

# **GREAT NORTHERN GATHERING & MARKETING LLC**

## **RULES AND REGULATIONS**

**Governing the Interstate Transportation  
Of**

## **CRUDE PETROLEUM**

### **General Application**

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The Rules and Regulations published herein apply only under tariffs making specific reference by FERC number to this tariff: Such reference will include supplements hereto and successive issues hereof. Specific rules and regulations published in individual tariffs will take precedence over Rules and Regulations published herein.

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The provisions published herein, if effective, will not result in an effect on the quality of the human environment.

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## 10. DEFINITIONS

- “API” means American Petroleum Institute.
- “Assay” means a laboratory analysis of Crude Petroleum to include the following: gravity, vapor pressure, composition, pour point, water and sediment content, sulfur content, viscosity, distillation, and other characteristics as may be required by Carrier.
- “Barrel” means forty-two (42) United States gallons at sixty (60) degrees Fahrenheit and zero (0) gauge pressure if the vapor pressure of the Crude Petroleum is at or below atmospheric pressure, or at equilibrium pressure if the vapor pressure of the Crude Petroleum is above atmospheric pressure.
- “Carrier” means and refers to Great Northern Gathering & Marketing LLC.
- “Carrier’s system” means Carrier’s leased capacity in BakkenLink Pipeline.
- “Consignee” means anyone to whom custody is to be given at the specific instructions of a Shipper when Crude Petroleum is delivered out of Carrier’s system.
- “Crude Petroleum” means the direct liquid product of oil wells, oil processing plants, or a mixture of such products, but does not include natural gas liquids, or refined petroleum products.
- “Nomination” means a written designation by Shipper to Carrier of a stated quantity of Crude Petroleum to be tendered to Carrier for transportation from a specified origin point(s) to a specified destination point(s) over a period of one operating month in accordance with these rules and regulations.
- “Party” means Carrier or a Shipper, as applicable, and “Parties” means both Carrier and a Shipper.
- “Prime Rate” means the variable annual rate of interest charged by Citibank, New York (or its successor) to calculate interest on variable rate commercial loans made in the United States to its most creditworthy customers.
- “Shipper” means the party who uses Carrier’s system for the transportation of Crude Petroleum, subject to and in accordance with these rules and regulations, any TSA, and the rate on the applicable tariff.
- “Tender” means an offer by a Shipper to Carrier of a stated quantity of Crude Petroleum for transportation from a specified origin point(s) to a specified destination point(s).
- “TSA” means a transportation services agreement between a Shipper and Carrier. For the avoidance of doubt, in the event of a conflict between the provisions of this tariff and a TSA, this tariff shall control, to the extent of such conflict, insofar as such conflict relates to the transportation of Crude Petroleum over Carrier’s system.

## 20. TITLE

Carrier shall not be obligated to accept any Crude Petroleum, when nominated for transportation, which may be involved in litigation, or the title of which may be in dispute, or which may be encumbered by a lien or charge of any kind, and Carrier may require of Shipper satisfactory evidence of its perfected and unencumbered title or satisfactory indemnity bond to protect Carrier. By nominating Crude Petroleum, Shipper warrants and guarantees that the Shipper has good title thereto and agrees to hold Carrier harmless for any and all loss, cost, liability, damage and/or expense resulting from failure of title thereto; provided, that acceptance for transportation shall not be deemed a representation by Carrier as to title.

### 30. NOMINATIONS

Any Shipper desiring to tender Crude Petroleum for transportation shall make a Nomination to the Carrier in writing by 7:00 a.m. Denver, Colorado Time on or before the twentieth (20<sup>th</sup>) day of the month preceding the month during which the transportation under the Nomination is to begin. If the twentieth (20<sup>th</sup>) day of the month falls on a weekend or federal holiday, then the Nomination shall be due on the last day preceding the twentieth (20<sup>th</sup>) day of the month that is not a weekend or federal holiday. Unless Shipper submits a Nomination, the Carrier will be under no obligation to accept Crude Petroleum for transportation.

A Nomination shall be accepted only when the total quantity of Crude Petroleum shall be made available by Shipper on a ratable basis over the course of the month, or in such quantities and at such times specified by Carrier.

When timely Nominations submitted by Shippers to Carrier do not exceed the operating capacity of Carrier's system or any line segment thereof as determined by Carrier, additional Nominations may be accepted by Carrier to fill capacity, on a nondiscriminatory basis. These additional Nominations will be accepted only if they do not impair the movement of Crude Petroleum that was nominated on a timely basis.

Crude Petroleum will be transported only under a Nomination accepted by Carrier from origins to destinations when a tariff covering the pipeline movement is lawfully in effect and on file with the FERC as to interstate traffic and with the appropriate state commission covering intrastate traffic.

The minimum tender for transportation by Carrier is 10,000 Barrels.

### 40. FINANCIAL ASSURANCES

Carrier may at any time and from time to time request, and Shipper shall provide promptly if Carrier so requests, financial security for the payment of charges to be paid by Shipper to Carrier for transportation service ("Financial Assurances"). If requested by Carrier, Shipper's Financial Assurances must be provided to Carrier prior to Carrier accepting Shipper's initial Nomination for transportation of Crude Petroleum. Carrier shall thereafter have the option to refuse Nominations, in whole or in part, from Shipper, and to suspend further receipts and deliveries, until adequate Financial Assurances are provided. Shipper shall provide notice of any change in its financial situation that would adversely affect Shipper's ability to pay Carrier for transportation service.

The Financial Assurances that Carrier may request from Shipper shall include, but shall not be limited to, the following:

1. Prepayment of the charges applicable to such volumes nominated by Shipper; or
2. An irrevocable letter of credit or such other equivalent financial guarantees satisfactory to Carrier, which Financial Assurances shall remain in effect until payment in full for all service has been received by Carrier, at which time Carrier shall, upon request, return and/or cancel such financial guarantee forthwith. The following must be acceptable to

Carrier: (i) the terms of any letter of credit; (ii) the adequacy of any equivalent financial guarantees; and (iii) the identity of the issuing institution of any letter of credit or equivalent financial guarantee.

Notwithstanding the foregoing, if Carrier and Shipper agree to specific Financial Assurances in a TSA, such Financial Assurances shall be deemed to satisfy the requirements of this Item No. 40.

## **50. QUALITY SPECIFICATIONS**

Carrier shall have no obligation to accept, transport, or deliver any commodity other than Crude Petroleum that meets the quality specifications herein, and Shipper shall not tender to Carrier Crude Petroleum that does not meet such specifications. Carrier will not knowingly accept any Crude Petroleum offered for transportation other than good and merchantable Crude Petroleum of acceptable character which, when measured and tested by Carrier or Carrier's representative at the receipt point, meets all of the following specifications:

1. Readily susceptible to transportation through Carrier's existing facilities;
2. API gravity of not less than 37° or more than 45° at 60° Fahrenheit;
3. Sulfur content by weight of not more than 0.2%;
4. Reid vapor pressure not exceeding 9.5 pounds per square inch absolute.
5. Basic sediment, water and other impurities of 0.5% or less;
6. A flowing temperature not in excess of 100° Fahrenheit;
7. Pour point below minus 20° Fahrenheit;
8. If Crude Petroleum is accepted from tankage, settled bottoms in such tanks must not be above a point 4 inches below bottom of the pipeline connection with the tank from which it enters Carrier's facilities.

Crude Petroleum tendered for transportation by Shipper shall not contain sand, dust, dirt, gums, impurities, or other objectionable matter in quantities that may be injurious to Carrier or downstream facilities, or which otherwise may interfere with the transportation of Crude Petroleum in Carrier's system.

The presence of contaminants in Crude Petroleum including, but not limited to, chemicals such as chlorinated and/or oxygenated hydrocarbons, arsenic, lead, waste oil, lube oil, crankcase oil, PCB's or dioxins, or excessive paraffins or hydrogen sulfide shall be reason for Carrier to reject any Crude Petroleum.

If Carrier determines that a Shipper has delivered to Carrier's facilities Crude Petroleum that does not meet Carrier's quality specifications, or has been contaminated, or contains impurities or other objectionable matter, such Shipper will be excluded from further entry into Carrier's facilities until such time as quality specifications have been demonstrated by Shipper to be met. Any liability associated with the contamination or disposal of any Crude Petroleum shall be borne by the responsible Shipper.

Carrier reserves the right to require, approve or reject the injection of corrosion inhibitors, viscosity or pour point depressants, drag reducing agent, or other such additives in Crude Petroleum to be transported.

Quality specifications of a connecting carrier may be imposed upon Carrier when such limits are more stringent than that of Carrier, in which case the limitations of the connecting carrier will be applied.

#### **60. WARRANTIES**

Shipper warrants, unless specific prior permission to the contrary is obtained from Carrier in writing, that Crude Petroleum tendered to Carrier will conform to the quality requirements of Carrier, including the requirements of non-contamination.

**CARRIER DOES NOT MAKE ANY WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, CONCERNING THE QUALITY OF CRUDE PETROLEUM IN ITS SYSTEM.**

#### **70. QUALITY TESTING AND VERIFICATION**

Upon request of Carrier, Shipper is required to furnish Crude Petroleum Assays so that quality determinations can be made. Carrier reserves the right to approve of an independent laboratory to be used to providing the Assay. If Carrier determines that Shipper's Crude Petroleum does not meet specifications, or in the opinion of Carrier, differs materially in character from Crude Petroleum being transported by Carrier, transportation may be refused or offered under such terms and conditions as agreed to by Carrier and Shipper.

Carrier reserves the right to sample Crude Petroleum of Shipper without prior notice at connecting facilities to Carrier, including the right to ingress and egress upon the property of Shipper or Shipper's designee for such purpose. If upon investigation Carrier determines the Crude Petroleum does not conform to specifications and Carrier has not been given prior notice, or if the Crude Petroleum contains excess amounts of impure substances, which may contaminate or materially affect the common or mixed stream quality of Crude Petroleum, Shipper will be liable for the cost of Carrier's investigation in addition to other remedies specified in this tariff.

Carrier may, without prior notice, advise Shippers as to the specific results of any Assay.

The test method(s) used in any Assay shall comply with industry practice and accepted standards, including the methods published by the American Society for Testing and Materials (ASTM), the American Petroleum Institute (API), and the U. S. Environmental Protection Agency (EPA). Carrier may waive the requirement for any specific test to be included in an Assay. In the event of a discrepancy or conflict between the results of Carrier's Assay and the Assay of Shipper, the results of Carrier's Assay shall prevail.

#### **80. EVIDENCE OF RECEIPTS AND DELIVERIES**

Crude Petroleum received for the account of Shipper and delivered to Consignee shall, in each instance, be evidenced by a ticket, showing quantity received or delivered as the case may be, temperature, basic sediment and water, and any other data essential to the determination of quantity. Unless otherwise agreed by the Carrier, Shipper and/or Consignee, such tickets shall be signed by representatives of the Carrier, as appropriate, and shall constitute full receipt for the Crude Petroleum received or delivered.

**90. ORIGIN AND DESTINATION FACILITIES REQUIRED**

Carrier will receive Crude Petroleum only at established receipt points on its pipeline, only when tendered for shipment to established destination points on Carrier's system, and only when Shipper has provided satisfactory facilities for handling receipts and deliveries. Crude Petroleum will be received only from pipelines, tanks, or other facilities which are provided by Shipper or connecting carrier. Shipper or Shipper's representative, as applicable, shall be required, at Carrier's request, to enter into a connection agreement governing the responsibilities associated with the design, fabrication, installation, construction, ownership, and operations of the interconnection between Carrier and Shipper or Shipper's representative, as the case may be, in form and substance acceptable to Carrier. Carrier will determine and advise Shippers of the size and capacity of pipelines, tanks, and other pertinent facilities to be provided at a point of receipt to meet the operating conditions of Carrier's facilities at such point.

**100. TAMPERING**

Carrier shall have the right to install and monitor, to Carrier's satisfaction, sealing devices on the components of measuring devices for the purpose of discouraging tampering. Installation of sealing devices by Carrier shall not absolve the owner of measurement facilities of any responsibilities with respect to the security of its owned equipment.

In addition to any other remedies provided for herein or at law or equity, if any Shipper or Consignee, without prior permission from Carrier, tampers with any property owned or used by Carrier to provide services, this shall constitute reason for Carrier to refuse acceptance of further Crude Petroleum from such Shipper, or to deliver further Crude Petroleum to such Consignee, or, at the option of Carrier, to impose additional terms and conditions prescribed by Carrier. Upon discovery of tampering, there will be a presumption of violation by the party receiving the benefit of Carrier's service. As used herein, tamper means to rearrange, break, injure, alter, interfere with, or otherwise to prevent from performing the normal or customary function(s).

### **110. LINE FILL AND WORKING INVENTORY REQUIREMENTS**

Each Shipper will be required to supply a pro rata share of Crude Petroleum necessary for pipeline fill and working stock to ensure efficient operation of Carrier's system, which Barrels shall be submitted to Carrier in advance of any shipments by Shipper, pursuant to the schedule determined by Carrier. Crude Petroleum provided by Shippers for this purpose may be withdrawn only after: (1) shipments have ceased and the Shipper has notified Carrier in writing at least sixty (60) days in advance of its intention to discontinue shipments in Carrier's system, and (2) Shipper balances have been reconciled between Shipper and Carrier. Carrier shall require advance payment of any unpaid accounts receivable, before final delivery will be made. Carrier shall have a reasonable period of time from the receipt of said notice, not to exceed six months, to complete administrative and operational requirements incidental to Shipper withdrawal.

Crude Petroleum Barrels delivered to Carrier for Carrier's initial pipeline fill and working stock shall be charged a transportation fee at the time such Barrels are removed from Carrier's system. The amount shall be the applicable rate(s) and charges then in effect for shipments from the origin point where Shipper's line fill and working stock volumes were received into Carrier's system to the destination point where such volumes were delivered by Carrier.

### **120. SHIPMENTS AND MAINTENANCE OF IDENTITY**

Crude Petroleum offered for transportation shall be received by Carrier only on the condition that it shall be subject to such changes in gravity or quality while in transit as may result from the transportation thereof or the mixture of said Crude Petroleum with other Crude Petroleum in the pipelines or facilities of Carrier.

Carrier is not obligated to deliver to Shipper the identical Crude Petroleum nominated by Shipper; Carrier will deliver the grade of Crude Petroleum it is regularly transporting as a common stream.

Carrier shall have no responsibility in, or for, any revaluation or settlements which may be deemed appropriate by Shippers and/or Consignees because of mixing or commingling of Crude Petroleum shipments between the receipt and delivery of such shipments by Carrier within the same common stream.

### **130. GAUGING, TESTING AND DEDUCTIONS**

Crude Petroleum shipped hereunder shall be measured and tested by representatives of Carrier or by automatic equipment approved by Carrier prior to its acceptance from Shipper at the receipt point, and at the applicable delivery point. Shipper may have a representative present at the measurement and testing. Quantities shall be determined by dynamic or static measurement methods in accordance with appropriate API standards, latest revision, and adjusted to base (reference or standard) conditions. Carrier shall have the right to enter upon the premises where Crude Petroleum is received and have access to any and all tanks, storage receptacles, or meters for the purpose of gauging, metering or testing and to make any examination, inspection, measurement or test authorized in this tariff.



When Carrier determines that a lease operator or connecting carrier's tanks are unsafe or unsuitable for use in custody transfer because of improper connections, high bottom accumulations of any extraneous matter, incrustations on the inside of the tank walls, or any other conditions unacceptable to Carrier, Carrier shall reject the use of such tanks until the unacceptable conditions have been corrected. Alternatively, in the case of incrustation inside any tank, Carrier may determine and apply a correction factor to ascertain the correct tank capacity.

Corrections will be made for temperature from observed degrees Fahrenheit to 60 degrees Fahrenheit and standard pressure. Carrier will deduct the full amount of sediment, water and other impurities as the centrifugal or other test may show.

Unless otherwise indicated on a rate tariff, Carrier will allocate any overage or shortage, including losses or gains resulting from shrinkage, evaporation, expansion, and losses or gains inherent in the operation of the system on a monthly basis to Shipper in the proportion that Shipper's volume bears to the volume of all Shippers. Allocations may be made on an operating segment basis when convenient to Carrier.

After consideration of all of the factors herein, a net balance will be determined as the quantity of Crude Petroleum received or delivered by Carrier.

#### **140. STORAGE IN TRANSIT**

Carrier may have working tanks required in the process of transporting Crude Petroleum but no other available tankage and therefore, unless otherwise specifically stated in a tariff making reference to these rules and regulations, Carrier does not have facilities for rendering, nor does it offer, a storage service. Provisions for storage in transit in facilities furnished by Shipper at points on Carrier's system will be permitted to the extent authorized under individual tariffs.

#### **150. NOTICE OF ARRIVAL, DELIVERY AT DESTINATION, DEMURRAGE**

The obligation of the Carrier shall be to deliver the quantity of Crude Petroleum to be transported, less deductions, at the specified destination. Such delivery may be made upon twenty-four (24) hours notice to the Shipper or Consignee who shall accept and receive said Crude Petroleum from the Carrier with all possible dispatch into tanks or receptacles arranged for or provided by the Shipper or Consignee.

Commencing after the first seven o'clock a.m., after expiration of said 24-hour notice, Carrier shall assess a demurrage charge on any part of said Crude Petroleum shipment offered for delivery and not taken by Shipper or Consignee; the demurrage charge will be one cent (\$0.01) per Barrel per day for each day of 24 hours or fractional part thereof. After expiration of said 24-hour notice, Carrier's liability for loss, damage or delay with respect to Crude Petroleum offered for delivery but not taken by Shipper or Consignee shall be that of a warehouseman only.

If the Shipper, or Consignee, is unable or refuses to receive said Crude Petroleum as it arrives at the specified destination, Carrier reserves the right to make arrangements for disposition of the

Crude Petroleum in accordance with the procedures set forth in Item No. 170 below in order to clear its system.

**160. APPLICATION OF RATES AND CHARGES**

Crude Petroleum accepted for transportation shall be subject to the rates and charges in effect on the date of receipt of such Crude Petroleum by the Carrier, regardless of the date of Nomination. Transportation and all other lawful charges will be collected on the basis of net quantities of Crude Petroleum received.

Each Shipper shall deliver to Carrier each month a volume of Crude Petroleum equal to the quantity allocated to such Shipper by Carrier, and shall pay to Carrier an amount equal to the product of (i) the applicable tariff rate(s) and charges, times (ii) the greater of: (a) the net quantity of Crude Petroleum received from Shipper, or (b) Shipper's allocated volume or the quantity specified in Shipper's TSA.

**170. PAYMENT OF TRANSPORTATION AND OTHER CHARGES**

Shipper shall be responsible for payment of transportation and all other charges applicable to the shipment, and may be required to prepay such charges or furnish guaranty of payment satisfactory to Carrier, as provided in Item No. 40. Payments not received by Carrier in accordance with invoice terms shall be subject to a late charge equivalent to 125% of the Prime Rate or, if such late charge is unlawful, at the maximum rate allowed by law. Carrier shall have a lien on all Crude Petroleum accepted for transportation to cover payment of all charges, including demurrage and late charges, and may refuse to make delivery of the Crude Petroleum until all charges have been paid.

If said charges, or any part thereof, shall remain unpaid for thirty days after the invoice payment date, Carrier may, on a nondiscriminatory basis, suspend further receipts and deliveries of Crude Petroleum to Shipper until the unpaid charges are paid in full, and may sell the Crude Petroleum then in Carrier's possession at public auction. Carrier shall have a lien on Crude Petroleum when there shall be failure to take the Crude Petroleum at the point of destination as provided in this tariff. Carrier shall have the right to sell said Crude Petroleum at public auction, for cash. The auction will be held between the hours of ten o'clock a.m. and four o'clock p.m. on any day not a weekend or legal holiday, provided that the sale takes place not less than twenty-four (24) hours after publication of notice of such sale in a daily newspaper of general circulation published in the area of the proposed sale, with such notice stating the time and place of sale and the quantity, type, and location of Crude Petroleum to be sold; and further provided that Carrier provides Shipper not less than twenty-four (24) hours' notice of the sale. Carrier may be a bidder and purchaser at such sale. Out of the proceeds of said sale, Carrier shall pay itself for all transportation, demurrage, and other lawful charges, expenses of notice, advertisement, sale and other necessary expenses, and expenses of caring for and maintaining the Crude Petroleum, and the balance shall be held for whomsoever may be lawfully entitled thereto after the auction, without any obligation to pay interest. If the proceeds of said sale do not cover all expenses incurred by Carrier, then Shipper shall be liable to Carrier for any deficiency.

If Shipper disputes any amount payable under an invoice, Shipper shall nonetheless pay to Carrier the full amount of such invoice on or before the payment due date. If it is ultimately determined that Shipper's invoice was incorrect and that an overpayment was made, Carrier shall reimburse Shipper for such overpayment, with interest calculated from the date such overpayment was made until the date of reimbursement at the Prime Rate.

Notwithstanding anything in this tariff or a TSA to the contrary, any accounts receivables balances or any other payments due to a Party hereunder or under a TSA (including any accrued obligations, with respect to which payment may be deferred under a TSA) at the time of such termination or expiration shall survive termination or expiration of such TSA.

**180. INTENTIONALLY OMITTED**

**190. APPORTIONMENT OF CAPACITY**

When there shall be nominated to Carrier, for transportation, more Crude Petroleum than can be immediately transported, based on Carrier's determination of its system capacity or the capacity of any line segments thereof, the transportation furnished by Carrier shall be apportioned among Shippers on an equitable basis. Operating segments will be prorated separately, if necessary.

Space in each segment will be allocated as follows:

1. Up to 90% of the available capacity shall be allocated to Shippers on a pro-rata basis using the lesser of volumes nominated or their Representative Volume.
2. The remaining available capacity shall be allocated to all Shippers on a pro-rata basis using the volume of Nominations that remain unfulfilled, if any, following step 1, immediately above.

For the purposes of this section, "Representative Volume" means the average of the Shipper's twelve consecutive month volumes consisting of (a) the current Nomination for the next operating month, (b) the accepted Nomination for the instant operating month and (c) the net volume received from such Shipper by Carrier in the 10 operating months immediately prior to the instant month.

No Nominations shall be considered beyond the amount that the nominating party has readily accessible for shipment. If a Shipper is unable to deliver Crude Petroleum equal to the capacity allocated to it, Carrier will reduce that Shipper's volumes for the succeeding month by the amount of allocated throughput not utilized during the preceding month if apportionment is necessary.

Each Shipper whose Representative Volume consists only of the current Nomination for the next operating month shall be required to certify that it is not affiliated with any other Shipper before Carrier will accept a Nomination from such Shipper. For purposes of this provision, the term "affiliate" includes any person or entity that, directly or indirectly, controls another Shipper, is controlled by another Shipper, or is controlled by the same person or entity that controls another Shipper, and the term "control" means the possession, directly or indirectly, of the power to

direct or cause the direction of the management and policies of any person or entity whether through the ownership of voting securities or by contract or otherwise.

## **200. INTERRUPTION AND CURTAILMENT**

Carrier may interrupt, curtail or reduce transportation service to Shippers for such periods of time as it may reasonably require for the purpose of effecting or allowing any repairs, maintenance, replacement, upgrading or other work related to Carrier's system and related facilities or downstream facilities in circumstances which do not constitute a Force Majeure event. If such interruption is due to a planned outage, Carrier will give Shippers prior notice of such interruption and curtailment as soon as reasonably possible. Carrier will use reasonable commercial efforts to minimize the extent and duration of any interruption and the impact of such interruption on the operation of Carrier's system.

During such periods of interruption, Carrier shall curtail transportation and, if necessary, allocate available capacity in accordance with the procedures set forth in Item No. 190.

## **210. FORCE MAJEURE**

If either Carrier or Shipper fails to perform, in whole or in part, its obligations under a TSA or this tariff due to an event of Force Majeure, then such failure shall be deemed not to be a breach of such obligations.

The term "Force Majeure" means the occurrence of any cause or event reasonably beyond the control of a Party, including act(s) of God; perils of the sea; fire; storm; flood; tides; earthquake; explosion; shortages of power; accidents at, closing of, or restrictions upon the use of mooring facilities, docks, ports, pipelines, harbors, or other navigational or transportation mechanism; war (declared or undeclared); military operations; riots; terrorism; blockade; revolution; disruption or breakdown of or explosions or accidents to storage plants, wells, pipelines, terminals, machinery or other facilities; trade restriction; strike, lockouts or other labor disputes; exhaustion, reduction, unavailability or delays in delivery of Crude Petroleum; or any other cause of a similar nature as described herein not reasonably within the control of the Party claiming Force Majeure. The term "Force Majeure" expressly excludes (i) a failure of performance of any party other than the Parties, except to the extent that such failure was caused by an event that would otherwise satisfy the definition of Force Majeure, (ii) planned maintenance by Carrier, and (iii) a Party's inability to economically perform its obligations.

Where failure to perform an obligation under a TSA or tariff is caused by an event of Force Majeure, the affected party shall make reasonable efforts to remedy the cause of the Force Majeure, provided that the terms of the settlement of any strike, lockout or other industrial disturbance shall be wholly in the discretion of the party claiming Force Majeure.

No event of Force Majeure shall relieve Shipper from its obligations to make payments or to provide Financial Assurances during the continuance of the Force Majeure event, except as otherwise expressly provided in a TSA.

**220. LIABILITY OF CARRIER**

Except where caused by the negligence or willful misconduct of Carrier, Carrier shall not be liable to a Shipper for any delay, damage, loss, costs, expenses, or special, indirect, punitive, exemplary or consequential loss resulting from any cause while Carrier is in possession or control of Shipper's Crude Petroleum, including without limitation the breakdown of facilities of Carrier, and under no circumstances shall Carrier have liability to Shipper for special damages.

In case of damage to or loss of Crude Petroleum while Carrier is in possession of such Crude Petroleum, then Carrier may apportion the cost of such damage or loss on a pro rata basis among all Shippers provided such damage or loss is not caused by the negligence or willful misconduct of Carrier. Each Shipper's share of such cost shall be determined by Carrier, based on the proportion of the volume of Shipper's Crude Petroleum in Carrier's possession on the date of such loss to the total volume of all Shippers' Crude Petroleum in the possession of Carrier on the date of such loss. Carrier will be obligated to deliver only that portion of a Crude Petroleum shipment remaining after deducting such loss. Transportation charges applicable to such loss shall be credited to Shipper.

**230. LIABILITY OF SHIPPER**

**SHIPPER SHALL INDEMNIFY AND SAVE CARRIER HARMLESS FROM ANY AND ALL PERSONAL INJURIES, PROPERTY DAMAGE (INCLUDING FULL OR PARTIAL LOSS OF USE OF PROPERTY), DAMAGES, CLAIMS, SUITS, COSTS AND RECOVERIES OF EVERY NAME AND NATURE WHICH MAY IN ANY MANNER ARISE OR GROW OUT OF THE CHARACTER OR MAKE-UP OF ANY SHIPMENTS TENDERED BY SHIPPER OR BREACH OF WARRANTY OR REPRESENTATION OF SHIPPER WITH RESPECT TO ANY SHIPMENT TENDERED BY SUCH SHIPPER AND TRANSPORTED BY CARRIER, INCLUDING BUT NOT LIMITED TO SHIPPER TENDERING TO CARRIER CRUDE PETROLEUM THAT DOES NOT MEET THE SPECIFICATIONS OF THESE RULES AND REGULATIONS; IN THE EVENT ANY SUIT OR ACTION SHALL BE BROUGHT AGAINST CARRIER TO RECOVER ON ACCOUNT OF SUCH LOSS, DAMAGE, INJURY OR DESTRUCTION AGREED TO BE BORNE BY SHIPPER, SHIPPER SHALL APPEAR AND DEFEND ANY SUCH SUIT OR ACTION AND PAY ANY JUDGMENT THAT MAY BE OBTAINED AGAINST CARRIER.**

**SHIPPER SHALL ALSO BE LIABLE TO CARRIER FOR PROPERTY DAMAGE, INCLUDING DAMAGES FOR LOSS OF USE OF ANY OF ITS FACILITIES, WHICH MAY IN ANY MANNER ARISE OR GROW OUT OF SHIPPER'S BREACH OF WARRANTY OR REPRESENTATION WITH RESPECT TO ANY SHIPMENT NOMINATED BY IT AND TRANSPORTED BY CARRIER, INCLUDING BUT NOT LIMITED TO SHIPPER NOMINATING TO CARRIER CRUDE PETROLEUM THAT DOES NOT MEET THE SPECIFICATIONS OF THESE RULES AND REGULATIONS.**

**240. CLAIMS, SUITS AND TIME FOR FILING**

As a condition precedent to recovery from Carrier for loss, damage, or delay to shipments, claims must be filed in writing with Carrier within nine (9) months after delivery of the Crude Petroleum, or, in case of failure to make delivery, then within nine (9) months after a reasonable time for delivery has elapsed; and suits arising out of such claims shall be instituted against Carrier within two (2) years from the day when notice in writing is given by Carrier to the claimant that Carrier has disallowed the claim or any part or parts thereof specified in the notice. Where claims are not filed or suits are not instituted thereon in accordance with the foregoing provisions, Carrier will not be liable and such claims will not be paid.

Notwithstanding anything in this tariff or a TSA to the contrary, Items 220, 230 and 240, and each Party's respective indemnification obligations under a TSA, shall survive termination or expiration of such TSA.

**250. PIPEAGE OR OTHER CONTRACTS**

Separate pipeage and other contracts may be required of a Shipper, in accordance with the applicable tariff and these rules and regulations, before any duty of transportation by the Carrier shall arise.