

## **CONFIDENTIALITY AGREEMENT**

This **CONFIDENTIALITY AGREEMENT** (the "Agreement"), dated \_\_\_\_\_, 2015 (the "Effective Date"), is between Alpha Crude Connector, LLC, a Delaware limited liability company ("Carrier"), with its principal office at 4200 E. Skelly Drive, Suite 400, Tulsa, Oklahoma 74135, and \_\_\_\_\_, a \_\_\_\_\_ ("Customer") with its principal office at, \_\_\_\_\_, \_\_\_\_\_.

**WHEREAS**, Carrier is engaged in an open season whereby Carrier proposes to, subject to receiving sufficient commitments, provide transportation services to shippers on certain of its pipeline(s), as such pipeline(s) are described in Carrier's "Alpha Crude Connector Pipeline" open season; and

**WHEREAS**, Customer may be receiving from Carrier or its manager, officers, directors, agents, employees, affiliates or representatives, including advisers and legal counsel (collectively, "Representatives") information of a confidential and non-public nature for use by Customer and its employees in connection with a potential transaction (the "Transaction"), and the parties desire to protect the confidentiality of such information in accordance with the terms of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants contained in this Agreement, the parties hereby agree as follows:

**1. Confidential Information Defined.** In connection with the Transaction, Customer may receive certain non-public and confidential information from Carrier or its Representatives, including but not limited to (i) information, documents and/or data which may include, without limitation, technical and financial information or market projections, disclosed to Customer by Carrier before or after the Effective Date in connection with the Transaction, and (ii) all memoranda, summaries, samples, notes, analyses, compilations, studies, or other documents prepared by Customer or its employees which contain, reflect, or are derived from such information and data described in (i). All such non-public and confidential information thus supplied, whether in writing or orally, is hereinafter called the "Confidential Information".

**2. Nondisclosure and Related Obligations.** During the Term, Customer shall keep the Confidential Information confidential, not disseminate it or in any way disclose it to any third party, and not use it for anything other than the Transaction. Notwithstanding the foregoing, Customer may disclose Confidential Information to its employees, to the extent that such employees have a need to know such information in connection with the Transaction, but only after each such person shall have been informed of the confidential and proprietary nature of the Confidential Information and shall have agreed to comply with the terms of this Agreement. Customer shall cause each such employee to so comply with the terms of this Agreement and Customer shall be responsible for the disclosure or use of the Confidential

Information or other actions or inactions regarding the Confidential Information taken or omitted to be taken by its employees in violation of this Agreement as if such employees were parties to this Agreement. Customer agrees Carrier shall have no responsibility or liability to Customer or any of Customer's employees or other persons or parties acting under or through Customer resulting from the selection or use of the Confidential Information by Customer or such other persons or parties acting under or through Customer (including, without limitation, such selection or use as Customer or Customer's employees may deem necessary in order to determine whether to consummate a Transaction). CUSTOMER AND CUSTOMER'S EMPLOYEES RELEASE CARRIER AND ITS REPRESENTATIVES FROM ANY LIABILITY WHATSOEVER WITH RESPECT TO THE SELECTION, USE OF OR RELIANCE UPON THE CONFIDENTIAL INFORMATION BY CUSTOMER OR ITS EMPLOYEES.

**3. Exceptions to Confidentiality.** (a) This Agreement imposes no obligation upon Customer with respect to any Confidential Information disclosed under this Agreement that:

- (i) Customer can demonstrate by prior written documentation that such information was already in Customer's possession prior to the Effective Date (other than via disclosure from Carrier or its Representatives) and was not known by Customer to be subject to an obligation of secrecy;
- (ii) is or becomes a matter of public knowledge through no fault or violation of Customer; or
- (iii) is rightfully received by Customer from a third party who is not under a duty of confidentiality to Carrier.

provided that Customer shall have the burden of demonstrating the applicability of the exceptions set forth in clause (iii).

(b) Customer may disclose Confidential Information to agencies of federal, state and local governments to the extent such disclosure is required by applicable, final, non-appealable order, law, rule (including any stock exchange rule), regulation or legal process; *provided however*, that, to the extent practicable, Customer shall (i) give prompt written notice (but in no event less than five (5) business days prior to the date of required disclosure) of any such request for such information to Carrier, (ii) cooperate with Carrier to the extent permissible, to challenge the request or limit the scope thereof, as Carrier may reasonably deem appropriate, (iii) take reasonable measures to ensure the security and confidential treatment of the Confidential Information which must be disclosed, and (iv) in the event Carrier is unable to obtain a protective order or other appropriate remedy, disclose only that portion of the Confidential Information which Customer is advised by counsel that it is legally obligated to disclose. In matters covered by the preceding sentence, Customer shall be entitled to rely on the written advice of its legal counsel.

**4. Non-Disclosure of Transaction; Contacts.** In addition, without the prior written consent of Carrier, Customer will not, and its employees will not, disclose to any person either the fact that (i) the Confidential Information has been made available to Customer or (ii) discussions or negotiations are taking place concerning a possible Transaction or any of the

terms, conditions or other facts with respect to any such possible Transaction, including the status thereof. Further, without the prior written consent of Carrier, Customer will not, and its Representatives will not, approach any past or present employee of Carrier or the customers, suppliers, or competitors of Carrier to discuss any potential Transaction or to obtain information concerning Carrier.

**5. No Representations or Warranties.** . All disclosures made hereunder are at the sole discretion of Carrier. All Confidential Information is provided “AS IS” and without any warranty, express or implied or otherwise, regarding such Confidential Information’s accuracy or performance. CARRIER MAKES NO EXPRESS WARRANTY, AND DISCLAIMS ALL IMPLIED WARRANTIES, WITH RESPECT TO THE CONFIDENTIAL INFORMATION, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES AS TO THE QUALITY, ACCURACY OR COMPLETENESS OF THE CONFIDENTIAL INFORMATION. NEITHER CARRIER NOR ITS REPRESENTATIVES SHALL BE LIABLE TO CUSTOMER OR ANY OTHER PERSONS IN CONTRACT, TORT OR SECURITIES LAWS OR OTHERWISE AS A RESULT OF USE OF THE CONFIDENTIAL INFORMATION. CUSTOMER AGREES THAT IT SHALL NOT RELY UPON THE CONFIDENTIAL INFORMATION WITHOUT SATISFYING ITSELF AS TO ITS ACCURACY AND COMPLETENESS AND THAT CUSTOMER SHOULD MAKE AN INDEPENDENT VERIFICATION THEREOF.

**6. Return of Information.** Within fifteen (15) days after either a written request by Carrier or the expiration of the Term, whichever occurs first, Customer shall, and shall cause its employees to, return to Carrier all copies of the Confidential Information, including without limitation internal materials containing Confidential Information such as, for example, credit requests, approval papers and analyses that were prepared in connection with the Transaction. Notwithstanding the return of the Confidential Information, Customer and its employees shall continue to be obligated by the terms of this Agreement.

**7. Term.** Customer’s obligations with respect to the Confidential Information received under this Agreement expire on the earlier of (a) the second anniversary of the Effective Date or (b) the execution of a definitive agreement containing confidentiality provisions between the parties in connection with the Transaction (the “Term”).

**8. No Business Arrangement.** Other than with respect to the rights and obligations expressly set forth herein, no contract or agreement providing for any business arrangement among the parties or their Representatives by virtue of this Agreement or the providing of Confidential Information pursuant thereto will be deemed to exist unless and until a definitive agreement has been executed and delivered by the parties. Furthermore, unless and until a definitive agreement is executed by an authorized representative of each party having the express authority to bind such party, neither party nor any of their Representatives will have any obligation of any kind whatsoever with respect to any such business arrangement, including, without limitation, an obligation to negotiate in good faith towards a definitive agreement, by virtue of this Agreement or any other written or oral expression with respect to such transaction,

except for the matters specifically addressed in this Agreement. For purposes of this Agreement, “definitive agreement” does not include a non-binding executed letter of intent or any other preliminary written agreement.

**9. Remedies; Third Parties.** Customer recognizes and acknowledges the substantial competitive advantage created by and/or arising from the Confidential Information, the confidential and secret nature of the Confidential Information and the damage that will result to Carrier if information contained therein is disclosed or used in violation of this Agreement. Additionally, to the extent any of the Confidential Information is available to the public, Customer recognizes and acknowledges the compilation of such information would only be possible at considerable expense to Customer or a third party. Customer further recognizes and acknowledges that Carrier will be irreparably injured by any unauthorized disclosure or attempted disclosure of the Confidential Information or any other breach of this Agreement by Customer, and that Carrier will be entitled, without the posting of a bond or other security, to equitable relief, including, without limitation, injunctive relief and specific performance, in the event of any such unauthorized disclosure or attempted disclosure or other breach of the provisions of this Agreement. Such remedies will not be deemed to be the exclusive remedies for a breach of this Agreement by Customer but will be in addition to all other remedies available at law or in equity and nothing herein will be deemed to limit any remedies of Carrier for the breach of this Agreement. Should litigation be instituted to enforce any provision hereof, the prevailing party will be entitled to recover all costs, including reasonable legal fees, cost of investigation and cost of settlement.

**10. Property Rights.** The Confidential Information, and all copies, reproductions, and summaries thereof, shall remain the exclusive property of Carrier or the third party from which Carrier licensed the Confidential Information.

**11. Notice.** All notices under this Agreement shall be in writing and shall be deemed given (i) when delivered personally by hand (with written confirmation of receipt) or delivered by email, (ii) one business day following the day sent by overnight courier (with written confirmation of receipt), or (iii) three (3) days after deposit with United States Mail if sent by registered or certified mail, return receipt requested, in each case to the following addresses set forth for the applicable party (or to such other address as a party may have specified by notice given to the other party pursuant to this provision):

If to Carrier:                      Alpha Crude Connector, LLC  
Attn:  
4200 E. Skelly Drive, Suite 400  
Tulsa, Oklahoma 74135  
Email:

If to Customer:                      \_\_\_\_\_  
Attn: \_\_\_\_\_

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Email:

Each party may change its contact information by notice to the other party in accordance with the terms hereof.

**12. Waiver and Amendment; Assignment.** This Agreement may not be amended or waived except by written instrument executed by Carrier and Customer. The waiver by a party of, or consent by such party to, a breach, of any provision of this Agreement by the other party shall not operate or be construed as a waiver of, consent to, or excuse of any other or subsequent breach by the other party. Carrier may assign or otherwise transfer its rights in this Agreement to any third party without the consent of any party to this Agreement. Customer may not assign or otherwise transfer its rights or obligations under this Agreement to any other person without the prior written consent of Carrier, which may be withheld in Carrier's sole discretion, provided, however, Customer may assign its rights and obligations under this Agreement to a successor to all or substantially all of its business or assets, subject to the next sentence. This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns, including, without limitation, any successor to either party of substantially all of their assets or business by merger, consolidation, purchase of assets, purchase of stock or otherwise; provided, however, Customer shall not be relieved of its obligations under this Agreement by any such transfer, and nothing in this Section shall be deemed to permit Customer to disclose the Confidential Information to any third party in violation of this Agreement by virtue of the assignment of any of its rights or obligations herein. In the event that Customer or any of its Representatives is a party to any other confidentiality agreement(s) with Carrier with regard to the Confidential Information, and except as specifically set forth in this Agreement, nothing in this Agreement shall be deemed to modify, waive, terminate or extend such other confidentiality agreement.

**13. Miscellaneous.** This Agreement is made under, and shall be construed and enforced in accordance with, the laws of the State of Oklahoma. Should litigation be instituted to enforce any provision hereof, the prevailing party will be entitled to recover all costs, including reasonable legal fees, cost of investigation and cost of settlement. If any one or more provisions of this Agreement are determined to be invalid, illegal or unenforceable in any respect, the remaining provisions of this Agreement shall remain in effect and shall not be affected by such invalidity, illegality or unenforceability. This Agreement (a) constitutes the entire agreement of the parties with respect to the subject matter and supersedes any prior agreement or understanding with respect to the subject matter hereof and (b) may be executed in counterparts.

[Signature page follows.]

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the Effective Date.

Customer

Carrier

\_\_\_\_\_

**Alpha Crude Connector, LLC**

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

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