

**EXHIBIT F
OPERATING SERVICES AGREEMENT**

[SEE ATTACHED]

OPERATING SERVICES AGREEMENT

by and between

EQUISTAR CHEMICALS, LP

as Operator

and

LOUISIANA INTEGRATED POLYETHYLENE JV LLC

as Owner

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EXHIBITS:

Exhibit A	Initial Operating Budget
Exhibit B	Operating Services
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OPERATING SERVICES AGREEMENT

This Operating Services Agreement (this “**Agreement**”) is effective as of [____], 2020 (the “**Effective Date**”), by and between Louisiana Integrated PolyEthylene JV LLC a Delaware limited liability company (“**Owner**”), and Equistar Chemicals, LP, a Delaware limited partnership (“**Operator**”). Each of Operator and Owner is sometimes referred to herein individually as a “**Party**” or collectively as the “**Parties.**”

RECITALS

WHEREAS, Owner was formed to own, operate, and maintain the Plant Facilities;

WHEREAS, as of the Effective Date, Owner is jointly owned in equal percentages by Sasol Chemicals (USA) LLC, a Delaware limited liability company (“**Sasol Member**”) and Operator’s Affiliate, LyondellBassell LC Offtake LLC, a Delaware limited liability company (“**LYB Member**”);

WHEREAS, Owner desires to engage Operator, an Affiliate of LYB Member, in accordance with this Agreement and the Owner LLC Agreement, as an independent contractor, to perform (and Operator desires to perform) the services set forth in this Agreement, including the Operating Services, and Emergency Operations (such services, but excluding, in each case, the Owner Retained Obligations and the RemainCo Services, the “**Services**”); and

WHEREAS, the Parties wish to enter into this Agreement providing for the engagement of Operator by Owner to perform the Services; and

NOW, THEREFORE, for and in consideration of the foregoing, the mutual covenants and promises set forth herein, the Owner LLC Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby agree that the terms and conditions of this Agreement shall determine and control the rights, duties, and relationships between the Parties with respect to the matters addressed herein. The Parties further agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Definitions. As used in this Agreement, the following terms shall have the following respective meanings:

“**Account**” shall have the meaning given to such term in Section 5.5.

“**Action**” means any action, claim, suit, complaint, audit, investigation, inquiry, arbitration, or proceeding by or before any court or other Governmental Authority or arbitrator.

“**Administrative Costs**” means the costs and expenses incurred by Operator, its Affiliates or any Third Party Providers in the provision of the Administrative Services, except as excluded pursuant to Exhibit E.

“**Administrative Fee**” means an annual charge (payable monthly in equal installments) intended to approximate the corporate overhead and administrative charges incurred by Operator in connection with the Administrative Services, equal to \$[____],¹ pro-rated for any partial Fiscal Year and adjusted annually in accordance with CPI.

“**Administrative Services**” means the Services set forth on Exhibit E.

“**Affiliate**” means, with respect to any Person, any other Person that directly or indirectly Controls, is Controlled by or is under common Control with, such Person. For purposes of this Agreement, Owner shall not be deemed an Affiliate of Operator.

“**Applicable Taxes**” means any and all taxes arising from the Services or otherwise in connection with the activities described in this Agreement, including (a) property, ad valorem, and other similar taxes, (b) sales, use, excise, unclaimed property, and other similar taxes, and (c) property transfer or gain, goods and services, registration, capital, documentary, stamp or transfer taxes, recording fees, and other similar taxes, including, in each case, any interest, penalties, and additions to tax thereon; provided, that, for the avoidance of doubt, “Applicable Taxes” shall not include any Income Taxes.

“**Approved Budget**” has the meaning ascribed to such term in the Owner LLC Agreement.

“**Asset Repairs**” has the meaning ascribed to such term in the MIPA.

“**Bankruptcy**” means any Person that (a) (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 or state 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 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 clause (a); 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 (b) against which a proceeding seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any law has been commenced and ninety (90) 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 sixty (60) days have expired without such appointments having been vacated or stayed, or sixty (60) days have expired after the date of expiration of a stay, if the appointment has not previously been vacated.

“**Books and Records**” shall have the meaning given to such term in Section 5.3.

¹ **Note to Form:** Subject to further analysis after the execution of the MIPA, the Administrative Fee will equal amount necessary to cover actual costs of performing the Administrative Services and is expected to be in the range of \$4 million - \$6 million.

“**BSA**” means that certain Business Separation Agreement, dated as of [●], 2020, by and among Sasol Member, Owner and LYB Member.

“**Budget Amendment Dispute**” shall have the meaning given to such term in Section 4.1(c)(ii).

“**Business Day**” has the meaning ascribed to such term in the Owner LLC Agreement.

“**Capital Costs**” means costs to support the operations of the Plant Facilities and the Services that are permitted to be capitalized under GAAP, including Internal Capital Costs.

“**Claim Notice**” shall have the meaning given to such term in Section 7.6.

“**Claims**” shall have the meaning given to such term in Section 7.3.

“**Confidential Information**” means, collectively, all non-public, proprietary, or confidential documents, materials, data, and other information (whether oral, visual, written, electronic, or otherwise), whether or not marked or designated as “confidential” relating to the Plant Facilities, the Services or Owner, Operator, the Members, or their respective Affiliates, whether proprietary to a Party or its Affiliates or to a Third Party to which a Party or its Affiliates owes a duty of confidentiality, including (a) that portion of any notes, analyses, reports, compilations, studies, interpretations, memoranda, or other documents prepared by the Receiving Party or its Representatives that contain, reflect, or are based upon any Confidential Information, and (b) the terms and provisions of this Agreement. Notwithstanding the foregoing, Confidential Information does not include (i) information that is or becomes generally available to the public through no action on the part of the Receiving Party or its Representatives in violation of this Agreement (including information that is available through subscription services), (ii) information that is independently developed or generated by the Receiving Party or its Representatives without use of the Confidential Information, (iii) information that the Receiving Party can demonstrate was already in its possession or the possession of any of its Representatives at the time of disclosure to it, or (iv) information that was received by the Receiving Party or its Representatives from a Third Party source if such source is not known to the Receiving Party, after reasonable inquiry, to be bound by a contractual, legal, or fiduciary obligation of confidentiality or secrecy with respect to such information.

“**Confidentiality Agreement**” shall have the meaning given to such term in Section 5.3.

“**Contracting Parties**” shall have the meaning given to such term in Section 12.13.

“**Control**” has the meaning ascribed to such term in the Owner LLC Agreement.

“**Costs**” means (without duplication) all costs and expenses (including Employee Costs and Capital Costs) incurred in accordance with the Approved Budget, in each case, subject to applicable Permitted Overruns, or otherwise permitted under Section 4.1 or Section 4.2; provided, “Costs” shall in all cases exclude Administrative Costs.

“**CPI**” means the United States Consumer Price Index for All Urban Consumers as published from time to time by the Bureau of Labor Statistics of the U.S. Department of Labor

(All Urban Consumers, U.S., All Items, 1982-1984, Not Seasonally Adjusted, Series I.D. CUUR0000SA0), or if such index is no longer published then such other index as may be agreed to by the Parties, by reference to any replacement index that is used in sales contracts of polyethylene or other chemicals produced by the Plant Facilities; provided that, if an incorrect value is published for such index, and such error is corrected and published within ninety (90) Days of the date of the publication of such incorrect index, such corrected index will be substituted for the incorrect index and any calculations involving such index will be recalculated and the Parties will take any necessary actions based upon these revised calculations, including adjustments of amounts previously invoiced and/or paid.

“Default Budget” has the meaning ascribed to such term in the Owner LLC Agreement.

“Developed IP” shall have the meaning given to such term in Section 3.5(c).

“Disclosing Party” shall have the meaning given to such term in Section 10.1(a).

“Emergency” means any occurrence that gives rise to the need for Emergency Operations.

“Emergency Operations” means, operations necessary to respond to or alleviate the imminent or immediate compromise of or risk of compromise of (a) the health or safety of any Person or natural resources (including wildlife) or the environment or (b) the safety or operational condition of, or substantial damage to, any of the assets of Owner or the property of any other Person.

“Employee Costs” means (a) the fully loaded employee costs, which shall include salary, bonuses, benefits, taxes, severance and training, associated with employees of Operator or its Affiliates providing the Services, and which, with respect to any employee not engaged full-time in the provision of Services, shall be prorated according to the amount of time such employee spends performing the Services, and (b) the reasonable travel, transportation, relocation of employees of the Operator or its Affiliates and other costs directly reimbursed to the employees reasonably incurred in connection with performing the Services, by employees of Operator or its Affiliates providing the Services.

“Employee Matters Agreement” means that certain Employee Matters Agreement dated as of the Effective Date, by and between Sasol Member and Owner.

“Environmental Law” means any and all Law related to pollution, process safety, protection of the environment (including natural resources and indoor air quality), the generation, use, handling, storage, Release, marketing, labeling, registration, notification, packaging, import, distribution or disposal of Hazardous Materials (including the investigation, monitoring or remediation of contamination), or health and safety (to the extent relating to exposures to Hazardous Materials) including, without limitation, Process Safety Laws, the Clean Air Act, the Federal Water Pollution Control Act, the Oil Pollution Act of 1990, the Rivers and Harbors Act of 1899, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act, the Hazardous and Solid Waste Amendments Act of 1984, the Toxic Substances Control Act, the Occupational Safety and Health Act of 1970, in each case as has been amended or will be amended in the future, their corresponding regulations and

comparable state and local counterparts, including, without limitation, the Louisiana Environmental Quality Act and the Louisiana Hazardous Waste Control Law.

“Environmental Liabilities” means all liabilities arising under, resulting from or in connection with any Environmental Laws, including those arising from or related to (a) any presence, generation, storage, management, handling, use, transportation, treatment, disposal, marketing, labeling, registration, notification, packaging, import, distribution, Release, investigation, monitoring or remediation of, or exposure of any Person to, Hazardous Materials, including any off-site impacts associated with the migration of any such Release of Hazardous Materials, (b) any compliance or non-compliance with Environmental Law or Environmental Permits, (c) any damage, injury, threat, nuisance, or harm to human health or safety (to the extent relating to exposure to any Hazardous Materials), natural resources or the environment, or (d) any other liabilities arising under Environmental Laws, including, in each case, all containment, investigation, cleanup, remediation, mitigation, corrective action, monitoring, or post-closing monitoring costs, administrative oversight costs, natural resources damages, property damages, personal injury damages, indemnity, injunctive relief, contribution and similar obligations and all costs and expenses, interest, fines, penalties and other monetary sanctions in connection with any of the foregoing.

“Environmental Permit” means any Permit issued or required under Environmental Law.

“Equistar Member” means LyondellBasell LC Offtake LLC, a Delaware limited liability company.

“Feedstock” means ethane.

“Fiscal Year” has the meaning ascribed to such term in the Owner LLC Agreement.

“Force Majeure” shall have the meaning given to such term in Section 12.11.

“GAAP” has the meaning ascribed to such term in the Owner LLC Agreement.

“Governmental Authority” means any federal, state, local or municipal governmental body, and any governmental, regulatory, or administrative agency, commission, body, or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative policy, regulatory, or taxing authority or power, or any court or governmental tribunal.

“Hazardous Materials” means (a) oil and petroleum products, asbestos, polychlorinated biphenyls, per- and poly-fluoroalkyl substances, and noxious odor and (b) any other substances, materials or wastes listed, defined, designated, or classified as a pollutant or contaminant or as hazardous, toxic or radioactive pursuant to, or that are otherwise regulated under, or for which liabilities may be imposed pursuant to, any Environmental Law.

“Income Taxes” means any tax imposed on or with respect to net income or gross income, gross receipts or any franchise or similar tax, including, in each case, any interest, penalties, and additions to tax thereon.

“Indemnitee” shall have the meaning given to such term in Section 7.6.

“**Indemnitor**” shall have the meaning given to such term in Section 7.6.

“**Initial Operating Budget**” shall have the meaning given to such term in Section 4.1(a)(ii).

“**Initial Term**” shall have the meaning give to such term in Section 9.1.

“**Internal Capital Costs**” means Employee Costs associated with Persons who are directly engaged in providing goods (including vehicles, materials, and equipment) or services associated with the Services that are permitted to be capitalized under GAAP.

“**IP Rights**” means all patent rights, rights in designs, copyrights, trademarks, know-how, and other intellectual property rights, in each case, owned by or licensed to the designated company.

“**Law**” has the meaning ascribed to such term in the Owner LLC Agreement.

“**Lien**” means, with respect to any property or assets, any mortgage or deed of trust, pledge, hypothecation, assignment, deposit arrangement, security interest, lien, charge, easement, encumbrance, preference, priority, or other security agreement or preferential arrangement of any kind or nature whatsoever on or with respect to such property or assets (including any conditional sale or other title retention agreement having substantially the same economic effect as any of the foregoing).

“**Loss**” means any and all judgments, losses, liabilities, damages, taxes, fines, settlements, penalties, deficiencies, costs, and expenses (including court costs, reasonable fees of attorneys, accountants and other experts or other reasonable expenses incurred in connection with investigation or defense).

“**Mandatory Call Notice**” has the meaning ascribed to such term in the Owner LLC Agreement.

“**Marketing Agreement**” means that certain Marketing Agreement, dated as of [●], 2020 by and among Sasol Member and Operator.

“**Member**” has the meaning ascribed to such term in the Owner LLC Agreement.

“**Membership Interest**” has the meaning ascribed to such term in the Owner LLC Agreement.

“**MIPA**” means that certain Membership Interest Purchase Agreement, dated as of [●], 2020, by and among Sasol Member, Owner, LYB Member, Lyondell Chemical Company and Sasol Limited,.

“**Nonparty Affiliate**” shall have the meaning given to such term in Section 12.13.

“**Notice**” shall have the meaning given to such term in Section 12.1.

“Operating Budget” shall have the meaning given to such term in Section 4.1(c)(i).

“Operating Budget Amendment” shall have the meaning given to such term in Section 4.1(c)(iii).

“Operating Period” means the period commencing upon the Effective Date and ending on the date this Agreement is terminated in accordance with its terms (and shall include any Transition Period).

“Operating Services” shall have the meaning given to such term in Section 3.1.

“Operator Group” means (a) Operator and its Affiliates and (b) the partners, members, managers, directors, officers, equityholders, employees, agents, heirs, successors and assigns of each Person specified in clause (a) above.

“Owner Direct-Billed Costs” means all Costs that are paid directly using Owner’s funds.

“Owner Group” means (a) Owner and its Affiliates and (b) the respective partners, members, managers, directors, officers, equityholders, employees, agents, heirs, successors and assigns of each Person specified in clause (a) above (other than Operator or any of its Affiliates).

“Owner Indirect-Billed Costs” means, without duplication, all Costs that are paid directly by Operator or its Affiliates on behalf of Owner using Operator’s or such Affiliate’s, as the case may be, funds.

“Owner LLC Agreement” means that certain Amended and Restated Limited Liability Company Agreement of Owner dated as of the Effective Date, by and between Equistar Member and Sasol Member.

“Owner Management Committee” means the Operating Committee of Owner, as constituted pursuant to and in accordance with the Owner LLC Agreement.

“Owner Retained Obligations” shall have the meaning set forth in Exhibit C.

“Permits” means all permits, licenses, tariffs, certificates, pre-qualifications, variances, registrations, consents, approvals, waivers, exemptions, orders, franchises, authorizations, allowances, emissions credits, and similar rights issued by any Governmental Authority.

“Permitted Annual Budget Variance” has the meaning ascribed to such term in the Owner LLC Agreement.

“Permitted Overruns” means the funding of (a) any amount strictly necessitated by Emergency Operations incurred in accordance with this Agreement and the Owner LLC Agreement, (b) any amounts permitted by the Permitted Annual Budget Variance and (c) any Permitted Unbudgeted Costs.

“Permitted Unbudgeted Costs” means costs to comply with applicable Law, including Permits or Environmental Law, but, in each case, only to the extent such amounts exceed the

amount of any line item (or are not contemplated by any line item) set forth in the applicable Approved Budget.

“**Person**” has the meaning ascribed to such term in the Owner LLC Agreement.

“**Plant Facilities**” means the Facilities (as defined in the BSA) and businesses of Owner including any additions, adjustments, alterations, amendments, or changes from time to time.

“**Process Safety Laws**” means any Laws relating to the regulation of activities or operations associated with the Plant Facilities pursuant to: (a) Process Safety Management of Highly Hazardous Chemicals, Explosives and Blasting Agents (29 C.F.R. Part 1910 et seq.), as amended; (b) Chemical Accident Prevention Provisions (40 C.F.R. Part 68 et seq.), as amended; (c) Section 112(r) of the Clean Air Act (42 U.S.C. 7412(r)) and related rules and regulations; and (d) any similar state, local or parish Laws.

“**Products**” shall have the meaning ascribed to such term in the Marketing Agreement.

“**Proposed Cash Flow Schedule**” shall have the meaning given to such term in Section 4.1(b).

“**Proposed Operating Budget**” shall have the meaning given to such term in Section 4.1(b).

“**Receiving Party**” shall have the meaning given to such term in Section 10.1(a).

“**Release**” means any release, spill, emission, leaking, pumping, pouring, placing, discarding, abandoning, emptying, migrating, escaping, leaching, seeping, dumping, injection, disposal, or discharge of any Hazardous Material into or through the environment.

“**RemainCo**” means Sasol Member.

“**RemainCo Services**” means the services provided pursuant to the contracts set forth on Exhibit H.

“**Reports**” shall have the meaning given to such term in Section 5.2.

“**Representative**” shall have the meaning given to such term in Section 10.1(b).

“**Sasol Member**” means Sasol Chemicals (USA) LLC, a Delaware limited liability company.

“**Service Contracts**” means any and all contract(s) for the provision of Services performed by Third Party Providers.

“**Services**” shall have the meaning given in the Recitals.

“**Standard of Performance**” shall have the meaning given to such term in Section 2.3.

“**Third Party**” means a Person other than (a) Operator, (b) Owner, (c) a Member, or (d) any Affiliate of Operator, Owner, or a Member.

“**Third Party Provider**” shall have the meaning given to such term in Section 2.4(g).

“**Transaction Documents**” shall have the meaning given to such term in the Owner LLC Agreement.

“**Transition Period**” shall have the meaning given to such term in Section 9.9.

1.2 Construction. Unless the context otherwise requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter, the singular shall include the plural, and the plural shall include the singular. All references herein to Articles, Sections and subsections refer to articles, sections and subsections of this Agreement, and all references to Exhibits, Schedules and Annexes are to exhibits, schedules and annexes attached hereto, each of which is incorporated herein for all purposes unless specific reference is made to such articles, sections, subsections, exhibits, schedules and annexes of another document or instrument. Article and section titles or headings are for convenience only and neither limit nor amplify the provisions of the Agreement itself. Each accounting term not otherwise defined in this Agreement has the meaning applied per the Operator’s standard accounting policies in accordance with GAAP. All references to \$ or dollar amounts will be to the lawful currency of the United States. Unless the context of this Agreement clearly requires otherwise, the words “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation,” and the words “hereof,” “herein,” “hereunder” and similar terms in this Agreement shall refer to this Agreement as a whole and not any particular article, section or subsection in which such words appear. References to any agreement, contract or Law are to that agreement, contract or Law as amended, modified or supplemented from time to time in accordance with the terms hereof and thereof. Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified.

ARTICLE 2 ENGAGEMENT AND RELATIONSHIP OF PARTIES

2.1 Engagement of Operator. Owner hereby engages Operator to act as an independent contractor to take all necessary and appropriate actions to perform or cause to be performed the Services in accordance with the terms of this Agreement. Operator hereby accepts such engagement and agrees to provide or cause to be provided the Services in accordance with the terms and conditions, and subject to the limitations, set forth in this Agreement.

2.2 Relationship of the Parties. For the purposes of this Agreement, Operator is an independent contractor, and neither Operator, its Affiliates, nor its subcontractors, nor any of their respective employees or agents shall be deemed for any purpose to be an agent, servant, employee, or representative of Owner, any Member, or any of their respective Affiliates. This Agreement is not intended to create and the Parties agree that there is not hereby created (a) a partnership or joint venture between the Parties (including for applicable Income Tax purposes), an employee/employer relationship or other relationship creating fiduciary, quasi-fiduciary, or similar duties and obligations at Law or otherwise or (b) an arrangement subjecting the Parties to joint and

several or vicarious liability. Operator's or its Affiliates' status or relationship to Owner or its Affiliates shall not affect Operator's status as an independent contractor hereunder, impose a higher standard of care than established herein, or create any duty, obligation, or liability for Operator to perform, act, or assume responsibilities other than those specified in this Agreement.

2.3 Performance Standard. Operator shall perform or cause to be performed the Services as a reasonable and prudent petrochemical plant operator operating and maintaining assets in the United States and in compliance with all Laws (collectively, the "**Standard of Performance**"). Operator shall not be required to follow directives that are inconsistent with prudent industry practice, Law or Operator's policies, practices or standards, including any health, safety and environmental policies or procedures.

2.4 Personnel; Use of Affiliates; Subcontractors; Service Contracts.

(a) Subject to the terms of the Employee Matters Agreement, Operator shall provide or cause to be provided sufficient personnel to perform the Services in accordance with the Standard of Performance.

(b) Operator may utilize, as it deems necessary or appropriate, the services of its Affiliates (including employees thereof) qualified to perform such services to perform the Services (in lieu of employing such personnel itself); provided that the Services performed by any such Affiliate (i) are performed at cost and without any mark-up or profit, (ii) shall not relieve Operator of its duties or obligations hereunder, (iii) shall be managed by Operator and not Owner, and (iv) shall be without duplication of any costs covered hereunder, including by the Administrative Fee.

(c) Operator may have portions of the Services performed by Third Party Providers qualified to perform such services pursuant to Service Contracts; provided, that (i) except in the case of Emergency Operations, prior written approval from Owner is required if the services involve material Environmental Liabilities (ii) no such subcontracting shall relieve Operator of its duties or obligations hereunder, (iii) any such subcontracted services shall be managed by Operator and not Owner, and (iv) subcontractor costs for which Owner is required to pay or reimburse Operator shall be without duplication of any costs covered hereunder, including by the Administrative Fee.

(d) OPERATOR DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTY, GUARANTY OR REPRESENTATION, INCLUDING ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR PARTICULAR PURPOSE, SUITABILITY OR MERCHANTABILITY, REGARDING THE DESIGN OR ANY OTHER CHARACTERISTICS OF THE PLANT FACILITIES OR ANY EQUIPMENT, MATERIALS OR SUPPLIES OBTAINED BY OPERATOR AND USED IN CONNECTION WITH THE PLANT FACILITIES OR ANY SERVICES PERFORMED BY ANY SUBCONTRACTOR, ALL OF WHICH ARE SPECIFICALLY DISCLAIMED AND NEGATED.

(e) IN THE ABSENCE OF FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY OPERATOR, OWNER'S EXCLUSIVE REMEDIES WITH RESPECT TO EQUIPMENT, MATERIALS OR SUPPLIES OBTAINED BY OPERATOR FROM, OR SERVICES PERFORMED BY, SUBCONTRACTORS SHALL BE AS SET FORTH IN ANY SERVICE CONTRACTS WITH SUBCONTRACTORS, AND OPERATOR'S ONLY OBLIGATION ARISING OUT OF OR IN CONNECTION WITH ANY SUCH WARRANTY OR BREACH THEREOF SHALL BE TO USE COMMERCIALY REASONABLE EFFORTS TO ENFORCE SUCH WARRANTIES, AND OWNER SHALL HAVE NO OTHER REMEDIES AGAINST OPERATOR WITH RESPECT TO EQUIPMENT, MATERIALS OR SUPPLIES OBTAINED BY OPERATOR FROM, OR SERVICES PERFORMED BY, SUCH SUBCONTRACTORS.

(f) Except as otherwise expressly provided herein and subject to the terms of the Owner LLC Agreement, Operator has direct charge and supervision of all matters arising under Service Contracts. Subject to the express limitations set forth in this Agreement, for any and all Service Contracts which Operator is authorized, under the terms of this Agreement, to enter into in the name of and on behalf of Owner, Operator is hereby authorized to execute, deliver, amend, and perform all of Owner's obligations under, such contracts.

(g) Operator shall oversee and review the performance of all contractors, subcontractors, suppliers, vendors, and any other counterparty to the Service Contracts, and their respective designees, agents, consultants, subcontractors, or representatives to the extent such Persons are providing services, materials, equipment, or supplies under the Service Contracts (collectively, the "**Third Party Providers**" and each a "**Third Party Provider**").

2.5 Execution of Agreements. Except to the extent any regulatory filings are required to be signed by a "Responsible Official" of Owner pursuant to Environmental Permits held in the name of Owner as provided in Section 3.4 (provided, for the avoidance of doubt, such filings shall be prepared by Operator for final review and signature by such "Responsible Official" of Owner), and subject to Section 3.2, Owner hereby delegates authority to Operator to execute for and on behalf of Owner such agreements, commitments, regulatory filings, permits, plans and other documents and to take such actions, as may be necessary for the performance of the Services. Notwithstanding the foregoing, in the event Operator intends to enter into any Service Contract, work order, or purchase order that could be reasonably expected to result in payments made for services thereunder in excess of five million dollars (\$5,000,000) per year, Operator must first acquire Owner's consent to enter into any such subcontract, such consent not to be unreasonably withheld, conditioned or delayed. Operator shall use commercially reasonable efforts to require each Third Party Provider, in each Service Contract entered into after the date of this Agreement (or any renewal of a contract entered into prior to such time, except for any evergreen renewals of existing contracts), to name Owner as (i) an additional insured, and (ii) an additional indemnified party, in each case, under all subcontracting agreements for the provision of services.

2.6 Owner LLC Agreement. By executing this Agreement, Operator acknowledges that it has actual notice of all the provisions of the Owner LLC Agreement as in effect on the date of this Agreement. To ensure that Operator is able to perform certain of the Services that reference the Owner LLC Agreement, Owner shall promptly provide to Operator any amendments, supplements, or other modifications to the Owner LLC Agreement.

2.7 Competitive Activities - No Implied Duty or Obligation. Each Party acknowledges and agrees that the provisions of Section 2.8 of the Owner LLC Agreement shall apply to each Party and its Affiliates and is hereby incorporated in this Agreement *mutatis mutandis*.

ARTICLE 3 SCOPE AND DUTIES OF OPERATOR

3.1 Scope of Services. During the Operating Period, Operator shall perform, or cause to be performed, all services (other than any Owner Retained Obligations) related to (x) the operation and maintenance and commercial operations of the Plant Facilities, (y) the making of any Capital Costs, and (z) the administration of Owner's business, in each case, whether or not such services are specifically set forth below (such services, the "**Operating Services**"), including, in each case, negotiating and causing Owner to enter into any contract or agreement (or any amendments thereof or waiver of rights thereunder) with respect to the Operating Services and incurring any expenses in accordance with the Approved Budget, in each case, subject to applicable Permitted Overruns. Without limiting the foregoing definition of Operating Services, the Operating Services shall include the activities set forth in Exhibit B. During the Operating Period, Operator shall furnish Owner with those reports set forth in Exhibit D.

3.2 Owner Management Committee. Notwithstanding Section 3.1 or anything to the contrary in this Agreement, the term "**Services**" as used in this Agreement does not include authorization to take, and Operator shall not take, any action for which prior approval of the Owner Management Committee would be required under Section 6.6 of the Owner LLC Agreement, or any other action that is otherwise prohibited by this Agreement or requires the approval of Owner pursuant to this Agreement or the Owner LLC Agreement, in each case unless the requisite prior approval exists or has been obtained in accordance with the Owner LLC Agreement.

3.3 Limitations on Performance. Notwithstanding anything to the contrary in this Agreement, Operator shall have no obligation under the terms of this Agreement to take any action (including actions otherwise required to satisfy the Standard of Performance), make any expenditures, or incur any obligation for which Operator is not compensated or entitled to reimbursement pursuant to this Agreement. Operator shall not be liable to Owner for any failure to perform its obligations hereunder, or for any Loss suffered or incurred by Owner or any Third Party, to the extent directly caused by Owner's failure to perform the Owner Retained Obligations or RemainCo's failure to perform the RemainCo Services.

3.4 Ownership of Property. The Plant Facilities are owned by Owner. Operator has no ownership interest in the Plant Facilities or in any other assets of Owner by virtue of being operator of the Plant Facilities or providing the Services. Except as otherwise provided herein, Operator does not have risk of loss for the Plant Facilities or other property of the Owner. Other than with

respect to any Permits that by Law must be held in the name of Operator (which shall be held by Operator for the benefit of Owner), Operator shall acquire all Permits in the name of Owner.

3.5 Intellectual Property.

(a) Operator warrants that Operator will not (i) knowingly infringe on any IP Rights of any other Person in connection with the Services, and (ii) provide to Owner under this Agreement any materials, goods, and other deliverables that Operator knows infringe upon or misappropriate any third party's trade secret.

(b) During the term of this Agreement, Owner hereby grants to Operator an irrevocable, royalty-free, non-exclusive and non-assignable license to use any IP Rights owned or freely sublicenseable by Owner solely as required for the purpose of Operator performing the Services to Owner. Upon termination or expiration of this Agreement, such license shall terminate and, upon the request of Owner, Operator shall either return all information and materials relating to the IP Rights of Owner that has been provided to it by Owner, together with all reproductions thereof in Operator's possession, to Owner or certify to Owner that such information and reproductions have been destroyed; provided, however, Operator shall be permitted to retain (i) all information required to comply with Law and any Permits, (ii) one copy of information for archival purpose in connection with Operator's record retention practices or policies, and (iii) any such information that may exist in electronic form in backups of Operator's systems (provided that any such retained information shall be kept confidential for so long as such information is retained, shall not be readily accessible by the Operator's personnel, and shall not be accessed or used for any purpose other than the purpose for which it has been retained).

(c) Owner shall own all intellectual property to the extent created, developed, conceived, and/or reduced to practice in connection with this Agreement, the operations of the Plant Facilities, and the Services (including in connection with providing any testing and lab Services) (collectively "Developed IP"), all of which shall be IP Rights of Owner. To the extent rights in any such Developed IP vest in Operator or are assigned to Operator under any other agreement, Operator hereby irrevocably assigns and will assign all rights therein and thereto to Owner, and Operator shall take such action and execute such affidavits and other documents as requested by Owner to evidence or further effectuate the assignment thereof or any intellectual property filings with respect thereto. To the extent any Developed IP is freely licensable by Owner, Owner hereby grants to Operator an irrevocable, royalty-free, non-exclusive, perpetual transferable, and sublicenseable license to use such Developed IP.

(d) Neither Party will use the other Party's logo(s), trademarks, trade names, or name brands in any manner without first obtaining that Party's written consent.

3.6 Third Party Liens. Operator shall not permit any Lien to be filed or otherwise imposed on any part of the Plant Facilities as a result of the performance of the Services or its engagement or employment of any subcontractor for the performance of the Services. If any Lien is filed as a result of Operator's breach of its responsibilities hereunder or by any Affiliate or subsidiary of Operator, and if Operator does not within thirty (30) days of the filing of the Lien cause such Lien to be released and discharged, or file a bond satisfactory to Owner in lieu thereof, Owner shall have the right to pay all sums necessary to obtain such release and discharge such Lien. Operator shall reimburse Owner for all such costs, including reasonable attorneys' fees, within thirty (30) days of Owner's written demand therefor. Notwithstanding the foregoing, Operator shall not be responsible for any Lien filed on the Plant Facilities that was permitted by, or that arises out of or was caused by the actions of, Owner.

ARTICLE 4 BUDGETS, EXPENDITURES AND FUNDING

4.1 Budgets and Authorization for Expenditures.

(a) General.

(i) Operator is hereby authorized and directed to make any and all expenditures for Costs necessary to implement any Approved Budget, without exceeding the overall Approved Budget, except for a Permitted Overrun pursuant to Section 4.1(d). Notwithstanding the foregoing, the limitations set forth in this Section 4.1(a) shall in no way be deemed to limit Operator's expenditure authority pursuant to and in accordance with Section 4.2 or Section 4.3(d).

(ii) The initial Operating Budget for the partial Fiscal Year 2020 and the Fiscal Year 2021 is attached hereto as Exhibit A (the "**Initial Operating Budget**"), and is hereby acknowledged and approved.

(b) Budgeting Process. On or before August 1 of each Fiscal Year during the Operating Period (beginning August 1, 2021), Operator shall deliver to Owner a written preliminary draft of the proposed operating and maintenance expenses and Capital Costs for the next Fiscal Year by line item and Owner may, by written request, seek changes, additions, deletion and modifications to such preliminary draft, such requests to be made no later than August 31 of each Fiscal Year. Thereafter on or before sixty (60) days prior to the beginning of each Fiscal Year during the Operating Period (beginning October 1, 2021), Operator shall deliver to Owner a written proposed operating and capital budget for the next Fiscal Year (each, a "**Proposed Operating Budget**"). The Proposed Operating Budget shall set forth the estimated costs, expenses and Capital Costs by monthly periods and shall itemize the costs estimated in the Proposed Operating Budget by such individual line items as reasonably requested by the Owner. The format of the Proposed Operating Budget shall be that of a projected statement of operations and a statement of cash flows (a "**Proposed Cash Flow Schedule**"), and will include the same items and the comparable level of detail as the Initial Operating Budget. The Proposed Operating Budget shall be

accompanied by a proposed annual operating plan for the upcoming Fiscal Year setting forth the underlying assumptions and capital improvements.

(c) Revisions; Approval of Operating Budget; Operating Budget Amendment.

(i) Once approved by Owner as provided in the Owner LLC Agreement, a Proposed Operating Budget, including any Owner-approved revisions thereto, shall become the operating and capital budget for the next Fiscal Year (any Proposed Operating Budget approved by Owner or, if Owner does not approve a Proposed Operating Budget, the Default Budget, and, in each case, together with any Operating Budget Amendments thereto approved by Owner as provided in the Owner LLC Agreement, the “**Operating Budget**”).

(ii) If by the first (1st) day of any Fiscal Year the Proposed Operating Budget has not been approved, then such failure shall be considered a “**Budget Amendment Dispute**” and such dispute shall be resolved in accordance with Section 13.5 of the Owner LLC Agreement and until such Operating Budget for the current Fiscal Year is approved by Owner in the same manner provided in Section 4.1(c)(i), Operator is authorized to make expenditures in accordance with the applicable Default Budget.

(iii) If Operator determines that there are changes in facts or circumstances with respect to the operation and maintenance of the Plant Facilities that Operator believes necessitate increased Costs with respect to an Operating Budget, then Operator may propose amendments to such Operating Budget after it has been approved and may propose amendments to the Default Budget, in each case, by presenting a written budget amendment to Owner (an “**Operating Budget Amendment**”). Each Operating Budget Amendment shall become effective upon Owner’s approval of same as provided in the Owner LLC Agreement; provided, however, that Permitted Overruns under Section 4.1(d) shall not require Owner’s approval or an Operating Budget Amendment.

(d) Overruns. Operator shall perform all Services within the financial limits set forth in the Operating Budget; provided, however, that, as permitted by the Owner LLC Agreement and in accordance with this Agreement, without the prior written approval of Owner, Operator shall be permitted to incur Permitted Overruns. Operator shall promptly notify Owner at such time as it reasonably expects that the incurrence of overruns to the Operating Budget in excess of the Permitted Overruns will be required. Operator shall, to the extent such overruns would be incurred in accordance with the Standard of Performance, submit to Owner an Operating Budget Amendment for any overruns in excess of the Permitted Overruns in the manner described in Section 4.1(c)(iii); provided that, for the avoidance of doubt, the Operator shall not be permitted to incur any overruns in excess of Permitted Overruns unless and until such proposed Operating Budget Amendment is approved by Owner in accordance with the Owner LLC Agreement.

4.2 Authorization for Expenditures for Emergency Operations. Notwithstanding any other provision of this Agreement, Operator is hereby authorized and directed to perform activities and incur costs reasonably necessary to conduct any Emergency Operations, in each case subject to the Standard of Performance, in the good faith judgment of Operator and without any prior Notice to or approval from Owner. When in the good faith judgment of Operator, Emergency Operations are reasonably necessary or appropriate, Operator shall notify Owner as promptly as practicable (and in any event within twenty-four (24) hours of Operator's reasonable determination that Emergency Operations are necessary or appropriate) and shall continue to manage the Emergency Operations until the Emergency has stabilized and there is no longer imminent or immediate compromise or risk of compromise of (a) the health or safety of any Person or natural resources (including wildlife) or the environment or (b) the safety or operational condition of, or substantial damage to, any of the assets of the Owner or the property of any other Person. Within seven (7) days following the initial stabilization of an Emergency, in the Operator's reasonable discretion, Operator shall promptly prepare and deliver to Owner a preliminary report (with reasonable supporting documentation) setting forth the nature of the emergency requiring Emergency Operations in detail, including all pertinent facts known to Operator at such time regarding the cause and impact of such emergency requiring Emergency Operations, the Emergency Operations provided or, to the extent then known, proposed to be provided and the actual or estimated cost of such corrective action. To the extent additional unbudgeted costs (including Capital Costs) are necessary to repair or replace any facilities or otherwise remediate any damage caused by the Emergency (excluding costs for Emergency Operations), in Operator's reasonable opinion, Operator shall submit a proposed Operating Budget Amendment for Owner's approval.

4.3 Mandatory Call Notices; Payment of Costs; Late Charges.

(a) Operator shall deliver Mandatory Call Notices to the Members in accordance with Section 4.1 of the Owner LLC Agreement (i) once per month to cover projected costs and expenses of Owner for the following month and for prior months to the extent not covered by previously called capital and (ii) at other times to cover costs and expenses of Owner not foreseen at the time of the regular monthly capital call.

(b) Operator shall pay directly with Owner's funds from the Accounts all budgeted, approved, or permitted costs under this Agreement and the Administrative Fee.

(c) If sufficient Owner funds are not available therefor, Operator may, but is not obligated to, pay with its own funds all budgeted, approved, or permitted costs under this Agreement and the Administrative Fee; provided, that Owner shall reimburse Operator for such payment as an Owner Indirect-Billed Cost as provided in Section 4.4. Moreover, notwithstanding anything contained herein to the contrary, Operator shall not have any obligation to provide Services to the extent that sufficient funds to do so are not timely provided by Owner after request in accordance with the Owner LLC Agreement for the same, and any such failure on the part of Operator to provide Services in such circumstances shall not be a breach by Operator of this Agreement.

(d) If Owner fails to deposit funds requested in accordance with the Owner LLC Agreement into the Account in a timely manner such that Operator is delayed in paying Third Party Costs, and as a result of such failure, late charges are incurred and paid, then Owner shall be responsible for depositing the amount of such actual late charges into the Account within five (5) days after request by Operator. If Operator pays such late charges with its own funds, then Owner shall reimburse Operator such amounts, without setoff or deduction. Late charges shall also be due on any amounts owed by Owner to Operator including the Administrative Fee and all internal Costs incurred by Operator or its Affiliates in the provision of Services (other than Administrative Costs), and shall be equal to interest at the lesser of the maximum legal interest rate or the Default Interest Rate (as defined in the Owner LLC Agreement) on any delinquent amounts from the due date until paid. Late charges reimbursed and interest paid in accordance with this Section 4.3(d) shall not count toward the Approved Budget then in effect nor be counted in the calculation of Permitted Overruns.

(e) To the extent Operator believes that there could be a Permitted Overrun, Operator shall promptly, but in any case within five (5) days of Operator's awareness of such circumstance, notify Owner of the cause of such Permitted Overrun, how Operator is addressing such Permitted Overrun and, for informational purposes only, an estimated total amount of such Permitted Overrun net to Owner.

4.4 Monthly Statement; Payment.

(a) On or prior to the last day of a calendar month, Operator shall prepare and submit a monthly statement with (i) detail of all Costs incurred or paid by Owner or Operator, as the case may be, for the previous calendar month, together with an estimate of Costs to be incurred for the following calendar month and (ii) the Administrative Fee for the following month, in accordance with the invoicing and payment procedures set forth in Exhibit F. Owner shall pay to Operator or to applicable Affiliates designated by Operator all undisputed Owner Indirect-Billed Costs incurred during the previous calendar month as set forth in such monthly statement plus the amount of the applicable Administrative Fee for the following month, without setoff or deduction (other than for amounts that are disputed in good faith), by no later than the thirtieth (30th) day after receipt of the statement therefor. Operator shall provide with each monthly statement reasonable supporting documentation relating to all Costs and the allocation methodology used with respect to any monthly statement.

(b) The Parties acknowledge and agree that the Administrative Fee is the full and complete compensation to Operator for the Administrative Costs.

(c) Owner shall receive the full benefit of all cash, volume, or other discounts, rebates, and allowances (or such portion thereof) actually received by or credited to Operator and attributable to the Services under this Agreement.

4.5 Limitation on Authority. Except as expressly permitted under this Agreement, including Section 4.2, Operator shall not take any action that would require the affirmative vote or consent of the Owner Management Committee or any Member pursuant to the Owner LLC Agreement without first obtaining the requisite approval thereunder.

ARTICLE 5 ACCOUNTING AND RECORDS

5.1 Maintenance of Accounts.

(a) Operator shall prepare, maintain, and deliver to Owner monthly reports which shall include accurate accounts of all expenses, costs (including all Costs), and liabilities (including both alleged and/or asserted liabilities) associated with the Services, and all revenues accrued and invoiced for the account of Owner, all of which shall be charged or credited to Owner in accordance with (and subject to the limitations of) this Agreement. All such accounting shall be handled in accordance with GAAP and applicable regulations of Governmental Authorities having regulatory jurisdiction over Owner or the Plant Facilities. The accounting year of the Operator shall be the Fiscal Year.

(b) Operator shall maintain and make available to the Members, upon written request of a Member, the records specified in Section 9.1 of the Owner LLC Agreement. Operator shall make the requisite information available to Owner to allow Owner to discharge timely its obligations contained in Section 9.2, Section 9.3 and Section 13.14 of the Owner LLC Agreement.

5.2 Reports. Operator shall provide reasonably detailed periodic reports to Owner as to the matters specified below (the “**Reports**”). The Reports for each period shall (x) be delivered to Owner no later than the time period set forth below for each such report, and (y) include the following reports and information:

(a) On or prior to the last day of each calendar month, a report on (A) aggregate Costs spent through the end of the prior month (and an estimate of Costs for the remainder of the given month) during the relevant Fiscal Year, (B) Costs projected to be incurred in the following calendar month and a variance report on any previously projected Costs to be incurred in a calendar month (together with an explanation for and reconciliation of such variances), (C) any variances or expected variances from the Proposed Cash Flow Schedule and an explanation therefor, (D) if at any time Costs projected to be incurred for the remainder of the relevant Fiscal Year are expected to exceed the Approved Budget, Operator’s recommendations for all material actions to be taken to reduce projected Costs to be within the Approved Budget and (E) any other matters required in accordance with Section 9.2(c) of the Owner LLC Agreement.

(b) No later than the last day of the calendar month after the end of a Fiscal Year quarter, a report summarizing such quarter’s operations, including (i) operating activities (ii) the status of all Costs incurred with respect to

the Approved Budget, and (iii) any material changes to the status of any material Permits required for the Plant Facilities or with respect to the operation thereof, along with any other information that the Owner Management Committee may reasonably request.

(c) The annual and periodic reports and information required to be delivered by Operator pursuant to Section 9.2 of the Owner LLC Agreement.

5.3 Audit.

(a) Upon at least forty five (45) days advance written Notice to Operator, Owner shall have the right, during regular business hours, at the expense of Owner, to initiate (or cause its designated representatives to initiate) an audit of Operator's and any of its relevant Affiliate's procedures, books and records, and operating data, insofar as such procedures, books and records, and operating data are related to the Plant Facilities, Operator's provision of Services and performance under this Agreement or the Costs incurred by Owner or Operator hereunder (the "**Books and Records**"). Owner shall not initiate an audit more than once per Fiscal Year, unless a prior audit revealed material discrepancies for which an additional audit would be reasonably necessary (and such additional audit shall be limited to the area which gave rise to such discrepancy) and such audit shall only be for the two Fiscal Years most recently completed at the time such audit is initiated. Any audit shall be conducted by a Third Party auditor proposed by the Owner and such Third Party auditor shall execute a confidentiality and non-disclosure agreement substantially in the form set forth in Exhibit G (a "**Confidentiality Agreement**") prior to the commencement of such review. Each of Operator and Owner acknowledge and agree, and will so instruct such auditor, that any confidential or proprietary information of Operator or its Affiliates supplied pursuant to an audit will not be divulged to any Third Party. Such audit shall be conducted in a reasonable period of time and shall use reasonable efforts to minimize inconvenience to Operator's personnel and disruption of Owner's business. Operator agrees (and agrees to cause any of its relevant Affiliates) to reasonably cooperate with the Third Party auditor in the performance of any such audit, including making Operator's and its relevant Affiliates' outside auditors available, at the expense of Owner, for explanation of the Books and Records for the period being audited.

(b) At the conclusion of an audit, the Parties shall endeavor to settle outstanding matters expeditiously. To this end, Owner will make a reasonable effort to prepare and distribute a written report to Operator as soon as reasonably practicable. The report shall include all claims arising from such audit and reasonable back-up information supporting such claims. Operator shall promptly (i) adjust its records and books to reflect all adjustments resulting from an audit agreed to between the Parties and (ii) issue a credit or charge to Owner, if applicable. If any dispute shall arise in connection with an audit which the Parties are unable to resolve within thirty (30) days of good faith negotiations, then such dispute shall be resolved pursuant to Section 12.5.

5.4 Visitation. The Parties acknowledge and agree visits to the Plant Facilities by a Member's representatives will be permitted from time to time upon reasonable prior notice to Operator, (a) provided that Operator will have sole, reasonable discretion in scheduling or restricting such visits to the extent necessary to account for the health and safety of individuals seeking access to the Plant Facilities, including, but not limited to, adornment of appropriate and required attire or equipment, and (b) provided further that prior to gaining entry to any area of the Plant Facilities wherein such Member's representatives will be exposed, in an otherwise restricted manner, to proprietary information subject to any technology licensing agreements or other Third Party confidentiality obligation, such Member's representatives must execute a Confidentiality Agreement in material compliance with the terms of any such technology license agreement or other Third Party confidentiality obligations and, to the extent necessary due to such Third Party confidentiality obligations, containing reasonable liability waivers with respect to any site visits.

5.5 Bank Accounts. Operator will establish, in Owner's name and under Owner's control, a bank account or accounts (the "**Account**") for use by Operator in fulfilling its obligations under this Agreement. Owner will designate Operator, and such personnel of Operator as reasonably requested by Operator, as authorized signatories to the Account, and all withdrawals by Operator from the Account will be made only by Operator or such designated Persons. Operator shall keep funds belonging to Owner on deposit in the Account. All funds of Owner will be used solely for the business of Owner, and all interest and other benefits pertaining to such account belong to Owner. At no time may Operator commingle the funds in the Account with Operator's funds or the funds of any other Person.

5.6 Notice of Filings. Operator shall provide the Owner and each Member with prior written notice of any material filing, pleading or appearance with or before any Governmental Authority having jurisdiction over the Owner or the Plant Facilities, unless prior notice is not practical or is prohibited by Law, in which event Operator shall provide such notice as soon as reasonably practicable.

5.7 Separateness. Without limiting the provisions of Section 5.6, in performing the Operating Services under this Agreement, Operator shall not take any action, or cause any of its Affiliates to take any action, that would cause the Owner to violate Section 9.4 of the Owner LLC Agreement.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES

6.1 Representations and Warranties of Owner. Owner represents and warrants to Operator that on and as of the date hereof:

(a) It is duly organized and validly existing under the Laws of the State of Delaware and is authorized to conduct business in the State of Louisiana, with power and authority to carry on the business in which it is engaged and to perform its obligations under this Agreement.

(b) This Agreement has been executed and delivered in accordance with any entity governance requirements of Owner.

(c) It has all the requisite limited liability company power and authority to enter into this Agreement and perform its obligations hereunder.

(d) Its execution, delivery, and performance of this Agreement will not violate (i) any of the provisions of its organizational documents, (ii) any agreements pursuant to which it or its property is bound, or (iii) any Laws, except with respect to clauses (ii) and (iii), as would not, individually or in the aggregate, have a material adverse effect on Owner and its subsidiaries, taken as a whole.

(e) This Agreement is valid, binding, and enforceable against it in accordance with its terms subject to bankruptcy, moratorium, insolvency, and other Laws generally affecting creditors' rights and general principles of equity (whether applied in a proceeding in a court of Law or equity).

(f) There is no Action pending or, to Owner's knowledge, threatened against or affecting Owner before any Governmental Authority that could reasonably be expected to materially adversely affect the ability of Owner to perform its obligations under this Agreement.

(g) Owner is not subject to Bankruptcy.

6.2 Representations and Warranties of Operator. Operator represents and warrants to Owner that on and as of the date hereof:

(a) It is duly organized and validly existing and in good standing under the Laws of the State of Delaware, with power and authority to carry on the business in which it is engaged to perform its obligations under this Agreement.

(b) This Agreement has been executed and delivered in accordance with any entity governance requirements of Operator.

(c) It has all the requisite limited partnership power and authority to enter into this Agreement and perform its obligations hereunder.

(d) Its execution, delivery, and performance of this Agreement will not violate (i) any of the provisions of its organizational documents, (ii) any agreements pursuant to which it or its property is bound, or (iii) any Laws, except with respect to clauses (ii) and (iii), as would not, individually or in the aggregate, have a material adverse effect on Owner and its subsidiaries, taken as a whole.

(e) This Agreement is valid, binding, and enforceable against it in accordance with its terms subject to bankruptcy, moratorium, insolvency, and other Laws generally affecting creditors' rights and general principles of equity (whether applied in a proceeding in a court of Law or equity).

(f) There is no Action pending or, to Operator's knowledge, threatened against or affecting Operator before any Governmental Authority that

could reasonably be expected to materially adversely affect the ability of Operator to perform its obligations under this Agreement.

(g) Operator is not subject to Bankruptcy.

ARTICLE 7 INDEMNIFICATION; LIMITATION OF LIABILITY

7.1 CONSEQUENTIAL DAMAGES.

TO THE FULLEST EXTENT PERMITTED BY LAW, NO PARTY SHALL BE LIABLE UNDER THIS AGREEMENT OR UNDER ANY CAUSE OF ACTION RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, WHETHER IN CONTRACT, WARRANTY, TORT INCLUDING NEGLIGENCE, STRICT LIABILITY, PROFESSIONAL LIABILITY, PRODUCT LIABILITY, CONTRIBUTION, OR ANY OTHER CAUSE OF ACTION FOR SPECIAL, EXEMPLARY, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING LOSS OF PROFIT, LOSS OF USE, LOSS OF OPPORTUNITY, LOSS OF REVENUES, OR LOSS OF GOOD WILL; PROVIDED THAT THE FOREGOING SHALL NOT APPLY TO (X) INDEMNITIES FOR CLAIMS ASSERTED BY THIRD PARTIES EXPRESSLY PROVIDED IN THIS AGREEMENT, AND (Y) BREACHES OF OBLIGATIONS UNDER SECTION 10.1.

7.2 LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT WITH REGARD TO ANY CLAIMS ARISING OUT OF OR IN CONNECTION WITH THE FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF OPERATOR, IN NO EVENT WILL OPERATOR'S AGGREGATE LIABILITY UNDER THIS AGREEMENT IN ANY FISCAL YEAR EXCEED AN AMOUNT EQUAL TO THE ADMINISTRATIVE FEE PAYABLE TO OPERATOR FOR THE APPLICABLE FISCAL YEAR.

7.3 INDEMNIFICATION OF OPERATOR.

EXCEPT AS SET FORTH IN SECTION 7.4, OPERATOR SHALL NOT BE LIABLE FOR, AND OWNER SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD OPERATOR AND THE OPERATOR GROUP, FREE AND HARMLESS FROM AND AGAINST ANY AND ALL LOSSES, COSTS, DAMAGES, LIABILITIES, LIENS, AND EXPENSES OF EVERY KIND AND CHARACTER (INCLUDING WITHOUT LIMITATION ANY STRICT LIABILITY ARISING UNDER APPLICABLE ENVIRONMENTAL LAWS AND ANY OTHER ENVIRONMENTAL LIABILITIES, ENVIRONMENTAL RESPONSE ACTION COSTS, AND CONSULTANT EXPENSES), ARISING OUT OF, IN CONNECTION WITH, OR INCIDENT TO THIS AGREEMENT, INCLUDING THE AMOUNTS OF JUDGMENTS, PENALTIES, INTEREST, COURT COSTS, ARBITRATION COSTS AND EXPENSES, INVESTIGATION EXPENSES AND COSTS, AND REASONABLE ATTORNEY'S FEES (COLLECTIVELY, "CLAIMS") ARISING OUT OF, ATTRIBUTABLE TO, IN CONNECTION WITH, OR INCIDENT TO (A) OPERATOR'S PERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ENVIRONMENTAL LIABILITY OF THE OPERATOR OR OTHERWISE WITH RESPECT

TO OPERATOR'S GENERATION, STORAGE, MANAGEMENT, HANDLING, USE, TRANSPORTATION, TREATMENT, DISPOSAL, RELEASE, INVESTIGATION, MONITORING OR REMEDIATION OF WASTES, HAZARDOUS SUBSTANCES, HAZARDOUS MATERIALS, CONTAMINANTS, POLLUTANTS, OR OTHER SUBSTANCES OR MATERIALS REGULATED UNDER APPLICABLE ENVIRONMENTAL LAWS, OR (B) ANY ACTUAL OR ALLEGED PRESENCE OR RELEASE OF HAZARDOUS MATERIALS ON OR FROM THE PLANT FACILITIES OR ANY OTHER PROPERTY OWNED OR OPERATED BY OWNER, OR ANY OTHER LIABILITY RELATED, IN ANY WAY, TO OWNER. THIS PROVISION WILL BE ENFORCEABLE REGARDLESS OF THE SOLE OR JOINT NEGLIGENCE, BREACH OF CONTRACT OR OTHER BASIS OF LIABILITY OF THE OPERATOR EXCEPT TO THE EXTENT (FOR THAT PORTION) THE CLAIM IS CAUSED BY OPERATOR'S FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. Notwithstanding anything to the contrary herein, in no event shall Owner be required under this Agreement to indemnify Operator or any of its Affiliates that are Members for any Claims that are suffered or incurred by such Person in its capacity as a Member.

7.4 INDEMNIFICATION OF OWNER.

TO THE FULLEST EXTENT PERMITTED BY LAW, OPERATOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE OWNER GROUP FROM AND AGAINST ALL CLAIMS ARISING OUT OF OR RESULTING FROM OR RELATED TO (A) (I) INJURY TO OR DEATH OF ANY MEMBER OF THE OPERATOR GROUP OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF ANY MEMBER OF THE OPERATOR GROUP OCCURRING IN CONNECTION WITH THE SERVICES, REGARDLESS OF THE CAUSE OF SUCH INJURY, DEATH, PHYSICAL DAMAGE OR DESTRUCTION, INCLUDING THE SOLE OR JOINT NEGLIGENCE, BREACH OF CONTRACT OR OTHER BASIS OF LIABILITY OF ANY MEMBER OF THE OWNER GROUP EXCEPT TO THE EXTENT (FOR THAT PORTION) THE CLAIM IS CAUSED BY OWNER'S FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND (B) OPERATOR'S FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT IN PERFORMING THE SERVICES.

7.5 OWNER GROUP INDEMNITY.

TO THE FULLEST EXTENT PERMITTED BY LAW, AND WITHOUT LIMIT TO THE TERMS OF SECTION 7.3, OWNER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE OPERATOR GROUP FROM AND AGAINST ALL CLAIMS ARISING OUT OF OR RESULTING FROM OR RELATED TO (A) INJURY TO OR DEATH OF ANY MEMBER OF THE OWNER GROUP OR (B) DAMAGE TO OR DESTRUCTION OF PROPERTY OF ANY MEMBER OF THE OWNER GROUP OCCURRING IN CONNECTION WITH THE SERVICES, REGARDLESS OF THE CAUSE OF SUCH INJURY, DEATH, PHYSICAL DAMAGE OR DESTRUCTION, INCLUDING THE SOLE OR JOINT NEGLIGENCE, BREACH OF CONTRACT OR OTHER BASIS OF LIABILITY OF ANY MEMBER OF THE OPERATOR GROUP EXCEPT TO THE EXTENT (FOR THAT PORTION) THE CLAIM IS CAUSED BY OPERATOR'S FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

7.6 Third Party Claims.

(a) In the event of the assertion of any third party Claim against a Person entitled to be indemnified under this Article 7 (each, an “**Indemnitee**”), the Person allegedly required to provide indemnification protection under this Article 7 (each, an “**Indemnitor**”) will have the right, subject to the provisions set forth in this Section 7.6 and the Indemnitor’s prior written confirmation to the Indemnitee that such third-party Claim is covered as an indemnification claim under this Agreement within thirty (30) days of the receipt of a written notice (a “**Claim Notice**”) from the Indemnitee, to assume the defense of same at such Indemnitor’s expense, including the appointment and selection of counsel on behalf of the Indemnitee so long as such counsel is reasonably acceptable to the Indemnitee. Subject to Section 7.6(d), the Indemnitor will have the right to settle or compromise or take any corrective or remediation action with respect to any such Claim by all appropriate proceedings, and the Indemnitor shall use commercially reasonable efforts to diligently prosecute such proceedings to a final conclusion or settle such proceedings at the discretion of the Indemnitor. If the Indemnitor assumes the defense of any such third-party Claim, the Indemnitee will be entitled, at its own cost and expense, to participate with the Indemnitor in the defense of any such Claim and to engage separate counsel of its choice for such purpose; provided that, notwithstanding the foregoing, the Indemnitor shall pay the reasonable costs and expenses of such defense (including reasonable attorneys’ fees and expenses) of the Indemnitee if (i) the Indemnitor consents in writing to paying such costs and expenses, (ii) the use of counsel chosen by the Indemnitor to represent the Indemnitee would, based on the good faith advice of such Indemnitee’s outside counsel, present such counsel with a conflict of interest, (iii) the named parties to such third-party Claim include both the Indemnitee and the Indemnitor and (A) the Indemnitee shall have reasonably concluded that there are or may be defenses available to such Indemnitee that are different from or additional to those available to the Indemnitor, or (B) the Indemnitee’s outside counsel shall have reasonably concluded it would be inappropriate under applicable standards of professional conduct to have common counsel for the Indemnitee and the Indemnitor due to actual or potential differing interests between the Indemnitor and such Indemnitee, or (iv) the Indemnitor fails to assume such defense or engage counsel reasonably satisfactory to the Indemnitee, in each case, in a timely manner; provided, further, that, for the avoidance of doubt, such Claim and the prosecution and negotiation thereof shall be controlled by the Indemnitor subject to the other terms of this Section 7.6. Notwithstanding the foregoing, the Indemnitee will have the right to defend any such third-party Claim until such time as the Indemnitor agrees to assume the defense of such Claim, and any costs or expenses incurred by the Indemnitee in connection therewith will be Losses hereunder and subject to indemnification in accordance with and subject to the terms of this Article 7. If the Indemnitor has assumed the defense of a third-party Claim pursuant to this Section 7.6, it will (x) keep the Indemnitee advised of the status of such third-party Claim and the defense thereof on a reasonably current basis, (y) reasonably consult with the Indemnitee with respect to the defense and

settlement thereof, and (z) consider in good faith the recommendations made by the Indemnitee with respect thereto.

(b) Notwithstanding the foregoing, the Indemnitor will not be entitled to control the defense of any third-party Claim if such control or defense (i) would lead to a conflict or potential conflict between the Indemnitee and the Indemnitor or (ii) such Third Party action is (A) for equitable or injunctive relief or any claim that would impose criminal liability or criminal damages, or (B) in the reasonable opinion of the Indemnitee, the third-party Claim could have a material adverse effect on the business, assets, Losses, condition (financial or otherwise) or results of operations of the Indemnitee.

(c) If the Indemnitor (i) does not expressly elect to assume the defense of such third-party Claim within the time period and otherwise in accordance with Section 7.6(a), (ii) is not otherwise entitled to assume the defense of such Third Party action pursuant to Section 7.6(b), or (iii) after assuming such defense, fails to use commercially reasonable efforts to diligently prosecute such Claim, the Indemnitee may assume control of such defense and the reasonable costs and expenses of such defense (including fees and expenses of counsel) shall be Losses hereunder, subject to indemnification in accordance with and subject to the terms of this Article 7. If the Indemnitee assumes the control of such defense, then the Indemnitor shall be entitled, at its sole option and expense, to participate in any prosecution of such Claim or any settlement negotiations with respect to such Claim.

(d) Notwithstanding anything to the contrary in this Agreement, the Indemnitor will not be permitted to (i) settle, compromise, take any corrective or remedial action, or enter into an agreed judgment or consent decree, in each case, that subjects the Indemnitee to any criminal liability, requires an admission of guilt or wrongdoing on the part of the Indemnitee or imposes any continuing obligation on, or requires any payment from the Indemnitee, or (ii) settle or compromise any third-party Claim that does not fully and unconditionally release the Indemnitee, in each case, without the Indemnitee's prior written consent, which consent will not be unreasonably withheld, conditioned or delayed. Subject to the terms of this Section 7.6, to the extent the Indemnitor has assumed the defense of a third-party Claim, the Indemnitee will not admit any liability with respect to, or settle, compromise or discharge, any third-party Claim without the prior written consent of the Indemnitor.

7.7 Payment of Damages. The indemnification required hereunder shall be made by periodic payments of the amount thereof during the course of the investigation or defense, within ten (10) days as and when reasonably specific bills are received or loss, liability, claim, damage, or expense is incurred and reasonable evidence thereof is delivered. In calculating any amount to be paid by an Indemnitor by reason of the provisions of this Agreement, the amount shall be reduced by any insurance proceeds actually received from insurance policies carried pursuant to this Agreement. The Indemnitee shall use commercially reasonable efforts to mitigate any and all losses arising out of any Claim.

7.8 RELEASE OF CLAIMS AGAINST OPERATOR. OPERATOR SHALL PERFORM THE SERVICES CONTEMPLATED BY THIS AGREEMENT IN ACCORDANCE WITH SECTION 2.3 AND, REGARDLESS OF ANY FAULT OR NEGLIGENCE ON THE PART OF OPERATOR, IN NO EVENT SHALL IT HAVE ANY LIABILITY AS OPERATOR TO THE OWNER OR ANY MEMBER OF THE OWNER GROUP, EITHER IN CONTRACT, TORT OR ANY OTHER RESPECT, FOR LOSSES SUSTAINED OR LIABILITIES INCURRED EXCEPT SUCH AS MAY RESULT FROM ITS OWN FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

7.9 Sole Remedies. The remedies expressly enumerated in this Article 7 and Article 9 shall be the sole and exclusive remedies of Owner for any breach by Operator of any provision of this Agreement.

7.10 Louisiana Anti-Indemnity Act. The Parties agree that this Agreement reflects and effectuates the agreements made by the Owner's Members, as set forth in the Owner LLC Agreement, relating to the allocation of risk and costs in connection with the possession and/or ownership of the Plant Facilities and is not a "Construction Contract" as that term is defined in La. R.S. 9:2780.1. To the extent that the Agreement is adjudged by a court of proper jurisdiction to be a "Construction Contract" as that term is defined in La. R.S. 9:2780.1, this Section 7.10 shall apply and control over any provisions in this Article 7 (except Section 7.8 which shall continue to be in full force and effect) to the extent they conflict with or violate La. R.S. 9:2780.1:

(a) Owner's defense, indemnity and hold harmless obligations under the Agreement are modified to the extent necessary to comply with La. R.S. 9:2780.1 to provide that Owner shall protect, defend, indemnify and hold harmless Operator or the Operator Group for Claims based upon, or arising out of, any liability for loss or damage to the extent (for that portion) such loss or damage is sustained or alleged to have been sustained, as a result of the negligence, gross negligence, fraud, intentional acts or omissions of Owner or any member of the Owner Group, any agents or employees of the Owner or any member of the Operator Group, or any third party over whom Owner has control and for whom Owner has legal responsibility. Except for the foregoing modification, in all other respects Owner's defense, indemnity and hold harmless obligations shall continue in full force and effect.

(b) Operator's defense, indemnity and hold harmless obligations under the Agreement are modified to the extent necessary to comply with La. R.S. 9:2780.1 to provide that Operator shall protect, defend, indemnify and hold harmless Owner or the Owner Group for Claims arising from: (1) injury to or death of any member of the Operator Group or (2) damage to or destruction of property of any member of the Operator Group, occurring in connection with the Services except to the extent (for that portion) such loss or damage is sustained or alleged to have been sustained, as a result of the negligence, gross negligence, fraud, intentional acts or omissions of Owner or any member of the Owner Group, any agents or employees of the Owner or any member of the Owner Group, or any third party over whom Operator has no control and for whom Operator has no legal responsibility. Operator shall also protect, defend, indemnify and hold harmless Owner and the Owner Group from Claims to the extent (for that portion) sustained as a result of Operator's fraud, gross negligence or willful misconduct in performing the Services.

(c) Severability. If a court, arbitral tribunal or governmental entity having jurisdiction over the terms and conditions of the Agreement declares invalid or unenforceable any term or provision of the Agreement for failing to comply with La. R.S. 9:2780.1, then the Agreement will be considered divisible as to the specific non-compliant term or provision, and such term or provision shall be modified so as to comply with La. R.S. 9:2780.1 and not deleted from the Agreement, and the remainder of the term or provision and the remainder of the Agreement will be valid and binding as if the modified term or provision were originally included in the Agreement. As an example, should any term of any indemnification provision of the Agreement be declared null and void, then it is the intent of the parties that such term be modified to comply with La. R.S. 9:2780.1 and such term, as modified, remain in the Agreement.

(d) It is the intent of the Parties that each Party shall use commercially reasonable efforts to provide insurance to cover the indemnity obligations set forth in this Article 7 and the cost of such coverage shall be borne by the Party providing coverage through either an increase or reduction in the Costs to be paid or received, as appropriate, commensurate with the cost of such coverage. The Parties agree that each Party's agreement to support their indemnification obligations by insurance shall in no respect impair their indemnification obligations.

ARTICLE 8 INSURANCE

8.1 Insurance Provided by Operator. Operator shall obtain, maintain, or cause to be maintained in full force and effect at all times under this Agreement, on behalf of Operator and also on behalf of Owner and its Members, insurance policies in the types and amounts of primary and excess or umbrella insurance coverage in accordance with the Insurance Plan (as defined in the Owner LLC Agreement). The insurance coverage procured by Operator on behalf of Owner and its Members shall: (a) to the fullest extent allowed by Law, provide coverage only to the extent of Operator's obligations to indemnify, defend, or hold harmless Owner (or any member of Owner Group) and its Members set forth in Article 7 of this Agreement, and (b) be primary coverage and any other such insurance maintained by Owner and its Members shall be excess to and not contributory with such coverage procured by the Operator. Promptly after the execution of this Agreement and annually thereafter at each insurance policy's renewal date, Operator shall provide to Owner a Certificate of Insurance. If Owner (in accordance with the provisions of the Owner LLC Agreement) determines that different levels or types of insurance coverage are required, then following notice from Owner, Operator will use commercially reasonable efforts to obtain and maintain such insurance coverage if such insurance is commercially reasonably available in the marketplace. If the insurance coverages required herein are not obtainable on commercially reasonable terms due to insurance market conditions, Owner shall, at Owner's sole discretion, either (x) amend such insurance requirements as reasonably necessary in order to permit Operator to obtain such insurance on commercially reasonable terms or (y) direct Operator to obtain such insurance coverage on the terms available.

8.2 Use of Proceeds. In the event that Operator maintains property insurance covering physical loss of, or damage or destruction to, any portion of the Plant Facilities, and all or any portion of such Plant Facilities are lost, damaged, or destroyed as a result of any casualty covered by any such policies, all insurance proceeds obtained under such policies shall be used to repair

and restore such Plant Facilities unless otherwise agreed by the Owner Management Committee. Any and all such proceeds that are not used to repair and restore such Plant Facilities, net of any cost of recovery of such proceeds, shall be paid to Owner. In the event that Operator maintains any business interruption, business income, credit risk, or other insurance coverages with respect to or otherwise covering the payment of any costs, the amount of any proceeds thereof that are not applied to the payment of costs, net of any cost of recovery of such proceeds, shall be paid to Owner.

8.3 Costs of Insurance. Costs incurred by Operator to maintain any insurance policies hereunder for the direct or indirect benefit of Owner as set forth in Section 8.1 of the Agreement shall be included in the Costs payable to Operator pursuant to Section 4.4 of the Agreement subject to the limitations hereof and as included in an Approved Budget. For avoidance of doubt, Owner shall be responsible for any deductible or self-insured retention under any insurance which Operator provides in accordance with this Agreement. All Losses which are not covered and all Losses in excess of insurance coverage shall be borne by the Parties in accordance with the terms of this Agreement under which said operations are being conducted by the Parties. All policies will contain a provision by which the insurance company shall provide the insured the right to waive all right of recovery or subrogation against the other Party.

8.4 Insurance Maintained by Others. Nothing herein shall prohibit Owner, any owner of any interest therein, or any Affiliate of any of the foregoing from maintaining, at its own expense, insurance for its own account, whether with respect to the Plant Facilities or otherwise, and the maintenance of such additional insurance shall not reduce any amount payable under any of the policies described in this Agreement. The proceeds of any such additional insurance shall be solely for the account of the Person maintaining such additional insurance. All policies will contain a provision by which the insurance company shall provide the insured the right to waive all right of recovery or subrogation against the other Party.

8.5 No Limitation. For the avoidance of doubt, the provisions of this Article 8 shall not cap or limit Owner's or Operator's indemnification obligations and liabilities under Article 7.

8.6 Insurance Claims. Owner and Operator shall cooperate with each other in connection with the processing of claims and the collection of any insurance proceeds that may be payable in the event of any Loss or claim under the applicable insurance and execute and deliver to the insurers such proofs of Loss and other documents as may be required for the recovery of the proceeds of any such insurance.

ARTICLE 9 TERM AND TERMINATION

9.1 Term. The term of this Agreement shall commence on the Effective Date and shall continue thereafter until the earliest of (a) the date that is twenty (20) years following the Effective Date (the "**Initial Term**"), (b) termination of this Agreement in accordance with Section 9.2 or (c) the termination of this Agreement by the mutual written agreement of the Parties. This Agreement shall automatically renew for successive five (5) year periods unless a Party provides a written notice of termination to the other Party at least two (2) years prior to the expiration of the Initial Term or any subsequent renewal term.

9.2 Termination. This Agreement may be terminated by any Party as follows, and in no other manner, by providing written notice to the other Party:

- (a) upon the resignation of Operator pursuant to Section 9.3; or
- (b) upon the removal of Operator pursuant to Section 9.4.

9.3 Resignation. Operator may resign upon the occurrence of any of the following by providing written notice thereof to Owner:

- (a) in the event Owner is subject to a Bankruptcy, by providing written notice thereof to Owner; or
- (b) if Operator (together with its Affiliates) no longer holds any outstanding Membership Interests.

9.4 Removal. Owner may remove Operator:

- (a) in the event of any breach of this Agreement by Operator which gives rise to damages for which Owner incurs out-of-pocket costs and expenses in excess of fifty million dollars (\$50,000,000) as adjusted annually in accordance with CPI (less any amounts actually recovered by insurance providers or other Third Parties) provided, however, that Operator shall have sixty (60) days to cure any such breach following receipt of Notice of such breach from Owner, or such longer period of time as is necessary for the Operator, with the exercise of due diligence, to cure such breach (including such time to pursue recovery under insurance policies) if such breach is capable of cure but cannot be cured with the exercise of diligence within such original sixty (60) day period, such period not to exceed eighteen (18) months in the aggregate;
- (b) in the event Operator commits an act of gross negligence or willful misconduct in performing the Services which results in (i) a material adverse impact on the operation of the Plant Facilities as compared to the operation of the Plant Facilities immediately prior to such act of gross negligence or willful misconduct, or (ii) a material adverse impact on the reputation of Owner;
- (c) in the event Operator is subject to a Bankruptcy by providing written notice thereof to Operator;
- (d) in the event Operator's or its Affiliates' Membership Interest falls below thirty three and one third (33.333%); or
- (e) in the event of Force Majeure that is unique to Operator and prevents Operator from operating the Plant Facilities for one hundred eighty (180) consecutive days or for two hundred seventy (270) cumulative days in any three hundred sixty five (365) day period and another similarly situated and reasonably prudent operator is ready and able to operate the Plant Facilities under the same circumstances regardless of such event of Force Majeure.

9.5 Appointment of Successor Operator. During the Transition Period a successor operator shall be appointed by Owner. During the Transition Period, Operator shall cooperate in good faith with Owner and any successor operator to facilitate the orderly transition of Operator's responsibilities and to transfer to Owner or the successor operator (as applicable) control of any and all property of Owner that is under the care and custody of Operator and any applicable Permits. At Owner's direction, and only to the extent Owner agrees to assume same by written election to Operator, Operator shall assign to Owner those contracts and agreements Owner elects to assume that were entered into by Operator in connection with its performance of the Services on behalf of Owner in compliance with the terms of this Agreement, and Owner shall assume all obligations and liabilities under such contracts and agreements arising from and after the effective date of such transfer. The Parties agree to execute from time to time thereafter such documents and instruments requested by each Party to evidence such assignment and assumption. Operator shall promptly (and in no event later than thirty (30) days after receipt of Owner's direction) make available to Owner the Books and Records as provided in Section 5.3(a) and any and all other documents, files, books and records received from Owner or generated by Operator with respect to the Plant Facilities in the performance of Operator's duties hereunder.

9.6 Effect of Termination. Any termination of this Agreement shall not (a) relieve either Party of any liability or obligation accruing or that accrued prior to the date of such termination, (b) relieve either Party of its obligations under Section 10.1, (c) relieve either Party of its indemnification obligations under Article 7 with respect to acts or omissions which occurred prior to the date of termination, provided that the right of an Indemnitee to assert a claim for indemnification pursuant thereto in accordance with Section 7.6 shall terminate on the second (2nd) anniversary date of such termination, and an Indemnitor shall not be obligated to indemnify an Indemnitee with respect to any matter for which such Indemnitee failed to assert a claim prior to the second (2nd) anniversary date of such termination, or (d) deprive a Party not in breach (other than a breach because such Party is rightfully withholding performance in response to a breach by the other Party) of its rights to any remedy otherwise available to such Party.

9.7 Effect of Termination on Costs. If this Agreement is terminated pursuant to Section 9.2, all Costs and other amounts permitted to be incurred in accordance with Section 4.2 incurred through the date of such termination in accordance with the applicable Approved Budget, subject to Permitted Overruns, shall be the responsibility of Owner notwithstanding such termination. Operator shall bear no liability for the same except as, and to the extent, arising out of a breach of this Agreement by Operator prior to such termination.

9.8 Survival. Subject to the terms hereof, the termination of this Agreement shall not relieve either Party of any liability or obligation accruing or that accrued prior to such termination or deprive a Party not in breach (other than a breach because such Party is rightfully withholding performance in response to a breach by the other Party) of its rights to any remedy otherwise available to such Party. In addition, Article 7 (Indemnification; Limitation of Liability), Article 10 (Confidential Information) and Article 12 (Miscellaneous) and Section 1.1 (Definitions), Section 1.2 (Construction), Section 2.2 (Relationship of the Parties), Section 9.7 (Effective of Termination on Costs) and this Section 9.8 (Survival) shall survive in full force and effect following any termination of this Agreement.

9.9 Transition Services. Notwithstanding any resignation (other than pursuant to Section 9.3(a)) or removal (other than pursuant to Section 9.4), at the request of Owner, Operator shall continue to serve as Operator of the Plant Facilities under this Agreement in compliance with the provisions hereof for a transition period determined by Owner (not to exceed six (6) months after such resignation or removal), provided, however, such period may be extended by additional one (1) month periods by mutual agreement of the Parties (the “**Transition Period**”) unless Owner requests Operator to terminate its performance of the Services earlier. During the Transition Period, Operator shall provide the Services in accordance with the terms of this Agreement any applicable Approved Budget then in existence (subject to Permitted Overruns), unless Owner and Operator mutually agree upon any changes or modifications to any such budget. For the avoidance of doubt, during any Transition Period, the Operator shall continue to receive its pro-rated portion of the Administrative Fee.

ARTICLE 10 CONFIDENTIAL INFORMATION

10.1 Confidential Information.

(a) Each Party (the “**Receiving Party**”) acknowledges that, from time to time, it may receive Confidential Information from the other Party (the “**Disclosing Party**”), the improper use or disclosure of which may be damaging to the Disclosing Party. The Receiving Party agrees to keep the Confidential Information strictly confidential and not to disclose any Confidential Information to any Person except as expressly provided by this Article 10 and refrain from using such Confidential Information except in connection with provision of the Services or in connection with ownership, operation and maintenance of the Plant Facilities.

(b) Notwithstanding the provisions of Section 10.1(a), a Receiving Party may disclose Confidential Information to its employees, contractors, agents, legal and accounting advisors, and other representatives (collectively, “**Representatives**”) who need to know such Confidential Information but only if such Representatives have agreed to be bound by the provisions of this Article 10 or are otherwise subject to a duty of confidentiality no less stringent than that set forth in this Article 10. The Receiving Party shall make commercially reasonable efforts to ensure that all of its Representatives to whom Confidential Information is disclosed comply with the requirements of this Article 10 and with the terms of any third-party agreement under which the Confidential Information of any Third Party is disclosed (to the extent the Receiving Party is made aware of such terms). The Receiving Party agrees and acknowledges that it shall be held accountable for disclosures in contravention of this Article 10 by its Representatives. Additionally, a Receiving Party may disclose Confidential information to a Third Party in connection with a bona fide negotiation regarding the sale, whether direct or indirect, of all or any portion of the Receiving Party’s Membership Interest, provided that such Third Party shall have agreed to be bound by the provisions of this Article 10 or is otherwise subject to a duty of confidentiality no less stringent than that set forth in this Article 10.

The Receiving Party agrees and acknowledges that it shall be held accountable for disclosures in contravention of this Article 10 by such Third Party.

(c) Notwithstanding anything to the contrary set forth herein, it is understood that a Receiving Party or its Representatives may be compelled to disclose Confidential Information (or portions thereof) (i) pursuant to subpoena or other court process, or in connection with litigation or any regulatory proceeding or investigation; (ii) at the express direction of any authorized Governmental Authorities, with jurisdiction over the Receiving Party or its Representatives; or (iii) as otherwise required by Law. If the Receiving Party becomes compelled, in the opinion of its internal or external legal counsel, pursuant to one of the foregoing reasons to disclose any of the Confidential Information, to the extent it is not prohibited from doing so by Law, the Receiving Party will provide the Disclosing Party with timely written notice so that the Disclosing Party may seek a protective order or other appropriate remedy, at the Disclosing Party's sole cost and expense. If such protective order or other remedy is not obtained, the Receiving Party will furnish only that portion of the Confidential Information that it is required to disclose as advised by its counsel; provided, however, that the Receiving Party or its Representatives, as applicable, shall use its commercially reasonable efforts to assure that, to the extent possible, confidential treatment will be accorded to any such Confidential Information disclosed.

(d) Upon the written request of the Disclosing Party, the Receiving Party shall promptly return to the Disclosing Party or destroy (at the Receiving Party's discretion) all items containing or constituting Confidential Information, together with all copies, extracts, or summaries thereof; provided, however, that any Confidential Information need not be returned or destroyed (i) if found in electronic format as part of the Receiving Party's or its Representatives' off-site or on-site data storage/archival process, or (ii) the Receiving Party is required to retain such information pursuant to Law; provided, that one copy of such information may be retained by Operator for archival purpose in connection with Operator's record retention practices or policies. In addition, the Receiving Party may retain one copy of any Confidential Information solely for the purpose of defending or prosecuting claims arising from this Agreement. Any oral Confidential Information or any Confidential Information that is not returned or destroyed pursuant hereto shall remain subject to the terms of this Agreement.

(e) The Parties acknowledge that a breach of the provisions of this Section 10.1 may cause irreparable injury for which monetary damages are inadequate, difficult to compute, or both. Accordingly, the Parties agree that the provisions of this Section 10.1 may be enforced by injunctive action or specific performance, and the Parties hereby waive any requirement to post bond in connection with any injunctive order or order for specific performance.

(f) The obligations of Operator under this Article 10 shall survive the termination of this Agreement for two (2) years after the effective date of termination of this Agreement.

10.2 Employee Confidentiality. Owner acknowledges and agrees that Operator shall require each Business Employee and each Additional Available Employee (as such terms are defined in the Employee Matters Agreement) hired by Operator to execute a confidentiality agreement.

10.3 Statutory Employer. In all cases where Operator's employees (meaning Operator's direct, borrowed, special or statutory employees) are covered by the Louisiana Worker's Compensation Act, La. R.S. 23:1021 et seq., Owner and Operator agree that Owner and each of Owner's Affiliates shall be and hereby is designated as the statutory employer of Operator's direct, borrowed, special and statutory employees, pursuant to La. R.S. 23:1061(A)(3). Owner and Operator further agree that the Services are an integral part of and essential to ability of Owner and each Owner's Affiliate to generate its respective goods, products and services. This provision is included for the sole purpose of establishing a statutory employer relationship to gain the benefits expressed in La. R.S. 23:1061, and is not intended to create an employer/employee relationship for any other purpose. Notwithstanding anything in this Agreement to the contrary, including Section 7.3, in the event that Owner or any of Owner's Affiliates is required to pay worker's compensation benefits to Operator's direct, borrowed, special or statutory employees, whether as a statutory employer pursuant to La. R.S. 23:1061 or as a special employer pursuant to La. R.S. 23:1031(C), Owner and each of its Affiliates shall, to the maximum extent permitted by Law, be entitled to indemnity from Operator for any such benefit payments. Neither Operator nor its underwriters shall be entitled to seek contribution from Owner or any of Owner's Affiliates for any worker's compensation benefits payments made on behalf of any of Operator's direct, borrowed, special or statutory employees for purposes of La. R.S. 23:1031(C).

ARTICLE 11 APPLICABLE TAXES

Owner shall be responsible for and otherwise bear all Applicable Taxes. Applicable Taxes shall be Owner Direct-Billed Costs for all purposes of this Agreement. For the avoidance of doubt, Owner shall timely pay (or cause to be timely paid) all Applicable Taxes, in each case in accordance with Law or, in the case of any Applicable Taxes that are initially advanced or otherwise economically borne by Operator, shall timely reimburse (or cause to be timely reimbursed) Operator for any such taxes; provided, however, that Owner shall not be responsible for any penalties or interest with respect to such Applicable Taxes to the extent such penalties or interest are due to Operator's inaccurate billing or tax reporting. Operator shall not be responsible for or otherwise bear any Income Taxes with respect to the ownership or operation of the Plant Facilities, except, for the avoidance of doubt, to extent of any Income Taxes solely attributable to income allocations from the Owner resulting from the Operator's ownership of an equity interest in the Owner.

ARTICLE 12 MISCELLANEOUS

12.1 Notices. Any notice, request, demand, and other communication required or permitted to be given or made hereunder (each a "**Notice**") shall be in writing and shall be deemed to have been duly given or made if (a) delivered personally, (b) transmitted by first class registered or certified mail, postage prepaid, return receipt requested or by electronic mail, or (c) delivered by prepaid overnight courier service to a Party at the addresses set forth in this Section 12.1 (or to

any other address or contact information that the receiving Party may designate from time to time in accordance with this section). Notices shall be effective (x) if delivered personally or sent by courier service, upon actual receipt by the intended recipient, (y) if mailed, upon the earlier of five (5) days after deposit in the mail or the date of delivery as shown by the return receipt therefor or (z) if delivered by electronic mail, upon an affirmative acknowledgment of receipt by the recipient thereof. Whenever any Notice is required to be given by Law or this Agreement, a written waiver thereof, signed by the Person entitled to Notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such Notice. Any notices required to be given under this Agreement may also be delivered to each Member at the address given for such Member in Exhibit A to the Owner LLC Agreement (as in effect at the time of the notice).

If to Owner, addressed to:

Each Member at the address given for that Member in Exhibit A to the Owner LLC Agreement.

If to Operator, addressed to:

[Equistar Chemicals, LP]
1221 McKinney Street, Suite 700
Houston, TX 77010
Attn: Michael McMurray; Jeffrey Kaplan
Email: Michael.McMurray@lyondellbasell.com;
Jeffrey.Kaplan@lyondellbasell.com]

With a copy to:

[_____] ²
Email: [_____] ²

12.2 Entire Agreement. This Agreement, the instruments to be delivered hereunder and the Owner LLC Agreement constitute the entire agreement among the Parties with respect to the subject matter hereof and supersede all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter hereof.

12.3 Waiver. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No waiver by any Party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. Except as specifically set forth in this Agreement, no failure by a Party to exercise, or delay in exercising, any right, remedy, power, or privilege hereunder shall operate or be construed as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

² **Note to Form:** To be provided prior to execution of this Agreement.

12.4 Assignment and Successors and Assigns.

(a) The rights and obligations contained in this Agreement shall not be assigned by either Party without the prior written consent of the other Party to this Agreement (which in the case of Owner shall be obtained in accordance with the Owner LLC Agreement), and any such action without the required consent shall be void; provided however, Operator may assign this Agreement to any of its Affiliates without the prior written consent of the Owner and in such case the assigning Operator shall not be relieved of its obligations hereunder.

(b) This Agreement shall bind and inure to the benefit of the Parties and any permitted successors or assigns to the original Parties to this Agreement, but such assignment shall not relieve either Party of any obligations incurred prior to such assignment.

12.5 Governing Law; Consent to Jurisdiction; Severability.

(a) This Agreement and all claims or causes of action (whether arising in contract, tort or statute) that may be based upon, arise out of or relate to this Agreement shall be governed by and construed and enforced in accordance with the Laws of the Texas (including its statutes of limitations) without regard to the principles of conflicts of Law.

(b) Any controversy or claim, whether based on contract, tort, statute or other legal or equitable theory (including any claim of fraud, misrepresentation or fraudulent inducement or any question of validity or effect of this Agreement including this clause) arising out of or related to this Agreement (including any amendments or extensions), or the breach or termination thereof, or any dispute made subject to arbitration under this Agreement, shall be exclusively litigated in the United States Federal District Courts having sites in Houston, Harris County, Texas (and all appellate courts having jurisdiction thereover) or, if the federal courts do not have jurisdiction, then the state courts in Houston, Harris County, Texas (and all appellate courts having jurisdiction thereover). Each Party waives any objection to laying venue in any such action, suit or proceeding in such courts and waive any objection that such courts are an inconvenient forum or do not have jurisdiction over such Party. EACH OF THE PARTIES HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES CONTEMPLATED BY THIS AGREEMENT.

(c) If a dispute under this Agreement arises, the Parties shall resolve such dispute through the following procedure:

(i) first, the Parties shall promptly meet (whether by phone or in person) in a good faith attempt to resolve such dispute;

(ii) second, if such dispute is still unresolved after fifteen (15) Business Days following the commencement of the negotiations described in Section 12.5(c)(i), then (A) a designated Investor Committee Representative (as defined in the Owner LLC Agreement), on behalf of Operator, and (B) a designated Sasol Committee Representative (as defined in the Owner LLC Agreement), on behalf of Owner, shall meet (whether by phone or in person) in a good faith attempt to resolve such dispute;

(iii) third, if such dispute is still unresolved after fifteen (15) Business Days following the commencement of the negotiations described in Section 12.5(c)(ii), then (A) a designated senior officer of the Investor Member (as such term is defined in the Owner LLC Agreement), on behalf of Operator, and (B) a designated senior officer of the Sasol Member, on behalf of Owner, shall meet (whether by phone or in person) in a good faith attempt to resolve such dispute; and

(iv) fourth, if such dispute is still unresolved after fifteen (15) Business Days following the commencement of the negotiations described in Section 12.5(c)(iii), then any Party may subject the dispute to binding arbitration under Section 13.18 of the Owner LLC Agreement, without compliance with Section 13.18(b)(i), Section 13.18(b)(ii) or Section 13.18(b)(iii) thereof, and the provisions of Section 13(c) and (d) of the Owner LLC Agreement shall apply *mutatis mutandis*.

(d) If any provision of this Agreement or the application thereof to any Person or circumstance is held invalid or unenforceable to any extent, the remainder of this Agreement and the application of that provision to other Persons or circumstances is not affected thereby, and that provision shall be enforced to the greatest extent permitted by Law, and, to the extent unenforceable, such provision shall be deemed modified to the extent necessary to render such provision enforceable, and the rights and obligations of the Parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the Parties as set forth herein, but all of the remaining provisions of this Agreement shall remain in full force and effect.

(e) The provisions of this Section 12.5 shall be the exclusive method of resolving disputes under this Agreement.

12.6 Disputes Under the Owner LLC Agreement. For the avoidance of doubt, any and all disputes in respect of the Members or Members' rights or obligations under the Owner LLC Agreement shall be resolved in the manner provided in the Owner LLC Agreement.

12.7 Third Party Beneficiaries. Nothing in this Agreement is intended to or shall confer upon any Person other than the Parties, and their successors and permitted assigns, any rights, benefits, or remedies of any nature whatsoever under or by reason of this Agreement; provided,

however, that the Indemnitee and their respective executors, administrators, successors, and legal representatives shall be considered to be third party beneficiaries of this Agreement as provided in Article 7.

12.8 Amendments.

(a) No amendment or supplement of this Agreement shall be binding unless executed in writing by the Party to be bound thereby.

(b) If a provision or a defined term incorporated by reference into this Agreement is amended, supplemented, or modified in the agreement from which such provisions or defined term is incorporated, such amendment, supplement, or modification shall have no effect on such provision or defined term as used in this Agreement unless such amendment, supplement, or modification is approved by both Parties.

12.9 Time. Time is of the essence in the performance of any provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or cure period expressly set forth in this Agreement.

12.10 Counterparts. This Agreement may be executed in counterparts, all of which together shall constitute an agreement binding on all parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart. Facsimile copies of signatures shall constitute original signatures for all purposes of this Agreement and any enforcement hereof.

12.11 Force Majeure.

(a) For purposes of this Agreement, the term “**Force Majeure**” includes (i) any acts of God and the public enemy, strikes, lockouts or other industrial disturbances, wars, blockades, insurrections, riots, (ii) pandemic, epidemic, serious illness or plagues, disease, quarantine restrictions, health emergency or outbreak (whether or not any such events are foreseeable) (iii) any natural disasters (including, without limitation, severe weather events such as landslides, lightning, earthquakes, tornadoes, fires, storms, floods, high water, extreme temperatures, extreme precipitation, droughts, washouts, hurricanes or tropical storms, whether or not caused by climate change and whether or not any such events are foreseeable), (iv) arrests and restraint of rulers and people, interruptions by government or court orders, present or future orders of any regulatory body, civil disturbances, terrorist attacks, or explosions, (v) breakage or accident to machinery, reactors or lines of pipe, or freezing of pipelines to the extent such breakage or accident is (A) caused solely by another Force Majeure event and (B) not contributed to by the lack of regular maintenance, inspection and operation in accordance with this Agreement of such machinery, reactors, lines of pipe or pipelines or by the Operator’s failure to maintain spares and other supplies consistent with the Standard of Performance, (vi) inability to obtain or unreasonable delays in obtaining additional necessary Permits to the extent such

Permits are not required to perform the Services as of the date hereof (provided Operator has used commercially reasonable efforts to obtain such Permits), (vii) any rules, orders, acts or restraint of any Governmental Authority, or any other changes to Laws or insurance obligations, in each case, that are applicable to the Owner, Operator, the Plant Facilities or the Services and are enacted after the Effective Date, (viii) the partial or entire failure of Feedstock or hexene supply, and (ix) any other event that is beyond the reasonable control of the Party claiming Force Majeure and could not have reasonably been avoided; provided that the Party claiming Force Majeure shall give prompt Notice of such event to the other Party and take reasonable action to remove the basis for nonperformance (or mitigate the effects thereof) and after doing so resume performance as soon as possible. Notwithstanding any other provision of this Agreement to the contrary, "Force Majeure" does not include a Party's financial inability to perform hereunder.

(b) Notwithstanding any other provision of this Agreement to the contrary, in the event a Party is rendered unable, wholly or in part, by Force Majeure to carry out its obligations under this Agreement (other than any obligation to make payment of any amount when due and payable hereunder), the obligation of such Party, so far as it is affected by such Force Majeure, shall be suspended during the continuance of any condition or event of Force Majeure, but for no longer period, and such condition or event shall so far as possible be remedied with all reasonable dispatch.

(c) It is understood and agreed that the settlement of strikes or lockouts or resolution of differences with workers shall be entirely within the discretion of the affected Party, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes, lockouts or differences by acceding to the demands of the opposing party in such strike, lockout or difference when such course is inadvisable in the reasonably exercised discretion of the affected Party.

12.12 Integrated Agreements.

(a) This Agreement and the other Transaction Documents shall be accepted or rejected as an integrated group and cannot be individually accepted or rejected absent the acceptance or rejection of all Transaction Documents. This Agreement and each other Transaction Document is integrated with, and a necessary component of, each other Transaction Document. Each Party hereby acknowledges and agrees that no Party may assert, nor directly or indirectly induce any other Person to assert, that the Transaction Documents do not represent an integrated transaction.

(b) Notwithstanding the provisions of Section 12.12(a), any default by any party to the other Transaction Documents shall not constitute a default under this Agreement.

12.13 No Recourse. This Agreement may only be enforced against, and any claim or cause of action based upon, arising under, out of, or in connection with, or related in any manner to this Agreement or the transactions contemplated hereby may only be brought against, the entities that are expressly named as Parties in the preamble of this Agreement (the “**Contracting Parties**”) and then only with respect to the specific obligations set forth herein with respect to such Contracting Party. No Person that is not a Contracting Party, including any past, present or future officers, directors, employees, managers, members, partners, equityholders, controlling persons, agents, attorneys, advisors, and other representatives or Affiliate of any Contracting Party or any Affiliate of any of the foregoing (each, a “**Nonparty Affiliate**”), shall have any liability (whether in contract, tort, at law or in equity, or granted by statute or otherwise) for any claims, causes or action or other obligations or Losses arising under, out of, or in connection with, or related in any manner to this Agreement or the transactions contemplated hereby, or based on, in respect of, or by reason of this Agreement or its negotiation, execution, performance or breach. To the maximum extent permitted by Law, except in the case of fraud, (a) each Contracting Party hereby waives and releases all such Losses, claims, causes of action and other obligations and Losses against any such Nonparty Affiliates, (b) each Contracting Party hereby waives and releases any and all rights, claims, demands, or causes of action that may otherwise be available to avoid or disregard the entity form of a Contracting Party or otherwise impose Losses of a Contracting Party on any Nonparty Affiliate, whether granted by statute or based on theories of equity, agency, control, instrumentality, alter ego, domination, sham, single business enterprise, piercing the veil, unfairness, undercapitalization, or otherwise, and (c) each Contracting Party disclaims any reliance upon any Nonparty Affiliates 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.

[Signature Page Immediately Follows]

IN WITNESS WHEREOF, the Parties hereby execute this Agreement effective as of the date first written above.

OWNER:

**LOUISIANA INTEGRATED
POLYETHYLENE JV LLC**

By: _____

OPERATOR:

EQUISTAR CHEMICALS, LP

By: _____

Exhibit A

Initial Operating Budget¹

[To be attached]

¹ **Note to Form:** Initial Operating Budget to be prepared by the Parties prior to execution of this Agreement.

Exhibit B

O&M Services

In furtherance of its obligation to perform the Services, the O&M Services shall include the following, but exclusive in all cases of the Owner Retained Obligations and RemainCo Services:

- (i) perform day-to-day oversight of operations at the Plant Facilities, including all routine, preventative, major, scheduled, and unscheduled maintenance;
- (ii) oversee all services and other work to be performed by subcontractors;
- (iii) develop and maintain reasonable safety, health, and environmental management systems, policies, procedures and practices, including those required by Environmental Law;
- (iv) manage process, project engineering support services, control system engineering support services, reliability, inspection, and other technical support services to the Plant Facilities;
- (v) perform, or cause to be performed, the development, planning, design, engineering, procurement, construction, installation, pre-commissioning, and commissioning, as applicable, of any expansion, alteration or Capital Expenditure, including unit turnarounds;
- (vi) operate and maintain all infrastructure within the boundary of the Plant Facilities, except for any infrastructure owned by Sasol Member or its Affiliates (and not the Owner);
- (vii) provide landscaping, irrigation and maintenance of all lawns and gardens on the Plant Facilities;
- (viii) operate and maintain the Michigan Substation and all non-Third Party owned electrical distribution and transmission infrastructure for the Plant Facilities;
- (ix) perform the services required to be performed by Owner pursuant to the Operating Services Agreement (JVCo to RemainCo), dated as of the Effective Date, by and between Owner and RemainCo, the Utilities Services Agreement (JVCo to RemainCo), dated as of the Effective Date, by and between Owner and RemainCo, and the Facilities Sharing Agreement (JVCo to RemainCo), dated as of the Effective Date by and between Owner and RemainCo;
- (x) perform any ancillary or administrative services to be performed by Owner pursuant to the RemainCo Services and Supply Contracts listed on Exhibit H or the Shared Permit Agreement;
- (xi) manage treatment, storage and disposal or sale of any waste or scrap generated in connection with the manufacture of Products;

(xii) provide air pollution control, water pollution control and similar environmental support services in compliance with Environmental Law, and, except as provided in the Shared Permits Agreement, issuance of all governmentally required reports;

(xiii) consistent with the Shared Permits Agreement, obtain, maintain and comply with all Permits that are required to be in Owner's name or Operator's name, taking any action required to resolve, settle, manage, or respond to any Action, Order or proceeding with respect to any alleged or actual non-compliance by the Operator;

(xiv) perform any Emergency Operations in accordance with Section 4.2, in cooperation with Site Emergency Response set forth in the Onsite Services Agreement;

(xv) in the event of any Release of Hazardous Materials occurring as a result of or otherwise in connection with the Services, conduct any containment, reporting (except as provided in the Shared Permits Agreement), investigation, cleanup, remediation, mitigation, monitoring, or post-closing monitoring, and take any other action required by applicable Environmental Law or otherwise necessary or prudent to address such Release;

(xvi) perform management and oversight of all routine compliance matters relating to environmental, health and safety matters (other than the Emergency Services);

(xvii) provide human resource, health, industrial hygiene, and safety and process safety services as may be required incident to the operation and maintenance of the Plant Facilities, in all cases sufficient to comply with Law, including Environmental Law;

(xviii) provide on-site medical services, including for physicals, drug testing, and return to work management, as deemed prudent by Operator;

(xix) in accordance with the Tolling Agreement, and in collaboration with Feedstock providers, manage (i) receipt of Feedstock for use at the Plant Facilities, (ii) producing ethylene from the Feedstock, (iii) processing of ethylene into Products and (iv) delivering Products to Owner-designated delivery points, and coordinating the ethylene balance across the site and off-site storage;

(xx) provide chemicals, catalysts, additives, and other similar materials necessary to produce the agreed Product slate, but excluding the Feedstocks;

(xxi) manage storage for chemicals, catalysts and additives utilized in the Plant Facilities, including services provided by RemainCo for Warehouse operation;

(xxii) procure supplies, equipment, and spares for the Plant Facilities;

(xxiii) supply incidental materials, supplies, furniture, fixtures and office equipment required for operation of the Plant Facilities;

(xxiv) provide such other services and materials as may be appropriate or necessary for the efficient operation of the Plant Facilities;

(xxv) perform laboratory, quality assurance and quality control services, including generation of certificates of analysis, maintenance of quality management system (e. g., ISO 900X), participation in customer audits, and routine analysis of unit in-process samples;

(xxvi) manage purchasing, accounting, inventory accounting, data processing, information technology, telecommunications and cash management services incidental to the operation of the Plant Facilities;

(xxvii) make and accept payments in Owner's name as required or permitted hereunder;

(xxviii) prepare and file, or cause to be prepared and filed, all tax returns or other tax filings described in Sections 8.1 and 9.3 of the Owner LLC Agreement and act as the tax representative of Owner pursuant to Section 8.3 of the Owner LLC Agreement, subject to Section 8.2 (together with any other provisions relating to such tax returns and tax filings) of the Owner LLC Agreement;

(xxix) apply for and negotiate such tax abatements as may be available for the Plant Facilities, the negotiation of assessed valuations, the payment of such property, sales, use and other taxes as may from time to time be due (except sales, use and other taxes on Product arising from the sale thereof by each Party, which taxes will be the responsibility of, and paid by, the Party making any such sale), and fines or levies and the response to any governmental inquiries with respect thereto;

(xxx) coordinate with any product marketing service providers;

(xxxii) conduct commercial operations of the Plant Facilities, including (i) handling of product inventory, gains and losses, (ii) coordinating nominating scheduling, accounting and billing services, and pressure balancing and measurement services, and (iii) performing all labor required for manufacturing and storing Products at the Plant Facilities pending distribution thereof;

(xxxiii) provide necessary claims management support services in connection with the insurances obtained and maintained in accordance with Exhibit D;

(xxxiv) provide services with respect to Owner's information technology matters, including with respect to all proprietary and licensed systems of the Owner, general system support, implementation services, personnel training and support, system/network support, data transfer, storage and processing, hardware and software support, and managing and operating any automated field systems and related computer software and equipment, excluding process control network and site communication radios;

(xxxv) gather, manage, segregate, and store Owner's data separately from Operator's data across all systems and applications;

(xxxvi) provide the Administrative Services set forth on Exhibit E;

(xxxvii) cooperate with Sasol Member and its affiliates for the transition of the Services from Sasol Member and its affiliates to Operator;

(xxxvii) perform any other obligations of Operator set forth in this Agreement.

For the avoidance of doubt, until the Asset Repairs are completed, Services to be performed by the Operator shall exclude any and all Services related to the LDPE Facility.

Exhibit C

Owner Retained Obligations

Owner shall perform and be responsible for the following ongoing activities:

(i) contracting to procure (or causing its members to contract and procure) (i) transportation and storage rights on pipelines and storage systems to store and deliver feedstock to each of the LCCP Cracker Facility (as defined in the BSA), the LDPE Facility (as defined in the BSA) and the LLDPE Facility (as defined in the BSA, and, together with the LCCP Cracker Facility and the LDPE Facility, collectively the “Units”), (ii) transportation and storage rights on pipelines and storage systems to store and deliver from the outlet of each Unit which feeds the inputs of a subsequent Unit, and (iii) transportation and storage rights on pipelines and storage systems to store and deliver downstream of the Units for ethylene and other co-products;

(ii) contracting to procure and deliver (or causing its members to contract and procure) Feedstock requirements for each of the Units;

(iii) until the Asset Repairs are completed, providing all services related to the operation and maintenance and commercial operations of the LDPE Facility, the restoration or any Capital Expenditures related to the LDPE, or any administration of the LDPE Facility shall be the responsibility of Owner;

(iv) providing Operator and any Third Party Providers with adequate and sufficient Plant Facilities site access to perform or cause to be performed the Services in accordance with the terms of the Agreement;

(v) the purchase or supply of any assets or property to be transferred to Owner pursuant to the terms of the BSA; and

(vi) Owner shall sign any servitudes, easements, and other similar agreements for the benefit of the Operator in accordance with the Transaction Documents.

Exhibit D

Reports and Metrics

Operator shall periodically furnish to Owner reports detailing the metrics set forth below at the frequencies indicated.

- (i) Monthly and for each Fiscal Year, cumulative Safety statistics for personnel (both Operator employees and contractors) engaged in operating and maintaining the Plant Facilities
 - a. Injuries (near misses, first aids, OSHA recordable, lost time, and fatalities)
 - b. Occupational illnesses
- (ii) As needed following the completion of external audits, provide copies of all external audits
 - a. ISO 9000 (and similar management systems)
 - b. Process Safety Audits
 - c. Results/Reports from all Regulatory Inspections (including, but not limited to: OSHA, EPA, LaDEQ, etc.)
- (iii) Monthly and for each Fiscal Year, the number of process safety incidents, and nature of each incident
- (iv) Monthly, any overdue inspection items
- (v) Monthly, the status of mechanical inspection anomalies
- (vi) Monthly and for each Fiscal Year, cumulative Environmental Exceedance Statistics
 - a. Number of violations of Environmental Law, including the nature of each violation
 - b. Permit violations, including nature of each violation
- (vii) Monthly, the availability and utilization for each production unit and boilers
 - a. Unit stream factor
 - b. Unit time available but not used
 - c. Utilization (actual production as percent of capacity)
- (viii) Monthly and for each Fiscal Year, the production for each unit
 - a. Prime product
 - b. Non-prime product

- c. Scrap
- (ix) Monthly and for each Fiscal Year, product variable cost, in \$/mt, for each production unit
 - a. Energy, Co-product, and Raw Material usage per metric ton of production
 - i. Actual usage compared vs budgeted usage
 - ii. Actual usage vs prior year usage
- (x) Monthly and for each Fiscal Year, utilities specific metrics
 - a. Variable cost of steam production, in \$/mt (by month, and cumulative for fiscal year)
 - i. Energy and raw material usage per metric ton of steam produced
 - 1. Actual usage compared vs budgeted usage
 - 2. Actual usage vs prior year usage
- (xi) Monthly and for each Fiscal Year, employee and contractor overtime hours as a percent of straight time hours
- (xii) Monthly, fixed costs by unit, including allocated fixed costs
 - a. Actual cost vs budgeted cost by line item
- (xiii) Monthly and for each Fiscal Year, capital project expenditures vs project authorized funds
- (xiv) Monthly and for each Fiscal Year, the amounts of any Permitted Overruns and Permitted Unbudgeted Amounts
- (xv) Monthly and for each Fiscal Year, Operating Benchmarks
 - a. Provide all reports from Solomon study on the LCCP Cracker Facility
 - b. Provide all reports from Phillip Townsend studies on the polyethylene units
- (xvi) The financial statements and reports required to be delivered by Operator to Owner pursuant to Section 9.2 and Section 9.3 of the Owner LLC Agreement as and when required thereunder

Exhibit E

Administrative Services

(i) **Asset Administration.** Asset administration services to the Owner, including (i) management of all operations data and technical data reviews (as necessary), (ii) regulatory and other periodic operations reports (including but not limited to Exhibit D) required under the Agreement and the Owner LLC Agreement, (iv) maintenance of books and records relating to any Shared Facility Services, and (v) maintenance of operating data related to all expenditures, sales, receipts, assets, liabilities, profits and losses of the Owner or related to the Services.

(ii) **Accounting Services.** Internal and external financial reporting, management of general ledger functions, Feedstock, consumables and equipment accounting, establishing and maintaining capital expenditure, any Operating Budget and any other bookkeeping and accounting functions of the Owner, including (i) the management of accounts receivable and accounts payable and the maintenance of the general ledger therefor, (ii) the preparation of specific accounting statements and schedules, (iii) the production of financial statements and reports in accordance with Article 9 of the Owner LLC Agreement and (iv) maintaining, or causing to be maintained, financial records and books of account for the Owner; provided that no Third Party accounting firm fees shall be included in the definition of Administrative Costs.

(iii) **Treasury and Finance.** Treasury and financial management services to the Owner, including (i) cash management, (ii) bank account administration, (iii) coordinating issuance and administration of letters of credit, (iv) management of insurance programs, including placement and maintenance of policies and administration of claims, (v) credit risk management services, (vi) all associated internal controls over such treasury and finance services. No fees, costs or expense directly billable by Third Party banking or insurance providers shall be included as Administrative Costs and shall be for the direct Cost of the Owner.

(iv) **Tax Matters.** Internal tax accounting services to the Owner, including coordinating the preparation of tax returns of the Owner as required from time to time, management of all local, state and federal tax compliance, reporting and payments, and the supervision of any audit of any member of the Owner; provided that no fees, costs or expenses of Third Party accounting services or auditors shall be included as Administrative Costs.

(v) **Legal Matters.**

(a) Routine legal support to the Owner, including hiring and working and coordinating with outside counsel to the Owner on routine legal matters and supervising the preparation and filing of any documentation in connection with any routine regulatory matters of the Owner; provided that no Third Party legal fees, costs or expenses shall be included as Administrative Costs.

(b) Notification of the Owner of every adverse claim or demand made or threatened to be made by any Person (including any Governmental Authority) involving the Owner or the Operator (with respect to the performance of Services).

(vi) **Human Resources.** Management and oversight of all human resource related matters for the Operator pertaining to employees, including the administration of employee benefits plans for the Operator, payroll, personnel training, administration of compensation and executive compensation programs (if any), occupational health services and the hiring of personnel.

(vii) **Receipt of Notices and Other Communication.** Receipt, review, categorization, classification, organization, recording, filing and maintaining all notices, correspondence, reports, instruments, writings, agreements, documents, claims, assertions, demands, records, invoices, and other communications received by the Operator pertaining to the Owner or the Plant Facilities.

(viii) **Procurement Services.** Management and facilitation of strategic and tactical procurement of materials, services, and utilities (except Feedstock).

Exhibit F

Invoicing and Payment Procedures

1. Invoicing and Payment.

(a) With respect to each monthly invoice prepared in accordance with Section 4.4(a):

(i) such invoice will indicate (i) the difference between one hundred percent (100%) of the amounts paid from the Account for the prior month and the estimated amount paid in respect of such month and (ii) the estimated amount of Costs plus the applicable portion of the Administrative Fee owing in the succeeding month;

(ii) except for discrepancies resulting from Operator's exercise of its rights pursuant to contractual obligations and the Service Contracts to hold-back or otherwise manage payment,

(1) if the estimated amount in the previous month's invoice is less than the actual amount paid, the difference will be added to the estimated amount to be paid by Owner in the succeeding month; or

(2) if the estimated amount in the previous month invoice exceeds the actual amount paid, the difference will be credited against the estimated amount to be paid by Owner in the succeeding month;

(iii) payments will be made via electronic transfer of immediately available funds to such bank and account as Operator may from time to time designate in writing for such purpose;

(iv) as applicable, estimated and actual amounts paid in each period of six (6) months ending on June 30th and December 31st of each year will be reviewed by the Owner and Operator no later than July 31st and January 31st, respectively, with the aggregate estimated amount paid in each such period compared to the aggregate actual amounts due.

(b) Except where discrepancies arise pursuant to Operator's exercise of its rights under the contractual obligations and the Service Contracts to hold-back or otherwise manage payments, in the event that the aggregate estimated amount due varies from the aggregate actual amount paid by more than U.S. \$5,000,000, interest will be calculated on the difference between the estimated amount paid and the actual amount due in respect of each month in such period at Prime Rate plus one percent (1%) over the number of days from, but excluding, the date on which the estimate was paid to, but including, the date on which the actual amount due was paid. For purposes of this Exhibit F, "Prime Rate" shall mean the prime rate of interest published in the Wall Street Journal for the applicable period during which interest is incurred pursuant to the terms of the Agreement, unless such rate

would violate applicable Laws, in which case the rate of interest provided by applicable Laws shall apply.

(c) Interest will accrue on any unpaid invoiced amounts after the 20th day following the receipt of such invoice at Prime Rate plus one percent (1%) over the number of days from, but excluding such 20th day following the invoice receipt, but including, the date on which the actual amount due was paid.

(d) In the event that interest is payable with respect to one or more months by Owner, and with respect to one or more months by Operator, the interest amounts so calculated will be netted against one another, and the difference will be paid to the Party in favor of whom the greater interest amount has been calculated.

(e) Payment of interest pursuant to this Exhibit will be due and payable no later than the twentieth (20th) day following the determination thereof.

(f) Notwithstanding anything herein to the contrary, to the extent Owner fails to pay any invoiced amount after the 20th day following the receipt of such invoice due to the failure of a Member that is an Affiliate of Operator to fund a Mandatory Capital Contribution (as defined in the Owner LLC Agreement), no such interest shall accrue or be chargeable to Owner with respect to such invoiced amounts.

2. Corrections and Adjustments.

(a) In the event that Operator determines, pursuant to its normal accounting activities, internal audit or otherwise, that an error has been made in the charging of amounts to the Account, resulting in overcharging or undercharging of amounts to Owner, a correction will be made as soon as reasonably practicable following discovery thereof and an adjustment will be made in the payment of estimated and actual amounts due from Owner pursuant to Section 4.4 of the Agreement to reflect the amount underpaid or overpaid by Owner. Notwithstanding anything to the contrary contained herein, in no event shall Operator make any such adjustment for any errors that occurred prior to the two most recently completed Fiscal Years.

(b) Payments by Owner will not prejudice Owner's right to question the correctness of any statement of actual costs or expenses; provided, however, all estimated and actual statements of amounts due will be conclusively presumed true and correct with respect to any period for which audit rights have terminated pursuant to Section 5.3(a) of the Agreement with no adjustment thereafter.

(c) Any other provision of this Exhibit notwithstanding, the Parties acknowledge and agree that situations may arise from time to time requiring special consideration in order to maintain fairness and that in an attempt to provide guidance in such situations, the following concepts will apply: (i) current year corrections and adjustments will include items arising from Third Party audits that may relate to prior years, with such items applicable only to the year in which same become known and are recorded; and, (ii) current year corrections and adjustments of prior year errors or omissions may be charged to the Account.

(i) Items necessitating significant correction and/or adjustment in excess of \$500,000 will require prompt notification to the Owner.

Exhibit G

Form of Confidentiality Agreements²

[To be attached]

² **Note to Form:** Form of Confidentiality Agreement to be prepared by the Parties prior to execution of this Agreement.

Exhibit H

RemainCo Services and Supply Contracts

Onsite Services Agreement (RemainCo to JVCo), dated as of the Effective Date, by and between Owner and RemainCo

Operating Services Agreement (RemainCo to JVCo), dated as of the Effective Date, by and between Owner and RemainCo

Utilities Services Agreement (RemainCo to JVCo), dated as of the Effective Date, by and between Owner and RemainCo

Sitewide Rail Logistics Services (RemainCo to JVCo), dated as of the Effective Date, by and between Owner and RemainCo

Warehouse Services Agreement (RemainCo to JVCo), dated as of the Effective Date, by and between Owner and RemainCo

Hexene Supply Agreement, dated as of the Effective Date, by and between Owner and RemainCo

Facilities Sharing Agreement (RemainCo to JVCo), dated as of the Effective Date, by and between Owner and RemainCo

[MR Solvent Supply Agreement

Co-Products Supply Agreement

Ethylene Return Stream Agreement]³

³ **Note to Form:** Inclusion of bracketed agreements subject to mutual agreement by the Parties prior to the execution of this Agreement.