as set forth below, if the monthly book inventory versus physical inventory results in a loss, that loss will be allocated back to Calnev. However, Calnev shall not be responsible for a normal handling loss of up to one-eighth of one percent (0.125%) of all monthly receipts of petroleum distillate fuels and up to three-tenths of one percent (0.30 of 1%) of all monthly receipts for total gasoline volumes.
  - (iii) The aforesaid losses and gains shall be determined monthly and the total of such monthly losses and gains shall constitute the loss or gain for the calendar year involved. The closing inventory of one month shall be the opening inventory for the following month.
- (c) For each barrel of product lost after calculation of tolerance and adjustments as

indicated above, Calnev shall annually pay Customer an amount equal to the annual average of Los Angeles prices reported on the PADD 4/5 as unleaded regular for gasoline and EPA low sulfur diesel for diesel report on the last Thursday of the closing month of this agreement as published in the Oil Price Information Service, or an equivalent publication that is mutually acceptable. In the event that a Los Angeles price is not available, a settlement price will be based upon the Barstow area average annual rack price. Calnev shall, additionally, pay Customer for each barrel of product unaccounted for an amount equal to the simple average of the Calnev P.U.C. Tariff Fees (to Barstow) that had been in effect during the calendar year involved.

#### Maintenance of Equipment

All meters, provers and other gauging equipment owned and operated by Calnev shall be maintained in good working condition by Calnev, at Calnev's cost and expense. With reasonable advance notice, such equipment may be inspected and tested at any and all reasonable times, at Customer's sole cost and expense, by any duly authorized representative of Customer. Customer shall have the right to participate with Calnev in any measurement; but in the absence of such participation, the measurement taken by Calnev shall be binding upon both parties.

#### **10. NOTICES**

All notices to Calnev hereunder shall, until further notice by or on behalf of Calnev, be addressed to:

**CALNEV PIPE LINE LLC**  
1100 Town and Country Road  
Orange, CA 92868

ATTN: Director-Business Development  
Calnev FAX # (714) 560-6616

All notices to Customer hereunder shall, until further notice by or on behalf of Customer, be addressed to Customer at the following address:

«**COMPANY**»  
«**STREET**»  
«**CITY\_STATE\_ZIP**»

ATTN: «**ADDRESSEE**»

All notices shall be delivered personally, by courier service, by electronic communication, or by United States mail, properly addressed as aforesaid, postage fully prepaid. Unless otherwise specified herein, the date of service of such notice shall be the date so delivered.

## **11. ALTERATIONS**

Changes, additions, or modifications of Calnev's storage facilities may be requested by Customer. Such changes, additions, or modifications may be undertaken by Calnev with the entire cost thereof being borne and paid by Customer unless otherwise agreed by Calnev and Customer. Customer may not undertake any changes, additions or modifications in or to the Barstow Terminal unless the written permission of Calnev is first received.

## **12. PRODUCT QUALITY**

If Customer's Product is commingled in tankage with the Product of other Customers, Customer's Product will be commingled only with Product meeting like specifications. Calnev shall periodically conduct quality tests of Product entering commingled tankage, and Calnev shall periodically conduct quality tests of Product in such tankage. Calnev shall furnish Customer, upon request, with a copy of such quality tests as have been performed on Customer's Product. Frequency and distribution of said quality test results shall be at the discretion of Calnev. Customer has the right to independently sample and test Product in the tank at its sole expense. If the quality of the commodity does not meet the minimum specified standards, the Product shall not be delivered into commingled storage and Customer will be responsible for any costs associated with removal and disposition of said Product. Calnev may require that Customer provide written certification prior to receipt of Product into commingled storage, which shows that Product conforms with each of the specific requirements stated in Appendix A.

## **13. VAPOR PROCESSING**

Customer will be responsible for a loading rack vapor processing charge (in accordance with Appendix B, Section 1 - Vapor Processing) for all Products withdrawn from the loading racks.

## **14. NON-CONFORMANCE**

Customer shall be responsible for and shall indemnify Calnev against any damage to the Product of others resulting from failure of Customer's Product to conform to Calnev's specifications as provided in Appendix A of this Agreement, or subsequent revisions. If, due to non-conformance of Customer's Product to specifications, contamination of the Product of others occurs or the cleaning of the equipment and facilities is necessary, Customer agrees to immediately remove or cause to be removed at Customer's sole cost and expense, any and all contaminated Product, goods, material, or residue from the equipment and facilities.

**15. INDEPENDENT CONTRACTOR**

In performing services pursuant to this Agreement, Calnev is acting solely as an independent contractor maintaining complete control over its employees and operations. Calnev is not authorized to take any action in any way whatsoever for or on behalf of Customer, except as specified in this Agreement or in subsequent written communications between the parties.

**16. AUDIT**

Customer shall have the right to audit, upon written request, during ordinary business hours and at Customer's expense, the accounting records and other pertinent documents which relate to receipts, storage, or delivery of Customer's Products handled under this Agreement and to take physical inventory as may be required in Customer's opinion to verify the related inventory records. Calnev will retain these records and documents so as to be available to Customer for audit for a period of one (1) year from the date that the information, to which such documentation and records relate, is released to the Customer.

**17. EQUIPMENT AND FACILITY CLEANING**

If cleaning of the equipment or facilities associated with Customer's Product is necessary due to a change in the product to be stored or handled during the term of this Agreement, such change having been proposed by Customer and agreed to by Calnev, Customer shall reimburse Calnev for its direct cost plus reasonable administrative charges for collection and disposal of any remaining Product, slop material, or tank bottoms, and for cleaning or tank "degassing" of the equipment or facilities. It shall be Calnev's obligation to collect, store, and arrange for lawful disposal of any remaining Product, slop material, tank bottoms, and all waste material resulting from the cleaning operations.

**18. COMPLIANCE**

Calnev shall comply with all Federal, state, and local statutes, rules, and regulations, with respect to the maintenance, operation, and cleaning of Calnev's facilities in any way related to this Agreement. Calnev agrees to indemnify and hold harmless Customer, its employees, agents, and contractors from and against all fines, charges, or assessments including reasonable attorney's fees, caused by or resulting from violations of such statutes, regulations, rules or ordinances by Calnev except to the extent such fine, charge, or assessment is caused by Customer, its employees, agents or contractors. Customer agrees to indemnify and hold Calnev, its employees, agents and contractors harmless from and against all fines, charges, or assessments caused by or resulting from any violation of such statutes, regulations, rules or ordinances by Customer except to the extent that such fine, charge, or assessment is caused by Calnev, its employees, agents or contractors.



**19. FORCE MAJEURE**

Neither party shall be liable for any loss, damage, delay, or failure to perform in whole or in part hereunder, excepting the obligation of payment as provided herein, if such delay, loss, damage, or failure is caused by an Act of God, quarantine, authority of law, strike, riot, fire, flood, storm, earthquake, explosion, sabotage, insurrection, rebellion, war or act of the public enemy, or any order, requisition, or necessity of the government of the United States, or other cause beyond the control of the affected party whether or not similar to those enumerated above, all of which will be considered events of force majeure. It is understood and agreed that the settlement of strikes, lockouts, or differences with workers will be entirely within the discretion of the party having the difficulty. Notwithstanding anything to the contrary herein, during any period of force majeure, Calnev shall solely determine the amount of Customer's Product, if any, to be received and stored hereunder.

**20. ASSIGNMENT**

This Agreement shall be binding upon and may inure to the benefit of the parties hereto and their respective successors and assigns, provided, however, that neither party shall not assign this Agreement in whole or in part without first obtaining the written consent of the other party, which shall not be unreasonably withheld. Nothing in this Agreement shall be construed as a limitation of the right of Calnev to enter into similar or other agreements with other persons, firms, or corporations.

**21. HOLD HARMLESS AND INDEMNIFICATION**

Except as otherwise provided herein, Calnev shall indemnify and hold Customer harmless from and against all claims, losses, suits, liability and expense caused by or resulting from negligent or willful acts or omissions on the part of Calnev, its employees, agents or contractors in the performance of this agreement.

In consideration of Calnev permitting Customer, its employees, agents and invitees to enter upon the Terminal, Customer shall indemnify and hold Calnev harmless from and against all claims, losses, suits, liability and expense caused by or resulting from: (i) negligent or willful acts or omissions on the part of Customer, its employees, agents or contractors (including, by not limited to, any contractors transporting Product to or from the Terminal) in the performance of this Agreement, and; (ii) absolute or strict liability in tort due to no fault or negligence of Calnev arising in connection with the Product. In the event that any such claim, loss, suit, liability and expense is caused in whole or in part by the concurrent negligent or willful acts or omissions of Calnev, its employees, agents or contractors, and Customer, its employees, agents or contractors, then this obligation to indemnify shall be comparative and each party shall indemnify the other to the extent that such party's act or omission was the cause of such injury, damage or death.

In addition to the foregoing, but not by way of limitation, Customer agrees to provide at its expense or cause its carriers or Customers to provide and to keep in force during the term of this Agreement, Comprehensive General and Automobile Liability Insurance. For each policy there shall be a limit of not less than \$2,000,000 combined single limit per occurrence for bodily injury and property damage liability. Said policies shall include coverage for all liability assumed by Customer under the terms of this Agreement. Exclusion pertaining to property rented to, used by, in the care, custody or control of the Customer, its employees or agents or for which the Customer, its employees or agents are for any purpose exercising physical control shall be deleted from both the Comprehensive General and Automobile Liability policies. Customer agrees to furnish Calnev, upon request at any time, certificates of insurance listing all policies carried under the terms of this Agreement.

**22. TERMINAL ACCESS AGREEMENT**

Before requesting Calnev to permit a Carrier of Customer to enter upon the Terminal, Customer shall require such invitees or agent to execute and deliver to Calnev a Carrier Terminal Access Agreement in the form of attached Appendix D. Customer shall assist Calnev in applying Calnev rules, regulations, and instructions to Customer invitees at the Terminal as set forth in the Carrier Terminal Access Agreement and shall provide any requested assistance to Calnev to investigate theft of, loss of, or damage to, any commodity, property, material or equipment at the Terminal.

**23. INTEGRATION AND EXECUTION**

This Agreement, including the material contained in Appendix A covers the entire agreement of the parties in respect to the subject matter hereof. No prior agreement or agreements, or other statements to this Agreement, oral or written made prior to or at the signing hereof, shall vary or modify the written terms hereof unless specifically provided herein, and neither party shall claim any amendment or modification of any provision hereof unless such amendment or modification is in writing and signed by both parties hereto. Notwithstanding its execution by Customer, this Agreement shall not bind or create any obligation upon Calnev until so executed by a duly authorized representative of Calnev.

**24. AGREEMENT TITLES**

Titles used in this agreement are used for reference only, and are not a part of this agreement.

[SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF the parties have hereunto executed this Agreement as of the date first hereinabove written.

**CALNEV PIPE LINE LLC**

**«COMPANY»**

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

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

Title: **Director-Business Development**

Title: \_\_\_\_\_

Print Name Signed: **Janet Torrices**

Print Name Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix A

### **APPENDIX A**

Product specifications of products delivered to CALNEV'S Barstow terminal in California are as outlined in Kinder Morgan's Pacific Operations Pipeline Products Specification Manual (latest edition). The latest edition of Kinder Morgan's Pacific Operations Pipeline Products Specification Manual can be accessed online at Kinder Morgan's website ([www.kindermorgan.com](http://www.kindermorgan.com)) or may be obtained from Kinder Morgan's Products Movements, Quality Control Manager.

**APPENDIX B**

**RATE SCHEDULE**

Rates for terminal services shall be consistent with Cal. P.U.C. No. 10, Calnev Pipe Line Company Local Pipeline Tariff No. 2-H, or upon cancellation of such tariff, superseding tariffs as may become effective from time to time. Accessory Services or Charges covered under this agreement are as follows:

<u><b>SERVICE</b></u>	<u><b>RATE</b></u>
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Section 1.

Vapor Processing Charges	<u>No Charge</u>	(Calculated on barrels withdrawn at the rack)
(See Item 13, Vapor Processing)		

Section 2.

Daily Activity Mailing	<u>No Charge</u>
(See Item 4, Procedure)	

Communication Charges	<u>\$XXX.XX per month</u>
(See Item 4, Procedure)	

Electronic Data Transfers - (EDT)

EDT - Invoices	<u>Not Available</u>
EDT - Statements	<u>Not Available</u>
EDT - Reports	<u>Not Available</u>

Electronic Fund Transfers	<u>Not Available</u>
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Section 3.

Additive Maintenance	Covered under Separate Contract
Additive Injection	Covered Under Separate Contract

**APPENDIX C**

**TITLE TRANSFER FORM**

This request is for a title change for Product located at a terminal within the Calnev System. Please make the title adjustment according to the information detailed below.

Product stored at Calnev Terminal:(Circle one)

Barstow

Las Vegas

Current Title Holder:

Customer: \_\_\_\_\_

Authorized Party (Print Name and Title)

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Product Information:

Product Identification Number: \_\_\_\_\_

Volume: \_\_\_\_\_

Tender Number: \_\_\_\_\_

Date transfer is to be completed: \_\_\_\_\_

New Title Holder:

Carrier: \_\_\_\_\_

Carrier Contact Name: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

Please mail or send facsimile transmission to Calnev Product Movement Supervisor, Phone: (909) 387-9521  
FAX (909) 387-9542

## APPENDIX D

### CARRIER TERMINAL ACCESS AGREEMENT

IN CONSIDERATION OF CALNEV PIPE LINE COMPANY granting to the undersigned carrier ("Carrier") the privilege of access to the Calnev Terminal located in Barstow, California ("Terminal"), and permission for our representatives to perform loading operations thereon and all acts incidental thereto in accordance with Calnev rules, regulations, and instructions, set forth in "Instructions to Drivers for Loading and Unloading", receipt of copies of which is hereby acknowledged by the Carrier (and in accordance with any modifications or additions to the same which may hereafter be furnished Carrier, or posted at the Terminal), the Carrier hereby agrees to indemnify Calnev as follows:

Carrier shall indemnify and hold Calnev harmless from and against all claims, losses, suits, liability and expense caused by or resulting from (I) negligent or willful acts or omissions on the part of Carrier, its employees, agents or contractors (including, but not limited to, any contractors transporting commodities to or from the Terminal) in the performance of this Agreement; (ii) the concurrent negligent or willful acts or omissions of Calnev, its employees, agents or contractors, and Carrier, its employees, agents or contractors; and (iii) failure of equipment of Carrier, its employees, agents or contractors. Calnev shall indemnify and hold Carrier harmless from and against all claims, losses, suits, liability and expenses which are caused by or result from the sole negligent or willful acts or omissions of Calnev, its employees or agents.

In addition to the foregoing but not by way of limitation, Carrier agrees to provide at Carrier's expense and to keep in force during the term of this Agreement, Workers' Compensation and Employers' Liability (\$1,000,000/accident), Comprehensive General and Automobile Liability Insurance, each policy having a limit of not less than \$1,000,000 per occurrence combined single limit bodily injury and property damage liability. Said policies shall include coverage for all liability Carrier assumes under the terms of this Agreement. Any exclusion pertaining to property rented to, used by, in the care, custody or control of Carrier, its employees or agents or for which the Carrier, its employees or agents are for any purpose exercising physical control shall be deleted from any policies having same.

At the time of execution of this Agreement, Carrier will furnish an insurance certificate or certificates on forms satisfactory to Calnev evidencing the coverage required above and providing that no insurance will be canceled without thirty (30) days prior written notice to Calnev. Certificates providing evidence of renewal of coverage shall be furnished prior to policy expiration. Failure to enforce this provision shall not be considered as waiving the insurance required herein.

A security card system is used at the Terminal. A terminal access card shall be issued to truck drivers designated by Carrier when the driver is satisfactorily trained and qualified by the Terminal Manager or his designee. Carrier takes full responsibility for its designated driver's actions. Carrier shall be liable for any Commodity taken from the Terminal when a security card issued to one of his designated drivers is used in obtaining the Commodity at the Terminal whether such taking of Commodity was authorized specifically by Carrier or not. Carrier agrees that custody of the Commodity loaded passes to Carrier at the point where it leaves the loading spout at the Terminal truck loading rack. Carrier assumes responsibility for Commodity quality beyond that point, should it differ from the Commodity quality of the sample taken from the tank delivering Commodity to that loading spout.

CARD ISSUANCE DATE: \_\_\_\_\_

Name of Calnev Trainer: \_\_\_\_\_

Name of Calnev Personnel Issuing Card: \_\_\_\_\_

\_\_\_\_\_  
Name of Carrier

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or type name and title



**CARRIER REQUEST FOR CARD**

It is requested that a terminal access card for loading operations, as set forth in the Carrier Terminal Access Agreement between Calnev Pipe Line Company ("Calnev") and the undersigned carrier ("Carrier") be issued to driver named below ("Driver") as employee and representative of Carrier. By this request, Carrier does hereby acknowledge that Driver is bound by the terms of the attached receipt to which his signature is affixed.

Carrier agrees to notify Calnev immediately in the event that the Driver is terminated from Carrier's employment, misplaces or loses the card, is transferred, or for any reason has no immediate need for the card in the performance of driver loading, and to cause said card to be returned to the Terminal Manager or his designee.

If the card has not been used within a 30 day period, it may be removed from Calnev's Computer and the card picked up from Driver at the discretion of Calnev or the Terminal Manager. Driver must then be recertified by the Terminal Manager or his designee before Terminal loading privileges are granted or reinstated.

Carrier takes full responsibility by Driver's actions and Carrier is liable for and will be invoiced directly for unauthorized Products taken from the Terminal whenever a card issued to Driver was used in obtaining Product.

\_\_\_\_\_  
Print or Type Name of Carrier

\_\_\_\_\_  
Signature of Carrier's Employee or Representative

\_\_\_\_\_  
Print or Type Name and Title of Signatory for Carrier

\_\_\_\_\_  
Carrier's Phone Number

\_\_\_\_\_  
Print or Type Name of Driver

\_\_\_\_\_  
Date Signed

**CARD RECEIPT AND DRIVER AGREEMENT**

I, \_\_\_\_\_ (driver), employed by and acting as a representative of \_\_\_\_\_ (Carrier) have received Terminal Access Card numbered \_\_\_\_\_, for access to the Product metering and loading facility at the Calnev Barstow Terminal. I have received, read, understand and will follow the instructions entitled "Instructions to Drivers for Terminal Loading". I further agree to follow any alterations or additions to these instructions which may hereafter be furnished me or posted at the Terminal. It is further agreed that the card issued to me will be used only for withdrawal of petroleum Products from said terminal in accordance with the loading instructions mentioned herein. I assume full responsibility for the custody of the card and do hereby agree that no other person shall have access to it, and in the event I am transferred, separated from employment by Carrier or for any reason have no immediate need for the card in the performance of loading operations, I will promptly return the card to the Terminal. Under no conditions will the card for which receipt is hereby acknowledged, be duplicated.

I understand that the access to the aforementioned terminal is discretionary with \_\_\_\_\_ (Carrier), and that such grant may be removed by Calnev Pipe Line Company at any time.

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Signature of Driver

\_\_\_\_\_  
Home Address

\_\_\_\_\_  
Home Phone Number

\_\_\_\_\_  
Operator's License Number/State