



## CONFIDENTIALITY AGREEMENT

\_\_\_\_\_, a \_\_\_\_\_ corporation (together with its parents, subsidiaries, and affiliates, “\_\_\_\_\_”) and Big West Oil LLC (together with its parents, subsidiaries and affiliates “Big West”) are considering one or more possible transactions, business relationships or commercial arrangements, and in connection with those transactions, \_\_\_\_\_ is also considering extending a commercial line of credit to Big West (“Purpose”). In connection with the Purpose, Big West (hereafter, the “Disclosing Party”) may provide access to or otherwise disclose to \_\_\_\_\_ (hereafter, the “Recipient”) certain information about the business and operations of the Disclosing Party and its affiliates, which Big West and Recipient (collectively, the “Parties”) agree must be treated with strict confidentiality. Therefore, in consideration of the covenants and conditions set forth herein, the sufficiency of which is hereby acknowledged, the Parties agree effective this \_\_\_ day of \_\_\_\_\_, 20\_\_ as follows:

### 1. Confidentiality.

(a) All information disclosed by Disclosing Party to the Recipient shall be treated by Recipient as Confidential Information unless identified as nonconfidential or demonstrated to be such. For purposes of this Agreement, “Confidential Information” shall mean all present and future information received by Recipient from the Disclosing Party whether in written, electronic, or oral form, which may include, but is not limited to, any of the following information: financial records or statements of any nature, tax matters, accounting, financing sources, hedging counterparties, contracting counterparties, business operations, prospects, value and/or structure, marketing practices and techniques, business strategies and capabilities, business plans, relationships with customers, suppliers, principals, employees, and others, technology, inventions, processes; ideas, pricing information, process units, designs, engineering, drawings; products, and any information that is a trade secret within the meaning of applicable trade secret law and other documentation and materials prepared by the Recipient containing or based in whole or in part on any Confidential Information furnished by the Disclosing Party.

(b) Recipient agrees that it will use the Confidential Information only for the permitted Purpose. Recipient shall not, and shall cause its employees or agents (“Representatives”) not to, directly or indirectly, disclose any Confidential Information to any person in any manner, or permit or assist any person to use any Confidential Information, except that the Recipient may disclose Confidential Information to its Representatives who need access to the Confidential Information in furtherance of the Purpose, or who need to know such information for the sole purpose of assisting, and solely to the extent necessary to permit such Representative to assist, the Recipient in the Purpose; *provided, however*, that the Recipient shall require each such Representative to be bound by the terms of this Agreement to the same extent as if they were parties to this Agreement, and the Recipient shall be liable to the Disclosing Party for any action or omission prohibited under this Agreement by any of its Representatives. For the avoidance of doubt, all Confidential Information, as defined above, that is provided by the Disclosing

Party to the Recipient for the Purpose of obtaining commercial lines of credit may not be disclosed to anyone other than employees in Recipient's credit group and only for the intended Purpose of assessing credit worthiness. The Recipient and its credit group employees shall not share such information with any other person, employee or group, and doing so shall be deemed a material breach of this Agreement.

(c) Recipient and its Representatives will take all reasonable measures to protect the confidentiality of the Confidential Information, including all measures that Recipient uses to protect its own confidential information. Recipient will promptly notify Disclosing Party if Recipient knows or has reason to believe that Confidential Information has been disclosed by Recipient or its Representatives to any unauthorized person, and shall provide all such assistance as Disclosing Party may reasonably request in order to recover or limit the further disclosure of such Confidential Information.

(d) All Confidential Information is and will remain property of Disclosing Party.

(e) Confidential Information shall remain confidential for a period of three (3) years after disclosure. This Agreement shall terminate three (3) years after the effective date specified above, but shall remain in effect with respect to Confidential Information disclosed prior to its termination.

2. Exclusions. "Confidential Information" shall not include information that: (i) was known without obligation of confidentiality by Recipient prior to disclosure, or which thereafter becomes known or available to Recipient without obligation of confidentiality, in either case by a means or from a source which does not involve any breach of duty owed to Disclosing Party; or (ii) is or becomes generally available to the public, by a means or from a source which does not involve any breach of duty owed by Recipient or its Representatives to Disclosing Party.

3. In the event that the Recipient or any of its Representatives is legally required to disclose any Confidential Information, the Recipient will give the Disclosing Party prompt written notice of such requirement so that the Disclosing Party may seek an appropriate protective order or other remedy, and/or waive compliance with certain provisions of this Agreement, and the Recipient will cooperate with the Disclosing Party to obtain such protective order. In the event that such protective order or other remedy is not obtained or the Disclosing Party waives compliance with the relevant provisions of this Agreement, the Recipient will furnish only that portion of the Confidential Information that is legally required to be disclosed and use its reasonable efforts to obtain assurances that confidential treatment will be accorded to such Confidential Information.

4. Except as otherwise required by law or regulation, within fifteen (15) days after a request in writing by the Disclosing Party (which request made be made by the Disclosing Party at any time and from time to time), the Recipient shall, and shall cause its Representatives to, either return to the Disclosing Party or destroy all Confidential Information and all documents, materials or other items containing Confidential Information, without retaining any copies, summaries or extracts thereof, except as otherwise required by law or regulation, and shall certify such return and/or destruction in writing to the Disclosing Party within such 15 day period. Compliance with this paragraph shall not relieve the Recipient of its other obligations under this Agreement.

5. The Recipient acknowledges that the covenants contained in this Agreement are fundamental for the protection of the legitimate business and proprietary interests of the Disclosing Party and its affiliates and that in the event of any violation by the Recipient of any such covenants, remedies at law would be inadequate. In the event of any violation or attempted violation of this Agreement, the Disclosing Party and its affiliates shall be entitled to specific performance and injunctive relief or other equitable remedy without any showing of irreparable harm or damage, and the Recipient hereby waives, and shall cause its Representatives to waive, any requirement for the securing or posting of any bond or other security in connection with any such remedy. The Recipient also agrees to indemnify and hold harmless the Disclosing Party (on its own behalf and on behalf of its affiliates) against and to pay to any loss or expense incurred by the Disclosing Party or any of its affiliates by reason of or arising out of any breach by the Recipient of the obligations in this Agreement, including any costs, expenses or other liabilities incurred by the Disclosing Party or any of its affiliates in connection with the enforcement of any of its rights or the obligations hereunder. Such remedies shall not be deemed to be the exclusive remedies for any breach of this Agreement but will be in addition to all other remedies available at law or in equity to the Disclosing Party or any of its affiliates. Any trade secrets included in the Confidential Information will also be entitled to all of the protections and benefits under applicable trade secret law. The Recipient hereby waives, and shall use all reasonable efforts to cause its Representatives to waive, any requirement that the Disclosing Party or any of its affiliates submit proof of the economic value of any trade secret or post a bond or other security.

6. Disclaimer. Disclosing Party makes no warranties as to the Confidential Information except that it is disclosed in good faith. Any warranties or representations as to the Confidential Information shall be created, if at all, in a separate, definitive written agreement signed by the parties.

7. No other Agreements. This Agreement expresses the entire agreement of the parties with respect to its subject matter. Neither party has made any promise or inducement not expressly set forth in this Agreement. No contract or agreement with respect to the Purpose shall be deemed to exist between BP and Big West unless and until a final definitive agreement has been executed and delivered; and neither BP nor Big West will be under any legal obligation of any kind whatsoever with respect to the Purpose by virtue of this Agreement except for the matters specifically agreed to herein.

8. General. This Agreement may be amended or modified only by written documents signed by the parties. This Agreement may be executed in counterparts. .

INTENDING TO BE LEGALLY BOUND, the parties have signed this Agreement through their duly authorized representatives.

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**Big West Oil LLC**

By: (sign) \_\_\_\_\_

By: (sign) \_\_\_\_\_

(print) \_\_\_\_\_

(print) \_\_\_\_\_

(title) \_\_\_\_\_

(title) \_\_\_\_\_