

## ECT USER AGREEMENT

This User Agreement (the “Agreement”) is entered into by and between the party whose name appears identified as “Customer” in the signature pages hereof (“Customer”) and Energy Connections Technologies LLC (“ECT” and, with Customer, each a “Party” and jointly the “Parties”) in connection with the services outlined below; *provided* that Customer’s execution hereof, sending of nominations to ECT or use of any of ECT’s services hereunder signify Customer’s acceptance of and agreement with the terms and conditions hereof.

Each Party represents and warrants to the other that, as of the date hereof:

- (a) it has full power and authority to enter into this Agreement and to carry out the transactions contemplated by it, and has taken all action necessary to authorize the execution, delivery, and performance of this Agreement; and
- (b) neither the execution, delivery or performance of this Agreement, nor the consummation of the transactions contemplated hereby or thereby, (i) violate or conflict with, any provision of the articles of organization or operating agreement of either Party; (ii) violate or conflict with any law or order to which the respective Party is bound or subject; (iii) with or without giving notice or the lapse of time or both, breach or conflict with, constitute or create a default under, or give rise to any right of termination, cancellation or acceleration of any obligation or result in a loss of a material benefit under, or give rise to any obligation of any Party to make any payment under, or to the increased, additional, accelerated or guaranteed rights or entitlements of any person under, any of the terms, conditions or provisions of any agreement or other commitment to which the relevant Party is a party or by which it may be bound, or (iv) require any filing with, or permit, consent or approval of, or the giving of any notice to any governmental authority or other person.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### 1. SERVICES PROVIDED

1.1. Pursuant to the terms hereunder, ECT processes physical movement nominations of crude oil for the purpose of eliminating redundant movements (hereinafter referred to as optimizations). The types/grades of crude oil optimized are between the locations/terminals shown in the attached “Scheduling Services List”. Optimized results are provided by ECT to Customer via email or other mutually agreed means in writing (the file containing such optimizations being referred to herein as a “Determination Statement”). ECT may revise and amend its Scheduling Service List from time to time at its sole discretion and will make commercially reasonable efforts to maintain the latest version available to the Customer, through its website or otherwise.

1.2. By virtue of entering into this Agreement, Customer is under no obligation to submit crude oil nominations to ECT or, when it does, Customer is not obligated to submit nominations for each and all the crude oil types/grades or locations/terminals appearing on the Scheduling Services List.

1.3. For the sake of clarity, each and all midstream companies and/or terminals that from time to time appear on the Scheduling Services List are hereinafter individually referred to as the “Midstream Companies”.

### 2. SUBMISSION OF NOMINATIONS



2.1. Customer shall endeavor to submit physical movement nominations (“Nominations”) to ECT via email in the ECT nomination template (a “Nomination File”) no later than 21:00 hours (ET) one (1) Business Day (as defined below) prior to the relevant Midstream Company’s scheduling deadline for the “Delivery Month”. E.g. Should a Midstream Company’s scheduling deadline be Friday, October 25, then November nominations are to be received no later than 21:00 hours (ET) on Thursday, October 24. ECT will make commercially reasonable efforts to accept and process (but will not be obligated to accept and process) Nomination Files received by it after the applicable nomination cut-off time (as per this section), as well as to notify Customer if any such Nomination File cannot be accepted.

2.2. For the avoidance of doubt, the term “Business Day” as used herein shall mean any day other than Saturday, Sunday and days on which Federal or Texas state-chartered banks are closed for business.

### **3. BINDING NOMINATIONS**

3.1. Customer shall be entitled to submit one or more Nomination Files per Delivery Month for the purpose of receiving a Determination Statement from ECT. Customer acknowledges and agrees that, once a Nomination has been submitted to and accepted by ECT in the terms hereunder, Customer will be bound to maintain the integrity of any physical movement optimization determined by ECT in a Determination Statement.

3.2. Customer understands that, once a Nomination is found by ECT to be an integral part of an optimization, such Nomination may be partially reduced, eliminated or replaced with a Swap (as defined and described in more detail in Clauses 4 and 5 below), and that the crude oil which is part of any such Swap shall not be nominated by the Customer to the corresponding Midstream Company nor withdrawn for any reason whatsoever, except as provided in Clause 10 hereof.

### **4. SWAP TRANSACTIONS**

4.1. Customer understands that some or all physical movements in a Nomination File may be partially or fully eliminated via Customer entering into two or more simultaneous trades with one or more counterparties (hereinafter a “Swap”). As part of Customer’s enrollment, ECT will provide the Customer with a list of all active counterparties (other customers) that could potentially participate in Swaps (each a “Trading Partner”). Should Customer wish to exclude any of such Trading Partners from Swap eligibility relative to such Customer, Customer must indicate the name of any excluded Trading Partner to ECT in writing before or simultaneously to the submission of the first Nomination File to ECT. Otherwise, once a specific Nomination has been replaced by a Swap by ECT, the Customer will be bound to enter into the Swap with the Trading Partner specified on the corresponding Determination Statement in the terms provided below.

4.2. ECT shall not be liable for any aspect of the Swaps among Customer and Trading Partners which have been entered into as per a Determination Statement.

4.3. Customer understands that the submission of a Nomination File or the receipt of a Determination Statement does not constitute the execution of a Swap, and that each Swap is completed only with the simultaneous execution of two trades in the terminals involved in the physical movement optimization described in the relevant section of the Determination Statement.



## 5. TERMS AND CONDITIONS OF SWAP TRANSACTIONS

5.1. Each Swap aims to replace a given physical movement of crude oil of the type/grade and between two or more locations/terminals indicated in a Nomination File with offsetting contracts - listed in the Determination Statement - that eliminate the need for such physical movements.

5.2. Unless otherwise unilaterally determined by ECT:

- (a) the applicable Swap price for each party thereto will be the closing price published by CME Group (source: <https://www.cmegroup.com/markets/energy/crude-oil/light-sweet-crude.quotes.html>) for the relevant commodity on the Business Day immediately prior to the relevant Midstream Company's scheduling deadline for the "Delivery Month"; *provided* that prices will remain the same for both such parties.
- (b) the delivery period will be from the first to the last calendar day of the relevant Delivery Month.
- (c) For each Swap, Customer and the corresponding Trading Partner shall comply with the following obligations:
  - (i) the seller must undertake to deliver the volume to the terminal indicated in the corresponding Determination Statement;
  - (ii) the seller must nominate to the terminal the corresponding Product Transfer Order ("PTO") for the delivery;
  - (iii) the buyer agrees to receive the volume at the terminal indicated in the corresponding Determination Statement;
  - (iv) If applicable, the buyer must nominate to the terminal the corresponding PTO in the receiving terminal;
- (d) For all other aspects of a Swap, Customer and Trading Partners shall enter into and abide by the terms and conditions of a sales contract in the form of the "Conoco Phillips 1993 General Terms and Conditions".

## 6. DETERMINATION STATEMENT

Customers shall receive ECT's Determination Statement and Invoice no later than 09:00 hours (CDT) on the Midstream Company's Day of scheduling. The Determination Statement shall consist of the following information:

### a) Original Nomination

These are the initial Nominations submitted by the Customer to ECT.

### b) Optimized Volumes



These are the optimizations, or volumes that no longer need to be physically nominated and moved, as identified by ECT's proprietary technology.

Transactions listed here are physical movements which have been optimized and shall be subject to Clause 4 and others of this Agreement. Such transactions shall not be reported as a physical Nomination to Midstream Companies.

**c) Adjusted Nominations**

These consist of the Original Nomination minus the Optimized Volumes and is what shall be nominated to the Midstream Companies. For the avoidance of doubt, a value of zero means that an entire transaction was optimized as provided herein.

**d) Swaps**

These are the two or more simultaneous trades with one or more Trading Partners that eliminate or reduce physical movements and make optimizations possible.

Optimized Volumes that are totally eliminated or partially replaced with a Swap with a Trading Partner will be listed in this section of the Determination Statement. Customer acknowledges and accepts that each Swap is perfected by the simultaneous execution of purchases and sales contracts with one or more of the Trading Partners in the receipt and delivery terminals, respectively; *provided* that, to execute a Swap, both Customer and each of the relevant Trading Partners shall nominate the PTO to the corresponding terminal.

**e) Discrepancies**

These are transactions where the reported volume disagrees with that of a counterparty. ECT will make reasonable commercial efforts, but is not obligated, to report these transactions to Customer. If reported, they would be for informational purposes only and would only be intended to alert Customer to any potential problems, but Customer acknowledges and agrees that ECT will under no circumstance be held liable for any operational, financial or other type of consequence of such discrepancies. Please note that:

- (i) in the event of a trading discrepancy, ECT will use the smaller volume; and
- (ii) transactions with non-ECT customers will be listed in the Determination Statement, but their accuracy cannot be confirmed by ECT as it has no way to verify their accuracy and notify discrepancies to counterparties not submitting their Nominations through the Customer.

**7. INVOICE**

ECTs invoice for services hereunder will be sent to customer at the same time as the Determination Statement.

The ECT Fee is determined by multiplying the *ECT RATE* (which is a percentage included in the Scheduling Services List) by the *GROSS SAVINGS*.

The *GROSS SAVINGS* are calculated as the difference between *PUMP OVER SAVINGS* and *SWAP COSTS*.



The *PUMP OVER SAVINGS* are determined by multiplying the *OPTIMIZED VOLUMES* by the cost of the Midstream Company's Pump-Over Cost, while the *SWAP COSTS* are calculated by multiplying the *OPTIMIZED VOLUMES* by the Midstream Company's *PTO COST*.

$$ECT\ FEE = ECT\ RATE * GROSS\ SAVINGS$$

Where:

*ECT RATE* = Percentage included in the Scheduling Services List

*GROSS SAVINGS* = *PUMP OVER SAVINGS* - *SWAP COSTS*

*PUMP OVER SAVINGS* = *OPTIMIZED VOLUMES* \* *PUMP-OVER COSTS*

*SWAP COSTS* = *OPTIMIZED VOLUMES* \* *PTO COST*

The above provided that there shall be no charge for any barrels that are not optimized.

For ease of reference, each of this Agreement, the Nomination Files, Determination Statements, the Swap documentation, PTO and Invoices issued or delivered hereunder are herein collectively referred to as the "Optimization Documents".

## **8. PAYMENT**

Payment of each Invoice by Customer shall be made by wire transfer of immediately available funds, in U.S. Dollars, no later than the 20<sup>th</sup> (twentieth) calendar day of the month immediately following receipt of ECT's Determination Statement and Invoice.

## **9. DISSOLUTION OF AN OPTIMIZED NOMINATION**

Should Customer wish to withdraw from a physical movement optimization or not enter into a Swap in accordance with a Determination Statement, such party shall make a proposal for dissolution of such optimization to ECT in writing within two (2) Business Days of having received the corresponding Determination Statement. If that were the case, and by e-mail to all parties to the proposed dissolved optimization sent within two (2) Business dDays from receiving notice from Customer as provided above, ECT shall convey the proposal for the dissolution of the optimization to such Customer. Upon receipt of the written consent of Customer (and any other party involved that ECT considers necessary), ECT shall confirm the annulment of the physical movement optimization. Thereupon, all parties shall be released from any expressed or implied obligations engendered by the formation of the physical movement optimization, except from the obligation to make payments due to ECT for originally determining the physical movement optimization in a Determination Statement. Failure on the part of any party to consent or cooperate with a request for dissolution will result in the corresponding physical movement optimization remaining valid and binding among the corresponding parties, each of which will have the right to legally compel the other to discharge its obligations; *provided* that in no case shall ECT be held liable for anything related to the dissolution of a movement optimization hereunder.



## 10. NOTICES

All notices between the Parties hereto (including Nomination File submissions) shall be sent by e-mail to the following addresses:

If to ECT:

Energy Connections Technologies LLC

E-Mail: [info@energyctech.com](mailto:info@energyctech.com)

If to Customer:

The e-mail address indicated in the corresponding signature block hereof.

## 11. CONFIDENTIALITY

Customer and ECT shall keep confidential all information relating to this Agreement that either party may receive from or about the other party hereunder and that the disclosing party has identified as confidential, including but not limited to information contained in the Scheduling Services List, a Nomination File, a Determination Statement, executed Swap documentation or a PTO, except with the prior written consent of the disclosing party or except and to the extent that: (i) ECT may disclose Customer's identity as a potential Trading Partner to other customers; (ii) ECT may contact Customer's direct counter-party for the express purpose of resolving discrepancies, (iii) such information has become public knowledge otherwise than in breach of this Agreement; or (iv) disclosure is required by a court or agency exercising jurisdiction over the subject matter hereto, or by law, rule or regulation, provided that, if legally permissible, the party subject to such requirement gives written notice to the other party prior to disclosure. If disclosure is required by a competent governmental body or applicable law, the party subject to such requirement may disclose only that information which is so required and no more, as determined by opinion of its counsel. The party subject to such requirement for disclosure shall also reasonably cooperate (consistent with the subject party's legal obligations) with the other party's efforts, and at the other party's cost, to obtain protective orders, injunctions, or other similar restraints with respect to such disclosure. The confidentiality obligations contained in this section supersede and replace any previous confidentiality obligations of the parties, whether verbal or written.

## 12. SANCTIONED ENTITIES

Neither Party shall be required to satisfy any obligation or enter into any transaction otherwise required by this Agreement (including but not limited to an obligation to (a) perform, deliver, accept, sell, purchase, pay or receive monies to, from, or through a person or entity, or (b) engage in any other acts) if this would be in violation of, inconsistent with, penalized or prohibited by, or expose such Party to punitive measures under any applicable laws, regulations, statutes, prohibitions, restrictions, decrees, ordinances, orders or rules of the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), the U.S. Departments of State or Commerce, the United Nations Security Council ("USNC"), European Union ("EU"), EU member state, the United Nations, the United Kingdom, Switzerland or other jurisdiction applicable to the Parties relating to the adoption, implementation and enforcement of international boycotts, economic sanctions, trade sanctions, foreign trade controls, export controls, trade embargoes, non-proliferation, anti-terrorism or similar laws.



**13. LIMITED LIABILITY AND INDEMNITY**

Customer acknowledges that ECT is not responsible for the performance of any of Customer's, the Trading Partners' or any other party's obligations under any of the Optimization Documents, beyond what is explicitly provided in this Agreement. In particular, ECT is not responsible for the conduct of Trading Partners and whether they fulfill their obligations under the Swap documentation. Customer is fully aware that what ECT offers through the Optimization Documents is a service powered by proprietary technology. Although ECT has taken all commercially reasonable measures to ensure that such technology will perform in accordance with the agreed functional specifications and its output to Customer is fit-for-purpose as described herein, ECT makes no implicit or explicit warranties. Therefore, ECT shall not be liable for any direct, indirect, incidental, special or consequential damages or loss of profits, revenue, data or data use, incurred by Customer or any third party, whether in an action in contract or tort, arising from your access to, or use of, the site or any content provided on or through ECT's proprietary technology used for delivering its services hereunder.

Furthermore, Customer agrees to indemnify, defend and hold harmless ECT, its officers, directors, agents, employees and affiliates from and against all claims, demands, losses, damages, costs, expenses, and legal liability connected with or resulting from, arising out of or related to, Customer's gross negligence, intentional misconduct or breach of its obligations hereunder or under any of the Optimization Documents.

**14. GOVERNING LAW AND ARBITRATION**

This Agreement will be governed and construed in accordance with the laws of the State of Texas, without regard to applicable principles of conflicts of law. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Houston, Texas, USA before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules. Judgment on the corresponding award may be entered in any court having jurisdiction. To the extent permitted by applicable law, this clause shall not preclude Parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the \_\_\_ day of \_\_\_\_\_.

ECT  
Energy Connections Technologies LLC

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

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

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

