IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
BANKRUPTCY DIVISION
ST. CROIX, VIRGIN ISLANDS

In re:	)	
	)	Chapter 11
HOVENSA L.L.C.,	)	
	)	Case No. 1:15-bk-10003-MFW
Debtor.	)	

DEBTOR'S MOTION FOR ENTRY OF ORDERS (A)(I) ESTABLISHING BIDDING PROCEDURES RELATING TO THE SALE OF THE DEBTOR'S ASSETS, INCLUDING APPROVING BREAK-UP FEE AND EXPENSE REIMBURSEMENT, (II) ESTABLISHING PROCEDURES RELATING TO THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, INCLUDING NOTICE OF PROPOSED CURE AMOUNTS, (III) APPROVING FORM AND MANNER OF NOTICE RELATING THERETO, AND (IV) SCHEDULING A HEARING TO CONSIDER THE PROPOSED SALE; (B)(I) APPROVING THE SALE OF THE DEBTOR'S ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS, AND (II) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (C) GRANTING RELATED RELIEF

TABLE OF CONTENTS

Page

TABLE OF CONTENTS
(continued)

Page

TABLE OF AUTHORITIES

Page(s)

CASES

STATUTES

OTHER AUTHORITIES

HOVENSA L.L.C., as debtor and debtor-in-possession in the above-captioned chapter 11 case (the "Debtor"), respectfully represents:

PRELIMINARY STATEMENT[1]

1. The goal of this chapter 11 case is simple: to consummate a sale of the Debtor's assets that will maximize recoveries for all of the Debtor's stakeholders and, at the same time, promote the best interests, both economic and environmental, of the United States Virgin Islands (the "USVI") and its residents. The relief requested herein will benefit all of the Debtor's creditors and other stakeholders, including most notably the Government of the Virgin Islands (the "GVI"). Moreover, the relief requested herein will ensure that the Debtor's facility remains a vital part of the St. Croix economy as a business, employer, and taxpayer. For these reasons, and the reasons discussed below, the Motion should be granted, and the Debtor should be authorized to implement the fair and reasonable Bidding Procedures to obtain the highest and best offer for the Debtor's assets.

2. As detailed in the *Certification of Thomas E. Hill in Support of Chapter 11 Petition and First Day Motions*, which has been filed with the Court concurrently herewith (the "Hill Certification"), the Debtor, with the assistance of its advisors, considered all strategic options and concluded that a sale in accordance with the Bidding Procedures set forth herein is the best way to maximize the value of the Debtor's assets and yield the greatest recovery for creditors. The Debtor, with the assistance of its proposed investment banker, Lazard Frères & Co. LLC ("Lazard"), seeks to successfully conclude the global marketing process for the Debtor's assets that began over one and a half years ago, which will fulfill the Debtor's goals of

[1] Capitalized terms used but not otherwise defined in this Preliminary Statement have the meanings ascribed to such terms elsewhere in this Motion or in the Bidding Procedures, as applicable.

generating significant proceeds for distribution to creditors and keeping a valuable employer and taxpayer in the USVI.

3. As a result of Lazard's extensive marketing efforts,[2] on September 4, 2015, the Debtor executed an agreement (the "Stalking Horse Agreement") with Limetree Bay Holdings, LLC ("Limetree Bay" or the "Stalking Horse Bidder")[3] for the purchase of the Debtor's crude oil and product storage and terminalling business (the "Terminal Assets"). The Stalking Horse Agreement contemplates a purchase price of $184 million for the Terminal Assets,[4] subject to adjustment, and reflects Limetree Bay's agreement to act as a stalking horse purchaser in a Court-supervised bidding and auction process. Although the Stalking Horse Agreement contemplates a sale of only the Terminal Assets, the Debtor will consider bids for any portion or all of its assets in order to maximize value for the estate and its stakeholders. The Debtor has retained sufficient flexibility in the Bidding Procedures to do so.

---

[2] Lazard's pre-petition marketing and negotiation efforts are detailed in the *Declaration of Andrew Chang in Support of Debtor's Motion For Entry Of Orders (A)(I) Establishing Bidding Procedures Relating to the Sale of the Debtor's Assets, Including Approving Break-Up Fee and Expense Reimbursement, (II) Establishing Procedures Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, Including Notice of Proposed Cure Amounts, (III) Approving Form and Manner of Notice Relating Thereto, and (IV) Scheduling a Hearing to Consider the Proposed Sale; (B)(I) Approving the Sale of the Debtor's Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests, and (II) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (C) Granting Related Relief* attached hereto as **Exhibit C** and incorporated herein by reference (the "Chang Declaration").

[3] Limetree Bay is an affiliate of ArcLight Capital Partners, LLC.

[4] The Stalking Horse Agreement also contemplates a sale of six (6) tug boats owned by HOVIC for a purchase price of $6,000,000. If the sale is approved by the Court and ultimately consummated by the parties, the tug boat proceeds will be distributed directly to HOVIC.

RELIEF REQUESTED

4. By this motion (the "Motion"), the Debtor seeks entry of an order (the "Bidding Procedures Order"), substantially in the form attached hereto as **Exhibit A**, pursuant to sections 105, 363, 365, 503, and 507 of title 11 of the United States Code (the "Bankruptcy Code"), rules 2002, 6004, 6006, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and rules 6004-1 and 6006-1 of the Local Bankruptcy Rules of the District Court of the Virgin Islands, Bankruptcy Division (the "Local Rules"): (a) approving the proposed auction and bidding procedures attached hereto as **Exhibit B** (the "Bidding Procedures"), including approval of the Break-Up Fee and the Expense Reimbursement (as such terms are defined below) as allowed administrative expenses with priority pursuant to sections 503(b) and 507(a)(2) of the Bankruptcy Code over all other administrative expense claims of the Debtor, but junior in priority to any super-priority administrative expense claim granted to, or on behalf of, the lenders in connection with any debtor-in-possession financing approved by the Court; (b) establishing procedures for the assumption and assignment of executory contracts and unexpired leases, including notice of proposed cure amounts (the "Assumption and Assignment Procedures"); (c) approving the form and manner of notice of all procedures, protections, schedules, and agreements; and (d) scheduling a hearing (the "Sale Hearing") to approve the sale transaction (the "Sale Transaction").

5. Further, the Debtor also hereby moves the Court, pursuant to sections 105, 363, 365, and 503 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, and 6006, and Local Rules 6004-1 and 6006-1 for entry of an order (the "Sale Order"):[5] (a) approving the sale of the Debtor's assets free and clear of all liens, claims, interests, and encumbrances ("Interests");

[5] The proposed form of Sale Order will be filed with the Court no later than the hearing to approve the Bidding Procedures.

(b) authorizing the assumption and assignment of certain executory contracts and unexpired leases; and (c) granting related relief.

JURISDICTION AND VENUE

6. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b).[6] Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

7. On the date hereof (the "Petition Date"), the Debtor filed a voluntary petition in this Court for relief under chapter 11 of the Bankruptcy Code. The Debtor is managing and operating its business as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory creditors' committee has been appointed in this chapter 11 case.

8. Information regarding the Debtor's business operations, its assets and liabilities, and the circumstances leading to the commencement of this chapter 11 case is set forth in the Hill Certification, which is incorporated by reference herein.

THE PROPOSED SALE

A. The Debtor's Initial Marketing Efforts

9. As set forth in detail in the Hill Certification, the Debtor is the owner/operator of an oil refinery and the owner/operator of a storage terminal facility business located on the island of St. Croix, USVI. Historically, the Debtor's principal operations were as a refinery, and the Debtor primarily used the storage facility to store its own crude oil, pre-refining, and refined

[6] To the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution, the Debtor consents to the entry of a final order by the Court in connection with this Motion.

products. In 2010, however, the Debtor began leasing some of its storage tanks to third parties as an alternative revenue source. Having experienced approximately $1.3 billion in financial losses between 2009 and 2011, the Debtor idled some of its refinery operations in 2011 and its remaining refinery operations in February 2012, but continued to operate its storage terminal business until February 2015.

10. Immediately after the idling of the refinery, the Debtor approached the GVI and proposed certain amendments to the concession agreement between the Debtor, HOVIC, PDV-VI, and the GVI (as amended, the "Concession Agreement") intended to facilitate operations as a storage terminal and to allow the Debtor to continue as a more profitable enterprise while maintaining its status as a valuable employer and taxpayer in the USVI. Former Governor de Jongh, Jr. rejected this request. Instead, he insisted that the Debtor either operate the refinery or conduct a sale process to sell the business to a purchaser that would engage in refinery operations. On April 3, 2013, the Debtor ultimately agreed to enter into the Fourth Amendment to the Concession Agreement (the "Fourth Amendment") pursuant to which the Debtor was permitted to operate its oil storage business while it undertook a marketing and sale process for the refinery and related business.

11. The Fourth Amendment also required the Debtor to engage an investment banker to manage the marketing and sale process of the Debtor's assets. In furtherance thereof, on November 12, 2013, the Debtor engaged Lazard to conduct the marketing and sale process. Under the Fourth Amendment, the sales process period was to expire on August 15, 2014, but continued through the end of the year, when, as discussed below, the former Senate of the USVI Legislature (the "USVI Senate") effectively rejected the proposed sale of the refinery.

12. As set forth in the Chang Declaration, in order to capture a wide group of potential buyers, Lazard marketed the refinery through it's New York City, Houston, and Paris offices and contacted a total of 142 parties during the initial marketing process. Through its extensive efforts, Lazard identified potential viable buyers that initially expressed interest in purchasing all of the Debtor's assets, but only two submitted preliminary bids. Lazard held discussions with the two bidders in an effort to have them improve their preliminary bids, but one of the bidders failed to submit a final bid.

13. The Debtor subsequently engaged in negotiations with the remaining bidder, Atlantic Basin Refining ("ABR"), a newly formed consortium, and was able to negotiate a substantially final form of a purchase and sale agreement with ABR. The GVI and ABR still needed to complete negotiations on an operating agreement governing the rights and obligations of the parties with respect to ABR's planned operation of the Debtor's refinery following its purchase. To this end, the GVI and ABR separately negotiated and executed an operating agreement, dated October 29, 2014 (the "ABR Operating Agreement"), which remained subject to ratification by the USVI Senate. The ABR Operating Agreement contemplated, among other things, a substantial series of fixed and variable payments to the GVI and a commitment by ABR as the new operator to reconfigure, reconstruct, and restart the refinery.

14. As part of the contemplated sale transaction with ABR (the "ABR Sale Transaction"), ABR would have been required to pay the USVI $40 million in respect of the DPNR Settlement Agreement and the PBGC $26 million in respect of pension fund obligations. In addition to satisfying certain of the Debtor's third-party claims, the ABR Sale Transaction would have ensured the continued supply of refined products at competitive prices to the USVI, as well as significant employment opportunities for the local population. However, the former

USVI Senate rejected the proposed ABR Operating Agreement, which effectively rejected the ABR Sale Transaction on December 19, 2014 by a vote of 13-2.

B. The Debtor's Terminal Marketing Efforts and Execution of Stalking Horse Agreement

15. Even after the Senate's rejection of the proposed ABR Operating Agreement, HOVENSA continued its efforts to market and sell its assets to realize the highest value for the estate, preserve and create jobs, continue environmental compliance, support the USVI tax base, and satisfy HOVENSA's obligations to its creditors and stakeholders. HOVENSA believed, and continues to believe, that a sale of the Terminal Assets would be in the best interests of HOVENSA's stakeholders, and, to that end, instructed Lazard to undertake another full sale and marketing process. The Debtor instructed Lazard to undertake another full sale and marketing process, which began in April 2015 and focused on selling the Terminal Assets in addition to the refinery assets. Lazard began to reach out to potential purchasers who had expressed interest in HOVENSA's Terminal Assets and focused the marketing process on selling the Terminal Assets, in addition to the refinery assets. Lazard contacted 32 potential purchasers, 17 of which executed a non-disclosure agreement and received access to a virtual data room to conduct due diligence, and 11 of which conducted site visits of the facility.

16. As a result of these marketing efforts, the Debtor received 4 preliminary bids in May 2015. Since May, the Debtor and its professional advisors have been engaged in further discussions with the potential purchasers regarding the terms of a purchase agreement and other ancillary agreements, remaining legal and financial due diligence necessary to consummate a transaction, and the process for negotiating an operating agreement with the GVI. Additionally, to facilitate these continued negotiations and the diligence process, HOVENSA's two joint

venture partners each loaned $5 million to HOVENSA on an unsecured basis in order to provide HOVENSA with additional liquidity and runway to get to a finalized asset purchase agreement.

17. Ultimately, these negotiations resulted in the Debtor's execution of the Stalking Horse Agreement on September 4, 2015, whereby Limetree Bay agreed to purchase the Terminal Assets for $184 million, subject to adjustment, and act as a stalking horse bidder in a Court-supervised auction. The Stalking Horse Agreement is attached hereto as **Exhibit D**. In consultation with Lazard and its other advisors, the Debtor has determined that Limetree Bay's bid maximizes the value of the Debtor's assets and will yield the greatest recovery for creditors.

C. The Primary Terms of the Stalking Horse Agreement

18. The Stalking Horse Agreement contemplates the sale of the Terminal Assets to the Stalking Horse Bidder, subject to higher or better bids, on the following material terms:[7]

19. **Sellers**: (a) HOVENSA, L.L.C., with respect to the Terminal Assets, and (b) HOVIC, with respect to the Tug Boats.

20. **Purchaser**: Limetree Bay Holdings, LLC.

21. **Purchase Price**: (a) $184 million with respect to the Terminal Assets, and (b) $6 million with respect to the Tug Boats;

22. **Purchased Assets (Stalking Horse Agreement § 2.1)**: the Stalking Horse Bidder will acquire the following assets, which include, among other things: (a) certain key business contracts and leases; (b) the Debtor's oil terminal assets and related property and leases; (c) certain permits granted to Seller used in connection with the ownership or operation of the

[7] The summary of the terms contained in this Motion is qualified in its entirety by reference to the provisions of the Stalking Horse Agreement. In the event of any inconsistencies between the provisions of the Stalking Horse Agreement and the summary set forth herein, the terms of the Stalking Horse Agreement shall govern. Unless otherwise defined in the summary set forth in the accompanying text, capitalized terms shall have the meanings ascribed to them in the Stalking Horse Agreement.

Purchased Assets; (d) certain business-related property and intellectual property relating to the Seller's operations; and (e) the tug boats owned by HOVIC.

23. **Excluded Assets (Stalking Horse Agreement § 2.2)**: assets that will not be purchased by the Purchaser include, among other things: (a) all cash, certificates of deposit or other cash equivalents; (b) certain books and records; (c) avoidance actions related to the excluded assets or excluded liabilities; (d) all leases and contracts not being assumed or assigned to the Purchaser; (e) all insurance policies with respect to the Purchased Assets; (f) the RCRA Permit and any related financial insurance; (g) all retained refinery assets; (h) all accounts receivable and pre-paid assets of the Seller to the extent not related to a Purchased Asset or Assumed Liability; (i) all emissions allowances and credits acquired in connection with business prior to closing and all emissions allowance and credits not arising from or related to the business; and (j) certain excluded permits.

24. **Sale of Avoidance Actions (Stalking Horse Agreement § 2.1(a)(x))**: the Purchased Assets include those avoidance actions against any party to any contract that will be assumed and assigned as part of the Sale Transaction. The Stalking Horse Bidder required this provision as part of the Stalking Horse Agreement to, among other things, enable it to maintain supplier and vendor relationships after consummation of the sale. Accordingly, the Debtor submits that this aspect of the Stalking Horse Agreement is reasonable and necessary to consummate the sale.

25. **Assumed Liabilities (Stalking Horse Agreement § 2.3)**: the Stalking Horse Agreement provides for the assumption by the Purchaser of various liabilities in connection with the Sale Transaction, including, among other things: (a) all environmental liabilities that arise prior to the closing of the Sale Transaction, but solely to the extent such liabilities are

exacerbated, triggered, increased, or accelerated by the Purchaser; (b) liabilities that arise after the closing of the Sale Transaction; (c) cure amounts and other liabilities with respect to the contracts and real property leases that are being assumed by the Debtor and assigned to the Stalking Horse Bidder (other than the cure amount associated with the contract with Pinnacle Services L.L.C.); (d) all accounts and note payable to trade creditors that relate to the Purchased Assets; (e) 50% of any transfer taxes applicable to the Purchased Assets; (f) any tax liabilities associated with operation of the business after the closing of the Sale Transaction; and (g) all liabilities under the Consent Decree after the closing of the Sale Transaction.

26. **Closing and Other Deadlines (Stalking Horse Agreement § 9.1(b)(ii))**: the Stalking Horse Agreement may be terminated by either Seller or Purchaser if the Closing Date shall not have occurred on or prior to November 13, 2015 (the "End Date"); *provided*, that if as of such date, all conditions in Sections 8.1 (Conditions of the Obligations of Each Party), 8.2 (Conditions of the Obligations of Purchaser), and 8.3 (Conditions of the Obligations of Seller and HOVIC) have been satisfied (other than the condition set forth in 8.1(f), which requires as a condition to closing that the USVI Government shall have executed a USVI Concession Agreement in form and substance satisfactory to Seller and Purchaser and such USVI Concession Agreement shall be effective as of the closing), but as of such date the Governor of the U.S. Virgin Islands has agreed to a form of the USVI Concession Agreement and has submitted such USVI Concession Agreement to the legislature of the U.S. Virgin Islands for its approval, but such approval has not yet been obtained, then either Seller or Purchaser may extend the End Date for a single, one-time additional period of thirty (30) days.

27. **Good Faith Deposit (Stalking Horse Agreement § 3.2)**: the Purchaser shall provide a good faith deposit of $19 million (10% of the purchase price) upon entry of the Bidding Procedures Order, which shall be held in escrow pending consummation of the sale.

28. **Tax Exemption (Stalking Horse Agreement § 7.10(b)**: the Stalking Horse Agreement provides that, in connection with the Bankruptcy Case, Seller may file a motion with the Bankruptcy Court for an Order exempting the transactions contemplated by this Agreement, including the sale and transfer of the Purchased Assets from Seller to Purchaser, and from any transfer Tax, documentary stamp Tax or other similar Tax.

29. **Break-Up Fee and Expense Reimbursement (Stalking Horse Agreement § 7.19, 7.20)**: the Stalking Horse Agreement includes certain protections for the Stalking Horse Bidder. In particular, subject to Court approval as part of the Bidding Procedures Order, the Debtor will be required to pay to the Stalking Horse Bidder a fee (the "Break-Up Fee") in the amount of $5.7 million, equal to 3% of the purchase price, and reimburse the Stalking Horse Bidder for its reasonable and documented out-of-pocket costs and expenses incurred by the Stalking Horse Bidder and its affiliates in connection with the evaluation, consideration, analysis, negotiation, and documentation of the transactions contemplated by the Stalking Horse Agreement, up to a maximum amount of $1.9 million, equal to 1% of the purchase price (the "Expense Reimbursement," and together with the Break-Up Fee, the "Bid Protections").

30. The Break-Up Fee will be payable if: (a) the Stalking Horse Agreement is terminated for any reason other than (i) by mutual consent of the parties, (ii) the Purchaser terminates the Stalking Horse Agreement due to the occurrence of the End Date or failure to meet certain milestones, (iii) any governmental entity issues, enacts, promulgates, or enforces any law or final, non-appealable order restraining or prohibiting the transactions contemplated by

the Stalking Horse Agreement, or (iv) the failure of the Purchaser's representation and warranties to be true and correct or on account of a breach by the Purchaser of any covenant in the Stalking Horse Agreement; or (b) the Debtor enters into an Alternative Transaction. An "Alternative Transaction" is defined in the Stalking Horse Agreement as: "(i) a Restructuring Transaction[8] or (ii) one or more sales, assignments, leases, transfers, or other dispositions of all or any material portion of the Purchased Assets to any Person (or group of Persons), whether in one transaction or a series of transactions, whether by merger, asset purchase, equity purchase or other similar transaction, in each case other than to the Purchaser or its Affiliates." The Expense Reimbursement will be payable if the Stalking Horse Agreement is terminated for any reason other than (i) by mutual consent of the parties or (ii) the failure of the Purchaser's representation and warranties to be true and correct or on account of a breach of the Purchaser of any covenant in the Stalking Horse Agreement.

31. Subject to Court approval, the Break-Up Fee and Expense Reimbursement will be allowed and paid as administrative expense claims with priority pursuant to sections 503(b) and 507(a)(2) of the Bankruptcy Code, but shall be junior in priority to any super-priority administrative expense claim granted to, or on behalf of, the lenders in connection with any debtor-in-possession financing approved by the Bankruptcy Court.

32. **Notification of Alternative Transaction (Stalking Horse Agreement § 7.32)**: the Stalking Horse Agreement provides that from the date that the Stalking Horse Agreement

[8] A "Restructuring Transaction" is further defined in the Stalking Horse Agreement as follows: "in each case, which does not include the Purchase and Tug Boat Sale pursuant to this Agreement (i) any recapitalization transaction, plan of reorganization, liquidation, or sale, including any such transaction by way of a credit bid or by any creditor of Seller, involving, whether in whole or in part, Seller or all or any material portion of the Purchased Assets, or (ii) any merger, consolidation, share exchange, business combination or similar transaction involving, whether in whole or in part, Seller or all or any material portion of the Purchased Assets, in each case whether in one transaction or a series of transactions."

became effective to the date that the Bankruptcy Court enters the Bidding Procedures Order, "Seller shall not, and shall cause its Representatives and Affiliates not to, directly or indirectly: (i) initiate contact with, pursue, knowingly facilitate, knowingly solicit or knowingly encourage submission of, or discuss, negotiate or assist with, any inquiries, proposals or offers by any Person (other than Purchaser and its Affiliates and Representatives) with respect to an Alternative Transaction or (ii) provide any Person (other than Purchaser and its Affiliates, agents and Representatives) with access to the books, records, operating data, contracts, documents or other information in connection with an Alternative Transaction." The Stalking Horse Agreement also requires that Seller (a) immediately cease any discussions with any Person other than Purchaser and its Affiliates and Representatives until the Bankruptcy Court enters the Bidding Procedures Order; (b) promptly notify Purchaser if an Alternative Transaction, or an inquiry or contact with any Person with respect thereto which has been made as of the date of the Stalking Horse Agreement or is subsequently made, and the details of such contact (subject to confidentiality restrictions); and (c) keep Purchaser reasonably informed of material developments with respect to the foregoing.

33. **"Fiduciary Duty" Out (Stalking Horse Agreement § 9.1(f))**: the Stalking Horse Agreement provides the Seller may terminate the Stalking Horse Agreement at any time before Closing if "its Executive Committee (as such term is defined in the Hovensa Operating Agreement) or equivalent governing body determines based upon consultation with outside legal counsel that proceeding with the transaction as contemplated by this Agreement would be inconsistent with its fiduciary duties under applicable Law." Moreover, the Bidding Procedures expressly provide the following: "Nothing in these Bidding Procedures shall require the executive committee of the Debtor to take any action, or refrain from taking any action, with

respect to these Bidding Procedures or any transaction in respect of the Assets to the extent such executive committee determines, based on the advice of counsel, that taking such action, or refraining from taking such action, as applicable, is required to comply with applicable law or its fiduciary obligations under applicable law."

THE PROPOSED STALKING HORSE AND BIDDING PROCEDURES

A. Bidding Procedures

34. The Bidding Procedures are designed to maximize value for the Debtor's estate, while effectuating an expeditious sale of the Debtor's assets. Among other things, the Bidding Procedures set forth procedures for interested parties to access due diligence, the manner in which bidders and bids become "qualified," the receipt and negotiation of bids received, the conduct of any auction, the selection and approval of any ultimately successful bidders, and the deadlines with respect to the foregoing.

35. Certain of the salient terms of the Bidding Procedures are highlighted below:[9]

[9] The summary of the terms contained in this Motion is qualified in its entirety by reference to the provisions of the Bidding Procedures. In the event of any inconsistencies between the provisions of the Bidding Procedures and the summary set forth herein, the terms of the Bidding Procedures shall govern. Unless otherwise defined in the summary set forth in the accompanying text, capitalized terms shall have the meanings ascribed to them in the Bidding Procedures.

- **Key Dates (subject to the Court's availability):**

Milestone	Date[10]
Deadline for Sale Objections and Cure Objections	T + [37] days
Bid Deadline – Due Date for Bids, Designation of Contracts and Leases (if applicable) and Deposits	T + [37] days
Auction (if necessary)	T + [42] days
Sale Hearing	T + [44] days
Sale Closing	T + [59] days
(End Date)	(November 13, 2015)

- **Bid Deadline:** The following parties must receive a Bid in writing, on or before [[•] at 5:00 p.m. (EST)] or such other date as may be agreed to by the Debtor, after consulting with the Consultation Parties: (1) the Debtor, 1 Estate Hope, Christiansted, St. Croix, U.S.V.I. 00820, Attn: Thomas E. Hill, Chief Restructuring Officer; (2) counsel for the Debtor, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, Attn: Lorenzo Marinuzzi, Esq. and Jennifer L. Marines, Esq.; (3) investment banker for the Debtor, Lazard Frères & Co., JP Morgan Chase Tower, 600 Travis Street, Suite 2300, Houston, Texas 77002, Attn: Doug Fordyce; (4) counsel to HOVIC, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York, 10022, Attn: Christopher Greco, Esq.; (5) counsel to PDV-VI, Curtis Mallet-Prevost, Colt & Mosle LLP, 101 Park Avenue, New York, New York 10178, Attn: Steven J. Reisman, Esq.; (6) special mergers and acquisition counsel for the Debtor, White & Case LLP, 1155 Avenue of the Americas, New York, New York 10036, Attn: Greg Pryor, Esq.; and (7) counsel to the Stalking Horse Bidder, Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022, Attn: Keith Simon, Esq.

- **Auction Qualification Process:** As set forth in further detail in the Bidding Procedures, in order to qualify to participate in the Auction, a Qualified Bidder must, among other requirements, (1) propose a purchase price for the Debtor's assets, including any assumption of liabilities and any earnout or similar provisions, that in the Debtor's reasonable business judgment, after consulting with the Consultation Parties, has a value in an amount equal to at least (i) the purchase price set forth in any Stalking Horse Agreement, (ii) the Break-Up Fee,

[10] T = filing of the Sale Motion (to occur on the Petition Date).

(iii) the Expense Reimbursement Amount, and (iv) $5 million; (2) provide a good faith deposit in the amount of ten percent (10%) of the purchase price; (3) provide an executed Modified Asset Purchase Agreement or Alternative Asset Purchase Agreement on the same or better terms as those contained in the Stalking Horse Agreement filed with the Court; (4) designate any contracts and leases that the bidder seeks to have the Debtor assume and assign in connection with the Sale Transaction; and (5) identify all liabilities that it anticipates assuming in connection with the Sale Transaction.

- **Auction and Auction Procedures:** If the Debtor receives a Qualified Bid other than the Bid submitted by the Stalking Horse Bidder by the Bid Deadline, the Debtor shall conduct an Auction on [[•] at 10:00 a.m. (prevailing Eastern Time)] at the offices of counsel for the Debtor, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, or such other place and time as the Debtor shall notify in writing all Qualified Bidders that have submitted Qualified Bids (including the Stalking Horse Bidder). If the Debtor does not receive any Qualified Bid (other than the Stalking Horse Bid) on or prior to the Bid Deadline, the Debtor shall promptly cancel the Auction and seek approval of the Sale Transaction of the Purchased Assets to the Stalking Horse Bidder pursuant to the Stalking Horse Agreement at the Sale Hearing.

B. Notice Procedures

36. Within three (3) business days after the entry of the Bidding Procedures Order, or as soon practicable thereafter (the "Mailing Date"), in accordance with Bankruptcy Rule 2002(a) and (c), and Local Rule 6004-1(E)(1), the Debtor (or its agents) shall serve the auction and sale notice (the "Auction and Sale Notice"), substantially in the form attached hereto as **Exhibit E**, by first-class mail, postage prepaid, upon (a) all entities known to have expressed an interest in a transaction with respect to some or all of the Debtor's assets during the past six (6) months; (b) all entities known to have asserted any Interest in or upon any of the Debtor's assets; (c) all federal, state, and local regulatory or taxing authorities or recording offices which have a reasonably known interest in the relief requested by this Motion; (d) the Internal Revenue Service; (e) counsel to any official committee appointed in this chapter 11 case; (f) the parties included on the Debtor's list of twenty (20) largest unsecured creditors; (g) those parties who have made the appropriate filings requesting notice of all pleadings filed in the chapter 11 case;

(h) the Office of the United States Trustee for the District of the U.S. Virgin Islands; (i) the United States Attorney General's Office for the District of the Virgin Islands; (j) Hess Oil Virgin Islands Corporation; (k) PDVSA, V.I., Inc.; (l) known counterparties to any unexpired leases or executory contracts that could potentially be assumed and assigned to the Successful Bidder; and (m) such other entities as may be required by applicable Bankruptcy Rules or applicable Local Rules or as may be reasonably requested by the Stalking Horse Bidder (collectively, the "Notice Parties").

37. The Auction and Sale Notice shall indicate that copies of the Motion, the Stalking Horse Agreement, the Sale Order, and all other documents filed with the Court can be obtained on the website of the Debtor's claims and noticing agent, Prime Clerk, http://www.primeclerk.com. The Auction and Sale Notice will also indicate the deadline for objecting to the Sale Transaction to the Successful Bidder and the date and time of the Sale Hearing. In addition, the Auction and Sale Notice shall provide notice that the Debtor will seek to assume and assign certain executory contracts to be identified in accordance with the Assumption and Assignment Procedures (as described further below) at the Sale Hearing. The Debtor requests that such notice be deemed to be sufficient and proper notice of the Sale Transaction with respect to known interested parties.

38. Publication Notice: The Debtor also proposes, pursuant to Bankruptcy Rules 2002 and 6004 and Local Rule 6004-1(E)(5), to publish an Auction and Sale Notice, attached hereto as **Exhibit F**, in *The Financial Times*, *The Wall Street Journal*, and *The Virgin Islands Daily News* on the Mailing Date or as soon as practicable thereafter. The Debtor requests that such publication notice be deemed sufficient and proper notice of the Sale Transaction to any other interested parties whose identities are unknown to the Debtor.

C. Assumption and Assignment Procedures

39. The Debtor proposes the following procedures for notifying counterparties to executory contracts and unexpired leases of potential cure amounts. The Debtor contemplates that a sale of the Terminal Assets will include the assumption and assignment of a number of the Debtor's executory contracts and unexpired leases (the "Designated Contracts"). Attached as **Exhibit G** is a schedule of all of the Debtor's Executory Contracts and unexpired leases that could be assumed and assigned pursuant to the terms of the Stalking Horse Agreement, the Modified Asset Purchase Agreement, or the Alternative Asset Purchase Agreement (the "Designated Contracts Schedule") and the cure amounts that the Debtor believes are necessary to assume such contracts and leases pursuant to section 365 of the Bankruptcy Code (the "Cure Amount"). The Debtor will also serve each counterparty to such contracts and leases (the "Contract Notice Parties") with a notice of assumption, assignment, and cure amount (the "Cure Notice"), substantially in the form attached hereto as **Exhibit H**.

40. The Cure Notice shall (a) state the Cure Amounts; (b) notify the non-Debtor party that such party's contract or lease may be assumed and assigned to a purchaser of the Debtor's assets; (c) state the date of the Sale Hearing and that objections to any Cure Amount or to assumption and assignment of any Designated Contract (including on the basis of adequate assurance of future performance) will be heard at the Sale Hearing; and (d) state a deadline by which the non-Debtor party shall file an objection to the Cure Amount or to the assumption and assignment of the Designated Contracts (including on the basis of adequate assurance of future performance); *provided, however*, that the inclusion of a contract, lease, or agreement on the Designated Contracts Schedule shall not constitute an admission that such contract, lease, or agreement is an executory contract or unexpired lease and/or shall not prevent the Debtor or the Stalking Horse Bidder from withdrawing such assumption or rejecting such Designated Contract

at any time before such Designated Contract is actually assumed and assigned pursuant to an Order of the Court.[11]

41. The Debtor requests that the Court set the deadline (the "Cure Objection Deadline") to object to any Cure Amount or to assumption and assignment (including on the basis of adequate assurance of future performance) no later than seven (7) days before the Sale Hearing and require that any objections be served on the Notice Parties. Any such objection shall (a) be in writing; (b) state the basis for such objection; and (c) state with specificity what cure amount or adequate assurance of future performance the party to the Designated Contract believes is required (in all cases with appropriate documentation in support thereof as to cure amount).

42. At least ten (10) days prior to the closing of the Sale Transaction, the Debtor shall file a notice identifying each Selected Contract (as defined below) that the Successful Bidder wishes to assume and assign. If the Successful Bidder is not the Stalking Horse Bidder, the notice shall indicate the deadline for objecting to the assumption and assignment of the Selected Contract to the Successful Bidder, which shall be solely on the basis of adequate assurance of future performance of the Successful Bidder.

43. At the Sale Hearing (or such later date as the Debtor designates), only those contracts and leases (and the corresponding Cure Amounts) listed on the Designated Contracts Schedule that have been selected to be assumed and assigned by the Successful Bidder (the "Selected Contracts") shall be subject to approval by the Bankruptcy Court, and the Debtor reserves its rights for all other contracts and leases. The Debtor shall (a) present evidence necessary to demonstrate adequate assurance of future performance by the Successful Bidder and

[11] For the avoidance of doubt, the Debtor reserves all of its rights, claims, and causes of action with respect to the contracts and leases listed on the Designated Contracts Schedule.

(b) request entry of a Sale Order that, among other things, approves the assumption and assignment of any Selected Contracts to the Successful Bidder.

44. The Debtor requests that the Bidding Procedures Order provide that unless a non-Debtor party to any executory contract or unexpired lease files an objection to the Cure Amount or adequate assurance of future performance by the applicable Cure Objection Deadline, such counterparty shall be deemed to consent to the treatment of its Designated Contract under section 365 of the Bankruptcy Code and the assumption and assignment thereof notwithstanding any anti-alienation provision or other restriction on assumption and assignment, and such counterparty shall be forever barred and estopped from (a) objecting to the Cure Amount; (b) asserting or claiming any Cure Amount against the Debtor, any Successful Bidder, or any other assignee of the relevant contract or lease, other than the Cure Amount listed on the Cure Notice; and (c) asserting the lack or failure of adequate assurance of future performance from the applicable assignee.

APPLICABLE AUTHORITY

A. Approval of the Sale Transaction is Appropriate Under Section 363 of the Bankruptcy Code

45. The Sale Transaction should be approved as a sound exercise of the Debtor's business judgment. Section 363 of the Bankruptcy Code provides that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). A debtor must demonstrate a sound business justification for a sale or use of assets outside the ordinary course of business. *See, e.g.*, *Meyers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996); *Dai-Ichi Kangyo Bank Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (D. Del. 1999); *In re Del. & Hudson Ry. Co.*, 124 B.R. 169, 175-76 (D. Del. 1991). Once a court determines that a

valid business justification exists for a sale outside of the ordinary course of business, the court must determine whether (a) adequate and reasonable notice of the sale was given to interested parties, (b) the sale will produce a fair and reasonable price for the property, and (c) the parties have acted in good faith. *See In re Elpida Memory, Inc.*, No. 12-10947 (CSS), 2012 WL 6090194, at *5 (Bankr. D. Del. Nov. 20, 2012); *In re Exaeris, Inc.*, 380 B.R. 741, 744 (Bankr. D. Del. 2008).

46. As described below, the proposed Sale Transaction meets each of these requirements.

1. The Sale Transaction Represents a Sound Exercise of the Debtor's Business Judgment

47. Here, a strong business justification exists for the Sale Transaction. As described above and in the Hill Certification, the Debtor has concluded that, due to increased competition in the oil refinery sector and ongoing legacy obligations relating to its oil refinery business, the Debtor's continued operation of its business as a refinery is no longer feasible. The Debtor believes, however, that a purchase of the Debtor's assets by the Stalking Horse Bidder or another third party could yield significant proceeds for distribution to creditors. As a result, an expeditious sale of the Debtor's assets is a reasonable exercise of the Debtor's business judgment and is in the best interests of all of the Debtor's stakeholders.

2. The Bidding Procedures are Fair and Designed to Maximize the Value Received For the Debtor's Assets

48. The Debtor believes that the Bidding Procedures satisfy each of the remaining requirements for approval of a sale under section 363 of the Bankruptcy Code by (a) providing more than ample notice of each element of the proposed sale process, (b) facilitating a value maximizing sale, and (c) ensuring an unbiased and good faith sale process. The detailed Bidding Procedures outlined above and in **Exhibit B** provide notice designed to fully inform all parties

with a stake in the sale process regarding the portions of the sale process most relevant to their interests. For example, the Bidding Procedures ensure that any entities asserting an Interest in the Debtor's assets and parties to the Designated Contracts will receive notice of the proposed Sale Transaction, the procedures for objecting to the Sale Transaction, and the proposed assumption and assignment of their respective contracts or leases. Similarly, the Bidding Procedures outline all material aspects of the potential purchaser notification, bid qualification, due diligence, bid submission, bid selection, and auction process, including the timing for each. Thus, the Bidding Procedures provide assurance to each entity potentially interested in purchasing the Debtor's assets that their respective rights will be protected and the Sale Transaction process will be fair and reasonable.

49. Further, the Bidding Procedures provide the Debtor with the opportunity to consider all competing offers and to select, in its reasonable business judgment, and after consultation with the Consultation Parties, the highest and best offer for the Debtor's assets. Moreover, the Bidding Procedures provide the Debtor with the flexibility to modify the Bidding Procedures, if necessary, to maximize value for the Debtor's estate. Accordingly, the Debtor believes the Court should approve the Bidding Procedures.

50. The Debtor submits that similar bidding procedures have been approved in the Third Circuit. *See, e.g., In re Savient Pharm., Inc.*, No. 13-12680 (MFW) (Bankr. D. Del. Nov. 4, 2013); *In re IPC Int'l Corp., et al*, No. 13-12050 (MFW) (Bankr. D. Del. Aug. 27, 2013); *In re Northstar Aerospace (USA) Inc.*, No. 12-11817 (MFW) (Bankr. D. Del. June 27, 2012).[12]

[12] Because of the voluminous nature of the orders cited in this Motion, such orders are not attached hereto. Copies of these orders are available upon request of the Debtor's counsel.

3. The Break-Up Fee and Expense Reimbursement are Necessary to Preserve the Value of the Debtor's Estate

51. The Debtor believes that granting the Bid Protections to the Stalking Horse Bidder will ensure the Debtor's ability to maximize the realizable value of the Debtor's assets for the benefit of the Debtor's estate, its creditors, and other parties in interest. The Stalking Horse Bidder conditioned its willingness to serve as a stalking horse bidder on the inclusion of these provisions in the Stalking Horse Agreement. If approved by the Court, the Debtor would be required to pay the Stalking Horse Bidder a Break-Up Fee of $5.7 million and up to $1.9 million in Expense Reimbursement in the event that the Break-Up Fee and the Expense Reimbursement are payable under the terms of the Stalking Horse Agreement.

52. The United States Court of Appeals for the Third Circuit has held that break-up fees and expense reimbursements must meet the standards applicable to the allowance of administrative expenses under section 503(b) of the Bankruptcy Code. *See In re Reliant Energy Channelview LP*, 594 F.3d 200, 206 (3d Cir. 2010) (citing *In re Calpine Corp. v. O'Brien Envtl. Energy, Inc. (In re O'Brien Envtl. Energy, Inc.)*, 181 F.3d 527 (3d Cir. 1999)). The Third Circuit has identified at least two instances in which bidding incentives may benefit the estate. First, a break-up fee or expense reimbursement may be necessary to preserve the value of the estate if the assurance of the fee "promote[s] more competitive bidding, such as by inducing a bid that otherwise would not have been made and without which bidding would have been limited." *O'Brien*, 181 F.3d at 537. Second, if the availability of break-up fees and expense reimbursements were to induce a bidder to research the value of the debtor and convert that value to a dollar figure on which other bidders can rely, the bidder may have provided a benefit to the estate by increasing the likelihood that the price at which the debtor is sold will reflect its true worth. *Id.*

53. The Bid Protections should be approved and afforded super-priority administrative expense status under sections 503(b) and 507(a)(2) of the Bankruptcy Code because they provide a clear benefit to the Debtor's estate. By conducting due diligence, participating in negotiations for a potential transaction and entering into the Stalking Horse Agreement, the Stalking Horse Bidder has established a bid standard, including a price floor, and initiated a sales process that will serve as a catalyst for other bidders to submit higher and better bids. The Debtor submits that the amount of the Break-Up Fee and the Expense Reimbursement is reasonable and appropriate in light of the size and nature of the transaction and the efforts that have been and will be expended by the Stalking Horse Bidder, including conducting the legal and financial diligence necessary to negotiate and enter into the Stalking Horse Agreement, which will serve as the baseline for other bids for the Terminal Assets.

54. Moreover, the Debtor believes that the execution of the Stalking Horse Agreement by the Stalking Horse Bidder provides an incentive for others who expressed interest initially, but did not take efforts to negotiate definitive documents or submit competitive bids, to consider expending the time and effort to do so now. To the extent that the Stalking Horse Agreement entices other potentially interested purchasers to participate in the bidding and auction process, the Break-Up Fee will provide a material benefit to the Debtor's estate in the form of an increased sale price. On the other hand, in the event that others are not encouraged by the Stalking Horse Bid to undertake additional efforts and participate in the Auction, the Break-Up Fee will not be paid and, thus, should not affect the value received by the Debtor for the Terminal Assets. As such, the Debtor submits that it is appropriate to enter into the Stalking Horse Agreement containing the Bid Protections pursuant to the Bidding Procedures.

55. Here, the Stalking Horse Bidder has conditioned its willingness to enter into the Stalking Horse Agreement on the Court's approval of, among other things, the Break-Up Fee and Expense Reimbursement. The proposed Break-Up Fee and Expense Reimbursement was the result of arms' length negotiations between representatives of the Debtor and the Stalking Horse Bidder, which is not an insider of the Debtor. The Debtor submits that the Break-Up Fee and Expense Reimbursement are justified to induce the Stalking Horse Bidder to enter into the Stalking Horse Agreement and to adequately compensate it for the risks it is taking.

56. The Debtor further submits that the Purchaser may terminate the Stalking Horse Agreement if the Court fails to approve the Break-Up Fee and Expense Reimbursement. The proposed transaction with the Stalking Horse Bidder ensures that the Debtor will have at least one substantial offer for the Terminal Assets. The Stalking Horse Bidder has agreed to keep its bid open during the solicitation and marketing process only if the Break-Up Fee and Expense Reimbursement are approved by the Court.

57. The Break-Up Fee, which represents three percent (3%) of the purchase price, is reasonable and consistent with the range of bid protections typically approved by bankruptcy courts in the Third Circuit. *See, e.g.*, *In re Synagro Techs., Inc.*, Case No. 13-11041 (BLS) (Bankr. D. Del. May 13, 2013) (approving break-up fee of 3.0% in connection with a $455 million sale of assets); *In re Vertis Holdings, Inc.*, Case No. 12-12821 (CSS) (Bankr. D. Del. Nov. 2, 2012) (court approved break-up fee of 3.0% in connection with a $258 million sale of assets); *In re Solyndra LLC,* Case No. 11-12799 (MFW) (Bankr. D. Del. Sept. 28, 2012) (court approved break-up fee of 2.6% in connection with a $90 million sale of assets); *In re Northstar Aerospace (USA) Inc.*, Case No. 12-11817 (MFW) (Bankr. D. Del. June 27, 2012) (court approved breakup fee of 3.5% in connection with $70 million sale of

assets); *In re Eddie Bauer Holdings, Inc.*, Case No. 09-12099 (MFW) (Bankr. D. Del. July 23, 2009) (court approved break-up fee of 2.5% in connection with a $202 million sale of assets).

B. The Proposed Sale Satisfies the Requirements of Section 363(f) of the Bankruptcy Code for a Sale Free and Clear of Interests

58. The Sale Transaction also meets the requirements to be a sale free and clear of Interests. Section 363(f) of the Bankruptcy Code authorizes a debtor to sell assets free and clear of liens, claims, interests, and encumbrances if:

> (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
>
> (2) such entity consents;
>
> (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
>
> (4) such interest is in bona fide dispute; or
>
> (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f).

59. A sale that meets the requirements for a sale free and clear of Interests pursuant to section 363(f) of the Bankruptcy Code also bars claimants from asserting successor liability against the successful purchaser. *See, e.g., In re Trans World Airlines, Inc.*, 322 F.3d 283, 288-90 (3d Cir. 2003) (sale of assets pursuant to section 363(f) barred successor liability claims for employment discrimination and rights under travel voucher program); *In re NE Opco, Inc.*, 513 B.R. 871, 876 (Bankr. D. Del. 2014); *In re Ormet Corp.*, No. 13-10334 (MFW), 2014 WL 3542133, at *3 (Bankr. D. Del. July 17, 2014); *In re Insilco Technologies, Inc.*, 351 B.R. 313,

322 (Bankr. D. Del. 2006) (stating that a 363 sale permits a buyer to take ownership of property without concern that a creditor will file suit based on a successor liability theory).

60. In the Debtor's case, the only creditor holding a secured claim, other than the Debtor's post-petition lenders, is the GVI in the amount of $40 million. The Debtor expects that the proposed purchase price is more than sufficient to satisfy the requirements of section 363(f)(3) of the Bankruptcy Code. However, the Debtor recognizes and acknowledges the significant number of licensing, permitting, and other material relationships that any potential purchaser will have with the GVI post-closing. Thus, the Debtor anticipates working closely with the GVI to achieve a sale that the GVI finds acceptable. As a result, the Debtor anticipates that the Sale Transaction will also satisfy section 363(f)(2) of the Bankruptcy Code and a sale free and clear of the GVI's purported lien on the Debtor's assets and any other Interests.

61. The Debtor further requests that any creditor that receives notice of the Sale Hearing and who fails to timely file an objection to the Sale Transaction be deemed to have consented under section 363(f)(2) of the Bankruptcy Code to a sale free and clear of such creditor's interests, if any.

C. A Successful Bidder Should Be Afforded the Protections of Section 363(m) of the Bankruptcy Code

62. Pursuant to section 363(m) of the Bankruptcy Code, a good faith purchaser is one who purchases assets for value, in good faith, and without notice of adverse claims. *See In re Abbotts Dairies of Pa., Inc.*, 788 F.2d 143, 147 (3d Cir. 1986); *Mark Bell Furniture Warehouse, Inc. v. D.M. Reid Assocs., Ltd.* (*In re Mark Bell Furniture Warehouse, Inc.)*, 992 F.2d 7, 8 (1st Cir. 1993).

63. The Debtor will present facts at the Sale Hearing to demonstrate that the Stalking Horse Agreement, the Modified Asset Purchase Agreement, or the Alternative Asset Purchase

Agreement, as applicable, was negotiated at arm's-length, with both parties represented by their own counsel. Accordingly, the Debtor requests that the Sale Order include a provision concluding that the Successful Bidder is a "good faith" purchaser within the meaning of section 363(m) of the Bankruptcy Code. The Debtor believes that providing the Successful Bidder with such protection will ensure that the maximum price will be received by the Debtor and the closing of the same will occur promptly.

D. Assumption and Assignment of the Selected Contracts Should be Authorized

64. Section 365(a) of the Bankruptcy Code provides, in relevant part, that a debtor in possession "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a). Further, section 365(f) of the Bankruptcy Code provides that the "trustee may assign an executory contract . . . only if the trustee assumes such contract . . . and adequate assurance of future performance . . . is provided." 11 U.S.C. § 365(f)(2). Assumption and assignment of the Selected Contracts in connection with the Sale Transaction is appropriate.

1. Assumption of the Selected Contracts is a Reasonable Exercise of the Debtor's Business Judgment

65. Assumption or rejection of a contract is a matter of the debtor's business judgment. *See Nat'l Labor Relations Bd. v. Bildisco and Bildisco (In re Bildisco)*, 682 F.2d 72, 79 (3d Cir. 1982), *aff'd sub nom., N.L.R.B. v. Bildisco & Bildisco*, 465 U.S. 513 (1984) ("The usual test for rejection of an executory contract is simply whether rejection would benefit the estate, the 'business judgment' test."); *In re Physiotherapy Holdings, Inc.*, 506 B.R. 619, 622 (Bankr. D. Del. 2014) (citing *In re Federal Mogul Global, Inc.*, 293 B.R. 124, 126 (D. Del. 2003)). A debtor's decision in this regard is "entitled to great deference from the Court." *See In re Armstrong World Indus.*, 348 B.R. 136, 162 (D. Del. 2006). In order to satisfy the business

judgment test, a debtor must only show that assumption or rejection of an executory contract will benefit the estate. *See Bildisco*, 682 F.2d at 79; *see also In re HQ Global Holdings, Inc.*, 290 B.R. 507, 511 (Bankr. D. Del. 2003) ("Under the business judgment standard, the sole issue is whether the rejection benefits the estate.").

66. To facilitate the Sale Transaction and to maximize the value received for the Debtor's assets, the Debtor requests approval under section 365 of the Bankruptcy Code of the Debtor's assumption and assignment of the Selected Contracts to the Successful Bidder. Certain of the Debtor's executory contracts and unexpired leases will be necessary for the Successful Bidder's continued operation of the Debtor's assets.

67. The Debtor further requests that the Sale Order provide that the Selected Contracts will be transferred to, and remain in full force and effect for the benefit of, the Successful Bidder, notwithstanding any provisions in the Selected Contracts, including those described in sections 365(b)(2), 365(f)(1), and 365(f)(3) of the Bankruptcy Code that prohibit such assignment.

68. The Debtor further requests that the Sale Order provide that to the extent any provision in any Selected Contract assumed and assigned (a) prohibits, restricts or conditions, or purports to prohibit, restrict or condition, such assumption or assignment (including, without limitation, any "change of control" provision), or (b) is modified, breached, or terminated, or deemed modified, breached, or terminated by any of the following: (i) the commencement of this Chapter 11 Case, (ii) the insolvency or financial condition of the Debtor at any time before the closing of this Chapter 11 Case, (iii) the Debtor's assumption or assumption and assignment (as applicable) of such Selected Contract, or (iv) the consummation of the Transactions, then such provisions shall be deemed modified so as to not entitle the non-Debtor party thereto to prohibit,

restrict or condition such assumption or assignment, to modify, terminate or declare a breach or default under such Selected Contract, or to exercise any other default-related rights or remedies with respect thereto, including, without limitation, any such provision that purports to allow the non-Debtor party thereto to recapture such Selected Contracts, impose any penalty thereunder, condition any renewal or extension thereof, impose any rent acceleration or assignment fee, or increase or otherwise impose any other fees or other charges in connection therewith. The Debtor requests that all such provisions be deemed to constitute unenforceable anti-assignment provisions that are void and of no force and effect pursuant to sections 365(b), 365(e), and 365(f) of the Bankruptcy Code.

2. Any Defaults Under the Selected Contracts Will be Cured and Evidence of Adequate Assurance of Future Performance by the Successful Bidder Will be Provided

69. Once an executory contract or unexpired lease is assumed, the trustee or debtor in possession may generally elect to assign such contract, so long as it cures any defaults and provides adequate assurance of future performance. *See* 11 U.S.C. § 365(f)(2)(B) (a debtor may assign an executory contract or unexpired lease of nonresidential property if "adequate assurance of future performance by the assignee of such contract or lease is provided."). The requirements to show "adequate assurance of future performance" will depend on the facts and circumstances of each case, but should be given a "practical, pragmatic construction." *In re DBSI, Inc.*, 405 B.R. 698, 708 (Bankr. D. Del. 2009); *see also Cinicola v. Scharffenberger*, 248 F.3d 110, 120 n.10 (3d Cir. 2001); *In re Decora Indus.*, No. 00-4459 (JJF), 2002 WL 32332749, at *8 (D. Del. May 20, 2002) ("adequate assurance falls short of an absolute guaranty of payment"). Adequate assurance may be provided by demonstrating the assignee's financial health and experience in managing the type of enterprise or property assigned. *See, e.g., In re Bygaph, Inc.*, 56 B.R. 596, 605-06 (Bankr. S.D.N.Y. 1986) (finding adequate assurance of future performance present when

the prospective assignee of a lease from the debtors has the financial resources and has expressed a willingness to devote sufficient funding to the business in order to give it a strong likelihood of succeeding).

70. The Debtor contemplates that the Successful Bidder will be able to provide adequate assurance of future performance in connection with any Selected Contracts because such Successful Bidder must submit evidence sufficient to demonstrate its financial wherewithal and ability to consummate the Sale Transaction. The Debtor will present facts at the Sale Hearing to show the financial credibility, willingness, and ability of the Successful Bidder to perform under the Selected Contracts. The Sale Hearing thus will afford the Court and other interested parties the opportunity to evaluate the ability of the Successful Bidder to provide adequate assurance of future performance under the Selected Contracts, as required under section 365(f)(2)(B) of the Bankruptcy Code.

71. Moreover, as set forth above, the Debtor has proposed to file a Designated Contract List containing a list of the Designated Contracts and the Cure Amounts that the Debtor believes are due under each such Designated Contract. The Debtor will serve a Cure Notice on all Contract Notice Parties and provide them with an opportunity to be heard. In the absence of an objection by a non-Debtor party to a Selected Contract, the Contract Notice Party will receive the specified Cure Amount, if any, at the closing of the Sale Transaction with funds paid by the Stalking Horse Bidder or other Successful Bidder as required under the Stalking Horse Agreement, the Modified Asset Purchase Agreement, or the Alternative Asset Purchase Agreement, as applicable.

72. Accordingly, the Debtor submits that implementation of the Assumption and Assignment Procedures regarding assumption and assignment of the Selected Contracts is

appropriate in this case. The Court, therefore, will have a sufficient basis to authorize the Debtor to assume and assign the Selected Contracts as will be set forth in the Stalking Horse Agreement, the Modified Asset Purchase Agreement, or the Alternative Asset Purchase Agreement, as applicable.

WAIVER OF BANKRUPTCY RULE 6004(h) AND 6006(d); AUTOMATIC STAY

73. To implement the foregoing immediately, the Debtor seeks a waiver of the 14-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h) and the assumption and assignment of the Selected Contracts under Bankruptcy Rule 6006(d).

74. Here, a waiver of the stay is appropriate because the Sale Transaction was extensively marketed and notice of the Sale Transaction was and will be adequately provided to all parties-in-interest. Likewise, the non-Debtor parties to the Selected Contracts will be provided with adequate notice of, and opportunity to object to, the assumption and assignment of the Selected Contracts.

75. The Debtor also requests that the Bidding Procedures Order approve that the automatic stay pursuant to section 362 of the Bankruptcy Code be lifted to the extent necessary to allow the Stalking Horse Bidder to deliver any notice provided for in the Stalking Horse Agreement, and allow the Stalking Horse Bidder to take any and all actions permitted under the Stalking Horse Agreement in accordance with the terms and conditions thereof.

NOTICE

76. Notice of this Motion will be given to the following parties, or in lieu thereof, to their counsel: (a) all entities known to have expressed an interest in a transaction with respect to some or all of the Debtor's assets during the past six (6) months; (b) all entities known to have asserted any Interest in or upon any of the Debtor's assets; (c) all federal, state, and local regulatory or taxing authorities or recording offices which have a reasonably known interest in

the relief requested by this Motion; (d) the Internal Revenue Service; (e) the parties included on the Debtor's list of twenty (20) largest unsecured creditors; (f) those parties who have made the appropriate filings requesting notice of all pleadings filed in the chapter 11 case; (g) the Office of the United States Trustee for the District of the U.S. Virgin Islands; (h) Hess Oil Virgin Islands Corporation; (i) PDVSA, V.I., Inc.; (j) the United States Attorney General's Office for the District of the Virgin Islands; (k) all known counterparties to any unexpired leases or executory contracts that could potentially be assumed and assigned to the Successful Bidder; and (l) such other entities as may be required by applicable Bankruptcy Rules or applicable Local Rules or as may be reasonably requested by the Stalking Horse Bidder.

[*Remainder of Page Intentionally Left Blank*]

CONCLUSION

WHEREFORE the Debtor respectfully requests entry of the Bidding Procedures Order and the Sale Order granting the relief requested herein and such other and further relief as is just.

Dated: September 15, 2015
St. Thomas, U.S. Virgin Islands

/s/ Richard H. Dollison

Richard H. Dollison (VI Bar No. 502)
LAW OFFICES OF RICHARD H. DOLLISON, P.C.
48 Dronningens Gade, Suite 2C
St. Thomas, U.S. Virgin Islands 00802
Telephone: (340) 774-7044
Facsimile: (340) 774-7045

-and-

Lorenzo Marinuzzi
Jennifer L. Marines
Daniel J. Harris
MORRISON & FOERSTER LLP
250 West 55th Street
New York, New York 10019
Telephone: (212) 468-8000
Facsimile: (212) 468-7900

Proposed Counsel for Debtor
and Debtor-in-Possession

Exhibit A

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
BANKRUPTCY DIVISION
ST. CROIX, VIRGIN ISLANDS

In re:	)	
	)	Chapter 11
HOVENSA L.L.C.,	)	
	)	Case No. 1:15-bk-10003-MFW
Debtor.	)	

ORDER (I) ESTABLISHING BIDDING PROCEDURES RELATING TO THE SALE OF THE DEBTOR'S ASSETS, INCLUDING APPROVING BREAK-UP FEE AND EXPENSE REIMBURSEMENT, (II) ESTABLISHING PROCEDURES RELATING TO THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, INCLUDING NOTICE OF PROPOSED CURE AMOUNTS, (III) APPROVING FORM AND MANNER OF NOTICE RELATING THERETO, AND (IV) SCHEDULING A HEARING TO CONSIDER THE PROPOSED SALE

Upon the motion (the "Motion")[1] of HOVENSA L.L.C. (the "Debtor") for entry of an order, pursuant to Bankruptcy Code sections 105, 363, 365, 503, and 507, Bankruptcy Rules 2002, 6004, 6006, and 9014, and Local Rules 6004-1 and 6006-1: (a) approving the Bidding Procedures attached hereto as **Exhibit 1**, including approval of the Break-Up Fee and the Expense Reimbursement as allowed administrative expenses with priority pursuant to sections 503(b) and 507(a)(2) of the Bankruptcy Code, senior to all other administrative expenses of the Debtor (other than any superpriority claim granted in connection with any debtor-in-possession financing approved by the Court), (b) establishing Assumption and Assignment Procedures in connection with the Sale Transaction, (c) approving the form and manner of notice of all procedures, protections, schedules, and agreements in connection with the Auction and the Sale Transaction, and (d) scheduling a Sale Hearing to approve the Sale Transaction; and upon the

[1] Capitalized terms used in this Order but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion or the Bidding Procedures, as applicable.

Hill Certification; and upon the record at the hearing before the Court (the "Bidding Procedures Hearing"); and after due deliberation thereon; and sufficient cause appearing therefor:

THE COURT HEREBY FINDS AND DETERMINES THAT:[2]

A. This Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue of this chapter 11 case and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This proceeding on the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b).

B. The statutory predicates for the relief sought in the Motion are sections 105(a), 363, 365, 503, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, and 9014, and Local Rules 6004-1 and 6006-1.

C. The Debtor has articulated good and sufficient business justification for the Court to approve the Bidding Procedures and the Assumption and Assignment Procedures, and each set of procedures is reasonable and appropriate under the circumstances.

D. The form and manner of each of the notices approved herein are appropriate and reasonably calculated to provide interested parties with timely and proper notice of the Bidding Procedures, the Assumption and Assignment Procedures, the Auction, and the Sale Hearing under the circumstances.

E. The Debtor has provided good and sufficient notice of the relief sought in the Motion, and no other or further notice of the Motion need be effectuated except as expressly set forth herein with respect to the Auction and the Sale Hearing. Subject to the immediately

[2] The findings and conclusions set forth herein shall constitute this Court's findings of fact and conclusions of law as described in Bankruptcy Rule 7052, made applicable to this matter by Bankruptcy Rule 9014.

preceding sentence, a reasonable opportunity to object or to be heard regarding the relief requested in the Motion was afforded to all interested persons and entities.

F. The Bidding Procedures (including the Bid Protections) were negotiated in good faith and at arms' length between the Debtor and the Stalking Horse Bidder.

G. The entry of this Order approving the relief requested by the Motion (including the Bid Protections) is in the best interests of the Debtor's estate and its creditors. Given the Debtor's financial condition, a prompt sale of its assets is critical in order to maximize the value of its assets for the benefit of the Debtor's estate and its creditors.

H. The Debtor has demonstrated that the Bid Protections, including the Break-Up Fee and Expense Reimbursement, are a material inducement to (and express conditions of) the Stalking Horse Bidder to submit the bid that will serve as the minimum bid upon which the Debtor and other bidders may rely, are necessary to ensure that the Stalking Horse Bidder will continue to pursue its proposed acquisition of the Purchased Assets, and are intended to promote more competitive bidding by inducing the bid of the Stalking Horse Bidder. The Stalking Horse Bidder has provided a material benefit to the Debtor, its estate, and its creditors by increasing the likelihood of competitive bidding at the Auction and encouraging additional bidders to participate in the bidding process, thereby increasing the likelihood that the Debtor will receive the best possible price for the Assets. The Bid Protections are reasonable and appropriate in light of, among other things, (i) the substantial efforts that have been and will be expended by the Stalking Horse Bidder in performing the substantial due diligence and incurring the expenses necessary and entering into the Stalking Horse Agreement with the knowledge and risk that arises from participating in the Sale Transaction and subsequent bidding process, and (ii) the benefits that the Stalking Horse Bidder has provided to the Debtor's estate and creditors and all

parties in interest by subjecting the Sale Transaction to higher or better offers. The Stalking Horse Bidder is unwilling to commit to hold open its offer to acquire the Purchased Assets under the terms of the Stalking Horse Agreement unless it is assured of the approval of the Bid Protections as set forth herein and in the Stalking Horse Agreement. Consequently, the Bid Protections represent actual and necessary expenses of the Debtor's estate, within the meaning of Bankruptcy Code section 503(b), and are reasonable and appropriate under the circumstances.

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED, as set forth herein.

2. All objections to the relief requested in the Motion, if any, that have not been withdrawn, waived, or settled as announced to the Court at the Bidding Procedures Hearing are denied and overruled in their entirety on the merits, with prejudice.

BIDDING PROCEDURES

3. The Bidding Procedures, substantially in the form attached hereto as **Exhibit 1** and incorporated herein by reference, are hereby approved. The failure specifically to include or reference a particular provision of the Bidding Procedures in this Order shall not diminish or impair the effectiveness of such provision.

4. The Debtor may proceed with the Sale Transaction in accordance with the Bidding Procedures and is authorized to take any and all actions necessary or appropriate to implement the Bidding Procedures in accordance with the following timeline:

Milestone	Date[3]
Deadline for Sale Objections and Cure Objections	T + [37] days
Bid Deadline – Due Date for Bids, Designation of Contracts and Leases (if applicable), and Deposits	T + [37] days
Auction (if necessary)	T + [42] days
Sale Hearing	T + [44] days
Sale Closing	T + [59] days
End Date	November 13, 2015

5. The process for submitting Qualified Bids is fair, reasonable, and appropriate and is designed to maximize recoveries for the benefit of the Debtor's estate, its creditors, and other parties in interest. Any disputes as to the selection of a Qualified Bid, the Leading Bid, the Back-Up Bidder, or the Successful Bidder shall be resolved by this Court.

6. The Debtor shall conduct the Auction in the event it receives one or more timely and acceptable Qualified Bids. The Good Faith Deposits of all Qualified Bidders shall be held in one or more interest-bearing escrow accounts by the Debtor, but shall not become property of the Debtor's estate absent further court order.

BID DEADLINE, AUCTION AND SALE HEARING

7. The deadline for submitting a Qualified Bid shall be _____, 2015, at 5:00 p.m. (prevailing Eastern Time) (the "Bid Deadline").

8. The Stalking Horse Agreement is a Qualified Bid and the Stalking Horse Bidder is a Qualified Bidder, for all purposes and requirements pursuant to the Bidding Procedures.

[3] [T = filing date of Sale Motion]

9. The Auction, if any, shall be held at the offices of counsel for the Debtor, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019 on _____, 2015, at [--:--] a.m. (prevailing Eastern Time), or such other place and time as the Debtor shall notify all Qualified Bidders that have submitted Qualified Bids (including the Stalking Horse Bidder).

10. Each Qualified Bidder (including the Stalking Horse Bidder) participating in the Auction must confirm that it (a) has not engaged in any collusion with respect to the bidding or sale of any of the assets described in the Motion, (b) reviewed, understands, and accepts the Bidding Procedures, and (c) consents to the core jurisdiction of the Bankruptcy Court.

11. All interested parties (whether or not Qualified Bidders) that participate in the bidding process shall be deemed to have knowingly and voluntarily (a) consented to the entry of a final order by this Court in connection with the Motion or this Order (including any disputes relating to the bidding process, the Auction, and/or the Sale Transaction) to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution and (b) waived any right to jury trial in connection with any disputes relating to any of the foregoing matters.

12. The Court shall hold a hearing on _____, 2015, at [--:--] a.m. (prevailing Eastern Time) or as soon thereafter as counsel and interested parties may be heard (the "Sale Hearing"), at which time the Court shall consider the approval of the Sale Transaction to the Successful Bidder, and confirm the results of the Auction, if any. The Sale Hearing may be adjourned or rescheduled, in consultation with the Consultation Parties, by an announcement of the adjourned date at the Sale Hearing or by the filing of a hearing agenda.

13. Any Objections to approval of the Sale Transaction shall (a) be in writing, (b) state the basis of such objection with specificity and (c) be filed with this Court and served so as to be actually received by the Bankruptcy Court and the following parties on or before _____, 2015, at 4:00 p.m. (prevailing Eastern Time) (the "Objection Deadline"): (1) the Debtor, 1 Estate Hope, Christiansted, St. Croix, U.S.V.I. 00820, Attn: Thomas E. Hill, Chief Restructuring Officer; (2) counsel for the Debtor, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, Attn: Lorenzo Marinuzzi, Esq. and Jennifer L. Marines, Esq.; (3) investment banker for the Debtor, Lazard Frères & Co., JP Morgan Chase Tower, 600 Travis Street, Suite 2300, Houston, Texas 77002, Attn: Doug Fordyce; (4) counsel to Hess Oil Virgin Islands Corporation, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York, 10022, Attn: Christopher Greco, Esq.; (5) counsel to PDVSA V.I., Inc., Curtis Mallet-Prevost, Colt & Mosle LLP, 101 Park Avenue, New York, New York 10178, Attn: Steven J. Reisman, Esq.; (6) special mergers and acquisition counsel for the Debtor, White & Case LLP, 1155 Avenue of the Americas, New York, New York 10036, Attn: Greg Pryor, Esq.; and (7) counsel to the Stalking Horse Bidder, Latham & Watkins LLP, 885 Third Avenue, New York, NY 10022, Attn: Keith Simon, Esq. (collectively, the "Notice Parties"). The failure to file and serve an objection to the Sale Transaction by the Objection Deadline shall be a bar to the assertion thereof at the Sale Hearing or thereafter, and shall be deemed to constitute consent to entry of the Sale Order and consummation of the Sale Transaction and all transactions related thereto including, without limitation, for purposes of section 363(f) of the Bankruptcy Code. Any creditor that receives notice of the Sale Hearing and fails to timely file an objection to the Sale Transaction shall be deemed to have consented under section 363(f)(2) of the Bankruptcy Code to a sale free and clear of such creditor's Interests, if any.

14. If the Debtor does not receive any Qualified Bid (other than the Stalking Horse Bid) on or prior to the Bid Deadline, the Debtor shall promptly cancel the Auction and seek approval of the Sale Transaction of the Purchased Assets to the Stalking Horse Bidder pursuant to the Stalking Horse Agreement at the Sale Hearing. Subject to the terms of the Bidding Procedures and the applicable purchase agreement, the Back-Up Bidder shall be required to keep its Bid open and irrevocable until the Outside Backup Date.

NOTICE PROCEDURES

15. The form of the Auction and Sale Notice and the Cure Notice are hereby approved and appropriate and sufficient for all purposes and no other or further notice shall be required if the Debtor serves such notices in the manner provided in the Motion to the extent modified by this Order.

16. Within three (3) business days after the entry of this Order, or as soon as practicable thereafter, the Debtor shall cause the Auction and Sale Notice to be served upon (a) all entities known to have expressed an interest in a transaction with respect to some or all of the Debtor's assets during the past six (6) months; (b) all entities known to have asserted any Interest in or upon any of the Debtor's assets; (c) all federal, state, and local regulatory or taxing authorities or recording offices which have a reasonably known interest in the relief requested by this Motion; (d) the Internal Revenue Service; (e) counsel to any official committee appointed in this chapter 11 case; (f) the parties included on the Debtor's list of twenty (20) largest unsecured creditors; (g) those parties who have made the appropriate filings requesting notice of all pleadings filed in the chapter 11 case; (h) the Office of the United States Trustee for the District of the U.S. Virgin Islands; (i) the United States Attorney General's Office for the District of the Virgin Islands; (j) known counterparties to any unexpired leases or executory contracts that

could potentially be assumed and assigned to the Successful Bidder; and (k) such other entities as may be required by applicable Bankruptcy Rules or applicable Local Rules or as may be reasonably requested by the Stalking Horse Bidder.

17. Within three (3) business days after the entry of this Order, or as soon as practicable thereafter, the Debtor shall cause the Auction and Sale Notice to be published in *The Financial Times*, *The Wall Street Journal*, and *The Virgin Islands Daily News*.

APPROVAL OF THE ASSUMPTION AND ASSIGNMENT PROCEDURES

18. The Assumption and Assignment Procedures are hereby approved.

19. To the extent the Debtor has not already filed the Designated Contract Schedule, as soon as practicable, but no later than seven (7) days after entry of this Order, the Debtor shall file the Designated Contracts Schedule. The Debtor shall also serve the Contract Notice Parties with a Cure Notice on the date that the Designated Contracts Schedule is filed with the Court, which shall (a) state the Cure Amounts, (b) notify the non-Debtor party that such party's contract or lease may be assumed and assigned to a purchaser of the Debtor's assets at the conclusion of the Sale Hearing, (c) state the date of the Sale Hearing and that objections to any Cure Amount or to assumption and assignment of any Designated Contract will be heard at the Sale Hearing or at a later hearing, as determined by the Debtor, and (d) state a deadline by which the non-Debtor party shall file an objection to the Cure Amount or to the assumption and assignment of the Designated Contracts (including on the basis of adequate assurance of future performance of the Stalking Horse Bidder). For the avoidance of doubt, the inclusion of a contract, lease, or agreement on the Designated Contracts Schedule shall not constitute an admission that such contract, lease, or agreement is an executory contract or lease and/or shall not prevent the Debtor or the Stalking Horse Bidder from withdrawing such assumption or rejecting such Designated

Contract at any time before such Designated Contract is actually assumed and assigned pursuant to an Order of the Court.

20. Objections to the Cure Amounts set forth in the Designated Contracts Schedule or to assumption and assignment of any Designated Contract (including on the basis of adequate assurance of future performance of the Stalking Horse Bidder) must (a) be in writing, (b) state the basis for such objection, (c) state with specificity what Cure Amount or adequate assurance of future performance the party to the Designated Contract believes is required (in all cases with appropriate documentation in support thereof as to the alleged Cure Amount), and (d) be actually received no later than seven (7) days before the Sale Hearing by the Notice Parties.

21. At least ten (10) days prior to the closing of the Sale Transaction, the Debtor shall file a notice identifying each Selected Contract that the Successful Bidder wishes to assume and assign. If the Successful Bidder is not the Stalking Horse Bidder, a supplemental notice shall indicate the deadline for objecting to the assumption and assignment of the Selected Contract to such Successful Bidder, which shall be solely on the basis of adequate assurance of future performance of the Successful Bidder.

22. Unless a non-Debtor party to any executory contract or unexpired lease files an objection to the Cure Amount or adequate assurance of future performance by the applicable Cure Objection Deadline, such counterparty shall be deemed to consent to the treatment of its Designated Contract under section 365 of the Bankruptcy Code and the assumption and assignment thereof notwithstanding any anti-alienation provision or other restriction on assumption or assignment, and shall be forever barred and estopped from (a) objecting to the Cure Amount; (b) asserting or claiming any Cure Amount against the Debtor or any Successful Bidder, or any other assignee of the relevant contract or lease, other than the Cure Amount listed

on the Cure Notice; and (c) asserting the lack or failure of adequate assurance of future performance from the applicable assignee. In addition, the Cure Amounts set forth in the Cure Notice shall be binding upon the non-Debtor parties to the Selected Contracts for all purposes in these chapter 11 cases and otherwise, and will constitute a final determination of the total Cure Amounts required to be paid in connection with the assumption and assignment of the Selected Contracts; *provided, however*, that the Cure Amount set forth in the Cure Notice may be reduced by any amounts the Debtor pays under a Selected Contract on or after the Petition Date.

BID PROTECTIONS

23. The Bid Protections are hereby approved on the terms and subject to the conditions set forth in the Stalking Horse Agreement. The Debtor shall pay any and all such amounts owing to the Stalking Horse Bidder on account of the Bid Protections in full in cash in accordance with the terms of the Stalking Horse Agreement without further action of, order from, or notice to the Court.

24. The Break-Up Fee and the Expense Reimbursement shall constitute allowed super-priority administrative expense claims against the Debtor under Bankruptcy Code sections 503(b)(1) and 507(a)(2), senior to all other administrative expense claims against the Debtor (other than any superpriority claims granted in connection with any debtor-in-possession financing approved by the Court). If the Stalking Horse Bidder is not the Successful Bidder, then, subject to the terms and conditions of the Stalking Horse Agreement and the closing of a Sale Transaction with a Successful Bidder, the Good Faith Deposit of such Successful Bidder shall be used first to pay in cash any Break-Up Fee and Expense Reimbursement to which the Stalking Horse Bidder is entitled hereunder and under the Stalking Horse Agreement by reason of it not being the Successful Bidder. No person or entity, other than the Stalking Horse Bidder, shall be entitled to any expense reimbursement, break-up fee, "topping," termination, or other

similar fee or payment, and by submitting a bid, such person or entity is deemed to have waived their right to request or to file with this Court any request for expense reimbursement or any fee of any nature, whether by virtue of section 503(b) of the Bankruptcy Code, substantial contribution, or otherwise.

RELATED RELIEF

25. The automatic stay pursuant to section 362 of the Bankruptcy Code is hereby lifted to the extent necessary, without further order of the Court, to allow the Stalking Horse Bidder to deliver any notice provided for in the Stalking Horse Agreement, including, without limitation, a notice terminating the Stalking Horse Agreement, and allow the Stalking Horse Bidder to take any and all actions permitted under the Stalking Horse Agreement in accordance with the terms and conditions thereof.

26. The Debtor is hereby authorized to execute any additional or supplemental documents incident to the relief granted pursuant to this Order.

27. The Debtor is authorized to take any and all actions necessary to effectuate the relief granted herein, including any and all actions necessary to implement the Bidding Procedures.

28. Notwithstanding any applicability of Bankruptcy Rule 6004(h) and 6006(d), the terms and conditions of this Order shall be effective and enforceable immediately upon its entry. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

29. This Order shall be binding on the Debtor and any chapter 7 or chapter 11 trustee or other estate representative appointed for the Debtor. The Stalking Horse Bidder shall have

standing to appear and be heard on all issues relating to the Bidding Procedures, the Auction, and/or the Sale.

30. To the extent the provisions of this Order are inconsistent with the provisions of any Exhibit referenced herein or with the Motion, the provisions of this Order shall control and govern.

31. This Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.

Dated: _____, 2015
St. Croix, U.S. Virgin Islands

_____
UNITED STATES BANKRUPTCY JUDGE

Exhibit B

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
BANKRUPTCY DIVISION
ST. CROIX, VIRGIN ISLANDS

In re:	)	
	)	Chapter 11
HOVENSA L.L.C.,	)	
	)	Case No. 1:15-bk-10003-MFW
Debtor.	)	

BIDDING PROCEDURES

On September 15, 2015, HOVENSA L.L.C. (the "Debtor") filed a voluntary petition under chapter 11 of the United States Code in the United States for the District Court of the Virgin Islands, Bankruptcy Division (the "Bankruptcy Court") under Case No. 1:15-bk-10003-MFW (the "Bankruptcy Case").

On September 4, 2015, the Debtor entered into an Asset Purchase Agreement (the Stalking Horse Agreement") with Limetree Bay Holdings, LLC (the "Stalking Horse Bidder") and Hess Oil Virgin Islands Corp. ("HOVIC"). By the Stalking Horse Agreement, the Stalking Horse Bidder has agreed to, among other things, purchase certain assets of the Debtor and certain tug boats of HOVIC (collectively, the "Terminal Assets", including certain executory contracts and unexpired leases of the Debtor, the "Designated Contracts") and assume certain liabilities, in each case, subject to the terms and conditions of the Stalking Horse Agreement.

On September 15, 2015, the Debtor filed the *Debtor's Motion For Entry of Orders (A)(I) Establishing Bidding Procedures Relating to the Sale of the Debtor's Assets, Including Approving Break-Up Fee and Expense Reimbursement, (II) Establishing Procedures Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, Including Notice of Proposed Cure Amounts, (III) Approving Form and Manner of Notice Relating Thereto, and (Iv) Scheduling a Hearing to Consider the Proposed Sale; (b)(i) Approving the Sale of the Debtor's Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests, and (ii) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (c) Granting Related Relief* (the "Sale Motion") [Docket No.__]. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Sale Motion.

On September __, 2015, the Bankruptcy Court entered an order (the "Bidding Procedures Order") granting certain relief requested in the Sale Motion, including approval of the Bidding Procedures (as defined below). A copy of the Bidding Procedures Order may be obtained on the website maintained by the Debtor's claims and noticing agent [insert link to website] or by contacting the Debtor's counsel, in writing or by e-mail, at Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, Attn: Lorenzo Marinuzzi, Esq. (lmarinuzzi@mofo.com) and Jennifer L. Marines, Esq. (jmarines@mofo.com).

Set forth below are the bidding procedures approved by the Bankruptcy Court (the "Bidding Procedures") to be employed in connection with a transaction (the "Sale Transaction") for the sale of all or substantially all of the Debtor's assets, including, without limitation, the Terminal Assets (collectively, the "Assets"). At a hearing to be held before the Bankruptcy Court (the "Sale Hearing"), the Debtor will seek entry of an order (the "Sale Order") approving the Sale Transaction.

Assets to Be Sold

The Debtor is offering for sale all of the Assets. Except as otherwise provided in the Stalking Horse Agreement, a Modified Asset Purchase Agreement or an Alternative Asset Purchase Agreement submitted by a Successful Bidder (as such terms are defined below), all of the Debtor's right, title and interest in and to the Assets subject thereto shall be sold free and clear of any and all pledges, liens, security interests, encumbrances, claims, charges, options and interests thereon (collectively, "Interests") to the maximum extent permitted by sections 363 and 365 of the Bankruptcy Code, with such Interests to attach to the net proceeds of the sale of the Assets with the same validity and priority as such Interests applied against the Assets. Notwithstanding the foregoing, the Debtor reserves the right to contest the validity, nature, extent, or priority of and/or seek to set aside or avoid any and all Interests under applicable law. For the avoidance of doubt, the Debtor shall retain all rights to the Assets that are not sold pursuant to a bid accepted by the Debtor pursuant to these Bidding Procedures and approved by the Bankruptcy Court.

Although the Stalking Horse Agreement contemplates a sale of only the Terminal Assets, the Debtor is offering for sale, pursuant to these Bidding Procedures, all of the Assets, and the Debtor will consider any and all Qualified Bids (as defined below) for the Assets.

Key Dates for Potential Competing Bidders

The Bidding Procedures provide interested parties with the opportunity to qualify for and participate in an auction to be conducted by the Debtor (the "Auction") and to submit Bids (as defined below) for the Assets. Subject to the terms herein, the Debtor shall accept Bids until **[[•] at 5:00 p.m. (EST)]** (the "Bid Deadline").

Due Diligence

Communications with the Debtor and Access to Diligence Materials

To participate in the bidding process and to receive access to due diligence, including a schedule of all executory contracts and unexpired leases of the Debtor (the "Diligence Materials"), a party must submit to the Debtor (i) an executed confidentiality agreement substantially in the form attached hereto as **Exhibit A**, or such other form reasonably satisfactory to the Debtor (a "Confidentiality Agreement"), and (ii) reasonable evidence demonstrating the party's financial capability to consummate a Sale Transaction as reasonably determined by the Debtor, in consultation with the advisors to and representatives of HOVIC and PDVSA V.I., Inc.

("PDV-VI," and together with HOVIC, the "Consultation Parties"). A party who qualifies for access to Diligence Materials pursuant to the prior sentence shall be a "Qualified Bidder." The Stalking Horse Purchaser is deemed a Qualified Bidder for all purposes, and the Stalking Horse Agreement constitutes a Qualified Bid for the Terminal Assets for all purposes.

The Debtor reserves the right to withhold any Diligence Materials that the Debtor determines are business-sensitive or otherwise not appropriate for disclosure to a Qualified Bidder who is a competitor of the Debtor or is affiliated with any competitor of the Debtor. Neither the Debtor nor their representatives shall be obligated to furnish information of any kind whatsoever to any person that is not determined to be a Qualified Bidder. The Debtor may, in the exercise of its reasonable business judgment and in consultation with the Consultation Parties, extend a Qualified Bidder's time to conduct due diligence after the Bid Deadline until the Auction.

All due diligence requests must be directed to Lazard Frères & Co., JP Morgan Chase Tower, 600 Travis Street, Suite 2300, Houston, Texas 77002, Attn: Doug Fordyce (713) 236-4640; (doug.fordyce@lazard.com).

Communications with Qualified Bidders

Notwithstanding anything to the contrary in these Bidding Procedures, all substantive direct communications between Qualified Bidders shall involve the Debtor and its advisors to the extent reasonably practicable.

Due Diligence from Qualified Bidders

Each bidder shall comply with all reasonable requests for additional information and due diligence access requested by the Debtor or its advisors regarding the ability of the Qualified Bidder to consummate its contemplated transaction. Failure by a Qualified Bidder to comply with such reasonable requests for additional information and due diligence access may be a basis for the Debtor, in consultation with the Consultation Parties, to determine that such bidder is no longer a Qualified Bidder or that a bid made by such Qualified Bidder is not a Qualified Bid.

Bid Requirements

To be eligible to participate in the Auction, each offer, solicitation, or proposal (each, a "Bid"), other than the Stalking Horse Bid, must be (i) made by a Qualified Bidder, (ii) received by the Bid Notice Parties (as defined below) prior to the Bid Deadline, and (iii) reasonably determined by the Debtor, in consultation with the Consultation Parties, to satisfy each of the following conditions:

(a) Confidentiality Agreement. The Qualified Bidder must have entered into a Confidentiality Agreement.

(b) Good Faith Deposit: Each Bid must be accompanied by a cash deposit in the amount of ten percent (10%) of the cash purchase price, before any reductions

for assumed liabilities, to an interest-bearing escrow account to be identified and established by the Debtor (the "Good Faith Deposit").

(c) Executed Agreement: Each Bid for the Terminal Assets must: (i) be based on the Stalking Horse Agreement, and (ii) include executed transaction documents, signed by an authorized representative of such Qualified Bidder, pursuant to which the Qualified Bidder proposes to effectuate a Sale Transaction. Each Bid for the Terminal Assets must also include a redlined copy of the Stalking Horse Agreement marked against a modified version of the Stalking Horse Agreement (together, with all schedules and exhibits, a "Modified Asset Purchase Agreement") to show all changes requested by the Qualified Bidder (including the inclusion of the purchase price). Each Bid that contemplates the purchase of Assets other than the Terminal Assets and the assumption of liabilities other than those to be assumed pursuant to the Stalking Horse Agreement must include executed transaction documents (together, with all schedules and exhibits, an "Alternative Asset Purchase Agreement"), signed by an authorized representative of such Qualified Bidder, pursuant to which the Qualified Bidder proposes to effectuate a Sale Transaction.

(d) Minimum Bid: A Bid for the Terminal Assets must propose a minimum cash purchase price, including any assumption of liabilities and any earnout or similar provisions, that in the Debtor's reasonable business judgment, after consulting with the Consultation Parties, has a value greater than the sum of (i) the purchase price set forth in the Stalking Horse Agreement, (ii) the Break-Up Fee, (iii) the Expense Reimbursement Amount, and (iv) $5 million (the "Overbid Amount"). The amount of a minimum Bid that includes Assets in addition to the Terminal Assets and/or the assumption of liabilities in addition to those to be assumed pursuant to the Stalking Horse Agreement shall be determined in the Debtor's reasonable business judgment in consultation with the Consultation Parties.

(e) Same or Better Terms: In addition to the minimum purchase price requirements set forth in (d)]above, each Bid must be on terms that the Debtor, in its reasonable business judgment and after consulting with the Consultation Parties, determines are better than the terms of the Stalking Horse Agreement.

(f) Designation of Assigned Contracts and Leases: A Bid must identify any and all executory contracts and unexpired leases of the Debtor that the Qualified Bidder wishes to be assumed and assigned to the Qualified Bidder at closing, pursuant to a Sale Transaction. A Bid must confirm that the Qualified Bidder will be responsible for any cure costs associated with such assumption to the same extent as the Stalking Horse Agreement.

(g) Designation of Assumed Liabilities: A Bid must identify all liabilities which the Qualified Bidder proposes to assume.

(h) Corporate Authority: A Bid must include written evidence reasonably acceptable

to the Debtor, in consultation with the Consultation Parties, demonstrating appropriate corporate authorization to consummate the proposed Sale Transaction; *provided that*, if the Qualified Bidder is an entity specially formed for the purpose of effectuating the Sale Transaction, then the Qualified Bidder must furnish written evidence reasonably acceptable to the Debtor of the approval of the Sale Transaction by the equity holder(s) of such Qualified Bidder.

(i) Disclosure of Identity of Qualified Bidder: A Bid must fully disclose the identity of each entity that will be bidding for or purchasing the Assets or otherwise participating in connection with such Bid, and the complete terms of any such participation, including any agreements, arrangements or understandings concerning a collaborative or joint bid or any other combination concerning the proposed Bid.

(j) Proof of Financial Ability to Perform: A Bid must include written evidence that the Debtor may reasonably conclude, in consultation with its advisors and the Consultation Parties, demonstrates that the Qualified Bidder has the necessary financial ability to close the Sale Transaction, comply with its obligations thereunder, including future satisfaction of all obligations under the Modified Asset Purchase Agreement or Alterative Asset Purchase Agreement, as the case may be, and all liabilities to be assumed. Such information must include, inter alia, the following:

(1) contact names and numbers for verification of financing sources;

(2) written evidence of the Qualified Bidder's internal resources and proof of any debt funding commitments from a recognized banking institution and, if applicable, equity commitments in an aggregate amount equal to the cash portion of such Bid or the posting of an irrevocable letter of credit from a recognized banking institution issued in favor of the Debtor in the amount of the cash portion of such Bid, in each case, as are needed to close the Sale Transaction;

(3) the Qualified Bidder's current financial statements (audited if they exist) or other similar financial information reasonably acceptable to the Debtor, in consultation with the Consultation Parties; and

(4) any such other form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtor, in consultation with the Consultation Parties, or other information that the Debtor may request from such Qualified Bidder demonstrating that such Qualified Bidder has the ability to close the Sale Transaction.

(k) Regulatory and Third Party Approvals: A Bid must set forth each regulatory and third-party approval required for the Qualified Bidder to consummate the Sale Transaction, and the time period within which the Qualified Bidder expects to receive such regulatory and third-party approvals, and the Debtor, in consultation

with the Consultation Parties, may consider in evaluating the Bid the timing and likelihood of such approvals, and any actions the Qualified Bidder will need to take to ensure receipt of such approval(s) as promptly as possible. The Bid must contain the affirmative representation of the Qualified Bidder that the Qualified Bidder understands and agrees that the Qualified Bidder will cooperate with the Debtor and the Consultation Parties in negotiations with the GVI regarding the Sale Transaction.

(l) Contact Information and Affiliates: A Bid must provide the identity and contact information for the Qualified Bidder and full disclosure of any parent companies of the Qualified Bidder.

(m) Contingencies: A Bid may not be conditioned on obtaining financing or any internal approval, or on the outcome or review of due diligence. All conditions to completion of the Sale Transaction must be set forth in the Modified Asset Purchase Agreement or Alternative Asset Purchase Agreement.

(n) Irrevocable: A Bid must be irrevocable until entry of the Sale Order, *provided that* if such Bid is accepted as the Successful Bid or the Backup Bid (as defined below), such Bid shall continue to remain irrevocable through the Outside Closing Date (as defined below).

(o) Compliance with Diligence Requests: The Qualified Bidder submitting a Bid must have complied with reasonable requests for additional information and due diligence access requested by the Debtor to the reasonable satisfaction of the Debtor, in consultation with the Consultation Parties.

(p) No Collusion: The Qualified Bidder must acknowledge in writing that it has not engaged in any collusion with respect to any Bids or the Sale Transaction and agrees not to engage in any collusion with respect to any Bids, the Auction, or the Sale Transaction.

(q) Termination Fees: Except with respect to the Stalking Horse Bidder, a Bid shall not entitle the Qualified Bidder to any break-up fee, termination fee, or similar type of payment or expense reimbursement and, by submitting a Bid, the Qualified Bidder waives the right to pursue a substantial contribution claim under 11 U.S.C. § 503 related in any way to the submission of its Bid or participation in any Auction (as defined below).

(r) Consent to Jurisdiction: The Bid shall state that the Qualified Bidder consents to the jurisdiction of the Bankruptcy Court.

A Bid received from a Qualified Bidder that meets the above requirements, as determined by the Debtor in its reasonable business judgment after consulting with the Consultation Parties, shall constitute a "Qualified Bid" for such Assets; *provided* that if the Debtor receives a Bid prior to the Bid Deadline that is not a Qualified Bid, the Debtor may provide the Qualified Bidder with

the opportunity to remedy any deficiencies prior to the Auction in order to render such Bid a Qualified Bid; *provided, further*, that for the avoidance of doubt, if any Qualified Bidder fails to comply with reasonable requests for additional information and due diligence access requested by the Debtor to the reasonable satisfaction of the Debtor, the Debtor may, after consulting with the Consultation Parties, disqualify any Qualified Bidder and Qualified Bid and such Qualified Bidder shall not be entitled to attend or participate in the Auction.

The Debtor, in consultation with the Consultation Parties, may accept a single Qualified Bid or multiple bids for non-overlapping material portions of the Assets such that, if taken together in the aggregate, would otherwise meet the standards for a single Qualified Bid. The Debtor, in consultation with the Consultation Parties, may also permit otherwise Qualified Bidders who submitted Bids by the Bid Deadline for a material portion of the Assets but who were not identified as a component of a single Qualified Bid consisting of multiple Bids, to participate in the Auction and to submit higher or otherwise better bids that in subsequent rounds of bidding may be considered, together with other Bids for non-overlapping material portions of the Assets, as part of such a single Qualifying Bid.

Bid Deadline

The following parties must receive a Bid in writing, on or before the Bid Deadline or such other date as may be agreed to by the Debtor, after consulting with the Consultation Parties: (1) the Debtor, 1 Estate Hope, Christiansted, St. Croix, U.S.V.I. 00820, Attn: Thomas E. Hill, Chief Restructuring Officer; (2) counsel for the Debtor, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, Attn: Lorenzo Marinuzzi, Esq. and Jennifer L. Marines, Esq.; (3) investment banker for the Debtor, Lazard Frères & Co., JP Morgan Chase Tower, 600 Travis Street, Suite 2300, Houston, Texas 77002, Attn: Doug Fordyce; (4) counsel to HOVIC, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York, 10022, Attn: Christopher Greco, Esq.; (5) counsel to PDV-VI, Curtis Mallet-Prevost, Colt & Mosle LLP, 101 Park Avenue, New York, New York 10178, Attn: Steven J. Reisman, Esq.; (6) special mergers and acquisition counsel for the Debtor, White & Case LLP, 1155 Avenue of the Americas, New York, New York 10036, Attn: Greg Pryor, Esq.; and (7) counsel to the Stalking Horse Bidder, Latham & Watkins LLP, 885 Third Avenue, New York, NY 10022, Attn: Keith Simon, Esq. (collectively, the "Bid Notice Parties").

Auction

If the Debtor receives a Qualified Bid other than the Bid submitted by the Stalking Horse Bidder by the Bid Deadline, the Debtor shall conduct an Auction to determine the highest or otherwise best Qualified Bid for the Assets. The Debtor shall have the right, in consultation with the Consultation Parties, to adjourn or cancel the Auction at any time either by delivering notice of such adjournment or cancellation to all Qualified Bidders or announcing such adjournment or cancellation on the record before the Bankruptcy Court or on the record at the Auction(s); *provided further*, that the Debtor shall have the right to conduct any number of Auctions on such date to accommodate Qualified Bids for certain, but less than all, of the Assets if the Debtor determines, in consultation with the Consultation Parties, that such process would be in the best interest of the Debtor's estate. The Debtor shall confirm to all Qualified Bidders the time and

place of the Auction and any adjournments thereof. The Debtor will arrange for the bidding at the Auction to be transcribed, and the Auction shall be transcribed by a court reporter and all Qualified Bids (including the Successful Bid and Backup Bid) will be made and confirmed on the record of the court reporter.

If no Qualified Bid other than the Bid submitted by the Stalking Horse Bidder is received by the Bid Deadline, the Stalking Horse Agreement shall become the Successful Bid and the Stalking Horse Bidder shall be the Successful Bidder for the Terminal Assets. The Debtor shall promptly cancel the Auction, file a notice of cancellation with the Bankruptcy Court, and submit the Stalking Horse Bid to the Bankruptcy Court for approval at the Sale Hearing.

Auction Procedures

The Auction, if necessary, shall take place on or before [[•] at 10:00 a.m. (prevailing Eastern Time)] at the offices of counsel for the Debtor, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, or such other place and time as the Debtor shall notify in writing all Qualified Bidders that have submitted Qualified Bids (including the Stalking Horse Bidder). The Auction shall be conducted according to the following procedures, which procedures shall be subject to modification by the Debtor, as the Debtor, in consultation with the Consultation Parties, deems necessary to better promote the goals of the Auction and to comply with its fiduciary obligations. For the avoidance of doubt, the Debtor, in consultation with the Consultation Parties, may adopt any procedures for the Auction that the Debtor believes, in the exercise of its reasonable business judgment, will maximize value, including, but not limited to, conducting separate auctions for discrete pools of Assets.

Participation

Only the Debtor, the Consultation Parties, and any Qualified Bidder that has submitted a Qualified Bid (including the Stalking Horse Bidder), in each case, along with their respective representatives and advisors, or such other parties as the Debtor shall determine, in consultation with the Consultation Parties, shall attend the Auction (such attendance to be in person). Only Qualified Bidders (including the Stalking Horse Bidder), or such other parties as the Debtor shall determine, in consultation with the Consultation Parties, will be entitled to make any Bids at the Auction.

The Debtor Shall Conduct the Auction

The Debtor and its advisors shall direct and preside over the Auction. The Debtor, in consultation with the Consultation Parties, may conduct the Auction in the manner it reasonably determines will result in the highest or otherwise best Qualified Bid. The Debtor shall provide each participant in the Auction with a copy of the Modified Asset Purchase Agreement or, if applicable, Alternative Asset Purchase Agreement associated with the highest or otherwise best Qualified Bid received before the Bid Deadline (such highest or otherwise best Qualified Bid, the "Leading Bid"). In addition, at the start of the Auction, the Debtor shall describe the terms of the Leading Bid on the record at the Auction. Each Qualified Bidder (including the Stalking Horse Bidder) participating in the Auction must confirm on the record that it (i) has not engaged in any collusion with respect to the bidding or sale of any of the assets described herein, (ii) reviewed,

understands, and accepts the Bidding Procedures, and (iii) consents to the core jurisdiction of the Bankruptcy Court (as described more fully below). The Auction shall be transcribed and all Bids shall be made on the record at the Auction.

Terms of Overbids

An "Overbid" is any bid made at the Auction subsequent to the Debtor's announcement of the Leading Bid. Any Overbid for purposes of the Auction must comply with the following conditions:

(a) Minimum Overbid Increments: Any Overbid after and above the Leading Bid shall be made in cash increments at not less than $2.0 million. In order to maximize value, the Debtor reserves the right, in consultation with the Consultation Parties, to announce reductions or increases in the minimum incremental bids (or in valuing such bids) at any time during the Auction. Additional consideration in excess of the amount set forth in the respective Leading Bid may include cash and/or assumption of liabilities; *provided, however*, that the value for such assumption of liabilities shall be determined by the Debtor, in consultation with the Consultation Parties, in its reasonable business judgment. The Debtor shall take into account the Breakup Fee and Expense Reimbursement in each round of bidding at the Auction, and the Stalking Horse Bidder shall be given credit for the Breakup Fee and Expense Reimbursement in any additional bids submitted by the Stalking Horse Bidder and in each round of bidding at the Auction. Any Qualified Bidder shall have the right, at any time, to request that the Debtor announce (in the presence of all Qualified Bidders), subject to any potential new bids, the then current highest or otherwise best bid.

(b) Remaining Terms Are the Same for Qualified Bids: Except as modified herein or by the Debtor, in consultation with the Consultation Parties, at the Auction, an Overbid at the Auction must comply with the conditions for a Qualified Bid set forth above; *provided, however*, that (i) the Bid Deadline shall not apply, (ii) no additional Good Faith Deposit shall be required beyond the Good Faith Deposit previously submitted by a Qualified Bidder; *provided further*, that the Successful Bidder shall be required to make a representation at the end of the Auction that it will provide any additional deposit necessary so that its Good Faith Deposit is equal to the amount of ten percent (10%) of the cash purchase price contained in the Successful Bid, and (iii) each Overbid may be based on the Leading Bid announced at the commencement of the Auction. Subject to the remaining terms of the Bidding Procedures, any Overbid must remain open, irrevocable, and binding on the Qualified Bidder until the Sale Hearing. At the Auction, all Qualified Bidders shall have the right to submit additional Qualified Bids and make additional modifications to the Stalking Horse Agreement or Modified Agreement submitted by the applicable Qualified Bidder in order to improve its previous Qualified Bid.

(c) At the Debtor's discretion, to the extent not previously provided, a Qualified Bidder submitting an Overbid at the Auction must submit, as part of its Overbid,

written evidence (in the form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtor) reasonably demonstrating such Qualified Bidder's ability to close the Sale Transaction proposed by such Overbid and comply with its obligations thereunder, including future satisfaction of all obligations under the Modified Asset Purchase Agreement or Alternative Asset Purchase Agreement, as the case may be, and all liabilities to be assumed in such Sale Transaction.

Announcement and Consideration of Overbids

(a) Announcement of Overbids: The Debtor shall announce on the record at the Auction the material terms of each Overbid, the total amount of consideration offered in each such Overbid such other terms as the Debtor, in consultation with the Consultation Parties, reasonably determines will facilitate the Auction.

(b) Consideration of Overbids: The Debtor reserves the right, in consultation with the Consultation Parties, in its reasonable business judgment, to make one or more continuances of the Auction to, among other things: (i) facilitate discussions between the Debtor and individual Qualified Bidders, (ii) allow individual Qualified Bidders time to consider how they wish to proceed, or (iii) give Qualified Bidders the opportunity to provide the Debtor with such additional evidence as the Debtor in its reasonable business judgment may require, that the Qualified Bidder has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed Sale Transaction at the prevailing Overbid amount.

Additional Procedures

The Debtor, after consulting with the Consultation Parties, may announce at the Auction additional procedural rules that are reasonable under the circumstances for conducting the Auction, so long as such rules are not inconsistent in any material respect with the Bidding Procedures Order.

Consent to Jurisdiction and Authority as Condition to Bidding

All Qualified Bidders (including the Stalking Horse Bidder) shall be deemed to have (i) consented to the core jurisdiction of the Bankruptcy Court to enter an order or orders, which shall be binding in all respects, in any way related to the Bidding Procedures, the Auction, any Modified Asset Purchase Agreement, any Alternative Asset Purchase Agreement, or the construction and enforcement of documents relating to any Sale Transaction, (ii) waived any right to a jury trial in connection with any disputes relating to the matters described in clause (i) above, and (iii) consented to the entry of a final order or judgment in any way related to the matters described in clause (i) above if it is determined that the Bankruptcy Court would lack Article III jurisdiction to enter such a final order or judgment absent the consent of the parties.

Sale Is As Is/Where Is

Except as otherwise provided in the Stalking Horse Agreement, the Modified Asset Purchase Agreement, the Alternative Asset Purchase Agreement, or the Sale Order, the Assets or any other assets of the Debtor sold pursuant to the Bidding Procedures shall be conveyed at the closing of a Sale Transaction with a Successful Bidder in their then-present condition, "AS IS, WHERE IS, WITH ALL FAULTS, AND WITHOUT ANY WARRANTY WHATSOEVER, EXPRESS OR IMPLIED."

Closing the Auction

The Auction shall continue until there is only one Qualified Bid that the Debtor, in its reasonable business judgment, after consulting with the Consultation Parties, determines is the highest or otherwise best Qualified Bid (such Bid, the "Successful Bid," and the Qualified Bidder submitting such Successful Bid, the "Successful Bidder"). The Auction shall not close unless and until all Qualified Bidders have been given a reasonable opportunity to submit an Overbid to the then-existing Leading Bid(s). The Successful Bid may consist of a single Qualified Bid or multiple Bids. The determination of what constitutes the Successful Bid shall take into account any factors the Debtor, in consultation with the Consultation Parties, reasonably deem relevant to the value of the Qualified Bid to the Debtor's estate.

Promptly following the Debtor's selection of the Successful Bid and the conclusion of the Auction, the Debtor shall announce the Successful Bid, Successful Bidder, and Backup Bid (as defined below) and shall file with the Bankruptcy Court notice of the Successful Bid, Successful Bidder, and Backup Bid. The Debtor shall not accept or consider any Bids submitted after the conclusion of the Auction without further order of the Court. The Debtor's presentation of a particular Qualified Bid to the Bankruptcy Court does not constitute the Debtor's acceptance of the Bid.

Backup Bidder

Notwithstanding anything in the Bidding Procedures to the contrary, if an Auction is conducted, the Qualified Bidder with the next highest or otherwise best Bid at the Auction, as determined by the Debtor, in the exercise of its reasonable business judgment and after consulting with the Consultation Parties, will be designated as the backup bidder (the "Backup Bidder"). Subject to the other terms and conditions of these Bidding Procedures, the Backup Bidder shall be required to keep its initial Bid (or if the Backup Bidder submitted one or more Overbids at the Auction, the Backup Bidder's final Overbid) (the "Backup Bid") open and irrevocable until the closing date of the Sale Transaction with the Successful Bidder (the "Outside Backup Date").

Following the Sale Hearing and entry of the Sale Order, if the Successful Bidder fails to consummate an approved Sale Transaction, the Backup Bidder will be deemed to have the new prevailing bid, and the Debtor will be authorized, but not required, without further order of the Bankruptcy Court, to consummate the Sale Transaction with the Backup Bidder. In such case of a material breach or failure to perform on the part of the Successful Bidder (including any Backup Bidder designated as a Successful Bidder) and termination of such bidder's purchase

agreement by the Debtor, the defaulting Successful Bidder's deposit shall be forfeited to the Debtor in accordance with the terms and conditions of the applicable purchase agreement.

Sale Hearing

The Sale Hearing shall be conducted by the Bankruptcy Court on [October __] at [--:--] a.m. (prevailing Eastern Time) and may be adjourned or rescheduled, in consultation with the Consultation Parties, by an announcement of the adjourned date at the Sale Hearing or by the filing of a hearing agenda. At the Sale Hearing, the Debtor will seek Bankruptcy Court approval of the Successful Bid and the Back-Up Bid. Unless the Bankruptcy Court orders otherwise, the Sale Hearing shall be an evidentiary hearing on matters relating to the Sale Transaction. In the event that the Successful Bidder cannot or refuses to consummate the Sale Transaction because of the breach or failure on the part of the Successful Bidder, the Back-Up Bidder will be deemed the new Successful Bidder and the Debtor shall be authorized, but not required, to close with the Back-Up Bidder on the Back-Up Bid without further order of the Bankruptcy Court.

Return of Good Faith Deposits

The Good Faith Deposits of all Qualified Bidders shall be held in one or more interest-bearing escrow accounts by the Debtor, but shall not be commingled or become property of the Debtor's estate absent further court order. The Good Faith Deposit of any Qualified Bidder that is neither the Successful Bidder nor the Backup Bidder shall be returned to such Qualified Bidder not later than two (2) business days after entry of the Sale Order. The Good Faith Deposit of the Backup Bidder, if any, shall, subject to the terms of the applicable purchase agreement, be returned to the Backup Bidder on the date that is two (2) business days after the closing of the Sale Transaction with the Successful Bidder. Upon the return of the Good Faith Deposit, the respective Qualified Bidder shall receive any and all interest that has accrued thereon. If the Successful Bidder timely closes the Successful Bid, its Good Faith Deposit shall, subject to the terms of the applicable purchase agreement, be credited towards the purchase price.

Reservation of Rights of the Debtor

The Debtor reserves the right as it may determine in accordance with its business judgment to be in the best interest of its estate, in consultation with the Consultation Parties, to modify any portion of the Bidding Procedures including, without limitation, to: (i) determine which bidders are Qualified Bidders; (ii) determine which Bids are Qualified Bids; (iii) determine which Qualified Bid is the highest or otherwise best Bid and which is the next highest or otherwise best Bid; (iv) reject any Bid (excluding the Stalking Horse Bid) that is (1) inadequate or insufficient, (2) not in conformity with the requirements of the Bidding Procedures or the requirements of the Bankruptcy Code; (3) contrary to the best interests of the Debtor and its estate; or (4) subject to any financing contingency or otherwise not fully financed; (v) waive terms and conditions set forth herein with respect to all potential bidders; (vi) impose additional terms and conditions with respect to all potential bidders; (vii) extend the deadlines set forth herein; (viii) continue or cancel the Auction and/or Sale Hearing in open court without further notice; and (ix) modify the Bidding Procedures and implement additional procedural rules that the Debtor determines, in its reasonable business judgment and in consultation with the

Consultation Parties, will better promote the goals of the bidding process; *provided* that such modifications are (a) not inconsistent with the Bidding Procedures Order, the Bankruptcy Code, or any Order of the Bankruptcy Court entered in connection herewith; and (b) disclosed to each Qualified Bidder participating in the Auction. Notwithstanding the foregoing, the provisions of this paragraph shall not operate or be construed to permit the Debtor to (i) accept any Qualified Bid for the Terminal Assets that (a) does not include the Good Faith Deposit in cash, which shall serve as protection and security for the Stalking Horse Bidder as outlined herein for payment of its Breakup Fee and Expense Reimbursement or (b) does not equal or exceed the consideration provided to the Debtor in the Stalking Horse Bid, plus the Overbid Amount, or (ii) impose any terms and conditions upon the Stalking Horse Bidder that are contradictory to or in breach of the terms of the Stalking Horse Agreement.

No Amendment or Waiver

Notwithstanding anything in these Bidding Procedures to the contrary, nothing in these Bidding Procedures shall, or shall be deemed to, amend, modify, or waive any term or condition of the Stalking Horse Agreement (including the right and timing of the Stalking Horse Bidder to receive the return of its Good Faith Deposit) or limit, alter, or impair the ability of the Stalking Horse Bidder to terminate the Stalking Horse Agreement in accordance with the terms and conditions thereof.

Fiduciary Out

Nothing in these Bidding Procedures shall require the executive committee of the Debtor to take any action, or refrain from taking any action, with respect to these Bidding Procedures or any transaction in respect of the Assets to the extent such executive committee determines, based on the advice of counsel, that taking such action, or refraining from taking such action, as applicable, is required to comply with applicable law or its fiduciary obligations under applicable law.

Exhibit A

PERSONAL AND CONFIDENTIAL

[_____ ___, 2015]

[Name**]**
[Title**]**
[Company**]**
[Address**]**
[Address**]**

Dear **[_____]**:

1. **[Interested Party]** (the "Company") has requested certain information in connection with the Company's consideration of a possible negotiated transaction with HOVENSA L.L.C. ("Hovensa"), a debtor-in-possession in a Chapter 11 case (the "Bankruptcy Case") in the United States Bankruptcy Court for the U.S. Virgin Islands (the "Bankruptcy Court"), involving the sale of all or a portion of Hovensa's assets and the assumption of certain liabilities pursuant to sections 105, 363 and 365 of Title 11 of the United States Code, 11 U.S.C. §§ 1101, et seq. to be proposed by Hovensa in the Bankruptcy Case (the "Possible Transaction"). As a condition to the Company being furnished such information, the Company agrees to treat any information concerning Hovensa or its business or its affiliates (whether prepared by Hovensa or any of its affiliates or any of their respective advisors or otherwise) which is furnished or otherwise made available to the Company and/or its Representatives (as hereafter defined) by or on behalf of Hovensa, whether before, on or after the date of this letter agreement and whether written or oral, in whatever form or storage medium and whether or not identified as 'confidential' (such information, together with (a) any and all analyses, compilations, studies, interpretations, summaries, extracts, notes, data, reports, records and other documents and materials prepared by the Company or any of the Company's Representatives that contain, reflect, are based upon or are generated from, in whole or in part, any such information and (b) the Transaction Information (as defined below), herein collectively referred to as the "Evaluation Material") in accordance with the provisions of this agreement and to take or abstain from taking certain other actions herein set forth. The term "Evaluation Material" does not include information which (i) is already in the

public domain at the time furnished or subsequently becomes part of the public domain other than through any disclosure by the Company or the Company's Representatives not expressly permitted by this agreement; (ii) the Company can demonstrate was in the Company's possession prior to disclosure to the Company by or on behalf of Hovensa in connection with the Possible Transaction and was not directly or indirectly acquired by the Company under an obligation of confidentiality; (iii) the Company can demonstrate was received by the Company after the time of disclosure by or on behalf of Hovensa in connection with the Possible Transaction, from any Person (which term shall mean for the purposes of this agreement any natural or legal person, including a corporation, trust, partnership, limited liability company or other entity) other than Hovensa, its affiliates or their respective Representatives, who did not require the Company to hold it in confidence and who did not acquire the information directly or indirectly from Hovensa, its affiliates or their respective Representatives under an obligation of confidentiality; or (iv) was independently developed by the Company without the use of or reference to any Evaluation Material.

2. The Company hereby agrees that the Evaluation Material will be used by it and its Representatives, in each case, solely for the purpose of evaluating a Possible Transaction and not for any other purpose, and that all Evaluation Material will be kept confidential by the Company and the Company's Representatives and will not be disclosed by the Company or the Company's Representatives to any other Person without the prior written consent of Hovensa; provided, however, that the Company may disclose the Evaluation Material to its Representatives who need to know such information for the purpose of evaluating a Possible Transaction (it being understood that such Representatives shall be informed by the Company of the confidential nature of such information and shall agree to keep such information confidential in accordance with the terms of this agreement to the same extent as if they were parties hereto). In any event, the Company shall be responsible for any breach of this agreement by any of the Company's Representatives and the Company agrees, at its sole expense, to take all reasonable measures (including but not limited to, judicial proceedings) to restrain the Company's Representatives from prohibited or unauthorized disclosure or use of the Evaluation Material. For purpose of this agreement, (i) the term "Representative" means, with respect to any Person, such Person's affiliates and joint ventures and any of the foregoing Persons' respective partners, members, managers, directors, officers, employees, agents, representatives, advisors (including, without limitation, financial advisors, consultants, counsel and accountants), controlling persons and financing sources; provided, however, the Company's actual or prospective financing sources (debt or equity) for the Possible Transaction shall not be deemed "Representatives" of the Company unless and until, prior to contacting such financing sources (including for purposes of checking conflicts), Hovensa has consented in writing to such financing sources being contacted by the Company or its Representatives for such purposes and such financing sources have executed a joinder to this agreement substantially in the form attached hereto as Annex A; and (ii) the term "affiliates" shall have the meaning ascribed to such term in Rule 12b-2 promulgated under the Securities Exchange Act of 1934, as amended; provided, that solely for purposes of this agreement, (a) Hess Oil Virgin Islands Corp. ("HOVIC") and its direct and indirect equity holders are affiliates of Hovensa but are not affiliates of

PDVSA V.I. Inc. ("PDVSA") or PDVSA's direct and indirect equity holders and (b) PDVSA and its direct and indirect equity holders are affiliates of Hovensa but are not affiliates of HOVIC or HOVIC's direct and indirect equity holders.

3. In the event that the Company or any of its Representatives is requested to disclose any Evaluation Material under any valid and effective subpoena or order or is otherwise required by applicable law to do so, the Company agrees to (i) notify Hovensa thereof promptly and before making any such disclosure so that Hovensa may seek any appropriate protective order and/or take any other action, which notice shall include the scope of such request or requirement and the circumstances surrounding such request or requirement, and (ii) cooperate with Hovensa (including its affiliates) in any attempt that it may make to obtain a protective order or other remedy. Without limiting the generality of the foregoing, the Company shall not, and shall cause its Representatives not to, oppose any action by Hovensa or any of its affiliates to obtain such a protective order or other remedy. In the event such protective order or other remedy is not sought by Hovensa or is denied and the Company or its Representative is, in the opinion of the Company's outside counsel, legally required to disclose any Evaluation Material, the Company or such Representative (as applicable) may, after consultation with Hovensa on the means of complying with such requirement, disclose to the applicable tribunal or other Person only that portion of the Evaluation Material which, based on the advice of the Company's outside counsel, is legally required to be disclosed, and the Company shall cooperate with Hovensa to obtain reliable assurance that confidential treatment will be accorded to any Evaluation Material so disclosed. Notwithstanding the foregoing, notice to Hovensa shall not be required where disclosure of the Evaluation Material is to the Company's regulators in connection with a routine regulatory examination; provided, that such regulatory examination does not specifically target Hovensa or any of its affiliates.

4. In addition, without the prior written consent of Hovensa, the Company will not, and will direct the Company's Representatives not to, disclose to any Person (i) the fact that it has requested, received or is reviewing Evaluation Material or the existence of this agreement, (ii) the fact that discussions or negotiations have taken or are taking place concerning a Possible Transaction or either party's consideration of any such transaction or (iii) any of the terms, conditions or other facts with respect to any such Possible Transaction, including the status thereof ((i), (ii) and (iii) collectively, "Transaction Information").

5. The Company agrees that it will not seek, and will cause each of its affiliates not to, directly or indirectly, seek, solicit or induce, or attempt to solicit or induce a third party to seek, or support a third party that may seek or is seeking, to shorten or terminate Hovensa's exclusive periods to propose and/or solicit a plan of reorganization.

6. The Company hereby acknowledges that it is aware, and that it will advise the Company's Representatives who are informed as to the matters which are the subject of this agreement, that (i) the Evaluation Material may be considered material non-public information for one or more affiliates of Hovensa whose securities may be traded on one

or more securities exchanges and (ii) applicable securities laws prohibit any Person who has received from an issuer material, non-public information from purchasing or selling securities of such issuer or from communicating such information to any other Person under circumstances in which it is reasonably foreseeable that such Person is likely to purchase or sell such securities.

7. Nothing herein, nor any disclosure contemplated hereby, shall be deemed to transfer to the Company or any other Person any interest in, or confer in the Company or any other Person any right (including, without limitation, intellectual property right) over, the Evaluation Material. In addition, neither Hovensa nor its executive committee (the "Hovensa Executive Committee") intends to waive any attorney-client, attorney work product or other applicable privilege of Hovensa, the Hovensa Executive Committee or any of Hovensa's affiliates (any of the foregoing, a "Privilege") by providing any Evaluation Material subject to a Privilege, and any disclosure by or on behalf of Hovensa or the Hovensa Executive Committee of such information shall be inadvertent. Accordingly, the Company agrees that any disclosure of Evaluation Material protected by a Privilege shall not constitute a waiver of any such Privilege by any Person and, upon request by Hovensa or its Representatives, the Company will, and will cause its Representatives to, immediately return and/or destroy such inadvertently produced Evaluation Material.

8. The Company agrees that without the prior written consent of Hovensa, the Company shall not, and shall cause its Representatives not to, enter into, directly or indirectly, any discussions, negotiations, agreements or understandings with any Person (other than any of the Company's Representatives) with respect to a possible transaction involving Hovensa. Furthermore, the Company agrees that it will not, and will cause its Representatives not to, enter into any agreement, arrangement or any other understanding, whether written or oral, with any potential financing source or sources (debt or equity) that may reasonably be expected to limit, restrict, restrain, or otherwise impair in any manner, directly or indirectly, the ability of such financing source or sources to provide financing or other assistance to any other party in any other possible transaction involving Hovensa.

9. The Company further understands that Hovensa, its affiliates and their respective Representatives make no express or implied representation or warranty as to the accuracy or completeness of the Evaluation Material and each disclaims all responsibility for the accuracy of the Evaluation Material. The Company specifically acknowledges and agrees that the Evaluation Material includes information that is proprietary, subjective and/or interpretive and that the Company will not rely on the Evaluation Material for any purpose whatsoever, including but not limited to its decision to enter into any transaction with Hovensa or its affiliates. Except as expressly provided in a final executed definitive written agreement between the Company and Hovensa with respect to the Possible Transaction, the Company agrees that neither the Company nor its Representatives shall make any claim or demand whatsoever (whether based on misrepresentation, breach of warranty, breach of contract or otherwise), and that none of Hovensa, its affiliates or their respective Representatives shall have any liability to the Company or its Representatives,

with respect to or resulting from (i) the participation of the Company and its Representatives in evaluating a Possible Transaction, (ii) the review or use of or the content of the Evaluation Material or any errors therein or omissions therefrom, or (iii) any action or inaction in reliance on the Evaluation Material.

10. Nothing in this agreement shall obligate Hovensa, its affiliates or their respective Representatives to provide any Evaluation Material to the Company and/or its Representatives. The Company acknowledges and agrees that (i) Hovensa shall be free to conduct a process for a transaction as it in its sole discretion shall determine (including, without limitation, negotiating with any other party and entering into a definitive agreement without prior notice to the Company or any other Person), and (ii) Hovensa may, in its sole discretion and without giving any reason therefor, terminate or further condition the furnishing of Evaluation Material, reject all proposals, pursue a transaction with another party without prior notice to the Company and/or terminate discussions and negotiations with the Company or another Person, in each case at any time.

11. All requests for Evaluation Material or meetings with management, and all inquiries and communications relating to Hovensa or a Possible Transaction shall be addressed to Lazard Frères & Co. LLC ("LAZARD"), 600 Travis Street, Suite 2300, Houston, TX 77002, Attn: Andrew Chang, which is the designated Representative of Hovensa for this purpose. The Company shall not, and shall cause the Company's Representatives not to, initiate or arrange, directly or indirectly, or maintain contact regarding Hovensa or all or any portion of Hovensa's assets and liabilities (except as permitted under the immediately preceding sentence and for those contacts regarding commercial matters made in the ordinary course of business unrelated to a Possible Transaction) with any officer, director, employee, consultant or other Representative of Hovensa or any of its affiliates or with any Representative of the government of the U.S. Virgin Islands, except, in each case, with the express prior written permission of LAZARD and Hovensa (any such permission granted by Hovensa is revocable at any time).

12. Until two years from the date of this agreement, neither the Company nor any of its affiliates shall hire, solicit to employ or engage as a consultant any employees or consultants of Hovensa or its affiliates with whom the Company has had contact or who have been specifically identified to the Company in connection with the Company's evaluation, negotiation or implementation of a Possible Transaction, without obtaining the prior written consent of Hovensa (with respect to any employee or consultant of Hovensa) or of the applicable affiliate (with respect to any employee or consultant of such affiliate); provided, however, that the foregoing shall not prohibit the Company from conducting generalized searches for employees by advertising in the media (including a newspaper or periodical of general circulation).

13. The Company shall promptly notify LAZARD and Hovensa if the Company decides not to proceed with a Possible Transaction. In that case, or at the request of Hovensa at any time, the Company shall, and shall cause the Company's Representatives to, promptly (in any event within five business days following Hovensa's request) (i) return to Hovensa

all written Evaluation Material furnished by or on behalf of Hovensa and (ii) destroy all other Evaluation Material (including portions of all documents, memoranda, notes and other writings whatsoever prepared by the Company or the Company's Representatives to the extent containing or based on the information in the Evaluation Material), and such destruction shall be certified in writing to Hovensa by an officer of the Company supervising such destruction, in each case of (i) and (ii) without retaining any copies, extracts or other reproductions in whole or in part. Notwithstanding the foregoing, the Company may retain one (1) archival copy of the Evaluation Material as required by law or by Company's internal record retention policy; provided, that the Company and its Representatives continue to be bound by its obligations hereunder and the Company shall not use such archival copy for any purpose other than for compliance with law or its internal record retention policy. Notwithstanding the return or destruction of the Evaluation Material or the termination of discussions regarding a Possible Transaction, the Company and its Representatives will continue to be bound by its and their obligations of confidentiality (including, without limitation, with respect to any Evaluation Material destroyed or returned pursuant to this paragraph) and other obligations hereunder.

14. The Company agrees that unless and until a definitive agreement between Hovensa or its affiliates and the Company with respect to a Possible Transaction has been executed and delivered, none of Hovensa, its affiliates, the Company or any of their respective Representatives will be under any legal obligation of any kind whatsoever with respect to a Possible Transaction by virtue of this agreement or any written or oral expression with respect to such a transaction by any of its directors, officers, employees, agents, advisors or any other Representative except, in the case of this agreement, for the matters specifically agreed to herein.

15. This agreement and any term hereof may be modified or waived only by a separate writing by Hovensa and the Company expressly so modifying or waiving this agreement or such term. The Company may not assign this agreement or any part hereof without the prior written consent of Hovensa, and any purported assignment without such consent shall be null and void.

16. The Company agrees that money damages would not be a sufficient remedy for any actual or threatened breach of this agreement and that Hovensa and its affiliates shall be entitled to specific performance and/or injunctive relief as a remedy for any such breach, and the Company hereby waives any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for any breach of this agreement by the Company or its Representatives but shall be in addition to all other remedies available at law or equity to Hovensa. The Company further agrees that no failure or delay by Hovensa or its Representatives in exercising any right, power of privilege under this agreement shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege under this agreement.

17. Each party hereto hereby irrevocably and unconditionally consents to the sole and exclusive jurisdiction of, and waives any objection to the laying of venue in, (i) during the pendency the Bankruptcy Case, the Bankruptcy Court and (ii) thereafter, the U.S. federal and state courts sitting in the City of New York, Borough of Manhattan, in each case, for any action, suit or proceeding arising out of or relating to this agreement, and agrees not to commence any action, suit or proceeding related thereto except in any such courts.

18. If any term, provision, covenant or restriction of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

19. This agreement shall inure to the benefit of Hovensa and its affiliates and shall be enforceable by Hovensa, its affiliates and their respective successors and assigns.

20. Except as otherwise set forth herein, the Company's obligations hereunder shall continue for a period commencing on the date of this agreement and concluding three (3) years from and after the date of this agreement.

21. This agreement shall be governed by, and construed in accordance with, the laws of the State of New York (without reference to conflict of laws rules).

Very truly yours,

HOVENSA L.L.C.

By:_____

Confirmed and Agreed to:

[COMPANY**]**

By:_____

Date:_____

Annex A – Form of Joinder

PERSONAL AND CONFIDENTIAL

[_____ ___, 2015]

Andrew Chang
Lazard Frères & Co. LLC
600 Travis Street
Suite 2300
Houston, Texas 77002

Dear Mr. Chang:

Reference is hereby made to that certain letter agreement, dated as of [_____ __, 2015] (the "Agreement") by and among [Interested Party] and Hovensa attached hereto and incorporated hereby, whereby [Interested Party] agreed to be bound by certain obligations and restrictions in connection with the receipt of Evaluation Material as set forth therein. Capitalized terms used but not defined herein shall have the meaning assigned to them in the Agreement.

The undersigned hereby acknowledges that it (a) has received and has reviewed a copy of the Agreement and (b) may come into possession of Evaluation Material. In consideration of receiving such Evaluation Material, the undersigned hereby agrees to be bound by the confidentiality and other related provisions of the Agreement as if it was the recipient of the Evaluation Material thereunder. The undersigned also acknowledges that it has not and will not enter into any agreement, arrangement or any other understanding, whether written or oral, that may reasonably be expected to limit, restrict, restrain, or otherwise impair in any manner, directly or indirectly, its ability to provide financing or other assistance to any other party in any other possible transaction involving Hovensa.

The provisions of paragraphs 15, 16, 17, 18, 19 and 21 of the Agreement shall apply to this letter agreement *mutatis mutandis*.

[*Remainder of page intentionally left blank*]

Very truly yours,

[NAME OF FINANCING SOURCE]

By:_____

Acknowledged and Agreed,

HOVENSA L.L.C.

By:_____

Exhibit C

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
BANKRUPTCY DIVISION
ST. CROIX, VIRGIN ISLANDS

In re:	)	
	)	Chapter 11
HOVENSA L.L.C.,	)	
	)	Case No. 1:15-bk-10003-MFW
Debtor.	)	

DECLARATION OF ANDREW CHANG IN SUPPORT OF DEBTOR'S MOTION FOR ENTRY OF ORDERS (A)(I) ESTABLISHING BIDDING PROCEDURES RELATING TO THE SALE OF THE DEBTOR'S ASSETS, INCLUDING APPROVING BREAK-UP FEE AND EXPENSE REIMBURSEMENT, (II) ESTABLISHING PROCEDURES RELATING TO THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, INCLUDING NOTICE OF PROPOSED CURE AMOUNTS, (III) APPROVING FORM AND MANNER OF NOTICE RELATING THERETO, AND (IV) SCHEDULING A HEARING TO CONSIDER THE PROPOSED SALE; (B)(I) APPROVING THE SALE OF THE DEBTOR'S ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS, AND (II) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (C) GRANTING RELATED RELIEF

I, Andrew Chang, declare under penalty of perjury:

1. I am a Director of the firm Lazard Frères & Co. LLC ("Lazard"), which has its principal office at 30 Rockefeller Plaza, New York, New York 10020. I am authorized to make this declaration on behalf of Lazard[1] and in support of the *Debtor's Motion for Entry of Orders (A)(I) Establishing Bidding Procedures Relating to the Sale of the Debtor's Assets, Including Approving Break-Up Fee and Expense Reimbursement, (II) Establishing Procedures Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, Including Notice of Proposed Cure Amounts, (III) Approving Form and Manner of Notice*

[1] Certain disclosures herein relate to matters within the personal knowledge of other professionals at Lazard and are based on information provided by them.

Relating Thereto, and (IV) Scheduling a Hearing to Consider the Proposed Sale; (B)(I) Approving the Sale of the Debtor's Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests, and (II) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (C) Granting Related Relief (the "Motion").[2]

QUALIFICATIONS

2. Lazard is the U.S. operating subsidiary of a preeminent international financial advisory and asset management firm. Lazard, together with its predecessors and affiliates, has been advising clients around the world for over 150 years. Lazard has dedicated professionals who provide restructuring services to its clients.

3. The current vice chairmen, managing directors, directors, vice presidents and associates of Lazard have extensive experience working with financially troubled companies in complex financial restructurings out-of-court and in Chapter 11 proceedings. Lazard and its principals have been involved as advisor to debtor, creditor and equity constituencies and government agencies in many reorganization cases. Since 1990, Lazard's professionals have been involved in over 250 restructurings, representing over $1 trillion in debtor assets.

4. Since joining Lazard in 2004, I have participated in various advisory and restructuring assignments with clients in the energy and airline industries. These include assignments such as Trico Marine Services' successful Chapter 11 restructuring and its acquisitions of Active Subsea and DeepOcean, restructuring advisory for an offshore drilling company and an OCTG distributor, advising the unsecured creditors committee in Northwest Airlines' Chapter 11 restructuring and the Allied Pilots Association in AMR's Chapter 11 restructuring, Oil States International on its acquisition of The MAC Services Group and spin-off

[2] Capitalized terms used but not otherwise defined herein shall the meanings ascribed to them in the Motion.

of its accommodations business (Civeo), Multi-Chem on its sale to Halliburton, and Tidewater on its acquisition of TROMS Offshore. Prior to joining Lazard, I was an analyst in the Global Industrial & Services group at Credit Suisse First Boston. I graduated from Rice University in 2002 with a degree in economics and managerial studies.

BACKGROUND

5. Pursuant to the Fourth Amendment to the Debtor's Concession Agreement with the GVI, the Debtor was required to engage an investment banker to manage the marketing and sale process of the Debtor's assets. In furtherance thereof, on November 12, 2013, the Debtor engaged Lazard.

I. The Marketing Process

6. I and the members of my team marketed the Debtor's refinery business through Lazard's New York City, Houston, and Paris offices and contacted over 140 parties during the initial marketing process in order to capture a wide group of potential buyers. Through our extensive efforts, I and other professionals of Lazard were able to identify potential viable buyers, some of whom initially expressed interest in purchasing all of the Debtor's assets. Ultimately, only 4 parties submitted preliminary bids, of which only 2 were conforming preliminary bids. My team then held discussions with the two bidders in an effort to encourage the parties to improve their preliminary bids, but one of the bidders decided to withdraw from the process by not submitting a final bid.

7. The Lazard team, the Debtor, and the Debtor's other professionals subsequently engaged in negotiations with the remaining bidder, ABR, and negotiated a substantially final form of a purchase and sale agreement, which was subject to the completion of negotiations of an operating agreement governing the rights and obligations of the GVI and ABR with respect to ABR's planned operation of the Debtor's refinery following its purchase. The ABR Operating

Agreement was then separately negotiated and executed between the GVI and ABR. However, the former USVI Senate rejected the proposed ABR Operating Agreement, which effectively rejected the ABR Sale Transaction, on December 19, 2014 by a vote of 13-2.

8. Following the USVI Senate's rejection of the proposed ABR Operating Agreement, the Debtor instructed me and my team to undertake another full sale and marketing process, which began in April 2015 and focused on selling the Terminal Assets in addition to the refinery assets. Lazard contacted 32 potential purchasers, 17 of which executed a non-disclosure agreement and received access to a virtual data room to conduct due diligence, and 11 of which conducted site visits of the facility.

9. As a result of these marketing efforts, Lazard secured 4 preliminary bids in May 2015. Since May, I, along with my colleagues, the Debtor, and the Debtor's other professionals, have been engaged in further discussions with the potential purchasers regarding the terms of a purchase agreement and other ancillary agreements, remaining legal and financial due diligence necessary to consummate a transaction, and the process for negotiating an operating agreement with the GVI.

10. Ultimately, these negotiations resulted in the Debtor's execution of the Stalking Horse Agreement on September 4, 2015, whereby Limetree Bay agreed to purchase the Terminal Assets for $184 million, and act as a stalking horse bidder in a Court-supervised auction. Based on my experience and Lazard's participation in the sale negotiations, I believe that an auction process whereby Limetree Bay's bid would create a baseline for other higher and better offers through a court-supervised auction process that would help to maximize the value of the Debtor's assets and yield the greatest recovery for the Debtor's creditors.

11. Moreover, given the extensive marketing of the Debtor's assets since 2013 as detailed in the Motion and the Hill Certification, along with the extensive negotiations with potential bidders since May, 2015, I believe that the proposed length of the postpetition marketing period provided by the Bidding Procedures is reasonable and sufficient under the circumstances of this Chapter 11 Case. Other potential bidders have had sufficient time to conduct due diligence and submit an offer for the Debtor's assets and the additional time provided during this Chapter 11 Case is reasonable and adequate to submit a higher and better offer than the Stalking Horse Bidder.

II. The Break-Up Fee and Expense Reimbursement Will Help to Maximize the Value of the Debtor's Estate

12. As a condition to its willingness to serve as a stalking horse in a Court-supervised process, the Stalking Horse Bidder required the inclusion of the Break-Up Fee and Expense Reimbursement provisions in the Stalking Horse Agreement, which, if approved by the Court, would require the Debtor to pay a Break-Up Fee of $5.7 million and up to $1.9 million in Expense Reimbursement in the event that the Break-Up Fee and the Expense Reimbursement are payable under the terms of the Stalking Horse Agreement.

13. I believe that the proposed Bid Protections will help the Debtor to maximize the realizable value of the Debtor's assets for the benefit of the Debtor's estate, its creditors, and other parties in interest, and that such protections are reasonable under the circumstances and consistent with market practices. The Break-Up Fee is equal to 3% of the purchase price, which I understand is within the range of reasonableness for transactions of this size in distressed situations.

14. Moreover, I believe that the Stalking Horse Agreement will, all else equal, incentivize others to participate in the bankruptcy auction process in this case. The Stalking

Horse Agreement both sets a floor for bids and provides a form agreement that serves as a template for other bids for the Debtor's terminal assets. As a result, the presence of a stalking horse may generate higher values and bring order to the auction and sale process.

15. To the extent that the Stalking Horse Agreement entices other potentially interested purchasers to participate in the bidding and auction process, the Break-Up Fee will have provided a benefit to the Debtor's estate in the form of an increased sale price and should be offset by the increase in bid price by other bidders. On the other hand, in the event that others do not seek to participate in the Auction based on the Stalking Horse Bid, the Break-Up Fee will not be paid and, thus, will not affect the value received by the Debtor for the Terminal Assets.

[*Remainder of Page Intentionally Left Blank*]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: September 15, 2015
Houston, TX

/s/ Andrew Chang
Andrew Chang
Director
Lazard Frères & Co. LLC

Exhibit D

ASSET PURCHASE AGREEMENT

BY AND AMONG

LIMETREE BAY HOLDINGS, LLC,

HOVENSA L.L.C.,

AND

HESS OIL VIRGIN ISLANDS CORP.

DATED SEPTEMBER 4, 2015

TABLE OF CONTENTS

EXHIBITS

Exhibit A: Form of Access Easement
Exhibit B: Form of Bid Procedures Order
Exhibit C: Form of Bill of Sale and Assignment and Assumption Agreement
Exhibit D: Form of Protocol of Delivery and Acceptance
Exhibit E: Form of Tug Boat Bill of Sale and Acceptance
Exhibit F: Form of USVI Concession Agreement
Exhibit G: Form of FIRPTA Certificate
Exhibit H: Subdivision Parcels
Exhibit I: Form of Termination and Release

OTHER

Seller Disclosure Letter
HOVIC Disclosure Letter

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this "**Agreement**") is dated September 4, 2015 by and among Limetree Bay Holdings, LLC, a limited liability company organized under the Laws of Delaware ("**Purchaser**"), HOVENSA L.L.C., a limited liability company organized under the Laws of the U.S. Virgin Islands ("**Seller**") and Hess Oil Virgin Islands Corp., a corporation organized under the Laws of the U.S. Virgin Islands ("**HOVIC**" and together with Purchaser and Seller, the "**Parties**" and each a "**Party**"). Capitalized terms used herein have the meanings ascribed thereto in Section 1.1, unless otherwise provided.

W I T N E S S E T H:

WHEREAS, Seller has previously been engaged, in part, in the business of owning and operating a crude oil and product storage and terminalling business (the "**Business**");

WHEREAS, Seller intends to commence a voluntary case (the "**Bankruptcy Case**") under chapter 11 of the Bankruptcy Code in the United States District Court of the U.S. Virgin Islands, Bankruptcy Court Division – St. Croix, Virgin Islands (the "**Bankruptcy Court**");

WHEREAS, Seller intends to retain possession of its assets and be authorized under the Bankruptcy Code to continue the operation of its business as a debtor-in-possession under sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, HOVIC owns the Tug Boats;

WHEREAS, in connection with the Bankruptcy Case and subject to the respective terms and conditions contained herein and in the Sale Order, Seller desires to sell and assign the Purchased Assets and the Assumed Liabilities to Purchaser, and Purchaser desires to purchase and assume the Purchased Assets and the Assumed Liabilities, pursuant to sections 105, 363 and 365 of the Bankruptcy Code, free and clear of all Liens, Claims, and Liabilities other than Permitted Liens and Assumed Liabilities, upon the terms and conditions set forth in this Agreement (the "**Purchase**") and HOVIC desires to sell to Purchaser, and Purchaser desires to purchase, on the terms and subject to the conditions of this Agreement, the Tug Boats (the "**Tug Boat Sale**");

WHEREAS, Seller has determined, in the exercise of its business judgment, that it is advisable and in the best interest of the estate and the beneficiaries of the estate to consummate the Purchase provided for herein pursuant to the Bid Procedures Order and the Sale Order;

WHEREAS, prior to or concurrently with the execution of this Agreement, and as a condition to the willingness of, and as a material inducement to, Seller's and HOVIC's willingness to enter into this Agreement, Purchaser is delivering to Seller the Equity Commitment Letter; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants, representations, warranties and agreements herein contained, the Parties, intending to be legally bound, agree as follows:

ARTICLE I

DEFINITIONS; CONSTRUCTION

1.1 Defined Terms. When used in this Agreement, the following terms shall have the respective meanings specified therefor below:

"**1976 Contract**" shall mean that certain Contract, dated September 22, 1976, by and among the USVI Government, Seller (as assignee of HOVIC) and the Virgin Islands Port Authority, approved by the Legislature of the Virgin Islands on September 29, 1976.

"**1998 Letter Agreement**" shall mean that certain letter agreement, dated as of October 14, 1998 (as amended, supplemented or modified from time to time pursuant to which the USVI Government consented to (a) the assignment by HOVIC to Seller of the Submerged Land Lease and (b) the assignment and delegation by HOVIC to Hovensa of the rights and obligations of HOVIC under the 1976 Contract.

"**2012 HOVIC Note**" shall mean that certain note issued as of April 1, 2012 by Seller in favor of HOVIC in the aggregate original principal amount of $811,000,000.

"**2012 Notes**" shall mean the 2012 HOVIC Note and the 2012 Petróleo Note.

"**2012 Petróleo Note**" shall mean that certain note issued as of April 1, 2012 by Seller in favor of PDVSA Petróleo, S.A. in the aggregate original principal amount of $811,000,000.

"**2015 HOVIC Note**" shall mean that certain note issued as of July 8, 2015 by Hovensa in favor of HOVIC in the aggregate original principal amount of $5,000,000.

"**2015 Notes**" shall mean the 2015 HOVIC Note and the 2015 PDVSA Note.

"**2015 PDVSA Note**" shall mean that certain note issued as of July 8, 2015 by Hovensa in favor of PDVSA VI in the aggregate original principal amount of $5,000,000.

"**Access Easement**" shall mean an access easement in form and substance reasonably satisfactory to each of Seller and Purchaser on terms substantially similar to the form attached hereto as Exhibit A.

"**Adverse Person**" shall mean (a) a Person who is a "designated national," "specially designated national," "specially designated terrorist," "specially designated global terrorist," "foreign terrorist organization," "specially designated narcotics trafficker" or "blocked person," within the definitions set forth in the OFAC Regulations, or who otherwise appears on the list of Specially Designated Nationals and Blocked Persons included in the OFAC Regulations, (b) a government, including any Governmental Entity, of any country against which

the United States maintains Sanctions, (c) a Person acting or purporting to act, directly or indirectly, on behalf of, or any entity owned or controlled by, any of the Persons listed in clauses (a) or (b) above, or (d) a Person on any other export control, terrorism or drug trafficking related list administered by any Governmental Entity as that list may be amended, adjusted or modified from time to time.

"**Affiliate**" of any Person shall mean any other Person directly or indirectly controlling, controlled by, or under common control with, such Person; provided, that, for the purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by Contract or otherwise; provided, further, that none of HOVIC, PDVSA VI or their respective direct or indirect equity holders shall be deemed to "control" Seller. Notwithstanding the foregoing, for all purposes of this Agreement and the transactions contemplated hereby, (a) HOVIC and its direct and indirect equity holders are Affiliates of Seller but are not Affiliates of PDVSA VI or PDVSA VI's direct and indirect equity holders and (b) PDVSA VI and its direct and indirect equity holders are Affiliates of Seller but are not Affiliates of HOVIC or HOVIC's direct and indirect equity holders.

"**Alternative Transaction**" shall mean (i) a Restructuring Transaction or (ii) one or more sales, assignments, leases, transfers, or other dispositions of all or any material portion of the Purchased Assets to any Person (or group of Persons), whether in one transaction or a series of transactions, whether by merger, asset purchase, equity purchase or other similar transaction, in each case other than to the Purchaser or its Affiliates.

"**Antitrust Authorities**" shall mean the Federal Trade Commission, the Antitrust Division of the United States Department of Justice, the attorneys general of the several states of the United States and any other Governmental Entity having jurisdiction with respect to the transactions contemplated hereby pursuant to applicable Antitrust Laws.

"**Antitrust Filings**" shall mean all required filings under the HSR Act and all required filings under other applicable Antitrust Laws required in order to consummate the transactions contemplated by this Agreement.

"**Antitrust Laws**" shall mean the Sherman Act, 15 U.S.C. §§ 1-7, as amended, the Clayton Act, 15 U.S.C. §§ 12-27, 29 U.S.C. §§ 52-53, as amended, the HSR Act; the Federal Trade Commission Act, 15 U.S.C. § 41-58, as amended, and all other Laws and Orders that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization, restraint of trade, or lessening of competition through merger or acquisition.

"**Auction**" shall mean the auction, if any, to be conducted in accordance with the Bid Procedures Order.

"**Avoidance Actions**" shall mean all preference claims, fraudulent transfer claims and avoidance actions or other related causes of action whether arising under the Bankruptcy Code, non-bankruptcy law, or otherwise, and the proceeds thereof, including actions available to

Seller under Chapter 5 of the Bankruptcy Code, of whatever kind or nature, and whether asserted or unasserted.

"**Bankruptcy Code**" shall mean Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq.

"**Bid Procedures Order**" shall mean the Order of the Bankruptcy Court approving the bid procedures and other matters described in Section 7.16 and Section 7.17, including payment of the Purchaser Expense Reimbursement and the Breakup Fee in accordance with Section 7.19 and Section 7.20, substantially in the form attached hereto as Exhibit B, with such changes as are acceptable to Seller and Purchaser in their respective sole discretion.

"**Bill of Sale and Assignment and Assumption Agreement**" shall mean that certain bill of sale and assignment and assumption agreement substantially in the form attached hereto as Exhibit C.

"**Breakup Fee**" shall mean an amount of cash equal to $5,700,000.

"**Business Day**" shall mean any day except a Saturday, a Sunday or any other day on which commercial banks are required or authorized to close in New York, New York or the U.S. Virgin Islands.

"**Business Intellectual Property**" shall mean all rights to Intellectual Property that are owned by Seller, other than the Excluded Intellectual Property.

"**Business IT Assets**" shall mean all rights to Information Technology that are owned by Seller, other than the Excluded IT Assets.

"**Business Real Property**" shall mean the Purchased Real Property and the tracts or parcels of land leased by Seller pursuant to any Real Property Lease, in each case together with all easements, appurtenances, rights and leases, and other hereditaments appurtenant to such land and all the estates and rights of Seller in and to such land.

"**Charter Agreements**" shall mean, with respect to each Tug Boat, the applicable Contract of Bareboat Charter Party, dated as of October 30, 1998, by and between Amerada Hess Shipping Corporation and Seller, as modified by the applicable Novation Agreement, dated as of July 20, 2001, by and among Amerada Hess Shipping Corporation, Seller and HOVIC.

"**Claim**" shall have the meaning assigned to such term under section 101(5) of the Bankruptcy Code.

"**Code**" shall mean the United States Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, as mirrored in the U.S. Virgin Islands.

"**Concession Agreement**" shall mean that certain agreement by and between the USVI Government and HOVIC, dated and approved by the Legislature of the Virgin Islands September 1, 1965, and amended, supplemented and clarified at various times by mutual agreement of the parties, as amended and extended by the Extension and Amendment

Agreement, dated April 24, 1981 and approved by the Legislature of the Virgin Islands May 7, 1981, as further amended and extended by the Restated Second Extension and Amendment Agreement, dated July 27, 1990 and approved by the Legislature of the Virgin Islands on August 22, 1990, as further amended by the Technical Clarifying Amendment to Restated Second Extension and Amendment Agreement, dated November 17, 1993 and approved by the Governor and the Legislature of the Virgin Islands, as further amended and extended by the Third Extension and Amendment Agreement, to which PDVSA VI is added as a party, dated April 15, 1998 and approved by the Legislature of the Virgin Islands on May 18, 1998, as further amended by the Fourth Amendment Agreement.

"**Confidentiality Agreement**" shall mean that certain Confidentiality Agreement by and between Seller and ArcLight Capital Partners, LLC, dated April 24, 2015.

"**Consent**" shall mean any authorization, approval, consent, ratification, negative clearance, waiver, notice or filing, or a Final Order of the Bankruptcy Court that deems, or renders unnecessary, the same.

"**Consent Decree**" shall mean the Consent Decree entered on June 7, 2011 in the United States District Court of the Virgin Islands in the matter of United States of America, and United States Virgin Islands v. Hovensa L.L.C. (Civ. No.: 1:11-cv-00006).

"**Contract**" shall mean any note, bond, mortgage, indenture, guaranty, license, franchise, permit, agreement, contract, commitment, lease, purchase order, or other instrument or obligation, and any amendments thereto.

"**Cross-Easement Agreement**" shall mean an agreement, in form and substance reasonably acceptable to each of Seller and Purchaser, by which each of Seller and Purchaser grants the other a customary right of access upon, over, in, under, across and through a portion of its property as is reasonably required for the continued use and operation of the Purchased Real Property, the leased real property subject to any Real Property Leases or the Excluded Real Property by Purchaser or Seller, respectively.

"**Cure Amounts**" shall mean, with respect to any Business Contract or Real Property Lease, the amount of cash required to be paid with respect to such Business Contract or Real Property Lease to cure all defaults under such Business Contract or Real Property Lease to the extent required by Section 365 of the Bankruptcy Code and to otherwise satisfy all requirements imposed by Section 365 of the Bankruptcy Code in order to effectuate, pursuant to the Bankruptcy Code, the assumption by Seller and assignment to Purchaser of such Business Contract or Real Property Lease.

"**Disclosure Conditions**" shall mean, in respect of any obligation of a Person to disclose any information or provide access to another Person, that such disclosing Person shall not be required to disclose such information or provide such access to the extent that such Person reasonably believes that doing so would reasonably be expected to (a) violate any applicable Law or Order, including Antitrust Laws, or the terms of any Contract to which such Person is a party, (b) cause the waiver of attorney/client privilege or similar privilege or (c) unreasonably disrupt the operations of such Person; provided that to the extent permitted by Law, the Person

that has the disclosure obligation shall notify the other Person of any such inability to provide information or access and shall use its commercially reasonable efforts to make appropriate substitute arrangements (including entering into joint defense agreements, seeking appropriate waivers or consents) under the circumstances in order to allow for such access or disclosure without violating any Law, Order or Contract or waiving attorney/client privilege or similar privilege.

"**Environmental Law**" shall mean any Law, Order or other requirement of Law (including Environmental Permits) that relates to (a) the protection of the environment (including natural resource restoration and natural resource damages) or of human health or safety (to the extent human health or safety relates to exposure to Hazardous Materials), or (b) the presence, Release, threatened Release, generation, recycling, disposal or treatment of Hazardous Materials, or the arrangement for any such activities.

"**Environmental Liabilities**" shall mean all Liabilities (including the costs of any Remedial Action) arising in connection with or in any way relating to the Business (as currently or formerly conducted), the Purchased Assets or any property currently or formerly owned, leased or operated in connection with the Business (as currently or formerly conducted) or the Purchased Assets (including the activities and operations conducted by anyone thereon, offsite disposal therefrom and Hazardous Materials migrating thereto or therefrom), that in each case arise under or relate to any Environmental Law, Environmental Permit or a Hazardous Material, including Liabilities arising from any Third Party claims for personal injury, death, or property damage caused by an actual or alleged release of, or exposure to, a Hazardous Material.

"**EPA**" shall mean the United States Environmental Protection Agency.

"**Equity Commitment Letter**" shall mean that certain equity commitment letter addressed to Purchaser, dated as of the date hereof, delivered by ArcLight Energy Partners Fund VI, L.P.

"**Escrow Account**" shall mean the account created by the Escrow Agent in which the Good Faith Deposit Amount is deposited pursuant to this Agreement.

"**Escrow Agent**" shall mean Wells Fargo Bank, N.A. or, if Wells Fargo Bank, N.A. is unable or unwilling to act as the Escrow Agent, such other Person as is mutually agreed upon by Purchaser and Seller.

"**Escrow Agreement**" shall mean an escrow agreement by and among Purchaser, Seller and the Escrow Agent, in form and substance reasonably satisfactory to the Parties.

"**Event**" shall mean any action, omission, state of facts, condition, occurrence, result, circumstance, event, effect, development or change.

"**Excluded Furniture and Equipment**" shall mean the Furniture and Equipment set forth on Section 1.1(a) of the Seller Disclosure Letter.

"**Excluded Intellectual Property**" shall mean the rights to Intellectual Property listed on Section 1.1(b) of the Seller Disclosure Letter.

"**Excluded IT Assets**" shall mean the rights to Information Technology listed on Section 1.1(c) of the Seller Disclosure Letter.

"**Excluded Permits**" shall mean the Permits (and any pending applications) listed on Section 1.1(d) of the Seller Disclosure Letter.

"**Excluded Real Property**" shall mean all real property owned by Seller, other than the Purchased Real Property, and including, for the avoidance of doubt, the Retained Refinery Parcels.

"**Files and Records**" shall mean all current and historical information, data, databases, reports, plans, schedules, correspondence, files, documents, books and other records and information, including (a) customer, vendor, supplier, contractor and service provider lists and records, (b) sales, pricing and performance data and records generated from completed or active transactions (including billing, payment and dispute histories, credit information and similar data), (c) business plans, financial statements, corporate, Tax, human resource, legal, regulatory and financial data and records, (d) operating and production records, quality control records, market research reports, technical documentation (drawings, specifications, process instructions, statistics, functional requirements, operating instructions, manual, etc.) and user documentation (installation guides, manuals, training material working paper, etc.), (e) employment and personnel records and (f) regulatory filings, documents or other information relating to any Proceeding, in each case with respect to clauses (a) through (f), of Seller, whether in paper, electronic, digital or other form or medium, and that relate primarily to the Business, the Purchased Assets or Assumed Liabilities; provided, that Files and Records shall not include (i) any files, documents, books or other records to the extent relating to any existing or anticipated Tax litigations or disputes (to the extent that such litigation or disputes are, or are related to any, Excluded Liabilities hereunder), (ii) any information which, if transferred to Purchaser or its Affiliates, would reasonably be expected to violate any applicable Law or Order or the terms of any Contract and (iii) any items described in clauses (a) through (f) that relate primarily to the Retained Refinery Assets or any other Excluded Assets or any Excluded Liabilities.

"**Final Order**" shall mean an order or judgment of the Bankruptcy Court (or any other court of competent jurisdiction) entered by the clerk of the Bankruptcy Court (or such other court) on the docket in the Bankruptcy Case (or the docket of such other court), which is and remains in full force and effect, has not been modified, amended, reversed, vacated or stayed and as to which (i) the time to appeal, petition for certiorari, or move for a new trial, re-argument or rehearing has expired and as to which no appeal, petition for certiorari or motion for new trial, re-argument or rehearing shall then be pending or (ii) if an appeal, writ of certiorari new trial, re-argument or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court (or other court of competent jurisdiction) shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, re-argument or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari or move for a new trial, re-argument or rehearing shall have expired, as a result of which such order shall have become final in accordance with Rule 8002 of the Federal Rules of Bankruptcy Procedure; provided, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the

Federal Rules of Bankruptcy Procedure, may be filed relating to such order, shall not cause an order not to be a Final Order.

"**Fourth Amendment Agreement**" shall mean that certain Fourth Amendment Agreement, by and among the USVI Government, Seller, HOVIC and PDVSA VI, dated April 3, 2013, as ratified by the legislature of the Virgin Islands on November 4, 2013 and approved by the Governor of the Virgin Islands on November 4, 2013, as Act No. 7566 (such ratification including that certain letter, dated October 16, 2013, from George H.T. Dudley to the Governor of the Virgin Islands incorporated as part of Act No. 7566).

"**Furniture and Equipment**" shall mean all furniture, furnishings, equipment, vehicles, machinery, cranes, forklifts, tools, truck racks, fixtures, consumables and other tangible personal property owned by Seller, including artwork, desks, chairs, tables, miscellaneous office furnishings, copiers, scanners, printers, telephone lines and numbers, telecopy machines and other telecommunication equipment, cubicles and supplies.

"**GAAP**" shall mean generally accepted accounting principles of the United States of America consistently applied, as in effect from time to time.

"**Good Faith Deposit Amount**" shall mean $19,000,000, which amount is to be deposited with the Escrow Agent in accordance with the terms of this Agreement and held and released pursuant to the terms and subject to the conditions set forth in this Agreement and the Escrow Agreement.

"**Governmental Entity**" shall mean any multinational, United States or non-United States, federal, state, territory, provincial or local court (including, for the avoidance of doubt, the Bankruptcy Court), arbitral tribunal, administrative agency, legislature or commission or other governmental, quasi-governmental or regulatory agency or authority (including any bureau, division or department thereof) or any securities exchange.

"**Hazardous Material**" shall mean any waste or other substance that is listed, defined, designated, classified as, or otherwise determined to be, hazardous, extremely hazardous, toxic, radioactive, or a pollutant or a contaminant under or pursuant to any Law, Order or requirement of Law, including any admixture or solution thereof, and specifically including petroleum and all derivatives thereof or synthetic substitutes therefor and asbestos or asbestos-containing materials.

"**Hovensa Operating Agreement**" shall mean that certain Amended and Restated Limited Liability Company Agreement of Seller, dated as of October 30, 1998, and as thereafter amended from time to time, including those certain amendments dated as of February 10, 2000 and December 1, 2006.

"**HOVIC**" shall mean Hess Oil Virgin Islands Corp., a corporation organized under the Laws of the U.S. Virgin Islands.

"**HSR Act**" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. § 18a et seq., as amended, and the rules and regulations promulgated thereunder.

"**Improvements**" shall mean any and all buildings, structures, fixtures or other improvements owned by or leased to Seller that are attached or affixed to the Business Real Property (including all construction and work-in-progress), including above ground and underground piping and storage tanks, canopies, signage, terminals, fixtures, pumps and appurtenances, control houses, the terminal office building, the administrative office building, the marine compound building, laboratory facilities, warehouses, boiler houses and waste water treatment facilities (and all equipment related thereto), the docks, equipment, personal property of a permanent nature and other similar facilities; provided, however, that the Retained Refinery Assets and Excluded Furniture and Equipment shall not be considered "Improvements".

"**Indebtedness**" of any Person shall mean (a) any obligations or indebtedness (i) for borrowed money or indebtedness issued or incurred in substitution or exchange for indebtedness for borrowed money, (ii) evidenced by any note, bond, debenture, mortgage or other debt instrument or debt security, (iii) for the deferred purchase price of property or service, (iv) for the reimbursement of any obligor on any letter of credit, banker's acceptance, guarantee or similar credit transaction (but only to the extent drawn upon or if there has been a demand made for reimbursement thereunder) and (v) under any commodity, swap, derivative, currency, interest rate, call, hedge or similar agreement, (b) any obligations of any kind referred to in the foregoing clause (a) above guaranteed or secured, directly or indirectly, in any manner by such Person (including by a Lien on the assets or properties of such Person whether or not such obligations are assumed) and (c) any accrued and unpaid principal, interest, premiums, penalties, pre-payment penalties, fees, expenses, "make-whole" or similar payments, indemnities and breakage costs owing by such Person with respect to any indebtedness of a type described in clauses (a) or (b); provided, that Indebtedness of Seller shall not include accounts payable to trade creditors or accrued expenses, in each case, arising in the ordinary course of business of Seller (as currently conducted).

"**Information Technology**" shall mean all computers, computer systems, servers, workstations, databases, and software programs.

"**Intellectual Property**" shall mean (a) patents and patent applications, (b) trademarks, service marks, trade dress, and all registrations and applications for the same, (c) Internet domain names, (d) registered and unregistered copyrights and applications for the same, and (e) trade secrets.

"**IRS**" shall mean the United States Internal Revenue Service.

"**Law**" shall mean any statute, law, ordinance, ruling, policy, rule or regulation of any Governmental Entity and all judicial or administrative interpretations thereof and any common law doctrine.

"**Legal Proceeding**" shall mean any judicial, administrative or arbitral actions, suits or legal proceedings (public or private) by or before a Governmental Entity.

"**Liabilities**" shall mean any and all Indebtedness, Taxes, losses, charges, debts, damages, obligations, payments, costs and expenses, bonds, indemnities, liabilities and obligations of any nature, including any unknown, undisclosed, unmatured, unaccrued,

unasserted, contingent, indirect, conditional, implied, vicarious, derivative, joint, several or secondary liability, regardless of whether such claim, debt, obligation, duty or liability would be required to be disclosed on a balance sheet prepared in accordance with GAAP and regardless of whether such claim, debt, obligation, duty or liability is immediately due and payable.

"**Liens**" shall mean any liens (as defined in Section 101(37) of the Bankruptcy Code), debts (as defined in Section 101(12) of the Bankruptcy Code), security interests, Claims, easements, mortgages, charges, indentures, deeds of trust, rights of way, encroachments, or any other encumbrances and other restrictions or limitations on ownership or use of real or personal property or irregularities in title thereto.

"**Loss**" or "**Losses**" shall mean, without duplication, any and all Liabilities, judgments, awards, losses, costs or damages, including reasonable fees and expenses of attorneys, accountants and other professional advisors.

"**LPG Flare**" shall mean the liquid petroleum gas flaring facility and related interconnection equipment currently used in the operation of the Business.

"**Material Adverse Effect**" shall mean any Event that, individually or in the aggregate with any other related Events, (a) has had or would reasonably be expected to have a material adverse effect on the business, condition (financial or otherwise), properties, assets or results of operations of the Business, the Purchased Assets or the Assumed Liabilities, in each case, taken as a whole or (b) prevents or materially delays beyond the End Date, or would reasonably be expected to prevent or materially delay beyond the End Date, the consummation of the transaction contemplated by this Agreement or the Transaction Documents or the performance of any of Seller's material obligations under this Agreement or the Transaction Documents; provided, that no Event (by itself or when aggregated with other Events) to the extent resulting from any of the following, shall be considered in determining whether there has been or would reasonably be expected to be a Material Adverse Effect:

(i) changes in general economic, business or political conditions;

(ii) conditions or changes in the securities markets, credit markets, currency markets or other financial markets in the United States or any other country or region in the world, including (x) interest rates in the United States or any other country or region in the world and exchange rates for the currencies of any countries and (y) any suspension of trading in securities (whether equity, debt, derivative or hybrid securities) on any securities exchange or over-the counter market operating in the United States or any other country or region in the world;

(iii) changes in any applicable Laws or interpretations thereof by any Governmental Entity or GAAP;

(iv) conditions affecting generally the hydrocarbon, terminal or refining industry (including feedstock pricing, refining, marketing, transportation, terminalling, trading costs and margins, and crude oil refined products and other commodity prices) or any other industries or markets in which the Business, the Purchased Assets and the Assumed Liabilities are owned or operated;

(v) other than for purposes of any representation or warranty set forth in Section 4.2(b) or Section 4.3, the announcement of this Agreement or the consummation of the transactions contemplated by this Agreement;

(vi) the commencement or continuation of the Bankruptcy Case;

(vii) any action required to be taken by the Bankruptcy Court pursuant to the Sale Motion, the Sale Order, or the Bid Procedures Order;

(viii) general political conditions in the United States, the U.S. Virgin Islands or any other country or region in the world or any natural or man-made disaster or any acts of terrorism, sabotage, military action or war (whether or not declared) or any escalation or worsening thereof, regardless of when occurring or commenced (and excluding, for the avoidance of doubt, the effect of the failure of any Governmental Entity to approve any transactions contemplated by this Agreement or the Transaction Documents);

(ix) any failure by Seller or any of its Affiliates or the Business (or any portion thereof) to meet any estimates or expectations of revenue, earnings or other financial performance or results of operations for any period, or any failure to meet internal or published projections, budgets, plans or forecasts of revenues, earnings, cash flows or other financial performance or results of operations for any period; provided, that the exception in this clause shall not prevent the underlying cause or causes of such failure from being taken into consideration in determining whether there has been or would reasonably be expected to be a Material Adverse Effect; or

(x) any action taken at the written request of, or with the express prior written consent of, Purchaser;

provided, further, that any Event in clauses (i), (ii), (iii), (iv) and (viii) may be taken into account when determining whether there has been or would reasonably be expected to be a Material Adverse Effect to the extent that such Event has a disproportionate effect on the Business, the Purchased Assets and the Assumed Liabilities taken as a whole, compared to other hydrocarbon terminalling and storage businesses in the United States or Caribbean region. A "Material Adverse Effect" shall not be measured based on any forward-looking statements, projections or forecasts of Seller or any other Person.

"**Notes**" shall mean the 2012 Notes and the 2015 Notes.

"**Notification and Report Form**" shall mean a Notification and Report Form required to be filed under the HSR Act with respect to the consummation of the transactions contemplated by this Agreement with the Antitrust Division of the United States Department of Justice and the Federal Trade Commission.

"**NRD Settlement Agreement**" shall mean that certain Settlement and Release Agreement entered into on May 29, 2014 by Seller, Alicia V. Barnes in her capacity as Trustee for Natural Resources of the Territory of the United States Virgin Islands, the USVI Government

in its *parens patriae* and public trustee capacity, on behalf of the public and its quasi-sovereign interests, and HOVIC.

"**Operational Terminals Business**" shall mean the ownership and operation of a hydrocarbon storage and terminal facility consistent in all material respects with the manner in which the Business was operated by Seller when the Business was fully operational, assuming such ownership and operation are in compliance with all Laws, Permits, Orders and Contracts.

"**Order**" shall mean any judgment, order, injunction, decree, writ, permit or license issued or entered by or with any Governmental Entity or any arbitrator, whether preliminary, interlocutory or final, including any order entered by the Bankruptcy Court in the Bankruptcy Case (including the Sale Order).

"**OSRO**" shall mean Oil Spill Response Organization.

"**Parts Inventory**" shall mean the inventories of supplies, maintenance and capital spares, joints, valves, parts and tools owned by Seller as of the Closing that are (x) stored in the warehouses located on the Business Real Property or (y) used primarily in connection with the Business; provided, that the Parts Inventory shall not include any Retained Refinery Assets.

"**PDVSA VI**" shall mean PDVSA V.I., Inc., a corporation organized under the Laws of the U.S. Virgin Islands.

"**Pension Plan**" shall mean that certain HOVENSA L.L.C. Employees' Pension Plan.

"**Permitted Liens**" shall mean (a) statutory Liens or other Liens arising in the ordinary course of business of Seller (including by operation of law) securing payments not yet due, including mechanics', carriers', workmen's, repairmen's, materialmens' and maritime Liens, (b) Liens for Taxes not yet due and payable or for Taxes that may thereafter be paid without penalty or which are being contested in good faith and by appropriate Proceedings and are set forth on Section 1.1(e) of the Seller Disclosure Letter, (c) Liens set forth in Section 1.1(e) of the Seller Disclosure Letter, (d) Liens affecting the Business Real Property with respect to (i) zoning, building code or planning restrictions or regulations, servitudes, permits, licenses, surface leases, ground leases to utilities, municipal agreements, railway siding agreements and other similar rights, easements for streets, alleys, highways, telephone lines, gas pipelines, power lines and railways, and other easements and rights of way of public record on, over, or in respect of any such real property and (ii) encroachments and other matters that would be shown in an accurate survey or physical inspection of such real property that, in each case of (i) and (ii) of this clause (d) above, do not, individually or in the aggregate, materially interfere with the use, operation or occupancy of such real property as an Operational Terminals Business, (e) Liens arising pursuant to any Environmental Permit, (f) any Liens arising under ERISA or the Code with respect to the Pension Plan and (g) any Lien that will be extinguished at or prior to Closing.

"**Permitted Tax Liens**" shall mean those Liens, and only those Liens, described in clause (b) of the definition of Permitted Liens.

"**Person**" shall mean and include an individual, a partnership, a limited partnership, a limited liability partnership, a joint venture, a corporation, a limited liability company, an association, a trust, an unincorporated organization, a group and a Governmental Entity.

"**Petition**" means the voluntary petition under Chapter 11 of the Bankruptcy Code filed by Seller with the Bankruptcy Court.

"**Petition Date**" shall mean the date on which Seller files with the Bankruptcy Court a Petition.

"**Pinnacle Contract**" shall mean that certain Term Services Agreement, dated as of May 1, 2012, by and between Seller and Pinnacle Services L.L.C., as amended from time to time in accordance with its terms.

"**Pinnacle Cure Amount**" shall mean the Cure Amount with respect to the Pinnacle Contract.

"**Plant Closing Act**" shall mean the Virgin Islands Code Title 24, § 471- 478 (1957).

"**Post-Closing Litigation Liabilities**" shall mean all Liabilities arising from a Proceeding first commenced after the Closing by a Third Party against Purchaser, Seller or any of their respective Affiliates, in respect of the Business, the Purchased Assets or the Assumed Liabilities that is based on any Event first existing, arising or occurring following the Closing; provided, that the Parties agree and acknowledge that Post-Closing Litigation Liabilities shall not include any Environmental Liabilities, which are separately addressed in this Agreement.

"**Post-Closing Period**" shall mean all taxable years or other taxable periods that begin after the Closing Date and, with respect to any taxable year or other taxable period beginning on or before and ending after the Closing Date, the portion of such taxable year or period beginning on the day after the Closing Date.

"**Power Plant Assets**" shall mean (a) all or some of the real property identified on Annex 2.1(a)(ii) of Section 2.1(a)(ii) of the Seller Disclosure Letter in green and noted as "Option-Power" under the heading "Power Plant Real Property", together with all easements, appurtenances, rights and other hereditaments appurtenant to such real property, (b) all Improvements thereon and (c) all Furniture and Equipment related thereto.

"**Pre-Closing Litigation Liabilities**" shall mean all Liabilities arising from a Proceeding first commenced prior to or following the Closing by a Third Party against Purchaser, Seller or any of their respective Affiliates in respect of the Business, the Purchased Assets or the Assumed Liabilities that is based on any Event first existing, arising or occurring before the Closing; provided, that the Parties agree and acknowledge that Pre-Closing Litigation Liabilities shall not include any Environmental Liabilities, which are separately addressed in this Agreement.

"**Pre-Closing Period**" shall mean all taxable years or other taxable periods that end on or before the Closing Date and, with respect to any taxable year or other taxable period beginning on or before and ending after the Closing Date, the portion of such taxable year or period ending on the Closing Date.

"**Proceeding**" shall mean any claim, demand, action, arbitration, audit, hearing, investigation, litigation, suit or other proceeding (whether civil, criminal, administrative, investigative, or informal) commenced, brought, conducted, or heard by or before, or otherwise involving, any Third Party (including any Governmental Entity).

"**Property Taxes**" shall mean all real property Taxes, personal property Taxes and other similar ad valorem Taxes, in each case, that are imposed with respect to the Purchased Assets.

"**Protocol of Delivery and Acceptance**" shall mean, with respect to each Tug Boat, the applicable protocol of delivery and acceptance for such Tug Boat, substantially in the form attached hereto as Exhibit D.

"**Purchased Furniture and Equipment**" shall mean all Furniture and Equipment owned by Seller that is located at the Seller Facilities or that is otherwise primarily used or held for use in the Business (assuming that the Business is operating as an Operational Terminals Business); provided, that, for the avoidance of doubt, the Purchased Furniture and Equipment shall not include the Excluded Furniture and Equipment or any other Excluded Assets.

"**Purchaser Expense Reimbursement**" shall mean the sum of the aggregate amount of the Purchaser's reasonable documented out-of-pocket costs and expenses (including expenses of outside counsel, accountants and financial advisors, which shall be based on summary invoices, redacted to preserve privileged or confidential information, and which shall not be required to comply with applicable United States Trustee guidelines) incurred by Purchaser in connection with or related to Purchaser's evaluation, consideration, analysis, negotiation, and documentation of the transactions contemplated by this Agreement, up to a maximum amount of $1,900,000.

"**RCRA Permit**" shall mean the Resource Conservation and Recovery Act Part B Permit No. VID980536080 and any document that replaces such Permit.

"**Real Property**" shall mean the Purchased Real Property and the Excluded Real Property.

"**Release**" shall mean the disposing, discharging, injecting, spilling, leaking, pumping, leaching, dumping, emitting, escaping or emptying into or upon any air, soil, sediment, subsurface strata, surface water or groundwater.

"**Remedial Action**" shall mean any action to investigate, abate, clean up, remove or remediate (or words of similar import), or conduct remedial or corrective actions, including sampling and/or monitoring activities, with respect to Hazardous Materials in the environment.

"**Representatives**" of any Person shall mean such Person's directors, managers, officers, employees, agents, attorneys, consultants, advisors, financing sources or other Persons acting on behalf of such Person.

"**Restructuring Transaction**" shall mean, in each case, which does not include the Purchase and Tug Boat Sale pursuant to this Agreement (i) any recapitalization transaction, plan of reorganization, liquidation, or sale, including any such transaction by way of a credit bid or by any creditor of Seller, involving, whether in whole or in part, Seller or all or any material portion of the Purchased Assets, or (ii) any merger, consolidation, share exchange, business combination or similar transaction involving, whether in whole or in part, Seller or all or any material portion of the Purchased Assets, in each case whether in one transaction or a series of transactions.

"**Retained Refinery Assets**" shall mean the assets set forth in Section 1.1(f) of the Seller Disclosure Letter.

"**Returns**" shall mean all returns, statements, forms, reports and other similar documentation relating to Taxes, including any schedules, exhibits and other attachments thereto and any amendments thereof.

"**Sale Hearing**" shall mean the hearing at which the Bankruptcy Court considers approval of the Sale Order pursuant to Sections 105, 363 and 365 of the Bankruptcy Code.

"**Sale Motion**" shall mean the motion, in form and substance acceptable to Seller and Purchaser in their respective sole discretion, to be filed by Seller in the Bankruptcy Case seeking authority from the Bankruptcy Court for Seller to enter into this Agreement and to consummate the transactions contemplated by this Agreement, including (a) approval of the bid procedures and other matters described in Section 7.16 and Section 7.17, (b) authority for Seller to sell the Purchased Assets pursuant to section 363 of the Bankruptcy Code, and (c) authority for Seller to assume and assign the Business Contracts and Real Property Leases to Purchaser pursuant to section 365 of the Bankruptcy Code.

"**Sale Order**" shall mean an Order of the Bankruptcy Court approving this Agreement, containing the findings and conclusions set forth in Section 7.15, and authorizing and directing Seller to consummate the transactions contemplated by this Agreement (including, but not limited to, the assumption and assignment of the Business Contracts and Real Property Leases) under sections 105, 363 and 365 of the Bankruptcy Code, in form and substance acceptable to Seller and Purchaser in their respective sole discretion.

"**Sanctions**" shall mean any sanctions or embargos administered or enforced by the U.S. Government, (including, the OFAC Regulations), the United Nations Security Council, the European Union, Her Majesty's Treasury, or other relevant Governmental Entity that is a sanctions authority.

"**Seller Facilities**" shall mean the storage and terminalling facilities and related equipment owned by Seller located on the Business Real Property, including all Improvements related thereto; provided, that, for the avoidance of doubt, the Seller Facilities shall not include any Excluded Assets.

"**Seller Letters of Credit**" shall mean (a) that certain Irrevocable Letter of Credit No. 123146-793, issued as of April 5, 2012 by Intesa Sanpaolo S.p.A. on behalf of Hess Corporation for the benefit of the EPA, (b) that certain Irrevocable Letter of Credit No. 123147-793, issued as of April 5, 2012 by Intesa Sanpaolo S.p.A. on behalf of Hess Corporation for the benefit of the EPA, (c) that certain Irrevocable Standby Letter of Credit No. CNYI 5051/12, issued as of April 4, 2012 by Banco Espirito Santo on behalf of Seller for the benefit of the EPA, and (d) that certain Irrevocable Standby Letter of Credit No. CNYI 5050/12, issued as of April 4, 2012 by Banco Espirito Santo on behalf of Seller for the benefit of the EPA, and any document that replaces such Letters of Credit.

"**Shared Services Agreement**" shall mean a shared services agreement by and among Purchaser and Seller, in form and substance satisfactory to Seller and Purchaser in their sole discretion.

"**Submerged Land Lease**" shall mean that certain Lease, dated as of October 16, 1976, by and between the USVI Government and Seller (as assignee of HOVIC).

"**Subsidiary**", with respect to any Person, shall mean (a) any corporation more than fifty percent (50%) of the stock of any class or classes of which having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time stock of any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is owned by such Person directly or indirectly through one or more subsidiaries of such Person and (b) any partnership, association, joint venture, limited liability company or other entity in which such Person directly or indirectly through one or more subsidiaries of such Person has more than a fifty percent (50%) equity interest.

"**Taxes**" shall mean all taxes, assessments, charges, duties, fees, levies or other governmental charges imposed by a taxing authority, including all United States federal, state, territory (including the U.S. Virgin Islands), local, foreign and other income, franchise, profits, gross receipts, capital gains, capital stock, transfer, sales, use, value added, occupation, property, excise, severance, windfall profits, stamp, license, payroll, social security, withholding and other taxes, assessments, charges, duties, fees, levies or other governmental charges imposed by a taxing authority of any kind whatsoever (whether payable directly or by withholding and whether or not requiring the filing of a Return), all estimated taxes, deficiency assessments, additions to tax, penalties and interest, and including Liability for any of the foregoing items pursuant to applicable Law, as a transferee, as a successor, or pursuant to a Contract.

"**Terminals Purchase Price**" shall mean $184,000,000.

"**Third Party**" shall mean any Person other than the Parties and their respective Affiliates (including, for the avoidance of doubt, any Governmental Entity).

"**Transaction Documents**" shall mean the Access Easement, the Escrow Agreement, the Shared Services Agreement, the Ground Lease and the Cross-Easement Agreements.

"**Tug Boat Bill of Sale and Acceptance**" shall mean, with respect to each Tug Boat, the applicable Bill of Sale and Acceptance of sale for such Tug Boat, substantially in the form attached hereto as Exhibit E, pursuant to which HOVIC will transfer to Purchaser at the Closing such Tug Boat.

"**Tug Boat Purchase Price**" shall mean $6,000,000.

"**Tug Boats**" shall mean the following six (6) tug boats owned by HOVIC: (1) M/V Turquoise Bay, (2) M/V Teague Bay, (3) M/V Canegarden Bay, (4) M/V Manchenil Bay, (5) M/V Limetree Bay and (6) M/V HOVIC 1.

"**USCG"** shall mean the United States Coast Guard.

"**USVI Concession Agreement**" shall mean that certain concession agreement substantially in the form attached hereto as Exhibit F.

"**USVI Government**" shall mean the Government of the United States Virgin Islands, including any United States Virgin Islands Governmental Entity.

1.2 Additional Defined Terms. In addition to the terms defined in Section 1.1, additional defined terms used herein shall have the respective meanings assigned thereto in the Sections indicated below.

Defined Term	Section
Agreement	Preamble
Allocation	3.3(c)
Assumed Liabilities	2.3
Bankruptcy Case	Recitals
Bankruptcy Court	Recitals
Bankruptcy Rules	4.3
Business	Recitals
Business Confidential Information	7.22
Business Contracts	2.1(a)(i)
Business Permits	2.1(a)(vii)
Closing	3.5(a)
Closing Cross-Easement Agreements	7.28
Closing Date	3.5(a)
Deferred Asset	2.6(a)
Deferred Terminal Parcels	7.28
Designation Deadline	2.5(a)(iii)
Efforts Condition	7.4(a)
Eliminated Agreement	2.5(a)(iii)
Employee Benefit Plans	4.9
End Date	9.1(b)(ii)
Environmental Permits	4.12(c)
Equity Financing	6.4
Equity Financing Source	6.4

1.3 Construction. In this Agreement, unless the context otherwise requires:

(a) references to "writing" or comparable expressions include a reference to electronic mail, provided that, where applicable, the sender complies with the provisions of Section 11.3;

(b) the phrases "delivered" or "made available" shall mean that the information referred to has been physically or electronically delivered to the relevant parties (including, in the case of "made available" to Purchaser, material that has been posted and thereby made available to Purchaser through the on-line "virtual data room" established by Seller);

(c) words expressed in the singular number shall include the plural and vice versa; words expressed in the masculine shall include the feminine and neuter gender and vice versa;

(d) references to Articles, Sections, Sections of the Seller Disclosure Letter, Sections of the HOVIC Disclosure Letter, Exhibits, the Preamble and Recitals are references to articles, sections, exhibits, the preamble and recitals of this Agreement and the disclosure letters delivered with respect to this Agreement, and the descriptive headings of the several Articles and Sections of this Agreement, the Seller Disclosure Letter and the HOVIC Disclosure Letter (as applicable) are inserted for convenience only, do not constitute a part of this Agreement and shall not affect in any way the meaning or interpretation of this Agreement;

(e) references to "day" or "days" are to calendar days;

(f) the words "hereof", "herein", "hereto" and "hereunder", and words of similar import, shall refer to this Agreement as a whole and not to any provision of this Agreement;

(g) this "Agreement" or any other Contract or document shall be construed as a reference to this Agreement or, as the case may be, such other Contract or document as the same may have been, or may from time to time be, amended, varied, novated or supplemented and shall include each and every exhibit, attachment, schedule, addendum, appendix, statement of work, change order, and any other similar instrument relating to such Contract or document (as amended);

(h) "include", "includes", and "including" are deemed to be followed by "without limitation" whether or not they are in fact followed by such words or words of similar import;

(i) references to "Dollars", "dollars" or "$", without more are to the lawful currency of United States of America;

(j) references to "commercially reasonable efforts" shall not require any Party to repay any Indebtedness, amend any Contract to increase the amount payable thereunder or otherwise to be materially more burdensome to such Party, commence any litigation, settle or compromise any matter, offer or grant any accommodation (financial or otherwise, including with respect to the Notes or any accounts payable) to any Third Party, pay any amount or bear any other incremental economic burden and, without limiting the foregoing, for purposes of

Section 7.11(a), references to "commercially reasonable efforts" shall not require any Party to agree or consent to any modifications to the form of USVI Concession Agreement attached as Exhibit F;

(k) with respect to the Business (including the Purchased Assets and Assumed Liabilities), references to the "ordinary course of business" or its business in the "ordinary course" shall mean (i) with respect to the period from and after February 5, 2015, the ordinary course of business of Seller as currently conducted, (ii) with respect to the period from February 21, 2012 until February 5, 2015, the ordinary course of business of Seller solely as the owner and operator of a hydrocarbon storage terminal (taking into account changes in the business of Seller in preparation for the shutdown of the terminalling and storage business) and (iii) with respect to all periods prior to February 21, 2012, the ordinary course of business of Seller as the owner and operator of a petroleum refining business (taking into account changes in the business of Seller in preparation for the shutdown of its refinery operations); and

(l) references to any Party shall include such Party's successors and permitted assigns.

1.4 Exhibits and the Disclosure Letters. The Exhibits, the Seller Disclosure Letter and the HOVIC Disclosure Letter are incorporated into and form an integral part of this Agreement.

1.5 Knowledge. When any representation, warranty, covenant or agreement contained in this Agreement is expressly qualified by reference to the "**Knowledge of Seller**" or words of similar import with respect to Seller, it shall mean the actual knowledge of the individuals set forth in Section 1.5 of the Seller Disclosure Letter with respect to Seller, without inquiry or investigation. When any representation, warranty, covenant or agreement contained in this Agreement is expressly qualified by reference to the "**Knowledge of Purchaser**" or words of similar import, it shall mean the actual knowledge of Evan Schwartz, Jake Erhard and Christine Miller, without inquiry or investigation.

ARTICLE II

SALE OF ASSETS

2.1 Sale of Purchased Assets and Tug Boats.

(a) On the terms and subject to the conditions of this Agreement (including as set forth in Section 2.6) and the Sale Order, Purchaser agrees to purchase from Seller, and Seller agrees to sell, convey, transfer, assign and deliver to Purchaser, at the Closing, all the right, title and interest of Seller in and to the Purchased Assets, free and clear of any Liens, Claims and Liabilities of any kind whatsoever except Permitted Liens. The "**Purchased Assets**" shall mean all right, title and interest of Seller in the following assets (other than any such assets excluded pursuant to Section 2.2)

(i) each Contract listed or described in Section 2.1(a)(i) of the Seller Disclosure Letter and the Pinnacle Contract (the "**Business Contracts**");

(ii) the real property described in Section 2.1(a)(ii) of the Seller Disclosure Letter (other than the Power Plant Assets), together with all easements, appurtenances, rights and other hereditaments appurtenant to such real property (collectively, the "**Purchased Real Property**");

(iii) all Improvements (other than the Power Plant Assets);

(iv) each real property lease and sublease listed or described in Section 2.1(a)(iv) of the Seller Disclosure Letter ("**Real Property Leases**");

(v) all Parts Inventory;

(vi) the Files and Records, whether in hard copy or electronic format, except that, with respect to Files and Records that Seller or any of its Affiliates is required by Law or Order to retain, the Purchased Assets shall include copies of such Files and Records to the extent permitted by any applicable Law or Order (and, with respect to any personnel records which Seller is required to retain, copies of such personnel records to the extent permitted by any applicable Law or Order); provided, that Seller shall be permitted to retain a copy of any such Files and Records that Seller requires in connection with any of the Excluded Assets;

(vii) all Permits (and any pending applications), other than the Excluded Permits, that are owned, utilized, held or maintained by or licensed to Seller primarily in connection with Seller's ownership or operation of the Business, the other Purchased Assets or the Assumed Liabilities or which are otherwise required for Seller's operation of the Business or the other Purchased Assets (assuming, in each case, that the Business is operating as an Operational Terminals Business), including those Permits described in Section 2.1(a)(vii) of the Seller Disclosure Letter (which shall not include the RCRA Permit) (the "**Business Permits**");

(viii) the Business Intellectual Property;

(ix) the Business IT Assets;

(x) all rights, claims, defenses, causes of action (including Avoidance Actions) and rights of offset or counterclaim against a Third Party relating to or arising from the Business, the Purchased Assets or the Assumed Liabilities (including rights under manufacturer and vendor warranties, indemnities and guarantees), except to the extent related to any Excluded Assets or Excluded Liabilities;

(xi) the Purchased Furniture and Equipment;

(xii) accounts receivable and pre-paid assets, solely to the extent related to an Assumed Liability;

(xiii) all tank bottoms, heels and line fill which are located at the Seller Facilities;

(xiv) the LPG Flare; and

(xv) with respect to the Tug Boats, the Tug Boat spare parts owned by Seller and stored (x) in the warehouses and the marine compound located on the Business Real Property and (y) on the Tug Boats.

In addition to the foregoing, Purchaser may elect in its sole discretion, by written notice to Seller, to include some or all of the Power Plant Assets in the Purchased Assets. Upon such election, the Power Plant Assets shall be treated as Purchased Assets for all purposes of this Agreement. Any such election shall be made by Purchaser no later than fifteen (15) Business Days following the date of this Agreement; provided, that if Purchaser makes such election then, at Seller's election, Purchaser shall be required to provide Seller with power in accordance with the Shared Services Agreement.

(b) On the terms and subject to the conditions of this Agreement, Purchaser agrees to purchase from HOVIC, and HOVIC agrees to sell, convey, transfer, assign and deliver to Purchaser, at the Closing, all its right, title and interest in and to the Tug Boats, together with, to the extent transferable, the related assets described in Section 2.1(b) of the HOVIC Disclosure Letter.

2.2 Excluded Assets. Notwithstanding anything herein to the contrary, the Purchased Assets shall not include any assets, rights or privileges of Seller other than the Purchased Assets and specifically shall not include Seller's right, title or interest in any of the following assets, whether owned by, held by or relating to Seller (collectively, the "**Excluded Assets**"):

(a) all cash, certificates of deposit or other cash equivalents;

(b) any real property other than (i) Purchased Real Property and (ii) real property subject to the Real Property Leases;

(c) all personal property, equipment and inventory not included in the Purchased Assets;

(d) all rights, claims, defenses, causes of action and rights of offset or counterclaim (at any time or in any manner arising or existing, whether choate or inchoate, known or unknown, contingent or non-contingent) of Seller against Third Parties (i) to the extent relating to any of the Excluded Assets or Excluded Liabilities or (ii) not included in the Purchased Assets;

(e) all Avoidance Actions related solely to any Excluded Assets or Excluded Liabilities;

(f) all rights under any Contract to which Seller is a party that is not a Business Contract or a Real Property Lease;

(g) general books of account and books of original entry that comprise Seller's permanent Tax records, corporate minute books, stock books and related organizational

documents and the books and records that Seller is required to retain pursuant to any Law or Order and the books and records solely related to the Excluded Assets or Excluded Liabilities;

(h) personnel records that Seller is required by Law or Order to retain (provided that the copies of any such personnel records shall be Purchased Assets to the extent permitted by any applicable Law or Order pursuant to Section 2.1(a)(vi)) and personnel records of employees, former employees or consultants of Seller who do not, as of the Closing, become employees of Purchaser;

(i) all insurance recoveries under Seller's or its Affiliates' insurance policies with respect to the Purchased Assets or the Business and any rights to assert claims with respect to any such insurance recoveries;

(j) all claims for refund or credit of (i) income Taxes of Seller and its Affiliates for any taxable period and (ii) non-income Taxes of Seller and its Affiliates with respect to a Pre-Closing Period;

(k) the Excluded Intellectual Property;

(l) the Excluded IT Assets;

(m) Seller's or any of its Affiliates' rights under this Agreement or any Transaction Document or relating to the Excluded Assets or the Excluded Liabilities;

(n) all deposits (including security deposits, rent, electricity, telephone or otherwise and retainers held by attorneys, accountants, financial advisors and other professional advisors retained by Seller or by any creditors' committee in the Bankruptcy Case) and other prepaid charges of Seller, in each case other than with respect to any Purchased Assets;

(o) any assets of Seller in a directors and officers liability insurance policy, executive or incentive compensation, bonus, deferred compensation, pension, retiree medical, stock option or other stock purchase plan or other Employee Benefit Plan;

(p) the RCRA Permit and any related financial assurance;

(q) any rights or assets related to trusts for groundwater remediation or land farms;

(r) all toy trucks and related inventory which are located at the Seller Facilities;

(s) all Excluded Furniture and Equipment;

(t) all Retained Refinery Assets;

(u) all accounts receivable and pre-paid assets of Seller, except to the extent related to a Purchased Asset or an Assumed Liability;

(v) all emissions allowances and credits acquired in connection with the Business prior to Closing and all emissions allowances and credits not arising from or related to the Business;

(w) the Excluded Permits; and

(x) all attorney client privilege and attorney work product protection of Seller or associated with the Business (as currently or formerly conducted) as a result of legal counsel representing Seller or the Business (as currently or formerly conducted), and all Files and Records related thereto subject to such attorney client privilege or work product protection; provided that any privilege or work product that exclusively relates to the Purchased Assets or the Assumed Liabilities or that is necessary to operate the Business (other than such privileges, protections and related Files and Records related to or in connection with the transactions contemplated by this Agreement or any Transaction Document) shall not be deemed to be an Excluded Asset whether or not in connection with the transactions contemplated by this agreement or any Transaction Document.

2.3 Assumption of Liabilities. On the terms and subject to the conditions of this Agreement, including Section 2.6, and except for the Excluded Liabilities, Purchaser agrees, effective as of the Closing (except as otherwise provided), to assume and shall agree to pay, perform and discharge when due, the following Liabilities (collectively, the "**Assumed Liabilities**") of Seller:

(a) all Liabilities (including for the avoidance of doubt, all Environmental Liabilities) relating to or arising out of the Purchased Assets or the Business arising out of or relating to any act, omission, circumstance or other Event occurring after the Closing, provided, however, that, except with respect to Cure Amounts assumed pursuant to Section 2.3(c), Purchaser shall not assume or agree to pay, discharge or perform any Liabilities of Seller under or with respect to any Business Contracts and Real Property Leases, including Liabilities arising out of any breach, misfeasance or under any other theory to the extent relating to Seller's conduct prior to the Closing;

(b) all Post-Closing Litigation Liabilities;

(c) all Cure Amounts with respect to the Business Contracts and the Real Property Leases (other than the Pinnacle Cure Amount);

(d) all valid reclamation claims related to the Business;

(e) any and all costs and expenses necessary in connection with providing "adequate assurance of future performance" with respect to the Business Contracts and Real Property Leases (as contemplated by section 365 of the Bankruptcy Code) for the period commencing on or after the Closing;

(f) all Environmental Liabilities arising out of or relating to any act, omission or circumstance that occurred prior to the Closing, including for the avoidance of doubt, the presence of Hazardous Materials arising from Seller's former refinery operations and located on the Purchased Assets, solely to the extent such Liabilities are exacerbated, triggered, increased,

or have their timing accelerated by any act or omission of, or any delay caused by, Purchaser or any of its Affiliates, their respective successors or assigns or their respective Representatives; provided, that, Environmental Liabilities arising out of or relating to Events or conditions occurring or existing prior to Closing shall not be Assumed Liabilities solely by virtue of Purchaser discovering, identifying or quantifying such Environmental Liabilities through sampling of environmental media if such sampling is (i) required by Environmental Law or by a Governmental Entity, (ii) required to be conducted in response to a Third Party Claim alleging that Hazardous Materials have migrated offsite from the Business Real Property or (iii) undertaken in connection with ordinary course construction, remodeling, demolition, operation or maintenance, assuming that the Business is operating as an Operational Terminals Business;

(g) all Liabilities related to the Business Contracts and Real Property Leases arising out of or relating to any act, omission, circumstance or other Event occurring on or after the Closing Date (including the ordinary course obligations arising under the Business Contracts and Real Property Leases in accordance with their terms);

(h) all accounts and notes payable to Seller's third-party trade creditors that relate to the Purchased Assets and are in respect of goods or services that will be provided to the Business following the Closing, including any unresolved vendor rebates or credits associated with such trade creditors that are unpaid, uncollected or unresolved, as the case may be, at the Closing;

(i) any Transfer Taxes applicable to the transfer of the Purchased Assets for which Purchaser is responsible pursuant to Section 7.10(a);

(j) any Liability for any Tax or Taxes arising out of or relating to the operation of the Business (as currently or formerly conducted) or the ownership of the Purchased Assets with respect to any Post-Closing Period;

(k) all Liabilities under the Consent Decree in connection with the Purchased Assets arising out of or relating to any act, omission, circumstance or other Event occurring after the Closing; and

(l) all Environmental Liabilities arising out of or relating to any (i) violation, by the Purchaser or any of its Affiliates (including the Business) or their respective Representatives occurring after the Closing, of any environmental covenant or environmental deed notice recorded with respect the Purchased Assets or (ii) change in use, discontinued use, closure or shutdown of the Purchased Assets after the Closing.

(m) all Liabilities associated with any draw on any Seller Letter of Credit to the extent such Liabilities are exacerbated, triggered, increased or have their timing accelerated by any act or omission of, or any delay caused by, Purchaser or any of its Affiliates, their respective successors or assigns or their respective Representatives.

2.4 Excluded Liabilities. Notwithstanding anything contained herein to the contrary, Purchaser shall not assume, or cause to be assumed, or be deemed to have assumed or caused to have assumed or be liable or responsible for any of the following Liabilities of Seller or any of its Affiliates (collectively, the "**Excluded Liabilities**"):

(a) all Liabilities not set forth in clauses (a) - (m) of Section 2.3;

(b) all Liabilities (other than Environmental Liabilities) relating to or arising out of any breach or violation of any Law (other than any Environmental Law), Business Contract, Real Property Lease or any Business Permit occurring prior to Closing;

(c) any Liability arising out of or relating to the Excluded Assets or any other assets of Seller or its Affiliates that are not Purchased Assets (other than any Assumed Liability);

(d) any Liability arising out of or relating to this Agreement or any Transaction Document for which Seller has responsibility;

(e) any severance obligations that accrue under any severance plan of Seller existing at or prior to the Closing with respect to Seller's employees and resulting from actions taken by Seller prior to the Closing;

(f) without limiting Section 2.3(h), any amounts due from Seller or its Affiliates to the USVI Government pursuant to the Concession Agreement;

(g) all Environmental Liabilities (that are not Assumed Liabilities) arising out of or relating to any act, omission, circumstance or other Event occurring prior to the Closing, including (i) Seller's obligations under the RCRA Permit to the extent such obligations (A) are not exacerbated, triggered, increased, or have their timing accelerated by any act or omission of, or any delay caused by, Purchaser or any of its Affiliates, their respective successors or assigns or their respective Representatives or (B) do not arise out of or relate to a non-industrial change in use, discontinued use, long-term closure or permanent shutdown of the Purchased Assets after the Closing, (ii) Liabilities arising from the MTBE Litigations (as such term is defined in the Seller Disclosure Letter) and (iii) any Liabilities arising from Orders issued to Seller that may result in Environmental Liabilities to the extent such Liabilities (A) are not exacerbated, triggered, increased, or accelerated by any act or omission of, or any delay caused by, Purchaser or any of its Affiliates, their respective successors or assigns or their respective Representatives or (B) do not arise out of or relate to a change in use, discontinued use, closure or shutdown of the Purchased Assets after the Closing or (C) are not Liabilities under the Consent Decree in connection with the Purchased Assets arising out of or relating to any act, omission, circumstance or other Event occurring after the Closing;

(h) any costs, expenses or other Liabilities incurred by Purchaser arising from or relating to any Remedial Action (i) required to be undertaken by Seller to address an Excluded Liability pursuant to applicable Environmental Laws and (ii) not fully performed by Seller to the satisfaction of applicable Governmental Entities;

(i) any obligations of Seller (including funding obligations) under the Pension Plan;

(j) any Liabilities arising pursuant to the NRD Settlement Agreement and in connection with actions taken or circumstances that arose prior to the Closing Date to the extent such Liabilities (i) are not exacerbated, triggered, increased, or accelerated by any act or omission of, or any delay caused by, Purchaser or any of its Affiliates, their respective successors or assigns or their respective Representatives, or (ii) do not arise out of or relate to a change in use, discontinued use, closure or shutdown of the Purchased Assets after the Closing;

(k) any Liabilities that both (i) arise under the Consent Decree and (ii) are in connection with actions taken or circumstances that arose prior to the Closing Date to the extent such Liabilities (A) are not exacerbated, triggered, increased, or accelerated by any act or omission of, or any delay caused by, Purchaser or any of its Affiliates, their respective successors or assigns or their respective Representatives or (B) do not arise out of or relate to a change in use, discontinued use, closure or shutdown of the Purchased Assets after the Closing;

(l) all Liabilities for fees and expenses (i) relating to the negotiation and preparation of this Agreement and the Transaction Documents and (ii) relating to the transactions contemplated by this Agreement and the Transaction Documents, in each case, to the extent incurred by Seller or its Affiliates;

(m) any Liability for any Tax or Taxes of Seller or its Affiliates for any taxable period;

(n) any Liability for any Tax or Taxes arising out of or relating to the operation of the Business (as currently or formerly conducted) or the ownership of the Purchased Assets in any Pre-Closing Period, including any Property Taxes with respect to any Pre-Closing Period;

(o) any Liability for any withholding taxes imposed as a result of the transactions contemplated by this Agreement;

(p) the Pinnacle Cure Amount;

(q) any Transfer Taxes applicable to the transfer of the Purchased Assets for which Seller is responsible pursuant to Section 7.10(a); and

(r) any Liability or obligation arising out of or relating to Indebtedness of Seller or any of its Affiliates, including pursuant to the Notes.

2.5 Assumption and Assignment of Contracts.

(a) (i) Promptly, but in any event, within ten (10) days after the Petition Date, Seller shall deliver an amended Section 2.1(a)(i) and Section 2.1(a)(iv) of the Seller Disclosure Letter to Purchaser, which shall contain with respect to each Business Contract and Real Property Lease of Seller, Seller's good-faith estimate of the Cure Amount with respect to each such Business Contract or Real Property Lease and the amount of any accrued and unpaid expenses and accounts payable under such Business Contract or Real Property Lease, in each case, as of the Closing Date; provided, however, that from and after the date of delivery of the amended Section 2.1(a)(i) and Section 2.1(a)(iv) of the Seller Disclosure Letter hereunder until

five (5) Business Days prior to the Sale Hearing, Seller may provide updates or supplements to Section 2.1(a)(i) or Section 2.1(a)(iv) of the Seller Disclosure Letter to include revised Cure Amounts and revised amounts of any accrued and unpaid expenses and accounts payable with respect to any Business Contracts or Real Property Leases set forth therein, which updates shall amend Section 2.1(a)(i) or Section 2.1(a)(iv) of the Seller Disclosure Letter for all purposes hereof. Prior to the Sale Hearing, Seller shall commence appropriate proceedings before the Bankruptcy Court and otherwise take all reasonably necessary actions in order to determine Cure Amounts with respect to any Business Contract or Real Property Lease entered into prior to the Petition Date.

(ii) At the Closing, Seller shall assume and assign to Purchaser the Business Contracts and Real Property Leases, in each case pursuant to Section 365 of the Bankruptcy Code and the Sale Order, subject to provision by Purchaser of adequate assurance as may be required under Section 365 of the Bankruptcy Code and payment of the Cure Amounts in respect of Business Contracts and Real Property Leases as contemplated hereby.

(iii) Notwithstanding anything in this Agreement to the contrary, Purchaser may, from time to time and in its sole and absolute discretion, amend or revise Section 2.1(a)(i) and Section 2.1(a)(iv) of the Seller Disclosure Letter in order to remove any Contract from Section 2.1(a)(i) or Section 2.1(a)(iv) of the Seller Disclosure Letter, as applicable, up to five (5) Business Days prior to the Closing Date (the "**Designation Deadline**"); provided, that Purchaser shall not remove the Pinnacle Contract and shall, to the extent approved by the Sale Order, assume the Pinnacle Contract pursuant to Sections 2.1 and 2.3. Automatically upon the removal of any Business Contract or Real Property Lease from Section 2.1(a)(i) or Section 2.1(a)(iv) of the Seller Disclosure Letter, as applicable, by Purchaser in accordance with the first sentence of this Section 2.5(a)(iii) (any such deleted Business Contract or Real Property Lease, an "**Eliminated Agreement**"), it shall be an Excluded Asset for all purposes of this Agreement, and no Liabilities arising thereunder or relating thereto shall be assumed by Purchaser or be the obligation, liability or responsibility of Purchaser.

(b) At any time and from time to time after the Closing, without further consideration, each party hereto shall, at the reasonable request of the other party hereto, execute and deliver such further instruments of conveyance, assignment, assumption and transfer with respect to the Purchased Assets and the Assumed Liabilities and take such further action as may be necessary or appropriate to (i) effectuate the intent of this Agreement, (ii) perfect or record title of Purchaser in the Purchased Assets, (iii) put Purchaser in possession of the Purchased Assets and ensure that Purchaser assumes the Assumed Liabilities and (iv) provide such other party in all material respects with the intended benefits of this Agreement. If Purchaser receives or becomes aware that it holds any of the Excluded Assets, Purchaser agrees to promptly return or cause the return to Seller of, or allow Seller or its Representatives to remove and recover, such assets at Purchaser's sole cost and expense. In furtherance of the foregoing, with respect to such Excluded Assets that Seller will remove and recover, Purchaser shall grant to Seller and its Representatives reasonable access to Purchaser's property from and after the Closing to permit Seller and its Representatives to remove and recover such Excluded Assets and make any other appropriate arrangements with respect thereto. If Seller receives or becomes aware that it holds

any of the Purchased Assets, Seller agrees to promptly return or cause the return to Purchaser of, or allow Purchaser or its Representatives to remove and recover, such assets at Seller's sole cost and expense. In furtherance of the foregoing, with respect to such Purchased Assets that Purchaser will remove and recover, Seller shall grant to Purchaser and its Representatives reasonable access to Seller's property from and after the Closing to permit Purchaser and its Representatives to remove and recover such Purchased Assets and make any other appropriate arrangements with respect thereto.

2.6 Required Consents.

(a) Notwithstanding anything to the contrary contained herein, to the extent that the sale, conveyance, transfer, assignment or delivery or attempted sale, conveyance, transfer, assignment or delivery to Purchaser of any Purchased Asset or Tug Boat pursuant to sections 363 and 365 of the Bankruptcy Code is prohibited by any applicable Law or Order or would require the Consent of any Third Party or any Governmental Entity and such Consent cannot be effectively overridden or canceled by the Sale Order or other related Order of the Bankruptcy Court or shall otherwise not have been obtained prior to Closing, this Agreement shall not constitute a sale, conveyance, transfer, assignment or delivery, or an attempted sale, conveyance, transfer, assignment or delivery of such Purchased Asset or Tug Boat (a "**Deferred Asset**") and the provisions set forth below in Section 2.6(c) shall govern; provided, however, that with respect to any Deferred Terminal Parcels, the provisions set forth in Section 7.28 shall govern. For the avoidance of doubt, nothing in this Section 2.6 shall limit or have an effect on the conditions to Closing set forth in Section 8.1(e) (in respect of the Required Governmental Approvals) or Section 8.2(d) (in respect of the Other Required Approvals).

(b) Following the Closing, the Parties shall have a continuing obligation to use their respective commercially reasonable efforts to cooperate with each other and to obtain promptly all Consents that cannot be effectively overridden or canceled by the Sale Order or other related Order of the Bankruptcy Court and that are necessary for the transfer of the Deferred Assets and each Party shall provide all of the assistance that is reasonably requested by the other Party in connection with securing such Consents; provided, that the Parties' obligations under this Section 2.6(b) and Section 2.6(c) shall be subject to the Efforts Conditions.

(c) To the extent that Consent is not received and cannot be effectively overridden or canceled by the Sale Order or other related Order of the Bankruptcy Court in respect of any Deferred Asset as of Closing, the Parties shall reasonably cooperate with each other and use their respective commercially reasonable efforts to enter into any lawful and feasible arrangement pursuant to which Purchaser will obtain (for no additional cost or consideration) the same rights and benefits, and assume the same obligations, with respect to such Deferred Asset following the Closing, of Seller or HOVIC, as applicable, immediately prior to the Closing, whereby: (i) Purchaser shall be responsible for performing all obligations in respect of such Deferred Asset required to be performed by Seller or HOVIC, as applicable, after the Closing to the extent set forth in this Agreement; (ii) Seller or HOVIC, as applicable, shall give such commercially reasonable assistance as Purchaser may reasonably require to enable Purchaser to enforce its rights under such Deferred Asset and to ensure that Purchaser has the sole and exclusive right to direct and control the exercise or waiver of any rights under such Deferred Asset; and (iii) Seller and HOVIC, as applicable, shall promptly pay to Purchaser,

when received, all monies received by Seller and HOVIC, as applicable, under any such Deferred Asset; provided, that Purchaser shall not be responsible for any Liabilities under any such Deferred Asset to the extent constituting Excluded Liabilities or arising from any negligence or misconduct by Seller, or any failure by Seller or its Affiliates to comply with Law, the terms of such Deferred Asset, this Agreement or any of the Transaction Documents. Upon obtaining the requisite Consent, Seller or HOVIC, as applicable, shall promptly convey, transfer, assign and deliver, or cause to be conveyed, transferred, assigned and delivered, such Deferred Asset to Purchaser at no additional cost.

ARTICLE III

PURCHASE PRICE

3.1 Purchase Price; Delivery of Funds.

(a) At the Closing, Purchaser shall in full consideration for the sale and transfer by Seller of the Purchased Assets (i) pay to Seller an amount equal to (x) the Terminals Purchase Price, less (y) the Good Faith Deposit Amount, less (z) the Pinnacle Cure Amount, by wire transfer of immediately available funds to an account designated by Seller in writing to Purchaser at least three (3) Business Days prior to the Closing; (ii) together with Seller, execute and deliver a joint written instruction to the Escrow Agent instructing it to release from the Escrow Account to Seller by wire transfer of immediately available funds to an account designated by Seller, an amount equal to the Good Faith Deposit Amount, and (iii) assume the Assumed Liabilities.

(b) At the Closing, Purchaser shall in full consideration for the sale and transfer by HOVIC of the Tug Boats, pay to HOVIC the Tug Boat Purchase Price, such amount to be paid by wire transfer of immediately available funds to an account designated by HOVIC in writing to Purchaser at least three (3) Business Days prior to the Closing.

3.2 Good Faith Escrow Deposit.

(a) Subject to the entry of the Bid Procedures Order, Purchaser shall pay to the Escrow Agent the Good Faith Deposit Amount by wire transfer of immediately available funds, which funds shall be held in the Escrow Account by the Escrow Agent and invested as provided for in the Escrow Agreement and released by the Escrow Agent only in accordance with the terms of this Agreement and the Escrow Agreement.

(b) If the Closing occurs, then the Good Faith Deposit Amount, shall be paid to Seller and the applicable Parties shall submit joint written instructions to the Escrow Agent (in accordance with Section 3.1(a)) to give effect to the same.

(c) If the Closing does not occur as a result of the termination of this Agreement by Seller pursuant to Section 9.1(c), then within five (5) Business Days of such termination, the Good Faith Deposit Amount shall be disbursed to Seller by the Escrow Agent as liquidated damages and the applicable Parties shall submit joint written instructions to the Escrow Agent to give effect to the same.

(d) If the Closing does not occur as a result of the termination of this Agreement for any reason other than as set forth in Section 3.2(c), then the Good Faith Deposit Amount shall be returned to Purchaser by the Escrow Agent within five (5) Business Days of such termination, and the applicable Parties shall submit joint written instructions to the Escrow Agent to give effect to the same.

(e) The parties hereto acknowledge that the agreements contained in this Section 3.2 are an integral part of the transactions contemplated by this Agreement and that without these agreements neither Seller nor Purchaser would enter into this Agreement.

3.3 Allocation of the Purchase Price.

(a) HOVIC and Purchaser agree to allocate the Tug Boat Purchase Price among the Tug Boats.

(b) Seller and Purchaser agree to allocate the Terminals Purchase Price, Assumed Liabilities, and any other items constituting consideration for applicable income Tax purposes (collectively, the "**Tax Purchase Price**") among the Purchased Assets.

(c) Seller shall provide Purchaser with draft allocations pursuant to Section 3.3(a) and (b) that comply with Section 1060 of the Code and the Treasury regulations promulgated thereunder as soon as commercially practicable and shall use reasonable efforts to provide such draft allocations twenty (20) days prior to the Closing Date. If Seller provides Purchaser with such draft allocations twenty (20) days prior to the Closing Date then Seller and Purchaser shall use commercially reasonable efforts to reach agreement on the allocations prior to the Closing Date. If Seller does not provide Purchaser with such draft allocations at least twenty (20) days prior to the Closing Date, then Seller shall provide Purchaser with such draft allocation as soon as commercially practicable after the Closing Date (and in any event within sixty (60) days after the Closing Date). If Purchaser disagrees with the draft allocations provided by Seller, then Purchaser may, within ten (10) days after Seller provided the draft allocations, deliver written notice to Seller setting forth in reasonable detail Purchaser's objection(s) to the draft allocations. If Purchaser does not duly deliver timely written notice of any objections pursuant to the previous sentence, then Purchaser shall be deemed to have agreed to Seller's draft allocations. However, if Purchaser does duly deliver timely written notice of objections to the draft allocations, then Seller and Purchaser shall negotiate in good faith to resolve such objections and to reach agreement on the allocations; provided, that if Seller and Purchaser are not able to reach agreement within ten (10) days after Purchaser delivered its written notice of objections to Seller, then Seller and Purchaser shall submit the unresolved issues for prompt resolution to a nationally recognized accounting firm that is mutually agreed upon by Seller and Purchaser. The determination of such accounting firm shall be binding on Seller and Purchaser, and Seller and Purchaser shall each bear one-half of the costs and expenses of such accounting firm. The final allocations (as agreed upon, as deemed agreed upon or as determined by such accounting firm, as the case may be, and as updated, if applicable, pursuant to the next sentence) shall be referred to as the "**Allocation**." In the event of any subsequent adjustment to the Tax Purchase Price, Seller and Purchaser shall work together in good faith to agree upon an updated Allocation to reflect such adjustment, taking into account applicable Law and the nature of the circumstances giving rise to the relevant adjustment. Seller and Purchaser shall, and shall cause

their Affiliates to, report consistently with the Allocation in all Returns, including IRS Form 8594, which Purchaser and Seller shall timely file with the appropriate Taxing authority, and Seller, Purchaser and each of their respective Affiliates shall not file any Return or other document or otherwise take any position that is inconsistent with the Allocation determined pursuant to this Section 3.3(c), except as may be adjusted by subsequent agreement following an audit by the Virgin Islands Bureau of Internal Revenue or the IRS or by an Order.

(d) The Parties shall promptly inform one another of any challenge by any Governmental Entity to any allocation made pursuant to this Section 3.3 and agree to consult in good faith with and keep one another informed with respect to the state of, and any discussion, proposal or submission with respect to, such challenge; provided, that nothing in this Section 3.3 shall require Seller, Purchaser or their Affiliates to litigate before any court any proposed deficiency or adjustment by any Governmental Entity challenging the Allocation.

3.4 Withholding. Purchaser, and any Person acting on its behalf, shall be entitled to deduct and withhold any amounts in connection with the transactions contemplated by this Agreement that are required to be deducted and withheld under applicable Law; provided, however, Purchaser shall not withhold any amounts under the Foreign Investment in Real Property Tax Act ("**FIRPTA**") rules if it receives the certificates described in Section 3.5(b)(viii) and in Section 3.5(d)(iii). To the extent any such amounts are deducted or withheld, such amounts shall be treated as having been paid to the Person in respect of which the deduction or withholding was made.

3.5 Closing; Closing Deliverables.

(a) Subject to the satisfaction or waiver of all of the conditions set forth in Sections 8.1, 8.2 and 8.3, the closing of the Purchase (the "**Closing**") shall take place at the offices of White & Case LLP, 1155 Avenue of the Americas, New York, New York, 10036-2787, as soon as practicable, but in any event within five (5) Business Days, after the last of the conditions set forth in Sections 8.1, 8.2 and 8.3 is satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the fulfillment or waiver of those conditions), or at such other time, date or place as the Parties shall agree in writing. Such date is herein referred to as the "**Closing Date**".

(b) At the Closing, Seller shall deliver or cause to be delivered to Purchaser:

(i) a certificate in a form reasonably satisfactory to Purchaser signed by an authorized officer of Seller, dated as of the Closing Date, confirming the matters set forth in Sections 8.2(a) and (b) with respect to Seller;

(ii) counterparts to the assignment, transfer and conveyance instruments listed on Section 3.5 of the Seller Disclosure Letter, in each case, duly executed by Seller (as applicable);

(iii) a counterpart to the Bill of Sale and Assignment and Assumption Agreement, duly executed by Seller;

(iv) a counterpart to the Access Easement, duly executed by Seller;

(v) a counterpart to the Shared Services Agreement, duly executed by Seller;

(vi) a counterpart to the Escrow Agreement, duly executed by Seller;

(vii) a counterpart to the Ground Lease, duly executed by Seller;

(viii) a certificate, duly completed and executed by Seller and dated as of the Closing Date, in the form of Exhibit G;

(ix) a counterpart to each Closing Cross-Easement Agreement, duly executed by Seller;

(x) a properly executed deed in recordable and customary form for conveyances of commercial real property in the United States Virgin Islands conveying the Purchased Real Property, which has the real property legal description approved by the Office of the Public Surveyor of the Government of the Virgin Islands, together with real property tax clearance letters from the Government of the Virgin Islands covering all the tax bills for all of the parcels of real property being conveyed by the deed; and

(xi) written instructions to the Escrow Agent to release the Good Faith Deposit Amount pursuant to Section 3.1(a).

(c) At the Closing, Purchaser shall deliver or cause to be delivered to Seller, and Seller shall have received:

(i) an amount equal to (x) the Terminals Purchase Price, less (y) the Good Faith Deposit Amount, less (z) the Pinnacle Cure Amount, by wire transfer of immediately available funds to an account designated by Seller in writing to Purchaser at least three (3) Business Days prior to the Closing;

(ii) a certificate in a form reasonably satisfactory to Seller signed by an authorized officer of Purchaser, dated as of the Closing Date, confirming the matters set forth in Sections 8.3(a) and (b);

(iii) counterparts to the assignment, transfer and conveyance instruments listed on Section 3.5 of the Seller Disclosure Letter, in each case, duly executed by Purchaser (as applicable);

(iv) a counterpart to the Bill of Sale and Assignment and Assumption Agreement, duly executed by Purchaser;

(v) a counterpart to the Access Easement, duly executed by Purchaser;

(vi) a counterpart to the Shared Services Agreement, duly executed by Purchaser;

(vii) a counterpart to the Escrow Agreement, duly executed by Purchaser;

(viii) a counterpart to the Ground Lease, duly executed by Purchaser;

(ix) a counterpart to each Closing Cross-Easement Agreement, duly executed by Purchaser;

(x) a counterpart to the USVI Concession Agreement, duly executed by Purchaser;

(xi) to Pinnacle Services L.L.C., the Pinnacle Cure Amount, by wire transfer of immediately available funds; and

(xii) written instructions to the Escrow Agent to release the Good Faith Deposit Amount pursuant to Section 3.1(a).

(d) At the Closing, HOVIC shall deliver or cause to be delivered to Purchaser:

(i) two (2) counterparts to the Tug Boat Bill of Sale and Acceptance with respect to each Tug Boat, in each case duly executed by HOVIC (including any notarization, apostille or other form of authentication as required in the applicable jurisdiction for such Tug Boat);

(ii) two (2) counterparts to the Protocol of Delivery and Acceptance with respect to each Tug Boat, in each case duly executed by HOVIC; and

(iii) a certificate, duly completed and executed by HOVIC and dated as of the Closing Date, in the form of Exhibit G.

(e) At the Closing, Purchaser shall deliver or cause to be delivered to HOVIC:

(i) the Tug Boat Purchase Price, in immediately available funds, pursuant to Section 3.1(b);

(ii) two (2) counterparts to the Tug Boat Bill of Sale and Acceptance with respect to each Tug Boat, in each case duly executed by Purchaser (including any notarization, apostille or other form of authentication as required in the applicable jurisdiction for such Tug Boat); and

(iii) two (2) counterparts to the Protocol of Delivery and Acceptance with respect to each Tug Boat, in each case duly executed by Purchaser.

(f) The Closing shall not be deemed to have occurred unless each of the items set forth in Sections 3.5(b), 3.5(c), 3.5(d) and 3.5(e) has been completed or waived in writing by the applicable Party. If such items have been completed, they and the Closing shall be deemed to have been completed simultaneously. Notwithstanding anything to the contrary in this Agreement and without limiting the generality of the immediately preceding two sentences,

neither Seller nor HOVIC shall acquire any right, title or interest in the funds transferred in respect of the Terminals Purchase Price or the Tug Boat Purchase Price, and Purchaser shall not acquire any right, title or interest in the Purchased Assets or the Tug Boats, except upon actual receipt by Seller of the Terminals Purchase Price in the bank account designated by Seller pursuant to Section 3.1(a) or the actual receipt by HOVIC of the Tug Boat Purchase Price in the bank account designated by HOVIC, pursuant to Section 3.1(b), as applicable.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the disclosure letter delivered by Seller to Purchaser (the "**Seller Disclosure Letter**") concurrently with the execution of this Agreement (it being agreed that any matter disclosed pursuant to any section of the Seller Disclosure Letter shall be deemed disclosed for purposes of any other section of the Seller Disclosure Letter to the extent the applicability of the disclosure to such other section is reasonably apparent on the face of such disclosure), Seller hereby represents and warrants to Purchaser as follows as of the date hereof and as of the Closing Date (or as of such other date as may be specified herein):

4.1 Due Organization, Good Standing and Limited Liability Company Power. Seller is duly organized, validly existing and in good standing under the Laws of the U.S. Virgin Islands. Seller has all requisite limited liability company power and authority to own, lease and operate its assets and properties and conduct its business as now being conducted. Seller is in good standing under the laws of each jurisdiction where the character of its assets or properties or the conduct of its business requires such qualification, except where the failure to be in good standing would not reasonably be expected to materially and adversely affect the Business, the Purchased Assets and the Assumed Liabilities, taken as a whole, or prevent or materially delay beyond the End Date Seller's ability to consummate the transactions contemplated by this Agreement or the Transaction Documents.

4.2 Authorization; Noncontravention.

(a) Subject to obtaining Bankruptcy Court approval pursuant to the Sale Order, Seller has the requisite limited liability company power and authority and has taken all limited liability company action necessary to execute and deliver this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Seller as contemplated hereby, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. Subject to obtaining Bankruptcy Court approval pursuant to the Sale Order, the execution, delivery and performance by Seller of this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Seller as contemplated hereby, the consummation by Seller of the transactions contemplated hereby and thereby and the performance of its obligations hereunder and thereunder have been, and in the case of documents required to be delivered at the Closing will be, duly authorized and approved by all necessary limited liability company, member or other action. This Agreement has been, and the Transaction Documents and all other instruments and agreements to be executed and delivered by Seller as contemplated hereby will be, duly executed and delivered by Seller. Subject to obtaining Bankruptcy Court approval pursuant to the Sale Order, assuming that this

Agreement, the Transaction Documents and all such other instruments and agreements constitute valid and binding obligations of Purchaser and each other Person (other than Seller or any Affiliate thereof) party hereto and thereto, this Agreement, the Transaction Documents and all such other instruments and agreements constitute valid and binding obligations of Seller, enforceable against Seller in accordance with the terms thereof, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether considered in a proceeding in equity or at law).

(b) Except as a result of the Bankruptcy Case and, subject to obtaining Bankruptcy Court approval pursuant to the Sale Order, the execution and delivery by Seller of this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Seller as contemplated hereby do not, and the consummation of the transactions contemplated hereby and thereby will not:

(i) conflict with any of the provisions of the certificate of formation of Seller or the Hovensa Operating Agreement;

(ii) except as provided in Section 4.2(b)(ii) of the Seller Disclosure Letter and subject to receipt of the Consents set forth in Section 4.3 of the Seller Disclosure Letter, conflict with or result in a breach of, or constitute a default under or give rise to any right of termination, cancellation, modification or acceleration (including any right of first refusal or similar right) or the loss of a benefit under, or require the Consent of or giving of notice to any Person under any Business Contract, Business Permit or Real Property Lease (in each case, with or without notice or lapse or time or both); except, in the case of this clause (ii) for such conflicts or breaches or Consents or notices that (if not received) would not reasonably be expected to materially and adversely affect the Business, the Purchased Assets and the Assumed Liabilities, taken as a whole, or prevent or materially delay beyond the End Date Seller's ability to consummate the transactions contemplated by this Agreement or the Transaction Documents;

(iii) subject to (x) the applicable requirements of the HSR Act and (y) receipt of the Consents referred to in Section 4.3 of the Seller Disclosure Letter, contravene any Law or any Order applicable to Seller or by which any of its properties or assets are bound except such contraventions that would not reasonably be expected to materially and adversely affect the Business, the Purchased Assets and the Assumed Liabilities, taken as a whole, or prevent or materially delay beyond the End Date Seller's ability to consummate the transactions contemplated by this Agreement or the Transaction Documents; or

(iv) result in the creation or imposition of any Lien (other than a Permitted Lien) on any of the Purchased Assets.

4.3 Governmental Consents and Approvals. Except as a result of the Bankruptcy Case and, subject to obtaining Bankruptcy Court approval pursuant to the entry of the Sale Order and the expiration, or waiver by the Bankruptcy Court, of the 14-day period set forth in rules

6004(h) and 3020(e) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), as applicable, and assuming all required Antitrust Filings in respect of the HSR Act are made and any waiting periods under the HSR Act have been terminated or expired and any Consents required thereunder have been obtained, except as set forth in Section 4.3 of the Seller Disclosure Letter, no Consent of or filing with any Governmental Entity must be obtained or made by Seller in connection with the execution and delivery of this Agreement or any Transaction Document by Seller or the consummation by Seller of the transactions contemplated by this Agreement or any Transaction Document, except for any Consents that, if not obtained or made, would not reasonably be expected to materially adversely affect the Business, the Purchased Assets and the Assumed Liabilities, taken as a whole, or prevent or materially delay beyond the End Date Seller's ability to consummate the transactions contemplated by this Agreement or the Transaction Documents.

4.4 Property. (a) Other than the Real Property, Seller owns no other real property. Seller has good and valid title to the Purchased Real Property (other than any Excluded Asset), subject to Permitted Liens. There are no outstanding options, rights of first offer or rights of first refusal to purchase any Purchased Real Property or any portion thereof or interest therein. Seller has not leased or otherwise granted to any Person the right to use or occupy the Purchased Real Property or any material portion thereof, except as set forth in Section 4.4(b) of the Seller Disclosure Letter. Other than the Deferred Terminal Parcels, each parcel of Purchased Real Property constitutes a legally subdivided lot in compliance with all applicable subdivision Laws, separate from any adjoining land or improvements.

(b) Section 4.4(b) of the Seller Disclosure Letter contains an accurate and complete list as of the date hereof of all Real Property Leases and all other real property leases and subleases to which Seller is a party, and sets forth the role of Seller. With respect to each Real Property Lease pursuant to which Seller is a lessee or sublessee, Seller has valid leasehold interests in all leased real property described in such Real Property Lease, free and clear of any and all Liens, except for Permitted Liens. Each Real Property Lease is a valid and binding obligation of Seller and, to the Knowledge of Seller, is enforceable against the other parties thereto in accordance with the terms thereof, in each case, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether considered in a proceeding in equity or at law). Except as set forth in Section 4.4(b), of the Seller Disclosure Letter, there exists no material default or event of default (with or without notice or lapse of time or both) with respect to any Real Property Lease by Seller or, to the Knowledge of Seller, by any other party thereto and Seller has not received or delivered any notice with respect to any alleged material default that has not been rescinded or completely cured. Seller has not subleased or otherwise granted any Person the right to use or occupy any material portion of the real property leased or subleased by Seller pursuant to any Real Property Lease.

(c) There are no assets or properties of Seller that are used or necessary for the use, maintenance and operation of the Business Real Property as currently used, maintained and operated by Seller that are not included in Purchased Assets or that will not be available to Purchaser by means of the Shared Services Agreement or the Cross-Easement Agreements, except for such assets or properties that (if not so included or accessible) are not material to

Seller's current use, maintenance and operation of the Business Real Property. To the Knowledge of Seller, there is no, and Seller has not received written notice of any, existing or threatened change in the zoning classification of any Business Real Property (or any portion thereof) from that in effect on the date of this Agreement, in each instance, which would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All water, sewer, gas, electric, telephone and drainage facilities and all other utilities and public or quasi-public improvements related thereto required by Law with respect to, or required for the operation of, the Business at the Business Real Property, are installed and available to serve the Business Real Property. There are no pending or, to the Knowledge of Seller, threatened, material interruptions (except in the ordinary course) of any utility services to any material portion of the Business Real Property. The Business Real Property has sufficient access to and from dedicated streets, whether over public or private roads, for the operation of the Business, and the responsibility for maintenance of such dedicated streets has, to the Knowledge of Seller, been accepted by the appropriate Governmental Entity. No condemnation proceeding, lawsuit or administrative action or other matter affecting and adversely impairing the current use or occupancy of the Business Real Property is pending or, to the Knowledge of Seller, threatened in writing with respect to any Business Real Property which has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. To the Knowledge of Seller, there has been no material casualty damage at any of the Business Real Property that has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(d) Except as set forth in Section 4.4(d) of the Seller Disclosure Letter, and excluding Purchased Real Property (which is governed by Section 4.4(a) above), Seller owns and has good and valid title to, or a valid leasehold interest in, all personal property included in the Purchased Assets, free and clear of all Liens, except for Permitted Liens.

4.5 Affiliate Transactions. Except for the Hovensa Operating Agreement and as disclosed in Section 4.5 of the Seller Disclosure Letter and except for employment and consultant relationships and compensation, benefits, travel advances and employee or consultant loans to any officer, director, employee or consultant of Seller, in each case, in the ordinary course of business, there is no Contract or Liability relating primarily to the Business, the Purchased Assets or the Assumed Liabilities between (a) Seller, on the one hand, and (b) any Affiliate, equity holder, option holder, officer, member, partner or director of Seller, on the other hand, that remains in force and provides for obligations of any party from and after the Closing.

4.6 Material Contracts.

(a) Section 4.6 of the Disclosure Letter sets forth (organized to refer to each of the clauses in this Section 4.6) an accurate, correct and complete list of the following Contracts to which Seller is a party and which are currently in effect as of the date hereof:

(i) each Contract that is not a Business Contract and that is (A) with any current or former customer of, or supplier to, the Business or (B) material to the operation of Business (assuming the Business is operating as an Operational Terminals Business);

(ii) each Contract whereby Seller has created a Lien in respect of any of the Purchased Assets;

(iii) each Business Contract containing any covenant limiting the freedom of Seller or any of its Affiliates (A) to compete with any Person, engage in any line of business or exploit the Purchased Assets, in each case, in any geographic territory, (B) which grants to any Person any exclusivity with respect to any geographic territory, any customer or any product or service or (C) to solicit for employment, hire or employ any Person;

(iv) each Business Contract that requires capital expenditures or other outstanding payments to be made by Seller, in each case, following the date hereof;

(v) each Business Contract involving the sharing of profits, losses, costs or liabilities with any other Person relating to the Business, the Purchased Assets or the Assumed Liabilities;

(vi) each Business Contract that requires (or may require in certain circumstances) in accordance with its terms the provision of credit support, collateral, a guarantee or similar financial assurance in respect of the Business, the Purchased Assets or the Assumed Liabilities;

(vii) each Business Contract that (A) provides services for a fixed price or maximum fee, or pursuant to any cap or similar provisions; (B) grants "most favored nation" status (or similar status) to a Person (whether in respect of pricing or otherwise) or (C) provides any performance guarantee, material rebates, discounts, incentive or volume credits;

(viii) each Contract that involves the resolution or settlement of any actual or threatened Proceeding relating to the Business, the Purchased Assets or the Assumed Liabilities; and

(ix) each Contract with any Governmental Entity relating to the Business, the Purchased Assets or the Assumed Liabilities.

(b) The Contracts required to be listed in Section 4.6(a), together with the Business Contracts and the Real Property Leases are referred to as "**Material Contracts**." True, correct and complete copies of each Material Contract have been made available to Purchaser prior to the date hereof. Each Business Contract is a valid and binding obligation of Seller (except for any breach or default that results from the insolvency of Seller or the commencement of the Bankruptcy Case and any breach or default to be cured through the payment of the Cure Amounts) and to the Knowledge of Seller, enforceable against the other parties thereto in accordance with the terms thereof, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether considered in a proceeding in equity or at law). Except as set forth in Section 4.6 of the Seller Disclosure Letter and any breach or default that results from the insolvency of Seller or the commencement of the Bankruptcy Case and any breach or default to be cured through the

payment of the Cure Amounts, there exists no material default or event of default (with or without notice or lapse of time or both) with respect to any Business Contract by Seller or, to the Knowledge of Seller, by any other party thereto and Seller has not received or delivered any notice with respect to any alleged material default that has not been rescinded or completely cured.

4.7 Intellectual Property Rights and Claims. (a) Except as set forth in Section 4.7(a) of the Seller Disclosure Letter, Seller owns all right, title, and interest to or is licensed to use the Business Intellectual Property, free and clear of any Liens, other than Permitted Liens.

(b) Seller has not, within the last twelve (12) months made any written claim of an infringement or misappropriation by any Third Party of its rights to any Business Intellectual Property, which claim is still pending. To the Knowledge of Seller, no Third Party is infringing or misappropriating any Business Intellectual Property.

(c) Except for claims that have since been satisfactorily resolved or for which the statute of limitations has lapsed, Seller has not received any written notice from any Third Party challenging the right of Seller to use any of the Business Intellectual Property that would reasonably be expected to materially and adversely affect the Business, the Purchased Assets and the Assumed Liabilities, taken as a whole (assuming the Business is operating as an Operational Terminals Business).

(d) There are no pending actions, suits or arbitrations by, before or against any Person or Governmental Entity for an infringement or misappropriation by Seller of any Intellectual Property owned by any Third Party which would reasonably be expected to materially and adversely affect the Business, the Purchased Assets and the Assumed Liabilities, taken as a whole (assuming the Business is operating as an Operational Terminals Business).

4.8 Tax Matters. Except as set forth in Section 4.8 of the Seller Disclosure Letter:

(a) Tax Returns. Seller has timely filed or caused to be timely filed, taking into account any applicable extensions, with the appropriate taxing authorities all income Tax Returns and all material non-income Tax Returns with respect to the Business or the Purchased Assets. All such Returns are correct and complete in all material respects. Seller is not currently the beneficiary of any extension of time within which to file any material tax Return with respect to the Business or the Purchased Assets. No claim has ever been made by a Governmental Entity in a jurisdiction in which Seller does not file Returns that Seller is or may be subject to taxation by that jurisdiction with respect to Taxes that would be the subject of such Returns.

(b) Payment of Taxes. All income Tax Liabilities and all material non-income Tax Liabilities of Seller due and payable with respect to the Business or the Purchased Assets, in each instance for all Pre-Closing Periods, have been timely paid, taking into account any applicable extensions, to the extent the non-payment of such Taxes could reasonably be expected to result in a Lien (other than a Permitted Tax Lien) on the Purchased Assets, adversely affect the Business, or result in Purchaser becoming liable for such Taxes. There are no pending or threatened audits, investigations, disputes, notices of deficiency, claims or other similar actions relating to Property Taxes or any other Taxes that are imposed on a periodic basis (which

are not based on income) of Seller with respect to the Business or the Purchased Assets. Seller has not waived any statute of limitations in respect of non-income Taxes or agreed to any extension of time with respect to a non-income Tax assessment or deficiency.

(c) Withholding Taxes. All material Taxes that Seller is (or was) required by Law to withhold or collect on or prior to the date hereof in connection with amounts paid or owing to any employee, independent contractor, creditor, equity holder or other Third Party have been duly withheld or collected, and have been timely paid over to the proper authorities to the extent due and payable, to the extent the non-payment of such Taxes could reasonably be expected to result in a Lien (other than a Permitted Tax Lien) on the Purchased Assets, adversely affect the Business, or result in Purchaser becoming liable for such Taxes.

(d) Liens. There are no Liens for Taxes on any of the Purchased Assets, other than Permitted Liens.

(e) Depreciation. No Purchased Asset (i) is property required to be treated as owned by another person pursuant to the provisions of Section 168(f)(8) of the Internal Revenue Code of 1954, as amended and in effect immediately prior to the enactment of the Tax Reform Act of 1986, (ii) constitutes "tax-exempt use property" within the meaning of Section 168(h) of the Code, (iii) is "tax-exempt bond financed property" within the meaning of Section 168(g) of the Code, (iv) secures any debt the interest of which is tax-exempt under Section 103(a) of the Code or (v) is subject to a "section 467 rental agreement" within the meaning of Section 467 of the Code.

(f) The representations and warranties contained in Section 4.8(a) and Section 4.8(b) shall only apply if and to the extent Purchaser or its Affiliates could be held liable for the Taxes to which such representations and warranties relate or if the Purchased Assets could become subject to a Lien (other than a Permitted Tax Lien) in respect of such Taxes and, for the avoidance of doubt, such representations and warranties shall not be considered inaccurate or breached to the extent the applicable representation or warranty does not apply as a result of this Section 4.8(f).

4.9 Employee Benefits. Set forth in Section 4.9(a) of the Seller Disclosure Letter is, as of February 15, 2015, a true and complete list of each material employee benefit plan, within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), and each material fringe benefit, deferred compensation, severance, stock option, stock appreciation rights, incentive and bonus plan maintained or contributed to, or required to be contributed to, by Seller or its Affiliates, in each case for the benefit of Seller's employees as of such date, but excepting any such plan sponsored in whole or in part by any government, Governmental Entity or union or employee organization or any other Person (collectively, the "**Employee Benefit Plans**").

4.10 Compliance with Laws. Except as set forth in Section 4.10 of the Seller Disclosure Letter, (a) Seller is not, and has not been in the past three (3) years, in material violation of any Law or Order applicable to the Business, the Purchased Assets or the Assumed Liabilities, and (b) Seller has not received any written notice alleging or, to the Knowledge of

Seller, been subject to any investigation by any Governmental Entity concerning, any such material violation of a Law or Order.

4.11 Labor Matters. Section 4.11 of the Seller Disclosure Letter sets forth each consultant of Seller as of the date hereof who is a natural person and indicates which of such consultants are former employees of Seller or any of its Affiliates (each such former employee, a "**Hovensa Consultant**"). Since May 1, 2015, Seller has not had any employees. Since January 1, 2015, no Hovensa Consultant has been improperly excluded from participation in any Employee Benefit Plan, and Seller has no direct or indirect liability, whether absolute or contingent, with respect to any misclassification of any Hovensa Consultant as an independent contractor rather than as an employee, except for such exclusion or misclassification that would not reasonably be expected to result in, individually or in the aggregate, a material Assumed Liability. Seller is in compliance in all material respects with the terms of the Pinnacle Contract, except for such non-compliance that would not reasonably be expected to result in, individually or in the aggregate, a material Assumed Liability.

4.12 Environmental Matters. Except as set forth in Section 4.12 of the Seller Disclosure Letter, with respect to the Business:

(a) Seller is in material compliance with all applicable Environmental Laws, and Orders including the Consent Decree and NRD Settlement;

(b) there are no Proceedings pending, or to the Knowledge of Seller threatened in writing, against Seller that alleges any material violation of Environmental Law and Seller has not received from any Person any written notice of material violation or alleged material violation of Environmental Law;

(c) Seller possesses and is in material compliance with all Permits (including the RCRA Permit) required under Environmental Laws to operate the Business as currently operated and as the Business is expected to be operated following the Closing as contemplated by the Transaction Documents ("**Environmental Permits**"), and there are no Proceedings pending, or to the Knowledge of Seller threatened in writing, to modify, suspend, revoke or rescind any such Environmental Permits.

(d) Seller has not have received notice from any Governmental Entity either that Seller's application for the renewal of Clean Air Act Title V Permit No. STX-TV-003-10 is not complete or that Purchaser will not be able to continue operating the Business under such Permit after the Closing.

(e) Seller has not assumed the material Liability of any other Person under any Environmental Law; and

(f) there have been no material Releases of any Hazardous Materials (i) at, in, under, on, or from any Seller Facilities or (ii) at, in, under, on, or from any third-party location for which Seller has any material Liability under Environmental Law.

The representations and warranties in this Section 4.12 are the sole and exclusive representations and warranties of Seller concerning any Environmental Law, Hazardous Material, the Consent Decree or other environmental matters.

4.13 Finders; Brokers. Except for Lazard Freres & Co. LLC (whose fees are payable by Seller), no agent, broker, Person or firm acting on behalf of Seller is, or shall be, entitled to any broker's fees, finder's fees or commissions from Purchaser in connection with this Agreement or any Transaction Document or any of the transactions contemplated hereby or thereby.

4.14 Permits. Except for matters that are the subject of the representations and warranties in Section 4.12 (Environmental Matters), which matters are covered solely by Section 4.12, Seller possesses all material permits, approvals, licenses, authorizations, certificates, rights, exemptions and Orders from Governmental Entities (collectively, "**Permits**") that are necessary for the lawful operation of the Business as conducted by Seller in the ordinary course (assuming the Business is operating as an Operational Terminals Business). All such Permits are valid and have not lapsed, been cancelled, terminated or withdrawn. To the Knowledge of Seller, Seller is in compliance in all material respects with all such Permits.

4.15 Absence of Changes. Except as expressly contemplated by this Agreement or as set forth on Section 4.15 of the Seller Disclosure Letter, between January 1, 2015 and the date hereof: (a) Seller has operated in the ordinary course of business, but has not been operating an Operational Terminals Business, (b) there has not occurred any Event that has had or would reasonably be expected to have a Material Adverse Effect, (c) there has been no damage, destruction, interruption in use or other casualty loss, whether or not covered by insurance, materially and adversely affecting the Business, the Purchased Assets and the Assumed Liabilities, taken as a whole, and (d) Seller has not taken any action with respect to the Business, the Purchased Assets or Assumed Liabilities that would be prohibited by Section 7.2(a) if such action were to occur between the date hereof and the Closing Date.

4.16 Litigation. Except as set forth in Section 4.16 of the Seller Disclosure Letter: (a) there is no Proceeding pending, or to Seller's Knowledge, threatened, against Seller or its Affiliates in respect of the Business, the Purchased Assets or the Assumed Liabilities that would, if determined adversely, materially and adversely affect the Business (assuming the Business is operating as an Operational Terminals Business), the Purchased Assets and Assumed Liabilities, taken as a whole, or prevent or materially delay beyond the End Date Seller's ability to consummate the transactions contemplated by this Agreement or any Transaction Document and (b) there are no material Orders outstanding applicable to the Business, the Purchased Assets or the Assumed Liabilities that have not been fully satisfied.

4.17 Title to Purchased Assets. Seller has and will convey, transfer and assign and deliver to the Purchaser as of the Closing, good and valid title to all the Purchased Assets, in each case, free and clear of any Liens (other than Permitted Liens).

4.18 Insurance. Except for any directors' and officers' liability insurance policies, as of the date hereof, Seller does not maintain any policies of insurance relating to the Business, the Purchased Assets or the Assumed Liabilities.

4.19 Compliance.

(a) None of Seller or any director, officer or employee or, to the Knowledge of Seller, any agent, representative or other Person acting on behalf of Seller (in respect of the Business) has, directly or indirectly, (i) used any of Seller's corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic governmental official from corporate funds; (iii) violated or is in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977, or any Law of similar purpose and scope instituted by any Governmental Entity; or (iv) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment.

(b) None of Seller or any director, officer or employee or, to the Knowledge of Seller, any agent, representative or other Person acting on behalf of Seller (in respect of the Business) (i) is in violation of any anti-money laundering Law or is under investigation by any Governmental Entity for money laundering or any other similar or related activity, (ii) is an Adverse Person or otherwise the subject of any Sanctions administered or enforced by any Governmental Entity or (iii) has, in the past five (5) years, engaged in or are now engaged in any dealings or transactions in violation of or subject to penalty or action under any Sanctions.

(c) Seller has instituted and maintains policies and procedures designed to ensure continued compliance with the Laws referenced in this Section 4.19 and, to the knowledge of Seller, none of Seller or any director, officer or employee of Seller or any agent, representative or other Person acting on behalf of Seller (in respect of the Business) is the subject of any ongoing Proceeding that if resolved against such Person could result in any statement in this Section 4.19 being untrue.

4.20 Exclusivity of Representations; Projections, etc. The representations and warranties expressly made by Seller in this Article IV or in any Transaction Document are the exclusive representations and warranties made by Seller with respect to the Business, the Purchased Assets, the Assumed Liabilities and Tug Boats. Except for any representations and warranties expressly set forth in this Article IV, or in any Transaction Document or in the Seller Disclosure Letter, (i) the Purchased Assets, the Assumed Liabilities and Tug Boats are sold "AS IS, WHERE IS," and Seller expressly disclaims (on its own behalf and on behalf of its Affiliates) any other representations or warranties of any kind or nature, express or implied, as to Liabilities, operations of its business (as currently or formerly conducted) or the Tug Boats, the title, condition, value or quality of assets of Seller or of the Tug Boats or the prospects (financial and otherwise), risks and other incidents of Seller and its business (as currently or formerly conducted), the Purchased Assets, the Assumed Liabilities and the Tug Boats, (ii) SELLER SPECIFICALLY DISCLAIMS (ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES), AND PURCHASER HEREBY WAIVES, ANY REPRESENTATION OR WARRANTY OF QUALITY, VALUE, DESIGN, OPERATION, MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, ELIGIBILITY FOR A PARTICULAR TRADE, CONFORMITY TO SAMPLES, OR CONDITION OF THE ASSETS OF SELLER (INCLUDING THE PURCHASED ASSETS) OR OF THE TUG BOATS OR ANY PART THEREOF, WHETHER LATENT OR PATENT, (iii) no material or information provided by or communications made by Seller or any of its Affiliates, or by any advisor thereof,

whether by use of a "data room," or in any information memorandum, or otherwise, or by any broker or investment banker, will cause or create any warranty, express or implied, as to or in respect of Seller, any Affiliate of Seller or HOVIC or the title, condition, value or quality of its business (as currently or formerly conducted), the Purchased Assets, the Assumed Liabilities or of the Tug Boats, and no other Person shall be deemed to have made, or shall be deemed to make, any other express or implied representation or warranty, either written or oral, on behalf of Seller or any of its Affiliates with respect to the subject matter contained herein and (iv) Seller does not make any representation or warranty whatsoever with respect to any estimates, projections and other forecasts and plans (including the reasonableness of the assumptions underlying such estimates, projections and forecasts).

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF HOVIC

Except as set forth in the disclosure letter delivered by HOVIC to Purchaser (the "**HOVIC Disclosure Letter**") concurrently with the execution of this Agreement (it being agreed that any matter disclosed pursuant to any section of the HOVIC Disclosure Letter shall be deemed disclosed for purposes of any other section of the HOVIC Disclosure Letter to the extent the applicability of the disclosure to such other section is reasonably apparent on the face of such disclosure), HOVIC hereby represents and warrants to Purchaser (with respect to the Tug Boat Sale only and not, for the avoidance of doubt, with respect to the sale of the purchased Assets or any other transactions contemplated hereby) as follows as of the date hereof and as of the Closing Date (or as of such other date as may be specified herein):

5.1 Due Organization, Good Standing and Corporate Power. HOVIC is duly organized, validly existing and in good standing under the Laws of the U.S. Virgin Islands. HOVIC has all requisite corporate power and authority to own and operate the Tug Boats.

5.2 Authorization; Noncontravention.

(a) HOVIC has the requisite corporate power and authority and has taken all corporate action necessary to execute and deliver this Agreement and all other instruments and agreements to be delivered by HOVIC as contemplated hereby, to perform its obligations hereunder and thereunder with respect to the Tug Boat Sale and to consummate the Tug Boat Sale. The execution, delivery and performance by HOVIC of this Agreement and all other instruments and agreements to be delivered by HOVIC as contemplated hereby, the consummation by HOVIC of the Tug Boat Sale and the performance of its obligations hereunder and thereunder with respect to the Tug Boat Sale have been, and in the case of documents required to be delivered at the Closing will be, duly authorized and approved by all necessary corporate, stockholder or other action. This Agreement has been, and all other instruments and agreements to be executed and delivered by HOVIC as contemplated hereby will be, duly executed and delivered by HOVIC. Assuming that this Agreement and all such other instruments and agreements constitute valid and binding obligations of Purchaser and each other Person (other than HOVIC) party hereto and thereto, this Agreement and all such other instruments and agreements constitute valid and binding obligations of HOVIC, enforceable against HOVIC in accordance with the terms thereof, except to the extent that such enforcement

may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether considered in a proceeding in equity or at law).

(b) The execution and delivery by HOVIC of this Agreement and all other instruments and agreements to be delivered by HOVIC as contemplated hereby do not, and the consummation of the Tug Boat Sale will not:

(i) conflict with any of the provisions of the certificate of incorporation or by-laws of HOVIC;

(ii) except as provided in Section 5.2 of the HOVIC Disclosure Letter and subject to receipt of the Consents set forth in Section 5.2 of the HOVIC Disclosure Letter, conflict with or result in a breach of, or constitute a default under, any instrument by which HOVIC or any of its properties or assets (other than Seller or any of its properties or assets) are bound, except for such conflicts, breaches or defaults which would not reasonably be expected to prevent, materially delay or impair HOVIC's ability to consummate the Tug Boat Sale; or

(iii) subject to (x) the applicable requirements of the HSR Act and (y) receipt of the Consents referred to in Section 5.3 of the HOVIC Disclosure Letter, contravene any Law or any Order applicable to HOVIC or by which any of its properties or assets (other than Seller or any of its properties or assets) are bound in any manner that would reasonably be expected to prevent, materially delay or impair HOVIC's ability to consummate the Tug Boat Sale.

5.3 Governmental Consents and Approvals. Assuming all required Antitrust Filings in respect of the HSR Act are made and any waiting periods under the HSR Act have been terminated or expired and any Consents required thereunder have been obtained, except as set forth in Section 5.3 of the HOVIC Disclosure Letter, no Consent of or filing with any Governmental Entity must be obtained or made by HOVIC in connection with the execution and delivery of this Agreement by HOVIC or the consummation by HOVIC of the transactions contemplated by this Agreement, except for any Consents that, if not obtained or made, would not reasonably be expected to, individually or in the aggregate, prevent, materially delay or impair HOVIC's ability to consummate the Tug Boat Sale.

5.4 Litigation. Except as set forth in Section 5.4 of the HOVIC Disclosure Letter, (a) there is no Proceeding pending or, to HOVIC's knowledge, threatened, against HOVIC or any of its properties, assets or rights (other than Seller or any of its properties, assets or rights) that would, if determined adversely, reasonably be expected to, individually or in the aggregate, prevent, prohibit, materially delay or impair HOVIC's ability to consummate the Tug Boat Sale and (ii) there are no material Orders outstanding applicable to the Tug Boats that have not been fully satisfied.

5.5 Title to Tug Boats. HOVIC has and will convey, transfer and assign and deliver to the Purchaser, upon payment of the Tug Boat Purchase Price to HOVIC at the Closing and delivery by the Parties of the applicable documents and instruments referred to in Section 3.5,

good and valid title to the Tug Boats, in each case, free and clear of any Liens (other than Permitted Liens).

5.6 Exclusivity of Representations; Projections, etc.

(a) THE REPRESENTATIONS AND WARRANTIES EXPRESSLY MADE BY HOVIC IN THIS ARTICLE V ARE THE EXCLUSIVE REPRESENTATIONS AND WARRANTIES MADE BY HOVIC. EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES OF HOVIC EXPRESSLY SET FORTH IN THIS ARTICLE V OR IN THE HOVIC DISCLOSURE LETTER, THE PURCHASED ASSETS AND EACH TUG BOAT ARE SOLD AND TRANSFERRED UNTO PURCHASER, ITS SUCCESSORS AND ASSIGNS, "AS IS, WHERE IS," WITH ALL FAULTS ACCEPTED BY PURCHASER AND THE PURCHASED ASSETS AND EACH TUG BOAT ARE SOLD WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, BY HOVIC, AND HOVIC EXPRESSLY DISCLAIMS (ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES) ANY OTHER REPRESENTATION, WARRANTY OR GUARANTY OF ANY KIND OR NATURE, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH REGARD TO EACH TUG BOAT, LIABILITIES, THE OPERATIONS OF SELLER, THE TITLE, CONDITION, VALUE OR QUALITY OF ASSETS OF SELLER OR HOVIC, THE PROSPECTS (FINANCIAL OR OTHERWISE), RISKS AND OTHER INCIDENTS OF HOVIC OR SELLER AS THEY RELATE TO HOVIC OR SELLER, INCLUDING, BUT NOT LIMITED TO SEAWORTHINESS, VALUE, DESIGN, OPERATION, MERCHANTABILITY, FITNESS FOR USE FOR A PARTICULAR PURPOSE OF SUCH TUG BOAT OR AS TO THE ELIGIBILITY OF SUCH TUG BOAT FOR ANY PARTICULAR TRADE, AND HOVIC SPECIFICALLY DISCLAIMS (ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES) AND PURCHASER HEREBY WAIVE AS AGAINST HOVIC AND ITS AFFILIATES ALL WARRANTIES OR REMEDIES OR LIABILITIES WITH RESPECT TO SUCH WARRANTIES ARISING BY LAW OR OTHERWISE WITH RESPECT TO THE TUG BOATS, INCLUDING, BUT NOT LIMITED TO (1) ANY REPRESENTATION OR WARRANTY OF QUALITY, NON-INFRINGEMENT, CONFORMITY TO SAMPLES, OR CONDITION OF THE TUG BOATS OR ANY PART THEREOF, WHETHER LATENT OR PATENT (2) ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND (3) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. No material or information provided by or communications made by HOVIC or any of its Affiliates, or by any advisor thereof, whether by use of a "data room," or in any information memorandum, or otherwise, or by any broker or investment banker, will cause or create any warranty, express or implied, as to or in respect of HOVIC, Seller, any Affiliate of Seller or the title, condition, value or quality of the assets and liabilities of Seller or of the Tug Boats.

(b) HOVIC makes no representation or warranty whatsoever with respect to any estimates, projections and other forecasts and plans (including the reasonableness of the assumptions underlying such estimates, projections and forecasts).

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to Seller and HOVIC as follows as of the date hereof and as of the Closing Date (or as of such other date as may be specified herein):

6.1 Due Organization, Good Standing and Limited Liability Company Power of Purchaser. Purchaser is a limited liability company duly organized, validly existing and in good standing (or the equivalent thereof) under the Laws of the State of Delaware and has all requisite limited liability company power and authority to own, lease and operate its assets and properties and to conduct its business as now being conducted. Purchaser is in good standing under the laws of each jurisdiction where the character of its assets or properties or the conduct of its business requires such qualification, except where the failure to be in good standing would not reasonably be expected to prevent, materially delay or impair Purchaser's ability to consummate the transactions contemplated by this Agreement or any Transaction Document.

6.2 Authorization; Noncontravention. (a) Purchaser has the requisite limited liability company power and authority and has taken all limited liability company or other action necessary to execute and deliver this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Purchaser as contemplated hereby, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by Purchaser of this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Purchaser as contemplated hereby, the consummation by it of the transactions contemplated hereby and thereby and the performance of its obligations hereunder and thereunder have been, and in the case of documents required to be delivered at the Closing will be, duly authorized and approved by the members of Purchaser. This Agreement has been, and the Transaction Documents and all other instruments and agreements to be executed and delivered by Purchaser as contemplated hereby will be, duly executed and delivered by Purchaser. Assuming that this Agreement, the Transaction Documents and all such other instruments and agreements constitute valid and binding obligations of Seller, HOVIC and each other Person (other than Purchaser) party hereto and thereto, this Agreement and all such other instruments and agreements constitute valid and binding obligations of Purchaser, enforceable against Purchaser in accordance with the terms thereof, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether considered in a proceeding in equity or at law).

(b) (b) Except as a result of the Bankruptcy Case, the execution and delivery by Purchaser of this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Purchaser as contemplated hereby do not, and the consummation of the transactions contemplated hereby and thereby will not, (i) conflict with any of the provisions of the certificate of incorporation or by-laws or similar governance documents of Purchaser, in each case, as amended to the date of this Agreement, (ii) conflict with or result in a breach of, or constitute a default under, any Contract or other instrument to which Purchaser is a party or by which Purchaser or any of its properties or assets are bound, or (iii) subject to (x)

the applicable requirements of the HSR Act and (y) receipt of the Required Governmental Approvals, contravene any Law or any Order applicable to Purchaser or by which any of its properties or assets are bound, except in the case of clauses (ii) and (iii) above, for such conflicts, breaches, defaults, consents, approvals, authorizations, declarations, filings or notices which do not and would not reasonably be expected to, individually or in the aggregate, prevent, materially delay or impair Purchaser's ability to consummate the transactions contemplated by this Agreement.

6.3 Governmental Consents and Approvals. Except as a result of the Bankruptcy Case, assuming all required Antitrust Filings are made in respect of the HSR Act and any waiting periods under the HSR Act have been terminated or expired and any consents required thereunder have been obtained, except for such consents and filings with the USVI Government as expressly provided for by the Transaction Documents, no Consent of or filing with any Governmental Entity must be obtained or made by Purchaser in connection with the execution and delivery of this Agreement or any Transaction Document by Purchaser or the consummation by Purchaser of the transactions contemplated by this Agreement or any Transaction Document, except for any Consents which have been obtained or made or, if not made or obtained, do not and would not reasonably be expected to, individually or in the aggregate, prevent, materially delay or impair Purchaser's ability to consummate the transactions contemplated by this Agreement or any Transaction Document.

6.4 Financing. As of the Closing Date, Purchaser will have sufficient funds to consummate the transactions contemplated hereby, to perform its obligations hereunder (including all payments to be made by it in connection herewith) and to pay all of its expenses related to this Agreement and the transactions contemplated hereby. Concurrently with the execution of this Agreement, Purchaser has delivered to Seller true, correct and complete copies of an executed Equity Commitment Letter from ArcLight Energy Partners Fund VI, L.P. (the "**Equity Financing Source**") to provide equity financing to Purchaser in an amount sufficient to complete the transactions contemplated by this Agreement (the "**Equity Financing**"). Seller and HOVIC are express third party beneficiaries of the Equity Commitment Letter. The Equity Commitment Letter in the form so delivered is, as to Purchaser and the other parties thereto, valid and in full force and effect, such commitment has not been withdrawn, terminated or otherwise amended or modified in any respect, and no event has occurred that, with or without notice, lapse of time or both, would constitute a default or breach on the part of Purchaser under any term or condition of the Equity Commitment Letter. The Equity Commitment Letter constitutes the entire and complete agreement between the parties thereto with respect to the Equity Financing, and, except as set forth, described or provided for in the Equity Commitment Letter, (i) there are no conditions precedent to the obligation of the Equity Financing Source to fund the Equity Financing and (ii) there are no contractual contingencies or other provisions under any agreement (including any side letters) relating to the transactions contemplated by this Agreement to which Purchaser or any of its Affiliates is a party that would permit the Equity Financing Source to reduce the total amount of the Equity Financing or impose any additional conditions precedent to the availability of the Equity Financing. As of the date hereof, Purchaser has no reason to believe that any of the conditions to the Equity Financing will not be satisfied on a timely basis or that the funding contemplated in the Equity Financing will not be made available to Purchaser on a timely basis in order to consummate the transactions contemplated by this Agreement. The Equity Financing is sufficient to pay the Terminals Purchase Price, the Tug

Boat Purchase Price, all other amounts to be paid or repaid by Purchaser under this Agreement (whether payable on or after the Closing), and all of Purchaser's and its Affiliates' fees and expenses associated with the transactions contemplated in this Agreement in accordance with the terms hereof. The obligations of Purchaser under this Agreement are not contingent on the availability of debt financing.

6.5 Litigation. There is no Proceeding pending against or affecting Purchaser, or any of their respective properties or rights, except as have not and would not reasonably be expected to, individually or in the aggregate, prevent, materially delay or impair Purchaser's ability to consummate the transactions contemplated by this Agreement or any Transaction Document. Purchaser is not subject to any Order which seeks to or would reasonably be expected to, individually or in the aggregate, prevent, materially delay or impair Purchaser's ability to consummate the transactions contemplated by this Agreement or any Transaction Document.

6.6 Finders; Brokers. No agent, broker, Person or firm acting on behalf of Purchaser or any of its Affiliates is or shall be entitled to any broker's fees, finder's fees or commissions from Seller, HOVIC or any of their respective Affiliates in connection with this Agreement or any Transaction Document or any of the transactions contemplated hereby or thereby.

6.7 Investigation by Purchaser. Purchaser has conducted its own independent investigation, verification, review and analysis of the Business (as currently or formerly conducted), the Tug Boats and results of operations, financial condition, technology and prospects, the Purchased Assets, the Assumed Liabilities and the Tug Boats, which investigation, review and analysis was conducted by Purchaser and its Affiliates and, to the extent Purchaser deemed appropriate, by Purchaser's Representatives. Purchaser acknowledges that it and its Representatives have been provided adequate access to Seller's personnel, properties, premises and records, the Purchased Assets, the Assumed Liabilities and the Tug Boats. In entering into this Agreement, Purchaser acknowledges that it has relied solely upon the aforementioned investigation, review and analysis and not on any factual representations or opinions of Seller or HOVIC or any of their respective Affiliates (except the representations and warranties of Seller and of HOVIC set forth in Article IV and Article V, respectively or in the Transaction Documents), and Purchaser acknowledges and agrees, to the fullest extent permitted by Law, that except in the case of fraud:

(a) none of Seller, HOVIC or any of their respective Affiliates, Representatives or any other Person makes or has made any oral or written representation or warranty, either express or implied, as to the accuracy or completeness of any information made available or delivered to Purchaser, or its Affiliates and Representatives, including any information, whether oral or written (including cost estimates, financial information and projections and other projections and forward-looking statements) (i) included in management presentations, "break-out" discussions, responses to questions submitted by or on behalf of Purchaser or its Affiliates and Representatives, or any "data room" or (ii) delivered or made available pursuant to Section 7.1(a) or otherwise;

(b) none of Seller, HOVIC or any of their respective equity holders, Affiliates, Representatives or any other Person shall have any Liability or responsibility whatsoever to Purchaser or its equity holders, Affiliates or Representatives on any basis (including in contract,

tort or equity, under any securities Laws or otherwise) based upon any information described in Section 6.7(a);

(c) without limiting the generality of the foregoing, none of Seller, HOVIC or any of their respective equity holders, Affiliates, Representatives or any other Person makes any representation or warranty regarding (and Purchaser disclaims) any Third Party beneficiary rights or other rights which Purchaser might claim under any studies, reports, tests or analyses prepared by any Third Parties for Seller or HOVIC or any of their respective Affiliates, even if the same were made available for review by Purchaser or its equity holders, Affiliates or Representatives; and

(d) without limiting the generality of the foregoing, Purchaser expressly acknowledge and agree that none of the documents, information or other materials provided to them at any time or in any format by Seller or HOVIC or any of their respective equity holders, Affiliates or Representatives constitutes legal advice, and Purchaser waives all rights to assert that it received any legal advice from Seller or HOVIC or any of their respective equity holders, Affiliates, or any of their respective Representatives, or that it had any sort of attorney-client relationship with any of such Persons.

6.8 Solvency of Purchaser. As of Closing, after giving effect to the transactions contemplated by this Agreement, Purchaser will not: (a) be insolvent (either because its financial condition is such that the sum of its debts is greater than the fair market value of its assets or because the fair saleable value of its assets is less than the amount required to pay its probable liabilities on its existing debts as they mature); (b) have unreasonably small capital with which to engage in its business; or (c) have incurred debts beyond its ability to pay as they become due.

6.9 Exclusivity of Representations. THE REPRESENTATIONS AND WARRANTIES EXPRESSLY MADE BY PURCHASER IN THIS ARTICLE VI OR IN ANY TRANSACTION DOCUMENT ARE THE EXCLUSIVE REPRESENTATIONS AND WARRANTIES MADE BY PURCHASER TO SELLER AND HOVIC IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED HEREBY. EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS ARTICLE VI, OR IN ANY TRANSACTION DOCUMENT, ALL OTHER REPRESENTATIONS AND WARRANTIES OF ANY KIND OR NATURE EXPRESSED OR IMPLIED ARE SPECIFICALLY DISCLAIMED BY PURCHASER.

ARTICLE VII

COVENANTS

7.1 Access to Information Concerning Properties and Records. (a) During the period from the date of this Agreement through and including the earlier of (i) the date this Agreement is terminated in accordance with Section 9.1 and (ii) the Closing Date, (A) Seller shall, upon reasonable prior notice and during regular business hours, afford Purchaser and its Representatives reasonable access to the personnel, properties, facilities, books and records and other Files and Records of Seller, the Purchased Assets and the Assumed Liabilities (including to conduct any Phase I or other similar environmental investigation, provided that Seller shall not

be required to conduct, or permit Purchaser or any of its Representatives, without the express written permission of Seller, to conduct any Phase II investigation or other similar environmental air, building materials, soil, soil gas, surface water, groundwater or other environmental media investigation, sampling or analysis on or relating to any real property owned by or leased to Seller), (B) Seller shall furnish to Purchaser access to all financial and operating data and other information concerning Seller that are in the possession or control of Seller as Purchaser may reasonably request and (C) HOVIC shall furnish to Purchaser access to such documentary information concerning the Tug Boats which is in the possession of HOVIC as Purchaser may reasonably request. Information obtained by Purchaser and its Representatives in connection with the transactions contemplated by this Agreement shall be subject to the provisions of the Confidentiality Agreement, which shall survive the termination of this Agreement in accordance with its terms. Purchaser hereby agrees to abide by the Confidentiality Agreement. Notwithstanding anything to the contrary contained in this Agreement, Seller, HOVIC and their respective Affiliates' obligations to provide any information or access pursuant to this Section 7.1(a) shall be subject to the Disclosure Conditions.

(b) Purchaser hereby acknowledges that any access granted pursuant to Section 7.1(a) and utilized by Purchaser or any of its Representatives shall be at the sole risk, cost and expense of Purchaser. Purchaser shall, and shall use commercially reasonable efforts to ensure that each of its Representatives, complies with all safety and similar requirements imposed by Seller on its properties in the ordinary course of business. Purchaser shall indemnify, defend and hold harmless Seller and its Affiliates and their respective shareholders, partners, members, managers, officers and directors (the "**Seller Access Indemnitees**") from and against any Losses suffered, incurred or paid by them to the extent such Losses are a result of or arise out of Purchaser's or any of its Representatives' access granted pursuant to Section 7.1(a); provided, that Purchaser shall not be required to indemnify and hold harmless any Seller Access Indemnitee to the extent any Losses incurred by such Seller Access Indemnitee arise due to the gross negligence or willful misconduct of such Seller Access Indemnitee. Notwithstanding anything to the contrary contained in this Agreement, the provisions of this Section 7.1(b) shall survive the Closing and any cancellation or termination of this Agreement.

(c) Nothing contained in this Agreement shall be construed to give to Purchaser, directly or indirectly, rights to control or direct Seller or HOVIC or any business or operations of Seller or HOVIC prior to the Closing in a manner that would violate any Antitrust Laws. Prior to the Closing, Seller shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision of its business and operations.

(d) Purchaser hereby agrees that it is not authorized to and shall not (and shall not permit any of its Representatives to), without providing prior written notice to Seller, contact any competitor, contractor, vendor, supplier, distributor, customer, agent or Representative of Seller, the EPA or any Governmental Entity having jurisdiction over Seller or the Seller Facilities (other than the USVI Government, which contact shall be governed by Section 7.11, or any directors, managers, officers, former employees or consultants of Seller (including, for the avoidance of doubt, any Hovensa Consultants), each of which shall require that Purchaser provide Seller with prior written notice and the opportunity to participate in any such meetings or discussions), in each case, with respect to Seller, the Purchased Assets (including, for the avoidance of doubt, the Seller Facilities) or the Assumed Liabilities, prior to the Closing.

Purchaser shall keep Seller informed on a reasonably current basis of any contact with any customers, competitors, vendors or suppliers of Seller.

(e) Notwithstanding anything to the contrary contained herein, no access or investigation by Purchaser, its Affiliates or their respective Representatives shall effect or otherwise modify in any respect any of Purchaser's rights or benefits under this Agreement, including the conditions to Purchaser's obligation to consummate the transactions contemplated by the Agreement as set forth in Sections 8.1 and 8.2.

7.2 Conduct Pending the Closing Date.

(a) Except (i) as set forth in Section 7.2 of the Seller Disclosure Letter, (ii) as may be expressly required by this Agreement, (iii) as required by Law or Order or by a Governmental Entity, (iv) as required by the Bankruptcy Court or (v) as a consequence of the commencement and continuation of the Bankruptcy Case, during the period commencing on the date hereof and ending on the earlier of the Closing Date and the termination of this Agreement pursuant to Section 9.1, Seller shall (x) operate the Business in compliance in all material respects with all Laws (including Environmental Laws), Orders, Contracts and Permits (including Environmental Permits) applicable thereto, and (y) use commercially reasonable efforts to preserve, maintain and protect in all material respects the Purchased Assets, the current goodwill of the Business and Seller's present relationships with Governmental Entities and other Persons having significant relationships with Seller in connection with the Business (as currently conducted).

(b) Except (v) as set forth in Section 7.2 of the Seller Disclosure Letter, (w) as may be expressly required by this Agreement, (x) as required by Law or Order or by a Governmental Entity, (y) as required or approved by the Bankruptcy Court or (z) as a consequence of the commencement and continuation of the Bankruptcy Case, during the period commencing on the date hereof and ending on the earlier of the Closing Date and the termination of this Agreement pursuant to Section 9.1, Seller shall not effect any of the following (as each pertains to or is related to the Business, the Purchased Assets or the Assumed Liabilities) without the prior written consent of Purchaser (such consent not to be unreasonably withheld, conditioned or delayed):

(i) sell, transfer, lease, license or otherwise dispose of any of its assets or properties that would be Purchased Assets if not sold;

(ii) except as required by GAAP, make any change in any method of accounting or auditing practice with respect to the Business;

(iii) fail to pay, discharge, settle or satisfy any Assumed Liabilities as they become due other than in connection with a good faith dispute;

(iv) create, permit, subject or allow to exist any Lien on any of the Purchased Assets other than a Permitted Lien and other than any Lien that will be extinguished at or prior to Closing;

(v) extend, materially amend or terminate or grant any material waiver under any Business Contract or Real Property Lease or enter into any Contract that would be categorized as a Material Contract if in effect on the date hereof;

(vi) abandon any rights under, request the rejection under Section 365 of the Bankruptcy Code of, or amend, modify or supplement the terms of, any of the Business Contracts or Real Property Leases;

(vii) fail to take any reasonable action that would prevent the expiration, lapse, termination or abandonment of any Permit (including any Environmental Permit) material to the Business;

(viii) settle or compromise any Proceeding, or enter into any consent decree or settlement agreement with any Third Party, against or affecting the Business that, in each case, would constitute an Assumed Liability;

(ix) waive any material claims or rights of material value that are included in the Purchased Assets;

(x) incur, assume, or guarantee any Indebtedness or make any material capital expenditures that, in each case, would constitute an Assumed Liability;

(xi) hire any employees or enter into any Contract or arrangement with any independent contractors who are natural persons or materially amend, materially modify or terminate the Pinnacle Agreement or any other existing Contract or arrangement with any independent contractor who is a natural person;

(xii) make or change any election or accounting method with respect to Taxes, file any amended Return, enter into any closing agreement, Tax indemnity agreement, Tax sharing agreement or other similar agreement, settle or compromise any material Tax claim or assessment, consent to an extension or waiver of the limitations period applicable to any Taxes, or make any voluntary Tax disclosure or amnesty or similar filing, in each case, to the extent such change, filing, agreement, settlement or compromise, consent, disclosure, amnesty or similar filing would result in a Lien (other than a Permitted Lien) on the Purchased Assets, adversely affect the Business, or result in Purchaser or its Affiliates becoming liable for such Taxes; or

(xiii) authorize any of the foregoing or commit or agree to do any of the foregoing.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Parties acknowledge and agree that, effective as of the Closing, HOVIC and Seller, as applicable, shall terminate or cause to be terminated each of the Charter Agreements.

7.3 Employee Relations and Benefits. Prior to the Closing Date, Seller shall make each Hovensa Consultant available to interview with Purchaser for potential employment on terms and conditions as determined by Purchaser. Prior to the Closing Date, Purchaser may offer employment to any Hovensa Consultant upon such terms and conditions it determines appropriate. Nothing expressed or implied herein shall confer upon any Person, including any past or present employee or consultant of Seller, or his or her Representatives, beneficiaries, successors and assigns, any rights or remedies of any nature, including, any rights to continued employment or engagement with Seller or Purchaser or any of their respective Subsidiaries or any of their respective successors or Affiliates.

7.4 Efforts to Close; Antitrust Laws. (a) Except as otherwise provided in this Section 7.4, the Parties shall, and shall cause their respective controlled Affiliates and Representatives to, and shall use commercially reasonable efforts to direct their respective equityholders to, cooperate and use their respective commercially reasonable efforts to take, or cause to be taken, all appropriate action, and to make, or cause to be made, all filings necessary, proper or advisable under applicable Laws and to consummate and make effective the transactions contemplated by this Agreement, including their respective commercially reasonable efforts to obtain, prior to the Closing Date, all Permits, Consents and Orders of Governmental Entities as are necessary for consummation of the transactions contemplated by this Agreement and to fulfill the conditions to consummation of the transactions contemplated hereby set forth in Section 8.1, Section 8.2 and Section 8.3; provided, that (w) no Party or its Affiliates shall be required to make any concessions that would adversely affect its business or be materially more burdensome to such Party (including to amend any Contract to increase the amount payable thereunder, commence any litigation, settle or compromise any matter, offer or grant any accommodation (financial or otherwise) to any Third Party or Governmental Entity, pay any amount or bear any other incremental economic burden to obtain any such Permit, Consent or Order), (x) no Party or its Affiliates shall incur any expense that would be payable or otherwise borne by the other Party or such other Party's Affiliates without the consent of such other Party, (y) Seller shall not make any concessions that would purport to bind the Business from and after the Closing or be an Assumed Liability and (z) Purchaser shall not make any concessions that would purport to bind Seller or any of its Affiliates (the conditions set forth in the foregoing clauses (w) – (z), the "**Efforts Conditions**").

(b) Purchaser and Seller shall, and shall cause their respective Affiliates and Representatives to, cooperate and use their respective commercially reasonable efforts to file, to the extent required, the Notification and Report Forms required under the HSR Act with respect to the transactions contemplated by this Agreement with the Antitrust Division of the United States Department of Justice and the Federal Trade Commission and pay the required filing fee no later than ten (10) Business Days following the date hereof, and request early termination of the waiting period therein. Purchaser and Seller shall use their respective commercially reasonable efforts to make any other filings required under any other Antitrust Law as promptly as practicable following the date hereof.

(c) Purchaser and Seller shall consult and cooperate with one another in connection with the preparation of their respective Notification and Report Forms, and consider in good faith the views of the other Party, in connection with any analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals made or submitted by or on

behalf of any Party in connection with proceedings under or relating to any Antitrust Laws and in connection with resolving any investigation or other inquiry concerning the Purchase or any of the other transactions contemplated by this Agreement initiated by any Antitrust Authority.

(d) Purchaser and Seller shall use their respective commercially reasonable efforts to respond to requests, if any, as may be made by an Antitrust Authority or other Governmental Entity with respect to the transactions contemplated by this Agreement under any Antitrust Law; provided, however, that the provisions of this Section 7.4(d) shall not apply with respect to the USVI Government in connection with matters covered by Section 7.11. In the context of this Section 7.4(d), "commercially reasonable efforts" shall include, without limitation, the following:

(i) if Purchaser or Seller receives a formal request for additional information or documentary material from an Antitrust Authority or other Governmental Entity, such Person shall comply at the earliest reasonably practicable date with such formal request;

(ii) Purchaser or Seller, as the case may be, shall provide the other Party a complete copy of any filing with the Antitrust Authorities or other Governmental Entities (subject to redaction of any material not reasonably needed by the other Party) and each of Purchaser and Seller shall respond, as promptly as practicable, to any request from the other Party for information or documentation reasonably requested by the other Party in connection with the development and implementation of a strategy and negotiating positions with any Antitrust Authorities or other Governmental Entities; provided, that access to any such filing, information or documentation will, at such Party's request be restricted to such other Parties' outside counsel and economists or advisers retained by such counsel; and

(iii) Purchaser and Seller shall, as promptly as practicable, inform the other Party of any written communication made to, or received by such Party from, any Antitrust Authority or any other Governmental Entity regarding any of the transactions contemplated hereby, and, subject to applicable Law, if practicable, permit the other Party to review in advance any proposed written communication to any such Antitrust Authority or other Governmental Entity, as the case may be, and incorporate the other Parties' reasonable comments, not agree to participate in any substantive meeting or discussion with any such Antitrust Authority or Governmental Entity in respect of any filing, investigation or inquiry concerning this Agreement or the transactions contemplated hereby unless, to the extent reasonably practicable, it consults with the other Parties in advance and, to the extent permitted by such Antitrust Authority or Governmental Entity, gives the other Parties the opportunity to attend, and furnishes the other Parties with copies of all correspondence, filings and written communications between them and their Affiliates and their respective Representatives on one hand and any such Antitrust Authority or Governmental Entity or its respective staff on the other hand, with respect to this Agreement and the transactions contemplated hereby.

(e) Purchaser and Seller shall use their commercially reasonable efforts to obtain the required consents from Antitrust Authorities, including antitrust clearance under the

HSR Act and under any other Antitrust Law, to the extent required, as promptly as practicable, and in any event prior to the End Date. Purchaser shall take, or cause to be taken, any and all actions, including agreeing to the disposition of assets, required by any Governmental Entity to be taken by Buyer or its Affiliates as a condition to the granting of any consent necessary for the consummation of the transactions contemplated hereby or as may be required to avoid, lift, vacate or reverse any legislative, administrative or judicial action that would otherwise reasonably be expected to materially impair or delay the consummation of the transactions contemplated by this Purchase Agreement and, in any event to permit the consummation of the transaction on or prior to the End Date.

(f) Notwithstanding anything to the contrary contained in this Agreement, each Party agrees that they shall use commercially reasonable efforts to not (x) extend any waiting period or enter into any agreement or understanding with any Antitrust Authority to extend any waiting period or (y) withdraw their Notification and Report Form without the express written consent of the other Party.

(g) Purchaser shall be responsible for the payment of all filing fees under the HSR Act.

(h) Notwithstanding anything to the contrary contained in this Agreement, neither Seller nor any of its Affiliates or Representatives shall be required to repay any Indebtedness, amend or enter into any Contract or other arrangement, commence any litigation, settle or compromise any matter, offer or grant any accommodation (financial or otherwise) to any Third Party, pay any amount or bear any other incremental economic burden to procure any amendments, modification or termination of the Concession Agreement.

(i) Purchaser and Seller shall timely notify all Governmental Entities required to be notified under the Consent Decree of the Purchase and the Closing. Purchaser and Seller shall use commercially reasonable efforts, in cooperation with the applicable Governmental Entities, to terminate the Consent Decree as soon as reasonably practicable, and in a manner that does not require Purchaser and Seller to execute a modification to the Consent Decree pursuant to which Purchaser would assume the terms, conditions, obligations and liabilities of Seller applicable to the Purchased Assets under the Consent Decree. If, despite Purchaser's and Seller's respective efforts, the applicable Governmental Entities do not agree to terminate the Consent Decree, regardless of whether such failure to agree occurs before or after the Closing, Purchaser and Seller promptly thereafter shall use commercially reasonable efforts, and shall cause their respective controlled Affiliates and Representatives to, and shall use commercially reasonable efforts to direct their respective equity holders to, use commercially reasonable efforts, in cooperation with the applicable Governmental Entities, to cooperate and take, or cause to be taken, all steps required under the Consent Decree to make the terms, conditions, obligations and liabilities of the Consent Decree applicable to the Purchased Assets, including (i) Purchaser and Seller executing a modification to the Consent Decree pursuant to which Purchaser shall assume the terms, conditions, obligations and liabilities of Seller as they relate to the Purchased Assets under the Consent Decree and Seller shall be released from such terms, conditions, obligations and liabilities (the "**Limited Consent Decree Modification**") and obtaining the appropriate signatures thereto of all Governmental Entities party to the Consent Decree, (ii) filing any motion with the United States District Court for the District of the Virgin

Islands to approve the Limited Consent Decree Modification, making the terms, conditions, obligations and liabilities as they relate to the Purchased Assets with respect to the Consent Decree applicable to Purchaser and (iii) obtaining approval of the United States District Court for the District of the Virgin Islands and all other Governmental Entities party to the Consent Decree of the Limited Consent Decree Modification. If, despite Purchaser's and Seller's respective efforts, the applicable Governmental Entities do not agree to the Limited Consent Decree Modification, regardless of whether such failure to agree occurs before or after the Closing, Purchaser and Seller promptly thereafter shall, and shall cause their respective controlled Affiliates and Representatives to, and shall use commercially reasonable efforts to direct their respective equity holders to, cooperate and take, or cause to be taken, all steps required under the Consent Decree to make the terms, conditions, obligations and liabilities of the Consent Decree applicable to Purchaser, including (A) Purchaser and Seller executing a modification to the Consent Decree pursuant to which Purchaser shall assume the terms, conditions, obligations and liabilities of Seller under the Consent Decree and Seller shall be released from such terms, conditions, obligations and liabilities (the "**Consent Decree Modification**") and obtaining the appropriate signatures thereto of all Governmental Entities party to the Consent Decree, (B) filing any motion with the United States District Court for the District of the Virgin Islands to approve the Consent Decree Modification, making the terms, conditions, obligations and liabilities with respect to the Consent Decree applicable to Purchaser and (C) obtaining approval of the United States District Court for the District of the Virgin Islands and all other Governmental Entities party to the Consent Decree or the Consent Decree Modification. Nothing in this Section 7.4(i) shall alter the rights and obligations of the Parties pursuant to Articles II and X of this Agreement.

7.5 Public Announcements. Each Party shall (a) consult with each other Party before issuing any press release or otherwise making any public statement with respect to the transactions contemplated by this Agreement or any Transaction Document, (b) provide to the other Parties for review a copy of any such press release or public statement and (c) not issue any such press release or make any such public statement prior to such consultation and review and the receipt of the prior consent of the other Parties, unless required by Laws or regulations applicable to such Party or its Affiliates, regulations of any stock exchange applicable to such Party or its Affiliates, or the Bankruptcy Court with respect to filings to be made with the Bankruptcy Court in connection with this Agreement, in which case, the Party required to issue the press release or make the public statement or filing shall, prior to issuing such press release or making such public statement or filing, use its commercially reasonable efforts to allow the other Parties reasonable time to comment on such release, statement or filing to the extent practicable and permitted by Law. Notwithstanding anything to the contrary contained in this Agreement (including, for the avoidance of doubt, Section 7.22), each of the Parties and its legal counsel and other Representatives shall be permitted to make filings on the docket of, or statements on the record before, the Bankruptcy Court relating to this Agreement and the transactions contemplated hereby without prior approval or consultation.

7.6 Notification of Certain Matters. Seller and Purchaser shall use their respective commercially reasonable efforts to promptly notify each other of any material Proceedings in connection with the transactions contemplated by this Agreement or the Transaction Documents commenced or, to the Knowledge of Purchaser or the Knowledge of Seller, threatened, against Seller or Purchaser, as the case may be, or any of their respective Affiliates.

7.7 Supplements to Schedules.

(a) HOVIC and Seller shall have the right (but not the obligation) to deliver to Purchaser, from time to time but not later than five (5) Business Days prior to the Closing Date, a schedule of changes (each, an "**Update Schedule**" or, individually, a "**HOVIC Update Schedule**" or a "**Seller Update Schedule**", as applicable) to disclose any action taken by Seller and HOVIC, as applicable, or Event occurring, with respect to the Business, the Purchased Assets, the Assumed Liabilities or Tug Boats after the date hereof. Each such Update Schedule shall constitute an amendment to the representation, warranty or statement to which it relates for all purposes of this Agreement and the transactions contemplated hereby, and each Update Schedule shall be deemed to be incorporated into and to supplement and amend the Seller Disclosure Letter (and all references to the "**Seller Disclosure Letter**" and "**HOVIC Disclosure Letter**" in this Agreement shall include each such Update Schedule to the extent applicable). Except as set forth in Section 7.7(b), subject to the terms of this Agreement, Purchaser shall have the right to not consummate the transactions contemplated by this Agreement as a result of the failure of the conditions contained in Sections 8.1 or 8.2 on the basis of the information disclosed in any Update Schedule.

(b) If any fact or circumstance occurring prior to the date hereof and disclosed on any Update Schedule would, but for this Section 7.7, permit Purchaser to terminate this Agreement in accordance with Section 9.1(d), but Purchaser does not provide a written termination notice pursuant to Section 9.1(d) within five (5) Business Days after receiving such Update Schedule, Purchaser shall be deemed to have waived, for all purposes of this Agreement and the transactions contemplated hereby, all rights to terminate this Agreement on account of the matters disclosed on such Update Schedule (including their right to not consummate the transactions contemplated hereby due to the failure of any of the conditions set forth in Sections 8.1 or 8.2).

7.8 Post-Closing Access to Records and Personnel; Litigation Support.

(a) For a period of three (3) years after the Closing Date, Purchaser shall preserve and retain all corporate, accounting, Tax, legal, auditing, human resources and other books and records relating to the Purchased Assets and the Assumed Liabilities and related business with respect to periods prior to the Closing Date (including (i) any documents relating to any Proceeding or other dispute and (ii) all Returns, schedules, work papers and other material records or other documents relating to Taxes relating to the Purchased Assets and the Assumed Liabilities. Notwithstanding the foregoing, during such three (3) year period, Purchaser may dispose of any such books and records which are first offered to Seller, but not accepted by Seller. At the end of such three (3) year period, Purchaser may dispose of any such books and records (not already disposed of pursuant to the immediately preceding sentence) only after they are first offered to and not accepted by Seller.

(b) Following the Closing, Purchaser shall allow Seller and its Affiliates and their respective Representatives reasonable access to (i) all books and records related the Purchased Assets and the Assumed Liabilities and the Business and (ii) such personnel having knowledge of the location or contents of such books and records, in each case of the foregoing clauses (i) and (ii), for legitimate business reasons; provided, that no such access shall

unreasonably interfere with Purchaser's operation of the Business. Notwithstanding anything to the contrary contained in this Agreement, Purchaser's obligations to provide any information or access pursuant to this Section 7.8(b) shall be subject to the Disclosure Conditions. Purchaser shall be entitled to recover from Seller, Purchaser's out-of-pocket costs (including copying costs) incurred in providing such books and records or personnel to Seller. Seller will hold in confidence all confidential information obtained from Purchaser or any of its Representatives, except as otherwise required by applicable Law or Order or the rules of any securities exchange to which Seller or its Affiliates are subject.

(c) Following the Closing, Seller shall allow Purchaser and its Affiliates and their respective Representatives reasonable access to (i) all books and records related the Purchased Assets and the Assumed Liabilities and the Business and (ii) such personnel having knowledge of the location or contents of such books and records, in each case of the foregoing clauses (i) and (ii), for legitimate business reasons. Notwithstanding anything to the contrary contained in this Agreement, Seller's obligations to provide any information or access pursuant to this Section 7.8(c) shall be subject to the Disclosure Conditions. Purchaser will hold in confidence all confidential information obtained from Seller or any of its Representatives, except as otherwise required by applicable Law or Order or the rules of any securities exchange to which Purchaser or its Affiliates are subject.

(d) If and for so long as any Party (or any of its Affiliates) is actively contesting or defending against any Proceeding brought by a Third Party in connection with (i) the Purchase or (ii) any fact, situation, circumstance, status, condition, activity, practice, plan, occurrence, event, incident, action, failure to act, or transaction on or prior to the Closing Date involving Seller or the Business (as currently or formerly conducted), the Purchased Assets or the Assumed Liabilities the non-contesting or non-defending Person or Persons shall, at the sole cost and expense of the contesting or defending Person or Persons), (x) cooperate with the contesting or defending Person or Persons and its or their counsel in the defense or contest, (y) make available its or their personnel (including to act as a witness) and (z) provide such access to its or their books and records as shall be necessary or reasonably requested in connection with the defense or contests; provided, that no such cooperation or access shall unreasonably interfere with the operation of the businesses of the non-contesting or non-defending Person or Persons and no Party shall be required to cooperate or provide access to another Party in connection with a Proceeding between such Party and/or its Affiliates, on the one hand, and such other Party and/or its Affiliates, on the other hand. All non-public information received pursuant to this Section 7.8 will be kept confidential, except as otherwise required by any applicable Law or Order or stock exchange regulation. Notwithstanding anything to the contrary contained in this Agreement, each Person's obligations to provide access pursuant to this Section 7.8(d) shall be subject to the Disclosure Conditions. Each Party shall be entitled to recover from the other its out-of-pocket costs incurred in providing such personnel and access to the other Party.

(e) The obligations of a Party under this Section 7.8 shall be binding upon the successors and assigns of such Party. If a Party or any of its successors or assigns (i) consolidates with or merges into any other Person or (ii) with respect to Purchaser, transfers all or substantially all of the Purchased Assets or the Assumed Liabilities to any Person, in each case proper provision shall be made so that the successors and assigns of such Party honor the obligations set forth in this Section 7.8.

7.9 Compliance with WARN, Plant Closing Act and Similar Statutes. Purchaser shall be responsible for compliance with any notice or severance obligations under the Worker Adjustment and Retraining Notification Act of 1988 ("**WARN**"), the Plant Closing Act (and any comparable Law requiring notice or severance to employees) and the Pinnacle Contract (including, for the avoidance of doubt, any Liability for accrued but unused paid time-off and severance), in each case, arising on or after the Closing Date with respect to the termination of any Hovensa Consultants and any employees or consultants of Pinnacle that (a) provide services to Hovensa as of the date hereof or at any other time from the date hereof through the Closing Date, which services relate to the Purchased Assets or the Business (as currently or formerly conducted) and (b) provide services to Purchaser or any of its Affiliates after the Closing and such services relate to the Purchased Assets or the Business (each, a "**Pinnacle Employee**"). Without limiting the foregoing, pursuant to Section 473(a)(3) of the Plant Closing Act, Purchaser assumes responsibility and liability as successor employer under the Plant Closing Act for all the prior years of service, along with any years accumulated moving forward, for such Hovensa Consultants. Seller shall be responsible for compliance with any notice or severance obligations relating to the Business (as currently or formerly conducted), the Purchased Assets or the Assumed Liabilities under WARN and the Plant Closing Act (and any comparable Law requiring notice or severance to employees) arising prior to the Closing Date. Seller shall notify Purchaser prior to the Closing of any "employment loss", in the 90-day period immediately prior to the Closing with respect to any Hovensa Consultant, and, provided that Pinnacle has notified Seller of such "employment loss," with respect to any Pinnacle Employee.

7.10 Tax Matters.

(a) All stamp, transfer, documentary, sales and use, value added, registration and other such taxes and fees (including any penalties, interest and recording and filing fees) incurred in connection with the Purchase or otherwise in connection with this Agreement and not exempted under a Sale Order, whether or not customarily paid by sellers or purchasers (collectively, the "**Transfer Taxes**"), shall be borne fifty percent (50%) by Seller and fifty percent (50%) by Purchaser. Purchaser shall properly file on a timely basis all necessary Returns and other documentation with respect to any Transfer Tax and provide to Seller evidence of payment of all Transfer Taxes. Seller shall pay to Purchaser fifty percent (50%) of any reasonable fees, costs or expenses incurred in connection with the preparation and filing of such Returns.

(b) In connection with the Bankruptcy Case, Seller may file a motion with the Bankruptcy Court for an Order exempting the transactions contemplated by this Agreement, including the sale and transfer of the Purchased Assets from Seller to Purchaser, from any transfer Tax, documentary stamp Tax or other similar Tax. At the Closing, Purchaser shall remit to Seller such properly completed resale exemption certificates and other similar certificates or instruments as Purchaser is entitled to provide and are applicable to claim available exemptions from the payment of sales, transfer, use or other similar Taxes under applicable Law. Purchaser and Seller shall cooperate in preparing such forms and shall execute and deliver such affidavits and forms as are reasonably requested by the other Party. Notwithstanding the foregoing, Purchaser shall not be required to provide any certificates or other documentation pursuant to this Section 7.10(b) that would subject Purchaser to any material unreimbursed cost or expense or would otherwise be materially adverse to Purchaser.

(c) Purchaser and Seller agree to furnish or cause to be furnished to each other, as promptly as reasonably practicable, such information and assistance relating to the Purchased Assets as is reasonably necessary for the preparation and filing of any Return, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution or defense of any suit or other proceeding relating to Tax matters and for the answer of any governmental or regulatory inquiry relating to Tax matters.

(d) For purposes of this Agreement, all Property Taxes and any other Taxes that are imposed on a periodic basis (which are not based on income) with respect to the Purchased Assets with respect to any taxable period that begins on or before and ends after the Closing Date shall be apportioned between the portion of such period that falls within the Pre-Closing Period and the portion of such period that falls within the Post-Closing Period proportionally in accordance with the number of days in each such portion of the period.

7.11 USVI Concession Agreement.

(a) Purchaser shall, and shall cause its Affiliates and Representatives to, use their respective commercially reasonable efforts to (i) enter into the USVI Concession Agreement as promptly as practicable following the date hereof and (ii) obtain from the USVI Government the full and unconditional release and discharge of Seller and its Affiliates (including, for the avoidance of doubt, Hess Corporation, HOVIC and PDVSA VI) with respect to the Concession Agreement, including the Fourth Amendment Agreement.

(b) Purchaser shall consult and cooperate with Seller and consider in good faith the views of Seller in connection with Purchaser's negotiations with the USVI Government, and shall not make initial contact with, or commence any discussions or negotiations with, the USVI Government or any of its Representatives, in each case, in connection with Seller, the Business (as currently or formerly conducted), the Purchased Assets, the Assumed Liabilities, the USVI Concession Agreement or the transactions contemplated by this Agreement or the Transaction Documents, without the prior written consent of Seller. Purchaser and Seller shall consult with each other and consider in good faith the views of each other, in each case, prior to delivering any substantive written communication to the USVI Government regarding the USVI Concession Agreement or attending any substantive meeting with the USVI Government regarding the USVI Concession Agreement. Each Party shall promptly inform the other Party of any substantive communication from the USVI Government regarding the USVI Concession Agreement contemplated hereby, and provide the other Party with copies of any written communication to or from the USVI Government (including drafts of the USVI Concession Agreement and any related agreements and such other information and documentation as shall be reasonably necessary to allow the other Party to monitor the status of the Purchaser's efforts to enter into the USVI Concession Agreement) after delivery of such communication; provided, that the foregoing obligations of the Parties and their respective Affiliates and Representatives shall be subject to the Disclosure Conditions. Each Party shall provide the other Party with an opportunity to attend any substantive meetings or substantive discussions with the USVI Government concerning the USVI Concession Agreement contemplated hereby. In any event, each Party shall keep the other Party reasonably informed of material developments in connection with the status of USVI Government's approval of the USVI Concession Agreement and the transactions contemplated by this Agreement or the Transaction Documents and

Purchasers shall not, without prior written consent of Seller, make any concessions, agreements or undertakings that would purport to bind Seller or any of its Affiliates or require Seller or any of its Affiliates to incur or assume any Liability.

7.12 Access Easement. Seller shall retain and have the right, but not the obligation, to (a) conduct and control any Remedial Action concerning any Excluded Liabilities and (b) dismantle and remove from the Business Real Property all or any portion of the Retained Refinery Assets or any other Excluded Assets, and the Access Easement shall be recorded against legal title to the Business Real Property immediately following recordation of the deed with respect to the transfer of such Business Real Property to allow for the same. If Seller opts or is required to conduct a Remedial Action or dismantle, remove or decommission any Retained Refinery Assets or other Excluded Assets, Seller shall use its commercially reasonably efforts to do so without unreasonably interfering with Purchaser's operations or Environmental Permits, and Purchaser shall, and shall cause its Representatives to, use commercially reasonable efforts to cooperate with Seller, including by timely filing any required documents with the appropriate Governmental Entities, providing access to and use of the subject site, employees, documents and on-site structures, infrastructure and utility services (including electricity, underground piping or wastewater or sewer systems) and/or utilities as necessary to perform any required Remedial Action or dismantle, remove or decommission any Retained Refinery Assets or other Excluded Assets, including access to install, maintain, replace and operate wells and remove impacted soil and/or groundwater pursuant to the Access Easement and by otherwise complying with the Access Easement. Seller shall reasonably cooperate with Purchaser with respect to any potential modifications or changes to Purchaser's Environmental Permits in connection with Seller's dismantling, removal or decommissioning of any Retained Refinery Assets or other Excluded Assets. To the extent required under any Environmental Law, Purchaser shall execute, record, obtain and maintain in good standing any authorization, permit or "generator number" as may be reasonably necessary for the proper storage, transportation and/or off-site disposal of any Hazardous Material generated in the course of the Remedial Action. Purchaser shall sign or cause to be signed and record or caused to be recorded any deed, environmental covenant or other recordable real property instrument reasonably requested by Seller and reasonably acceptable to Purchaser in form and content which is necessary to permit the use of site specific corrective action remedies or remedies based on exposure controls as part of such Remedial Action. Purchaser agrees not to use the groundwater under the Business Real Property if such restriction is necessary to permit the use of site specific corrective action remedies or remedies based on exposure controls as part of such Remedial Action. Purchaser shall be entitled to recover from Seller, Purchaser's reasonable and documented out-of-pocket costs incurred in connection with providing any of the cooperation, or taking any of the actions, required by this Section 7.12.

7.13 Bulk Sales Act. Purchaser hereby waives compliance by Seller with respect to any applicable bulk sale, bulk transfer, successor liability and similar Laws, or with any Laws triggered by a bulk sale or transfer of property, of any jurisdiction in connection with the transactions contemplated by this Agreement or similar Laws of any jurisdiction in connection with the Purchase.

7.14 Bankruptcy Action.

(a) Seller shall comply in all material respects with all of the obligations of Seller under the Bid Procedures Order and the Sale Order (after the entry of such Orders by the Bankruptcy Court).

(b) Seller shall use commercially reasonable efforts to comply (or obtain an Order from the Bankruptcy Court waiving compliance) with all requirements under the Bankruptcy Code and the Bankruptcy Rules in connection with obtaining approval of the transactions contemplated by this Agreement. Seller shall serve (i) all Persons who are known to possess or assert a Claim against or Interest in any of the Purchased Assets, (ii) the IRS, (iii) all applicable Governmental Entities, (iv) all applicable state and local Governmental Entities with taxing authority, (v) all other Persons required by any Order of the Bankruptcy Court, (vi) all parties to Business Contracts and Real Property Leases and (vii) all Persons that request or are entitled to notice under Bankruptcy Rule 2002. Seller shall use its commercially reasonable efforts to serve any other Persons that Purchaser reasonably may request and any notice required to be served under the Bid Procedures Order, or the Sale Order, in each case in accordance with all applicable Bankruptcy Rules, the Bid Procedures Order, and any applicable local rules of the Bankruptcy Court.

(c) On the Petition Date, Seller shall file the Sale Motion. All of the Parties shall thereafter use their respective commercially reasonable efforts to have the Bankruptcy Court enter the Bid Procedures Order and the Sale Order as promptly as possible.

(d) A list of the Business Contracts and the Real Property Leases shall be filed as an exhibit to the Sale Motion (or, if required by the Bankruptcy Court, a motion to assume and assign the Business Contracts and the Real Property Leases), and shall be described in sufficient detail to provide adequate notice to the non-debtor parties to such Contracts. Such exhibit shall set forth the applicable Cure Payment, if any, for each Business Contract and each Real Property Lease as reasonably determined in good faith by Seller.

(e) Seller and Purchaser shall consult with one another regarding pleadings which any of them intends to file with the Bankruptcy Court in connection with, or which might reasonably affect the Bankruptcy Court's approval of, as applicable, the Bid Procedures Order or the Sale Order and shall provide each other with a reasonable opportunity to review and comment on such pleadings, related motions, applications, petitions schedules and supporting papers. Seller shall promptly provide Purchaser and its counsel with copies of all notices, filings and orders of the Bankruptcy Court that Seller has in its possession (or receives) pertaining to the Sale Motion, the Bid Procedures Order, the Sale Order, or any other order related to any of the transactions contemplated by this Agreement, but only to the extent such papers are not publicly available on the docket of the Bankruptcy Court or otherwise made available to Purchaser and its counsel.

(f) If the Bid Procedures Order, the Sale Order, or any other orders of the Bankruptcy Court relating to this Agreement or the transactions contemplated hereby shall be appealed by any Person (or if any petition for certiorari or motion for reconsideration, amendment, clarification, modification, vacation, stay, rehearing or reargument shall be filed with respect to the Bid Procedures Order, the Sale Order, or other such order), subject to rights otherwise arising from this Agreement, Seller and Purchaser shall use their commercially

reasonable efforts to prosecute such appeal, petition or motion and obtain an expedited resolution of any such appeal, petition or motion.

7.15 Sale Order.

(a) Seller and Purchaser acknowledge that this Agreement and the sale of the Purchased Assets are subject to Bankruptcy Court approval. Seller and Purchaser acknowledge that (i) to obtain such approval, Seller must demonstrate that it has taken steps to obtain the highest and otherwise best offer possible for the Purchased Assets including giving notice of the transactions contemplated by this Agreement to creditors and certain other interested parties as ordered by the Bankruptcy Court and, if necessary, conducting the Auction and (ii) Purchaser must provide adequate assurance of future performance under the Business Contracts and Real Property Leases included in the Purchased Assets.

(b) The Sale Order shall, among other things:

(i) approve, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, (A) the execution, delivery and performance by Seller of this Agreement, (B) the transfer of the Purchased Assets to the Purchaser free and clear of all Liens, Claims, and Liabilities of any kind whatsoever (other than Permitted Liens), and (C) the timely performance by Seller of its obligations under this Agreement;

(ii) authorize and empower Seller to assume and assign the Business Contracts and Real Property Leases to the Purchaser;

(iii) find that Purchaser is a "good faith" buyer within the meaning of section 363(m) of the Bankruptcy Code and grant Purchaser the full benefits and protections of section 363(m) of the Bankruptcy Code;

(iv) find that this Agreement was negotiated, proposed and entered into by Seller and Purchaser without collusion, in good faith and from arm's length bargaining positions;

(v) find that due and adequate notice and an opportunity to be heard in accordance with all applicable Laws were given to the necessary parties in the Bankruptcy Case;

(vi) contain findings of fact and conclusions of law that Purchaser (a) is not a successor to, or subject to successor liability for, the Seller; (b) has not, de facto or otherwise, merged with or into the Seller; (c) is not an alter ego or a continuation of the Seller; or (d) does not have any responsibility for any obligations of Seller based on any theory of successor or similar theories of liability;

(vii) find that the Terminals Purchase Price is fair and reasonable;

(viii) find that the Bankruptcy Court retains jurisdiction to resolve any claim or dispute arising out of or related to this Agreement; and

(ix) contain such other terms and conditions as are acceptable to Seller and Purchaser in their respective sole discretion.

(c) Purchaser agrees that it will promptly take such actions as are reasonably requested by Seller to assist in obtaining entry by the Bankruptcy Court of the Bid Procedures Order and the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for purposes, among others, of: (A) demonstrating that Purchaser is a "good faith" purchaser; and (B) establishing "adequate assurance of future performance" within the meaning of section 365 of the Bankruptcy Code.

7.16 Bid Procedures Order. The relief sought in the Sale Motion shall include approval of the Bid Procedures Order which, among other things, shall (i) name Purchaser as the "stalking horse bidder"; (ii) include a finding that the bid procedures and other matters described in Section 7.17 are approved; (iii) find and determine that the claim of Purchaser in respect of the Breakup Fee and Purchaser Expense Reimbursement each is and constitutes an allowed super-priority administrative expense claim against Seller under Sections 503 and 507(b) of the Bankruptcy Code in the Bankruptcy Case, senior to all other administrative expense claims of Seller, and each is earned and payable in accordance with the terms of this Agreement; provided, that Purchaser's super-priority administrative expense claim shall be junior in priority to any super-priority administrative expense claim granted to, or on behalf of, the lenders in connection with any debtor-in-possession financing approved by the Bankruptcy Court; and (iv) contain such other terms and conditions as are acceptable to Seller and Purchaser in their respective sole discretion.

7.17 Bid Procedures. With respect to an Auction, if necessary, the Bid Procedures Order shall provide, among other things, that (a) the Terminals Purchase Price to be paid by Purchaser pursuant to the terms of this Agreement is a qualifying bid with respect to the purchase of the Purchased Assets and the assumption of the Assumed Liabilities for purposes of the Auction and (b) in order for any other offer to be a qualified bid (each a "**Qualified Bid**") in pursuit of an Alternative Transaction comprising the purchase of the Purchased Assets and the assumption of the Assumed Liabilities, such offer must comply with the requirements of the Bid Procedures Order. Purchaser hereby agrees, and the Bid Procedures Order shall provide, that Purchaser shall, to the extent selected as a Backup Bidder (as defined in the Bid Procedures Order), serve as the Backup Bidder until the earlier of (i) twenty (20) Business Days following the End Date and (ii) the closing date of an Alternative Transaction.

7.18 Transfer of Permits; Seller Letters of Credit.

(a) Except for those Permits that are not transferable to Purchaser by Law (which are set forth on Section 7.18 of the Disclosure Letter) and the RCRA Permit, the Parties shall use commercially reasonable efforts to cause the issuance or transfer of all of the Business Permits and Environmental Permits described in Section 2.1(vii) of the Seller Disclosure Letter and shall give and make all notices and reports that such Party is required to make to the appropriate Governmental Entities and other Persons with respect to such Permits. All costs and expenses associated with the issuance or transfer of the Business Permits shall be borne by Purchaser. The Parties shall each become a co-permittee on each Permit for which any applicable Governmental Entity requires (subject to any good faith contest) that the Parties be

co-permittees. Any Business Permit not able to be issued or transferred to Purchaser as of the Closing shall be deemed a "Deferred Asset" and subject to the provisions of Section 2.6.

(b) Purchaser shall (i) be solely responsible for all Liabilities of Seller associated with any Seller Letter of Credit to the extent such Liabilities are exacerbated, triggered, increased or have their timing accelerated by any act or omission of, or any delay caused by, Purchaser or any of its Affiliates, their respective successors or assigns or their respective Representatives and (ii) indemnify and defend Seller and its Affiliates and save and hold each of them harmless against any Losses suffered, incurred or paid by them (including any reimbursement obligations related to any Seller Letter of Credit) to the extent such Losses are a result of, arise out of or are related to any such act, omission or delay.

(c) Purchaser and Seller shall use commercially reasonable efforts, in cooperation with the applicable Governmental Entities, to modify the RCRA Permit in a manner that makes the RCRA Permit inapplicable to the Purchased Assets, provided that the Parties acknowledge that such Governmental Entities may not agree to make the RCRA Permit inapplicable to the Purchased Assets and that such modification shall not be a condition to Purchaser's obligations under this Agreement. The Parties further acknowledge that this Section 7.18(c) shall not require that Purchaser or Seller obtain a determination by applicable Governmental Entities that the RCRA Permit is inapplicable to the Purchased Assets.

(d) Seller shall maintain and comply with the Permits identified in Section 7.18(d) of the Seller Disclosure Letter (the "**Purchaser's Required Permits**") on and after the Closing until comparable Permits are issued by the applicable Governmental Entities to Purchaser or Purchaser's Affiliates or, with respect to any Purchaser's Required Permits that are also Deferred Assets, until such Permits are issued or transferred to Purchaser or Purchaser's Affiliates. During any periods after Closing until such comparable Permits are issued to Purchaser or Purchaser's Affiliates and such Permits that are Deferred Assets are issued or transferred to Purchaser or Purchaser's Affiliates, and subject to the limitations of this Section 7.18(d), (i) if any fees or financial assurance are required to be paid by Seller to maintain Purchaser's Required Permits in place, Purchaser shall either pay or promptly reimburse Seller for such fees or financial assurance to the extent such Purchaser's Required Permits are maintained solely for the benefit of Purchaser; (ii) Purchaser agrees to comply with the terms, limits, standards and conditions of each Purchaser's Required Permits as if they had been issued to Purchaser or Purchaser's Affiliates and shall indemnify and defend the Seller and its Affiliates and save and hold each of them harmless against any Losses suffered, incurred or paid by them to the extent such Losses are a result of, arise out of or are related to any failure by Purchaser or its Affiliates to comply with the terms, limits, standards and conditions of Purchaser's Required Permits; (iii) Purchaser may operate under the Purchaser's Required Permits only if and to the extent all applicable Governmental Entities do not object to Purchaser's operation under the Purchaser's Required Permits; and (iv) Purchaser shall be solely responsible for all Liabilities associated with any unauthorized operation under the Purchaser's Required Permits, and shall indemnify and defend Seller and its Affiliates and save and hold each of them harmless against any Losses suffered, incurred or paid by them to the extent such Losses are a result of, arise out of or are related to unauthorized operation under Purchaser's Required Permits. Seller and Purchaser acknowledge that clause (iii) of this Section 7.18(d) shall not require that Purchaser obtain a determination by such applicable Governmental Entities that Purchaser may operate

under the Purchaser's Required Permits. Notwithstanding anything herein to the contrary, following the date that is twenty four (24) months after the Closing Date, (x) Seller may, in its sole discretion, revoke the right of Purchaser to operate under any or all of the Purchaser's Required Permits and (y) Seller shall not have any further obligations to maintain any of the Purchaser's Required Permits in place (regardless, for the avoidance of doubt, of whether comparable Permits have been issued by the applicable Governmental Entities to Purchaser or Purchaser's Affiliates); provided, however, that, notwithstanding the foregoing, Seller shall grant Purchaser such reasonable extension of this twenty four (24) month period pursuant to which Purchaser may operate under any Purchaser's Required Permit in accordance with this Section 7.18(d) and will continue to maintain any such Purchaser's Required Permit in accordance with this Section 7.18(d) so long as the Parties have made and continue to make commercially reasonable efforts to obtain a comparable Permit or complete the issuance or transfer of such Permit (as applicable) (in each case such efforts to include submitting all applications and other documents required by applicable Governmental Entities within all time periods under Environmental Law). Purchaser shall promptly notify Seller when any comparable Permits are issued to Purchaser or Purchaser's Affiliates or, with respect to any Purchaser's Required Permit that is also a Deferred Asset, when such Permit is issued or transferred to Purchaser or Purchaser's Affiliates, and in each case shall cooperate with Seller as needed for Seller to terminate the applicable Purchaser's Required Permits.

(e) Seller shall not make any oral or written statement or filing with any Person (including any Governmental Entity) that would reasonably be expected to adversely affect Purchaser's rights to operate the Purchased Assets in accordance with this Section 7.18 and under the Environmental Permits that are the subject of this Section 7.18.

7.19 Expenses.

(a) Seller shall, without the requirement of any notice or demand from Purchaser or any application to or order of the Bankruptcy Court, pay the Purchaser Expense Reimbursement in cash to Purchaser if this Agreement is terminated for any reason other than pursuant to Section 9.1(a) or Section 9.1(c). If payable in accordance with this Section 7.19(a), the Purchaser Expense Reimbursement shall be made by wire transfer of immediately available funds to an account designated by Purchaser no later than (i) the date that is two (2) Business Days after such termination by Purchaser or (ii) the date that Seller terminates this Agreement.

(b) Except to the extent otherwise specifically provided herein, whether or not the transactions contemplated hereby are consummated, all fees, costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by the Party incurring such fees, costs and expenses.

7.20 Breakup Fee.

(a) If (x) this Agreement is terminated for any reason other than pursuant to Section 9.1(a), Section 9.1(b)(i), Section 9.1(b)(ii) by Purchaser, Section 9.1(c) or Section 9.1(e) and (y) Seller consummates an Alternative Transaction at any time, then Seller shall, without the requirement of any notice or demand from Purchaser or any application to or order of the

Bankruptcy Court, immediately pay to Purchaser the Breakup Fee in cash on the day such Alternative Transaction is consummated.

(b) The Breakup Fee shall be made by wire transfer of immediately available funds to an account designated by Purchaser.

(c) Each of the Parties hereto acknowledges and agrees that the agreements contained in Section 7.19 and this Section 7.20 are an integral part of the transactions contemplated by this Agreement and that the Breakup Fee is not a penalty, but rather is liquidated damages in a reasonable amount that will reasonably compensate Purchaser in the circumstances in which such Breakup Fee is payable for the efforts and resources expended and opportunities foregone by Purchaser while negotiating and pursuing the transactions contemplated by this Agreement and in reasonable reliance on this Agreement and on the reasonable expectation of the consummation of the transactions contemplated hereby, which amount would otherwise be impossible to calculate with precision.

7.21 Rejected Contracts. Seller shall not reject any Business Contract or Real Property Lease in any bankruptcy proceeding following the date of this Agreement and prior to the Closing Date without the prior written consent of Purchaser.

7.22 Confidentiality. From and after the date of this Agreement, Purchaser and Seller shall continue to be bound by and comply with the obligations of the Confidentiality Agreement except as otherwise required under the Bankruptcy Code, bankruptcy law or the Bankruptcy Court. Except as specifically provided in the proviso to this sentence, after the Closing, the Confidentiality Agreement shall be deemed to have been terminated by the parties thereto and shall no longer be binding; provided, that notwithstanding anything in this Section 7.22 to the contrary, to the extent that Purchaser is in possession of any Evaluation Material (as defined in the Confidentiality Agreement) regarding Seller, HOVIC and their respective Affiliates, or the Excluded Assets, Purchaser shall continue to be bound by the Confidentiality Agreement with respect to such Evaluation Material until the later of (i) the end of the remainder of the term set forth in such Confidentiality Agreement and (ii) if the Closing occurs, the date that is one year after the Closing. Seller acknowledges that it and its controlled Affiliates and Representatives are, or may come into after the date hereof, possession of Evaluation Material or other confidential information concerning the Business, the Purchased Assets and the Assumed Liabilities (the "**Business Confidential Information**"). Seller shall, and shall cause its controlled Affiliates and Representatives to, treat confidentially and not disclose all or any portion of such Business Confidential Information and shall use at least the same standard of care in protecting such Business Confidential as Seller and its Affiliates use in protecting their own confidential information; provided, that Seller and its Affiliates and Representatives may disclose the Business Confidential Information as necessary for the purpose of operating their business in the ordinary course and complying with the terms of this Agreement and may disclose Business Confidential Information as required by any applicable Law or Order or the rules of any securities exchange to which Seller or its Affiliates are subject. From and after the Closing, if Seller or its Affiliates or Representatives are requested or required by Law or Order to disclose any of the Business Confidential Information (whether by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process), Seller shall, or shall cause such Affiliate or Representative, to provide Purchaser with prompt written notice of

such request so that Purchaser may seek (at its sole cost) an appropriate protective order or other appropriate remedy. At any time that such protective order or remedy has not been obtained, Seller or such Affiliate or Representative may disclose that portion of the Business Confidential Information which such Person is advised by counsel is legally required to be disclosed or which such Person is requested to disclose.

7.23 Seller's Marks. Following the Closing and except as otherwise expressly permitted hereunder or in writing by Seller, neither Purchaser nor any of its Affiliates shall register, or attempt or seek to register, or use, in any fashion, including in signage, corporate letterhead, business cards, Internet web sites, marketing material or content and the like in connection with any products or services anywhere in the world in any medium, any trademark, service mark, trade dress, domain name, corporate name, trade name or other indicia of origin that is confusingly similar to any of the trademarks, service marks, trade dress, domain names, corporate names, trade names or other indicia of origin that are not Purchased Assets and are owned or used as of the Closing by Seller or any of its Affiliates, including those described in Section 7.23 of the Seller Disclosure Letter (collectively, "**Seller's Marks**"). Except as otherwise expressly permitted in writing by Seller, Purchaser shall ensure that, as soon as practical (but in no event more than thirty (30) days following the Closing Date with respect to materials that publicly display Seller's Marks or are otherwise distributed to the public (including letterhead, advertising materials, marketing brochures and the like), any such materials bearing Seller's Marks are at Seller's election, returned to Seller, destroyed or otherwise permanently altered to entirely remove Seller's Marks. Furthermore, unless otherwise provided in the Transition Services Agreement, Purchaser shall ensure that, as soon as practical (but in no event more than thirty (30) days following the Closing Date) any hypertext links to Internet web sites operated by Seller or any of its Subsidiaries and any other use of Seller's Marks are removed from any Internet web sites included in the Purchased Assets; provided, that, notwithstanding the foregoing, unless otherwise provided in the Transition Services Agreement, Purchaser shall ensure such removal on or before the fifth (5th) Business Day after it become aware of such links or use. For the avoidance of doubt, nothing in this Section 7.23 shall preclude any references to Seller's Marks that are required by Law, that constitute "fair use" under applicable Law, or that are in historical, tax, and similar records.

7.24 Shared Services Agreement. At the Closing, Seller and Purchaser or their respective Affiliates will enter into the Shared Services Agreement, which Shared Services Agreement shall be promptly recorded in the office of the Recorder of Deeds for the District of St. Croix, U.S. Virgin Islands. Purchaser acknowledges that certain Information Technology is used by the Business on a shared basis under arrangements made by Seller or its Affiliates. Purchaser agrees that such Information Technology that is an Excluded Asset shall not be used by Purchaser following the Closing, except as expressly provided in the Shared Services Agreement. Prior to the Closing Date, or, if continued use of the Information Technology that is an Excluded Asset is permitted under the Shared Services Agreement, prior to the expiration or termination of the Shared Services Agreement, Purchaser shall remove, disable, return, and, if directed by Seller, delete all such Information Technology that is an Excluded Asset that Purchaser does not own or directly license from a Third Party.

7.25 Permitting Process. Commencing on the date of this Agreement, Purchaser and HOVIC, cooperating in good faith, shall use their commercially reasonable efforts to take such

steps, including the filing of any required applications with any Governmental Entity, as may be necessary (a) to effect the transfer of all Permits, if any, relating to the Tug Boats (the "**Tug Boat Permits**") to Purchaser on or as soon as practicable after the Closing Date, to the extent such transfer is permissible under applicable Law and (b) to enable Purchaser to obtain, on or as soon as practicable after the Closing Date, any additional Tug Boat Permits as may be necessary for the lawful operation of the Tug Boats from and after the Closing Date (the actions described in the foregoing clauses (a) and (b) being referred to herein as the "**Permitting Process**"). Any filing or other fees and other out-of-pocket expenses associated with the Permitting Process shall be paid by Purchaser.

7.26 Registration of Tug Boats. As promptly as practicable following the Closing, Purchaser shall make all filings necessary, proper or advisable with respect to each Tug Boat (including recording the Tug Boat Bill of Sale and Acceptance for such Tug Boat in the ship registry of the applicable jurisdiction) to effect the registration of Purchaser as the owner of such Tug Boat or to otherwise effect or record the transfer of title of such Tug Boat from HOVIC to Purchaser.

7.27 Post-Closing Cooperation for Financial Statements. For a period of twelve (12) months after the Closing, Seller shall use its commercially reasonable efforts to cooperate with Purchaser and provide historical information regarding the Purchased Assets in its possession as may be reasonably requested by Purchaser from time to time (including by providing financial information in its possession as promptly as reasonably practicable, access to personnel and otherwise providing reasonable assistance to Purchaser) in preparing financial statements; provided, that Seller's obligations to cooperate and provide any information or access pursuant to this Section 7.27 shall be subject to the Disclosure Conditions. Purchaser shall promptly reimburse Seller for any out-of-pocket costs expended in connection with Seller's compliance with this Section 7.27. Except in the case of fraud, Purchaser shall indemnify the Seller Indemnitees for any and all Losses that may be incurred by them as a result of Seller's cooperation or information provided to Purchaser in accordance with this Section 7.27.

7.28 Division of Subdivision Parcels; Cross-Easement Agreements. To the extent necessary for proper conveyancing under applicable Law and local custom, Purchaser and Seller shall cooperate and use their respective commercially reasonable efforts to take, or cause to be taken, all appropriate actions, and to make, or cause to be made, all filings necessary under applicable Law to cause those portions of the Real Property owned by Seller in fee simple that are depicted in the drawing attached hereto as Exhibit H (the "**Subdivision Parcels**") to be divided and separated into legally separate parcels of real property, such that (a) the Purchaser may lawfully take fee simple title to each portion of the Subdivision Parcels that is identified in Exhibit H as a "Terminal Parcel" (collectively, the "**Deferred Terminal Parcels**") at Closing or as soon as reasonably practicable thereafter, and (b) the Seller may lawfully retain fee simple title to each portion of the Subdivision Parcels that is identified in Exhibit H as a "Refinery Parcel" (collectively, the "**Retained Refinery Parcels**"). Purchaser and Seller shall cooperate and use their respective commercially reasonable efforts to take all appropriate actions to cause those portions of the leased real property subject to the Submerged Land Lease, 1976 Contract, the 1998 Letter Agreement and Permits Nos. 3, 23 and 52 issued by the United States Department of the Interior, as amended, and Submerged Lands Permit No. 167 issued by the Department of Conservation and Cultural Affairs of the USVI Government, as amended (the

"**Leased Submerged Lands**"), to be divided and separated into legally separate parcels of real property as identified in Exhibit H, and with each such separate property subject to such lease or other use agreements as are acceptable to each of Purchaser and Seller in its sole discretion. At Closing, Seller and Purchaser shall enter into (i) a customary financeable triple net ground lease, in form and substance reasonably acceptable to Purchaser and Seller (the "**Ground Lease**"), whereby, to the extent any Deferred Terminal Parcels are not conveyed to Purchaser at Closing, Purchaser will lease such Deferred Terminal Parcels from Seller for use in connection with Purchaser's operation of the Business and (ii) such Cross-Easement Agreements (the "**Closing Cross-Easement Agreements**") as are reasonably necessary for each of Purchaser and Seller to have reasonable access upon, over, in, under, across and through the Excluded Real Property, the Purchased Real Property and the Leased Submerged Lands, respectively. Seller shall deliver to Purchaser a customary security instrument, in form reasonably acceptable to Purchaser, encumbering the Deferred Terminal Parcels, to secure Seller's obligation under this Agreement and the Ground Lease to legally divide the Subdivision Parcels. Once all of the Subdivision Parcels are divided and separated into legally separate parcels of real property in accordance with the terms of this Agreement, (x) the Ground Lease shall terminate, (y) the Deferred Terminal Parcels shall be conveyed to Purchaser and (z) Purchaser and Seller shall enter into such Cross-Easement Agreements as may be reasonably necessary for each of Purchaser and Seller to continue to have reasonable access upon, over, in under, across and through the Excluded Real Property, the Purchased Real Property and the Leased Submerged Lands, respectively, following the conveyance of the Deferred Terminal Parcels to Purchaser, which shall include a Cross-Easement Agreement pursuant to which Purchaser grants Seller access to the Deferred Terminal Parcels. For the avoidance of doubt, the Parties acknowledge and agree that (A) nothing in this Section 7.27 shall limit or have an effect on the conditions to Closing set forth in Article VIII, other than Seller's obligation to deliver the Ground Lease, (B) the Deferred Terminal Parcels may not be transferred to Purchaser at the Closing along with the other Purchased Real Property and the transfer and conveyance of such Deferred Terminal Parcels shall not be a condition to Closing and (C) neither Seller nor any of its Affiliates shall have any Liability whatsoever arising directly or indirectly out of or relating to the failure to transfer the Deferred Terminal Parcels to Purchaser at the Closing.

7.29 Title Policy and Survey. Seller shall, in connection with the Closing, to the extent necessary for Purchaser to obtain (a) from First American Title Insurance Company (or other reputable title insurance company) a customary owner's title insurance policy insuring Purchaser's fee simple title to the Purchased Real Property and Purchaser's leasehold title under the Real Property Leases and the Ground Lease and (b) from Smith-Roberts National Corporation (or other reputable surveyor) an American Land Title Association survey of the Purchased Real Property, provide customary title affidavits and indemnities, evidence of corporate, partnership or limited liability company authority, evidence of mergers, consolidations and name changes, and such other customary documents, agreements, certificates, affidavits, instruments and information, in each case to the extent reasonably required by Purchaser's title insurance company or surveyor, duly executed by Seller.

7.30 Additional Cross-Easement Agreements. In addition to the Closing Cross-Easement Agreements and the Cross-Easement Agreements contemplated pursuant to clause (z) of Section 7.28, if at any time, or from time to time after the Closing, the reasonable and lawful operation and use of the Purchased Real Property, the Excluded Real Property or the Leased

Submerged Lands by Purchaser or Seller, respectively, requires that such Party have reasonable access upon, over, in, under, across or through the Purchased Real Property (with respect to Seller), the Excluded Real Property (with respect to Purchaser), or the Leased Submerged Lands (with respect to Purchaser or Seller), Purchaser and Seller shall cooperate in good faith to enter into such additional Cross-Easement Agreements as may be reasonably required to facilitate such access; provided, that any such Cross-Easement Agreement or related access does not unreasonably interfere with Purchaser's operation and use of the Purchased Real Property or Seller's operation and use of the Excluded Real Property (as applicable) or either Purchaser's or Seller's use of any Leased Submerged Lands.

7.31 Cooperation. Seller agrees to cooperate in good faith with Purchaser in doing all things reasonably necessary, proper or advisable under applicable Laws to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by Sections 7.28, 7.29 and 7.30 of this Agreement, including, but not limited to, (a) the satisfaction of the conditions precedent to the obligations of any of the parties hereto, (b) the confirmation of the accuracy and adequacy of any and all legal descriptions of the Purchased Real Property and the Excluded Real Property, and (c) the completion of the surveys referenced in Section 7.29 above (which surveys will be obtained at Purchaser's sole cost and expense).

7.32 Notification of Alternative Transaction. From the date hereof until the date the Bankruptcy Court enters the Bid Procedures Order, Seller shall not, and shall cause its Representatives and Affiliates not to, directly or indirectly, (i) initiate contact with, pursue, knowingly facilitate, knowingly solicit or knowingly encourage submission of, or discuss, negotiate or assist with, any inquiries, proposals or offers by any Person (other than Purchaser and its Affiliates and Representatives) with respect to an Alternative Transaction or (ii) provide any Person (other than Purchaser and its Affiliates, agents and Representatives) with access to the books, records, operating data, contracts, documents or other information in connection with an Alternative Transaction. Seller shall, and shall cause its Affiliates and Representatives to (a) immediately cease any and all discussions and negotiations with any Person other than Purchaser and its Affiliates and Representatives regarding the foregoing, in each case until the date the Bankruptcy Court enters the Bid Procedures Order; (b) promptly notify Purchaser if an Alternative Transaction, or any inquiry or contact with any Person with respect thereto which has been made as of the date of this Agreement or is subsequently made, and the details of such contact (including the identity of the third party or third parties and copies of any proposals and the specific terms and conditions discussed or proposed); and (c) keep Purchaser reasonably informed of material developments with respect to the foregoing. Seller shall not, without the prior consent of Purchaser, release any Person from, or waive any provision of, any standstill agreement or confidentiality agreement to which Seller is a party.

ARTICLE VIII

CONDITIONS PRECEDENT

8.1 Conditions to the Obligations of Each Party. The respective obligations of the Parties to consummate and cause the consummation of the Purchase are subject to the satisfaction or waiver in writing by the Parties at or before the Closing Date of each of the following conditions:

(a) Injunctions; Illegality. No Governmental Entity shall have issued, enacted, entered, promulgated or enforced any Law or Order restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement or the Transaction Documents and there shall be no Proceeding pending by any Governmental Entity seeking any such Order.

(b) HSR Act. Any waiting periods under the HSR Act with respect to the transactions contemplated by this Agreement shall have expired or shall have been terminated by the Antitrust Division of the United States Department of Justice and the Federal Trade Commission.

(c) Sale Order. The Bankruptcy Court shall have entered the Sale Order approving Purchaser as the "Purchaser" thereunder, and the Sale Order shall be in full force and effect, shall not have been modified, amended, reversed, vacated or stayed, and shall have become a Final Order.

(d) Bid Procedures Order. The Bankruptcy Court shall have entered the Bid Procedures Order, and the Bid Procedures Order shall be in full force and effect, shall not have been modified, amended, reversed, vacated or stayed, and shall have become a Final Order.

(e) Governmental Approvals. Seller shall have obtained (and delivered to Purchaser) those Consents from the Governmental Entities set forth on Section 8.1(e) of the Disclosure Letter (the "**Required Governmental Approvals**"), which Consents are in a form and substance reasonably satisfactory to each of Purchaser and Seller.

(f) USVI Concession Agreement. The USVI Government shall have executed a USVI Concession Agreement in form and substance satisfactory to Seller (to the extent such USVI Concession Agreement contemplates that any Liability or Obligation be assumed by or imposed upon Seller) and Purchaser and such USVI Concession Agreement shall be effective as of the Closing.

8.2 Conditions to the Obligations of Purchaser. The obligations of Purchaser to consummate and cause the consummation of the Purchase are subject to the satisfaction (or waiver by Purchaser), on or prior to the Closing Date, of the following further conditions:

(a) Performance. All of the agreements and covenants of Seller and HOVIC to be performed at or prior to the Closing pursuant to this Agreement shall have been duly performed in all material respects.

(b) Representations and Warranties. (i) Each of the Seller Fundamental Representations shall be true and correct in all respects as of the Closing Date as if made at and as of such date (other than those representations and warranties made as of a specified date, which representations and warranties shall be true and correct as of such specified date) and (ii) the representations and warranties of Seller and HOVIC contained in Article IV (other than the Seller Fundamental Representations) and Article V, disregarding all qualifications contained therein relating to materiality or Material Adverse Effect, shall be true and correct in all respects as of the Closing Date as if made at and as of such date (other than those representations and warranties made as of a specified date, which representations and warranties shall be true and

correct as of such specified date), except for such failures to be true and correct that do not have a Material Adverse Effect.

(c) Closing Deliverables. Seller shall have delivered or caused to be delivered to Purchaser each of the items set forth in Section 3.5(b) and HOVIC shall have delivered or caused to be delivered to Purchaser each of the items set forth in Section 3.5(e).

(d) Other Required Approvals. Seller shall have obtained (and delivered to Purchaser) those Consents set forth on Section 8.2(d) of the Disclosure Letter (the "**Other Required Approvals**"), which Consents are in a form and substance reasonably satisfactory to Purchaser.

(e) MAE. Since the date hereof, no Material Adverse Effect shall have occurred and be continuing.

(f) Permits. (i) Seller shall not have received notice from the Virgin Islands Department of Planning and Natural Resources, the United States Environmental Protection Agency or any other Governmental Entity that Seller's application for the renewal of Clean Air Act Title V Permit No. STX-TV-003-10 is not complete or that Purchaser will not be able to continue operating the Business under such Permit after Closing; and (ii) subject to Section 7.18, Seller shall have filed or otherwise provided all applications, documents or other information that Seller is required by any Governmental Authorities or by applicable Environmental Law to make or provide prior to Closing, to transfer or otherwise make available the benefit of the Purchaser's Required Permits to Purchaser.

(g) Assignment. The Bankruptcy Court shall have entered one or more orders (which may be the Sale Order), in form and substance acceptable to Purchaser in its sole discretion, approving the assumption and assignment of the Business Contracts and Real Property Leases to Purchaser pursuant to Section 365 of the Bankruptcy Code and such order(s) shall be Final Orders (unless such Final Order requirement is waived by Purchaser in its sole discretion).

8.3 Conditions to the Obligations of Seller and HOVIC. The obligation of Seller to consummate and cause the consummation of the Purchase is subject to the satisfaction (or waiver by Seller or HOVIC, as applicable), on or prior to the Closing Date, of the following further conditions:

(a) Performance. All of the agreements and covenants of Purchaser to be performed at or prior to the Closing pursuant to this Agreement shall have been duly performed in all material respects.

(b) Representations and Warranties. The representations and warranties of Purchaser contained in Article VII shall be true and correct at and as of the Closing Date as if made at and as of such time, except for such failures as do not prevent Purchaser from consummating the transactions contemplated by this Agreement.

(c) Closing Deliverables. Purchaser shall have delivered or caused to be delivered to Seller, the Escrow Agent and HOVIC, as applicable, each of the items set forth in Sections 3.5(c), 3.5(d) and 3.5(f).

(d) Concession Agreement. The Concession Agreement shall have been terminated and Seller and its Affiliates (including, for the avoidance of doubt, Hess Corporation, HOVIC and PDVSA VI) shall have received from the USVI Government, the full and unconditional release and discharge in the form attached hereto as Exhibit I.

(e) 1976 Contract and Submerged Land Lease. The 1976 Contract, the Submerged Land Lease, the 1998 Letter Agreement and Permits Nos. 3, 23, and 52 issued by the United States Department of the Interior, as amended, and Submerged Lands Permit No. 167 issued by the Department of Conservation and Cultural Affairs of the USVI Government, as amended, shall have been terminated as set forth in the form attached hereto as Exhibit I and the Leased Submerged Lands shall have been divided into legally separable parcels of real property as identified in Exhibit H with each such separate property subject to such lease or use agreements as are reasonably acceptable to Seller.

8.4 Frustration of Closing Conditions. No Party may rely on the failure of any condition set forth in this Article VIII to be satisfied if such failure was caused by such Party's failure to act in good faith or such Party's failure to comply with Section 7.4.

ARTICLE IX

TERMINATION

9.1 Termination Events. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of Seller and Purchaser;

(b) by Seller or Purchaser, if:

(i) following the date of this Agreement, any court or other Governmental Entity shall have issued, enacted, entered, promulgated or enforced any Law or Order (that is final and non-appealable and that has not been vacated, withdrawn or overturned) restraining, enjoining or otherwise prohibiting the consummation of the Closing; provided, that the Party seeking to terminate this Agreement pursuant to this Section 9.1(b)(i) shall not have the right to terminate this Agreement pursuant to this Section 9.1(b)(i) if such Party has failed to comply with its obligations, if any under Section 7.4; or

(ii) the Closing Date shall not have occurred on or prior to November 13, 2015, or such later date as Seller and Purchaser mutually agree in writing (the "**End Date**"); provided, that if as of the End Date, all conditions set forth in Sections 8.1, 8.2 and 8.3 have been satisfied, other than the condition set forth in Section 8.1(f), but as of such date the Governor of the U.S. Virgin Islands has agreed to a form of the USVI Concession Agreement that is satisfactory to Seller and Purchaser in their respective sole

discretion and has submitted such USVI Concession Agreement to the legislature of the U.S. Virgin Islands for its approval, but such approval has not yet been obtained, then either Seller or Purchaser may extend the End Date for a single, one-time additional period of thirty (30) days for the purpose of continuing to seek the satisfaction of the condition set forth in Section 8.1(f); provided that such extension is made in writing and provided to the other Party on or prior to November 13, 2015; provided, further, that the Party seeking to terminate this Agreement pursuant to this Section 9.1(b)(ii) shall not have the right to terminate this Agreement pursuant to this Section 9.1(b)(ii) if such Party is in material breach of this Agreement;

(c) by Seller, if: (i) any of the representations and warranties of Purchaser contained in Article VI shall fail to be true and correct; or (ii) there shall be a breach by Purchaser of any covenant or agreement of Purchaser in this Agreement that, in either case, (x) would result in the failure of a condition set forth in Section 8.3(a) or Section 8.3(b) and (y) which is not curable or, if curable, is not cured by the earlier of (1) the thirtieth (30th) day after written notice thereof is given by Seller to Purchaser and (2) the day that is five (5) Business Days prior to the End Date; provided, that Seller may not terminate this Agreement pursuant to this Section 9.1(c) if it is in material breach of this Agreement, the Bid Procedures Order or the Sale Order;

(d) by Purchaser, if: (i) any of the representations and warranties of Seller or HOVIC contained in Article IV or Article V, as applicable, shall fail to be true and correct, or (ii) there shall be a breach by Seller or HOVIC of any covenant or agreement of Seller or HOVIC in this Agreement to be performed at or prior to the Closing that (x) would result in the failure of a condition set forth in Section 8.2(a) or Section 8.2(b) and (y) which is not curable or, if curable, is not cured by the earlier of (1) the thirtieth (30th) day after written notice thereof is given by Purchaser to Seller and (2) the day that is five (5) Business Days prior to the End Date; provided, that Purchaser may not terminate this Agreement pursuant to this Section 9.1(d) if Purchaser is in material breach of this Agreement, the Bid Procedures Order or the Sale Order;

(e) by Purchaser, if, at any time prior to the Closing Date,

(i) as a result of an Order of the Bankruptcy Court, (x) the Bankruptcy Case is dismissed or converted to a case under Chapter 7 of the Bankruptcy Code or (y) a trustee or an examiner with expanded powers is appointed in the Bankruptcy Case;

(ii) Seller (w) withdraws the Sale Motion, or publicly announces its intention to withdraw the Sale Motion, (x) moves to voluntarily dismiss the Bankruptcy Case, (y) moves for conversion of the Bankruptcy Case to Chapter 7 of the Bankruptcy Code or (z) moves for appointment of an examiner with expanded powers pursuant to section 1104 of the Bankruptcy Code or a trustee in the Bankruptcy Case;

(iii) Seller shall not have filed the Petitions with the Bankruptcy Court on or before the tenth (10th) Business Day following the date of this Agreement;

(iv) Seller shall not have filed the Sale Motion, in form and substance acceptable to Purchaser in its sole discretion, with the Bankruptcy Court on or before the first (1st) Business Day following the Petition Date;

(v) the Bankruptcy Court shall not have entered the Bid Procedures Order, in form and substance acceptable to Purchaser in its sole discretion, on or prior to the date that is twenty-four (24) days after the Petition Date, or such order shall have been stayed, vacated, reversed, modified or amended at any time in any respect without the prior written consent of Purchaser given in its sole discretion;

(vi) the Auction shall not have commenced on or prior to the date that is two (2) Business Days prior to the Sale Hearing; or

(vii) the Bankruptcy Court shall not have entered the Sale Order, in form and substance acceptable to Purchaser in its sole discretion, on or prior to the date that is sixty (60) days after the Petition Date, or such order shall have been stayed, vacated, reversed, modified or amended at any time in any respect without the prior written consent of Purchaser given in its sole discretion;

(f) by Seller, if its Executive Committee (as such term is defined in the Hovensa Operating Agreement) or equivalent governing body determines based upon consultation with outside legal counsel that proceeding with the transaction as contemplated by this Agreement would be inconsistent with its fiduciary duties under applicable Law;

(g) by Seller or Purchaser, if the Bankruptcy Court approves (i) an Alternative Transaction, (ii) the sale of all or substantially all of the assets of Seller or any of the Purchased Assets or (iii) the sale of all or any portion of the issued and outstanding limited liability company interests of Seller, in each case, to a Person (or group of Persons) other than Purchaser; provided, that, Purchaser may only terminate this Agreement under this Section 9.1(g) if Purchaser is no longer required to serve as a Backup Bidder pursuant to the Bid Procedures Order; or

(h) automatically upon consummation of an Alternative Transaction.

9.2 Effect of Termination. In the event of the termination of this Agreement pursuant to Section 9.1 by Purchaser, on the one hand, or Seller, on the other hand, written notice thereof shall forthwith be given to the other Party specifying the provision hereof pursuant to which such termination is made, and this Agreement shall be terminated and become void and have no effect and there shall be no Liability hereunder on the part of any Party, except that Section 3.2 (Good Faith Escrow Deposit), the indemnification obligations set forth in Section 7.1(b) (Access to Information Concerning Properties and Records), Section 7.15 (Sale Order), this Article IX (Termination) and Article XI (Miscellaneous) and the defined terms and rules of construction used therein and set forth in Article I shall survive any termination of this Agreement; provided, however, that (a) subject to the terms and conditions of Section 3.2(c) and Section 11.10 no Party shall be relieved of or released from any Liability arising from any material breach by such Party of any provision of this Agreement, (b) this Section 9.2, Section 7.19 and Section 7.20, and the Confidentiality Agreement shall remain in full force and effect

and survive any termination of this Agreement, and (c) Seller shall remain liable for payment of the Purchaser Expense Reimbursement and the Breakup Fee to the extent set forth in this Agreement and in the Bid Procedures Order.

ARTICLE X
SURVIVAL AND RELEASE

10.1 No Survival of Representations and Warranties. The (a) respective representations and warranties of the Parties and (b) the respective covenants and agreements of the Parties that by their terms are to be performed before the Closing, whether contained in this Agreement or in any certificate or other writing delivered in connection herewith, shall not survive the Closing. Any covenants and agreements contained in this Agreement that by their terms are to be performed after Closing (including, for the avoidance of doubt, any provision requiring any Party to indemnify or pay another Person) shall survive the Closing until such agreements are performed.

10.2 Release. If the Closing occurs, effective as of the Closing, Purchaser, on behalf of itself and its respective equity holders, Subsidiaries, Affiliates, Representatives, direct and indirect parent companies, managers, officers and directors, and each of their respective successors and assigns (each a "**Releasor**"), hereby releases, waives, acquits and forever discharges, to the fullest extent permitted by Law, Seller, PDVSA VI, HOVIC and their respective past, present and future equity holders, Subsidiaries, Affiliates, Representatives, direct and indirect parent companies, managers, officers and directors (each, a "**Releasee**") of, from and against any and all actions, causes of action, claims, demands, damages, judgments, Liabilities, debts, dues and suits of every kind, nature and description whatsoever, arising directly or indirectly out of the Assumed Liabilities, the Purchased Assets and the Business (as presently or formerly conducted) (including, for the avoidance of doubt, the 1976 Contract and the Submerged Land Lease), the Excluded Liabilities, the Excluded Assets and HOVIC's ownership of the Tug Boats and the Charter Agreements (the "**Released Claims**"), which such Releasor ever had, now has or may have on or by reason of any matter, cause or thing whatsoever on or prior to the Closing Date, including any claim or remedy now or hereafter available under any applicable Environmental Law, including the Comprehensive Environmental Response, Compensation and Liability Act or similar international, foreign, federal, regional or state Law, whether or not in existence on the date hereof. Each Releasor agrees not to, and agrees to cause its respective equity holders, Subsidiaries, Affiliates and Representatives, and each of their respective successors and assigns, not to, assert any claim against the Releasees with respect to the Released Claims. Notwithstanding the foregoing, no Releasor releases its rights and interests under this Agreement, any Transaction Document or the Confidentiality Agreement or with respect to claims for fraud.

ARTICLE XI

MISCELLANEOUS

11.1 Expenses. Except as otherwise provided in this Agreement, whether or not the Closing occurs, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby will be paid by the Party incurring such costs and expenses.

11.2 Extension; Waiver. Subject to the express limitations herein, the Parties may (a) extend the time for the performance of any of the obligations or other acts of the other Parties, (b) waive any inaccuracies in the representations and warranties contained herein by the other Parties or in any document, certificate or writing delivered pursuant hereto by such other Parties or (c) waive compliance with any of the agreements or conditions contained herein. Any agreement on the part of any Party to any such extension or waiver shall be valid only if set forth in an instrument in writing signed by or on behalf of such Party. No failure or delay on the part of any Party in the exercise of any right hereunder shall impair such right or be construed as a waiver of, or acquiescence in, any breach of any representation, warranty, covenant or agreement herein, nor shall any single or partial exercise of any such right preclude other or further exercise thereof or of any other right.

11.3 Notices. Except as otherwise provided herein, all notices, requests, claims, demands, waivers and other communications hereunder shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by email transmission to the respective Parties as follows (or, in each case, as otherwise notified by any of the Parties) and shall be effective and deemed to have been given (a) immediately upon sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment) when sent by email, provided that if such notice or other communication is sent after 5:00 p.m., New York time, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day for the recipient and (b) when received by the addressee if delivered by hand or overnight courier service or certified or registered mail on any Business Day:

(i) If to Seller, to:

HOVENSA L.L.C.
1 Estate Hope
Christiansted, St. Croix 00820
Attention: Sloan Schoyer
email: sschoyer@hovensa.com

with a copy (which shall not constitute notice or service of process) to:

White & Case LLP
1155 Avenue of the Americas
New York, New York 10036
Attention: John M. Reiss
Gregory Pryor
Fax: (212) 354-8113
email: jreiss@whitecase.com
gpryor@whitecase.com;

PDVSA V.I., Inc.
c/o Petróleos de Venezuela, S.A.
Edificio Petróleos de Venezuela

Avenida Libertador, Torre Este
La Campiña, Apartado 169
Caracas 1050-A
República Bolivariana de Venezuela
Attention: Director de Refinación
with a copy to:
Attention: Consultor Jurídico;

Curtis, Mallet-Prevost, Colt & Mosle LLP
101 Park Avenue
New York, New York 10178
United States of America
Attention: General Counsel
Fax: (212) 697-1559;

and to HOVIC at the address set forth in clause (ii) below;

(ii) If to HOVIC, to:

c/o Hess Oil Virgin Islands Corporation
1185 Avenue of the Americas, Floor 40
New York, New York 10024
Attention: Jackie Asafu-Adjaye, Assistant Secretary
Fax: (212) 536-8241
email: jasafu-adjaye@hess.com

with a copy (which shall not constitute notice or service of process) to:

Kirkland & Ellis LLP
601 Lexington Avenue
New York, New York 10022
Attention: Jonathan S. Henes
Fax: (212) 446-6460
email: jonathan.henes@kirkland.com;

(iii) If to Purchaser, to:

Limetree Bay Holdings, LLC
c/o ArcLight Capital Partners, LLC
200 Clarendon Street, 55th Floor
Boston, Massachusetts 02117

Attention: Christine M. Miller
Fax: (617) 867-4698
email: cmiller@arclightcapital.com;

with a copy (which shall not constitute notice or service of process) to:

Latham & Watkins LLP
885 Third Avenue
New York, New York 10022
Attention: David S. Allinson
Christopher G. Cross
Fax: (212) 751-4864
email: david.allinson@lw.com
christopher.cross@lw.com;

and

Nichols, Newman, Logan, Grey & Lockwood, P.C.
1131 King Street, Christiansted, St. Croix
U.S. Virgin Islands 00820-4971
Attention: G. Hunter Logan, Jr.
Todd H. Newman
Fax: (340) 773-3409
email: hlogan@nnldlaw.com
tnewman@nnldlaw.com

Notices sent by multiple means, each of which is in compliance with the provisions of this Agreement will be deemed to have been received at the earliest time provided for by this Agreement.

11.4 Entire Agreement. This Agreement, together with the Exhibits hereto, the Seller Disclosure Letter, the HOVIC Disclosure Letter, the Confidentiality Agreement and the Transaction Documents, the Sale Order and the Bid Procedures Order contain the entire understanding of the Parties with respect to the subject matter contained herein and supersedes all prior agreements and understandings, oral and written, with respect thereto.

11.5 Binding Effect; Benefit; Assignment. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns, including, in the case of the Seller, any trustee in the Bankruptcy Case or in any subsequent Chapter 7 case. Except with respect to Section 10.2, which shall inure to the benefit of each Releasee, all of whom are intended as express third-party beneficiaries thereof, no other Person not party to this Agreement shall be entitled to the benefits of this Agreement, whether such benefits are legal or equitable or of any other nature whatsoever. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the Parties without the prior written consent of the other Parties; provided, that Purchaser shall have the right to assign all or any part of its rights or obligations under this Agreement to one or more Affiliates of Purchaser, or to any lender or other party providing debt financing to the Purchaser or an Affiliate of Purchaser as collateral in connection with such debt financing, but in no event shall any such assignment release Purchaser from any of its obligations under this Agreement.

11.6 Amendment and Modification. This Agreement may not be amended except by a written instrument executed by all Parties.

11.7 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument. Signed counterparts of this Agreement may be delivered by scanned .pdf image.

11.8 Applicable Law; Jurisdiction. THIS AGREEMENT AND THE LEGAL RELATIONS BETWEEN THE PARTIES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK AND THE APPLICABLE PROVISIONS OF THE BANKRUPTCY CODE, WITHOUT REGARD TO THE CONFLICT OF LAWS RULES THEREOF.

EACH PARTY AGREES THAT THE BANKRUPTCY COURT, WHICH SHALL HAVE EXCLUSIVE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN THE PARTIES HERETO, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE AGREEMENTS, INSTRUMENTS AND DOCUMENTS CONTEMPLATED HEREBY AND THE PARTIES CONSENT TO AND AGREE TO SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT.

EACH OF THE PARTIES HEREBY WAIVES AND AGREES NOT TO ASSERT IN ANY RECOGNITION OR ENFORCEMENT PROCEEDING, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY DEFENSE THAT (A) SUCH PARTY IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF SUCH COURT, (B) SUCH PARTY AND SUCH PARTY'S PROPERTY IS IMMUNE FROM ANY LEGAL PROCESS ISSUED BY SUCH COURT OR (C) ANY ACTION OR PROCEEDING COMMENCED IN SUCH COURT IS BROUGHT IN AN INCONVENIENT FORUM.

EACH PARTY HEREBY AGREES THAT THE ACTIVITIES CONTEMPLATED HEREBY ARE COMMERCIAL IN NATURE. TO THE EXTENT THAT ANY PARTY HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ATTACHMENT IN AID OF EXECUTION OR ANY OTHER LEGAL PROCESS (INCLUDING PREJUDGMENT ATTACHMENT) IN ANY ACTION OR PROCEEDING IN ANY MANNER ARISING OUT OF THIS AGREEMENT WITH RESPECT TO ITSELF OR ITS ASSETS, SUCH PARTY HEREBY IRREVOCABLY AGREES NOT TO INVOKE SUCH IMMUNITY AS A DEFENSE AND IRREVOCABLY WAIVES SUCH IMMUNITY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH PARTY AGREES THAT SUCH WAIVER SHALL HAVE THE FULLEST SCOPE PERMITTED UNDER THE FOREIGN SOVEREIGN IMMUNITIES ACT 1976 OF THE UNITED STATES AND ARE INTENDED TO BE IRREVOCABLE FOR THE PURPOSES OF SUCH ACT. THE PARTIES HEREBY AGREE THAT, IN CONNECTION WITH ANY ACTION OR PROCEEDING BROUGHT IN CONNECTION WITH THIS AGREEMENT, MAILING OF PROCESS OR OTHER PAPERS IN THE MANNER PROVIDED IN SECTION 11.3, OR IN SUCH OTHER MANNER AS MAY BE PERMITTED BY LAW, SHALL BE VALID AND SUFFICIENT SERVICE THEREOF AND HEREBY WAIVE ANY OBJECTIONS TO SERVICE ACCOMPLISHED IN THE MANNER HEREIN PROVIDED.

11.9 Severability. If any term, provision, agreement, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, agreements, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic and legal substance of the transactions contemplated hereby are not affected in any manner adverse to any Party. Upon such a determination, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a reasonably acceptable manner in order that the transactions contemplated hereby may be consummated as originally contemplated to the fullest extent possible.

11.10 Specific Enforcement; Limitation on Damages. Subject to the last sentence of this paragraph with respect to periods prior to Closing, the Parties agree that irreparable damage would occur if any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached or threatened to be breached and that an award of money damages would be inadequate in such event. Accordingly, with respect to periods after the Closing, it is acknowledged that the Parties shall be entitled to equitable relief, without proof of actual damages, including an Order for specific performance to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement, in addition to any other remedy to which they are entitled at law or in equity as a remedy for any such breach or threatened breach. Each Party further agrees that, with respect to periods after the Closing, neither the other Parties nor any other Person shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any remedy referred to in this Section 11.10, and each Party irrevocably waives any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument. Each Party further agrees that, with respect to periods after the Closing, the only permitted objection that it may raise in response to any action for equitable relief is that it contests the existence of a breach or threatened breach of this Agreement. Notwithstanding the foregoing, if this Agreement is validly terminated for any reason prior to the Closing (a) the distribution of the Good Faith Deposit to Seller if, as and when required pursuant to Section 3.2(c) shall be Seller's sole and exclusive remedy (whether at law, in equity, contract, tort or otherwise) against Purchaser and its Affiliates and Representatives under this Agreement and (b) (x) the payment of the Purchaser Expense Reimbursement and the Breakup Fee to Purchaser if, as and when required pursuant to Section 7.19 and Section 7.20, as applicable, and (y) monetary damages in an amount not to exceed $19,000,000, less the amount of the Purchaser Expense Reimbursement and Breakup Fee, if any, actually received pursuant to Section 7.19 and Section 7.20, shall be Purchaser's sole and exclusive remedy (whether at law, in equity, contract, tort or otherwise) against Seller and its Affiliates and Representatives under this Agreement (provided, that in no event shall Seller and its Affiliates and Representatives have any liability for monetary damages in excess of an aggregate of $19,000,000, which amount includes any Purchaser Expense Reimbursement and Breakup Fee). Prior to the Closing, no Party shall be entitled to seek or obtain specific performance or other injunctive or equitable relief to require any other Party to perform its obligations hereunder or to effect or effectuate the Closing, including the transfer of the Purchased Assets or the payment of the Purchase Price.

11.11 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES, AND SHALL CAUSE ITS SUBSIDIARIES AND AFFILIATES TO WAIVE, ALL

RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

11.12 Rules of Construction. The Parties agree that they have been represented by counsel during the negotiation and execution of this Agreement and have participated jointly in the drafting of this Agreement and, therefore, waive the application of any Law, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the Party drafting such agreement or document.

11.13 Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

11.14 Non- Recourse. Except as otherwise expressly set forth in this Agreement, (a) no Person other than the Parties and their respective successors and permitted assigns shall have any obligation under this Agreement or in connection with the transactions contemplated hereby and (b) notwithstanding that any Party or any of its successors or permitted assigns may be a partnership or limited liability company, no Person has any rights of recovery against, and no recourse under this Agreement or under any documents or instruments delivered in connection herewith or in respect of any oral representations made or alleged to be made in connection herewith or therewith shall be had against, any Person who is not a Party, including (i) (other than the Parties hereto) any past, present or future, direct or indirect, director, officer, employee, incorporator, member, general or limited partner, manager, management company, stockholder, equityholder, controlling Person, Affiliate, Subsidiary, portfolio company, agent, attorney, Representative or assignee of, and any financial advisor, financing source or lender to, any Party, (ii) any of their respective heirs, executors, administrators, successors, assignees, (iii) (other than the Parties hereto) any past, present or future, direct or indirect, director, officer, employee, incorporator, member, general or limited partner, manager, management company, stockholder, equityholder, controlling Person, Affiliate, Subsidiary, portfolio company, agent, attorney, Representative or assignee of, and any financial advisor, financing source or lender to, any of the foregoing Persons set forth in clauses (i) and (ii), and (iv) (other than the Parties hereto) any of their heirs, executors, administrators, successors, assignees (collectively the Persons set forth in clauses (i) – (iv) that are not Parties, such Party's "**Related Parties**"), whether by or through attempted piercing of the corporate veil, by or through a claim (whether at law or equity in tort, contract or otherwise) by or on behalf of any Party against any Related Party of any Party, by the enforcement of any assessment or by any legal or equitable proceeding, or by virtue of any applicable Law, or otherwise, it being agreed and acknowledged that no personal liability whatsoever shall attach to, be imposed on or otherwise be incurred by any Related Party of any Party for any obligations of a Party to this Agreement or any document or instrument delivered in connection herewith or any of its successors or permitted assigns or in respect of any oral representations made or alleged to be made in connection herewith or therewith or for any claim (whether at law or equity or in tort, contract or otherwise) based on, in respect of, or by reason of such obligations or their creation or the transactions contemplated hereby or thereby. Each Party hereby covenants and agrees that, except to the extent any Related Party of any Party is a Party to or has any express obligations under this Agreement, it shall not institute, and shall cause its Affiliates not to institute, any legal Proceeding or bring any other claim (whether at law or equity in tort, contract or otherwise) arising under, or in connection with, this Agreement or the

transactions contemplated hereby, or in respect of any oral representations made or alleged to be made in connection herewith or therewith, against any Related Party of any Party. Without limiting the foregoing, to the maximum extent permitted by Law, except to the extent otherwise expressly set forth in this Agreement, each Party disclaims any reliance upon any Related Party of any Party with respect to the performance of this Agreement or any representation or warranty made in, in connection with, or as an inducement to this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their respective officers thereunto duly authorized, all as of the date first above written.

LIMETREE BAY HOLDINGS, LLC

By: _____
Name: Daniel R. Revers
Title: President

HOVENSA L.L.C.

By: _____
Name:
Title:

HESS OIL VIRGIN ISLANDS CORP.

By: _____
Name:
Title:

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their respective officers thereunto duly authorized, all as of the date first above written.

LIMETREE BAY HOLDINGS, LLC

By:_____
Name: Daniel R. Revers
Title: President

HOVENSA L.L.C.

By:_____
Name: Brian Lever
Title: Authorized Person

HESS OIL VIRGIN ISLANDS CORP.

By:_____
Name: Brian Lever
Title: Chief Executive Officer and President

Exhibit A

Form of Access Easement

RECORDING REQUESTED BY AND)
WHEN RECORDED MAIL TO:)
)
)
[___])
HOVENSA L.L.C.)
1 Estate Hope)
Christiansted, St. Croix 00820)
)

EASEMENT AGREEMENT

1. This Easement Agreement (this "**Easement Agreement**") is made effective this [___] day of [___], 2015, by and between Limetree Bay Holdings, LLC, a limited liability company organized under the laws of the State of Delaware, whose address is c/o ArcLight Capital Partners, LLC, 200 Clarendon Street, 55th Floor, Boston, Massachusetts 02117 ("**Grantor**"), and HOVENSA L.L.C., a limited liability company organized under the laws of the U.S. Virgin Islands whose address is 1 Estate Hope, Christiansted, St. Croix 00820 ("**Grantee**").

WITNESSETH:

2. **WHEREAS,** Grantor and Grantee are parties to that certain Asset Purchase Agreement, dated as of September 4, 2015 (as amended from time to time, the **"Purchase Agreement"**), by and among Grantor, Grantee and Hess Oil Virgin Islands Corp., a corporation organized under the Laws of the U.S. Virgin Islands ("**HOVIC**"), relating to, among other things, that certain real property located in St. Croix, U.S. Virgin Islands and described on Exhibit "A" attached hereto and made a part hereof (the "**Property**");[1]

3. **WHEREAS**, Grantor has agreed to grant a temporary right of access upon, over, in, under, across and through the Property to Grantee Parties for purposes of facilitating Grantee Parties' performance of any Remedial Action and any Asset Removal, in each case, to the extent required pursuant to the provisions of the Purchase Agreement, and otherwise in accordance with this Easement Agreement, and to grant Grantee Parties access to and use of the Property and the Improvements for the purposes described herein;

4. **WHEREAS**, Grantor wishes to use commercially reasonable efforts to cooperate with Grantee Parties in the implementation and performance of all Remedial Actions and Asset Removals; and

[1] Note to Draft: Exhibit A shall describe the Business Real Property (as such term is defined in the Purchase Agreement).

5. **WHEREAS**, in accordance with the terms of the Purchase Agreement, Grantor and Grantee are executing this Easement Agreement relating to the Property for the purpose of notifying all current and future fee owners of the Property, and any other Person claiming, acquiring, or taking an interest in or part of the Property, that all such owners and Persons take title or an interest in the Property subject to an easement in favor of Grantee Parties as stated herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by the parties hereto, but for no actual monetary consideration, Grantor, for itself and the Grantor Parties, and Grantee, for itself and the Grantee Parties, do hereby declare, covenant and agree as follows:

6. **Definitions**: As used herein,

a) "**Affiliate**" of any Person shall mean any other Person directly or indirectly controlling, controlled by, or under common control with, such Person; provided, that, for the purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by Contract or otherwise; provided, further, that none of HOVIC, PDVSA VI or their respective direct or indirect equity holders shall be deemed to "control" Grantee. Notwithstanding the foregoing, for all purposes of this Easement Agreement and the transactions contemplated hereby, (i) HOVIC and its direct and indirect equity holders are Affiliates of Grantee but are not Affiliates of PDVSA VI or PDVSA VI's direct and indirect equity holders and (ii) PDVSA VI and its direct and indirect equity holders are Affiliates of Grantee but are not Affiliates of HOVIC or HOVIC's direct and indirect equity holders.

b) "**Asset Removal**" shall mean the dismantling and/or removal by any Grantee Party of any Retained Refinery Asset or other material Excluded Asset.

c) "**Asset Removal Completion Date**" shall mean the date on which Grantee determines, in its sole discretion, that all Retained Refinery Assets and any other Excluded Assets have been dismantled and/or removed and that no additional Asset Removals will be necessary, which date shall be no later than five (5) years from the date hereof; provided, that such date shall be postponed for such time as any Asset Removal is suspended or delayed on account of a Force Majeure Event.

d) "**Business Day**" shall mean any day except a Saturday, a Sunday or any other day on which commercial banks are required or authorized to close in New York, New York or the U.S. Virgin Islands.

e) **"Closing Date"** shall have the meaning ascribed to such term in the Purchase Agreement.

f) "**Contract**" shall mean any note, bond, mortgage, indenture, guaranty, license, franchise, permit, agreement, contract, commitment, lease, purchase order, or other instrument or obligation, and any amendments thereto.

g) "**Environmental Law**" shall mean any Law, Order or other requirement of Law (including Environmental Permits) that relates to (i) the protection of the environment (including natural resource restoration and natural resource damages) or of human health or safety (to the extent human health or safety relates to exposure to Hazardous Materials) or (ii) the presence, Release, threatened Release, generation, recycling, disposal or treatment of Hazardous Materials, or the arrangement for any such activities.

h) "**Environmental Permits**" shall have the meaning ascribed to such term in the Purchase Agreement.

i) "**Excluded Assets**" shall have the meaning ascribed to such term in the Purchase Agreement.

j) "**Force Majeure Event**" shall mean all events beyond the reasonable control of Grantee or its Affiliates (or any Person acting on its or their behalf), including acts of God, acts of any Governmental Entity, acts of the public enemy or due to terrorism, war, riot, flood, civil commotion, insurrection, severe or adverse weather conditions, strikes, labor shortages, shortage of required supplies or materials or the lack of or shortage of electrical power beyond the reasonable control of Grantee and its Affiliates.

k) **"Governmental Entity**" shall mean any multinational, United States or non-United States, federal, state, territory, provincial or local court (including, for the avoidance of doubt, the Bankruptcy Court), arbitral tribunal, administrative agency, legislature or commission or other governmental, quasi-governmental or regulatory agency or authority (including any bureau, division or department thereof) or any securities exchange with jurisdiction over the Property.

l) "**Grantee Parties**" shall mean Grantee and its Affiliates and any and all of their respective successors, successors-in-interest, assigns, members, managers, partners, directors, officers, agents, employees, contractors, subcontractors, licensees, invitees and representatives of, or acting on behalf of, Grantee or any of its Affiliates in connection with the Asset Removal or Remedial Action.

m) "**Grantor Parties**" shall mean Grantor and its Affiliates and any and all of their respective successors, successors-in-interest, assigns, members, managers, shareholders, partners, directors, officers, agents, employees, contractors, subcontractors, licensees, invitees and representatives of, or acting on behalf of, Grantor or any of its Affiliates.

n) "**Hazardous Materials**" shall mean any waste or other substance that is listed, defined, designated, classified as, or otherwise determined to be, hazardous, extremely hazardous, toxic, radioactive, or a pollutant or a contaminant under or pursuant to any Law, Order or requirement of Law, including any admixture or solution thereof, and specifically including petroleum and all derivatives thereof or synthetic substitutes therefor and

asbestos or asbestos-containing materials.

o) "**Improvements**" shall mean any and all buildings, structures, fixtures or other improvements owned by or leased to any Grantor Party (or any Grantor Related Party) that are attached or affixed to the Property (including all construction and work-in-progress), including above ground and underground piping and storage tanks, canopies, signage, terminals, fixtures, pumps and appurtenances, control houses, the terminal office building, the administrative office building, the marine compound building, laboratory facilities, warehouses, boiler houses and waste water treatment facilities (and all equipment related thereto), the docks, equipment, personal property of a permanent or affixed nature and other similar facilities.

p) "**Law**" shall mean any statute, law, ordinance, ruling, policy, rule or regulation of any Governmental Entity and all judicial or administrative interpretations thereof and any common law doctrine.

q) "**Liabilities**" shall mean any and all indebtedness, taxes, losses, charges, debts, damages, obligations, payments, costs and expenses, bonds, indemnities, liabilities and obligations, whether accrued or fixed, known or unknown, absolute or contingent, matured or unmatured or determined or determinable.

r) "**Loss**" or "**Losses**" shall mean, without duplication, any and all Liabilities, judgments, awards, losses, costs or damages, including reasonable fees and expenses of attorneys, accountants and other professional advisors.

s) "**Order**" shall mean any judgment, order, injunction, decree, writ, permit or license of any Governmental Entity or any arbitrator.

t) "**PDVSA VI**" shall mean PDVSA V.I. Inc., a corporation organized under the Laws of the U.S. Virgin Islands.

u) "**Person**" shall mean and include an individual, a partnership, a limited partnership, a limited liability partnership, a joint venture, a corporation, a limited liability company, an association, a trust, an unincorporated organization, a group and a Governmental Entity.

v) "**RCRA Permit**" shall mean the Resource Conservation and Recovery Act Part B Permit No. VID980536080 and any document that replaces such permit.

w) "**Release**" shall mean the disposing, discharging, injecting, spilling, leaking, pumping, pouring, leaching, dumping, emitting, escaping or emptying into or upon any air, soil, sediment, subsurface strata, surface water or groundwater.

x) "**Remedial Action**" shall mean any action to investigate, abate, clean up, remove or remediate (or words of similar import), or to conduct remedial or corrective actions, including sampling and/or monitoring activities, with respect to Hazardous Materials in the environment.

y) "**Remediation Completion Date**" shall mean the date on which the relevant

Governmental Entity determines that all Remedial Actions under the RCRA Permit have been completed.

z) "**Retained Refinery Assets**" shall have the meaning ascribed to such terms in the Purchase Agreement.

7. It is the purpose of this Easement Agreement to convey to Grantee Parties real property rights, which will run with the land, to facilitate any Remedial Actions and any Asset Removals by or on behalf of one or more Grantee Parties, in each case, which may be required to be performed or may be performed at the option of the Grantee Parties.

8. If Grantee opts or is required to conduct a Remedial Action or dismantle, remove or decommission any Retained Refinery Assets or other Excluded Assets, Grantee shall use its commercially reasonable efforts to do so without unreasonably interfering with Grantor, Grantor Parties and other occupants of the Property's use of the Property, operations or Environmental Permits, and shall conduct all activities in accordance with all applicable Laws and Orders.

Grantor shall, and shall cause each other Grantor Party to, and shall use commercially reasonable efforts to cause any other occupants of the Property to use commercially reasonable efforts to, cooperate with each Grantee Party in connection with all Remedial Actions and all Asset Removals, in each case, which may be required to be performed or may be performed at the option of the Grantee Parties, in accordance with applicable Law and the terms of this Easement Agreement.

9. To the extent required under any Environmental Law, Grantor shall, and shall cause each other Grantor Party to, execute, record, obtain and maintain in good standing any authorization, permit or "generator number" as may be reasonably necessary for the proper storage, transportation and/or off-site disposal of any Hazardous Materials generated in the course of any Remedial Action or Asset Removal.

10. Grantor shall, and shall cause each other Grantor Party to, sign or cause to be signed and record or cause to be recorded, and abide by and enforce at any time and from time to time, any deed, environmental covenant or other recordable real property instrument reasonably requested by any Grantee Party that is necessary to permit the use of site-specific corrective action remedies or remedies based on exposure controls as part of any Remedial Action; provided, that such instrument does not unreasonably interfere with the operation of the Property as contemplated as of the date hereof.

Without limitation of any of the foregoing, Grantor agrees not to use, to cause each other Grantor Party not to use, and to use commercially reasonable efforts to cause any other occupants of the Property not to use, the groundwater under the Property if such restriction is necessary to permit the use of site-specific corrective action remedies or remedies based on exposure controls as part of any Remedial Action.

11. Grantor shall operate and maintain any institutional or engineering controls installed as part of any Remedial Action, and post-Closing Date maintenance costs associated with institutional or engineering controls shall not be subject to indemnification and/or reimbursement claims

against Grantee.

12. Grantor and Grantors Parties shall be entitled to recover from Grantee, Grantor and Grantor Parties' reasonable and documented out-of-pocket costs incurred in connection with providing any of the cooperation, or taking any of the actions, required by this Easement Agreement.

13. **Grant**: Grantor hereby grants to Grantee and each other Grantee Party a temporary, nonexclusive right of access, at all reasonable times, and in all instances (i) not to interfere unreasonably with Grantor's business, operations or Environmental Permits, (ii) only to the extent reasonably required to complete the following, and (iii) in compliance with all applicable Laws and Orders, upon, over, in, under, across and through the Property and the Improvements for purposes of:

a) Facilitating implementation and performance by the Grantee Parties of all Remedial Actions and all Asset Removals that are the responsibility of Grantee, including, but not limited to, installation, construction, erection, operation, maintenance, replacement, repair, relocation and monitoring of equipment, wells and other structures associated with any such Remedial Action or Asset Removal;

b) Treating and removing impacted soil and/or groundwater;

c) Verifying any data or information submitted by Grantor, Grantee, any Grantor Party or any Grantee Party to any Governmental Entity;

d) Verifying that no action is being taken on the Property (i) in violation of the terms of this Easement Agreement or (ii) with respect to any Retained Refinery Assets or other Excluded Assets (other than actions by any Grantee Party or any contractors or subcontractors performing work on behalf of any Grantee Party), to the extent required of Grantee by any Governmental Entity or Environmental Permit;

e) Monitoring any Remedial Action on the Property, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples, to the extent required of Grantee by any Governmental Entity;

f) Monitoring any Asset Removal;

g) Accessing and using on-site structures, infrastructure and utility services (including electricity, underground piping, potable water, fit water or wastewater, air or sewer systems) and/or utilities as reasonably necessary to implement and perform any Remedial Action or Asset Removal (in each case in accordance with applicable Law and the terms of this Easement Agreement, and without unreasonably interfering with Grantor's, Grantor's Parties' or any other occupants' operations or use of the Property); provided, that such access and use shall be consistent with the rights granted in the Shared Services, Utilities and Facilities Agreement dated as of the date hereof.

h) Conducting periodic reviews of any Remedial Action, including, but not limited to, reviews required by applicable Environmental Laws or Governmental Entities;

i) Implementing additional or new Remedial Actions if any Grantee Party, in its sole discretion and with the approval of the relevant Governmental Entities, determines that such actions are necessary to protect the environment because either the measures implemented to carry out the original Remedial Action have proven to be ineffective or because new technology has been developed which will accomplish any Remedial Action in a significantly more efficient or cost effective manner, provided that no Grantee Party unreasonably interferes with Grantor's business activities;

j) Performing any post-remedial obligations in accordance with Environmental Law or Environmental Permit; and

k) Developing, implementing and/or monitoring of engineering and institutional controls required by a Governmental Entity or Environmental Law as part of any Remedial Action.

l) Grantor shall be entitled to recover from Grantee and/or Grantee Parties for any documented and out-of-pocket loss incurred as a result of physical damage Grantee and/or Grantee Parties cause when accessing the Property under this paragraph.

14. **No Barriers**: From and after the date hereof, no barriers, fences or other obstructions shall be erected so as to unreasonably interfere with the Remedial Action and Asset Removal contemplated hereunder.

15. **Insurance**: Each party hereto or, if applicable, any contractor, subcontractor or other representative of such party acting on behalf of such party shall maintain commercial general liability insurance and builders risk insurance with respect to the duties and obligations to be performed by such party or such contractor, subcontractor or other representative of such party under this Easement Agreement in customary and reasonable amounts, and with insurers licensed in St. Croix, U.S. Virgin Islands, and each such insurance policy of Grantee or any Grantee Party shall name Grantor and its successors and/or assigns as additional insured as their interests may appear. In addition, each party hereto or the applicable representative of such party shall furnish the other party hereto with a certificate of insurance evidencing its compliance with the requirements of this section within ten (10) days after the request of such other party.

16. **Repair and Maintenance**: Grantor Parties shall use commercially reasonable efforts to preserve, maintain and protect in all material respects all Improvements and all driveways, roads, aisles and throughways on the Property, in each case, in good condition and repair in order to allow access by Grantee Parties as provided herein to the extent such Improvements and driveways, roads, aisles and throughways are utilized in the operations of the Property. If there is a breach by any party of its obligations in this section and (a) such breach is not cured by the defaulting party by the tenth (10^{th}) day after written notice thereof is given to the defaulting party (the "**Repair Deadline**") or (b) if such breach cannot reasonably be cured by the Repair Deadline and the defaulting party has failed to take reasonable steps to cure such breach by, or fails to continue to use its reasonable efforts to cure such breach after, the Repair Deadline, then, in each case, the non-defaulting party shall have the right to conduct the maintenance, repair or replacement that is needed and to receive from the defaulting party the non-defaulting party's actual and reasonable expenses for same. Notwithstanding the foregoing, any repair or

replacement to any portion of the Property or any Improvements, or any roadway located within the Property, due solely to the willful or negligent acts of a Grantee Party or a Grantor Party shall be borne by such party.

17. **Reserved Rights of Grantor**: Grantor hereby reserves unto itself, Grantor Parties and any other non-Grantee authorized occupants of the Property all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights, and easements granted herein.

18. **No Public Access and Use**: No right of access or use by the general public to any portion of the Property is conveyed by this Easement Agreement.

19. **Notice to Transferee**: Any Person transferring an interest in the Property shall, in advance of such transfer, provide a copy of this Easement Agreement to the transferee.

20. **Covenant Running With the Land:** This Easement Agreement is intended and shall be a covenant running with the land, and shall burden, benefit and run with the Property and be binding on the Property and on all present and future occupants of the Property or other Persons having any right, title, interest or estate in the Property until the later of the Remediation Completion Date and the Asset Removal Completion Date (such date, the "**Termination Date**"), at which point this Easement Agreement shall terminate. In the event that Grantee requires access to the Property following the termination of this Easement Agreement to perform additional Remedial Actions or Asset Removals, Grantor and Grantor's Parties and all occupants of the Property each agree to enter into a new access agreement with Grantee under terms and conditions substantially identical to this Easement Agreement.

21. **Duty to Restore**. Within five (5) days following the Termination Date, Grantee shall (a) remove all of Grantee's personal property from the Property, and (b) restore any Property that was affected by Grantee's Parties in connection with any Asset Removal to substantially the same condition it was in on the date and at the time of the execution of this Easement Agreement (subject to normal wear and tear, natural occurrences (such as rain, wind, storms and erosion) and any changes or modifications made to such Property other than by any Grantee Party); provided, that Grantee shall have no obligation to restore any Property that was subject to a Remedial Action to the condition it was in on the date and at the time of the execution of this Easement Agreement.

22. **Recordation**. Upon the Termination Date, Grantee shall execute and record at its sole cost and expense a termination agreement (in a form reasonably acceptable to Grantor) evidencing the termination of this Easement Agreement.

23. **Enforcement:** Each Grantor Party and Grantee Party shall be entitled to enforce the terms of this Easement Agreement by resort to specific performance or legal process. Enforcement of the terms of this Easement Agreement shall be at the discretion of such Grantor Party or Grantee Party, as applicable, and any forbearance, delay, or omission to exercise its rights under this Easement Agreement in the event of a breach of any term of this Easement Agreement shall not be deemed to be a waiver by any Grantor Party or Grantee Party, as applicable, of such term or of any subsequent breach of the same or any other term, or of any of the rights of any Grantor

Party or Grantee Party, as applicable, under this Easement Agreement. If any Grantor Party or Grantee Party prevails in an action to enforce the terms of this Easement Agreement, such Grantor Party or Grantee Party, as applicable, shall be entitled to an award of its reasonable attorneys' fees.

24. **Damages**: Each Grantee Party shall be entitled to recover damages for violations of the terms of this Easement Agreement.

25. **Indemnification**: From and after the Closing, Grantee shall indemnify, defend, (or, where applicable, pay the defense costs for) and hold harmless the Grantor Parties from, against and in respect of any Losses incurred or sustained by, or imposed on, the Grantor Parties to the extent arising from or in connection with Grantee's conduct of an Asset Removal or Remedial Action pursuant to this Easement Agreement, excluding only any Loss solely caused by or that arise from the gross negligence or willful misconduct of any Grantor Party.

26. **Notices**: All notices, requests, claims, demands, waivers and other communications hereunder shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by email transmission to the respective parties hereto as follows (or, in each case, as otherwise notified by any of the parties hereto) and shall be effective and deemed to have been given (a) immediately upon sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment) when sent by email, provided that if such notice or other communication is sent after 5:00 p.m., New York time, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day for the recipient and (b) when received by the addressee if delivered by hand or overnight courier service or certified or registered mail on any Business Day:

If to Grantee, to:

HOVENSA L.L.C.
1 Estate Hope
Christiansted, St. Croix 00820
Attention: Sloan Schoyer
email: sschoyer@hovensa.com

with a copy to:

White & Case LLP
1155 Avenue of the Americas
New York, New York 10036
Attention: John M. Reiss
Gregory Pryor
Fax: (212) 354-8113
email: jreiss@whitecase.com
gpryor@whitecase.com;

and to:

Curtis, Mallet-Prevost, Colt & Mosle LLP
101 Park Avenue
New York, New York 10178
Attention: General Counsel
Fax: (212) 697-1559

if to Grantor, to:

Limetree Bay Holdings, LLC
c/o ArcLight Capital Partners, LLC
200 Clarendon Street, 55th Floor
Boston, Massachusetts 02117

Attention: Christine M. Miller
Fax: (617) 867-4698
email: cmiller@arclightcapital.com;

with a copy (which shall not constitute notice or service of process) to:

Latham & Watkins LLP
885 Third Avenue
New York, New York 10022
Attention: David S. Allinson
Christopher G. Cross
Fax: (212) 751-4864
email: david.allinson@lw.com
christopher.cross@lw.com;

and

Nichols, Newman, Logan, Grey & Lockwood, P.C.
1131 King Street, Christiansted, St. Croix
U.S. Virgin Islands 00820-4971
Attention: G. Hunter Logan, Jr.
Todd H. Newman
Fax: (340) 773-3409
email: hlogan@nnldlaw.com
tnewman@nnldlaw.com

27. **General Provisions**:

a) **Controlling Law:** The interpretation and performance of this Easement Agreement shall be governed by the Laws of the U.S. Virgin Islands.

b) **Severability**: If any term, provision, agreement, covenant or restriction of this

Easement Agreement, or the application of it to any Person or circumstance, is found to be invalid, void or unenforceable, the remainder of the terms, provisions, agreements, covenants and restrictions of this Easement Agreement, or the application of such terms, provisions, agreements, covenants and restrictions to Persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

c) **No Forfeiture**: Nothing contained herein will result in a forfeiture or reversion of Grantor's title to the Property in any respect.

d) **Successors**: The covenants, terms, conditions, and restrictions of this Easement Agreement shall be binding upon, and inure to the benefit of the Grantor Parties and Grantee Parties and shall continue as a servitude running with the Property. The terms "Grantor" and "Grantor Parties" wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and "Grantor Parties" and their personal representatives, heirs, successors, and assigns. The terms "Grantee" and "Grantee Parties," wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantee" and "Grantee Parties" and their personal representatives, heirs, successors, and assigns.

e) **Counterparts:** This Easement Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

f) **Modification:** This Easement Agreement may only be modified in a writing signed by each party hereto and recorded in the office of the Recorder of Deeds for the District of St. Croix, U.S. Virgin Islands.

g) **Compliance Certificate:** Within ten (10) Business Days after the written request of the other party hereto, a party shall provide an executed certificate in form and substance as reasonably approved by each party hereto with respect to the performance and compliance by the other party with the requirements of this Easement Agreement.

[SIGNATURES ON NEXT PAGE]

Executed as of the date first written above.[2]

LIMETREE BAY HOLDINGS, LLC,
as Grantor

Witness: _____ By: _____
Name:
Title:

Witness: _____

[*Appropriate notary block to be inserted*]

_____
Notary Public
My commission expires _____

[2] Note to draft: Original signature pages from both parties required for recordation in St. Croix.

HOVENSA L.L.C.,
as Grantee

Witness: _____

By: _____
Name:
Title:

Witness: _____

[*Appropriate notary block to be inserted*]

_____
Notary Public
My commission expires _____

Exhibit A - Legal description of the Property

[To come]

Exhibit B

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
BANKRUPTCY DIVISION
ST. CROIX, VIRGIN ISLANDS

In re:	)	
	)	Chapter 11
HOVENSA L.L.C.,	)	
	)	Bankruptcy No. 15- _____ ( )
Debtor.	)	

ORDER (I) ESTABLISHING BIDDING PROCEDURES RELATING TO THE SALE OF THE DEBTOR'S ASSETS, INCLUDING APPROVING BREAK-UP FEE AND EXPENSE REIMBURSEMENT, (II) ESTABLISHING PROCEDURES RELATING TO THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, INCLUDING NOTICE OF PROPOSED CURE AMOUNTS, (III) APPROVING FORM AND MANNER OF NOTICE RELATING THERETO, AND (IV) SCHEDULING A HEARING TO CONSIDER THE PROPOSED SALE

Upon the motion (the "Motion")[1] of HOVENSA L.L.C. (the "Debtor") for entry of an order, pursuant to Bankruptcy Code sections 105, 363, 365, 503, and 507, Bankruptcy Rules 2002, 6004, 6006, and 9014, and Local Rules 6004-1 and 6006-1: (a) approving the Bidding Procedures attached hereto as **Exhibit [1]**, including approval of the Break-Up Fee and the Expense Reimbursement as allowed administrative expenses with priority pursuant to sections 503(b) and 507(a)(2) of the Bankruptcy Code, senior to all other administrative expenses of the Debtor (other than any superpriority claim granted in connection with any debtor-in-possession financing approved by the Court), (b) establishing Assumption and Assignment Procedures in connection with the Sale Transaction, (c) approving the form and manner of notice of all procedures, protections, schedules, and agreements in connection with the Auction and the Sale

[1] Capitalized terms used in this Order but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion or the Bidding Procedures, as applicable.

Transaction, and (d) scheduling a Sale Hearing to approve the Sale Transaction; and upon the Hill Certification; and upon the record at the hearing before the Court (the "Bidding Procedures Hearing"); and after due deliberation thereon; and sufficient cause appearing therefor:

THE COURT HEREBY FINDS AND DETERMINES THAT:[2]

A. This Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue of this chapter 11 case and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This proceeding on the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b).

B. The statutory predicates for the relief sought in the Motion are sections 105(a), 363, 365, 503, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, and 9014, and Local Rules 6004-1 and 6006-1.

C. The Debtor has articulated good and sufficient business justification for the Court to approve the Bidding Procedures and the Assumption and Assignment Procedures, and each set of procedures is reasonable and appropriate under the circumstances.

D. The form and manner of each of the notices approved herein are appropriate and reasonably calculated to provide interested parties with timely and proper notice of the Bidding Procedures, the Assumption and Assignment Procedures, the Auction, and the Sale Hearing under the circumstances.

E. The Debtor has provided good and sufficient notice of the relief sought in the Motion, and no other or further notice of the Motion need be effectuated except as expressly set

[2] The findings and conclusions set forth herein shall constitute this Court's findings of fact and conclusions of law as described in Bankruptcy Rule 7052, made applicable to this matter by Bankruptcy Rule 9014.

forth herein with respect to the Auction and the Sale Hearing. Subject to the immediately preceding sentence, a reasonable opportunity to object or to be heard regarding the relief requested in the Motion was afforded to all interested persons and entities.

F. The Bidding Procedures (including the Bid Protections) were negotiated in good faith and at arms' length between the Debtor and the Stalking Horse Bidder.

G. The entry of this Order approving the relief requested by the Motion (including the Bid Protections) is in the best interests of the Debtor's estate and its creditors. Given the Debtor's financial condition, a prompt sale of its assets is critical in order to maximize the value of its assets for the benefit of the Debtor's estate and its creditors.

H. The Debtor has demonstrated that the Bid Protections, including the Break-Up Fee and Expense Reimbursement, are a material inducement to (and express conditions of) the Stalking Horse Bidder to submit the bid that will serve as the minimum bid upon which the Debtor and other bidders may rely, are necessary to ensure that the Stalking Horse Bidder will continue to pursue its proposed acquisition of the Purchased Assets, and are intended to promote more competitive bidding by inducing the bid of the Stalking Horse Bidder. The Stalking Horse Bidder has provided a material benefit to the Debtor, its estate, and its creditors by increasing the likelihood of competitive bidding at the Auction and encouraging additional bidders to participate in the bidding process, thereby increasing the likelihood that the Debtor will receive the best possible price for the Assets. The Bid Protections are reasonable and appropriate in light of, among other things, (i) the substantial efforts that have been and will be expended by the Stalking Horse Bidder in performing the substantial due diligence and incurring the expenses necessary and entering into the Stalking Horse Agreement with the knowledge and risk that arises from participating in the Sale Transaction and subsequent bidding process, and (ii) the

benefits that the Stalking Horse Bidder has provided to the Debtor's estate and creditors and all parties in interest by subjecting the Sale Transaction to higher or better offers. The Stalking Horse Bidder is unwilling to commit to hold open its offer to acquire the Purchased Assets under the terms of the Stalking Horse Agreement unless it is assured of the approval of the Bid Protections as set forth herein and in the Stalking Horse Agreement. Consequently, the Bid Protections represent actual and necessary expenses of the Debtor's estate, within the meaning of Bankruptcy Code section 503(b), and are reasonable and appropriate under the circumstances.

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED, as set forth herein.

2. All objections to the relief requested in the Motion, if any, that have not been withdrawn, waived, or settled as announced to the Court at the Bidding Procedures Hearing are denied and overruled in their entirety on the merits, with prejudice.

BIDDING PROCEDURES

3. The Bidding Procedures, substantially in the form attached hereto as **Exhibit [1]** and incorporated herein by reference, are hereby approved. The failure specifically to include or reference a particular provision of the Bidding Procedures in this Order shall not diminish or impair the effectiveness of such provision.

4. The Debtor may proceed with the Sale Transaction in accordance with the Bidding Procedures and is authorized to take any and all actions necessary or appropriate to implement the Bidding Procedures in accordance with the following timeline:

Milestone	Date[3]
Deadline to file Designated Contract Schedule	T + [10] days
Bid Deadline – Due Date for Bids, Designation of Contracts and Leases (if applicable), and Deposits	T + [51] days
Deadline for Sale Objections and Cure Objections	T + [50] days
Auction (if necessary)	T + [58] days
Sale Hearing	T + [60] days

5. The process for submitting Qualified Bids is fair, reasonable, and appropriate and is designed to maximize recoveries for the benefit of the Debtor's estate, its creditors, and other parties in interest. Any disputes as to the selection of a Qualified Bid, the Leading Bid, the Successful Bidder, or the Backup Bidder shall be resolved by this Court.

6. The Debtor shall conduct the Auction in the event it receives one or more timely and acceptable Qualified Bids. The Good Faith Deposits of all Qualified Bidders shall be held in one or more interest-bearing escrow accounts by the Debtor, but shall not become property of the Debtor's estate absent further court order.

BID DEADLINE, AUCTION AND SALE HEARING

7. The deadline for submitting a Qualified Bid shall be _____, 2015, at 5:00 p.m. (prevailing Eastern Time) (the "Bid Deadline").

8. The Stalking Horse Agreement is a Qualified Bid and the Stalking Horse Bidder is a Qualified Bidder, for all purposes and requirements pursuant to the Bidding Procedures.

[3] [T = Petition Date]

9. The Auction, if any, shall be held at the offices of counsel for the Debtor, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019 on _____, 2015, at [--:--] a.m. (prevailing Eastern Time), or such other place and time as the Debtor shall notify all Qualified Bidders that have submitted Qualified Bids (including the Stalking Horse Bidder).

10. Each Qualified Bidder (including the Stalking Horse Bidder) participating in the Auction must confirm that it (a) has not engaged in any collusion with respect to the bidding or sale of any of the assets described in the Motion, (b) reviewed, understands, and accepts the Bidding Procedures, and (c) consents to the core jurisdiction of the Bankruptcy Court.

11. All interested parties (whether or not Qualified Bidders) that participate in the bidding process shall be deemed to have knowingly and voluntarily (a) consented to the entry of a final order by this Court in connection with the Motion or this Order (including any disputes relating to the bidding process, the Auction, and/or the Sale Transaction) to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution and (b) waived any right to jury trial in connection with any disputes relating to any of the foregoing matters.

12. The Court shall hold a hearing on _____, 2015, at [--:--] a.m. (prevailing Eastern Time) or as soon thereafter as counsel and interested parties may be heard (the "Sale Hearing"), at which time the Court shall consider the approval of the Sale Transaction to the Successful Bidder, and confirm the results of the Auction, if any. The Sale Hearing may be adjourned or rescheduled, in consultation with the Consultation Parties, by an announcement of the adjourned date at the Sale Hearing or by the filing of a hearing agenda.

13. Any Objections to approval of the Sale Transaction shall (a) be in writing, (b) state the basis of such objection with specificity and (c) be filed with this Court and served so as to be actually received by the Bankruptcy Court and the following parties on or before _____, 2015, at 4:00 p.m. (prevailing Eastern Time) (the "Objection Deadline"): (1) the Debtor, 1 Estate Hope, Christiansted, St. Croix, U.S.V.I. 00820, Attn: Thomas E. Hill, Chief Restructuring Officer; (2) counsel for the Debtor, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, Attn: Lorenzo Marinuzzi, Esq. and Jennifer L. Marines, Esq.; (3) investment banker for the Debtor, Lazard Frères & Co., JP Morgan Chase Tower, 600 Travis Street, Suite 2300, Houston, Texas 77002, Attn: Doug Fordyce; (4) counsel to Hess Oil Virgin Islands Corporation, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York, 10022, Attn: Christopher Greco, Esq.; (5) counsel to PDVSA V.I., Inc., Curtis Mallet-Prevost, Colt & Mosle LLP, 101 Park Avenue, New York, New York 10178, Attn: Steven J. Reisman, Esq.; (6) special mergers and acquisition counsel for the Debtor, White & Case LLP, 1155 Avenue of the Americas, New York, New York 10036, Attn: Greg Pryor, Esq.; (7) counsel to the Stalking Horse Bidder, Latham & Watkins LLP, 885 Third Avenue, New York, NY 10022, Attn: Keith Simon, Esq.; and (8) [others] (collectively, the "Notice Parties"). The failure to file and serve an objection to the Sale Transaction by the Objection Deadline shall be a bar to the assertion thereof at the Sale Hearing or thereafter, and shall be deemed to constitute consent to entry of the Sale Order and consummation of the Sale Transaction and all transactions related thereto including, without limitation, for purposes of section 363(f) of the Bankruptcy Code. Any creditor that receives notice of the Sale Hearing and fails to timely file an objection to the Sale Transaction shall be deemed to have consented under section 363(f)(2) of the Bankruptcy Code to a sale free and clear of such creditor's Interests, if any.

14. If the Debtor does not receive any Qualified Bid (other than the Stalking Horse Bid) on or prior to the Bid Deadline, the Debtor shall promptly cancel the Auction and seek approval of the Sale Transaction of the Purchased Assets to the Stalking Horse Bidder pursuant to the Stalking Horse Agreement at the Sale Hearing. Subject to the terms of the Bidding Procedures and the applicable purchase agreement, the Back-Up Bidder shall be required to keep its Bid open and irrevocable until the Outside Backup Date.

NOTICE PROCEDURES

15. The form of the Auction and Sale Notice and the Cure Notice are hereby approved and appropriate and sufficient for all purposes and no other or further notice shall be required if the Debtor serves such notices in the manner provided in the Motion to the extent modified by this Order.

16. Within three (3) business days after the entry of this Order, or as soon as practicable thereafter, the Debtor shall cause the Auction and Sale Notice to be served upon (a) all entities known to have expressed an interest in a transaction with respect to some or all of the Debtor's assets [during the past eighteen (18) months]; (b) all entities known to have asserted any Interest in or upon any of the Debtor's assets; (c) all federal, state, and local regulatory or taxing authorities or recording offices which have a reasonably known interest in the relief requested by this Motion; (d) the Internal Revenue Service; (e) counsel to any official committee appointed in this chapter 11 case; (f) the parties included on the Debtor's list of twenty (20) largest unsecured creditors; (g) those parties who have made the appropriate filings requesting notice of all pleadings filed in the chapter 11 case; (h) the Office of the United States Trustee for the District of the U.S. Virgin Islands; (i) the United States Attorney General's Office for the District of the Virgin Islands; (j) known counterparties to any unexpired leases or executory

contracts that could potentially be assumed and assigned to the Successful Bidder; and (k) such other entities as may be required by applicable Bankruptcy Rules or applicable Local Rules or as may be reasonably requested by the Stalking Horse Bidder.

17. Within three (3) business days after the entry of this Order, or as soon as practicable thereafter, the Debtor shall cause the Auction and Sale Notice to be published in the [*St. Croxi/St. Thomas Newspaper,* the *Financial Times,* and the *Wall Street Journal*].[4]

APPROVAL OF THE ASSUMPTION AND ASSIGNMENT PROCEDURES

18. The Assumption and Assignment Procedures are hereby approved.

19. To the extent the Debtor has not already filed the Designated Contract Schedule, as soon as practicable, but no later than seven (7) days after entry of this Order, the Debtor shall file the Designated Contracts Schedule. The Debtor shall also serve the Contract Notice Parties with a Cure Notice on the date that the Designated Contracts Schedule is filed with the Court, which shall (a) state the Cure Amounts, (b) notify the non-Debtor party that such party's contract or lease may be assumed and assigned to a purchaser of the Debtor's assets at the conclusion of the Sale Hearing, (c) state the date of the Sale Hearing and that objections to any Cure Amount or to assumption and assignment of any Designated Contract will be heard at the Sale Hearing or at a later hearing, as determined by the Debtor, and (d) state a deadline by which the non-Debtor party shall file an objection to the Cure Amount or to the assumption and assignment of the Designated Contracts (including on the basis of adequate assurance of future performance of the Stalking Horse Bidder). For the avoidance of doubt, the inclusion of a contract, lease, or agreement on the Designated Contracts Schedule shall not constitute an admission that such contract, lease, or agreement is an executory contract or lease and/or shall not prevent the Debtor

[4] [NTD: To discuss appropriate publications]

or the Stalking Horse Bidder from withdrawing such assumption or rejecting such Designated Contract at any time before such Designated Contract is actually assumed and assigned pursuant to an Order of the Court.

20. Objections to the Cure Amounts set forth in the Designated Contracts Schedule or to assumption and assignment of any Designated Contract (including on the basis of adequate assurance of future performance of the Stalking Horse Bidder) must (a) be in writing, (b) state the basis for such objection, (c) state with specificity what Cure Amount or adequate assurance of future performance the party to the Designated Contract believes is required (in all cases with appropriate documentation in support thereof as to the alleged Cure Amount), and (d) be actually received no later than [ten (10) days] before the Sale Hearing by the Notice Parties.

21. At least [ten (10)] days prior to the closing of the Sale Transaction, the Debtor shall file a notice identifying each Selected Contract that the Successful Bidder wishes to assume and assign. If the Successful Bidder is not the Stalking Horse Bidder, a supplemental notice shall indicate the deadline for objecting to the assumption and assignment of the Selected Contract to such Successful Bidder, which shall be solely on the basis of adequate assurance of future performance of the Successful Bidder.

22. Unless a non-Debtor party to any executory contract or unexpired lease files an objection to the Cure Amount or adequate assurance of future performance by the applicable Cure Objection Deadline, such counterparty shall be deemed to consent to the treatment of its Designated Contract under section 365 of the Bankruptcy Code and the assumption and assignment thereof notwithstanding any anti-alienation provision or other restriction on assumption or assignment, and shall be forever barred and estopped from (a) objecting to the Cure Amount; (b) asserting or claiming any Cure Amount against the Debtor or any Successful

Bidder, other than the Cure Amount listed on the Cure Notice; and (c) asserting the lack or failure of adequate assurance of future performance from the applicable assignee. In addition, the Cure Amounts set forth in the Cure Notice shall be binding upon the non-Debtor parties to the Selected Contracts for all purposes in these chapter 11 cases and otherwise, and will constitute a final determination of the total Cure Amounts required to be paid in connection with the assumption and assignment of the Selected Contracts; *provided, however*, that the Cure Amount set forth in the Cure Notice may be reduced by any amounts the Debtor pays under a Selected Contract on or after the Petition Date.

BID PROTECTIONS

23. The Bid Protections are hereby approved on the terms and subject to the conditions set forth in the Stalking Horse Agreement. The Debtor shall pay any and all such amounts owing to the Stalking Horse Bidder on account of the Bid Protections in full in cash in accordance with the terms of the Stalking Horse Agreement without further action of, order from, or notice to the Court.

24. The Break-Up Fee and the Expense Reimbursement shall constitute allowed super-priority administrative expense claims against the Debtor under Bankruptcy Code sections 503(b)(1) and 507(a)(2), senior to all other administrative expense claims against the Debtor (other than any superpriority claims granted in connection with any debtor-in-possession financing approved by the Court). If the Stalking Horse Bidder is not the Successful Bidder, then, subject to the terms and conditions of the Stalking Horse Agreement and the closing of a Sale Transaction with a Successful Bidder, the Good Faith Deposit of such Successful Bidder shall be used first to pay in cash any Break-Up Fee and Expense Reimbursement to which the Stalking Horse Bidder is entitled hereunder and under the Stalking Horse Agreement by reason

of it not being the Successful Bidder. No person or entity, other than the Stalking Horse Bidder, shall be entitled to any expense reimbursement, break-up fee, "topping," termination, or other similar fee or payment, and by submitting a bid, such person or entity is deemed to have waived their right to request or to file with this Court any request for expense reimbursement or any fee of any nature, whether by virtue of section 503(b) of the Bankruptcy Code, substantial contribution, or otherwise.

RELATED RELIEF

25. The automatic stay pursuant to section 362 of the Bankruptcy Code is hereby lifted to the extent necessary, without further order of the Court, to allow the Stalking Horse Bidder to deliver any notice provided for in the Stalking Horse Agreement, including, without limitation, a notice terminating the Stalking Horse Agreement, and allow the Stalking Horse Bidder to take any and all actions permitted under the Stalking Horse Agreement in accordance with the terms and conditions thereof.

26. The Debtor is hereby authorized to execute any additional or supplemental documents incident to the relief granted pursuant to this Order.

27. The Debtor is authorized to take any and all actions necessary to effectuate the relief granted herein, including any and all actions necessary to implement the Bidding Procedures.

28. Notwithstanding any applicability of Bankruptcy Rule 6004(h) and 6006(d), the terms and conditions of this Order shall be effective and enforceable immediately upon its entry. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

29. This Order shall be binding on the Debtor and any chapter 7 or chapter 11 trustee or other estate representative appointed for the Debtor. The Stalking Horse Bidder shall have standing to appear and be heard on all issues relating to the the Bidding Procedures, the Auction, and/or the Sale.

30. To the extent the provisions of this Order are inconsistent with the provisions of any Exhibit referenced herein or with the Motion, the provisions of this Order shall control and govern.

31. This Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.

Dated: _____, 2015
St. Croix, U.S. Virgin Islands

UNITED STATES BANKRUPTCY JUDGE

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
BANKRUPTCY DIVISION
ST. CROIX, VIRGIN ISLANDS

In re:	)	
	)	Chapter 11
HOVENSA L.L.C.,	)	
	)	Bankruptcy No. 15- _____ (___)
Debtor.	)	

BIDDING PROCEDURES

On September __, 2015, HOVENSA L.L.C. (the "Debtor") filed a voluntary petition under chapter 11 of the United States Code in the United States for the District Court of the Virgin Islands, Bankruptcy Division (the "Bankruptcy Court") under Case No. 15-_____ (___) (the "Bankruptcy Case").

On [September] __, 2015, the Debtor entered into an Asset Purchase Agreement (the Stalking Horse Agreement") with [Bidder] ("[Bidder]"), [name of Purchaser vehicle] (the "Purchaser" and together with [Bidder], the "Stalking Horse Bidder") and Hess Oil Virgin Islands Corp. ("HOVIC").[5] By the Stalking Horse Agreement, the Stalking Horse Bidder has agreed to, among other things, purchase certain assets of the Debtor and certain tug boats of HOVIC (collectively, the "Terminal Assets", including certain executory contracts and unexpired leases of the Debtor, the "Designated Contracts") and assume certain liabilities, in each case, subject to the terms and conditions of the Stalking Horse Agreement.

On September __, 2015, the Debtor filed the *[Name of Sale Motion]* (the "Sale Motion") [Docket No.__]. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Sale Motion.

On September __, 2015, the Bankruptcy Court entered an order (the "Bidding Procedures Order") granting certain relief requested in the Sale Motion, including approval of the Bidding Procedures (as defined below). A copy of the Bidding Procedures Order may be obtained on the website maintained by the Debtor's claims and noticing agent [insert link to website] or by contacting the Debtor's counsel, in writing or by e-mail, at Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, Attn: Lorenzo Marinuzzi, Esq. (lmarinuzzi@mofo.com) and Jennifer L. Marines, Esq. (jmarines@mofo.com).

Set forth below are the bidding procedures approved by the Bankruptcy Court (the "Bidding Procedures") to be employed in connection with a transaction (the "Sale Transaction") for the sale of all or substantially all of the Debtor's assets, including, without limitation, the

Terminal Assets (collectively, the "Assets"). At a hearing to be held before the Bankruptcy Court (the "Sale Hearing"), the Debtor will seek entry of an order (the "Sale Order") approving the Sale Transaction.

Assets to Be Sold

The Debtor is offering for sale all of the Assets. Except as otherwise provided in the Stalking Horse Agreement, a Modified Asset Purchase Agreement or an Alternative Asset Purchase Agreement submitted by a Successful Bidder (as such terms are defined below), all of the Debtor's right, title and interest in and to the Assets subject thereto shall be sold free and clear of any and all pledges, liens, security interests, encumbrances, claims, charges, options and interests thereon (collectively, "Interests") to the maximum extent permitted by sections 363 and 365 of the Bankruptcy Code, with such Interests to attach to the net proceeds of the sale of the Assets with the same validity and priority as such Interests applied against the Assets. Notwithstanding the foregoing, the Debtor reserves the right to contest the validity, nature, extent, or priority of and/or seek to set aside or avoid any and all Interests under applicable law. For the avoidance of doubt, the Debtor shall retain all rights to the Assets that are not sold pursuant to a bid accepted by the Debtor pursuant to these Bidding Procedures and approved by the Bankruptcy Court.

Although the Stalking Horse Agreement contemplates a sale of only the Terminal Assets, the Debtor is offering for sale, pursuant to these Bidding Procedures, all of the Assets, and the Debtor will consider any and all Qualified Bids (as defined below) for the Assets.

Key Dates for Potential Competing Bidders

The Bidding Procedures provide interested parties with the opportunity to qualify for and participate in an auction to be conducted by the Debtor (the "Auction") and to submit Bids (as defined below) for the Assets. Subject to the terms herein, the Debtor shall accept Bids until **[[•] at 5:00 p.m. (EST)]** (the "Bid Deadline").

Due Diligence

Communications with the Debtor and Access to Diligence Materials

To participate in the bidding process and to receive access to due diligence, including a schedule of all executory contracts and unexpired leases of the Debtor (the "Diligence Materials"), a party must submit to the Debtor (i) an executed confidentiality agreement substantially in the form attached hereto as **Exhibit A**, or such other form reasonably satisfactory to the Debtor (a "Confidentiality Agreement"), and (ii) reasonable evidence demonstrating the party's financial capability to consummate a Sale Transaction as reasonably determined by the Debtor, in consultation with the advisors to and representatives of HOVIC and PDVSA V.I., Inc. ("PDV-VI," and together with HOVIC, the "Consultation Parties"). A party who qualifies for access to Diligence Materials pursuant to the prior sentence shall be a "Qualified Bidder." The Stalking Horse Purchaser is deemed a Qualified Bidder for all purposes, and the Stalking Horse Agreement constitutes a Qualified Bid for the Terminal Assets for all purposes.

The Debtor reserves the right to withhold any Diligence Materials that the Debtor determines are business-sensitive or otherwise not appropriate for disclosure to a Qualified Bidder who is a competitor of the Debtor or is affiliated with any competitor of the Debtor. Neither the Debtor nor their representatives shall be obligated to furnish information of any kind whatsoever to any person that is not determined to be a Qualified Bidder. The Debtor may, in the exercise of its reasonable business judgment and in consultation with the Consultation Parties, extend a Qualified Bidder's time to conduct due diligence after the Bid Deadline until the Auction.

All due diligence requests must be directed to Lazard Frères & Co., JP Morgan Chase Tower, 600 Travis Street, Suite 2300, Houston, Texas 77002, Attn: Doug Fordyce (713) 236-4640; (doug.fordyce@lazard.com).

Communications with Qualified Bidders

Notwithstanding anything to the contrary in these Bidding Procedures, all substantive direct communications between Qualified Bidders shall involve the Debtor and its advisors to the extent reasonably practicable.

Due Diligence from Qualified Bidders

Each bidder shall comply with all reasonable requests for additional information and due diligence access requested by the Debtor or its advisors regarding the ability of the Qualified Bidder to consummate its contemplated transaction. Failure by a Qualified Bidder to comply with such reasonable requests for additional information and due diligence access may be a basis for the Debtor, in consultation with the Consultation Parties, to determine that such bidder is no longer a Qualified Bidder or that a bid made by such Qualified Bidder is not a Qualified Bid.

Bid Requirements

To be eligible to participate in the Auction, each offer, solicitation, or proposal (each, a "Bid"), other than the Stalking Horse Bid, must be (i) made by a Qualified Bidder, (ii) received by the Bid Notice Parties (as defined below) prior to the Bid Deadline, and (iii) reasonably determined by the Debtor, in consultation with the Consultation Parties, to satisfy each of the following conditions:

(a) Confidentiality Agreement. The Qualified Bidder must have entered into a Confidentiality Agreement.

(b) Good Faith Deposit: Each Bid must be accompanied by a cash deposit in the amount of ten percent (10%) of the cash purchase price, before any reductions for assumed liabilities, to an interest-bearing escrow account to be identified and established by the Debtor (the "Good Faith Deposit").

(c) Executed Agreement: Each Bid for the Terminal Assets must: (i) be based on the Stalking Horse Agreement, and (ii) include executed transaction documents, signed by an authorized representative of such Qualified Bidder, pursuant to which the Qualified Bidder proposes to effectuate a Sale Transaction. Each Bid for the Terminal Assets must also include a redlined copy of the Stalking Horse Agreement marked against a modified version of the Stalking Horse Agreement (together, with all schedules and exhibits, a "Modified Asset Purchase Agreement") to show all changes requested by the Qualified Bidder (including the inclusion of the purchase price). Each Bid that contemplates the purchase of Assets other than the Terminal Assets and the assumption of liabilities other than those to be assumed pursuant to the Stalking Horse Agreement must include executed transaction documents (together, with all schedules and exhibits, an "Alternative Asset Purchase Agreement"), signed by an authorized representative of such Qualified Bidder, pursuant to which the Qualified Bidder proposes to effectuate a Sale Transaction.

(d) Minimum Bid: A Bid for the Terminal Assets must propose a minimum cash purchase price, including any assumption of liabilities and any earnout or similar provisions, that in the Debtor's reasonable business judgment, after consulting with the Consultation Parties, has a value greater than the sum of (i) the purchase price set forth in the Stalking Horse Agreement, (ii) the Break-Up Fee, (iii) the Expense Reimbursement Amount, and (iv) $5 million (the "Overbid Amount"). The amount of a minimum Bid that includes Assets in addition to the Terminal Assets and/or the assumption of liabilities in addition to those to be assumed pursuant to the Stalking Horse Agreement shall be determined in the Debtor's reasonable business judgment in consultation with the Consultation Parties.

(e) Same or Better Terms: In addition to the minimum purchase price requirements set forth in (d)]above, each Bid must be on terms that the Debtor, in its reasonable

business judgment and after consulting with the Consultation Parties, determines are better than the terms of the Stalking Horse Agreement.

(f) Designation of Assigned Contracts and Leases: A Bid must identify any and all executory contracts and unexpired leases of the Debtor that the Qualified Bidder wishes to be assumed and assigned to the Qualified Bidder at closing, pursuant to a Sale Transaction. A Bid must confirm that the Qualified Bidder will be responsible for any cure costs associated with such assumption to the same extent as the Stalking Horse Agreement.

(g) Designation of Assumed Liabilities: A Bid must identify all liabilities which the Qualified Bidder proposes to assume.

(h) Corporate Authority: A Bid must include written evidence reasonably acceptable to the Debtor, in consultation with the Consultation Parties, demonstrating appropriate corporate authorization to consummate the proposed Sale Transaction; *provided that*, if the Qualified Bidder is an entity specially formed for the purpose of effectuating the Sale Transaction, then the Qualified Bidder must furnish written evidence reasonably acceptable to the Debtor of the approval of the Sale Transaction by the equity holder(s) of such Qualified Bidder.

(i) Disclosure of Identity of Qualified Bidder: A Bid must fully disclose the identity of each entity that will be bidding for or purchasing the Assets or otherwise participating in connection with such Bid, and the complete terms of any such participation, including any agreements, arrangements or understandings concerning a collaborative or joint bid or any other combination concerning the proposed Bid.

(j) Proof of Financial Ability to Perform: A Bid must include written evidence that the Debtor may reasonably conclude, in consultation with its advisors and the Consultation Parties, demonstrates that the Qualified Bidder has the necessary financial ability to close the Sale Transaction, comply with its obligations thereunder, including future satisfaction of all obligations under the Modified Asset Purchase Agreement or Alterative Asset Purchase Agreement, as the case may be, and all liabilities to be assumed. Such information must include, inter alia, the following:

(1) contact names and numbers for verification of financing sources;

(2) written evidence of the Qualified Bidder's internal resources and proof of any debt funding commitments from a recognized banking institution and,

if applicable, equity commitments in an aggregate amount equal to the cash portion of such Bid or the posting of an irrevocable letter of credit from a recognized banking institution issued in favor of the Debtor in the amount of the cash portion of such Bid, in each case, as are needed to close the Sale Transaction;

(3) the Qualified Bidder's current financial statements (audited if they exist) or other similar financial information reasonably acceptable to the Debtor, in consultation with the Consultation Parties; and

(4) any such other form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtor, in consultation with the Consultation Parties, or other information that the Debtor may request from such Qualified Bidder demonstrating that such Qualified Bidder has the ability to close the Sale Transaction.

(k) Regulatory and Third Party Approvals: A Bid must set forth each regulatory and third-party approval required for the Qualified Bidder to consummate the Sale Transaction, and the time period within which the Qualified Bidder expects to receive such regulatory and third-party approvals, and the Debtor, in consultation with the Consultation Parties, may consider in evaluating the Bid the timing and likelihood of such approvals, and any actions the Qualified Bidder will need to take to ensure receipt of such approval(s) as promptly as possible. The Bid must contain the affirmative representation of the Qualified Bidder that the Qualified Bidder understands and agrees that the Qualified Bidder will cooperate with the Debtor and the Consultation Parties in negotiations with the GVI regarding the Sale Transaction.

(l) Contact Information and Affiliates: A Bid must provide the identity and contact information for the Qualified Bidder and full disclosure of any parent companies of the Qualified Bidder.

(m) Contingencies: A Bid may not be conditioned on obtaining financing or any internal approval, or on the outcome or review of due diligence. All conditions to completion of the Sale Transaction must be set forth in the Modified Asset Purchase Agreement or Alternative Asset Purchase Agreement.

(n) Irrevocable: A Bid must be irrevocable until entry of the Sale Order, *provided that* if such Bid is accepted as the Successful Bid or the Backup Bid (as defined below), such Bid shall continue to remain irrevocable through the Outside Closing Date (as defined below).

(o) Compliance with Diligence Requests: The Qualified Bidder submitting a Bid must have complied with reasonable requests for additional information and due diligence access requested by the Debtor to the reasonable satisfaction of the Debtor, in consultation with the Consultation Parties.

(p) No Collusion: The Qualified Bidder must acknowledge in writing that it has not engaged in any collusion with respect to any Bids or the Sale Transaction and agrees not to engage in any collusion with respect to any Bids, the Auction, or the Sale Transaction.

(q) Termination Fees: Except with respect to the Stalking Horse Bidder, a Bid shall not entitle the Qualified Bidder to any break-up fee, termination fee, or similar type of payment or expense reimbursement and, by submitting a Bid, the Qualified Bidder waives the right to pursue a substantial contribution claim under 11 U.S.C. § 503 related in any way to the submission of its Bid or participation in any Auction (as defined below).

(r) Consent to Jurisdiction: The Bid shall state that the Qualified Bidder consents to the jurisdiction of the Bankruptcy Court.

A Bid received from a Qualified Bidder that meets the above requirements, as determined by the Debtor in its reasonable business judgment after consulting with the Consultation Parties, shall constitute a "Qualified Bid" for such Assets; *provided* that if the Debtor receives a Bid prior to the Bid Deadline that is not a Qualified Bid, the Debtor may provide the Qualified Bidder with the opportunity to remedy any deficiencies prior to the Auction in order to render such Bid a Qualified Bid; *provided, further*, that for the avoidance of doubt, if any Qualified Bidder fails to comply with reasonable requests for additional information and due diligence access requested by the Debtor to the reasonable satisfaction of the Debtor, the Debtor may, after consulting with the Consultation Parties, disqualify any Qualified Bidder and Qualified Bid and such Qualified Bidder shall not be entitled to attend or participate in the Auction.

The Debtor, in consultation with the Consultation Parties, may accept a single Qualified Bid or multiple bids for non-overlapping material portions of the Assets such that, if taken together in the aggregate, would otherwise meet the standards for a single Qualified Bid. The Debtor, in consultation with the Consultation Parties, may also permit otherwise Qualified Bidders who submitted Bids by the Bid Deadline for a material portion of the Assets but who were not identified as a component of a single Qualified Bid consisting of multiple Bids, to participate in the Auction and to submit higher or otherwise better bids that in subsequent rounds of bidding may be considered, together with other Bids for non-overlapping material portions of the Assets, as part of such a single Qualifying Bid.

Bid Deadline

The following parties must receive a Bid in writing, on or before the Bid Deadline or such other date as may be agreed to by the Debtor, after consulting with the Consultation Parties: (1) the Debtor, 1 Estate Hope, Christiansted, St. Croix, U.S.V.I. 00820, Attn: Thomas E. Hill, Chief Restructuring Officer; (2) counsel for the Debtor, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, Attn: Lorenzo Marinuzzi, Esq. and Jennifer L. Marines, Esq.; (3) investment banker for the Debtor, Lazard Frères & Co., JP Morgan Chase Tower, 600 Travis Street, Suite 2300, Houston, Texas 77002, Attn: Doug Fordyce; (4) counsel to HOVIC, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York, 10022, Attn: Christopher Greco, Esq.; (5) counsel to PDV-VI, Curtis Mallet-Prevost, Colt & Mosle LLP, 101 Park Avenue, New York, New York 10178, Attn: Steven J. Reisman, Esq.; (6) special mergers and acquisition counsel for the Debtor, White & Case LLP, 1155 Avenue of the Americas, New York, New York 10036, Attn: Greg Pryor, Esq.; (7) counsel to the Stalking Horse Bidder, Latham & Watkins LLP, 885 Third Avenue, New York, NY 10022, Attn: Keith Simon, Esq. and (8) [others] (collectively, the "Bid Notice Parties").

Auction

If the Debtor receives a Qualified Bid other than the Bid submitted by the Stalking Horse Bidder by the Bid Deadline, the Debtor shall conduct an Auction to determine the highest or otherwise best Qualified Bid for the Assets. The Debtor shall have the right, in consultation with the Consultation Parties, to adjourn or cancel the Auction at any time either by delivering notice of such adjournment or cancellation to all Qualified Bidders or announcing such adjournment or cancellation on the record before the Bankruptcy Court or on the record at the Auction(s); *provided further*, that the Debtor shall have the right to conduct any number of Auctions on such date to accommodate Qualified Bids for certain, but less than all, of the Assets if the Debtor determines, in consultation with the Consultation Parties, that such process would be in the best interest of the Debtor's estate. The Debtor shall confirm to all Qualified Bidders the time and place of the Auction and any adjournments thereof. The Debtor will arrange for the bidding at the Auction to be transcribed, and the Auction shall be transcribed by a court reporter and all Qualified Bids (including the Successful Bid and Backup Bid) will be made and confirmed on the record of the court reporter.

If no Qualified Bid other than the Bid submitted by the Stalking Horse Bidder is received by the Bid Deadline, the Stalking Horse Agreement shall become the Successful Bid and the Stalking Horse Bidder shall be the Successful Bidder for the Terminal Assets. The Debtor shall promptly cancel the Auction, file a notice of cancellation with the Bankruptcy Court, and submit the Stalking Horse Bid to the Bankruptcy Court for approval at the Sale Hearing.

Auction Procedures

The Auction, if necessary, shall take place on or before [[•] at 10:00 a.m. (prevailing Eastern Time)] at the offices of counsel for the Debtor, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, or such other place and time as the Debtor shall notify in writing all Qualified Bidders that have submitted Qualified Bids (including the Stalking Horse Bidder). The Auction shall be conducted according to the following procedures, which procedures shall be subject to modification by the Debtor, as the Debtor, in consultation with the Consultation Parties, deems necessary to better promote the goals of the Auction and to comply with its fiduciary obligations. For the avoidance of doubt, the Debtor, in consultation with the Consultation Parties, may adopt any procedures for the Auction that the Debtor believes, in the exercise of its reasonable business judgment, will maximize value, including, but not limited to, conducting separate auctions for discrete pools of Assets.

Participation

Only the Debtor, the Consultation Parties, and any Qualified Bidder that has submitted a Qualified Bid (including the Stalking Horse Bidder), in each case, along with their respective representatives and advisors, or such other parties as the Debtor shall determine, in consultation with the Consultation Parties, shall attend the Auction (such attendance to be in person). Only Qualified Bidders (including the Stalking Horse Bidder), or such other parties as the Debtor shall determine, in consultation with the Consultation Parties, will be entitled to make any Bids at the Auction.

The Debtor Shall Conduct the Auction

The Debtor and its advisors shall direct and preside over the Auction. The Debtor, in consultation with the Consultation Parties, may conduct the Auction in the manner it

reasonably determines will result in the highest or otherwise best Qualified Bid. The Debtor shall provide each participant in the Auction with a copy of the Modified Asset Purchase Agreement or, if applicable, Alternative Asset Purchase Agreement associated with the highest or otherwise best Qualified Bid received before the Bid Deadline (such highest or otherwise best Qualified Bid, the "Leading Bid"). In addition, at the start of the Auction, the Debtor shall describe the terms of the Leading Bid on the record at the Auction. Each Qualified Bidder (including the Stalking Horse Bidder) participating in the Auction must confirm on the record that it (i) has not engaged in any collusion with respect to the bidding or sale of any of the assets described herein, (ii) reviewed, understands, and accepts the Bidding Procedures, and (iii) consents to the core jurisdiction of the Bankruptcy Court (as described more fully below). The Auction shall be transcribed and all Bids shall be made on the record at the Auction.

Terms of Overbids

An "Overbid" is any bid made at the Auction subsequent to the Debtor's announcement of the Leading Bid. Any Overbid for purposes of the Auction must comply with the following conditions:

(a) Minimum Overbid Increments: Any Overbid after and above the Leading Bid shall be made in cash increments at not less than $2.0 million. In order to maximize value, the Debtor reserves the right, in consultation with the Consultation Parties, to announce reductions or increases in the minimum incremental bids (or in valuing such bids) at any time during the Auction. Additional consideration in excess of the amount set forth in the respective Leading Bid may include cash and/or assumption of liabilities; *provided, however*, that the value for such assumption of liabilities shall be determined by the Debtor, in consultation with the Consultation Parties, in its reasonable business judgment. The Debtor shall take into account the Breakup Fee and Expense Reimbursement in each round of bidding at the Auction, and the Stalking Horse Bidder shall be given credit for the Breakup Fee and Expense Reimbursement in any additional bids submitted by the Stalking Horse Bidder and in each round of bidding at the

Auction. Any Qualified Bidder shall have the right, at any time, to request that the Debtor announce (in the presence of all Qualified Bidders), subject to any potential new bids, the then current highest or otherwise best bid.

(b) Remaining Terms Are the Same for Qualified Bids: Except as modified herein or by the Debtor, in consultation with the Consultation Parties, at the Auction, an Overbid at the Auction must comply with the conditions for a Qualified Bid set forth above; *provided, however*, that (i) the Bid Deadline shall not apply, (ii) no additional Good Faith Deposit shall be required beyond the Good Faith Deposit previously submitted by a Qualified Bidder; *provided further*, that the Successful Bidder shall be required to make a representation at the end of the Auction that it will provide any additional deposit necessary so that its Good Faith Deposit is equal to the amount of ten percent (10%) of the cash purchase price contained in the Successful Bid, and (iii) each Overbid may be based on the Leading Bid announced at the commencement of the Auction. Subject to the remaining terms of the Bidding Procedures, any Overbid must remain open, irrevocable, and binding on the Qualified Bidder until the Sale Hearing. At the Auction, all Qualified Bidders shall have the right to submit additional Qualified Bids and make additional modifications to the Stalking Horse Agreement or Modified Agreement submitted by the applicable Qualified Bidder in order to improve its previous Qualified Bid.

(c) At the Debtor's discretion, to the extent not previously provided, a Qualified Bidder submitting an Overbid at the Auction must submit, as part of its Overbid, written evidence (in the form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtor) reasonably demonstrating such Qualified Bidder's ability to close the Sale Transaction proposed by such Overbid and comply with its obligations thereunder, including future satisfaction of all obligations under the Modified Asset Purchase Agreement or Alternative Asset Purchase Agreement, as the case may be, and all liabilities to be assumed in such Sale Transaction.

Announcement and Consideration of Overbids

(a) Announcement of Overbids: The Debtor shall announce on the record at the Auction the material terms of each Overbid, the total amount of consideration offered in each such Overbid such other terms as the Debtor, in consultation with the Consultation Parties, reasonably determines will facilitate the Auction.

(b) Consideration of Overbids: The Debtor reserves the right, in consultation with the Consultation Parties, in its reasonable business judgment, to make one or more continuances of the Auction to, among other things: (i) facilitate discussions between the Debtor and individual Qualified Bidders, (ii) allow individual Qualified Bidders time to consider how they wish to proceed, or (iii) give Qualified Bidders the opportunity to provide the Debtor with such additional

evidence as the Debtor in its reasonable business judgment may require, that the Qualified Bidder has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed Sale Transaction at the prevailing Overbid amount.

Additional Procedures

The Debtor, after consulting with the Consultation Parties, may announce at the Auction additional procedural rules that are reasonable under the circumstances for conducting the Auction, so long as such rules are not inconsistent in any material respect with the Bidding Procedures Order.

Consent to Jurisdiction and Authority as Condition to Bidding

All Qualified Bidders (including the Stalking Horse Bidder) shall be deemed to have (i) consented to the core jurisdiction of the Bankruptcy Court to enter an order or orders, which shall be binding in all respects, in any way related to the Bidding Procedures, the Auction, any Modified Asset Purchase Agreement, any Alternative Asset Purchase Agreement, or the construction and enforcement of documents relating to any Sale Transaction, (ii) waived any right to a jury trial in connection with any disputes relating to the matters described in clause (i) above, and (iii) consented to the entry of a final order or judgment in any way related to the matters described in clause (i) above if it is determined that the Bankruptcy Court would lack Article III jurisdiction to enter such a final order or judgment absent the consent of the parties.

Sale Is As Is/Where Is

Except as otherwise provided in the Stalking Horse Agreement, the Modified Asset Purchase Agreement, the Alternative Asset Purchase Agreement, or the Sale Order, the Assets or any other assets of the Debtor sold pursuant to the Bidding Procedures shall be conveyed at the closing of a Sale Transaction with a Successful Bidder in their then-present condition, "AS IS,

WHERE IS, WITH ALL FAULTS, AND WITHOUT ANY WARRANTY WHATSOEVER, EXPRESS OR IMPLIED."

Closing the Auction

The Auction shall continue until there is only one Qualified Bid that the Debtor, in its reasonable business judgment, after consulting with the Consultation Parties, determines is the highest or otherwise best Qualified Bid (such Bid, the "Successful Bid," and the Qualified Bidder submitting such Successful Bid, the "Successful Bidder"). The Auction shall not close unless and until all Qualified Bidders have been given a reasonable opportunity to submit an Overbid, in compliance with Paragraph [__] of these Bidding Procedures, to the then-existing Leading Bid(s). The Successful Bid may consist of a single Qualified Bid or multiple Bids. The determination of what constitutes the Successful Bid shall take into account any factors the Debtor, in consultation with the Consultation Parties, reasonably deem relevant to the value of the Qualified Bid to the Debtor's estate.

Promptly following the Debtor's selection of the Successful Bid and the conclusion of the Auction, the Debtor shall announce the Successful Bid, Successful Bidder, and Backup Bid (as defined below) and shall file with the Bankruptcy Court notice of the Successful Bid, Successful Bidder, and Backup Bid. The Debtor shall not accept or consider any Bids submitted after the conclusion of the Auction without further order of the Court. The Debtor's presentation of a particular Qualified Bid to the Bankruptcy Court does not constitute the Debtor's acceptance of the Bid.

Backup Bidder

Notwithstanding anything in the Bidding Procedures to the contrary, if an Auction is conducted, the Qualified Bidder with the next highest or otherwise best Bid at the Auction, as

determined by the Debtor, in the exercise of its reasonable business judgment and after consulting with the Consultation Parties, will be designated as the backup bidder (the "Backup Bidder"). Subject to the other terms and conditions of these Bidding Procedures, the Backup Bidder shall be required to keep its initial Bid (or if the Backup Bidder submitted one or more Overbids at the Auction, the Backup Bidder's final Overbid) (the "Backup Bid") open and irrevocable until the closing date of the Sale Transaction with the Successful Bidder (the "Outside Backup Date").

Following the Sale Hearing and entry of the Sale Order, if the Successful Bidder fails to consummate an approved Sale Transaction, the Backup Bidder will be deemed to have the new prevailing bid, and the Debtor will be authorized, but not required, without further order of the Bankruptcy Court, to consummate the Sale Transaction with the Backup Bidder. In such case of a material breach or failure to perform on the part of the Successful Bidder (including any Backup Bidder designated as a Successful Bidder) and termination of such bidder's purchase agreement by the Debtor, the defaulting Successful Bidder's deposit shall be forfeited to the Debtor in accordance with the terms and conditions of the applicable purchase agreement.

Sale Hearing

The Sale Hearing shall be conducted by the Bankruptcy Court on [September __] at [--:--] a.m. (prevailing Eastern Time) and may be adjourned or rescheduled, in consultation with the Consultation Parties, by an announcement of the adjourned date at the Sale Hearing or by the filing of a hearing agenda. At the Sale Hearing, the Debtor will seek Bankruptcy Court approval of the Successful Bid and the Back-Up Bid. Unless the Bankruptcy Court orders otherwise, the Sale Hearing shall be an evidentiary hearing on matters relating to the Sale Transaction. In the event that the Successful Bidder cannot or refuses to consummate the Sale Transaction because

of the breach or failure on the part of the Successful Bidder, the Back-Up Bidder will be deemed the new Successful Bidder and the Debtor shall be authorized, but not required, to close with the Back-Up Bidder on the Back-Up Bid without further order of the Bankruptcy Court.

Return of Good Faith Deposits

The Good Faith Deposits of all Qualified Bidders shall be held in one or more interest-bearing escrow accounts by the Debtor, but shall not be commingled or become property of the Debtor's estate absent further court order. The Good Faith Deposit of any Qualified Bidder that is neither the Successful Bidder nor the Backup Bidder shall be returned to such Qualified Bidder not later than two (2) business days after entry of the Sale Order. The Good Faith Deposit of the Backup Bidder, if any, shall, subject to the terms of the applicable purchase agreement, be returned to the Backup Bidder on the date that is two (2) business days after the closing of the Sale Transaction with the Successful Bidder. Upon the return of the Good Faith Deposit, the respective Qualified Bidder shall receive any and all interest that has accrued thereon. If the Successful Bidder timely closes the Successful Bid, its Good Faith Deposit shall, subject to the terms of the applicable purchase agreement, be credited towards the purchase price.

Reservation of Rights of the Debtor

The Debtor reserves the right as it may determine in accordance with its business judgment to be in the best interest of its estate, in consultation with the Consultation Parties, to modify any portion of the Bidding Procedures including, without limitation, to: (i) determine which bidders are Qualified Bidders; (ii) determine which Bids are Qualified Bids; (iii) determine which Qualified Bid is the highest or otherwise best Bid and which is the next highest or otherwise best Bid; (iv) reject any Bid (excluding the Stalking Horse Bid) that is (1)

inadequate or insufficient, (2) not in conformity with the requirements of the Bidding Procedures or the requirements of the Bankruptcy Code; (3) contrary to the best interests of the Debtor and its estate; or (4) subject to any financing contingency or otherwise not fully financed; (v) waive terms and conditions set forth herein with respect to all potential bidders; (vi) impose additional terms and conditions with respect to all potential bidders; (vii) extend the deadlines set forth herein; (viii) continue or cancel the Auction and/or Sale Hearing in open court without further notice; and (ix) modify the Bidding Procedures and implement additional procedural rules that the Debtor determines, in its reasonable business judgment and in consultation with the Consultation Parties, will better promote the goals of the bidding process; provided that such modifications are (a) not inconsistent with the Bidding Procedures Order, the Bankruptcy Code, or any Order of the Bankruptcy Court entered in connection herewith; and (b) disclosed to each Qualified Bidder participating in the Auction. Notwithstanding the foregoing, the provisions of this paragraph shall not operate or be construed to permit the Debtor to (i) accept any Qualified Bid for the Terminal Assets that (a) does not include the Good Faith Deposit in cash, which shall serve as protection and security for the Stalking Horse Bidder as outlined herein for payment of its Breakup Fee and Expense Reimbursement or (b) does not equal or exceed the consideration provided to the Debtor in the Stalking Horse Bid, plus the Overbid Amount, or (ii) impose any terms and conditions upon the Stalking Horse Bidder that are contradictory to or in breach of the terms of the Stalking Horse Agreement.

No Amendment or Waiver

Notwithstanding anything in these Bidding Procedures to the contrary, nothing in these Bidding Procedures shall, or shall be deemed to, amend, modify, or waive any term or condition of the Stalking Horse Agreement (including the right and timing of the Stalking Horse Bidder to receive the return of its Good Faith Deposit) or limit, alter, or impair the ability of the Stalking Horse Bidder to terminate the Stalking Horse Agreement in accordance with the terms and conditions thereof.

Fiduciary Out

Nothing in these Bidding Procedures shall require the executive committee of the Debtor to take any action, or refrain from taking any action, with respect to these Bidding Procedures or any transaction in respect of the Assets to the extent such executive committee determines, based on the advice of counsel, that taking such action, or refraining from taking such action, as applicable, is required to comply with applicable law or its fiduciary obligations under applicable law.

Exhibit C

BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT

This **BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT** (this "**Agreement**") is dated as of [●], 2015 (the "**Effective Date**"), by and among Limetree Bay Holdings, LLC, a limited liability company organized under the Laws of the State of Delaware ("**Purchaser**") and HOVENSA L.L.C., a limited liability company organized under the Laws of the U.S. Virgin Islands ("**Seller**").

RECITALS

WHEREAS, Seller, Purchaser and Hess Oil Virgin Islands Corp., a corporation organized under the Laws of the U.S. Virgin Islands are parties to that certain Asset Purchase Agreement, dated as of September 4, 2015 (the "**Purchase Agreement**");

WHEREAS, pursuant to the Purchase Agreement and Sections 105, 363 and 365 of the Bankruptcy Code, Seller has agreed to, sell, assign, transfer, convey and deliver to Purchaser, and Purchaser has agreed to purchase from Seller, any right, title and interest of Seller in, to and under the Purchased Assets;

WHEREAS, pursuant to the Purchase Agreement and Sections 105, 363 and 365 of the Bankruptcy Code, Purchaser has agreed to assume and to pay, perform and discharge when due, the Assumed Liabilities and Purchaser has not and shall not be deemed to have assumed or to be liable for, any Excluded Liabilities; and

WHEREAS, Seller and Purchaser must deliver this Agreement as a condition to Closing pursuant to Section 3.5(b)(iii) and Section 3.5(c)(iv) of the Purchase Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings given such terms in the Purchase Agreement.

2. Assignment and Assumption.

(a) Purchased Assets; Excluded Assets; Assumed Liabilities; Excluded Liabilities. Effective as of the Closing, for good and valuable consideration received:

(i) Seller hereby irrevocably sells, assigns, transfers, conveys and delivers to Purchaser, its successors and assigns, to have and to hold forever, and Purchaser hereby purchases from Seller, all right, title and interest of Seller in, to and under the Purchased Assets (other than the Purchased Assets transferred pursuant to a deed or lease assignment or other conveyance instrument under the Purchase Agreement) free and clear of any Liens, Claims and Liabilities of any kind whatsoever except Permitted Liens in accordance with the terms of

the Purchase Agreement. Seller will retain and not transfer, and Purchaser will not purchase or acquire, all right, title and interest of Sellers in, to and under the Excluded Assets.

(ii) Purchaser hereby assumes and agrees to pay, perform and discharge when due the Assumed Liabilities of Seller in accordance with the terms of the Purchase Agreement. Seller will retain and not transfer, and Purchaser will not assume, or cause to be assumed, or be deemed to have assumed or caused to have assumed or be liable or responsible for, any Excluded Liabilities.

(b) Further Actions. Each of Seller and Purchaser, as applicable, shall and shall cause their respective Affiliates and Representatives to, cooperate and use their respective commercially reasonable efforts to take, or cause to be taken, all appropriate action, and to make, or cause to be made, all filings necessary, proper or advisable under applicable Laws and to consummate and make effective the transactions contemplated by this Agreement, including their respective commercially reasonable efforts to obtain, prior to the Effective Date, all Permits, consents, approvals, authorizations, qualifications and Orders of Governmental Entities as are necessary for consummation of the transactions contemplated by this Agreement; provided, that neither Seller nor any of its Affiliates shall be required to repay any indebtedness for borrowed money, amend any Contract to increase the amount payable thereunder or otherwise to be materially more burdensome to Seller or any of its Affiliates, commence any litigation, settle or compromise any matter, offer or grant any accommodation (financial or otherwise) to any Third Party or Governmental Entity, pay any amount or bear any other incremental economic burden to obtain any such Permit, consent, approval, authorization, qualification or Order.

(c) No Representations or Warranties. The representations and warranties expressly made by Seller in Article IV of the Purchase Agreement or in any Transaction Document are the exclusive representations and warranties made by Seller with respect to the Business, the Purchased Assets, the Assumed Liabilities and Tug Boats. Except for any representations and warranties expressly set forth in Article IV of the Purchase Agreement or in any Transaction Document or in the Seller Disclosure Letter, (i) the Purchased Assets, the Assumed Liabilities and the Tug Boats are sold "AS IS, WHERE IS," and Seller expressly disclaims (on its own behalf and on behalf of its Affiliates) any other representations or warranties of any kind or nature, express or implied, as to Liabilities, operations of its business (as currently or formerly conducted) or the Tug Boats, the title, condition, value or quality of assets of Seller or the prospects (financial and otherwise), risks and other incidents of Seller and its business (as currently or formerly conducted), the Purchased Assets, the Assumed Liabilities and the Tug Boats, (ii) SELLER SPECIFICALLY DISCLAIMS (ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES), AND PURCHASER HEREBY WAIVES, ANY REPRESENTATION OR WARRANTY OF QUALITY, VALUE, DESIGN, OPERATION, MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, ELIGIBILITY FOR A PARTICULAR TRADE, CONFORMITY TO SAMPLES, OR CONDITION OF THE ASSETS OF SELLER (INCLUDING THE PURCHASED ASSETS) OR OF THE TUG BOATS OR ANY PART THEREOF, WHETHER LATENT OR PATENT, (iii) no material or information provided by or communications made by Seller or any of its Affiliates, or by any advisor thereof, whether by use of a "data room," or in any information memorandum, or otherwise, or by any broker or investment banker, will cause or create any

warranty, express or implied, as to or in respect of Seller, any Affiliate of Seller or the title, condition, value or quality of its business (as currently or formerly conducted), the Purchased Assets, the Assumed Liabilities or of the Tug Boats, and no other Person shall be deemed to have made, or shall be deemed to make, any other express or implied representation or warranty, either written or oral, on behalf of Seller or any of its Affiliates with respect to the subject matter contained herein and (iv) Seller does not make any representation or warranty whatsoever with respect to any estimates, projections and other forecasts and plans (including the reasonableness of the assumptions underlying such estimates, projections and forecasts).

3. Conflicts with Purchase Agreement. This Agreement shall be subject in all respects to the Purchase Agreement and shall be construed so as to carry out the intentions of the parties thereto as expressed in the Purchase Agreement. In the event of a conflict between the terms and conditions of this Agreement and the terms and conditions of the Purchase Agreement, the terms and conditions of the Purchase Agreement shall govern.

4. Miscellaneous. The provisions of Sections 7.13 (Bulk Sales Act) and Article XI of the Purchase Agreement are incorporated herein *mutatis mutandis* by this reference; provided, that (i) references to "this Agreement," "hereto," "hereunder," and similar references in such sections of the Purchase Agreement shall pertain to this Agreement and (ii) the Purchase Agreement, for the avoidance of doubt, shall be considered a Transaction Document.

[*Remainder of page intentionally blank; signature pages follow*]

IN WITNESS WHEREOF, the parties have caused this Bill of Sale and Assignment and Assumption Agreement to be executed by their duly authorized representatives as of the Effective Date.

HOVENSA L.L.C.

By:_____
Name:
Title:

LIMETREE BAY HOLDINGS, LLC

By:_____
Name:
Title:

EXHIBIT D

FORM OF

PROTOCOL OF DELIVERY AND ACCEPTANCE

The undersigned, HESS OIL VIRGIN ISLANDS CORP. (the "**Seller**"), as seller, and LIMETREE BAY HOLDINGS, LLC (the "**Buyer**"), as buyer, hereby confirm that the vessel _____ registered under the laws of [the Republic of Panama with Regulatory Patente of Navigation No.] / [the United States Virgin Islands with Registration No.] _____ in the name of Seller, was delivered by the Seller to the Buyer and accepted by the Buyer from the Seller pursuant to the terms and conditions of that certain Bill of Sale and Acceptance dated _____, 2015 between the Seller and the Buyer at ____ hours, _____ Time on _____, 2015, the vessel then being safely afloat at St. Croix, U.S. Virgin Islands.

Dated: _____, 2015

HESS OIL VIRGIN ISLANDS CORP.

By: _____
Name:
Title:

LIMETREE BAY HOLDINGS

By: _____
Name:
Title:

EXHIBIT E

FORM OF
BILL OF SALE AND ACCEPTANCE

KNOW ALL MEN BY THESE PRESENTS that HESS OIL VIRGIN ISLANDS CORP., a corporation duly organized and existing under the laws of the United States Virgin Islands, with domicile at c/o Bryant Barnes Blair & Benoit, LLP, 1134 King Street 2nd Floor, Christiansted, Virgin Islands 00820-4578 (hereinafter called the "**Seller**"), being the owner of the whole of the vessel _____ (the "**Vessel**"), [Regulatory Patente of Navigation No.] / [Registration No.] _____, and Call Sign _____ of about _____ gross registered tons and ____ net registered tons, ____ meters of length, _____ meters of width and _____ meters of depth, documented under the laws and flag of the [Republic of Panama] / [United States Virgin Islands], for and in consideration of the sum of one Dollar ($1), lawful money of the United States of America, and other good and valuable consideration, to it in hand paid before the execution and delivery of these presents LIMETREE BAY HOLDINGS, LLC, a limited liability company organized and existing under the laws of Delaware, with domicile at c/o ArcLight Capital Partners, LLC, 200 Clarendon Street, 55th Floor, Boston, Massachusetts 02117 (hereinafter called the "**Buyer**"), the receipt of which consideration is hereby acknowledged, has bargained, sold and transferred and by these presents does bargain, sell and transfer unto the Buyer, its successors and assigns all of Seller's right, title and interest in the Vessel, AS IS, WHERE IS, WITH ALL

FAULTS ACCEPTED BY THE BUYER AND THE VESSEL IS SOLD WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED AND THE SELLER DOES NOT MAKE ANY WARRANTY, GUARANTY, OR REPRESENTATION OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH REGARD TO THE VESSEL INCLUDING, BUT NOT LIMITED TO SEAWORTHINESS, VALUE, DESIGN, OPERATION, MERCHANTABILITY, FITNESS FOR USE FOR A PARTICULAR PURPOSE OF THE VESSEL OR AS TO THE ELIGIBILITY OF THE VESSEL FOR ANY PARTICULAR TRADE, AND THE BUYER HEREBY WAIVES AS AGAINST THE SELLER ALL WARRANTIES OR REMEDIES OR LIABILITIES WITH RESPECT TO SUCH WARRANTIES ARISING BY LAW OR OTHERWISE WITH RESPECT TO THE VESSEL, INCLUDING, BUT NOT LIMITED TO (1) ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND (2) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, together with, to the extent transferable, all of Seller's right, title and interest in all masts, accessories, sails, anchors, cables, tackle, engines, furniture and all other appurtenances appertaining and belonging thereto, including the related assets described in Exhibit 1 attached hereto.

TO HAVE AND TO HOLD the Vessel and appurtenances thereunto belonging unto the Buyer, its successors and assigns, to its and their sole and proper use, benefit and behoof forever.

This Bill of Sale is an instrument of transfer and conveyance contemplated by, and is executed and delivered under and subject to, that certain Asset Purchase

Agreement, dated as of September 4, 2015, by and among Seller, Buyer and the other parties signatory thereto (the "Purchase Agreement"), and nothing contained in this Bill of Sale shall be deemed to modify any of the provisions of the Purchase Agreement or any rights or obligations of Seller or Buyer under the Purchase Agreement. In the event of any ambiguity or conflict between the terms hereof and the Purchase Agreement, the terms of the Purchase Agreement shall govern and control.

This Bill of Sale may not be modified, amended or superseded except in writing signed by both Seller and Buyer.

[This Bill of Sale shall be governed by and construed in accordance with the laws of New York, without regard to the conflict of laws rules thereof.][1]

IN WITNESS WHEREOF, HESS OIL VIRGIN ISLANDS CORP. has hereunto subscribed these presents this ____ day of _____, 2015.

HESS OIL VIRGIN ISLANDS CORP.

By: _____
Name:
Title:

[1] Note to draft: Bracketed provision to be included in the Bill of Sale for the USVI registered Tug Boat only. It will not be included in the Bills of Sale for the Panama registered Tug Boats.

[Note to draft: The following notary block shall be used in connection with the Bills of Sale for the Panama registered tug boats. With respect to Seller, such Bills of Sale shall be executed and notarized in Panama.]

On this ___ day of _____, 2015, before me personally came _____, who resides at _____, and who executed the Bill of Sale attached hereto, is personally known to me and that his signature is authentic, and sufficient evidence has been presented to me to the effect that:

a) The Seller at the time of execution of the Bill of Sale was the sole legal owner of the VESSEL with the right to transfer title to and property in the VESSEL; and

b) that _____ was duly authorized to execute the Bill of Sale on behalf of Hess Oil Virgin Islands Corp.

_____
Notary Public

[Note to draft: The following notary block shall be used in connection with the Bill of Sale for the USVI registered tug boat. The notary's signature shall be authenticated by a Panamanian Consul or apostilled pursuant to the 1961 Hague Convention.]

STATE OF New York)
) : ss.:
COUNTY OF New York)

On this ___ day of _____, 2015, before me personally came _____, who resides at _____, and who executed the Bill of Sale attached hereto, is personally known to me and that his signature is authentic, and that _____ was duly authorized to execute the Bill of Sale on behalf of Hess Oil Virgin Islands Corp.

_____
Notary Public

ACCEPTANCE OF SALE

The undersigned, _____, on behalf of and representing the limited liability company named Limetree Bay Holdings, LLC, in the Bill of Sale annexed hereto and in my position as _____ of the said limited liability company hereby accepts for all legal purposes the sale and transfer of the vessel _____ effected by the said Bill of Sale to LIMETREE BAY HOLDINGS, LLC, by HESS OIL VIRGIN ISLANDS CORP.

Dated the ____ day of _____, 2015

[Note to draft: The notary's signature shall be authenticated by a Panamanian Consul or apostilled pursuant to the 1961 Hague Convention.]

I, _____ NOTARY PUBLIC duly authorized, admitted and sworn, residing and practicing at _____ DO HEREBY CERTIFY THAT the signature of _____ which appears at the foot of the above ACCEPTANCE OF SALE is the authentic signature of the above named _____ who has produced sufficient proof of his power to execute the said ACCEPTANCE OF SALE on behalf of LIMETREE BAY HOLDINGS, LLC.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my seal this _____ day of _____, Two Thousand Fifteen.

_____
(Notary Public)

EXHIBIT 1

RELATED ASSETS

[To come.]

Exhibit F

(See attached)

TERMINAL OPERATING AGREEMENT

BY AND AMONG

THE GOVERNMENT OF THE U.S. VIRGIN ISLANDS

AND

[TERMINAL OPERATOR],

DATED AS OF

[_____]

TABLE OF CONTENTS

Page

TABLE OF CONTENTS
(continued)

Page

TABLE OF CONTENTS
(continued)

Page

TABLE OF CONTENTS
(continued)

Page

TABLE OF CONTENTS
(continued)

Page

TERMINAL OPERATING AGREEMENT

THIS TERMINAL OPERATING AGREEMENT (the **"*Agreement*"**) is hereby made as of [_____] by and among the Government of the U.S. Virgin Islands (the **"*Government*"**) and [Terminal Operator], a [_____] existing under the laws of the U.S. Virgin Islands ("***Terminal Operator***"). The Government and Terminal Operator are hereinafter sometimes individually referred to as a **"*Party*"** and sometimes hereinafter collectively referred to as **"*Parties*"**.

RECITALS

1. **WHEREAS**, the Government is party to a Concession Agreement by and among the Government, Hess Oil Virgin Islands Corp. (**"*Hovic*"**), PDVSA V.I., Inc. (**"*PDVSA*"**) and Hovensa, L.L.C. ("***Hovensa***"), for the construction, operation, and maintenance of an oil refinery (the "***Refinery***") and related facilities, including tankage and terminalling facilities, located at Limetree Bay, St. Croix, U.S. Virgin Islands (as amended, the **"*Concession Agreement*"**);

2. **WHEREAS**, the Government, the USVI Port Authority (the **"*Port Authority*"**) and Hovic entered into that certain Contract dated as of September 22, 1976 (as amended, supplemented or modified from time to time, the **"*1976 Contract*"**), which was approved by the Legislature of the U.S. Virgin Islands (the **"*Legislature*"**) on September 29, 1976, which 1976 Contract memorialized the agreements between Hovic and the Government with respect to Hovic's agreement to construct a container port on the south shore of St. Croix, U.S. Virgin Islands;

3. **WHEREAS**, among the documents exchanged between the Government and Hovic in connection with the 1976 Contract was that certain Lease entered into by and between the Government and Hovic, dated as of October 16, 1976, the **"*Submerged Land Lease*"**), pursuant to which the Government leases to Hovic certain reclaimed submerged lands specified therein;

4. **WHEREAS**, pursuant to that certain Letter Agreement entered into by and between Hovic and the Government, dated October 14, 1998 (the **"*1998 Letter Agreement*"**), the Government approved: (i) the assignment and delegation to Hovensa of Hovic's rights and obligations under the 1976 Contract, including the right to use the lands filled under the authority of Submerged Lands Permit Nos. 3, 23, and 52 (which right shall continue for the term of the Submerged Land Lease, as such term is extended), and (ii) the assignment of the leasehold estate under the Submerged Land Lease to Hovensa;

5. **WHEREAS**, by their terms, the rights and obligations of the parties to the Concession Agreement arising under or related to the Concession Agreement continue until the year 2022;

6. **WHEREAS**, on or about January 18, 2012, Hovensa announced its intention to idle refining operations at the Oil Refinery and Related Facilities, and thereafter began idling such operations on or about February 16, 2012;

7. **WHEREAS**, the Government, Hovensa, Hovic and PDVSA entered into that certain Fourth Amendment Agreement as of April 3, 2013 (the **"*Fourth Amendment*"**) which was approved by the Legislature on November 4, 2013, which provides, among other things, for a process to facilitate the sale, directly or indirectly, of the Oil Refinery and Related Facilities (the **"*Sales Process*"**);

8. **WHEREAS**, the Sales Process and subsequent action resulted in Hovensa having reached an understanding with Terminal Operator whereby Hovensa and Hovic will transfer to Terminal Operator certain assets comprising the Terminal and the Terminal Site pursuant to that certain Asset Purchase Agreement by and among Hovensa, Terminal Operator and Hovic, dated as of September 4, 2015 (the **"*Purchase Agreement*"**), subject to, among other things: (i) the execution of this Agreement by the Parties hereto, (ii) the Legislature approving this Agreement, and (iii) the closing of the acquisition contemplated under the Purchase Agreement;

9. **WHEREAS, [**Terminal Operator] and Hovensa shall enter into a shared services agreement with respect to certain services to be provided by Terminal Operator (either directly or through a third party) from various systems (the "***Shared Services Systems***"), including but not limited to fire control system management, power supply and process and potable water supply (the "***Shared Services Agreement***");

10. **WHEREAS,** the Government shall ensure that in the event that any party succeeds in interest to Hovensa in respect of the Refinery and the Shared Services Systems, Terminal Operator shall continue to have access to the Shared Services Systems, including through direct operation thereof, on terms and conditions no less favorable to Terminal Operator than those set forth in the Shared Services Agreement;

11. **WHEREAS**, Terminal Operator desires to own, refurbish and operate the Terminal (as defined below) to serve as a regional logistics hub for various customers; and

12. **WHEREAS**, upon consummation of the transactions contemplated herein, Terminal Operator will refurbish and operate the Terminal in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, and intending hereby to be legally bound, the Government and Terminal Operator hereby agree and stipulate as follows:

ARTICLE 1
DEFINITIONS AND CONSTRUCTION

Section 1.1. Definitions. As used in this Agreement, the following terms have the respective meanings set forth below or set forth in the Articles referenced below.

"*1976 Contract*" shall have the meaning set forth in the Recitals.

"*1998 Letter Agreement*" shall have the meaning set forth in the Recitals.

"*AAA*" shall have the meaning set forth in Section 18.4.

"*Abandonment*" shall mean intentionally and definitively ceasing Terminal Operations for greater than 120 days for reasons other than turnarounds or other maintenance requirements or the occurrence of a Force Majeure Event.

"*Affiliate*" or **"*Affiliates*"** shall mean, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person; provided that, for the purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by Contract or otherwise; and provided further, that an Affiliate of any Person shall also include any Person that directly or indirectly owns more than fifty percent (50%) of any class of capital stock or other equity interest of such Person.

"*Agreement*" shall have the meaning set forth in the Preamble.

"*Annual Audit*" shall have the meaning set forth in Section 14.2.(A).

"*Annual Audit Report*" shall have the meaning set forth in Section 14.2.(B).

"*Applicable Law*" shall mean any constitution, law, statute, ordinance, order, injunction, rule, regulation or Authorization of any Governmental Authority (excluding any such legislative, judicial or administrative body or instrumentality acting in any capacity as a lender, guarantor or mortgagee) applicable to a Party or its Affiliate or the subject matter of this Agreement.

"*Authorization*" shall mean any licenses, certificates, permits, orders, approvals, consents, determinations, variances, franchises, and authorizations from any Governmental Authority.

"*Bankrupt*" shall mean any Person that: (i) makes a general assignment for the benefit of creditors; (ii) files a voluntary bankruptcy petition; (iii) becomes the subject of an order for relief or is declared insolvent in any federal, state, or territorial bankruptcy or insolvency proceeding; (iv) files a petition or answer seeking for such Person a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any Applicable Law; (v) files an answer or other pleading admitting or failing to contest the material allegations of a

petition filed against such Person in a proceeding of the type described in subclauses (i) through (iv) of this definition in which such Person is the debtor; or (vi) seeks, consents, or acquiesces to the appointment of a trustee, receiver, or liquidator of such Person or of all or any substantial part of such Person's properties; or against which a proceeding seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any Applicable Law has been commenced and 120 days have expired without dismissal thereof or with respect to which, without such Person's consent or acquiescence, a trustee, receiver, or liquidator of such Person or of all or any substantial part of such Person's properties has been appointed and 90 days have expired without such appointment having been vacated or stayed, or 90 days have expired after the date of expiration of a stay, if the appointment has not previously been vacated.

"*Breach*" shall mean a breach of any covenant set forth in Section 4.2.(A) or the occurrence of Abandonment.

"*Business Day*" shall mean Monday through Friday of each week, except that a legal holiday recognized as such by the Government shall not be regarded as a Business Day.

"*Change in Law*" means any of the following events occurring after the date of execution of this Agreement:

(a) a change to, or repeal of, any existing Applicable Law;

(b) the promulgation of any new Applicable Law; or

(c) any withdrawal or amendment of any Authorization other than:

(i) in accordance with the terms upon which it was originally granted;

(ii) as a result of a material failure by Terminal Operator to comply with a material condition of the applicable Authorization; or

(iii) as a result of any unlawful act or omission of Terminal Operator.

"*Clean Air Act Consent Decree*" shall mean the Consent Decree entered on June 7, 2011 in *United States of America and The United States Virgin Islands v. Hovensa, L.L.C.* (Civ. No. 1:11 -cv-00006) (D.V.I., St. Croix Div.).

"*Closing*" shall have the meaning set forth in Section 3.1.(A).

"*Closing Date*" shall have the meaning set forth in Section 3.1.(B).

"*Coastal Zone Management permit*" shall mean a permit obtained under the Coastal Zone Management Act of 1972.

"*Commissioner of Labor*" shall mean the Commissioner of Labor of the U.S. Virgin Islands.

"*Concession Agreement*" shall have the meaning set forth in the Recitals.

"*Confidential Information*" shall mean information or data proprietary to the Government and/or Terminal Operator including:

(a) books, records and documentation;

(b) information regarding any aspect of the Terminal and Terminal Operations, including any financial or operational matter;

(c) information from and relating to customers and stakeholders;

(d) written information that is clearly marked as confidential or proprietary by a Party;

(e) oral information identified in writing as confidential after disclosure, or as so stated when made, regardless of whether such written or oral information originated with the disclosing Party or any third party, which is provided to the receiving Party after the date hereof; and

(f) all written information generated by a Party or its representatives that contains, reflects or is derived from furnished Confidential Information,

provided, however, that such information or data shall exclude information already in the public domain, or which may subsequently become part of the public domain through no fault of the Government or Terminal Operator. For the avoidance of any doubt, Confidential Information includes any information recorded or stored in any digital format on electronic, optical or magnetic media or any other material that contains or otherwise reflects Confidential Information.

"*Contaminant*" shall mean any and all contaminants, solid or hazardous wastes, hazardous materials, infectious wastes, pollutants, radioactive materials, hazardous or toxic substances, crude oil, any fraction thereof, petroleum products, petroleum byproducts, and or fuel additives defined or regulated as such in or under any Environmental Laws and shall exclude any Pre-Existing Contamination.

"*Contract*" shall mean any note, bond, mortgage, indenture, guaranty, license, franchise, permit, agreement (including, a shareholders' agreement, a members' agreement, or both), contract, commitment, lease, purchase order, or other instrument or obligation, and any amendments thereto.

"*District Court*" shall have the meaning set forth in Section 4.1.(B).

"*DPNR*" shall have the meaning set forth in Section 4.1.(B).

"*Effective Date*" shall have the meaning set forth in Section 2.1.

"*Environmental Laws*" shall mean any and all applicable federal, state, territorial, or local laws, rules, orders, regulations, statutes, ordinances, codes, or requirements of any federal,

territorial, or Governmental Authority regulating, relating to, or imposing liability or standards of conduct concerning any solid or hazardous waste, hazardous material, infectious waste, pollutant, radioactive material, hazardous or toxic substance, crude oil, any fraction thereof, any petroleum product, petroleum byproduct, and or fuel additive, or protection of public health or safety or the environment, or concerning uses, buildings, structures, or activities that constitute or result in blight or blighted and undesirable places or locations or that are otherwise harmful to the public health, safety, or general welfare of persons and property, or that, because of fire, wind, or other natural forces, or physical deterioration, disrepair, disuse, or damage, is not useful for the purpose for which such is customarily and reasonably intended, and permits, registrations, and licenses issued pursuant thereto, and financial responsibility and financial assurance requirements pursuant thereto. For the purposes of this Agreement, Environmental Laws shall include the Settlement and Release Agreement.

"*EPA*" shall have the meaning set forth in Section 4.1.(B).

"*Equity Holders*" shall include the owners of (i) the stock of a corporation, (ii) the equity of the membership interests of a limited liability company, and (iii) the ownership interest of any other entity.

"*Exempted Assets*" shall have the meaning set forth in Section 18.5.(B).

"*Exempted Payments*" shall have the meaning set forth in Section 10.2.

"*Extension*" shall have the meaning set forth in Section 2.3.

"*Force Majeure Event*" shall have the meaning set forth in Section 17.1.

"*Fourth Amendment*" shall have the meaning set forth in the Recitals.

"*Fuel Loading Rack*" shall have the meaning set forth in Section 6.1.(A)(1).

"*Full-Time Employee*" shall mean an individual employed by Terminal Operator for work in the U.S. Virgin Islands on the Terminal who works an average of not less than 30 hours per week and is covered by employer-provided health insurance. The number of Full-Time Employees on any given date shall be calculated as the three-month trailing average of the number of Full-Time Employees at the Terminal on such date, and shall include contractor employees.

"*Government*" shall have the meaning set forth in the Preamble.

"*Government Indemnified Party*" shall have the meaning set forth in Section 12.3.

"*Governmental Authority*" shall mean any foreign, federal, territorial, state or local governmental entity, authority or agency, court, tribunal, regulatory commission or other body, whether legislative, judicial or executive (or a combination or permutation thereof) having jurisdiction as to the matter in question.

"***Governmental Function***" means any regulatory, legislative, permitting, zoning, enforcement (including police power), licensing or other functions which the Government is authorized or required to perform in its capacity as a Governmental Authority in accordance with Applicable Law.

"*Governor*" shall have the meaning set forth in Section 3.3.(B)(1).

"*Hovensa*" shall have the meaning set forth in the Recitals.

"*Hovic*" shall have the meaning set forth in the Recitals.

"*Initial Term*" shall have the meaning set forth in Section 2.2.

"*International Standards*" shall means with respect to any engineering, construction or operations work conducted by or on behalf of a Party, that such work is performed in accordance with professional practices and standards generally accepted by the international refining community and that such work is provided by an experienced and competent professional organization generally recognized by the refining community as competent in its respective service area.

"*Legislature*" shall have the meaning set forth in the Recitals.

"*Liabilities*" shall mean any and all indebtedness, Taxes, liabilities and obligations, whether accrued or fixed, known or unknown, absolute or contingent, matured or unmatured, or determined or determinable.

"*Losses*" shall mean all suits, actions, Liabilities, legal proceedings, claims, demands, losses, costs, and expenses of whatsoever kind or character, including reasonable attorneys' fees and expenses and case costs and expenses.

"*Notice*" shall have the meaning set forth in Section 18.1.

"*Oil Refinery and Related Facilities*" shall mean the Refinery, the Terminal, and all other related facilities, equipment, and real and personal property associated with petroleum import, export, processing, storage and related activities at the Refinery, the Terminal, the container port, the dock, and all lands covered by the Submerged Land Lease, and all facilities related thereto on St. Croix, U.S. Virgin Islands. For the avoidance of doubt, **"*Oil Refinery and Related Facilities*"** shall include the definition of **"*Oil Refinery and Related Facilities*"** in the Concession Agreement.

"*Operating Payment*" shall have the meaning set forth in Section 8.1.

"*Operations Commencement Date*" shall have the meaning set forth in Section 4.2.(A).

"*Operations Commencement Deadline*" shall have the meaning set forth in Section 4.2.(A).

"*Terminal Operator Indemnified Party*" shall have the meaning set forth in Section 13.8.

"*Parties*" and **"*Party*"** shall have the meaning set forth in the Preamble.

"*Payment Default*" shall have the meaning set forth in Section 15.1.

"*PDVSA*" shall have the meaning set forth in the Recitals.

"*Person*" shall mean and include an individual, a partnership, a limited partnership, a limited liability partnership, a joint venture, a joint stock company, a corporation, a limited liability company, an association, a trust, an unincorporated organization, a group, any governmental entity or any other form of entity or organization.

"*Port Authority*" shall have the meaning set forth in the Recitals.

"*Pre-Existing Contamination*" shall have the meaning set forth in the Settlement and Release Agreement.

"*Pre-Existing Liability Release*" shall have the meaning set forth in Section 3.2.(C)(6).

"*Proceeding*" shall mean a proceeding, arbitration, action, claim, suit, pending settlement, or other legal proceeding of any kind or nature before or by any Governmental Authority, arbitrator or panel.

"*Purchase Agreement*" shall have the meaning set forth in the Recitals.

"*Refinery*" shall mean all petroleum processing equipment and related facilities, equipment, and real property associated with petroleum processing and related activities at the Oil Refinery and Related Facilities, exclusive of the Terminal.

"*Refinery Owner*" shall have the meaning set forth in Section 4.1(B).

"*Refinery Site*" shall mean the real property on which the Refinery is located, as further described in Appendix B.

"*Release*" shall mean any release, spill, emission, leaking, dumping, injection, pouring, pumping, placing, discarding, abandoning, deposit, disposal, discharge, migrating, or disposal into, on, under, or through the environment (including, but not limited to, ambient air, surface water, groundwater, soil, land surface, or subsurface strata).

"*Response Action*" shall mean all actions, including but not limited to removal actions, remedial actions, corrective actions, and natural resource restorations, mitigations, and replacements, taken or ordered by or on behalf of the U.S. or the Government, ordered by a court of competent jurisdiction, or otherwise required by Applicable Law, pursuant to any Environmental Laws in response to the Release or threatened Release of a Contaminant.

"*Restart Date*" shall mean the date on which Terminal Operations resume.

"*Return*" shall mean all returns, statements, forms and reports for Taxes.

"*Sales Process*" shall have the meaning set forth in the Recitals.

"*Settlement and Release Agreement*" shall mean the Settlement and Release Agreement fully executed on and with an effective date of May 29, 2014, by and among Alicia V. Barnes, Commissioner of the U.S. Virgin Islands Department of Planning and Natural Resources, the Government of the U.S. Virgin islands, Hess Oil Virgin Islands Corp., and Hovensa, LLC, which resolved the litigation among the parties in *Commissioner of the Dep't of Planning and Natural Resources v. Century Alumina Co., et al.*, Civ. No. 2005-0062 (attached hereto as Exhibit B).

"*Shared Services Agreement*" shall have the meaning set forth in the Recitals.

"*Shared Services Systems*" shall have the meaning set forth in the Recitals.

"*Site*" shall mean the real property on which the Oil Refinery and Related Facilities are located, including land, "*submerged and filled lands*" and "*trust lands*", within the meaning of 12 V.I. C. § 902(cc) and (dd), respectively, waterways, groundwater, and coastal zones, as further described in Appendix B.

"*Submerged Land Lease*" shall have the meaning set forth in the Recitals.

"*Submerged Lands*" shall have the meaning set forth in Section 12.1.(B)(5).

"*Taxes*" shall mean all taxes, assessments, charges, duties, fees, levies or other governmental charges imposed by a taxing authority, including all U.S. federal, state, territory, local, foreign, and other income, franchise, annual report fees, profit, gross receipts, capital gains, capital stock, transfer, sales, use, value added, occupation, property, excise, severance, windfall profits, stamp, license, payroll, social security, withholding, and other taxes, assessments, charges, duties, fees, levies, and other governmental charges imposed by a taxing authority of any kind whatsoever (whether payable directly or by withholding and whether or not requiring the filing of a Return) all estimated taxes, deficiency assessments, additions to tax, penalties, and interest.

"*Term*" shall mean the Initial Term and any Extensions.

"*Terminal*" shall mean all storage and blending equipment, docks, tanks, and all other related facilities, equipment, and real property associated with petroleum import, export, mixing, storage, and related activities at the Oil Refinery and Related Facilities, exclusive of the Refinery, as further described in Appendix [A].

"*Terminal Customers*" shall have the meaning set forth in Section 10.1.

"*Terminal Operations*" shall mean the trading, blending, storing, sale, offloading and loading of crude oil, refined products, liquid petroleum gases and other hydrocarbons and related activities.

"*Terminal Operator*" shall have the meaning set forth in the Preamble.

"*Terminal Revenue*" shall mean gross receipts from Terminal Operations realized by Terminal Operator, less the cost of any fuel or additives. For the avoidance of doubt, Terminal Revenue shall exclude gross receipts arising in connection with Shared Services Systems.

"*Terminal Site*" shall mean the real property on which the Terminal is located, as further described in Appendix B.

"*Termination Event*" shall have the meaning set forth in Section 15.2.(A).

"*USDOJ*" shall have the meaning set forth in Section 4.1.(B).

"*Virgin Islands Resident*" shall mean (i) any United States citizen domiciled in the U.S. Virgin Islands for one year or more; (ii) an individual who has attended a school in the U.S. Virgin Islands for at least six years or is a high school or University of the U.S. Virgin Islands graduate and who is registered to vote in the U.S. Virgin Islands; or (iii) the holder of an alien registration card (United States Department of Justice Form No. 1151) domiciled in the U.S. Virgin Islands for one year or more. An individual shall demonstrate that he or she has been a resident for one year or more for the purposes of this definition using the date of issuance of a W-2 form, a voter registration card, a permanent resident card, or a U.S. Virgin Islands driver's license.

Section 1.2. Agreement Components. This Agreement consists of the body of this Agreement and the following attachments:

(1) Appendix A: Terminal Assets

(2) Appendix B: Terminal Site and Refinery Site

(3) Exhibit A: Pre-Existing Liability Release

(4) Exhibit Bs: Settlement and Release Agreement

Each Appendix, Exhibit and Schedule referred to in this Agreement is part of this Agreement and each Appendix, Exhibit and Schedule is hereby incorporated into the body of the Agreement as if set forth in full therein.

Section 1.3. Agreement Interpretation. In construing this Agreement: (a) no consideration shall be given to the captions of the articles, sections, subsections or clauses, which are inserted for convenience in locating the provisions of this Agreement and not as an aid to construction and shall not be interpreted to limit or otherwise affect the provisions of this Agreement or the rights and other legal relations of the Parties; (b) no consideration shall be given to the fact or presumption that either Party had a greater or lesser hand in drafting this Agreement; (c) examples shall not be construed to limit, expressly or by implication, the matter they illustrate; (d) the word "includes" and its syntactic variants mean, unless otherwise specified, "includes, but is not limited to" and corresponding syntactic variant expressions; (e) words such as "herein", "hereby", "hereafter", "hereof", "hereto" and "hereunder" refer to this Agreement as a whole and not to any particular article, section or provision of this

Agreement; (f) whenever the context requires, the plural shall be deemed to include the singular, and vice versa; (g) each gender shall be deemed to include the other gender, when such construction is appropriate; (h) references to a Person are also to its permitted successors and permitted assigns; (i) all references in this Agreement to Appendices, Exhibits, Schedules, Sections and Articles refer to the corresponding Appendices, Exhibits, Schedules, Sections and Articles of this Agreement unless expressly provided otherwise; (j) references to the "U.S." mean to the United States of America; (k) references to "$" or "Dollars" mean U.S. Dollars; and (l) unless otherwise expressly provided herein, any agreement, instrument or Applicable Law defined or referred to herein means such agreement, instrument or Applicable Law as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of Applicable Laws) by succession of comparable successor Applicable Laws and reference to all attachments thereto and instruments incorporated therein.

ARTICLE 2
TERM OF AGREEMENT

Section 2.1. **Effective Date**. This Agreement shall become effective (the "***Effective Date***") upon the first day on which (i) this Agreement has been executed by all Parties and (ii) this Agreement has been duly ratified by the Legislature of the U.S. Virgin Islands.

Section 2.2. **Initial Term**. The initial term of this Agreement (the **"*Initial Term*"**) shall commence on the Effective Date and continue in effect for a period of forty (40) years from the Closing Date.

Section 2.3. **Extension of Term**. The Term may be extended for a period of twenty (20) additional years (the **"*Extension*"**) upon the delivery of written notice to the Government by Terminal Operator no later than eighteen (18) months prior to the expiration of the Initial Term or any Extension, if applicable.

ARTICLE 3
CLOSING; CLOSING CONDITIONS, TERMINATION BEFORE CLOSING

Section 3.1. **Time and Place of Closing**.

(A) **Closing.** Unless this Agreement shall have been terminated and the transactions herein contemplated shall have been abandoned pursuant to this Article 3, and subject to the satisfaction or waiver of the conditions set forth in Section 3.2 (other than conditions, the fulfillment of which, by their nature, are to occur at the completion of the transactions contemplated by this Agreement (the **"*Closing*"**)), the Closing shall take place at the same time and place as the closing under the Purchase Agreement, provided that all conditions precedent to Closing have been satisfied or waived by the appropriate party.

(B) **Closing Date.** The date on which the Closing occurs is herein referred to as the **"*Closing Date*"**.

Section 3.2. **Conditions to Closing**.

(A) **Condition Precedent.** This Agreement and all of its terms shall be subject to the ratification and approval of the Legislature and the placement of the signature of the Governor thereon.

(B) **Conditions of the Government to Closing.** The obligations of the Government to consummate the transactions contemplated by this Agreement are subject, at the option of the Government, to the satisfaction or waiver by the Government, on or prior to Closing, of each of the following conditions:

(1) All conditions precedent and other closing requirements pursuant to the Purchase Agreement have been satisfied or waived.

(2) No Proceeding by a third Person (including any Governmental Authority other than the Government) seeking to restrain, enjoin or otherwise prohibit the consummation of the transactions contemplated by this Agreement shall be pending or threatened before any Governmental Authority; no order, writ, injunction or decree shall have been entered (and be in effect) by any Governmental Authority of competent jurisdiction; and no statute, rule, regulation or other legal requirement shall have been promulgated or enacted (and be in effect) by any Governmental Authority, that, on a temporary or permanent basis, restrains, enjoins or invalidates the transactions contemplated hereby.

(3) Each of the representations and warranties of Terminal Operator contained in this Agreement shall be true and correct in all material respects.

(4) Terminal Operator shall have performed and observed, in all material respects, all covenants and agreements to be performed or observed under this Agreement prior to or on the Closing Date.

(C) **Conditions to Terminal Operator Closing.** The obligations of Terminal Operator to consummate the transactions contemplated by this Agreement are subject, at the option of Terminal Operator, to the satisfaction or waiver by Terminal Operator, on or prior to Closing, of each of the following conditions:

(1) The Legislature shall have ratified and approved the transactions contemplated by this Agreement and the terms and conditions of this Agreement and the signature of the Governor of the U.S. Virgin Islands (the **"*Governor*"**) shall have been placed thereon.

(2) The transactions contemplated by the Purchase Agreement shall have closed.

(3) No Proceeding by a third Person (including any Governmental Authority) seeking to restrain, enjoin or otherwise prohibit the consummation of the transactions contemplated by this Agreement shall be pending or threatened before any Governmental Authority; no order, writ, injunction or decree shall have been entered (and be in effect) by any Governmental Authority of competent jurisdiction; and no statute, rule, regulation or other legal requirement shall have been promulgated or enacted (and be in effect) by any Governmental

Authority, that, in each case, on a temporary or permanent basis, restrains, enjoins or invalidates the transactions contemplated hereby.

(4) Each of the representations and warranties of the Government contained in this Agreement shall be true and correct in all material respects.

(5) The Government shall have performed and observed, in all material respects, all covenants and agreements to be performed or observed by the Government under this Agreement prior to or on the Closing Date.

(6) The Government and Terminal Operator shall have executed and delivered the release agreement in the form attached hereto as Exhibit A-2 (the **"*Pre-Existing Liability Release*"**), releasing Terminal Operator in respect of various potential environmental and other liabilities arising in connection with the Submerged Lands and from the ownership, use or operation of the Oil Refinery and Related Facilities, in each case prior to the Closing Date, including any liabilities of parties to the Settlement and Release Agreement.

(7) The Government shall have executed and delivered a release, in form and substance reasonably satisfactory to Terminal Operator, of Terminal Operator and the Terminal from all liabilities, claims, actions or losses arising in connection with circumstances, events, agreements or conditions related to the Oil Refinery and Related Facilities prior to the Closing.

(8) Hovic shall have assigned its rights and obligations with respect to the Submerged Lands to Terminal Operator, as contemplated by Section 6.3 hereof.

Section 3.3. Closing Deliveries.

(A) **Closing Deliveries of Terminal Operator.** At the Closing, upon the terms and subject to the conditions of this Agreement, Terminal Operator shall deliver, or cause to be delivered, to the Government, or perform or cause to be performed, the following:

(1) A certificate duly executed by an authorized officer of Terminal Operator dated as of the Closing Date, certifying on behalf of Terminal Operator that the conditions set forth in Section 3.2.(B)(4) has been fulfilled;

(2) A certificate duly executed by an authorized officer of Terminal Operator dated as of the Closing Date, (i) attaching and certifying on behalf of Terminal Operator complete and correct copies of (x) the organizational documents of Terminal Operator, as in effect as of the Closing Date, and (y) the resolution of Terminal Operator authorizing the execution, delivery and performance by Terminal Operator of this Agreement and the transactions contemplated hereby and (ii) certifying the incumbency of each authorized representative of Terminal Operator executing this Agreement or any document delivered in connection with the Closing;

(3) Certificates of insurance evidencing the insurance Terminal Operator has obtained, or caused to be obtained, as required pursuant to Article 9.

(B) **Closing Deliveries of the Government.** At the Closing, upon the terms and subject to the conditions of this Agreement, the Government shall deliver, or cause to be delivered to Terminal Operator the documentation required pursuant to this Agreement, as well as to perform or cause to be performed its obligations under this Agreement, including, the following:

(1) Evidence of the ratification and approval of the Legislature of the transactions contemplated by this Agreement and the terms of this Agreement, including the necessary signature of the Governor;

(2) the Pre-Existing Liability Release; and

(3) [*discuss any others*].

Section 3.4. Termination Before Closing.

(A) **Termination.** This Agreement may be terminated and the transactions contemplated hereby abandoned at any time prior to the Closing:

(1) By mutual written consent of the Government and Terminal Operator;

(2) By either Party, for failure of either Party to close pursuant to the terms of Article 3;

(3) By Terminal Operator, if (i) there shall be any statutes, laws, rules, regulations, ordinances, orders, and codes of or by any Governmental Authority that makes consummation of the transactions contemplated hereby illegal or otherwise prohibited, (ii) a Governmental Authority shall have issued an order, decree, or ruling or taken any other action permanently restraining, enjoining, or otherwise prohibiting the consummation of the transactions contemplated hereby, (iii) any of the representations and warranties of the Government contained in this Agreement shall not be true and correct in all material respects at time of Closing; or (iv) the Government shall have failed to fulfill, in any material respect, any of its obligations under this Agreement required to be performed prior to or at Closing; or

(4) By the Government, if (i) any of the representations and warranties of Terminal Operator contained in this Agreement shall not be true and correct in all material respects at time of Closing; or (ii) Terminal Operator shall have failed to fulfill, in any material respect, any of its obligations under this Agreement required to be performed prior to or at Closing.

(B) **Effect of Termination.**

(1) If this Agreement is terminated pursuant to Section 3.4.(A), this Agreement shall become void and of no further force or effect.

ARTICLE 4
COMMENCEMENT OF OPERATIONS

Section 4.1. Permits.

(A) Terminal Operator shall use commercially reasonable efforts to obtain and maintain all necessary federal, territorial, and local Authorizations, and necessary modification(s) thereof, including under Environmental Laws, to restart Terminal Operations as contemplated in this Agreement as soon as commercially reasonable and, in any event, on or before the Operations Commencement Deadline. The Government shall provide assistance to Terminal Operator in obtaining all such Authorizations.

(B) Terminal Operator shall use commercially reasonable efforts to obtain all necessary regulatory approvals, including but not limited to any from the U.S. Department of Justice (**"*USDOJ*"**), the U.S. Environmental Protection Agency (**"*EPA*"**) the U.S. Virgin Islands Department of Planning and Natural Resources (**"*DPNR*"**), and the District Court for the District of the U.S. Virgin Islands (**"*District Court*"**) to, among other things, modify the Clean Air Act Consent Decree in order to restart Terminal Operations as soon as commercially reasonable and, in any event, on or before the Operations Commencement Deadline. Such efforts shall include, but not be limited to, coordinating with the owner of the Refinery (the "***Refinery Owner***") and other third parties, if applicable, and the Government and negotiating diligently with USDOJ, EPA, and DPNR the terms and conditions of one or more filings to so modify the Clean Air Act Consent Decree (and any proposed order(s) modifying the Clean Air Act Consent Decree), cooperating with USDOJ, EPA, and DPNR and taking such actions necessary to finalize and lodge with the District Court such filings and proposed orders, cooperating with and assisting as reasonably necessary USDOJ, EPA, and DPNR in responding to any public comments, and filing of any papers, provision of testimony, participating in any public meetings or hearings or court proceedings, or taking other actions reasonably necessary to support and seek expeditious District Court approval and entry of such modification.

(C) The Government shall at no cost provide such Authorizations, permits and rights as may be required to enable Terminal Operator to install one or more offshore buoy and loading system installations capable of servicing very large crude carrier vessels, including any new pipeline delivery or offloading systems, subsea or surface installations as may be required. The Government shall facilitate any required Authorizations from the U.S. Coast Guard, U.S. Army Corps of Engineers, U.S. Department of Homeland Security, or other Governmental Authority.

Section 4.2. Operations Commencement

(A) Within [__] months after the Closing, subject to delays due to any Force Majeure Event, breach by the Government of its obligations hereunder or breach by counterparties to any contractual arrangements described herein (the **"*Operations Commencement Deadline*"**), Terminal Operator shall commence Terminal Operations (the **"*Operations Commencement Date*"**). Subject to Section 11.1, Terminal Operator shall use commercially reasonable efforts to ensure that all Authorizations required by Applicable Law for Terminal Operator to commence Terminal Operations and continue to operate the Terminal for

the duration of this Agreement are issued and in full force and effect prior to the Operations Commencement Deadline.

(B) The Operations Commencement Deadline may be extended for such period of time as is necessary to obtain all such necessary and material territorial and federal Authorizations and modifications, if despite Terminal Operator's commercially reasonable efforts the applicable Governmental Authority has not issued a material territorial or federal Authorizations or modifications thereof that is necessary to restart Terminal Operations on or before the Operations Commencement Deadline.

ARTICLE 5
OPERATION OF THE TERMINAL

Section 5.1. Independent Operation and Non-Interference.

(A) Terminal Operator shall own, restart, operate and maintain the Terminal as a standalone facility from the Operations Commencement Date until completion of the Term.

(B) The Government agrees and shall ensure that the Terminal Operator shall have the right to occupy and use the Terminal Site, including the Submerged Lands, operate the Terminal as set forth herein as an independent terminal facility, and perform its obligations hereunder without regard to the Sales Process with respect to the Refinery, any judicial proceedings with respect to previous owners of the Oil Refinery and Related Facilities or their Affiliates prior to or after the Closing, or the rights or claims of any successor in interest to or trustee of any such previous owner's or the Government's interests in the Refinery.

(C) Terminal Operator shall perform all of its obligations under this Agreement and the other agreements or transactions related thereto, and use commercially reasonable efforts to cause its contractors, subcontractors and agents or employees and their authorized representatives to perform their obligations under the relevant Contracts, in a manner that does not unduly interfere with the operations of the Refinery.

(D) The Government shall perform all of its obligations under this Agreement and the other agreements or transactions related thereto, and use commercially reasonable efforts to cause its contractors (including, without limitation, any Terminal Operator of the Refinery) subcontractors and agents or employees and their authorized representatives to perform their obligations under the relevant Contracts, in a manner that does not unduly interfere with the Terminal Operations.

(E) The Government agrees that the Terminal Operator shall not be nor be deemed a "public utility" under Applicable Law in connection with the operation of the Terminal or any Shared Services Systems.

(F) The Government agrees that Terminal Operator shall have the right to acquire any and all power generation and transmission facilities at the Site and to modify, expand and operate such facilities as Terminal Operator determines is necessary to provide appropriate power generation resources to the Terminal and, as appropriate, the Refinery.

Section 5.2. Terminal Operations.

(A) **Continuing Obligation to Conduct Terminal Operations.** Following the Restart Date, Terminal Operator shall continue Terminal Operations through the completion of the Term, subject only to performance by the Government of its obligations hereunder, Force Majeure Events, maintenance and repair, and any earlier termination of this Agreement.

(B) **Operation Work Standards**. Terminal Operator shall perform all operations of the Terminal and carry out its responsibilities under this Agreement, and shall endeavor to ensure that its subcontractors perform all operations of or related to the Terminal, (i) in accordance with International Standards, (ii) as a reasonable and prudent Terminal Operator, in a sound and workmanlike manner, with due diligence and dispatch; (iii) in accordance with sound, workmanlike and prudent practices of the oil and gas storage and terminalling industry; and (iv) in compliance with Applicable Law.

(C) **Terminal Services.** Terminal Operator shall provide reasonable cooperation, including Terminal storage, logistics and dock capacity access, to the Refinery Owner, if any, in connection with the re-commissioning and subsequent operation of the Refinery.

ARTICLE 6
ADDITIONAL OPERATING PROVISIONS

Section 6.1. Operation of the Fuel Loading Rack.

(A) To endeavor to provide a reliable supply of fuel for the island of St. Croix, for the duration of the Term, Terminal Operator shall:

(1) maintain and operate (or engage a responsible third Person vendor acceptable to the Government to maintain and operate) the fuel loading rack of the Terminal (the "***Fuel Loading Rack***") on a commercially reasonable basis; and

(2) following the Operations Commencement Date, subject to availability, use commercially reasonable efforts to arrange supply of fuels at prevailing market prices.

(B) The Government agrees that any revenues of the Terminal Operator arising in connection with Fuel Loading Rack sales shall not be included in any calculation of the Operating Payment.

Section 6.2. Navigational Access. Navigational access to the Limetree Bay Channel shall be under Terminal Operator's sole control. Provided that Terminal Operator shall be reimbursed for any additional cost or expense incurred, Terminal Operator shall use commercially reasonable efforts to facilitate navigational access to the Limetree Bay Channel (but not the Terminal loading docks) to commercial vessels en route to and from the Gordon E. Finch Molasses Pier and the Wilfred "Bomba" Allick Port and Transshipment Terminal, subject to:

(A) any necessary Authorizations by the U.S. Coast Guard, U.S. Department of Homeland Security, or other Governmental Authority;

(B) confirmation that vessels in transit to or from the Terminal shall have priority over any other vessels wishing to access the Limetree Bay Channel; and

(C) the same channel rules imposed by Terminal Operator on all commercial ships coming into the channel, as may be amended from time to time.

Section 6.3. Submerged Land Grant.

(A) Terminal Operator shall have exclusive rights with respect to the plots of land or submerged land and related rights and easements that are part of the Terminal Site to use said land, rights and easements as anticipated herein, as described in Appendix B, as follows:

(1) the Government agrees that the 1998 Letter Agreement and the Submerged Lands Permits (as described below) and the Submerged Land Lease are hereby modified so that at Closing Terminal Operator has all the rights of Lessee and Permittee for that portion of the Submerged Lands comprising the Terminal Site ("Submerged Lands Terminal Site") the boundaries of which are described in Appendix B, which will provide Terminal Operator with (x) the same obligations and rights as the Lessee under the Submerged Land Lease for the Submerged Lands Terminal Site; (y) as regards the Submerged Lands Terminal Site, obligations and rights to use the submerged lands under permits described in the 1976 Contract, including (i) Submerged Lands Permit Nos. 3, 23, and 52 issued by the United States Department of the Interior, as amended, which rights shall continue for the term of this Agreement, as such term is extended, (ii) Submerged Lands Permit No. 167 issued by the Department of Conservation and Cultural Affairs of the Government of the Virgin Islands, as amended, which rights shall continue for the term of this Agreement, as the term is extended, and, (iii) subject to review and acceptance by Terminal Operator, Coastal Zone Management permits: CZX-24-93W, CZX-8-06W, and CZX-6-99W; and (z) as regards the Submerged Lands Terminal Site, any other obligations and rights as required to provide Terminal Operator with full use of the plots of submerged land that are part of the Terminal Site as anticipated herein, which obligations and rights shall continue for the term of this Agreement;

(2) as at Closing, and in accordance with the modified Submerged Lands Lease, the Government recognizes and agrees that as regards the Submerged Lands Terminal Site, the Terminal Operator shall owe to the Government the indemnifications of Lessee as set forth in the Submerged Lands Lease, and Hovic and Hovensa shall be released by the Government with respect to such indemnities as regards the Submerged Lands Terminal Site;

(3) As at Closing, Hovic and Hovensa shall be released from their obligations under the 1976 Contract as regards the Submerged Lands Terminal Site;

(4) as at Closing, Terminal Operator shall be substituted for Hovic and Hovensa, and Hovic shall be released under the 1998 Letter Agreement as regards the Submerged Lands Terminal Site;

(5) as regards the Submerged Lands Terminal Site, the Submerged Land Lease as of Closing shall be extended through October 16, 2056, for a monthly rental in the amount of $1.00, payable in advance, and the Government shall allow Terminal Operator to continue to use Submerged Lands Permit No. 3 (for the rental rate of $[__] per year),[1] Submerged Lands Permit No. 23 (for a rental rate of $[__] per year), Submerged Lands Permit No. 52 (for a rental rate of $[__] per year) and Submerged Lands Permit No. 167 (for a rental rate of $[__] per year); provided, however, Terminal Operator shall reduce the fourth quarter payments in connection with the Operating Payment to be paid to the Government in each year in the amount of the monthly rental to be paid by Terminal Operator for the Submerged Lands Terminal Site under the modified Submerged Land Lease and the rental rate to use Submerged Lands Permit Nos. 3, 23, 52, and 167, pursuant to Section 8.1 hereof; and

(6) as regards the Submerged Lands Terminal Site, Terminal Operator shall have the right to extend the term of the modified Submerged Land Lease for additional terms co-terminous with this Agreement; provided, however, that Terminal Operator shall reduce the fourth quarter payments in connection with the Operating Payment to be paid to the Government in each year in the amount of the monthly rental to be paid by Terminal Operator for the Submerged Lands Terminal Site under the modified Submerged Land Lease and the rental rate to use Submerged Lands Permit Nos. 3, 23, 52, and 167, pursuant to Section 8.1 hereof.

(B) Notwithstanding the provisions of Section 6.3.(A) above, the term of the modified Submerged Land Lease and the use rights granted to Terminal Operator, including those granted under Permit No. 3, Permit No. 23, Permit No. 52, and Permit No. 167, to use or occupy any submerged or other lands shall not extend beyond the term of this Agreement.

(C) The Government shall release and indemnify Terminal Operator in respect of various potential environmental and other liabilities arising in connection with the Submerged Lands and from the ownership, use or operation of the Oil Refinery and Related Facilities, in each case prior to the Closing Date, including any liabilities of parties to the Settlement and Release Agreement, pursuant to the Pre-Existing Liability Release Agreement.

.

ARTICLE 7
EMPLOYMENT

Section 7.1. Minimum Commitment. Terminal Operator acknowledges that the commitment to increased long-term employment at the Terminal is a material goal of the Government's entry into this Agreement, and accordingly for the period from the Operations Commencement Date through the remainder of the Term of this Agreement, the Terminal shall employ not fewer than seventy (70) Full-Time Employees.

[1] NTD: Rental rates to be prorated to reflect Terminal Site.

Section 7.2. **Residency Requirement**. On or before 12 months after the Operations Commencement Date, the Full-Time Employees of Terminal Operator shall include an average of not less than 70% of employees who are U.S. Virgin Islands Residents. Terminal Operator shall maintain not less than 70% of employees who are U.S. Virgin Islands Residents, such residency to be confirmed annually by the Commissioner of Labor for the remainder of the Term. For the purposes of this Article 7, individuals formerly employed by Hovensa, or its contractors, or Hovic for work at or regarding the Refinery or Terminal in the U.S. Virgin Islands in the five (5) years preceding the Effective Date shall be considered U.S. Virgin Islands Residents.

Section 7.3. **Training and Continuing Education**. Throughout the Term of this Agreement, Terminal Operator shall create and operate at its own cost and expense training programs at the St. Croix Vocational Training Center for the purpose of maximizing employment opportunities at the Terminal for Virgin Islands Residents. The training programs will (a) teach terminalling services related skills to qualified U.S. Virgin Islands Residents including: terminal safety, terminal operations, general terminal maintenance, environmental management, welding, instrument fitting, pipe fitting, and electrical maintenance, and (b) be made available to high school students, students and graduates of the University of the Virgin Islands, and trainees referred by the U.S. Virgin Islands Department of Labor.

ARTICLE 8
FINANCIAL OBLIGATIONS OF TERMINAL OPERATOR

Section 8.1. **Operating Payment**. Following the Effective Date, Terminal Operator shall on a monthly basis make to the Government a payment, which shall be deemed an operating expense by Terminal Operator (the **"*Operating Payment*"**) and is in lieu of the Exempted Payments identified in Article 10, of an amount equal to 7% of Terminal Revenue.

ARTICLE 9
INSURANCE

Section 9.1. **General Insurance**. Terminal Operator shall maintain or cause to be maintained at its own cost and expense, in full force and effect commencing on the Effective Date and throughout the Term, with responsible insurance companies authorized to do business in the U.S. Virgin Islands, the types and limits of insurance as set forth in this Article 9. Such companies shall have an A.M. Best Insurance Reports rating of A- or better or otherwise be reasonably acceptable to the Government. Such insurance required to be maintained by Terminal Operator hereunder shall be primary without, in the case of commercial general liability, the right of contribution of any other insurance carried by or on behalf of the Government and any additional insured. The Government shall be named as an additional insured on all policies.

Section 9.2. **Additional Insurance**. In addition to any insurance or demonstration of financial assurance or financial responsibility required under Applicable Law, Terminal Operator shall maintain in effect insurance of the following types and amounts of insurance coverage set forth below:

(A) **Property Insurance.** The property insurance policy shall contain the following terms: [_____].

(B) **Workers' Compensation Insurance.** Workers' compensation insurance to comply with statutory limits of the Workers' Compensation laws of the U.S. Virgin Islands, including coverage under the U.S. Longshore and Harbor Workers Compensation Act, where applicable. Workers' compensation insurance shall cover all of Terminal Operator's employees at the Terminal.

(C) **Commercial General Liability Insurance.** The commercial general liability insurance policy shall contain the following terms: [_____].

(D) **Automobile Liability Insurance.** The automobile liability insurance policy shall contain the following terms: [_____].

(E) **Terminal Operator Certificates**. Terminal Operator shall furnish to the Government certificates of insurance from each insurance carrier showing that the insurance required from Terminal Operator under this Agreement is in full force and effect. Terminal Operator or its insurer will provide the Government thirty (30) calendar days advance written notice in the event of any material change to, nonrenewal of or cancellation of the required insurance. Certificates of insurance submitted under this Article 9 shall be in form and content reasonably acceptable to the Government. Certificates of each renewal of the insurance shall also be delivered to the Government promptly after received. Should any of the policies required to be maintained become unavailable or be canceled for any reason during the period of this Agreement, Terminal Operator shall immediately procure replacement coverage.

ARTICLE 10
TAX AND FEE EXEMPTIONS

Section 10.1. Scope of Exemption. Following the Effective Date, Terminal Operator and each of its Affiliates or Equity Holders that are engaged in owning or operating, in whole or in material part, the Terminal, and their respective customers (the **"*Terminal Customers*"**), shall be exempt from payment of Exempted Payments, provided that this exemption shall not apply to re-sale off-site by Terminal Customers of product for use within the U.S. Virgin Islands.

Section 10.2. Exempted Payments. For purposes of this Agreement, "***Exempted Payments***" shall include all taxes, fees, excises, customs, duties, rents, royalties, lease payments, permit fees, imposts and exactions imposed by or with the consent of the Government, or any subdivision, agency or instrumentality thereof, on the rehabilitation, ownership, operation, maintenance, expansion, transfer, sale of products or any other activity in respect of (i) the Terminal, (ii) the Terminal Site, (iii) the Submerged Lands (other than rent payments as set forth in this Agreement), (iv) the Limetree Bay Channel, (v) the Fuel Loading Rack, and if acquired by Terminal Operator, (vi) the Refinery, or any portion of such properties and assets, including materials, work in process and products thereof (including importing, exporting, loading, unloading, discharging, storing, processing, blending, sale or purchase of oil, oil products or by-products including hydrocarbons, petrochemicals, or any other raw material or products thereof, or any equipment or machinery imported for use at, the Terminal or any portion thereof. The

foregoing exemption shall include specifically exemption from all (i) corporate income taxes, (ii) excise taxes, (iii) customs duties, (iv) fuel taxes, (v) gross receipts taxes, (vi) highway users' taxes, (vii) production taxes, (viii) property taxes, (ix) franchise taxes and annual report fees, (x) license fees and (xi) withholding taxes on any distributions to preferred or common Equity Holders made by Terminal Operator or any of its Affiliates.

Section 10.3. Limitations on Exemption. For the avoidance of doubt, Exempted Payments do not include any (i) wage income withholding taxes; (ii) taxes owed under the Federal Insurance Contributions Act, (iv) any user fees of general application, (v) any tax or fee collected by the United States Federal Government, (vi) and withholding taxes of general application imposed under Workmen's Compensation, unemployment insurance and other similar employee-benefit legislation.

Section 10.4. No Adverse Actions. The Government hereby agrees and covenants with Terminal Operator that, except as otherwise provided in this Agreement and to the fullest extent permitted by Applicable Law, the Government shall not take or fail to take any action, nor permit any action within its control to be taken or fail to be taken, which would or could cause Terminal Operator to lose any applicable payment and tax exemptions granted to Terminal Operator pursuant to this Agreement.

ARTICLE 11
REPRESENTATIONS AND WARRANTIES

Section 11.1. Government Representations. The Government hereby represents and warrants to Terminal Operator as of the date hereof and as of the Closing Date that:

(A) Assuming ratification and approval of this Agreement by the Legislature, the Government is not prohibited from consummating the transactions contemplated in this Agreement by any law, regulation, agreement, instrument, restriction, order, or judgment;

(B) The Government has, assuming ratification and approval of this Agreement by the Legislature: (i) the legal power, due authority and necessary and adequate funding ability to make the representations and perform its obligations set forth in this Agreement, or shall take all legally permitted and feasible actions necessary to obtain such legal power, due authority and necessary funding; and (ii) duly obtained such approvals, Authorizations, or consents in accordance with Applicable Law and procedures to the extent that the approval, Authorization, or consent of the federal or any other territorial or local government or agency or any third Person to make the representations and perform its obligations contained herein as required;

(C) There is no material impediment which would prevent, impede, diminish or delay its timely performance of its obligations hereunder;

(D) There are no actions, suits or proceedings pending or, to the best of the Government's knowledge, threatened against or affecting the Government before any court or administrative body or arbitral panel that could reasonably be expected to have a material

adverse effect on the ability of the Government to meet and carry out the obligations of this Agreement.

Section 11.2. Terminal Operator Representations. Terminal Operator hereby represents and warrants to the Government as of the date hereof and as of the Closing Date that:

(A) **Organization and Authority.** It has been duly organized and is validly existing and in good standing under the laws of the U.S. Virgin Islands, with all necessary power and authority to enter into, deliver and perform all its obligations under this Agreement (including a valid license to do business in the U.S. Virgin Islands).

(B) **Due Authorization; Enforceability.** This Agreement has been duly authorized and constitutes the legal, valid and binding obligations of it, and assuming the due authorization, execution and delivery of this Agreement by the Government, is enforceable against it in accordance with its terms. It has the absolute and unrestricted right, power, authority and capacity to execute and deliver this Agreement and to perform its obligations under this Agreement.

(C) **No Conflict.** Neither the execution and delivery of this Agreement nor the consummation or performance of any of the transactions contemplated by this Agreement will, directly or indirectly (with or without notice or lapse of time) contravene, conflict with or result in a violation of (i) any provision of its organizational documents, (ii) and Contract or other agreement by which it is bound, or (iii) any resolutions adopted by its board of directors, members or its stockholders.

(D) **No Litigation.** There are no actions, suits or Proceedings pending or, to the best of its knowledge, threatened against or affecting it or its Affiliates before any court or administrative body or arbitral panel that could reasonably be expected to have a material adverse effect on its ability to perform its obligations of this Agreement.

(E) **Consents and Notices.** It is not required to give any notice to or obtain any approval, consent, ratification, waiver or other authorization of any person (including any Authorization of any Governmental Authority other than the Government) in connection with the execution and delivery of this Agreement or the consummation or performance of any of the transactions contemplated by this Agreement.

(F) **Solvency.** There are no bankruptcy, reorganization or receivership proceedings pending against, being contemplated by, or, to its actual knowledge, threatened against Terminal Operator or any of the shareholders of Terminal Operator. Terminal Operator is solvent.

ARTICLE 12
COVENANTS OF TERMINAL OPERATOR

Section 12.1. Environmental.

(A) **Compliance.** Terminal Operator shall, and shall cause the Terminal and all operations and conditions at the Terminal Site, to comply in all material respects with all applicable Environmental Laws. Terminal Operator shall not take, allow, or suffer any action, inaction, or condition at the Terminal that causes or results in a material Release or threatened Release that requires a Response Action or restoration of any and/or natural resource restoration at or in connection with the Terminal, or constitutes a material violation of any Environmental Laws. In the event of such a Release or threatened Release at or from the Terminal, or caused by Terminal Operations, Terminal Operator at its own cost shall promptly take all appropriate Response Actions and other actions required by applicable Environmental Laws to investigate, contain, clean up, remediate, and otherwise respond to such Release or threatened Release, restore, replace, or mitigate natural resources, and otherwise protect human health and the environment.

(B) **Appropriate Care; Cooperation.**

(1) Terminal Operator shall exercise appropriate care with respect to the Pre-Existing Contamination located at the Terminal and shall comply with all Environmental Laws applicable thereto. Terminal Operator shall not be obligated under this Section 12.1.(B) with respect to any matters not located on the Terminal Site or on real property retained by previous owners of the Oil Refinery and Related Facilities or their Affiliates or any of their successors or assigns, including the Refinery Site.

(2) Terminal Operator shall cooperate reasonably and provide commercially reasonable assistance and access to persons authorized by the Government to conduct Response Actions and/or natural resource restoration at the Terminal (including such reasonable cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial Response Actions or natural resource restoration at the Terminal).

(3) Terminal Operator shall (i) comply with land use restrictions established pursuant to Applicable Law in connection with Response Actions at the Terminal; (ii) not unreasonably interfere with or unreasonably impede the effectiveness or integrity of any institutional or engineering control employed at the Terminal in connection with a Response Action, so long as such control does not unreasonably interfere with or increase the costs of Terminal Operator's operation of the Terminal; and (iii) comply with all reasonable requests for information or lawful administrative subpoenas issued by the Government pursuant to Environmental Laws and respecting the Terminal or its operations.

(4) Terminal Operator shall take commercially reasonable steps, promptly upon knowledge thereof and to the extent required by applicable Environmental Laws to mitigate any new or threatened Releases at the Terminal, including without limitation taking commercially reasonable steps to the extent required by applicable Environmental Law to mitigate occupational or other human or environmental exposures to Pre-Existing Contamination at or from the Terminal.

(5) Terminal Operator, and not the Government, shall have responsibility to comply with Environmental Laws regarding the Terminal and the Terminal Site

that have been used or occupied by the owners of the Oil Refinery and Related Facilities of their Affiliate(s), or its designee(s), are now or hereafter used or occupied by Terminal Operator, its Affiliate(s), or its designee(s), or are now or hereafter subject to a submerged or filled land lease or permit or Coastal Zone Management permit (collectively, **"*Submerged Lands*"**).

(6) Terminal Operator shall comply with all Applicable Laws, including but not limited to Environmental Laws, with respect to the loading, unloading, and berthing of vessels at the Terminal.

(C) **Notification.** In the event that Terminal Operator becomes aware of any action or occurrence which causes or threatens a Release of a Contaminant at or from the Terminal that constitutes an emergency situation or may present an imminent and substantial endangerment to human health or welfare or the environment, Terminal Operator shall immediately take all appropriate action required by applicable Environmental Laws with respect to such Release or threat of Release, and shall, in addition to complying with any applicable notification requirements under 42 U.S.C. § 9603 and any other Environmental Laws, promptly notify the Government of such Release or threatened Release.

(D) **Permits.** Throughout the Term, Terminal Operator shall do all things and take such commercially reasonable actions, to the extent required by Applicable Law, promptly to file all applications for and obtaining, maintaining, modifying, and renewing all permits required for Terminal Operator compliance with this Agreement.

Section 12.2. Consents and Approvals. Terminal Operator shall do all things and take such actions necessary, to the fullest extent permitted by law, to obtain promptly any Authorizations or other actions on the part of Government Authorities or of any officials, departments, agencies, or other instrumentalities thereof that may be necessary or appropriate in connection with rehabilitating and operating the Terminal.

Section 12.3. Indemnification. Terminal Operator shall defend, indemnify, and hold harmless and pay on a current basis the Government and its agents, officers, directors and employees and other representatives (each, a **"*Government Indemnified Party*"**) from and against any and all Losses incurred by a Government Indemnified Party arising out of or relating to Terminal Operator's obligations under this Article 12:

(A) to the extent caused by any negligent act or omission (including strict liability), gross negligence or willful misconduct of Terminal Operator, its subcontractors or any of their respective agents or employees (but only with respect to Losses for injury, illness or death to any individual or damage to any property of any Person); or

(B) to the extent caused by breach of Applicable Law by Terminal Operator, its contractors, or any of their respective agents or employees; or

(C) to the extent caused by or arising out of a Release or threatened Release of a Contaminant, a Response Action, or obligation under any Environmental Laws at, under, on, or with respect to the Terminal;

provided, however, that Terminal Operator shall not be required to indemnify any Government Indemnified Party for Losses to the extent that such Losses suffered by the Government Indemnified Party arose out of any negligent act or omission (including strict liability) or willful misconduct of any Government Indemnified Party.

ARTICLE 13
GOVERNMENT COVENANTS

Section 13.1. Assistance with Permits. Throughout the Term, the Government shall do all things and take such actions reasonably necessary, to the fullest extent permitted by Applicable Law, to assist Terminal Operator (and, where applicable, its contractors and subcontractors), in Terminal Operator's expeditious filing of all applications for and obtaining, maintaining, and renewing all Government Authorizations required for Terminal Operator's compliance with this Agreement, including such appropriate Government Authorizations as are required to execute the New Submerged Land Lease and provide the Terminal Operator with full use of the plots of submerged land that are part of the Terminal Site as anticipated herein and to extend the exemption from the Jones Act of the current Oil Refinery and Related Facilities. The Government shall take all feasible and lawful measures necessary to have all such Authorizations issued as soon as is practicable, and otherwise shall not delay or frustrate the application process.

Section 13.2. Consents and Approvals. The Government undertakes to use its commercially reasonable efforts in good faith to assist Terminal Operator to obtain promptly any consents, approvals, clearances, determinations, or other actions on the part of the U.S. Government or of any officials, departments, agencies, or other instrumentalities thereof that may be necessary or appropriate in connection with operating the Terminal.

Section 13.3. Beneficial Use. Without the prior written consent of Terminal Operator, which consent may not be unreasonably withheld, conditioned or delayed, the Government, except to the extent required by Applicable Law, shall not take, approve, assist or allow any action, or fail to take, approve, assist or allow any action, if such action or failure to act, as the case may be, is reasonably likely to materially adversely affect, diminish or impair the beneficial use, operation, utility or occupancy of the Terminal in compliance with this Agreement or the ability of Terminal Operator in compliance with this Agreement to beneficially use, occupy, obtain, receive or otherwise enjoy any of: (i) the physical sites, facilities, improvements, programs, financial incentives or other benefits existing as of the Effective Date and contemplated by any portion of this Agreement, or (ii) the obligations or other commitments of the Government contemplated by, or set forth in, this Agreement; provided, however, that nothing in this Section 13.3 shall impair the Government's right to enact laws, regulations, or policies of general application for the preservation of public health and safety.

Section 13.4. Other Legislation. The Government agrees to use reasonable efforts to oppose any proposed legislation, initiative, act, event, plan, or proposal which would otherwise have the effect of avoiding or materially reducing any of the obligations or commitments as set forth in this Agreement. To the extent an initiative would negatively impact the full performance after the Effective Date of any or all of the obligations or commitments made by the Government, the Government shall take all legally and commercially appropriate steps to defend the obligations and commitments contained herein. For the avoidance of doubt, any new taxes

(but not generally applicable user fees) adopted by the Government shall be treated as Exempt Payments under Section 10.2.

Section 13.5. Change in Law. The Government represents, warrants and covenants to Terminal Operator that in the event of a Change in Law, or any other act, event or circumstance, the result of which would be to diminish, impede, impair or prevent in connection with the Terminal the full performance after the Closing Date of any or all of the obligations and commitments made by the Government, the Government shall exercise its best efforts to, and to the extent permitted by law shall, provide Terminal Operator either with an exemption from the Applicable Law as so changed or provide Terminal Operator with another obligation or commitment reasonably acceptable to Terminal Operator and having economic effect equivalent to the commitment so lessened or removed.

Section 13.6. Other Benefits. Terminal Operator and its Affiliates shall not be precluded by reason of this Agreement from applying for benefits under legislation hereafter enacted for which it or they would otherwise qualify, but to the extent such benefits are inconsistent with its or their obligations and commitments under this Agreement, the terms of this Agreement shall govern.

Section 13.7. No Additional Cost to Terminal Operator. The Government shall fully fund and perform its obligations under this Agreement, and at no time shall Terminal Operator be responsible for or be required to incur or pay any cost, charge or expense under this Agreement relating to those obligations (or any agreement executed pursuant hereto) unless this Agreement (or the agreement executed pursuant hereto) specifically identifies a cost, charge or expense to be borne or paid by Terminal Operator.

Section 13.8. Indemnification. The Government shall defend, indemnify, hold harmless and pay on a current basis the Terminal Operator and its Affiliates and their respective agents, officers, directors and employees and other representatives (each, an **"*Terminal Operator Indemnified Party*"**) from and against any and all Losses incurred by an Terminal Operator Indemnified Party arising out of or relating to the Government's obligations under this Article 13:

(A) to the extent caused by any negligent act or omission (including strict liability), gross negligence or willful misconduct of the Government, its contractors or any of their respective agents or employees (but only with respect to Losses for injury, illness or death to any individual or damage to any property of any Person); or

(B) to the extent caused by breach of Applicable Law by the Government, its contractors, or any of their respective agents or employees;

provided, however, that the Government shall not be required to indemnify any Terminal Operator Indemnified Party for Losses to the extent that such Losses suffered by the Terminal Operator Indemnified Party arose out of any negligent act or omission (including strict liability) or willful misconduct of any Terminal Operator Indemnified Party.

ARTICLE 14
REPORTING, AUDIT AND INSPECTION

Section 14.1. Reporting. Terminal Operator shall provide to the Government (i) not later than ninety (90) days following the close of its fiscal year, annual financial statements audited by a reputable audit firm acceptable to the Government, and (ii) not later than forty-five (45) days following the close of each fiscal quarter, unaudited quarterly financial statements. Terminal Operator shall be required to make all tax and other annual filings whether or not payment is due. Terminal Operator shall provide quarterly employment information to the U.S. Virgin Islands Office of Management and Budget and U.S. Virgin Islands Department of Labor for purposes of confirming compliance with Article 7.

Section 14.2. Annual Audit.

(A) For the purpose of determining compliance with this Agreement and with Applicable Law, on or about March 31st of each calendar year following the Effective Date, the Government may initiate and conduct an audit of the books, accounts, and records of (a) the Terminal, and (b) Terminal Operator, to the extent such books, accounts, and records relate to the Terminal or their operations (such audit being an **"*Annual Audit*"**).

(B) Upon completion of any Annual Audit, the Government may prepare a report describing the results of such Annual Audit (an **"*Annual Audit Report*"**) and shall make any such report available to Terminal Operator upon request.

(C) Following receipt of any Annual Audit Report, Terminal Operator shall have not more than sixty (60) days in which to review such report and identify in writing any material errors or omissions therein. Any alleged material errors or omissions not so identified within the 60-day period are waived, and may not be asserted by Terminal Operator in any subsequent administrative, judicial, or quasi-judicial proceeding.

(D) Nothing in this Section 14.2 shall constitute a waiver or limitation on the Government's tax assessment, audit, investigation, enforcement, and collection authorities.

Section 14.3. Inspection.

(A) Upon fourteen (14) days' advance written notice to Terminal Operator, the Government may initiate an inspection of the Terminal for the purpose of determining compliance with this Agreement and with Applicable Law.

(B) Terminal Operator hereby consents to such inspections and agrees to provide reasonable access and assistance to the personnel conducting such inspections.

(C) To the extent any inspection conducted under this Section 14.3 reveals violations of this Agreement or Applicable Law, the Government hereby agrees to provide notice in writing of such violations within ten (10) days of the Government's determination of such violation.

(D) Upon receipt of notice of violation, Terminal Operator has thirty (30) days to submit either proof that Terminal Operator has remedied the violation and has restored compliance with this Agreement or Applicable Law or (ii) provided a plan and time reasonably acceptable to the Government to remedy such violations.

(E) Nothing in this Section 14.3 shall constitute a waiver or limitation on the Government or other Governmental Agency's audit, investigation, enforcement, and collection authorities or the ability to levy fines, penalties or other remedies in connection with violation of Applicable Law, consistent with this Agreement.

ARTICLE 15
DEFAULT AND TERMINATION

Section 15.1. Payment Default. In the event that Terminal Operator fails to make any payments due and owing to the Government under Article 8, then the Government shall have the right to give written notice to Terminal Operator of such failure, and in the event that such payment is not cured within ninety (90) days of such written notice (such failure being a "***Payment Default***"), the Government may terminate this Agreement upon thirty (30) days prior written notice of such termination to Terminal Operator.

Section 15.2. Termination.

(A) **Termination Events.** Notwithstanding anything herein to the contrary, upon the occurrence of any of the following events (each a "***Termination Event***"), this Agreement may be terminated upon thirty (30) days prior written notice of such termination as follows:

(1) By the Government if Terminal Operator becomes Bankrupt, and in the case of any filing by Terminal Operator, such filing is not withdrawn within ninety (90) days of the initial filing;

(2) By the Government, if Terminal Operator dissolves and commences liquidation or winding-up activities;

(3) By Terminal Operator, if the Government breaches any material obligation hereunder and fails to cure such breach within thirty (30) days following written notice thereof;

(4) Without further action by either Party, if the Initial Term of the Agreement expires without exercise of an Extension or the first Extension expires without exercise of a second Extension, in each case without mutual acceptance of a successor operating agreement.

(B) **Effect of Termination.** If this Agreement is terminated in accordance with Section 15.2.(A), then this Agreement shall be of no further force and effect, except that [Articles 1, 13.8, 15, 16, and 18] shall survive termination of this Agreement indefinitely.

Section 15.3. Rights and Remedies Cumulative. Except as expressly provided in this Agreement, all rights and remedies of any Party against any other Party and any permitted assignee of such other Party provided in this Agreement shall be deemed cumulative and not in lieu of, or exclusive of, each other or of any other right or remedy available to any Party at law or in equity, and the exercise of any right or remedy, or the existence herein of other rights or remedies, shall not prevent the exercise of any other right or remedy.

ARTICLE 16
CONFIDENTIALITY

Section 16.1. Confidentiality.

(A) Each Party shall, from time to time, require or acquire Confidential Information.

(B) The Government and Terminal Operator shall disclose the same to each other as required to advance their rights and obligations hereunder.

(C) The receiving Party shall not, directly or indirectly, in any manner whatsoever, at any time whatsoever, disclose Confidential Information to any other party whatsoever, except that the receiving Party, may disclose Confidential Information to its advisors, as required by lenders, Affiliates, directors, officers, employees, agents, consultants or representatives; provided that the receiving Party, takes all reasonable steps to ensure that each of any such parties are bound by the terms and conditions of this Article 16, including the provision not to disclose any Confidential Information to any party whatsoever.

(D) The obligations of each Party under Section 16.1.(C) do not apply in the following circumstances:

(1) following submission of the Agreement to the Legislature of the U.S. Virgin Islands for ratification;

(2) information required to be disclosed or retained by each other by the laws of any applicable jurisdiction, including any law, order, subpoena or document discovery request or pursuant to a binding requirement of any regulatory authority; provided that prior written notice is given to the disclosing Party, to the extent permitted under any Applicable Law, as soon as possible in order to afford the disclosing Party, an opportunity to seek a protective order;

(3) information which enters the public domain other than through any breach of the terms and conditions of this Agreement by the receiving Party;

(4) information lawfully made available to the receiving Party by another party free to make such disclosure without breach of any legal obligation;

(5) information already in the possession of the receiving Party at the time of its receipt of the same from the disclosing Party, except to the extent that it has been unlawfully appropriated; and

(6) information developed by the receiving Party independent of Confidential Information received from the disclosing Party.

(E) This Agreement and any contractual arrangements, presentations, analyses or data of Terminal Operator created, shared or conveyed in connection with this Agreement shall be deemed to constitute trade secrets of the Terminal Operator and shall remain confidential pursuant to Title 3, Chapter 33, Section 881(g)(3) of the U.S. Virgin Islands Code.

ARTICLE 17
FORCE MAJEURE

Section 17.1. Force Majeure Events. For the purposes of this Agreement the term "Force Majeure Event" shall mean any cause that is reasonably unforeseeable as of the date of this Agreement and that is beyond the reasonable control, directly or indirectly, of the Party affected and with the exercise of due diligence, could not be prevented avoided or removed by such Party, and does not result from such Party's negligence or fault and that wholly or partly delays or prevents such Party's performance of its obligations under this Agreement, including (to the extent meeting the foregoing requirements): war (whether declared or not) or other armed conflict terrorism; civil insurrection; declaration of martial law; piracy; nuclear accidents; widespread electrical outages; lightning strikes; earthquakes; fires; tornadoes; hurricanes; volcanic activity; accidents; strikes; lockouts or other labor actions (however, specifically excluding the labor force under the control of the Party experiencing such labor actions); actions or omissions of a Governmental Authority (including the actions of the Government in its capacity as a Governmental Authority or in the exercise of its Governmental Functions, or failure to issue an Authorization) that were not voluntarily induced or promoted by the affected Party, or brought about by the breach of its obligations under this Agreement or any Applicable Law. The Parties expressly agree and acknowledge that the list of Force Majeure Events in the foregoing sentence is intended as an inclusive list rather than an exhaustive list. Notwithstanding anything to the contrary, the term Force Majeure Event shall not be deemed to include (a) lack of funds or the availability of financing; (b) equipment failure, unless the claiming Party can point to an independent, identifiable Force Majeure Event that caused such failure; (c) acts or omissions of subcontractors (of any tier) except to the extent such subcontractors if they were a party hereto, would be able to claim a Force Majeure Event for the same or (d) changes in law other than changes in the Applicable Laws of the Government of the U.S. Virgin Islands or changes in Applicable Laws with disproportionate effect on, or targeted at, investors in the U.S. Virgin Islands. Upon the occurrence of a Force Majeure Event the Party claiming or experiencing such event shall promptly notify the other Parties and shall comply with the remaining provisions of this Article 17.

Section 17.2. Burden of Proof. In the event that the Parties are unable in good faith to agree that a Force Majeure Event has occurred or whether a Party's performance is excused, such dispute shall be resolved in accordance with the arbitration dispute resolution procedures set forth in Section 18.4 and, in any proceeding to resolve the dispute, the burden of proof as to

whether a Force Majeure Event has occurred and whether performance is excused shall be upon the Party claiming a Force Majeure Event.

Section 17.3. Excused Performance. If a Party is rendered wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Event, that Party shall be excused from whatever performance is affected by the Force Majeure Event to the extent so affected, subject to and conditioned upon the following:

(A) the non-performing Party, by exercise of due foresight could not reasonably have been expected to avoid, or by the exercise of due diligence could not have been able to overcome, such Force Majeure Event;

(B) the non-performing Party gives the other Party Notice describing the nature, scope and expected duration of the Force Majeure Event, and the steps the affected Party expects to take to both mitigate the Force Majeure Event itself and the effect of such Force Majeure Event on its obligations under this Agreement. Such Notice shall be given promptly after the occurrence of the Force Majeure Event, and in no event more than seven days after the original notification of the Force Majeure Event given pursuant to Section 17.1;

(C) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(D) the non-performing Party shall exercise all reasonable efforts to mitigate or limit damages to itself and to the other Party;

(E) the non-performing Party shall exercise all reasonable efforts to continue to perform its obligations hereunder and to correct or cure the event or condition excusing performance; and

(F) when the non-performing Party is able to resume performance of its obligations under this Agreement, that Party shall give the other Party written Notice to that effect and shall promptly resume performance hereunder.

Section 17.4. Applicability. For the avoidance of doubt and not as a limitation on the foregoing terms and conditions of this Article 17, (i) during the occurrence of a Force Majeure Event, neither Party shall be excused from any performance or payment obligation hereunder to the extent such obligation is not affected by such occurrence and is otherwise due in accordance with the terms and conditions hereof, and (ii) except as provided in clause (i), the terms and conditions of this Article 17 shall limit or condition all provisions of this Agreement whether or not so expressly stated in this Agreement.

ARTICLE 18
MISCELLANEOUS

Section 18.1. Notices, Requests and Communications. Wherever provision is made for the giving or issuance of any notice, instruction, consent, approval, certificate or determination by any Person (each, a **"*Notice*"**), unless otherwise specified, such communication

shall be in writing and shall not be unreasonably withheld or delayed. All Notices shall be given to a signatory at the physical address or facsimile number specified below or as such signatory hereto shall at any time otherwise specify by like notice to the other signatories hereto. Each such Notice shall be effective (a) if given by facsimile, at the time such appropriate confirmation of receipt is received by the sender (or, if such time is not during regular business hours of a Business Day, at the beginning of the next such Business Day), and (b) if given by mail or courier, upon receipt or refusal of service at the address specified for each signatory below. Notices shall be addressed as follows:

For the Government:
The Government of the U.S. Virgin Islands
Government House
Charlotte Amalie
St. Thomas, U.S. Virgin Islands
Attention: Office of the Governor

With a copy to:

Office of the Attorney General
U.S. Virgin Islands Department of Justice
34-38 Kronprindsens Gade
GERS Building, 2nd Floor
St. Thomas, U.S. Virgin Islands 00802

For Terminal Operator:

[_____]

Section 18.2. Assignment.

(A) This Agreement shall not be assignable by either Party except by Terminal Operator in whole to an Affiliate or an entity that acquires all or substantially all of Terminal Operator's business or assets. This Agreement shall not be assignable by the Government.

(B) **Financing Liens.**

(1) Terminal Operator, without approval of the Government, may, by security, charge or otherwise encumber its interest under this Agreement.

(2) Promptly after making such encumbrance, Terminal Operator shall notify the Government in writing of the name, address, and telephone and facsimile numbers of the collateral agent or security trustee to which Terminal Operator's interest under this Agreement has been pledged or assigned. Such notice shall include the names of the account managers or other representatives of the lenders to whom all written and telephonic communications may be addressed.

(3) After giving the Government such initial notice, Terminal Operator shall promptly give the Government notice of any change in the information provided in the initial notice or any revised notice.

Section 18.3. Governing Law. This Agreement and the rights and duties of the Parties arising out of this Agreement shall be governed by, and construed in accordance with, the applicable laws of the [U.S. Virgin Islands] without reference to the conflict of laws rules thereof that would direct the application of the laws of another jurisdiction.

Section 18.4. Dispute Resolution. Any dispute between the Parties as to the interpretation or effect of this Agreement (which shall include for the purposes of this Agreement any subsequent modification thereof unless otherwise expressly provided by such modification) and any controversy between them or claim by either of them, whether sounding in tort or contract, arising out of or relating to this Agreement or the conduct of the Parties, their agents and or representatives, notwithstanding the Government's status as such and in the same manner as similar actions, suits or proceedings to which the Government is not a Party, be determined by arbitration administered by the American Arbitration Association ("***AAA***"). The number of arbitrators shall be three (3). Within thirty (30) days of delivery of the request for arbitration, each party shall appoint one (1) arbitrator. If the two party appointed arbitrators do not reach an agreement on the appointment of a third arbitrator who shall serve as the chairman of the tribunal within fifteen (15) days of their appointment, the AAA shall appoint the third arbitrator. The language of the arbitration shall be English. Judgment upon any award(s) rendered by the arbitrators may be entered in any court having jurisdiction thereof. Nothing in this Agreement shall prevent either party from seeking provisional measures from any court of competent jurisdiction, and any such request shall not be deemed incompatible with the agreement to arbitrate or a waiver of the right to arbitrate. Judgment upon any award rendered by the arbitrator(s) in any such proceeding may be entered in any court having jurisdiction.

Section 18.5. Waiver of Sovereign Immunity.

Each Party unconditionally and irrevocably:

(A) agrees that the execution, delivery and performance by it of this Agreement and all other agreements, contracts, documents and writings relating hereto constitute private and commercial acts and not public or governmental acts;

(B) agrees that should any proceedings be brought against it or its assets, other than the assets protected by the diplomatic and consular privileges under any law ("***Exempted Assets***") in any jurisdiction, in relation to this Agreement or any transaction contemplated hereby, no immunity, sovereign or otherwise, from such proceedings, execution, attachment or other legal process shall be claimed by or on behalf of itself or with respect to any of its assets (other than the Exempted Assets); and

(C) subject to the Parties following the dispute resolution procedures set forth in Section 18.4, consents generally in respect of the enforcement of any judgment against it in any proceedings in any jurisdiction to the giving of any relief or the issue of any process in

connection with such proceedings including the making, enforcement or execution against or in respect of any property irrespective of its use subject to Section 18.5.(B).

Section 18.6. Entire Agreement; Subsequent Amendments. This Agreement constitutes the entire agreement of the Parties and the provisions herein shall supersede any and all prior agreements or understandings relating to the same subject matter. It is intended that no Party shall have or be deemed to have any obligation under this Agreement except as the same shall be explicitly stated herein. This Agreement may not be amended, modified, or altered except by an instrument in writing signed on behalf of each Party.

Section 18.7. Severability of Provisions. If any clause, sentence, section, or part of this Agreement or the application thereof to anyone in any circumstances, is declared invalid, the application thereof to others, or in other circumstances, and the remainder of this Agreement, shall not be affected thereby. In the event of any such holding and to the extent of any such invalidity, the Government undertakes, insofar as it may lawfully do so, to take such alternative steps (including the consent to or enactment of legislation and the consent to or promulgation of rules and regulations) as may reasonably and in good faith be required to confer upon the Parties benefits comparable in character and substantially equivalent in amount to those intended to be conferred by this Agreement, on terms and conditions not materially more burdensome to either party than those herein provided and without prejudice to any other remedies that may be available to either of them.

Section 18.8. Payment Terms and Interest Calculation. Except as otherwise expressly provided in this Agreement, payment terms and interest calculations shall be as follows:

(A) All payments will be made in US$ by wire transfer of immediately available funds to an account or accounts designated in writing by the Party entitled to receive payment.

(B) Late payments shall bear interest at the U.S. Prime Rate, compounded daily until paid in full.

(C) A wire transfer or delivery of a check shall not operate to discharge any payment under this Agreement and shall be accepted subject to collection.

Section 18.9. Public Announcements. No Party shall, except as required by Applicable Law or the rules of any recognized national stock exchange, cause any public announcement to be made regarding this Agreement. In the event that a Party shall be required to cause such a public announcement to be made pursuant to any Applicable Law or the rules of any recognized national stock exchange, it shall use commercially reasonable efforts to provide the other Party at least two Business Days prior written notice of such announcement.

Section 18.10. Parties in Interest. Unless specified in this Agreement, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of each Party and its respective legal representatives, successors and assigns. No other Person shall have any right, benefit, priority or interest hereunder or as a result hereof or have standing to require satisfaction of the provisions hereof in accordance with its terms.

Section 18.11. Waiver. By an instrument in writing, any Party may waive compliance by any other Party with respect to any term or provision of this Agreement that such other Party was or is obligated to comply with or perform or any breach hereof. The failure of a Party at any time to strictly enforce any provision of this Agreement shall in no way affect its right thereafter to require performance thereof, nor shall the waiver of any breach of any provision of this Agreement be taken or held to be a waiver of any succeeding breach of any such provision or as a waiver of the provision itself. Unless otherwise specified herein, the rights and remedies provided in this Agreement are cumulative and the exercise of any one right or remedy by any Party shall not preclude or waive its right to exercise any or all other rights or remedies.

Section 18.12. Performance Extended to Next Business Day. Notwithstanding any deadline for payment, performance, notice, or election under this Agreement, if such deadline falls on a date that is not a Business Day, then the deadline for such payment, performance, notice, or election will be extended to the next succeeding Business Day.

Section 18.13. Negotiation and Preparation Costs. Except as provided in Article 3, each Party shall bear the costs and expenses incurred by it in connection with the negotiation, preparation, and execution of this Agreement and other documents referred to herein.

Section 18.14. Further Assurances. From time to time, each Party agrees to promptly execute and deliver such additional documents, and will provide such additional information and assistance, as any Party may reasonably require to effect the terms of this Agreement.

Section 18.15. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute a single agreement to which no signatory hereto shall be bound until all signatories hereto have executed a counterpart. Signatures transmitted by facsimile or as emailed PDF copies shall be binding as originals so long as the Agreement is transmitted in its entirety, and each signatory hereto hereby waives any defenses to the enforcement of the terms of this Agreement sent by facsimile or emailed PDF based upon the manner of transmission or form of signature (electronic, facsimile or "ink original").

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

GOVERNMENT OF THE U.S. VIRGIN ISLANDS

By: _____
Name:
Title: Governor of the U.S. Virgin Islands

ATTESTED:

By: _____
Name:
Title: Lieutenant Governor of the U.S. Virgin Islands

Approved for Legal Sufficiency:

By: _____
Name:
Title: Attorney General of the U.S. Virgin Islands

[_____**]**

Witnesses:

_____

_____

By: _____
Name:
Title:

EXHIBIT G

CERTIFICATION OF NONFOREIGN STATUS

Section 1445 of the Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For applicable tax purposes (including Section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform Limetree Bay Holdings, LLC, a limited liability company organized under the laws of Delaware ("Purchaser"), that withholding of tax is not required under the Code upon the disposition of a U.S. real property interest by Hovensa L.L.C., a limited liability company organized under the laws of the U.S. Virgin Islands ("Seller") in connection with the transactions contemplated by that Asset Purchase Agreement, dated as of September 4, 2015, by and among Purchaser, Seller and Hess Oil Virgin Islands Corp., a corporation organized under the laws of the U.S. Virgin Islands (the "Asset Purchase Agreement"), the undersigned hereby certifies the following on behalf of Seller:

1. Seller is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Code);

2. Seller is not a disregarded entity as defined in Treasury Regulation section 1.1445-2(b)(2)(iii);

3. Seller's U.S. Virgin Islands employer identification number is 98-0191354; and

4. Seller's office address is 1 Estate Hope, Christiansted, Virgin Islands 00820.

Seller understands that this certification may be disclosed to the Internal Revenue Service or to the taxing authorities of the U.S. Virgin Islands by Purchaser, and that any false statement contained herein could be punished by fine, imprisonment, or both.

Unless otherwise defined herein, terms defined in the Asset Purchase Agreement and used herein shall have the meanings given to them in the Asset Purchase Agreement.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Seller.

Date: _____

HOVENSA, L.L.C.

Signed:_____

Name: _____

Title: _____

CERTIFICATION OF NONFOREIGN STATUS

Section 1445 of the Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For applicable tax purposes (including Section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform Limetree Bay Holdings, LLC, a limited liability company organized under the laws of Delaware ("Purchaser"), that withholding of tax is not required under the Code upon any disposition of a U.S. real property interest by Hess Oil Virgin Islands Corp., a corporation organized under the laws of the U.S. Virgin Islands ("HOVIC") in connection with the transactions contemplated by that Asset Purchase Agreement, dated as of September 4, 2015, by and among Purchaser, HOVIC and Hovensa L.L.C., a limited liability company organized under the laws of the U.S. Virgin Islands (the "Asset Purchase Agreement"), the undersigned hereby certifies the following on behalf of HOVIC:

1. HOVIC is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Code);

2. HOVIC is not a disregarded entity as defined in Treasury Regulation section 1.1445-2(b)(2)(iii);

3. HOVIC's U.S. Virgin Islands employer identification number is 67-0252947; and

4. HOVIC's office address is c/o Hess Oil Virgin Islands Corporation, 1185 Avenue of the Americas, Floor 40, New York, New York 10024.

HOVIC understands that this certification may be disclosed to the Internal Revenue Service or to the taxing authorities of the U.S. Virgin Islands by Purchaser, and that any false statement contained herein could be punished by fine, imprisonment, or both.

Unless otherwise defined herein, terms defined in the Asset Purchase Agreement and used herein shall have the meanings given to them in the Asset Purchase Agreement.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of HOVIC.

Date: _____

HESS OIL VIRGIN ISLANDS CORP.

Signed:_____

Name: _____

Title: _____

Exhibit H

Subdivision Parcels

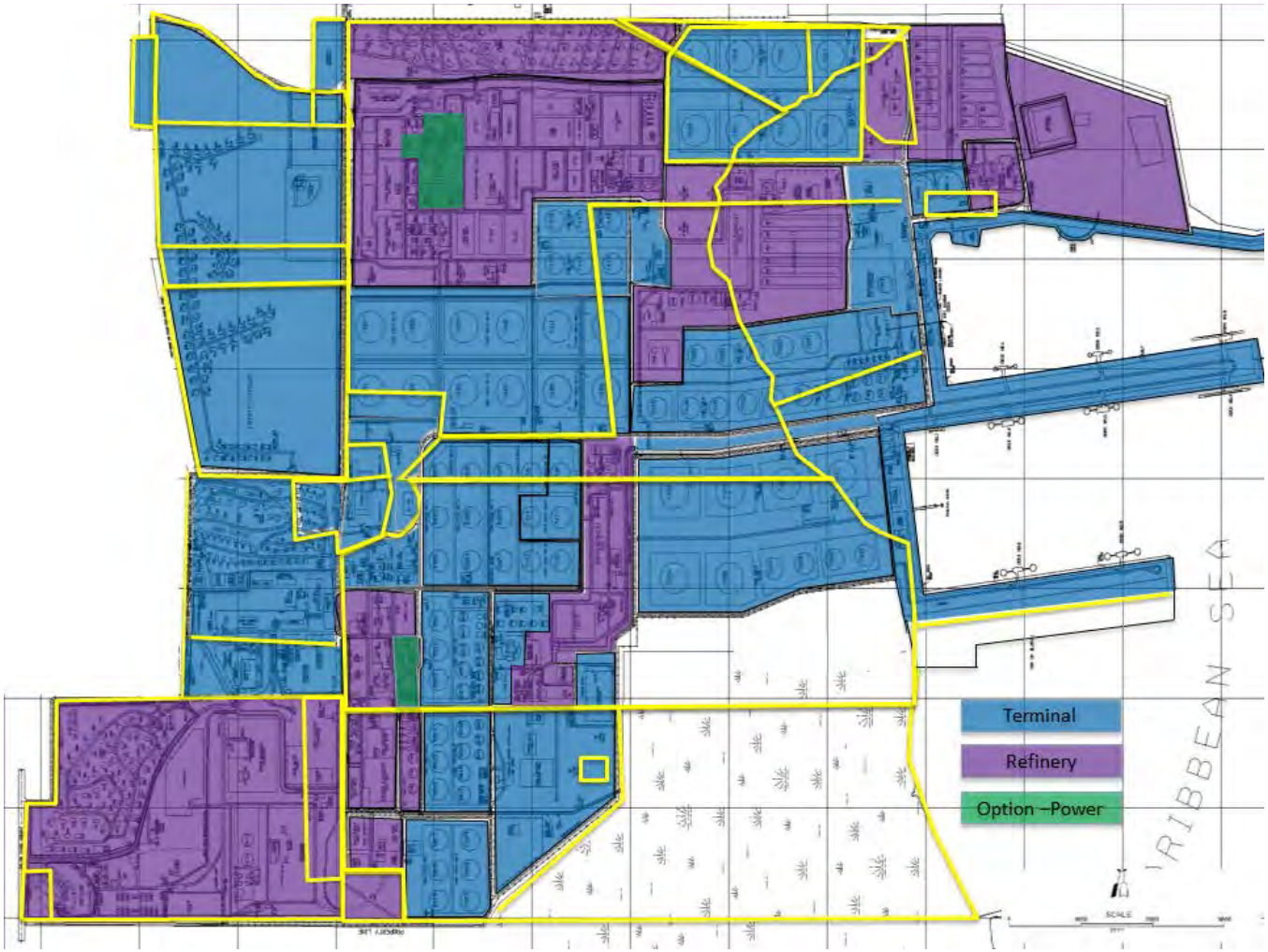

EXHIBIT I

FORM OF

TERMINATION AND RELEASE AGREEMENT[1]

This TERMINATION AND RELEASE AGREEMENT, dated as of [●], 2015 (this "**Agreement**"), by and among Hess Oil Virgin Islands Corp., a corporation organized under the Laws of the U.S. Virgin Islands ("**HOVIC**"), PDVSA V.I., Inc., a corporation organized under the Laws of the U.S. Virgin Islands ("**PDVSA VI**"), HOVENSA, L.L.C., a limited liability company organized under the Laws of the U.S. Virgin Islands ("**Hovensa**" and together with HOVIC and PDVSA VI, the "**Hovensa Parties**"), the Government of the U.S. Virgin Islands (the "**USVI Government**"), the Virgin Islands Port Authority (the "**USVI Port Authority**" and together with the USVI Government, the "**USVI Parties**"), and Limetree Bay Holdings, LLC, a limited liability company organized under the Laws of the State of Delaware ("**Purchaser**"). The capitalized terms used in this Agreement and not otherwise defined herein shall have the respective meanings given to such terms in the Asset Purchase Agreement (as such term is defined below).

WHEREAS, HOVIC and PDVSA VI each own fifty percent (50%) of the issued and outstanding limited liability company interests in Hovensa;

WHEREAS, the USVI Government, the USVI Port Authority and Hovensa (as assignee of HOVIC pursuant to the 1998 Letter Agreement (as defined below)) are parties to that certain Contract, dated as of September 22, 1976 (as amended, supplemented or modified from time to time, the "**1976 Contract**"), which was approved by the Legislature of the Virgin Islands on September 29, 1976, which 1976 Contract memorialized the agreements between HOVIC and the USVI Government with respect to HOVIC's agreement to construct a container port on the south shore of St. Croix, U.S. Virgin Islands;

WHEREAS, among the documents exchanged between the USVI Government and HOVIC in connection with the 1976 Contract was that certain Lease, dated as of October 16, 1976 (as amended, supplemented or modified from time to time, the "**Submerged Land Lease**"), by and between the USVI Government and Hovensa (as assignee of HOVIC pursuant to the 1998 Letter Agreement), pursuant to which the USVI Government leases certain reclaimed submerged lands specified therein to Hovensa;

WHEREAS, HOVIC and the USVI Government are parties to that certain letter agreement, dated as of October 14, 1998 (as amended, supplemented or modified from time to time, the "1998 Letter Agreement"), pursuant to which the USVI Government consented to (a) the assignment by HOVIC to Hovensa of the Submerged Land Lease, provided that HOVIC agreed to remain the primary obligor thereunder and (b) the assignment and delegation by HOVIC to Hovensa of the rights and obligations of HOVIC under the 1976 Contract;

[1] Note to draft: This Agreement must be ratified by the Legislature of the Virgin Islands as a condition to Hovensa's obligations.

WHEREAS, the USVI Government and HOVIC have entered into that certain Concession Agreement, dated and approved by the Legislature of the Virgin Islands September 1, 1965, and amended, supplemented and clarified at various times by mutual agreement of the parties, as amended and extended by the Extension and Amendment Agreement, dated April 24, 1981 and approved by the Legislature of the Virgin Islands May 7, 1981, as further amended and extended by the Restated Second Extension and Amendment Agreement, dated July 27, 1990 and approved by the Legislature of the Virgin Islands on August 22, 1990, as further amended by the Technical Clarifying Amendment to Restated Second Extension and Amendment Agreement, dated November 17, 1993 and approved by the Governor and the Legislature of the Virgin Islands, as further amended and extended by the Third Extension and Amendment Agreement, to which PDVSA VI is added as a party, dated April 15, 1998 and approved by the Legislature of the Virgin Islands on May 18, 1998, and as further amended by the Fourth Amendment Agreement, to which Hovensa is added as a party, dated April 3, 2013, as ratified by the Legislature of the Virgin Islands on November 4, 2013 and approved by the Governor of the Virgin Islands on November 4, 2013, as Act No. 7566 (such ratification including that certain letter, dated October 16, 2013, from George H.T. Dudley to the Governor of the Virgin Islands incorporated as part of Act No. 7566) (all of the foregoing, collectively, the "**Concession Agreement**");

WHEREAS, Purchaser and Hovensa have entered into that certain Asset Purchase Agreement, dated as of September 4, 2015 (as it may be amended, supplemented or modified from time to time, the "**Asset Purchase Agreement**"), pursuant to which Purchaser has agreed to purchase and assume, and Hovensa has agreed to sell and transfer to Purchaser pursuant to sections 105, 363 and 365 of the Bankruptcy Code, certain assets and certain liabilities of Hovensa, subject to the terms and conditions set forth therein;

WHEREAS, pursuant to Section 8.3(d) and Section 8.3(e) of the Asset Purchase Agreement, the delivery of this Agreement is a condition precedent to the Closing and an inducement to Hovensa entering into the Asset Purchase Agreement; and

WHEREAS, effective upon the Closing, each of the USVI Government, the USVI Port Authority (with respect to the 1976 Contract only) and Hovensa desire to fully release Hovensa, HOVIC and their Affiliates from all rights, liabilities and obligations, among others, under the 1976 Contract, the Submerged Land Lease and the 1998 Letter Agreement, subject to the terms and provisions of this Agreement.

WHEREAS, effective upon the Closing, each of the parties hereto desires to terminate the Concession Agreement and fully release each other party hereto and their respective Affiliates from all rights, liabilities and obligations, among others, under the Concession Agreement, subject to the terms and provisions of this Agreement.

NOW, THEREFORE, for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and intending to be legally bound hereby, the parties hereto agree as follows:

1. Effective upon the Closing:

a. the Concession Agreement shall be terminated and canceled in its entirety and shall be null and void and of no further force and effect automatically and without further action by any of the parties to the Concession Agreement and the parties to the Concession Agreement shall have no further rights, obligations or liabilities thereunder or relating thereto;

b. each of (i) the 1976 Contract, (ii) the Submerged Land Lease, (iii) the 1998 Letter Agreement and (iv) Permits Nos. 3, 23 and 52 issued by the United States Department of the Interior, as amended, and Submerged Lands Permit No. 167 issued by the Department of Conservation and Cultural Affairs of the Government of the Virgin Islands, as amended, as to the Hovensa Parties shall be terminated and canceled in its entirety and shall be null and void and of no further force and effect as to the Hovensa Parties automatically and without further action by any of the parties to thereto and the Hovensa Parties to such agreements and instruments shall have no further rights, obligations or liabilities thereunder or relating thereto;

c. except as provided in paragraph (2) below, each of the USVI Parties on behalf of itself and its respective managers, directors, officers, equity holders, Representatives, direct and indirect parent companies, Subsidiaries and Affiliates, and each of their respective successors and assigns, hereby forever waives, releases and discharges, to the fullest extent permitted by Law, each Hovensa Party and its respective past, present or future managers, directors, officers, equity holders, Representatives, direct and indirect parent companies, Subsidiaries and Affiliates (each, a "**Hovensa Releasee**"), from and against any and all actions, causes of action, claims, demands, damages, judgments, Liabilities, debts, dues and suits of every kind, nature and description whatsoever, whether now known or unknown, vested or contingent, suspected or unsuspected, concealed or hidden, (i) now existing or hereafter arising directly or indirectly, under the Concession Agreement, the 1976 Contract, the Submerged Land Lease, the 1998 Letter Agreement, Permits Nos. 3, 23 and 52 issued by the United States Department of the Interior, as amended, and Submerged Lands Permit No. 167 issued by the Department of Conservation and Cultural Affairs of the Government of the Virgin Islands, as amended or (ii) otherwise arising out of or with respect to, directly or indirectly, facts, circumstances or events now existing or existing at any time prior to the date hereof; and

d. except as provided in paragraph (2) below, each of the Hovensa Parties on behalf of itself and its respective managers, directors, officers, equity holders, Representatives, direct and indirect parent companies, Subsidiaries and Affiliates, and each of their respective successors and assigns, hereby forever waives, releases and discharges, to the fullest extent permitted by Law, each USVI Party and its respective past, present or future managers, directors, officers, equity holders, Representatives, direct and indirect parent companies, Subsidiaries and Affiliates (each, a "**USVI Releasee**" and together with the Hovensa Relesees, the "**Releasees**"), from and against any and all actions, causes of action, claims, demands, damages, judgments, Liabilities, debts, dues and suits of every kind, nature and description whatsoever, whether now known or unknown, vested or

contingent, suspected or unsuspected, concealed or hidden, (i) now existing or hereafter arising directly or indirectly, under the Concession Agreement, the 1976 Contract, the Submerged Land Lease, the 1998 Letter Agreement, Permits Nos. 3, 23 and 52 issued by the United States Department of the Interior, as amended, and Submerged Lands Permit No. 167 issued by the Department of Conservation and Cultural Affairs of the Government of the Virgin Islands, as amended or (ii) otherwise arising out of or with respect to, directly or indirectly, facts, circumstances or events now existing or existing at any time prior to the date hereof.

2. The actions, causes of action, claims, demands, damages, judgments, Liabilities, debts, dues and suits which are hereby waived, released and discharged do not include any actions, causes of action, claims, demands, damages, judgments, Liabilities, debts, dues and suits for income taxes, including refunds thereof.

3. Purchaser hereby expressly acknowledges, accepts and agrees to the releases which are being granted pursuant to Section 1 of this Agreement.

4. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives. Except with respect to Section 1 hereof, which shall inure to the benefit of each Releasee, all of whom are intended as express third-party beneficiaries thereof, no other Person not party to this Agreement shall be entitled to the benefits of this Agreement. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto without the prior written consent of the other parties hereto.

5. This Agreement and the Asset Purchase Agreement contain the entire understanding between the parties hereto with respect to the subject matter hereof and supersedes any and all prior agreements, representations, understandings and arrangements, whether written or oral.

6. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed an original, but all of the counterparts together constitute the same instrument. This Agreement may be executed by facsimile or scanned signature.

7. Except as otherwise provided herein, all notices, requests, claims, demands, waivers and other communications hereunder shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by email transmission (in the case of email transmission, with copies by overnight courier service) to the respective parties hereto as follows (or, in each case, as otherwise notified by any of the parties hereto) and shall be effective and deemed to have been given (a) immediately upon sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment) when sent by email, provided that if such notice or other communication is sent after 5:00 p.m., New York time, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day

for the recipient and (b) when received by the addressee if delivered by hand or overnight courier service or certified or registered mail on any Business Day:

If to HOVIC, to:

c/o Hess Corporation
1185 Avenue of the Americas, Floor 40
New York, New York 10024
Attention: Timothy B. Goodell, Senior Vice President and General Counsel
Fax: (212) 536-8241
email: tgoodell@hess.com

with a copy (which shall not constitute notice or service of process) to:

Kirkland & Ellis LLP
601 Lexington Avenue
New York, New York 10022
Attention: Jonathan S. Henes
Fax: (212) 446-6460
email: jhenes@kirkland.com;

If to PDVSA VI, to:

c/o Petróleos de Venezuela, S.A.
Edificio Petróleos de Venezuela
Avenida Libertador, Torre Este
La Campiña, Apartado 169
Caracas 1050-A
República Bolivariana de Venezuela
Attention: Director de Refinación
with a copy to:
Attention: Consultor Jurídico

with a copy (which shall not constitute notice or service of process) to:

Curtis, Mallet-Prevost, Colt & Mosle LLP
101 Park Avenue
New York, New York 10178
United States of America
Attention: General Counsel
Fax: (212) 697-1559;

If to Hovensa, to:

HOVENSA L.L.C.
1 Estate Hope

Christiansted, St. Croix 00820
Attention: Sloan Schoyer
email: sschoyer@hovensa.com

with a copy (which shall not constitute notice or service of process) to:

White & Case LLP
1155 Avenue of the Americas
New York, New York 10036
Attention: John M. Reiss
Gregory Pryor
Fax: (212) 354-8113
email: jreiss@whitecase.com
gpryor@whitecase.com;

and to:

Morrison & Foerster LLP
250 West 55th Street
New York, New York 10019
Attention: Lorenzo Marinuzzi
Jennifer L. Marines
Fax: (212) 468-7900
email: lmarinuzzi@mofo.com
jmarines@mofo.com;

If to Purchaser to:

Limetree Bay Holdings, LLC
c/o ArcLight Capital Partners, LLC
200 Clarendon Street, 55th Floor
Boston, Massachusetts 02117

Attention: Christine M. Miller
Fax: (617) 867-4698
email: cmiller@arclightcapital.com;

with a copy (which shall not constitute notice or service of process) to:

Latham & Watkins LLP
885 Third Avenue
New York, NY 10022

Attention: David S. Allinson
Christopher G. Cross
Fax: (212) 751-4864

email: david.allinson@lw.com
christopher.cross@lw.com;

If to the USVI Government or the USVI Port Authority to:

c/o The Government of the U.S. Virgin Islands
Government House
Charlotte Amalie
St. Thomas, U.S. Virgin Islands
Attention : Office of the Governor

with a copy (which shall not constitute notice or service of process) to:

Office of the Attorney General
U.S. Virgin Islands Department of Justice
34-38 Kronprindsens Gade
GERS Building, 2d Floor
St. Thomas, U.S. Virgin Islands 00802

Notices sent by multiple means, each of which is in compliance with the provisions of this Agreement will be deemed to have been received at the earliest time provided for by this Agreement.

8. This Agreement may not be amended except by a written instrument executed by all parties to this Agreement.

9. THIS AGREEMENT AND THE LEGAL RELATIONS BETWEEN THE PARTIES HERETO SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE TERRITORY OF THE U.S. VIRGIN ISLANDS AND THE APPLICABLE PROVISIONS OF THE BANKRUPTCY CODE, WITHOUT REGARD TO THE CONFLICT OF LAWS RULES THEREOF. THE BANKRUPTCY COURT SHALL HAVE EXCLUSIVE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN THE PARTIES HERETO, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE AGREEMENTS, INSTRUMENTS AND DOCUMENTS CONTEMPLATED HEREBY AND THE PARTIES CONSENT TO AND AGREE TO SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT.

10. EACH OF THE PARTIES HERETO HEREBY WAIVES AND AGREES NOT TO ASSERT IN ANY RECOGNITION OR ENFORCEMENT PROCEEDING, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY DEFENSE THAT (A) SUCH PARTY IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF SUCH COURT, (B) SUCH PARTY AND SUCH PARTY'S PROPERTY IS IMMUNE FROM ANY LEGAL PROCESS ISSUED BY SUCH COURT OR (C) ANY ACTION OR PROCEEDING COMMENCED IN SUCH COURT IS BROUGHT IN AN INCONVENIENT FORUM.

11. EACH PARTY HERETO HEREBY AGREES THAT THE ACTIVITIES CONTEMPLATED HEREBY ARE COMMERCIAL IN NATURE. TO THE EXTENT THAT ANY PARTY HERETO HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ATTACHMENT IN AID OF EXECUTION OR ANY OTHER LEGAL PROCESS (INCLUDING PREJUDGMENT ATTACHMENT) IN ANY ACTION OR PROCEEDING IN ANY MANNER ARISING OUT OF THIS AGREEMENT WITH RESPECT TO ITSELF OR ITS ASSETS, SUCH PARTY HEREBY IRREVOCABLY AGREES NOT TO INVOKE SUCH IMMUNITY AS A DEFENSE AND IRREVOCABLY WAIVES SUCH IMMUNITY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH PARTY HERETO AGREES THAT SUCH WAIVER SHALL HAVE THE FULLEST SCOPE PERMITTED UNDER THE FOREIGN SOVEREIGN IMMUNITIES ACT 1976 OF THE UNITED STATES AND ARE INTENDED TO BE IRREVOCABLE FOR THE PURPOSES OF SUCH ACT.

12. THE PARTIES HERETO HEREBY AGREE THAT, IN CONNECTION WITH ANY ACTION OR PROCEEDING BROUGHT IN CONNECTION WITH THIS AGREEMENT, MAILING OF PROCESS OR OTHER PAPERS IN THE MANNER PROVIDED IN SECTION 6, OR IN SUCH OTHER MANNER AS MAY BE PERMITTED BY LAW, SHALL BE VALID AND SUFFICIENT SERVICE THEREOF AND HEREBY WAIVE ANY OBJECTIONS TO SERVICE ACCOMPLISHED IN THE MANNER HEREIN PROVIDED.

13. If any term, provision, agreement, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, agreements, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic and legal substance of the transactions contemplated hereby are not affected in any manner adverse to any party hereto. Upon such a determination, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties hereto as closely as possible in a reasonably acceptable manner in order that the transactions contemplated hereby may be consummated as originally contemplated to the fullest extent possible.

14. The parties agree that irreparable damage would occur if any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached or threatened to be breached and that an award of money damages would be inadequate in such event. Accordingly, it is acknowledged that the parties shall be entitled to equitable relief, without proof of actual damages, including an Order for specific performance to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement, in addition to any other remedy to which they are entitled at law or in equity as a remedy for any such breach or threatened breach. Each party further agrees that neither the other party nor any other Person shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any remedy referred to in this Section 13, and each party hereto irrevocably waives any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument. Each party further agrees that the only permitted

objection that it may raise in response to any action for equitable relief is that it contests the existence of a breach or threatened breach of this Agreement.

15. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES, AND SHALL CAUSE ITS SUBSIDIARIES AND AFFILIATES TO WAIVE, ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

16. The parties hereto agree that they have been represented by counsel during the negotiation and execution of this Agreement and have participated jointly in the drafting of this Agreement and, therefore, waive the application of any Law, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

* * * * *

[*Rest of Page Left Intentionally Blank*]

IN WITNESS WHEREOF, the parties hereto have caused this Termination and Release Agreement to be signed by their duly authorized representatives as of the date first above written.

GOVERNMENT OF THE U.S. VIRGIN ISLANDS

By: _____
Name:
Title:

APPROVED FOR LEGAL SUFFICIENCY

By: _____
Name:
Title: Attorney General

VIRGIN ISLANDS PORT AUTHORITY

By: _____
Name:
Title:

HESS OIL VIRGIN ISLANDS CORP.

By: _____
Name:
Title:

PDVSA V.I., INC.

By: _____
Name:
Title:

HOVENSA, L.L.C.

By: _____
Name:
Title:

LIMETREE BAY HOLDINGS, LLC

By: _____
Name:
Title:

Exhibit E

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
BANKRUPTCY DIVISION
ST. CROIX, VIRGIN ISLANDS

In re:	)	
	)	Chapter 11
HOVENSA, L.L.C.,	)	
	)	Case No. 1:15-bk-10003-MFW
Debtor.	)	

NOTICE OF SALE, BIDDING PROCEDURES, AUCTION, AND SALE HEARING

PLEASE TAKE NOTICE that on September [__], 2015, the Debtor filed a motion (the "Sale Motion") with the District Court of the Virgin Islands, Bankruptcy Division, St. Croix, Virgin Islands (the "Court"), seeking entry of orders, among other things, approving (a) the sale of the Debtor's oil terminal assets and other assets relating thereto to Limetree Bay Holdings, LLC, (the "Stalking Horse Bidder"), for $184 million (the "Sale Transaction"), subject to the submission of higher or better offers in an auction process (the "Auction"); (b) procedures for the solicitation of bids in connection with the Auction (the "Bidding Procedures"); (c) the form and manner of notices related to the Sale Transaction; and (d) procedures for the assumption and assignment of contracts and leases in connection with the Sale Transaction.

PLEASE TAKE FURTHER NOTICE that on October [__], 2015, the Court entered an order (the "Bidding Procedures Order") approving, among other things, the Bidding Procedures, which establish the key dates and times related to the Sale Transaction and the Auction.[1] All interested bidders should carefully read the Bidding Procedures Order and the Bidding Procedures in their entirety. To the extent that there are any inconsistencies between the Bidding Procedures and the summary descriptions of the Bidding Procedures in this notice, the terms of the Bidding Procedures shall control in all respects. The deadline by which all Bids must be ***actually received*** by the parties specified in the Bidding Procedures Order is October [__], 2015, at [5:00 p.m.] (prevailing Eastern time) (the "Bid Deadline").

PLEASE TAKE FURTHER NOTICE that copies of the Sale Motion, Bidding Procedures and Bidding Procedures Order, as well as all related exhibits including the Stalking Horse Purchase Agreement and all other documents filed with the Court, are available free of charge on the website of the Court-appointed claims and noticing agent for the Debtor's chapter 11 case, Prime Clerk LLC, https://cases.primeclerk.com/hovensa, or can be requested by e-mail at hovensainfo@primeclerk.com.

PLEASE TAKE FURTHER NOTICE that if the Debtor receives one or more Qualified Bids (in addition to the Stalking Horse Purchase Agreement), the Debtor will conduct the Auction to

[1] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Bidding Procedures Order.

determine the highest and best bid for the purchased assets on **[_____], 2015 at [_____] (prevailing Eastern time) at the offices of Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019**, at which time all Qualified Bidders may bid and participate pursuant to the terms of the Bidding Procedures. If no other Qualified Bid is received by the Bid Deadline (other than the Stalking Horse Purchase Agreement), then the Auction will not be held, and the Debtor will promptly seek the Court's approval of the Sale in accordance with the terms of the Stalking Horse Purchase Agreement.

PLEASE TAKE FURTHER NOTICE that only the Debtor, the Consultation Parties, and any Qualified Bidder that has submitted a Qualified Bid (including the Stalking Horse Bidder), in each case, along with their respective representatives and advisors, or such other parties as the Debtor shall determine, in consultation with the Consultation Parties, shall attend the Auction (such attendance to be in person). Only Qualified Bidders (including the Stalking Horse Bidder), or such other parties as the Debtor shall determine, in consultation with the Consultation Parties, will be entitled to make any Bids at the Auction.

PLEASE TAKE FURTHER NOTICE that the Debtor will seek approval of the Sale Transaction at a hearing (the "Sale Hearing") before the Honorable Mary F. Walrath, United States Bankruptcy Judge, at the District Court of the Virgin Islands, Bankruptcy Division, 3013 Estate Golden Rock, Suite 219, St. Croix, VI 00820, on **[_____], 2015 at [_____] (AST)**. The Sale Hearing may be adjourned or rescheduled, in consultation with the Consultation Parties, by an announcement of the adjourned date at the Sale Hearing or by the filing of a hearing agenda.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the entry of the SaleOrder, including the Debtor's request to approve the sale free and clear of all liens, claims, encumbrances and other interests ***must*** (a) be in writing, (b) state the basis of such objection with specificity and (c) be filed with this Court and served so as to be actually received by the Bankruptcy Court and (1) the Debtor, 1 Estate Hope, Christiansted, St. Croix, U.S.V.I. 00820, Attn: Thomas E. Hill, Chief Restructuring Officer; (2) counsel for the Debtor, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, Attn: Lorenzo Marinuzzi, Esq. and Jennifer L. Marines, Esq.; (3) investment banker for the Debtor, Lazard Frères & Co., JP Morgan Chase Tower, 600 Travis Street, Suite 2300, Houston, Texas 77002, Attn: Doug Fordyce; (4) counsel to HOVIC, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York, 10022, Attn: Christopher Greco, Esq.; (5) counsel to PDV-VI, Curtis Mallet-Prevost, Colt & Mosle LLP, 101 Park Avenue, New York, New York 10178, Attn: Steven J. Reisman, Esq.; (6) special mergers and acquisition counsel for the Debtor, White & Case LLP, 1155 Avenue of the Americas, New York, New York 10036, Attn: Greg Pryor, Esq.; and (7) counsel to the Stalking Horse Bidder, Latham & Watkins LLP, 885 Third Avenue, New York, NY 10022, Attn: Keith Simon, Esq., on or before [_____], 2015 at [_____] (AST).

PLEASE TAKE FURTHER NOTICE THAT THE FAILURE TO ABIDE BY THE PROCEDURES AND DEADLINES SET FORTH IN THE BIDDING PROCEDURES ORDER AND THE BIDDING PROCEDURES MAY RESULT IN THE FAILURE OF THE COURT TO CONSIDER A COMPETING BID OR AN OBJECTION TO THE PROPOSED SALE TRANSACTION.

ANY PARTY OR ENTITY WHO FAILS TO TIMELY MAKE AN OBJECTION TO THE SALE ON OR BEFORE THE OBJECTION DEADLINE IN ACCORDANCE WITH THE BIDDING PROCEDURES ORDER SHALL BE FOREVER BARRED FROM ASSERTING ANY OBJECTION TO THE SALE, INCLUDING WITH RESPECT TO THE TRANSFER OF THE ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS. IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING. ANY CREDITOR THAT RECEIVES NOTICE OF THE SALE HEARING AND FAILS TO TIMELY FILE AN OBJECTION TO THE SALE ON OR BEFORE THE OBJECTION DEADLINE IN ACCORDANCE WITH THE BIDDING PROCEDURES ORDER SHALL BE DEEMED TO HAVE CONSENTED UNDER SECTION 363(f)(2) OF THE BANKRUPTCY CODE TO SUCH SALE FREE AND CLEAR OF SUCH CREDITOR'S LIEN OR INTERESTS, IF ANY.

Richard H. Dollison (VI Bar No. 502)
LAW OFFICES OF RICHARD H. DOLLISON, P.C.
48 Dronningens Gade, Suite 2C
St. Thomas, U.S. Virgin Islands 00802
Telephone: (340) 774-7044
Facsimile: (340) 774-7045

-and-

Lorenzo Marinuzzi
Jennifer L. Marines
Daniel J. Harris
MORRISON & FOERSTER LLP
250 West 55th Street
New York, New York 10019
Telephone: (212) 468-8000
Facsimile: (212) 468-7900

Proposed Counsel for Debtor
and Debtor-in-Possession

Exhibit F

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
BANKRUPTCY DIVISION
ST. CROIX, VIRGIN ISLANDS

In re:	)	
	)	Chapter 11
HOVENSA, L.L.C.,	)	
	)	Case No. 1:15-bk-10003-MFW
Debtor.	)	

NOTICE OF SALE, BIDDING PROCEDURES, AUCTION, AND SALE HEARING

PLEASE TAKE NOTICE that on September 15, 2015, the Debtor filed a motion (the "Sale Motion") with the District Court of the Virgin Islands, Bankruptcy Division, St. Croix, Virgin Islands (the "Court"), seeking entry of orders, among other things, approving (a) the sale of the Debtor's oil terminal assets and other assets relating thereto to Limetree Bay Holdings, LLC, (the "Stalking Horse Bidder"), for $184 million (the "Sale Transaction"), subject to the submission of higher or better offers in an auction process (the "Auction"); (b) procedures for the solicitation of bids in connection with the Auction (the "Bidding Procedures"); (c) the form and manner of notices related to the Sale Transaction; and (d) procedures for the assumption and assignment of contracts and leases in connection with the Sale Transaction.

PLEASE TAKE FURTHER NOTICE that on October [__], 2015, the Court entered an order (the "Bidding Procedures Order") approving, among other things, the Bidding Procedures, which establish the key dates and times related to the Sale Transaction and the Auction.[1] All interested bidders should carefully read the Bidding Procedures Order and the Bidding Procedures in their entirety. To the extent that there are any inconsistencies between the Bidding Procedures and the summary descriptions of the Bidding Procedures in this notice, the terms of the Bidding Procedures shall control in all respects. The deadline by which all Bids must be ***actually received*** by the parties specified in the Bidding Procedures Order is October [__], 2015, at [5:00 p.m.] (prevailing Eastern time) (the "Bid Deadline").

PLEASE TAKE FURTHER NOTICE that copies of the Sale Motion, Bidding Procedures and Bidding Procedures Order, as well as all related exhibits including the Stalking Horse Purchase Agreement and all other documents filed with the Court, are available free of charge on the website of the Court-appointed claims and noticing agent for the Debtor's chapter 11 case, Prime Clerk LLC, https://cases.primeclerk.com/hovensa, or can be requested by e-mail at hovensainfo@primeclerk.com.

PLEASE TAKE FURTHER NOTICE that if the Debtor receives one or more Qualified Bids (in addition to the Stalking Horse Purchase Agreement), the Debtor will conduct the Auction to

[1] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Bidding Procedures Order.

determine the highest and best bid for the purchased assets on **[_____], 2015 at [_____] (prevailing Eastern time) at the offices of Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019**, at which time all Qualified Bidders may bid and participate pursuant to the terms of the Bidding Procedures. If no other Qualified Bid is received by the Bid Deadline (other than the Stalking Horse Purchase Agreement), then the Auction will not be held, and the Debtor will promptly seek the Court's approval of the Sale in accordance with the terms of the Stalking Horse Purchase Agreement.

PLEASE TAKE FURTHER NOTICE that the Debtor will seek approval of the Sale Transaction at a hearing (the "Sale Hearing") before the Honorable Mary F. Walrath, United States Bankruptcy Judge, at the District Court of the Virgin Islands, Bankruptcy Division, 3013 Estate Golden Rock, Suite 219, St. Croix, VI 00820, on **[_____], 2015 at [_____] (AST)**. The Sale Hearing may be adjourned or rescheduled, in consultation with the Consultation Parties, by an announcement of the adjourned date at the Sale Hearing or by the filing of a hearing agenda.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the entry of the Sale Order, including the Debtor's request to approve the sale free and clear of all liens, claims, encumbrances and other interests ***must*** (a) be in writing, (b) state the basis of such objection with specificity and (c) be filed with this Court and served so as to be actually received by the Bankruptcy Court and (1) the Debtor, 1 Estate Hope, Christiansted, St. Croix, U.S.V.I. 00820, Attn: Thomas E. Hill, Chief Restructuring Officer; (2) counsel for the Debtor, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, Attn: Lorenzo Marinuzzi, Esq. and Jennifer L. Marines, Esq.; (3) investment banker for the Debtor, Lazard Frères & Co., JP Morgan Chase Tower, 600 Travis Street, Suite 2300, Houston, Texas 77002, Attn: Doug Fordyce; (4) counsel to HOVIC, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York, 10022, Attn: Christopher Greco, Esq.; (5) counsel to PDV-VI, Curtis Mallet-Prevost, Colt & Mosle LLP, 101 Park Avenue, New York, New York 10178, Attn: Steven J. Reisman, Esq.; (6) special mergers and acquisition counsel for the Debtor, White & Case LLP, 1155 Avenue of the Americas, New York, New York 10036, Attn: Greg Pryor, Esq.; and (7) counsel to the Stalking Horse Bidder, Latham & Watkins LLP, 885 Third Avenue, New York, NY 10022, Attn: Keith Simon, Esq., on or before [_____], 2015 at [_____] (prevailing Eastern Time).

Richard H. Dollison (VI Bar No. 502)
LAW OFFICES OF RICHARD H. DOLLISON, P.C.
48 Dronningens Gade, Suite 2C
St. Thomas, U.S. Virgin Islands 00802
Telephone: (340) 774-7044
Facsimile: (340) 774-7045

-and-

Lorenzo Marinuzzi
Jennifer L. Marines
Daniel J. Harris
MORRISON & FOERSTER LLP
250 West 55th Street
New York, New York 10019
Telephone: (212) 468-8000
Facsimile: (212) 468-7900

Proposed Counsel for Debtor
and Debtor-in-Possession

Exhibit G

Contract Counterparty	Contract ID	Contract Description	Amount Required to Cure Default, if any
Honeywell International Inc.	20150531	Software License for Honeywell Uniformance Desktop	$0.00
Entessa	HVS-0636	Software License for VPS - Vessel Position System	$0.00
National Response Corporation	HVS-0907	Agreement for Provision of Response Resources, dated as of September 30, 1999	$0.00
G4S	HVS-0945	General Services Agreement, dated as of July 17, 2008	$0.00
Crowley Caribbean Services, L.L.C.	HVS-1023	Term Service Agreement, dated as of June 1, 2009	$585.00
Seven Seas Water Corporation (USVI)	HVS-1259	Water Sale Agreement, dated as of October 14, 2011	$131,547.54
Pinnacle Services, L.L.C.	HVS-1277	Term Service Agreement, dated as of May 1, 2012	$501,600.00
Inspectorate America Corporation	HVS-1286	Term Service Agreement, dated as of July 25, 2012	$0.00
VWNA Caribbean, LLC	HVS-1288	Term Service Agreement, dated as of August 1, 2012	$1,225,000.00
Cruzan Environmental Services	CSX-0433	Agreement, dated as of March 5, 1996	$4,281.00
Demaco Corporation	HVS-1301	Term Services Agreement, dated as of April 11, 2013	$0.00
Cruzan Maritime Services, LLC	HVS-1284	Term Services Agreement, dated as of January 1, 2014	$13,600.00
Marine Services Tug and Tankers, Ltd.	CW1876382	Marine Services Agreement, dated as of October 30, 1998.	$93,391.00
I-Tech Services, LLC	HVS-1305	Term Services Agreement, dated as of January 1, 2014.	$96,000.00
Christiansted Equipment, LTD.	HVS-0883	General Services Agreement, dated as of November 1, 2007.	$120,000.00

Exhibit H

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
BANKRUPTCY DIVISION
ST. CROIX, VIRGIN ISLANDS

In re:	)	
	)	Chapter 11
HOVENSA, L.L.C.,	)	
	)	Case No. 1:15-bk-10003-MFW
Debtor.	)	

NOTICE OF CURE AMOUNT WITH RESPECT TO THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS OR UNEXPIRED LEASES

PLEASE TAKE NOTICE that pursuant to the *Order (I) Establishing Bidding Procedures Relating to the Sale of the Debtor's Assets, Including Approving Break-Up Fee and Expense Reimbursement, (II) Establishing Procedures Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, Including Notice of Proposed Cure Amounts, (III) Approving Form and Manner of Notice Relating Thereto, and (IV) Scheduling a Hearing to Consider the Proposed Sale* (the "Bidding Procedures Order") [Docket No. __] entered by the District Court of the Virgin Islands, Bankruptcy Division, St. Croix, Virgin Islands (the "Bankruptcy Court") on October [__], 2015, the above-captioned debtor and debtor-in-possession (the "Debtor") hereby provides notice (the "Notice") that it is a party to various executory contracts and unexpired leases set forth on **Exhibit A** attached hereto (each an "Executory Contract or Unexpired Lease" and, collectively, the "Executory Contracts and Unexpired Leases") and that it intends to seek to assume and assign some or all of such Executory Contracts and Unexpired Leases (each a "Potentially Assigned Contract or Lease" and, collectively, the "Potentially Assigned Contracts and Leases") to the Successful Bidder in connection with the proposed sale of its oil terminal assets and other assets relating thereto.[1]

YOU ARE RECEIVING THIS NOTICE BECAUSE YOU MAY BE A PARTY TO A POTENTIALLY ASSIGNED CONTRACT OR LEASE (OR REPRESENT A PARTY TO A POTENTIALLY ASSIGNED CONTRACT OR LEASE).

PLEASE TAKE FURTHER NOTICE that also set forth on **Exhibit A** is the amount the Debtor's records reflect as due and owing to cure any and all defaults under the Potentially Assigned Contract or Lease to which you are a party (the "Cure Amount") so as to permit the assumption and assignment of such Potentially Assigned Contract or Lease (if ultimately designated for assumption and assignment by the Successful Bidder) pursuant to 11 U.S.C. § 365. As of the date hereof, the Debtor's records reflect that all postpetition amounts owing under the Potentially Assigned Contract or Lease to which you are a party have been paid or will be paid and that there are no other defaults under the Potentially Assigned Contract or

[1] Capitalized terms used but not otherwise defined in this notice shall have the meanings ascribed to them in the Bidding Procedures approved as part of the Bidding Procedures Order.

Lease other than as expressly set forth on **Exhibit A** attached hereto. Amounts due and owing under the Potentially Assigned Contracts and Leases with respect to the period after the Petition Date are not included in the calculation of the Cure Amounts.

PLEASE TAKE FURTHER NOTICE that when the Debtor assumes and assigns a Potentially Assigned Contract or Lease to which you are a party, on the closing date of the Sale Transaction or as soon thereafter as practicable, the Successful Bidder or the Debtor, as applicable, will pay you the Cure Amount. Please note that if no amount is stated for a particular Potentially Assigned Contract or Lease, the Debtor believes that there is no Cure Amount outstanding.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the proposed Cure Amount or assumption and assignment (including on the basis of adequate assurance of future performance of the Stalking Horse Bidder) *must* (a) be in writing, (b) state the basis for such objection, (c) state with specificity what Cure Amount or adequate assurance of future performance the party to the Designated Contract believes is required (in all cases with appropriate documentation in support thereof as to the alleged Cure Amount), and (d) be actually received on or before [_____], 2015 at [_____] (AST) (the "Objection Deadline") by (1) the Debtor, 1 Estate Hope, Christiansted, St. Croix, U.S.V.I. 00820, Attn: Thomas E. Hill, Chief Restructuring Officer; (2) counsel for the Debtor, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, Attn: Lorenzo Marinuzzi, Esq. and Jennifer L. Marines, Esq.; (3) the investment banker for the Debtor, Lazard Frères & Co., JP Morgan Chase Tower, 600 Travis Street, Suite 2300, Houston, Texas 77002, Attn: Doug Fordyce; (4) counsel to HOVIC, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York, 10022, Attn: Christopher Greco, Esq.; (5) counsel to PDV-VI, Curtis Mallet-Prevost, Colt & Mosle LLP, 101 Park Avenue, New York, New York 10178, Attn: Steven J. Reisman, Esq.; (6) special mergers and acquisition counsel for the Debtor, White & Case LLP, 1155 Avenue of the Americas, New York, New York 10036, Attn: Greg Pryor, Esq.; and (7) counsel to the Stalking Horse Bidder, Latham & Watkins LLP, 885 Third Avenue, New York, NY 10022, Attn: Keith Simon, Esq.

PLEASE TAKE FURTHER NOTICE THAT unless a non-Debtor party to any executory contract or unexpired lease files an objection to the Cure Amount or adequate assurance of future performance by the applicable Objection Deadline, such counterparty shall be deemed to consent to the treatment of its Potentially Assigned Contracts and Leases under section 365 of the Bankruptcy Code and the assumption and assignment thereof notwithstanding any anti-alienation provision or other restriction on assumption or assignment, and shall be forever barred and estopped from (a) objecting to the Cure Amount; (b) asserting or claiming any Cure Amount against the Debtor or any Successful Bidder, other than the Cure Amount listed on the Cure Notice; and (c) asserting the lack or failure of adequate assurance of future performance from the applicable assignee.

PLEASE TAKE FURTHER NOTICE that inclusion of an Executory Contract or Unexpired Lease as a Potentially Assigned Contract or Lease on **Exhibit A** is not a guarantee that such Executory Contract or Unexpired Lease will ultimately be assumed and assigned to the Successful Bidder or any other assignee.

PLEASE TAKE FURTHER NOTICE that at least ten (10) days prior to the closing of the Sale Transaction, the Debtor shall file a notice identifying each Selected Contract that the Successful Bidder wishes to assume and assign. If the Successful Bidder is not the Stalking Horse Bidder, a supplemental notice shall indicate the deadline for objecting to the assumption and assignment of the Selected Contract to such Successful Bidder, which shall be solely on the basis of adequate assurance of future performance of the Successful Bidder.

PLEASE TAKE FURTHER NOTICE that copies of the Sale Motion, Bidding Procedures and Bidding Procedures Order, as well as all related exhibits including the Stalking Horse Purchase Agreement and all other documents filed with the Court, are available free of charge on the website of the Court-appointed claims and noticing agent for the Debtor's chapter 11 case, Prime Clerk LLC, https://cases.primeclerk.com/hovensa, or can be requested by e-mail at hovensainfo@primeclerk.com.

PLEASE TAKE FURTHER NOTICE that the Debtor and the Successful Bidder reserve all of their rights, claims and causes of action with respect to the Potentially Assigned Contracts and Leases listed on **Exhibit A** hereto, including amending or modifying this notice with an updated cure amount for a particular contract or lease, which updated cure amount may be lower than the original cure amount listed herein for such particular contract or lease. Neither the exclusion nor inclusion of any Potentially Assigned Contract or Lease on **Exhibit A** shall constitute an admission by the Debtor that (i) any such contract or lease is in fact an executory contract or unexpired lease capable of assumption under 11 U.S.C. § 365; (ii) the Debtor has any liability thereunder; or (iii) such Potentially Assigned Contract or Lease is necessarily a binding and enforceable agreement. Further, the Debtor and Successful Bidder expressly reserve the right to (i) remove any Potentially Assigned Contract or Lease from **Exhibit A** and reject such Potentially Assigned Contract or Lease, and (ii) contest any claim (or claim amount) asserted in connection with the assumption of any Potentially Assigned Contract or Lease.

PLEASE TAKE FURTHER NOTICE that, to the extent that there are any inconsistencies between the terms and conditions contained in the Bidding Procedures Order and those described in this Notice, the terms and conditions of the Bidding Procedures Order shall control in all respects.

PLEASE TAKE FURTHER NOTICE THAT, subject to the remainder of this paragraph, Objections that object solely to the Cure Amount may not prevent or delay the Debtor's assumption, assignment and/or transfer of any Potentially Assigned Contract or Lease. If a party objects solely to a Cure Amount, the Debtor may hold the Alleged Cure Claim in reserve pending further order of the Court or mutual agreement of the parties. If the Debtor holds the Alleged Cure Claim in reserve, the Debtor can, without further delay, assume, assign and/or transfer the Potentially Assigned Contract or Lease that is the subject of such objection. At that point, the objecting party's sole and exclusive recourse with respect to the Cure Amounts is and will be limited to the funds held in such reserve with respect to the Alleged Cure Claim.

PLEASE TAKE FURTHER NOTICE THAT ASSUMPTION AND ASSIGNMENT OF ANY POTENTIALLY ASSIGNED CONTRACT OR LEASE SHALL RESULT IN THE FULL RELEASE AND SATISFACTION OF ANY CLAIMS OR DEFAULTS, WHETHER MONETARY OR NONMONETARY, INCLUDING DEFAULTS OF

PROVISIONS RESTRICTING THE CHANGE IN CONTROL OR OWNERSHIP INTEREST COMPOSITION OR OTHER BANKRUPTCY-RELATED DEFAULTS, ARISING UNDER ANY POTENTIALLY ASSIGNED CONTRACT OR LEASE AT ANY TIME BEFORE THE DEBTOR ASSUMES SUCH P O T E N T I A L L Y ASSIGNED CONTRACT OR LEASE. ANY PROOFS OF CLAIM FILED WITH RESPECT TO A POTENTIALLY ASSIGNED CONTRACT OR LEASE THAT HAS BEEN ASSUMED AND ASSIGNED SHALL BE DEEMED DISALLOWED AND EXPUNGED, WITHOUT FURTHER NOTICE, ACTION, ORDER OR APPROVAL OF THE COURT.

Richard H. Dollison (VI Bar No. 502)
LAW OFFICES OF RICHARD H. DOLLISON, P.C.
48 Dronningens Gade, Suite 2C
St. Thomas, U.S. Virgin Islands 00802
Telephone: (340) 774-7044
Facsimile: (340) 774-7045

-and-

Lorenzo Marinuzzi
Jennifer L. Marines
Daniel J. Harris
MORRISON & FOERSTER LLP
250 West 55th Street
New York, New York 10019
Telephone: (212) 468-8000
Facsimile: (212) 468-7900

Proposed Counsel for Debtor
and Debtor-in-Possession

Exhibit A

Counterparty Name	Description of Contract	Cure Amount, if any
		$_____